



**SANDUSKY CITY COMMISSION  
REGULAR SESSION AGENDA  
FEBRUARY 13, 2023 AT 5 P.M.  
CITY HALL, 240 COLUMBUS AVENUE**

INVOCATION	Mr. Brady
PLEDGE OF ALLEGIANCE	
CALL TO ORDER	
ROLL CALL	D. Murray, D. Brady, S. Poggiali, D. Waddington, B. Harris, M. Meinzer, W. Poole
APPROVAL OF MINUTES	January 23, 2023 Regular Meeting
AUDIENCE PARTICIPATION	
PROCLAMATION	Goodwill Industries, John Duesenberry, Marketing Manager
PUBLIC HEARING	Vacation portion Fremont Ave Right-of-Way, Arin Blair, Chief Planner
PRESENTATION	CAC Mortgage & Rental Program, Tim Brown
COMMUNICATIONS	Motion to accept all communications submitted below
CURRENT BUSINESS	

**CONSENT AGENDA ITEMS**

**ITEM A – Submitted by Cathy Myers, Commission Clerk**

**LIQUOR LICENSE FOR HALO LIVE LLC**

**Budgetary Information:** There is no budgetary impact for this item.

**Notice to Legislative Authority for NEW D3 Liquor License,** Spirituous liquor for on premises consumption only until 1:00 am, for: **Halo Live LLC, 805 Wayne Street.**

**ITEM B – Submitted by Cathy Myers, Commission Clerk**

**LIQUOR LICENSE FOR ORIGINAL MARGARITAVILLE**

**Budgetary Information:** There is no budgetary impact for this item.

**Notice to Legislative Authority for Transfer of Ownership of D1, D2, D3, D3A, & D6 Liquor License,** Beer, wine, mixed beverages, and spirituous liquor for on premises consumption or in original sealed containers for carry out only until 2:30 am including Sundays, for: **212 Fremont LLC, DBA Original Margaritaville, 212 Fremont Ave & Patios.**

**ITEM C – Submitted by James Stacey, Transit Administrator**

**ADOPTION OF UPDATED TITLE VI PLAN FOR SANDUSKY TRANSIT SYSTEM**

**Budgetary Information:** There is no budgetary impact for this item.

**RESOLUTION NO. \_\_\_\_\_:** It is requested a resolution be passed approving and adopting an updated Title VI Civil Rights Plan for the Sandusky Transit System as required by the Federal Transit Administration; and declaring that this resolution shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM D – Submitted by James Stacey, Transit Administrator**

**AGREEMENT FOR TRANSPORTATION BILLING WITH MEDICAID BILLING SOLUTIONS**

**Budgetary Information:** The City of Sandusky agrees to a variable monthly fee for services rendered. These fees will be based upon Medicaid Billing Solutions providing billing services with MBS-owned software. Billing includes on-site and/or video conferencing consultation visits to discuss billing and revenue and to train staff as necessary or requested. Medicaid Billing Solutions fees will be the higher of \$75.00 per month or 3% of the revenue received by the City of Sandusky as a result of MBS's billing services.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into a new agreement for billing services with Medicaid Billing Solutions, Inc., of Cincinnati, Ohio, for services related to the Sandusky Transit System; and declaring that this resolution shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM E – Submitted by Debi Eversole, Housing Development Specialist**

**LAND BANK PURCHASE AND SALE AGREEMENT W. WASHINGTON/ LAWRENCE STREET TO SAN MARINO DEV.**

**Budgetary Information:** The City will recoup the cost of expenses associated with the acquisition of the parcel, maintenance of the parcel, and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction. The taxing districts will begin collecting approximately thirty-six (\$36.00) per year in real estate taxes.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed declaring that certain real property owned by the City as part of the Land Reutilization Program identified as Parcel No. 59-00978.000, located at the northeast corner of Lawrence Street and W. Washington Street is no longer needed for any municipal purpose

and authorizing the execution of a purchase agreement with respect to that real property; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM F – Submitted by Debi Eversole, Housing Development Specialist**

**LAND BANK PURCHASE & SALE AGREEMENT 423 FULTON STREET TO SLIP IN CONCRETE**

**Budgetary Information:** The City will recoup the cost of expenses associated with the acquisition of the parcel, maintenance of the parcel, and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction. The taxing districts will begin collecting approximately one-hundred-twenty-three (\$123.00) per year in real estate taxes.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed declaring that certain real property owned by the City as part of the Land Reutilization Program identified as Parcel No. 59-00829.000, located at 423 Fulton Street is no longer needed for any municipal purpose and authorizing the execution of a purchase agreement with respect to that real property; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM G – Submitted by Debi Eversole, Housing Development Specialist**

**LAND BANK PURCHASE & SALE AGREEMENT 1129 & 1131 E. PARISH STREET TO HABITAT FOR HUMANITY**

**Budgetary Information:** The City will recoup the cost of expenses associated with the acquisition of both parcels, maintenance of each parcel, and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction. The taxing districts will begin collecting approximately one-hundred-fifty (\$150.00) per year in real estate taxes, which will increase once the home is built.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed declaring that certain real property owned by the City as part of the Land Reutilization Program identified as Parcel No. 57-02035.000 and 57-04809.000, located at 1129 & 1131 East Parish Street are no longer needed for any municipal purpose and authorizing the execution of a purchase agreement with respect to that real property; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM H – Submitted by Colleen Gilson, Chief Neighborhood Development Officer/Interim Asst. City Manager**

**FY22 BROWNFIELD GRANT AGREEMENTS WITH TERRACON AND MANNIK & SMITH**

**Budgetary Information:** The Brownfields Grant will fund 100% of this contract.

- 1. ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance authorizing and directing the City Manager to enter into an agreement with Terracon Consultants, Inc. of Cleveland, Ohio, for professional environmental services in conjunction with the FY2022 Brownfields Assessment Grant received from the U.S. Environmental Protection Agency; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.
- 2. ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance authorizing and directing the City Manager to enter into an agreement with the Mannik & Smith Group, Inc. of Maumee, Ohio, for professional environmental services in conjunction with the FY2022 Brownfields Assessment Grant received from the U.S. Environmental Protection Agency; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM I – Submitted by Aaron Klein, Public Works Director**

**AWARD CONTRACT FOR REFUSE & RECYCLING COLLECTION TO REPUBLIC**

**Budgetary Information:** The cost of refuse and recycling collection at City properties is paid with General Funds, Recreation Funds, and Water Funds in the amount of \$90,775.40, plus a contingency amount of \$2,500.00 for additional dumpster service. Collection of recyclables at the City’s Drop-Off Recycling location at the Service Center is paid with General Funds and Grounds Maintenance Funds in an amount not to exceed \$96,433.56. Total contract amount is not to exceed \$189,708.96.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance authorizing and directing the City Manager to enter into a contract with Republic Services of Sandusky, Ohio, for refuse & recycling collection on City property and recycling collection at the City’s Drop-Off Recycling location at the Service Center for the period of March 1, 2023, through February 29, 2024; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM J – Submitted by Aaron Klein, Public Works Director**

**WWTP EMERGENCY BACK-UP GENERATOR PROJECT CHANGE ORDER #1 & FINAL WITH MOSSER**

**Budgetary Information:** The original contract was not to exceed \$485,000.00. The final contract amount will be \$467,607.70, which is a deduction of \$17,392.30. This is an overall reduction of 3.6%. All costs will be from the Sewer Funds with 46.18% required reimbursement from Erie County as per the Sewer Services Agreement.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to approve the first & final change order for work performed by Mosser Construction Inc., of Fremont, Ohio, for the Wastewater Treatment Plant (WWTP) Emergency Back-Up Generator Repair Project; and declaring that this resolution shall take immediate effect in accordance with Section 14 of the City Charter.

ITEM K – Submitted by Aaron Klein, Public Works Director

WWTP SLUDGE HAULING FOR CY2023

**Budgetary Information:** The estimated cost of disposal by the Wastewater Treatment Plant at the Erie County Sanitary Landfill for 2023 shall not exceed \$156,800.00, which will be paid out of the Contractual Services portion of the Operation and Maintenance budget through the Sewer Fund.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed appropriating funds for the dumping of class B biosolids (A.K.A. sludge cake) and other dewatered and compressed solids from the Wastewater Treatment Plant (WWTP) at the Erie County Sanitary Landfill for CY2023; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

ITEM L – Submitted by Aaron Klein, Public Works Director

APPROVAL FOR PURCHASES FOR WATER SERVICE INFRASTRUCTURE FROM CORE & MAIN

**Budgetary Information:** The budgeted cost for Core & Main, LP, as approved in the operating budget is \$824,000. This year’s allocation for hydrants, valves, and miscellaneous materials (\$224,000) and meters (\$600,000 – split evenly with Sewer Maintenance) will be paid with Water Funds in the amount of \$524,000 and Sewer Funds in the amount of \$300,000. Purchases exceeding this amount from Core & Main, LP, would require approval from the City Commission.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to expend funds to Core & Main, LP, of Ashland, Ohio, for the purchase of materials and parts for improvements and repairs to water service infrastructure in CY 2023; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

ITEM M – Submitted by Jane Cullen, Assistant City Engineer

BIWW INSTALLATION OF HIGH SERVICE PUMP #5 CHANGE ORDER #1 & FINAL WITH FRESCH ELECTRIC

**Budgetary Information:** Change order #1, a deduction in the amount of \$2,998.31 will revise the contract amount to \$11,721.69 for Fresch Electric, Inc. There is no change to the Rexel USA, Inc., contract. The final costs for the project are to be paid with Water Funds.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to approve the first & final change order for work performed by Fresch Electric, Inc., of Sandusky, Ohio, for the emergency installation of a new Allen-Bradley Variable Frequency Drive (VFD) for the #5 high service pump at the Big Island Water Works (BIWW) Plant; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

ITEM N – Submitted by Mario D’Amico, Fire Chief

PERMISSION TO DISPOSE OF HOSE DRYER

**Budgetary Information:** Proceeds from the sale of the Circul-Air Hose Dryer will be placed into the EMS Fund.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to dispose of one (1) Circul-Air hose dryer as having become unnecessary and unfit for City use pursuant to Section 25 of the City Charter and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

REGULAR AGENDA ITEMS

ITEM 1 – Submitted by Josh Snyder, Public Works Engineer

PERMISSION TO BID WARREN STREET CONSTRUCTION PROJECT

**Budgetary Information:** The engineer’s estimate for the construction costs is \$3,169,476.00, which is estimated to be split between the following:

Fund	Amount
OPWC - grant	\$ 325,000.00
OPWC - loan	\$ 162,500.00
Issue 8 Street	\$ 300,000.00
PRK/ADM - Path	\$ 150,000.00
PRK/ADM - Street	\$ 517,827.00
Stimulus Street	\$ 168,649.00
Water Loan (OWDA)	\$ 834,000.00
Sewer Loan (OWDA)	\$ 711,500.00
TOTAL:	\$ 3,169,476.00

**RESOLUTION NO. \_\_\_\_\_:** It is requested a resolution be passed declaring the necessity for the City to proceed with the proposed Warren Street Reconstruction Project; approving the specifications and engineer’s estimate of cost thereof; and directing the City Manager to advertise for and receive bids in relation thereto; and declaring that this resolution shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM 2 – Submitted by Josh Snyder, Public Works Engineer**

**AWARD 2022 W. MONROE STREET DRAINAGE PROJECT TO ED BURDUE**

**Budgetary Information:** The total construction cost for the project shall not exceed \$105,749.16 and shall be paid with Sewer Funds.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into a contract with Ed Burdue & Co. LLC, of Sandusky, Ohio, for the 2022 W. Monroe Street Drainage Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM 3 – Submitted by Josh Snyder, Public Works Engineer**

**AWARD THE CLEVELAND ROAD WATERLINE REPLACEMENT PROJECT TO ED BURDUE**

**Budgetary Information:** The total construction cost for the project shall not exceed \$298,699.92 and shall be paid with Water Funds.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into a contract with Ed Burdue & Co. LLC, of Sandusky, Ohio, for the Cleveland Road Waterline Replacement Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM 4 – Submitted by Jane Cullen, Assistant City Engineer**

**AGREEMENT FOR 2023 PROJECT CONSTRUCTION ADMIN & INSPECTION WITH K.E. MCCARTNEY & ASSOC.**

**Budgetary Information:** The estimated amount of the Consultant fees for contract administration and inspection services is not to exceed the following amounts (Total=\$257,907.00) and will be paid with Issue 8 Street Funds from the Capital Projects Fund:

\$80,912.00 for ERI-SR4-10.66 (Hayes Avenue)  
\$76,996.00 for ERI-CR0504-00.49 (Monroe St)  
\$99,999.00 for ERI-CR0503-00.81 (E Water St)

- 1. ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into an agreement for professional services with K.E. McCartney & Associates, Inc., of Mansfield, Ohio, for contract administration and inspection services for the Healthy Hayes Safety Improvements Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.
- 2. ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into an agreement for professional services with K.E. McCartney & Associates, Inc., of Mansfield, Ohio, for contract administration and inspection services for the East Monroe Street Resurfacing Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.
- 3. ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into an agreement for professional services with K.E. McCartney & Associates, Inc., of Mansfield, Ohio, for contract administration and inspection services for the East Water Street Resurfacing Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM 5 – Submitted by Jane Cullen, Assistant City Engineer**

**WWTP SECONDARY DIGESTER PURCHASE & INSTALL OF DYSTOR MEMBRANE FROM EVOQUA**

**Budgetary Information:** The estimated not to exceed cost for the new Dystor Membrane Unit including installation is \$558,000.00 and will be paid with Sewer Funds.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed ratifying the emergency purchase of a new Dystor Membrane Unit for the secondary digester #3 building at the Wastewater Treatment Plant (WWTP); authorizing and directing the City Manager and/or Finance Director to expend funds for the purchase and installation to Evoqua Water Technologies, LLC., of Holland, Michigan, in the amount of \$558,000.00; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM 6 – Submitted by Jane Cullen, Assistant City Engineer**

**PERMISSION TO BID FOLLETT & MILLS STREETS WATER TANK INSPECTION & THM REMOVAL PROJECTS**

**Budgetary Information:** The estimated cost of the project, including construction, engineering and inspection is \$250,000 and will be paid with Water Funds.

**RESOLUTION NO. \_\_\_\_\_:** It is requested a resolution be passed declaring the necessity for the City to proceed with the proposed Follett Street and Mills Street Elevated Water Tank Inspection & THM Removal System Project; approving the specifications and engineer’s estimate of cost thereof; and directing the City Manager to advertise for and receive bids in relation thereto; and declaring that this resolution shall take immediate effect in accordance with Section 14 of the City Charter.



ITEM 7 – Submitted by Jonathan Holody, Community Development Director

ADOPTING TRANSIENT RENTAL PROPERTY REGULATION CHAPTER 1341 OF CODIFIED ORDINANCES

**Budgetary Information:** Adoption of the ordinance will enable staff to collect new and renewal fees for 2023 transient rental permits.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed amending Ordinance 17-088, amending Chapter 1341 (Environmental Health Housing Code), by the replacement of former Section 1341.32 (Transient Rental Property Regulation), of the Codified Ordinances, in the manner and way specifically set forth hereinbelow.

ITEM 8 – Submitted by Jonathan Holody, Community Development Director

APPROVING ED FUND AGREEMENT WITH EPH SANDUSKY (MECCA MOTEL)

**Budgetary Information:** The City will be responsible for providing a total of \$200,000 in grant proceeds from the Economic Development Capital Projects Fund on a reimbursable basis at the completion of the project. The project will have an ongoing positive impact on the general fund due to increased income and property taxes.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and approving a grant in the amount of \$200,000.00 through the Economic Development Fund Program to EPH Sandusky, LLC, in relation to the property located at 2227 Cleveland Road, Sandusky; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

ITEM 9

AGREEMENT WITH INTERNATIONAL ASSOC OF FIRE FIGHTERS LOCAL #327

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed ratifying, accepting, and approving a collective bargaining agreement between the City of Sandusky, an Ohio Charter Municipal Corporation, and the International Association of Fire Fighters Local #327, the collective bargaining unit for certain employees of the Sandusky Fire Department, for the period January 1, 2022, through December 31, 2024, a copy of which is attached to this ordinance; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

CITY MANAGER’S REPORT

OLD BUSINESS

NEW BUSINESS

**AUDIENCE PARTICIPATION:** Open discussion on any item (5-minute limit)

EXECUTIVE SESSION(S)

ADJOURNMENT

Online: [www.CityofSandusky.com/Live](http://www.CityofSandusky.com/Live) – Click “Play” 

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

TO

3536637		NEW		HALO LIVE LLC 805 WAYNE ST SANDUSKY OH 44870
PERMIT NUMBER		TYPE		
ISSUE DATE				
01 13 2023				
FILING DATE				
D3		PERMIT CLASSES		
22	077	B	D64796	
TAX DISTRICT		RECEIPT NO.		

FROM 01/18/2023

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



MAILED 01/18/2023

RESPONSES MUST BE POSTMARKED NO LATER THAN. 02/21/2023

**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

**B NEW 3536637**

(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 SANDUSKY CITY COUNCIL  
240 COLUMBUS AVE  
SANDUSKY OHIO 44870

## Cathy Myers

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**From:** Jared Oliver  
**Sent:** Friday, January 20, 2023 2:09 PM  
**To:** Cathy Myers; Jonathan Holody; Mario D'Amico  
**Subject:** RE: Halo Live LLC Liquor Permit #3536637

SPD has no current concerns with this transfer.



**Jared Oliver | Chief of Police**  
SANDUSKY POLICE DEPARTMENT  
222 Meigs Street | Sandusky, OH 44870  
T: 419.627.5869 | F: 419.627.5862  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)



**From:** Cathy Myers <CommissionClerk@cityofsandusky.com>  
**Sent:** Friday, January 20, 2023 12:44 PM  
**To:** Jared Oliver <joliver@cityofsandusky.com>; Jonathan Holody <jholody@cityofsandusky.com>; Mario D'Amico <mdamico@cityofsandusky.com>  
**Subject:** Halo Live LLC Liquor Permit #3536637

HALO LIVE LLC, 805 Wayne Street

TREX transfer was approved 11.28.22, D1 & D2 Liquor License was approved 01.09.23.

This request is for a D3 Liquor License.

D3: Spirituous liquor for on premises consumption only until 1:00 a.m.

Please let Commission know your thoughts.



**Cathy Myers, Commission Clerk**  
City Hall  
222 Meigs Street | Sandusky, OH 44870  
T: 419.627.5850 | F: 419.627.5555  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)



## Cathy Myers

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**From:** Mario D'Amico  
**Sent:** Thursday, February 2, 2023 12:04 PM  
**To:** Cathy Myers  
**Subject:** Re: Halo Live LLC Liquor Permit #3536637

SFD has no comments or concerns about this transfer.



Mario D'Amico | *Fire Chief*  
**SANDUSKY FIRE DEPARTMENT**  
600 W. Market Street | Sandusky, OH 44870  
T: 419.627.5822 | F: 419.627.5820  
[mdamico@ci.sandusky.oh.us](mailto:mdamico@ci.sandusky.oh.us)

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**From:** Cathy Myers <CommissionClerk@cityofsandusky.com>  
**Sent:** Thursday, February 2, 2023 12:01 PM  
**To:** Jonathan Holody <jholody@cityofsandusky.com>; Mario D'Amico <mdamico@cityofsandusky.com>  
**Subject:** RE: Halo Live LLC Liquor Permit #3536637

I still need your recommendation on this one...

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**Subject:** Halo Live LLC Liquor Permit #3536637

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This request is for a D3 Liquor License.

D3: Spirituous liquor for on premises consumption only until 1:00 a.m.

Please let Commission know your thoughts.

**Cathy Myers, Commission Clerk**  
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[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)





## Cathy Myers

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**From:** Jonathan Holody  
**Sent:** Monday, February 6, 2023 12:45 PM  
**To:** Cathy Myers  
**Subject:** RE: Halo Live LLC Liquor Permit #3536637

No objection from Community Development.

Thanks,

Jonathan



**Jonathan Holody | Director**  
Department of Community Development  
240 Columbus Avenue, Sandusky, OH 44870  
T: 419.627.5707  
E: [jholody@ci.sandusky.oh.us](mailto:jholody@ci.sandusky.oh.us)  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)



**From:** Cathy Myers <[CommissionClerk@cityofsandusky.com](mailto:CommissionClerk@cityofsandusky.com)>  
**Sent:** Thursday, February 2, 2023 12:01 PM  
**To:** Jonathan Holody <[jholody@cityofsandusky.com](mailto:jholody@cityofsandusky.com)>; Mario D'Amico <[mdamico@cityofsandusky.com](mailto:mdamico@cityofsandusky.com)>  
**Subject:** RE: Halo Live LLC Liquor Permit #3536637

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**Subject:** Halo Live LLC Liquor Permit #3536637

HALO LIVE LLC, 805 Wayne Street

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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

TO

91152590001		TRFO	212 FREMONT LLC DBA ORIGINAL MARGARITAVILLE 212 FREMONT AVE & PATIOS SANDUSKY OH 44870	
PERMIT NUMBER		TYPE		
02	01	2019		
ISSUE DATE				
12	29	2022		
FILING DATE				
D1	D2	D3	D3A	D6
PERMIT CLASSES				
22	077	B	F28916	
TAX DISTRICT		RECEIPT NO.		

FROM 01/03/2023

9115259			212 FREMONT LLC DBA ORIGINAL MARGARITAVILLE 212 FREMONT AVE & PATIOS SANDUSKY OH 44870	
PERMIT NUMBER		TYPE		
02	01	2019		
ISSUE DATE				
12	29	2022		
FILING DATE				
D1	D2	D3	D3A	D6
PERMIT CLASSES				
22	077			
TAX DISTRICT		RECEIPT NO.		



MAILED 01/03/2023

RESPONSES MUST BE POSTMARKED NO LATER THAN.

02/03/2023

**IMPORTANT NOTICE**

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WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES

**B TRFO 9115259-0001**

(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 SANDUSKY CITY COUNCIL  
240 COLUMBUS AVE  
SANDUSKY OHIO 44870**

## Cathy Myers

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**From:** Jared Oliver  
**Sent:** Monday, January 23, 2023 2:37 PM  
**To:** Cathy Myers; Mario D'Amico; Jonathan Holody  
**Subject:** RE: Liquor Permit #91152590001

SPD has no comments or concerns regarding this transfer.



**Jared Oliver | Chief of Police**  
SANDUSKY POLICE DEPARTMENT  
222 Meigs Street | Sandusky, OH 44870  
T: 419.627.5869 | F: 419.627.5862  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)



**From:** Cathy Myers <CommissionClerk@cityofsandusky.com>  
**Sent:** Monday, January 23, 2023 12:57 PM  
**To:** Jared Oliver <joliver@cityofsandusky.com>; Mario D'Amico <mdamico@cityofsandusky.com>; Jonathan Holody <jholody@cityofsandusky.com>  
**Subject:** Liquor Permit #91152590001

TRFO of D1, D2, D3, D3A & D6 Liquor License to:

212 Fremont LLC, DBA Original Margaritaville, 212 Fremont Ave & Patio, Sandusky

D1: Beer only for on premises consumption or in original sealed containers for carryout only until 1am.

D2: Wine & mixed beverages for on premise consumption or in original sealed containers for carryout only until 1am.

D3: Spirituous liquor for on premises consumption only until 1am.

D3A: Extend Issued permit privileges until 2:30am.

D6: Allows for sales of intoxicating liquor on Sundays.

Please comment for Commission if you have any issues.

**Cathy Myers, Commission Clerk**  
City Hall  
222 Meigs Street | Sandusky, OH 44870  
T: 419.627.5850 | F: 419.627.5555  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)



## Cathy Myers

---

**From:** Mario D'Amico  
**Sent:** Thursday, February 2, 2023 12:04 PM  
**To:** Cathy Myers  
**Subject:** Re: Liquor Permit #91152590001

SFD has no issues or comments.



Mario D'Amico | *Fire Chief*  
**SANDUSKY FIRE DEPARTMENT**  
600 W. Market Street | Sandusky, OH 44870  
T: 419.627.5822 | F: 419.627.5820  
[mdamico@ci.sandusky.oh.us](mailto:mdamico@ci.sandusky.oh.us)

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**From:** Cathy Myers <CommissionClerk@cityofsandusky.com>  
**Sent:** Thursday, February 2, 2023 12:02 PM  
**To:** Mario D'Amico <mdamico@cityofsandusky.com>  
**Subject:** RE: Liquor Permit #91152590001

I still your recommendation for this one...

**From:** Cathy Myers  
**Sent:** Monday, January 23, 2023 12:57 PM  
**To:** Jared Oliver <joliver@cityofsandusky.com>; Mario D'Amico <mdamico@cityofsandusky.com>; Jonathan Holody <jholody@cityofsandusky.com>  
**Subject:** Liquor Permit #91152590001

TRFO of D1, D2, D3, D3A & D6 Liquor License to:

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D3A: Extend Issued permit privileges until 2:30am.

D6: Allows for sales of intoxicating liquor on Sundays.

Please comment for Commission if you have any issues.



## Cathy Myers

---

**From:** Jonathan Holody  
**Sent:** Tuesday, January 24, 2023 7:16 AM  
**To:** Cathy Myers  
**Subject:** RE: Liquor Permit #91152590001

No objection from Community Development.

Jonathan

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**From:** Cathy Myers <[CommissionClerk@cityofsandusky.com](mailto:CommissionClerk@cityofsandusky.com)>  
**Sent:** Monday, January 23, 2023 2:39 PM  
**To:** Jared Oliver <[joliver@cityofsandusky.com](mailto:joliver@cityofsandusky.com)>; Mario D'Amico <[mdamico@cityofsandusky.com](mailto:mdamico@cityofsandusky.com)>; Jonathan Holody <[jholody@cityofsandusky.com](mailto:jholody@cityofsandusky.com)>  
**Subject:** RE: Liquor Permit #91152590001

Okay, thank you!

**From:** Jared Oliver <[joliver@cityofsandusky.com](mailto:joliver@cityofsandusky.com)>  
**Sent:** Monday, January 23, 2023 2:37 PM  
**To:** Cathy Myers <[CommissionClerk@cityofsandusky.com](mailto:CommissionClerk@cityofsandusky.com)>; Mario D'Amico <[mdamico@cityofsandusky.com](mailto:mdamico@cityofsandusky.com)>; Jonathan Holody <[jholody@cityofsandusky.com](mailto:jholody@cityofsandusky.com)>  
**Subject:** RE: Liquor Permit #91152590001

SPD has no comments or concerns regarding this transfer.



**Jared Oliver | Chief of Police**  
SANDUSKY POLICE DEPARTMENT  
222 Meigs Street | Sandusky, OH 44870  
T: 419.627.5869 | F: 419.627.5862  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

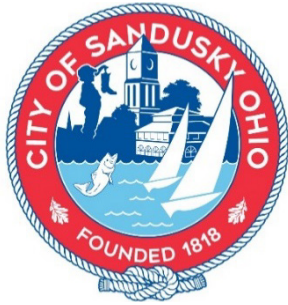


**From:** Cathy Myers <[CommissionClerk@cityofsandusky.com](mailto:CommissionClerk@cityofsandusky.com)>  
**Sent:** Monday, January 23, 2023 12:57 PM  
**To:** Jared Oliver <[joliver@cityofsandusky.com](mailto:joliver@cityofsandusky.com)>; Mario D'Amico <[mdamico@cityofsandusky.com](mailto:mdamico@cityofsandusky.com)>; Jonathan Holody <[jholody@cityofsandusky.com](mailto:jholody@cityofsandusky.com)>  
**Subject:** Liquor Permit #91152590001

TRFO of D1, D2, D3, D3A & D6 Liquor License to:

212 Fremont LLC, DBA Original Margaritaville, 212 Fremont Ave & Patio, Sandusky

D1: Beer only for on premises consumption or in original sealed containers for carryout only until 1am.



## DEPARTMENT OF COMMUNITY DEVELOPMENT

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240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5891  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

**TO:** John Orzech, Interim City Manager

**FROM:** James A. Stacey III, Public Transit Administrator

**DATE:** February 1, 2023

**SUBJECT:** Adoption of Revised / Updated Title VI Plan

**ITEM FOR CONSIDERATION:** Legislation requesting approval for the Interim City Manager to adopt an updated Title VI plan for the Sandusky Transit System, in coordination with FTA and ODOT compliance guidelines.

**BACKGROUND INFORMATION:** As part of a Triennial Review conducted by the Ohio Department of Transportation, the current Title VI plan has expired and a new plan must be adopted as stated in the Corrective Action Compliance Requirements.

STS adheres to Title VI of the Civil Rights Act of 1964 as amended, Section 601, FTA Circular 4702.1B, ODOT Public transportation requirements as specified in the Master Grant Agreement, and the State Management Plan. This section states, "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." STS submitted the Title VI Assurances to the ODOT Office of Transit with the initial application for federal funding and will submit updates annually to the Office of Transit with an update to FTA every three years. The last Title VI plan was updated in 2019.

The City of Sandusky shall take all necessary steps to assure the Sandusky Transit System is in full compliance with the Federal Transit Administration and Ohio Department of Transportation's Title VI Policy.

**BUDGET IMPACT:** There is no impact to the Sandusky Transit System's or City of Sandusky's budget

**ACTION REQUESTED:** It is requested that legislation be adopted allowing the City Manager to adopt the updated Title VI plan for the Sandusky Transit System, in coordination with FTA and ODOT compliance guidelines. It is further requested that this legislation take immediate effect in full accordance with Section 14 of the City Charter in order to immediately adopt the new plan since the current plan is expired.

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James A. Stacey III, Public Transit Administrator

I concur with this recommendation:

John Orzech, Interim City Manager

Jonathan Holody,  
Director of Community Development

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cc: Cathy Meyers, Clerk of the City Commission  
Michelle Reeder, Finance Director  
Brendan Heil, Law Director

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING AND ADOPTING AN UPDATED TITLE VI CIVIL RIGHTS PLAN FOR THE SANDUSKY TRANSIT SYSTEM AS REQUIRED BY THE FEDERAL TRANSIT ADMINISTRATION; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance and the Federal Transit Administration (FTA) works to ensure nondiscriminatory transportation in support of their mission to enhance the social and economic quality of life for all Americans and the FTA Office of Civil Rights is responsible for monitoring FTA recipients' Title VI programs and ensuring their compliance with Title VI requirements; and

**WHEREAS**, as a condition of receiving grant funding, the FTA requires that recipients have a Title VI Plan adopted by its governing body every three (3) years; and

**WHEREAS**, as part of a Triennial Review conducted by the Ohio Department of Transportation, the City's current Title VI Plan has expired, and the new plan must be adopted as stated in the Corrective Action Compliance Requirements; and

**WHEREAS**, this Resolution should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately adopt the updated Title VI Civil Rights Plan so it can be submitted to the FTA as required and to be in compliance with Title VI requirements; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments, including the Sandusky Transit System, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission hereby approves and adopts the updated Title VI Plan for the Sandusky Transit System, in coordination with the Federal Transportation Administration and Ohio Department of Transportation's compliance guidelines.

Section 2. The City Manager is authorized to execute and file with the City's Plan any assurances or any other documentation required by the Ohio Department of Transportation and to furnish such additional information as the Ohio Department of Transportation may require in connection with the City's Plan.



**PAGE 2 - RESOLUTION NO. \_\_\_\_\_**

Section 3. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## COMMUNITY DEVELOPMENT

### *Division of Transit*

240 Columbus Ave  
Sandusky, Ohio 44870

419.627.5715

[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

**Subject:** Title VI – Civil Rights

**Effective Date:** January 1, 2023

**Replaces:** All previous

**Purpose:**

To ensure that Sandusky Transit System (STS) is in compliance with state and federal laws relating to Title VI of the Civil Rights Code.

**Responsibilities:**

The Transit Administrator will ensure that STS complies with law and completes all reporting requirements.

**Related Documents:**

Attachment 1 Title VI Complaint Procedure

Attachment 2 Title VI Complaint Form

Attachment 3 Language Assistance Plan

Attachment 4 Notice to the Public

Attachment 5 Public Outreach Activities

Attachment 6 Title VI List of Investigations, Complaints and Lawsuits

Attachment 7 Title VI Plan Approval & Compliance Requirements

**Policy:**

STS adheres to Title VI of the Civil Rights Act of 1964 as amended, Section 601, FTA Circular 4702.1B, ODOT Public transportation requirements as specified in the Master Grant Agreement, and the State Management Plan. This section states, “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” STS submitted the Title VI Assurances to the ODOT Office of Transit with the initial application for federal funding and will submit updates annually to the Office of Transit with an update to FTA every three years.

In accordance with Title VI regulations, STS will not:

- Deny any protected individual service, financial aid, or benefit under the program
- Provide any service, financial aid, or benefit that is different for protected individuals from that provided to others
- Subject a protected individual to segregation or separate treatment
- Restrict a protected individual in the employment of any advantage or privilege enjoyed by others
- Treat protected individuals differently in terms of whether they satisfy admission, eligibility, or membership requirements
- Deny a protected individual the opportunity to participate in the provision of services
- Deny a protected individual the opportunity to participate as a member of a planning or advisory body

- Use criteria or methods of administration that have the effect of subjecting individuals to discrimination
- Make decisions in regard to facility location with the purpose of subjecting persons to discrimination
- Discriminate with regard to the routing, scheduling, or quality of transit service
- Use race, color, or national origin as a basis for determining frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes

In accordance with Title VI regulations, STS will take affirmative action to assure non-discrimination including the following eight required actions:

1. Develop Title VI Complaint Procedures.
2. Record Title VI investigations, complaints, and lawsuits
  - a. Maintain a list of active investigations conducted by entities other than FTA, lawsuits or complaints alleging discrimination
    - i. Date filed
    - ii. Summary of allegation
    - iii. Current status
    - iv. Actions taken in response
  - b. Notify ODOT immediately in the case of a lawsuit or complaint alleging discrimination
3. Provide meaningful access to persons with Limited English Proficiency – benefits, services, information, and other important portions of their programs.
4. Notify beneficiaries of Title VI protections
  - i. Disseminate information to the public. STS will include a statement on all printed materials indicating that we will operate programs without regard to race, color, national origin, sex, age, income, or disability
  - b. Use a variety of dissemination methods
  - c. General notification
  - d. Document translation
5. Provide additional information upon request
6. Prepare and submit a Title VI program and report information as part of our ODOT grant
7. Analyze impact of construction projects in accordance with the National Environmental Policy Act (NEPA) and ODOT procedures.
8. Promote inclusive public participation by conducting public outreach and involvement activities with minority and low-income individuals.

## Attachment 1: Title VI Complaint Procedure

### **STS Title VI Complaint Procedure**

**Sandusky Transit System's** Title VI Complaint Procedure is made available in the following locations:

- Agency website, if available: [www.cityofsandusky.com](http://www.cityofsandusky.com)
- Hard copy in City Hall located at 240 Columbus Avenue Sandusky, Oh 44870.
- Hard copy in STS Operations Hub at 1230 N. Depot St. Sandusky, Oh 44870.

Any person who believes she or he has been discriminated against on the basis of race, color, or national origin by the Sandusky Transit System (hereinafter referred to as "STS") may file a Title VI complaint by completing and submitting the agency's Title VI Complaint Form. The Sandusky Transit System investigates complaints received no more than 180 days after the alleged incident. STS will process complaints that are complete.

Once the complaint is received, STS will review it to determine if our office has jurisdiction. The complainant will receive an acknowledgement letter informing her/him whether the complaint will be investigated by our office.

STS has 30 days to investigate the complaint. If more information is needed to resolve the case, STS may contact the complainant. The complainant has 30 business days from the date of the letter to send requested information to the investigator assigned to the case. If the investigator is not contacted by the complainant or does not receive the additional information within 30 business days, STS can administratively close the case. A case can be administratively closed also if the complainant no longer wishes to pursue their case.

After the investigator reviews the complaint, she/he will issue one of two letters to the complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. An LOF summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member or other action will occur. If the complainant wishes to appeal the decision, she/he has 30 days after the date of the letter or the LOF to do so.

A person may also file a complaint directly with the Ohio Department of Transportation, at ODOT Office of Equal Opportunity, Attention: Title VI Coordinator, 1980 West Broad St., Columbus, OH 43223.

A person may also file a complaint directly with the Federal Transit Administration, at FTA Office of Civil Rights, 1200 New Jersey Avenue SE, Washington, DC 20590.



## Attachment 2: Title VI Complaint Form

**Sandusky Transit System's** Title VI Complaint Procedure is made available in the following locations:

- Agency website, if available: [www.cityofsandusky.com/departments/sandusky\\_transit\\_system](http://www.cityofsandusky.com/departments/sandusky_transit_system)
- Hard copy in City Hall located at 240 Columbus Avenue Sandusky, Oh 44870.
- Hard copy in STS Operations Hub at 1230 N. Depot St. Sandusky, Oh 44870.

### **STS TITLE VI COMPLAINT FORM**

<b>Section I:</b>				
Name:				
Address:				
Telephone (Home):			Telephone (Work):	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	TDD		Other	
<b>Section II:</b>				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If not, please supply the name and relationship of the person for whom you are complaining:				
Please explain why you have filed for a third party: _____				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
<b>Section III:</b>				
I believe the discrimination I experienced was based on (check all that apply): <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all person (s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form. _____ _____ _____ _____ _____				



<b>Section IV:</b>		
Have you previously filed a Title VI complaint with this agency?	Yes	No
<b>Section V:</b>		
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?		
<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check all that apply: <input type="checkbox"/> Federal Agency: _____ <input type="checkbox"/> Federal Court _____ <input type="checkbox"/> State Agency _____ <input type="checkbox"/> State Court _____ <input type="checkbox"/> Local Agency _____		
Please provide information about a contact person at the agency/court where the complaint was filed.		
Name:		
Title:		
Agency:		
Address:		
Telephone:		
<b>Section VI:</b>		
Name of agency complaint is against:		
Contact person:		
Title:		
Telephone number:		

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date required below

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Please submit this form in person at the address below, or mail this form to:  
 STS Transit Administrator  
 240 Columbus Ave.  
 Sandusky, OH 44870

## Attachment 3 – Language Assistance Plan

### ***Plan Components***

As a recipient of federal US DOT funding, **Sandusky Transit System** is required to take reasonable steps to ensure meaningful access to our programs and activities by limited-English proficient (LEP) persons.

Limited English Proficient (LEP) refers to persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. This includes those who have reported to the U.S. Census that they speak English less than very well, not well, or not at all.

**Sandusky Transit System's** Language Assistance Plan includes the following elements:

- Item #1: The results of the *Four Factor Analysis*, including a description of the LEP population(s), served.
- Item #2: A description of how language assistance services are provided by language
- Item #3: A description of how LEP persons are informed of the availability of language assistance service
- Item #4: A description of how the language assistance plan is monitored and updated
- Item #5: A description of how employees are trained to provide language assistance to LEP persons

### ***Four Factor Analysis Methodology***

To determine if an individual is entitled to language assistance and what specific services are appropriate, Sandusky **Transit System** has conducted a *Four Factor Analysis* of the following areas: 1) Limited-English Proficient (LEP) Speaker Demography, 2) Contact Frequency, 3) Importance of Service, and 4) Resources and Costs.

**Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient.** In addition to the number or proportion of LEP persons served, Sandusky Transit System will identify:

- (a) How LEP persons interact with the recipient's agency;
- (b) Identification of LEP communities, and assessing the number or proportion of LEP persons from each language group to determine the appropriate language services for each language;
- (c) The literacy skills of LEP populations in their native languages, in order to determine whether translation of documents will be an effective practice; and
- (d) Whether LEP persons are underserved by the recipient due to language barriers.

**Factor 2: The frequency with which LEP persons come into contact with the program: Sandusky Transit System's** staff comes into contact with LEP persons in the following ways:

- (a) Use of bus service;
- (b) Purchase of tickets through vending machines, outlets, websites, and over the phone;
- (c) Participation in public meetings;
- (d) Customer service interactions;
- (e) Ridership surveys;
- (f) Operator surveys.

**Factor 3: The nature and importance of the program, activity, or service provided by the program to people's lives.** Sandusky Transit System provides a critical service to the residents of Sandusky and Erie County. STS provides access to health care facilities, employment opportunities, food access, educational institutions, and social events, directly contributing to the overall wellbeing of the community and the local economy.

**Factor 4: The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.** Resource and cost issues can often be reduced by technological advances, reasonable business practices, and the sharing of language assistance materials and services among and between recipients, advocacy groups, LEP populations and Federal agencies. Large entities and those entities serving a significant number of LEP persons should ensure that their resource limitations are well substantiated before using this factor as a reason to limit language assistance.

Item #1 – Results of the Four Factor Analysis <i>(including a description of the LEP population(s) served)</i>
--

**Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered.**

Of the 55,758 residents in **Sandusky Transit System's Sandusky County** service area, 537 residents describe themselves as speaking English less than "very well". People of Spanish descent are the primary LEP persons likely to utilize Sandusky Transit System's services. For Sandusky Transit System's service area, the latest U.S. Census Bureau data shows that among the area's population 0.96% speak English "*less than very well.*" **For these groups** who speak English "less than very well", 0.79% speak Spanish.

Sandusky County – Languages Spoke at Home

	Total Number	Percent of Population	Total Population of County
Speak Language other than English	2,323	4.17%	55,758
Speak English Less than Very Well	537	0.96%	55,758
Spanish – Speak English Less than Very Well	443	0.79%	55,758
Other Indo-European Languages – Speak English Less than Very Well	79	0.14%	55,758
Asian and Pacific Island Languages – Speak English Less than Very Well	15	0.03%	55,758
Other Languages – Speak English Less than Very Well	0	0%	55,758

Of the 71,495 residents in **Sandusky Transit System's Erie County** service area, 1,025 residents describe themselves as speaking English less than "very well". People of Spanish descent are the primary LEP persons likely to utilize Sandusky Transit System's services. For Sandusky Transit System's service area, the latest U.S. Census Bureau data shows that among the area's population 1.43% speak English "*less than very well.*" **For these groups** who speak English "less than very well", 0.64% speak Spanish.

**Erie County – Languages Spoken at Home**

	Total Number	Percent of Population	Total Population of County
Speak Language other than English	2,456	3.44%	71,495
Speak English Less than Very Well	1,025	1.43%	71,495
Spanish – Speak English Less than Very Well	461	0.64%	71,495
Other Indo-European Languages – Speak English Less than Very Well	235	0.33%	71,495
Asian and Pacific Island Languages – Speak English Less than Very Well	280	0.39%	71,495
Other Languages – Speak English Less than Very Well	49	0.07%	71,495

**Factor 2: The frequency with which LEP persons come into contact with the program.**

Sandusky Transit System assessed the frequency with which staff and drivers have, or could have, contact with LEP persons. Sandusky Transit System provides approximately 250,000 passenger trips per year. If an individual has speech limitations, the dispatcher or driver will work with the Ohio Department of Transportation, if needed, to ensure the individual receives access to the transit services.

**Factor 3: The nature and importance of the program, activity, or service provided by the program to people's lives.**

All of Sandusky Transit System's programs are important; however, those related to safety, public transit, nondiscrimination, and public involvement are among the most important. Sandusky Transit System is committed to providing meaningful access and will provide written translation for any of its documents, when reasonable, effective and with the available resources. In other cases, Sandusky Transit Systems will strive to provide alternative but meaningfully accessibility. Moreover, Sandusky Transit System continually evaluates its programs, services, and activities to ensure that persons who may be LEP are always provided with meaningful access.

**Factor 4: The resources available for LEP outreach, as well as the costs associated with that outreach.**

Sandusky Transit System makes every effort to make its programs, services, and activities, accessible to LEP individuals. Sandusky Transit System will use available resources, both internal and external to accommodate reasonable requests for translations.

Item # 2 – Description of how Language Assistance Services are Provided, by Language
--

Sandusky Transit System has identified, developed, and uses the following:

- a) Individuals who have contact with the public are provided with “I Speak” language cards to identify language needs in order to match them with available services. Language cards verified and distributed by the Director as need.
- b) Sandusky Transit System has developed partnerships with local agencies, organizations, law enforcement, colleges/universities, local school districts and social service agencies that are available to assist with it LEP responsibilities.
- c) A list of web-based translation services can be provided by contracting the Human Resources Department.

Item # 3 – Description of how LEP Persons are Informed of the Availability of Language Assistance Service
---

In order to ensure that LEP individuals are aware of Sandusky Transit System’s language assistance measures, Sandusky Transit System provides the following:

- Title VI Program including the Language Assistance Plan is made available on website, if applicable, and hard copy in central office.
- Drivers and dispatchers are provided “I Speak” language cards to identify language needs in order to match them with available services.

Item # 4 – Description of how the Language Assistance Plan is Monitored and Updated
---

Sandusky Transit System will continue to update the LEP plan as required by U.S. DOT. At a minimum, the Title VI Plan will continue to be reviewed and updated every three (3) years in conjunction with the Title VI submission and use data from the U.S. Decennial Census or the American Community Survey as available, or when it is clear that the concentrations of LEP individuals are present in Sandusky Transit System service area.

Updates will continue to include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether Sandusky Transit System’s financial resources are sufficient to fund language assistance resources needed.
- Determine whether Sandusky Transit System has fully complied with the goals of this LEP Plan.
- Determine whether complaints have been received concerning Sandusky Transit System’s failure to meet the needs of LEP individuals

Item # 5 - Description of how Employees are Trained to Provide Language Assistance to LEP Persons
---

The following training will continue to be provided to Sandusky Transit System staff:



- Information on the Sandusky Transit System Title VI Procedures and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of “I Speak” language cards (used to identify language preference).
- Documentation of language assistance requests.
- Use of web-based interpreter services (over the phone interpretation provider).
- How to handle a potential Title VI / LEP complaint.

Limited English Proficient (LEP) Resource Materials:

#### LEP Policy

Sandusky Transit System shall provide for communication for limited English proficient riders to ensure them equal opportunity to benefit from services. Family members or friends of limited English proficient riders will not be used as translators unless specifically requested by that individual. The agency will utilize web-based translator programs if available.

## “I Speak” Language Identification Card

**Note:** For additional languages visit the US Census Bureau website <http://www.lep.gov/ISpeakCards2004.pdf>

Mark this Box if you speak...	Language Identification Chart	Language
	Mark this box if you read or speak English	English
	Marque esta casilla si lee o habla español	Spanish
	Kos lub voj no yog koj paub twm thiab hais lus Hmoob	Hmong
	如果说中国在方框内打勾	Chinese
	Xin ñaùnh daáu vaøo oâ naøy neáu quyù vò bieát ñoïc vaø noùi ñöôïc Vieät Ngöô.	Vietnamese
	당신이한국어말할경우이 상자를표시	Korean
	Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog.	Tagalog
	Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen	German
	Отметить этот флажок, если вы говорите по-русски	Russian
	Означите ову кућицу ако говорите српски	Serbian
	आप हिंदी बोलते हैं तो इस बक्से को चिह्नित करें	Hindi
	پر نشان لگائیں تو اس باکس بولتے ہیں اردو اگر آپ	Urdu

## Log of LEP Encounters

<b>Date</b>	<b>Time</b>	<b>Language Spoken By Individual</b> <i>(if available)</i>	<b>Name and Phone Number of Individual</b> <i>(if available)</i>	<b>Service Requested</b>	<b>Follow Up Required</b>	<b>Staff Member Providing Assistance</b>	<b>Notes</b>

## Title VI Notice to the Public

Sandusky Transit System's Notice to the Public is as follows:

### Notifying the Public of Rights Under Title VI

Sandusky Transit System

- **Sandusky Transit System** operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the **Sandusky Transit System**.

For more information on the **Sandusky Transit System's** civil rights program, the procedures to file a complaint, or to file a complaint, please contact James Stacey, Transit Administrator at (419) 627-5715 email [jstacey@cityofsandusky.com](mailto:jstacey@cityofsandusky.com); or visit our administrative office at 240 Columbus Avenue, Sandusky, Ohio 44870. For more information, visit [www.cityofsandusky.com](http://www.cityofsandusky.com)

- For transportation-related Title VI matters, a complaint may also be filed directly with the:

Ohio Department of Transportation, Attn: Office of Opportunity, Diversity, and Inclusion, Title VI Coordinator, [1980](#) West Broad Street, Mailstop 3270, Columbus, Ohio 43223

Federal Transit Administration, Office of Civil Rights, Attention: Complaint Team, East Building, 5<sup>th</sup> Floor-TCR, 1200 New Jersey Ave., SE Washington, DC, 20590.

- If information is needed in another language, contact (419) 627-5715.

**Sandusky Transit System's** Notice to the Public is posted in the public areas of the office and inside the transit vehicles.

1. Sandusky Transit Operations Hub at 1230 N. Depot St. Sandusky, Oh 44870.
2. City of Sandusky Administrative Building at City Hall 240 Columbus Avenue Sandusky, Ohi 44870

### 3. Attachment 5 – Public Outreach Activities

The public outreach and involvement activities conducted by Sandusky Transit System since the last Title VI Program submission are summarized in the table below.

Specific Public Participation activities are listed in the table below:

Event Date	Insert Agency Name Staffer(s) or Department	Activity	Communication Method (Public notice, posters, social media)	Notes
01/03/2023	City of Sandusky	Proposed Service Changes	Public Hearing	Consolidation of Orange and Yellow Fixed Route Lines  Introduction of Peak Season and Off-Season Service Hours
2/24/2022	City of Sandusky, Mobility Management	Q1 Erie County Transportation Stakeholder and Planning Committee Meeting	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
04/08/2022	Mobility Management	Senior Wellness Expo	Posters, social media	Attended community event to promote transportation options
05/05/2022	City of Sandusky, Mobility Management	Q2 Erie County Transportation Stakeholder and Planning Committee Meeting	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
07/18/2022	City of Sandusky, Mobility Management	Erie County Public Hearing	Public Hearing	TDP Public Hearing
08/04/2022	City of Sandusky, Mobility Management	Q3 Erie County Transportation Stakeholder and Planning Committee Meeting	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
09/24/2022	Mobility Management	Erie County Regional Employee Wellness Fair	Social media, posters	
11/3/2022	City of Sandusky, Mobility Management	Q4 Transportation Stakeholder and Planning Committee Meeting	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
3/18/2021	City of Sandusky, Mobility Management	Q1 2021 Erie County Transportation Stakeholder and Planning Committee	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
06/17/2021	City of Sandusky, Mobility Management	Q2 Erie County Transportation Stakeholder and Planning Committee	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
07/12/2021	Mobility Management	Focus Group	Posters	Garnered feedback on transportation within the county
08/19/2021	City of Sandusky, Mobility Management	2021 Q3 Transportation Stakeholder and Planning Committee Meeting	Posters, social media	Discussed transportation barriers, goals and strategies on coordinating transportation

10/14/2021	City of Sandusky, Mobility Management	2021 Q4 Transportation and Stakeholder Planning Committee	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
10/28/2021	Mobility Management	Erie County Coordinated Plan Public Hearing	Public Hearing	Public hearing for approval of 2022-2026 Public Coordinated Transportation Plan
07/21/2020	City of Sandusky, Mobility Management	2020 Q3 Erie County Transportation Planning Committee Meeting	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation
10/8/2020	City of Sandusky, Mobility Management	2020 Q4 Erie County Transportation Planning Committee Meeting	Posters	Discussed transportation barriers, goals and strategies on coordinating transportation

### **Sandusky Transit System's (STS) LEP Outreach Efforts**

All hearings and meetings are held in an accessible location at times that are convenient for minority and Limited English Proficiency (LEP) communities. STS participates in speaking engagements. If staff is presenting a topic that could be of potential importance to an LEP person or hosted a meeting/workshop in a concentration of LEP person, an interpreter can be available. STS's key printed materials such as rider guides, maps and Title VI information are available in English and alternative formats upon request.

Sandusky City staff attends the Sandusky Community Relations Commission quarterly meeting and is active in neighborhood programs and outreach. STS also works closely with other agencies that serve minority, low-income, and LEP populations daily to assure that public outreach and involvement efforts are effective.

As a public service agency, STS is eager to ensure that it is meeting the needs of the public to the best of its ability.

STS will encourage public participation in advisory boards and councils to aid in public transportation decision-making without regard to race, color, or national origin. Below is a breakdown of STS's elected governing commission categorized by race.

<b>Sandusky County</b>	<b>Caucasian</b>	<b>Latino</b>	<b>African American</b>	<b>Asian American</b>	<b>Native American and Other</b>
Population	92.44%	11.10%	3.46%	0.37%	0.36%
Governing Body	71.43%	0%	28.57%	0%	0%

<b>Erie County</b>	<b>Caucasian</b>	<b>Latino</b>	<b>African American</b>	<b>Asian American</b>	<b>Native American and Other</b>
Population	82.15%	4.14%	9.00%	0.64%	0.26%
Governing Body	71.43%	0%	28.57%	0%	0%



**STS's LIST OF TRANSIT-RELATED TITLE VI INVESTIGATIONS, COMPLAINTS,  
AND LAWSUITS**

Period: January 1, 2012 – January 1, 2023

	Date (Month, Day, Year)	Summary (Include basis of complaint: race, color, or national origin)	Status	Action(s) Taken
<b>Investigations</b>				
<b>1. NONE</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>Lawsuits</b>				
<b>1. NONE</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>Complaints</b>				
<b>1. NONE</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>



**Attachment 7 Title VI Plan Approval & Compliance Requirements**

Title VI Plan  
Adopted on: (01/01/2023)

\_\_\_\_\_

Adopted by: City of Sandusky Commissioners

\_\_\_\_\_

Signature(s): \_\_\_\_\_

Approval:

## Annual Certifications and Assurances

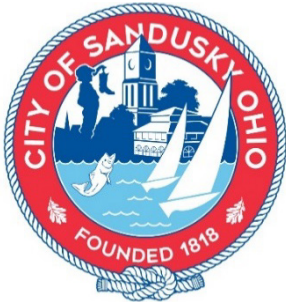
In accordance with 49 CFR Section 21.7(a), every application for financial assistance from FTA must be accompanied by an assurance that the applicant will carry out the program in compliance with Title VI regulations. This requirement shall be fulfilled when the applicant/recipient submits its annual certifications and assurances. Primary recipients will collect Title VI assurances from sub-recipients prior to passing through FTA funds.

Sandusky Transit System will remain in compliance with this requirement by annual submission of certifications and assurances as required by NHDOT.

The date of last submission of these certifications and assurances (at the time of this Plan's approval) is: January 9, 2023

## Title VI Plan Revision Log

<b>Date</b> Month/day/year	<b>Section Revised</b>	<b>Summary of Revisions</b>
1-9-23	Creation of document	All document updates and creation



## DEPARTMENT OF COMMUNITY DEVELOPMENT

240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5891  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

**TO:** John Orzech, Interim City Manager

**FROM:** James A. Stacey III, Public Transit Administrator

**DATE:** February 1, 2023

**SUBJECT:** Agreement for Transportation Billing Services – Medicaid Billing Solutions (MBS)

**ITEM FOR CONSIDERATION:** Legislation requesting approval for the City Manager to enter into a new agreement for transportation billing services between the City of Sandusky and Medicaid Billing Solutions, Inc. of Cincinnati, Ohio.

**BACKGROUND INFORMATION:** The Sandusky Transit System (STS) is engaged in the business of providing services to individuals with development disabilities who reside in the City of Sandusky, Ohio, and hereby engages the services of Medicaid Billing Solutions to provide Medicaid billing services relating to City of Sandusky Transit System.

Medicaid Billing Solutions has provided Medicaid billing services since 2017 and has requested a modification to the fees in the agreement from “the higher of \$150.00 per month or 3%” to reduce to “the higher of \$75.00 per month or 3%” of revenue received by the City as a result of MBS’s billing services. MBS will provide consultation to comply with federal, state, local laws, rules and regulations and to maximize City of Sandusky Medicaid revenue through efficient and effective claims submission and collection.

The City of Sandusky shall take all necessary steps to assure access by MBS to pertinent documentation, records, data, facilities and personnel sufficient to facilitate, expedite and generally permit the efficient completion of services.

**BUDGET IMPACT:** The City of Sandusky agrees to a variable monthly fee for services rendered. These fees will be based upon Medicaid Billing Solutions providing billing services with MBS-owned software. Billing includes on-site and/ or video conferencing consultation visits to discuss billing and revenue and to train staff as necessary or requested. Medicaid Billing Solutions fees will be the higher of \$75.00 per month or 3% of revenue received by City of Sandusky as a result of MBS’s billing services.

**ACTION REQUESTED:** It is requested that legislation be adopted allowing the City Manager to enter into a contract for transportation services with Medicaid Billing Solutions effective February 13, 2023. It is further requested that this legislation take immediate effect in full accordance with Section 14 of the City Charter to immediately execute the agreement with the reduced fees and to continue services which generate potential revenue for the Sandusky Transit System.

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James A. Stacey III, Public Transit Administrator

I concur with this recommendation:

John Orzech, Interim City Manager

Jonathan Holody,  
Director of Community Development

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cc: Cathy Meyers, Clerk of the City Commission  
Michelle Reeder, Finance Director  
Brendan Heil, Law Director

## CERTIFICATE OF FUNDS

In the Matter of: Transit Medicaid Billing

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #218-6823-53000

By: \_\_\_\_\_

Michelle Reeder

Finance Director

Dated: 2/8/2023

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A NEW AGREEMENT FOR BILLING SERVICES WITH MEDICAID BILLING SOLUTIONS, INC., OF CINCINNATI, OHIO, FOR SERVICES RELATED TO THE SANDUSKY TRANSIT SYSTEM; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City of Sandusky, through the Sandusky Transit System, provides transportation for individuals with developmental disabilities and has become eligible to bill Medicaid for these transportation trips; and

**WHEREAS**, subsequent to a request for proposals (RFP) process, the City Commission approved an agreement for billing services with Medicaid Billing Solutions, Inc., of Cincinnati, Ohio, for services related to the Sandusky Transit System by Ordinance No. 17-133, passed on July 10, 2017; and

**WHEREAS**, this City Commission approved a new agreement for billing services with Medicaid Billing Solutions, Inc., of Cincinnati, Ohio, for services related to the Sandusky Transit System by Ordinance No. 22-031, passed on February 28, 2022, modifying the fees in the agreement from 3% to “the higher of \$150.00 per month or 3%” of revenue received by the City as a result of MBS’s billing services; and

**WHEREAS**, recently, Medicaid Billing Solutions, Inc. has requested to reduce the fees in the agreement from “the higher of \$150.00 per month or 3%” to “**the higher of \$75.00 per month or 3%**” of revenue received by the City as a result of MBS’s billing services; and

**WHEREAS**, these fees are based on MBS providing billing services with MBS-owned software and the fees include on-site and/or video conferencing consultation visits to discuss billing and revenue and to train staff as necessary or requested; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter to immediately execute the agreement with the reduced fees and to continue services which generate potential revenue for the Sandusky Transit System; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments, including the Sandusky Transit System, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO,  
THAT:

Section 1. The City Manager is authorized and directed to enter into a new Agreement for Billing Services with Medicaid Billing Solutions, Inc., of Cincinnati, Ohio, for Medicaid billing services related to the Sandusky Transit System, substantially in the same form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHY A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023





Medicaid Billing Solutions, Inc.

# EXHIBIT "1"

Agreement for Billing Services

---

CITY OF SANDUSKY

February 13, 2023

[www.medicaidbillingsolutions.com](http://www.medicaidbillingsolutions.com)  
[serviceteam@medicaidbillingsolutions.com](mailto:serviceteam@medicaidbillingsolutions.com)

AGREEMENT BETWEEN CITY OF SANDUSKY  
AND MEDICAID BILLING SOLUTIONS, INC. (MBS)

I. Agreement

This agreement for MBS services is effective as of **February 13, 2023** by and between CITY OF SANDUSKY, whose primary offices are located at 240 Columbus Avenue, Sandusky, OH 44870 and Medicaid Billing Solutions, Inc. (MBS) whose primary offices, are located, in Cincinnati, Ohio 45255.

Whereas CITY OF SANDUSKY is engaged in the business of providing services to individuals with developmental disabilities who reside in Ohio, CITY OF SANDUSKY hereby engages the services of MBS to provide Medicaid billing services relating to CITY OF SANDUSKY programs and in consideration of the mutual promises herein contained, the parties agree as follows:

II. Purpose

- A. MBS shall provide Medicaid billing services and consultation to comply with all federal, state, and local laws, rules, and regulations and to maximize CITY OF SANDUSKY'S Medicaid revenue through efficient and effective claims submission and collection.
- B. MBS shall provide the following services:
1. Review service documentation for compliance and quality.
  2. Enter all services provided by CITY OF SANDUSKY into Ohiodd.net.
  3. Submit all billable services, including non-waiver, for reimbursement in accordance with DODD & ODM requirements.
  4. Track submission, attestation, and payment of claims to achieve optimal return of payments to provider.
  5. Review services provided to services billed to services paid to ensure maximization of Medicaid revenue.
  6. Train provider staff as needed/requested.
  7. Provide reports and consultation to management staff as often as required by this agreement.
  8. Attend state trainings as necessary to stay informed of Medicaid and DODD provider requirements.
  9. Provide ongoing communication with the provider staff.
- C. CITY OF SANDUSKY shall take all necessary steps to assure access by MBS to pertinent documentation, records, data, facilities, and personnel sufficient to facilitate, expedite and generally permit the efficient completion of services contracted herein. Such information may be used or disclosed only in accordance with the privacy regulations [45 CFR §§ 164.502(e); 164.504(e)] issued pursuant to the Health Insurance Portability and Accountability Act [42 USC §§ 1320 - 1320d-8] and the terms of this Agreement, or more stringent provisions of the law of the State of Ohio.
1. CITY OF SANDUSKY shall ensure the accuracy of information submitted to MBS.
  2. CITY OF SANDUSKY shall collect service documentation and send to MBS for review and processing.

3. CITY OF SANDUSKY shall maintain records in accordance with Medicaid provider agreement with DODD.

## II. Relationship of Parties

MBS shall for all purposes be treated as a contractor of CITY OF SANDUSKY and not as an employee, or servant. Nothing in this Agreement shall be construed to make MBS an employee or servant of CITY OF SANDUSKY Consultants or other personnel engaged by MBS shall, at all times, act and perform as employees or independent contractors of MBS. CITY OF SANDUSKY has an interest only in the results to be achieved, and the conduct and control of the services to be provided will lie solely with MBS and its employees.

## III. Confidentiality/HIPAA Business Associate

### A. Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

#### Specific definitions:

- EXHIBIT "1"
- (a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Medicaid Billing Solutions, Inc.
  - (b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean CITY OF SANDUSKY.
  - (c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

### B. Obligations and Activities of Business Associate

Business Associate agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;

(c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available protected health information in a designated record set to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;

(f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;

(g) Maintain and make available the information required to provide an accounting of disclosures to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;

(h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

#### C. Permitted Uses and Disclosures by Business Associate

(a) Business associate may only use or disclose protected health information as necessary to perform the services set forth in this Service Agreement.

(b) Business associate may use or disclose protected health information as required by law.

(c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.

(d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity except for the specific uses and disclosures set forth below.

(e) Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.

- (f) Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (g) Business associate may provide data aggregation services relating to the health care operations of the covered entity.

#### E. Term and Termination

- (a) Term. This Agreement shall be effective **February 13, 2023** and shall remain in full force and effect for services provided to individuals until either party terminate this agreement by giving thirty (30) day written notice to the other party or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- (b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement.
- (c) Obligations of Business Associate upon Termination.

EXHIBIT "1"

Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:

1. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
2. Return to covered entity the remaining protected health information that the business associate still maintains in any form;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
4. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out which applied prior to termination; and
5. Return to covered entity the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

- (d) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

#### IV. Fee

- A. CITY OF SANDUSKY understands and agrees to maintain confidential the fee schedule as outlined.
- B. Fees are based on MBS providing billing services with MBS-owned software and on Erie CBDD's Ohiodd.net. Billing includes on-site and/or video conferencing consultation visits to discuss billing and revenue and to train staff as necessary or requested. Medicaid Billing Solutions fees are the greater of **\$75 per month or 3% of revenue** received by CITY OF SANDUSKY as a result of MBS's billing services.
- C. MBS will invoice CITY OF SANDUSKY when Erie CBDD posts paid claims after services are billed.
- D. Any increase or decrease in contract fees must be accompanied by a description of the change in services and agreed upon by CITY OF SANDUSKY and MBS as evidenced by signature of authorized agents of CITY OF SANDUSKY and MBS.
- E. CITY OF SANDUSKY agrees to submit payment for MBS invoices within 30 days of receipt.

#### V. General Provisions

- A. This agreement constitutes the full and complete Agreement between CITY OF SANDUSKY and MBS and no amendment, modification, waiver or supplemental shall be binding on either party unless embodied in writing and signed by duly authorized representatives of each party.
- B. Any provision or condition in any purchase order or other memorandum of CITY OF SANDUSKY or MBS which is in any way inconsistent with, or which adds to, the provisions, hereof is hereby agreed to be null and void.
- C. Except as otherwise limited herein, MBS will offer a limited guarantee on the accuracy of any information, services or product furnished hereunder. MBS provides no warranty as to the accuracy or completeness of the project and MBS is not to be construed as a substitute for legal advice. As such, MBS may limit its guarantee to the accuracy and performance of services under the terms of this agreement, to the actual loss and expense incurred by CITY OF SANDUSKY due to MBS failure to be timely and accurate.
- D. MBS shall not be liable for any loss, injury, or damage resulting in whole or in part from acts of God, acts of public or quasi-public authorities, fire, theft, accidents involving aircraft or motor vehicles, or any cause beyond the control of MBS.
- E. MBS assumes responsibility for the loss, destruction or security of valuable papers, information, or data of CITY OF SANDUSKY except as limited in item 3 (above).

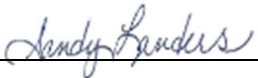
F. MBS shall comply with all federal, state, and local laws.

#### VI. Signatures

The validity of this agreement and any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Ohio.

MBS

City of Sandusky

By 

By \_\_\_\_\_

Print Sandy Landers

Print \_\_\_\_\_

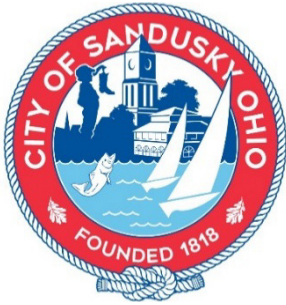
Title CEO

Title \_\_\_\_\_

Date February 13, 2023

Date \_\_\_\_\_

EXHIBIT "1"



## COMMUNITY DEVELOPMENT

240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5832  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

TO: John Orzech, Interim City Manager

FROM: Debi Eversole, Housing Development Specialist

DATE: January 31, 2023

RE: City Commission Agenda Item – Purchase of Land Bank Property – Washington/Lawrence St

**ITEM FOR CONSIDERATION:** The purpose of this communication is to request approval of legislation allowing the Interim City Manager to execute a 'Purchase & Sale Agreement' for one (1) parcel of land currently in the City of Sandusky's Land Reutilization Program, that is no longer needed for any municipal purpose located at the intersection of West Washington Street and Lawrence Street and further identified by the Auditor as Erie County Parcel No. 59-00978.000.

**BACKGROUND INFORMATION:** Pursuant to Ordinance No. 07-026 passed June 11, 2007, the City is conducting a Land Reutilization Program in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City Commission approved acquisition of the parcel on 1/23/2017, pursuant to Resolution 003-17R. The City received a Sheriff's Deed for the parcel on 8/9/2017 through foreclosure for delinquent real estate taxes. San Marino Development Company, LLC has requested this vacant nonproductive land and the Land Bank Committee approved their request at their scheduled meeting on January 17, 2023. Lot dimensions for this parcel is approximately 66' x 66' and is zoned GB (General Business).

San Marino Development Company, LLC owns several investment properties in very close proximity to this parcel and even more on connecting streets (14 in total). They feel that making this corner lot more aesthetically pleasing would enhance a highly traveled thoroughfare into the downtown area. In their request, their proposal is to properly maintain the lot by first manicuring and edging the sidewalks, then adding landscaping to conceal the surrounding buildings. They understand that this corner is and will remain a fixed transit stop with a shelter in place.

The purchase price of the property shall be no less than fair market value in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City of Sandusky Land Reutilization Policies and Procedures Section XI states that the sale of an individual buildable lot shall be \$1,500.00 plus closing costs. Therefore, the sale of the lot requested by San Marino Development Company, LLC will total \$1,500.00 plus closing costs. The sale of this property is subject to City Commission approval.

The sale of this parcel to San Marino Development Company, LLC will not only place this vacant non-productive parcel back into tax producing status, but also will relieve the City of the obligation to maintain the lots.

**BUDGET IMPACT:** The City will recoup the cost of expenses associated with the acquisition of the parcel, maintenance of the parcel and any other customary fees that may be due and payable in the ordinary course of



the sale and purchase transaction. The taxing districts will begin collecting approximately thirty-six (\$36.00) dollars per year in real estate taxes.

**ACTION REQUESTED:** It is requested legislation be adopted allowing the Interim City Manager to enter into a purchase & sale agreement with San Marino Development Company, LLC to sell the property no longer needed for any municipal purpose located at the intersection of W. Washington Street and Lawrence Street, and further identified by the Auditor as Erie County Parcel No. 59-00978.000 for the purchase price of one thousand five hundred dollars (\$1,500.00). It is further requested that the legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order to promptly execute the closing within (30) days as usual and customary in the sale of real estate.

---

Debi Eversole,  
Housing Development Specialist

I concur with this recommendation:

---

Jonathan Holody,  
Community Development Director

---

John Orzech,  
Interim City Manager

cc:     Brendan Heil, Law Director  
          Michelle Reeder, Finance Director  
          Cathy Myers, Commission Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE DECLARING THAT CERTAIN REAL PROPERTY OWNED BY THE CITY AS PART OF THE LAND REUTILIZATION PROGRAM IDENTIFIED AS PARCEL NO. 59-00978.000, LOCATED AT THE NORTHEAST CORNER OF LAWRENCE STREET AND W. WASHINGTON STREET IS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE AND AUTHORIZING THE EXECUTION OF A PURCHASE AGREEMENT WITH RESPECT TO THAT REAL PROPERTY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, pursuant to Ordinance No. 07-026 passed June 11, 2007, the City is conducting a Land Reutilization Program in accordance with the provisions of Chapter 5722 of the Ohio Revised Code; and

**WHEREAS**, the City Commission authorized the acquisition of the property located at the northeast corner of Lawrence Street and W. Washington Street, Parcel No. 59-00978.000, by Resolution No. 003-17R passed on January 23, 2017, under said Land Reutilization Program, which property is more specifically described in Exhibit "A" (the "Property") attached to a certain Purchase Agreement, a copy of which is marked Exhibit "1" with respect thereto (the "Purchase Agreement"), which property is no longer needed for any municipal purposes; and

**WHEREAS**, San Marino Development Company, LLC owns several investment properties in close proximity to this parcel as well as properties on connecting streets and has requested to acquire this vacant nonproductive land for the purpose of maintaining the lot by manicuring and edging the sidewalks and adding landscaping to conceal the surrounding buildings making it more aesthetically pleasing to enhance a highly traveled thoroughfare into the downtown area; and

**WHEREAS**, the Land Bank Committee met on January 17, 2023, and approved the acquisition and sale of this property to San Marino Development Company, LLC at the purchase price of \$1,500.00, plus closing costs and is not less than fair market value in accordance with the provisions of Chapter 5722 of the Ohio Revised Code and the City's Land Reutilization Policies and Procedures; and

**WHEREAS**, the City will recoup the costs associated with the acquisition, maintenance, and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to promptly execute the closing within (30) days as usual and customary in the sale of real estate; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect

in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission finds, determines and declares that the Property, Parcel No. 59-00978.000, located at the northeast corner of Lawrence Street and W. Washington Street, Sandusky, more specifically described in Exhibit "A", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, is no longer needed for any municipal purpose and that the execution of the Purchase Agreement providing for the sale, pursuant to Section 25 of the Charter of this City, to the Purchaser of the Property at the purchase price set forth in the Purchase Agreement, is in the economic interest of the City and in furtherance of the City's Land Reutilization Program referenced in those preambles in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City Manager is hereby authorized and directed to execute the Purchase Agreement on behalf of the City, substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the City's public purpose. Upon the exercise by the Purchaser to purchase the Property pursuant to that Purchase Agreement, the City Manager is also hereby authorized and directed on behalf of the City to execute a quit claim deed conveying the Property to the Purchaser, which quit claim deed shall be in a form satisfactory to the Law Director. The City Manager, Law Director, Finance Director, and other City officials, as appropriate, are each hereby authorized to execute and deliver such instruments, certificates and other documents and take such actions as are necessary and in the best interests of the City in order to carry out and consummate the foregoing actions authorized by this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this

Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

## **PURCHASE AND SALE AGREEMENT**

### **Draft**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the City of Sandusky, Erie County, Ohio, a Municipal Corporation, 240 Columbus Ave, Sandusky, Ohio hereinafter referred to as the "Seller" and San Marino Development Co, LLC., P.O. Box 174, Sandusky, Ohio 44870 hereinafter referred to as the "Purchaser".

WITNESSETH:

In consideration of the premises and the mutual promises and covenants hereinafter contained, the parties do hereby agree as follows:

1. The Seller agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Seller, one unimproved parcel of real property located at the intersection of W. Washington Street and Lawrence Street, Sandusky, Ohio, and identified as Erie County Parcel No. 59-00978.000, and more fully described in the legal description marked Exhibit "A" and attached hereto.
2. The total purchase price for the real property identified as Erie County Parcel No. 59-00978.000, Sandusky, Ohio, shall be one thousand five hundred dollars (\$1,500.00), which is not less than the fair market value as determined by the City of Sandusky.
3. Seller shall furnish to Purchaser a quit claim deed conveying to Purchaser all of the Seller's interest in the Property. The Property shall be free and clear of the liens, taxes, assessments, penalties and interest prior to the date of closing. Purchaser shall pay all of the taxes and assessments due and payable after the date of closing.
4. The closing date of this transaction shall be no later than March 31, 2023 or at such other time as may be mutually agreed upon, in writing, by the parties. The escrow agent herein shall be Hartung Title Agency, 327 E. Washington Street, Sandusky, Ohio 44870. All funds and documents required to close this transaction shall be deposited with said escrow agent on or before the closing date. An executed counterpart of this Agreement shall be deposited with the escrow agent by the Seller and this Agreement shall serve as the escrow instructions. The escrow agent may attach its standard conditions of acceptance thereto; provided, however, that in the event such standard conditions are inconsistent or in conflict with the terms of this Agreement, this Agreement shall control.
5. The Seller and the Purchaser represent that no real estate broker or agent was involved in this transaction and that no brokerage fees, commissions, or other compensation is due any real estate broker or agent because of this transaction.
6. On the closing date, the escrow agent shall file for record the deeds, and other instruments, if any, required to be recorded pursuant to this Agreement and thereupon deliver to each of the parties, the funds and documents to which they shall be respectively entitled, together with its escrow statement.
7. The expenses of closing shall be paid in the following manner:

- a) The cost of securing a title insurance commitment and policy of insurance shall be paid by Purchaser.
  - b) The cost of preparing, executing, and acknowledging any deeds or other instruments required to convey title to Purchaser in the manner described in this Agreement shall be paid by Seller.
  - c) Each party hereto shall be responsible for their own attorney fees relating to this Agreement and its implementation.
  - d) The cost of transfer and recording of the deed shall be paid by Purchaser.
  - e) Any tax imposed on the conveyance of title to the property to Purchaser shall be paid by Purchaser.
  - f) Any fee charged by the escrow agent shall be equally shared between the Seller and the Purchaser.
8. Purchaser shall be entitled to possession of the Property upon the closing of this transaction.
  9. The Purchaser has examined the Property, has had the opportunity to fully inspect and ask questions about conditions of the same, and acknowledges that they are accepting the Property "AS IS" subject to no warranties as of the date of the execution of this Agreement and that there have been no representations by the Seller as to the condition of this property.
  10. In the event that the Purchaser breaches this Agreement by not closing this transaction on or before March 31, 2023, earnest money deposited, if any, shall be immediately paid to the Seller, which payment may be treated as liquidated damages (the precise amount of damages being difficult or impossible to ascertain).
  11. This Agreement sets forth the entire understanding between the parties with respect to the subject matter hereof, and no agreements or understandings nor any representations concerning the same shall be binding upon the parties unless specifically set forth herein.
  12. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instruments.
  13. This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their respective heirs, legal representative, and assigns.

**SIGNATURE PAGES TO FOLLOW**



PURCHASER:

\_\_\_\_\_  
Michael J. Will, Statutory Agent  
San Marino Development Co, LLC

STATE OF OHIO     )  
                                  ) ss:  
ERIE COUNTY        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, a Notary Public in and for said County and State, personally appeared Michael J. Will, Statutory Agent for San Marino Development Co, LLC. and acknowledged their execution of the foregoing instrument and that the same is their voluntary act and deed.

EXHIBIT "1"

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

\_\_\_\_\_  
NOTARY PUBLIC

Approved as to Form:

\_\_\_\_\_  
Brendan Heil (#0091991)  
Law Director  
City of Sandusky



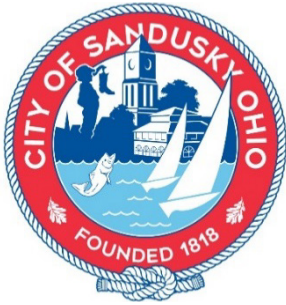
**EXHIBIT A**

**Situated in the City of Sandusky, County of Erie and State of Ohio: Being the south one-third (1/3) of Lot Number Eighty-three (83) Washington Street as per plat recorded in the Old Town Plat of the City of Sandusky.**

**Property Address: Washington Street, Sandusky, Ohio 44870**

**Tax ID No.: 59-00978.000**

**EXHIBIT "1"**



## COMMUNITY DEVELOPMENT

240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5832  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

TO: John Orzech, Interim City Manager

FROM: Debi Eversole, Housing Development Specialist

DATE: January 31, 2023

RE: City Commission Agenda Item – Purchase of Land Bank Property –  
423 Fulton Street – Slip In Concrete

**ITEM FOR CONSIDERATION:** The purpose of this communication is to request approval of legislation allowing the Interim City Manager to execute a 'Purchase & Sale Agreement' for one (1) parcel of land currently in the City of Sandusky's Land Reutilization Program, that is no longer needed for any municipal purpose located at 423 Fulton Street and further identified by the Auditor as Erie County Parcel No. 59-00829.000.

**BACKGROUND INFORMATION:** Pursuant to Ordinance No. 07-026 passed June 11, 2007, the City is conducting a Land Reutilization Program in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City Commission approved acquisition of the parcel on 8/24/2020, pursuant to Resolution 030-20R. The City received a Warranty Deed for the parcel on 10/19/2020 through gift of deed in lieu of foreclosure for delinquent real estate taxes. Lucas J. Keller, sole member of Slip In Concrete, LLC has requested this vacant nonproductive land and the Land Bank Committee approved the request at their scheduled meeting on January 17, 2023. Lot dimensions for this parcel is approximately 33' x 132' and is zoned R2F (Residential Two-Family).

The applicant is currently rehabilitating the house to the north at 421 Fulton Street, which was a former Land Bank property. A site visit was performed on November 21, 2022 showing progress. The applicant has completely gutted the interior in order to make the first floor ADA compliant. It was made aware that the rehabilitation project is being done for a family member that is wheelchair bound. It has always been the intent of the applicant to add a garage to the structure using the adjoining unproductive lot owned by the city. The site visit showed adequate progress, the applicant provided a letter of financial capability from CIVISTA Bank and the Planning Department gave a preliminary approval of the building plan for the garage and master bedroom/bathroom addition. All permits and formal approvals will still be required.

The purchase price of the property shall be no less than fair market value in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City of Sandusky Land Reutilization Policies and Procedures Section XI states that the sale of an individual buildable lot shall be \$1,500.00 plus closing costs. Therefore, the sale of the lot requested by Slip In Concrete, LLC will total \$1,500.00 plus closing costs. The sale of this property is subject to City Commission approval.

The sale of this parcel to Slip In Concrete, LLC will not only place this vacant non-productive parcel back into tax producing status, but will also increase the value of the home that is being rehabilitated. Further, this sale will also relieve the City of the obligation to maintain the lot.

**BUDGET IMPACT:** The City will recoup the cost of expenses associated with the acquisition of the parcel, maintenance of the parcel and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction. The taxing districts will begin collecting approximately one hundred twenty three (\$123.00) dollars per year in real estate taxes.

**ACTION REQUESTED:** It is requested legislation be adopted allowing the Interim City Manager to enter into a purchase & sale agreement with Slip In Concrete, LLC to sell the property no longer needed for any municipal purpose located at 423 Fulton Street, and further identified by the Auditor as Erie County Parcel No. 59-00829.000 for the purchase price of one thousand five hundred dollars (\$1,500.00) plus closing costs. It is further requested that the legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order to promptly execute the closing within (30) days as usual and customary in the sale of real estate.

---

Debi Eversole,  
Housing Development Specialist

I concur with this recommendation:

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Jonathan Holody,  
Community Development Director

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John Orzech,  
Interim City Manager

cc:     Brendan Heil, Law Director  
          Michelle Reeder, Finance Director  
          Cathy Myers, Commission Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE DECLARING THAT CERTAIN REAL PROPERTY OWNED BY THE CITY AS PART OF THE LAND REUTILIZATION PROGRAM IDENTIFIED AS PARCEL NO. 59-00829.000, LOCATED AT 423 FULTON STREET IS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE AND AUTHORIZING THE EXECUTION OF A PURCHASE AGREEMENT WITH RESPECT TO THAT REAL PROPERTY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, pursuant to Ordinance No. 07-026 passed June 11, 2007, the City is conducting a Land Reutilization Program in accordance with the provisions of Chapter 5722 of the Ohio Revised Code; and

**WHEREAS**, the City Commission authorized the acquisition of the property located at 423 Fulton Street, Parcel No. 59-00829.000, by Resolution No. 030-20R passed on August 24, 2020, under said Land Reutilization Program, which property is more specifically described in Exhibit "A" (the "Property") attached to a certain Purchase Agreement, a copy of which is marked Exhibit "1" with respect thereto (the "Purchase Agreement"), which property is no longer needed for any municipal purposes; and

**WHEREAS**, Slip In Concrete, LLC is the owner of 421 Fulton Street and has requested to acquire the adjoining vacant nonproductive land at 423 Fulton Street for the purpose of adding a garage to the structure at 421 Fulton Street, utilizing the adjoining property; and

**WHEREAS**, the Land Bank Committee met on January 17, 2023, and approved the acquisition and sale of this property to Slip In Concrete LLC at the purchase price of \$1,500.00, plus closing costs and is not less than fair market value in accordance with the provisions of Chapter 5722 of the Ohio Revised Code and the City's Land Reutilization Policies and Procedures; and

**WHEREAS**, the City will recoup the costs associated with the acquisition, maintenance, and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to promptly execute the closing within (30) days as usual and customary in the sale of real estate; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:**

Section 1. This City Commission finds, determines and declares that the Property, Parcel No. 59-00829.000, located at 423 Fulton Street, Sandusky, more specifically described in Exhibit "A", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, is no longer needed for any municipal purpose and that the execution of the Purchase Agreement providing for the sale, pursuant to Section 25 of the Charter of this City, to the Purchaser of the Property at the purchase price set forth in the Purchase Agreement, is in the economic interest of the City and in furtherance of the City's Land Reutilization Program referenced in those preambles in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City Manager is hereby authorized and directed to execute the Purchase Agreement on behalf of the City, substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the City's public purpose. Upon the exercise by the Purchaser to purchase the Property pursuant to that Purchase Agreement, the City Manager is also hereby authorized and directed on behalf of the City to execute a quit claim deed conveying the Property to the Purchaser, which quit claim deed shall be in a form satisfactory to the Law Director. The City Manager, Law Director, Finance Director, and other City officials, as appropriate, are each hereby authorized to execute and deliver such instruments, certificates and other documents and take such actions as are necessary and in the best interests of the City in order to carry out and consummate the foregoing actions authorized by this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

## **PURCHASE AND SALE AGREEMENT**

**draft**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the City of Sandusky, Erie County, Ohio, a Municipal Corporation, 240 Columbus Ave, Sandusky, Ohio hereinafter referred to as the "Seller" and Lucas J. Keller, sole member Slip In Concrete LLC, 113 Clark Rd, Sandusky, Ohio 44870 hereinafter referred to as the "Purchaser".

WITNESSETH:

In consideration of the premises and the mutual promises and covenants hereinafter contained, the parties do hereby agree as follows:

1. The Seller agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Seller, one unimproved parcel of real property located at 423 Fulton Street, Sandusky, Ohio, and identified as Erie County Parcel No. 59-00829.000, and more fully described in the legal description marked Exhibit "A" and attached hereto.
2. The total purchase price for the real property located at 423 Fulton Street, Sandusky, Ohio, shall be one thousand five hundred dollars (\$1,500.00), which is not less than the fair market value as determined by the City of Sandusky.
3. Seller shall furnish to Purchaser a quit claim deed conveying to Purchaser all of the Seller's interest in the Property. The Property shall be free and clear of the liens, taxes, assessments, penalties and interest prior to the date of closing. Purchaser shall pay all of the taxes and assessments due and payable after the date of closing.
4. Purchaser shall construct one (1) attached garage with the approximate dimensions of 20' x 24' on the Property in accordance with the plans attached hereto and incorporated herein as Exhibit "B". Completion of construction shall run concurrent with the adjoining property rehabilitation. If the Purchaser fails to complete construction within this deadline, the title to the Property together with all improvements made or erected shall automatically be forfeited and revert to and vest in the City of Sandusky. The City shall have the right to re-enter and take possession of the property. An extension may be granted by the Land Bank Committee upon written request from the Purchaser prior to the original deadline.
5. The closing date of this transaction shall be no later than March 31, 2023 or at such other time as may be mutually agreed upon, in writing, by the parties. The escrow agent herein shall be Hartung Title Agency, 327 E. Washington Street, Sandusky, Ohio 44870. All funds and documents required to close this transaction shall be deposited with said escrow agent on or before the closing date. An executed counterpart of this Agreement shall be deposited with the escrow agent by the Seller and this Agreement shall serve as the escrow instructions. The escrow agent may attach its standard conditions of acceptance thereto; provided, however, that in the event such standard conditions are inconsistent or in conflict with the terms of this Agreement, this Agreement shall control.

6. The Seller and the Purchaser represent that no real estate broker or agent was involved in this transaction and that no brokerage fees, commissions, or other compensation is due any real estate broker or agent because of this transaction.
7. On the closing date, the escrow agent shall file for record the deeds, and other instruments, if any, required to be recorded pursuant to this Agreement and thereupon deliver to each of the parties, the funds and documents to which they shall be respectively entitled, together with its escrow statement.
8. The expenses of closing shall be paid in the following manner:
  - a) The cost of securing a title insurance commitment and policy of insurance shall be paid by Purchaser.
  - b) The cost of preparing, executing, and acknowledging any deeds or other instruments required to convey title to Purchaser in the manner described in this Agreement shall be paid by Seller.
  - c) Each party hereto shall be responsible for their own attorney fees relating to this Agreement and its implementation.
  - d) The cost of transfer and recording of the deed shall be paid by Purchaser.
  - e) Any tax imposed on the conveyance of title to the property to Purchaser shall be paid by Purchaser.
  - f) Any fee charged by the escrow agent shall be equally shared between the Seller and the Purchaser.
9. Purchaser shall be entitled to possession of the Property upon the closing of this transaction.
10. The Purchaser has examined the Property, has had the opportunity to fully inspect and ask questions about conditions of the same, and acknowledges that they are accepting the Property "AS IS" subject to no warranties as of the date of the execution of this Agreement and that there have been no representations by the Seller as to the condition of this property.
11. In the event that the Purchaser breaches this Agreement by not closing this transaction on or before March 31, 2023, earnest money deposited, if any, shall be immediately paid to the Seller, which payment may be treated as liquidated damages (the precise amount of damages being difficult or impossible to ascertain).
12. This Agreement sets forth the entire understanding between the parties with respect to the subject matter hereof, and no agreements or understandings nor any representations concerning the same shall be binding upon the parties unless specifically set forth herein.
13. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instruments.
14. This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their respective heirs, legal representative, and assigns.

**SIGNATURE PAGES TO FOLLOW**





PURCHASER:

\_\_\_\_\_  
Lucas J. Keller, sole member  
Slip In Concrete LLC

STATE OF OHIO     )  
                                  ) ss:  
ERIE COUNTY        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, a Notary Public in and for said County and State, personally appeared Lucas J. Keller, sole member of Slip In Concrete, LLC and acknowledged their execution of the foregoing instrument and that the same is their voluntary act and deed.

EXHIBIT "1"

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

\_\_\_\_\_  
NOTARY PUBLIC

Approved as to Form:

\_\_\_\_\_  
Brendan Heil (#0091991)  
Law Director  
City of Sandusky

**EXHIBIT A**

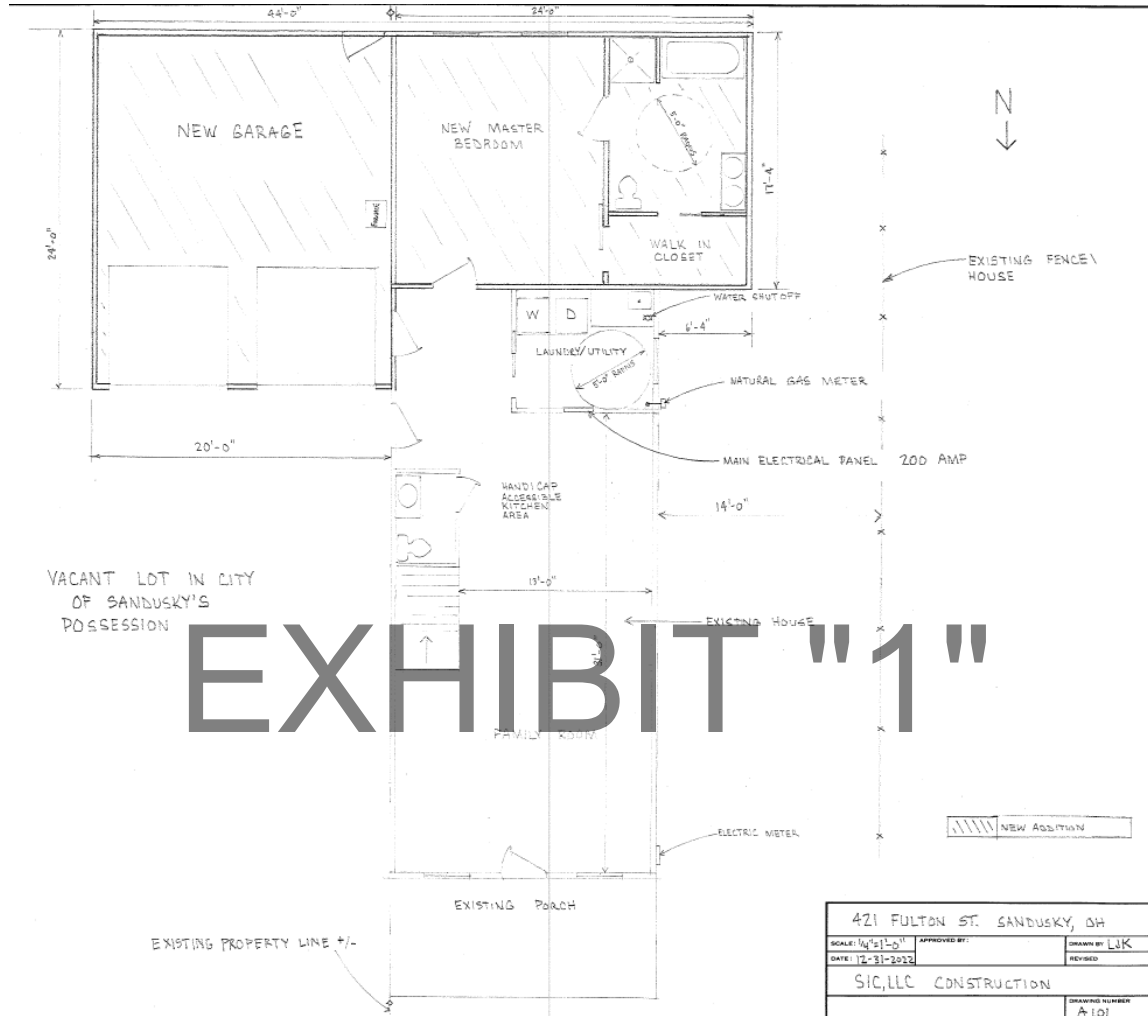
**Situated in the City of Sandusky, County of Erie, and State of Ohio:**

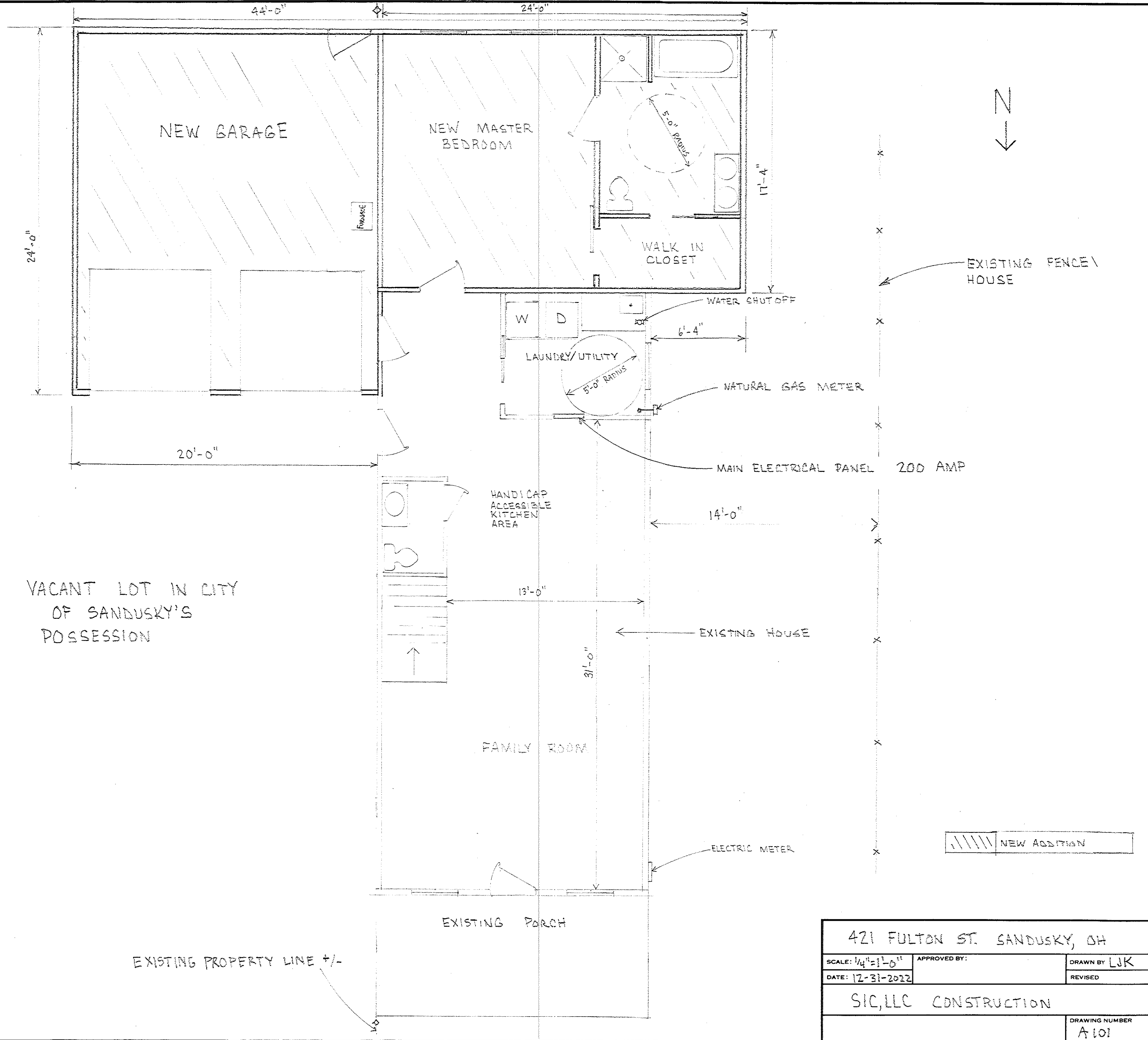
**Being the northerly one-half (1/2) of the easterly two-thirds (2/3) of Lot Number Twenty-six (26) on Fulton Street, in the City of Sandusky, Erie County, Ohio.**

**Property Address: 423 Fulton St., Sandusky, OH 44870-2313**  
**Permanent Parcel No(s): 59-00829.000**

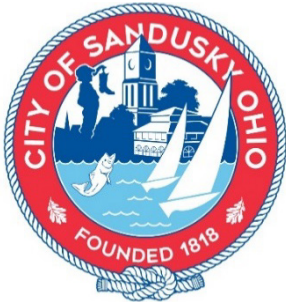
**EXHIBIT "1"**

EXHIBIT B





421 FULTON ST. SANDUSKY, OH		
SCALE: 1/4"=1'-0"	APPROVED BY:	DRAWN BY LJK
DATE: 12-31-2022		REVISED
SIC, LLC CONSTRUCTION		
		DRAWING NUMBER A101



## COMMUNITY DEVELOPMENT

240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5832  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

TO: John Orzech, Interim City Manager

FROM: Debi Eversole, Housing Development Specialist

DATE: January 31, 2023

RE: City Commission Agenda Item- Purchase and Sale Agreement: 1129 and 1131 E. Parish Street

**ITEM FOR CONSIDERATION:** The purpose of this communication is to request approval of legislation allowing the Interim City Manager to execute a 'Purchase & Sale Agreement' for two (2) parcels of land currently in the City of Sandusky's Land Reutilization Program, that are no longer needed for any municipal purpose located at 1129 and 1131 East Parish Street and further identified by the Auditor as Erie County Parcel Nos. 57-02035.000 & 57-04809.000.

**BACKGROUND INFORMATION:** Pursuant to Ordinance No. 07-026 passed June 11, 2007, the City is conducting a Land Reutilization Program in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City Commission approved acquisition of the parcels on 8/14/2017, pursuant to Resolution 040-17R and 3/11/2013, pursuant to Resolution 010-13R. The City received a Sheriff's Deeds for the parcels on 9/5/2017 and 4/11/2017, through foreclosure for delinquent real estate taxes. Firelands Habitat for Humanity has requested this vacant nonproductive land and the Land Bank Committee approved their request at their scheduled meeting on January 17, 2023.

Lot dimensions for each parcel is approximately 40' x 130', which when combined at the buyer's expense will create an 80' x 130' building lot. Firelands Habitat for Humanity will construct a three (3) bedroom, one (1) bathroom single-family residential structure on the newly combined parcel that will be owner occupied. The family that will occupy the home is a single parent family of four (4).

Firelands Habitat for Humanity has previously purchased ten (10) parcels of vacant nonproductive land from the Land Reutilization Program and have successfully built single-family, owner occupied structures on the lots located at 1722 Pierce Street, 1312 McKinley Street, 2242 Wilbert Street (built on two combined parcels), 1915 Clay Street, 506 Meigs Street and 823 Third Street and construction is in progress on 1806 Harrison Street (built on two combined parcels) and 612 Neil Street.

The property is located in an identified Land Bank Acquisition Zone where new residential development is needed.

The purchase price of the property shall be no less than fair market value in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City of Sandusky Land Reutilization Policies and Procedures Section XI states that the sale of an individual buildable lot shall be \$1,500.00 plus closing costs. Therefore, the sale of the lots requested by Firelands Habitat for Humanity will total \$3,000.00 plus closing costs. The sale of this property is subject to City Commission approval.

The sale of these parcels to Firelands Habitat for Humanity will provide new residential in-fill housing that will protect and enhance surrounding property values. Not only will these vacant non-productive parcels be put back into tax producing status, but also the City will be relieved of the obligation to maintain the lots. Additionally, the new residential construction will provide increased revenue for the taxing districts.

**BUDGET IMPACT:** The City will recoup the cost of expenses associated with the acquisition of both parcels, maintenance of each parcel and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction. The taxing districts will begin collecting approximately one hundred fifty (\$150.00) dollars per year in real estate taxes, which will increase once the home is built.

**ACTION REQUESTED:** It is requested legislation be adopted allowing the Interim City Manager to enter into a purchase & sale agreement with Firelands Habitat for Humanity to sell the property no longer needed for any municipal purpose located at 1129 and 1131 East Parish Street, and further identified by the Auditor as Erie County Parcel Nos. 57-02035.000 and 57-04809.000 for the purchase price of three thousand dollars (\$3,000.00). It is further requested that the legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order to promptly execute the closing within (30) days as usual and customary in the sale of real estate.

---

Debi Eversole,  
Housing Development Specialist

I concur with this recommendation:

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Jonathan Holody,  
Community Development Director

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John Orzech,  
Interim City Manager

cc:     Brendan Heil, Law Director  
          Michelle Reeder, Finance Director  
          Cathy Myers, Commission Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE DECLARING THAT CERTAIN REAL PROPERTY OWNED BY THE CITY AS PART OF THE LAND REUTILIZATION PROGRAM IDENTIFIED AS PARCEL NOS. 57-02035.000 AND 57-04809.000, LOCATED AT 1129 & 1131 E. PARISH STREET ARE NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE AND AUTHORIZING THE EXECUTION OF A PURCHASE AGREEMENT WITH RESPECT TO THAT REAL PROPERTY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, pursuant to Ordinance No. 07-026 passed June 11, 2007, the City is conducting a Land Reutilization Program in accordance with the provisions of Chapter 5722 of the Ohio Revised Code; and

**WHEREAS**, the City Commission previously authorized the acquisition of the property located at 1129 E. Parish Street, Parcel No. 57-02035.000, by Resolution No. 040-17R passed on August 14, 2017, and the property located at 1131 E. Parish Street, Parcel No. 57-04809.000, by Resolution No. 010-13R, passed on March, 11, 2013, under said Land Reutilization Program, which property is more specifically described in Exhibit "A" (the "Property") attached to a certain Purchase Agreement, a copy of which is marked Exhibit "1" with respect thereto (the "Purchase Agreement"), which property is no longer needed for any municipal purposes; and

**WHEREAS**, Firelands Habitat for Humanity has requested to acquire this vacant nonproductive land for the purpose of combining the lots into a single parcel and constructing a three (3) bedroom, one (1) bathroom single-family residential structure for owner occupancy; and

**WHEREAS**, the property is located in an identified Land Bank Acquisition Zone where new residential development is needed; and

**WHEREAS**, the Land Bank Committee met on January 17, 2023, and approved the acquisition and sale of this property to Firelands Habitat for Humanity at the purchase price of \$1,500.00 per parcel for a total purchase price of \$3,000.00, plus closing costs and is not less than fair market value in accordance with the provisions of Chapter 5722 of the Ohio Revised Code and the City's Land Reutilization Policies and Procedures; and

**WHEREAS**, the City will recoup the costs associated with the acquisition, maintenance, and any other customary fees that may be due and payable in the ordinary course of the sale and purchase transaction; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to promptly execute the closing within (30) days as usual and customary in the sale of real estate; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio



finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission finds, determines and declares that the Property, Parcel Nos. 57-02035.000 and 57-04809.000, located at 1129 & 1131 E. Parish Street, Sandusky, more specifically described in Exhibit "A", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, is no longer needed for any municipal purpose and that the execution of the Purchase Agreement providing for the sale, pursuant to Section 25 of the Charter of this City, to the Purchaser of the Property at the purchase price set forth in the Purchase Agreement, is in the economic interest of the City and in furtherance of the City's Land Reutilization Program referenced in those preambles in accordance with the provisions of Chapter 5722 of the Ohio Revised Code. The City Manager is hereby authorized and directed to execute the Purchase Agreement on behalf of the City, substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the City's public purpose. Upon the exercise by the Purchaser to purchase the Property pursuant to that Purchase Agreement, the City Manager is also hereby authorized and directed on behalf of the City to execute a quit claim deed conveying the Property to the Purchaser, which quit claim deed shall be in a form satisfactory to the Law Director. The City Manager, Law Director, Finance Director, and other City officials, as appropriate, are each hereby authorized to execute and deliver such instruments, certificates and other documents and take such actions as are necessary and in the best interests of the City in order to carry out and consummate the foregoing actions authorized by this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

## **PURCHASE AND SALE AGREEMENT**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the City of Sandusky, Erie County, Ohio, a Municipal Corporation, 240 Columbus Avenue, Sandusky, Ohio hereinafter referred to as the "Seller" and Firelands Habitat for Humanity, a Non-profit Corporation, 7602 Milan Road, Sandusky, Ohio 44870 hereinafter referred to as the "Purchaser".

### **WITNESSETH:**

In consideration of the premises and the mutual promises and covenants hereinafter contained, the parties do hereby agree as follows:

1. The Seller agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Seller, two unimproved parcels of real property located at 1129 & 1131 East Parish Street, Sandusky, Ohio, and identified as Erie County Parcel No. 57-02035.000 and Erie County Parcel No. 57-04809.000, Sandusky, Ohio and more fully described in the legal description marked Exhibit "A" and attached hereto.
2. The total purchase price for the real property located at 1129 & 1131 East Parish Street, Sandusky, Ohio, shall be three thousand dollars (\$3,000.00), which is not less than the fair market value as determined by the City of Sandusky. Purchaser will be responsible to combine and record the property as one parcel of land in order to build.
3. Seller shall furnish to Purchaser two quit claim deeds conveying to Purchaser all of the Seller's interest in the Property. The Property shall be free and clear of the liens, taxes, assessments, penalties and interest prior to the date of closing. Purchaser shall pay all of the taxes and assessments due and payable after the date of closing.
4. Purchaser shall construct one (1) single-family residential dwelling on the Property in accordance with the plans attached hereto and incorporated herein as Exhibit "B", which shall be owner occupied. Completion of construction shall occur within twelve (12) months from the date Purchaser acquires title. If the Purchaser fails to complete construction within twelve (12) months from the date Purchaser acquires title, the title to the Property together with all improvements made or erected shall automatically be forfeited and revert to and vest in the City of Sandusky. The City shall have the right to re-enter and take possession of the property. An extension of

twelve (12) additional months may be granted by the Land Bank Committee upon written request from the Purchaser.

5. The closing date of this transaction shall be on or before March 31, 2023 or at such other time as may be mutually agreed upon, in writing, by the parties. The escrow agent herein shall be Fidelity National Title Insurance Company of Sandusky, Ohio, 402 Columbus Avenue, Sandusky, Ohio 44870. All funds and documents required to close this transaction shall be deposited with said escrow agent on or before the closing date. An executed counterpart of this Agreement shall be deposited with the escrow agent by the Seller and this Agreement shall serve as the escrow instructions. The escrow agent may attach its standard conditions of acceptance thereto; provided, however, that in the event such standard conditions are inconsistent or in conflict with the terms of this Agreement, this Agreement shall control.

6. The Seller and the Purchaser represent that no real estate broker or agent was involved in this transaction and that no brokerage fees, commissions, or other compensation is due any real estate broker or agent because of this transaction.

7. On the closing date, the escrow agent shall record the deeds, and other instruments, if any, required to be recorded pursuant to this Agreement and thereupon deliver to each of the parties, the funds and documents to which they shall be respectively entitled, together with its escrow statement.

8. The expenses of closing shall be paid in the following manner:

- a) The cost of securing a title insurance commitment and policy of insurance shall be paid by Purchaser.
- b) The cost of preparing, executing, and acknowledging any deeds or other instruments required to convey title to Purchaser in the manner described in this Agreement shall be paid by Seller.
- c) Each party hereto shall be responsible for their own attorney fees relating to this Agreement and its implementation.
- d) The cost of transfer and recording of the deed shall be paid by Purchaser.
- e) Any tax imposed on the conveyance of title to the property to Purchaser shall be paid by Purchaser.
- f) Any fee charged by the escrow agent shall be equally shared between the Seller and the Purchaser.

9. Purchaser shall be entitled to possession of the Property upon the closing of this transaction.

10. The Purchaser has examined the Property, has had the opportunity to fully inspect and ask questions about conditions of the same, and acknowledges that they are accepting the Property "AS IS" subject to no warranties as of the date of the execution of this Agreement and that there have been no representations by the Seller as to the condition of this property.

11. In the event that the Purchaser breaches this Agreement by not closing this transaction on March 31, 2023, earnest money deposited, if any, shall be immediately paid to the Seller, which payment may be treated as liquidated damages (the precise amount of damages being difficult or impossible to ascertain).

12. This Agreement sets forth the entire understanding between the parties with respect to the subject matter hereof, and no agreements or understandings nor any representations concerning the same shall be binding upon the parties unless specifically set forth herein.

13. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instruments.

14. This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their respective heirs, legal representative, and assigns.

**SIGNATURE PAGES TO FOLLOW**

SELLER:

CITY OF SANDUSKY

John Orzech  
Interim City Manager

STATE OF OHIO )  
 ) ss:  
ERIE COUNTY )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, a Notary Public in and for said County and State, personally appeared John Orzech, Interim City Manager of the City of Sandusky, Ohio, and acknowledged his execution of the foregoing instrument as said officer of said City on behalf of said City and by its authority and that the same is his voluntary act and deed as said officer on behalf of said City and the voluntary act and deed of said City.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal  
on the day and year aforesaid.

NOTARY PUBLIC



**EXHIBIT A**

**Parcel 1 – 1129 E. Parish Street – Parcel #57-02035.000**

**Situated in the City of Sandusky, County of Erie and State of Ohio:**

**Being Lot Number One Thousand Forty (1040) on East Parish Street in the Sandusky Business Men's Association Subdivision as recorded in Volume 6 of Plats, Page 40, Erie County Ohio Records.**

**Property Address: 1129 Parish St., Sandusky, Ohio 44870**

**Parcel 2 – 1131 E. Parish Street – Parcel #57-04809.000**

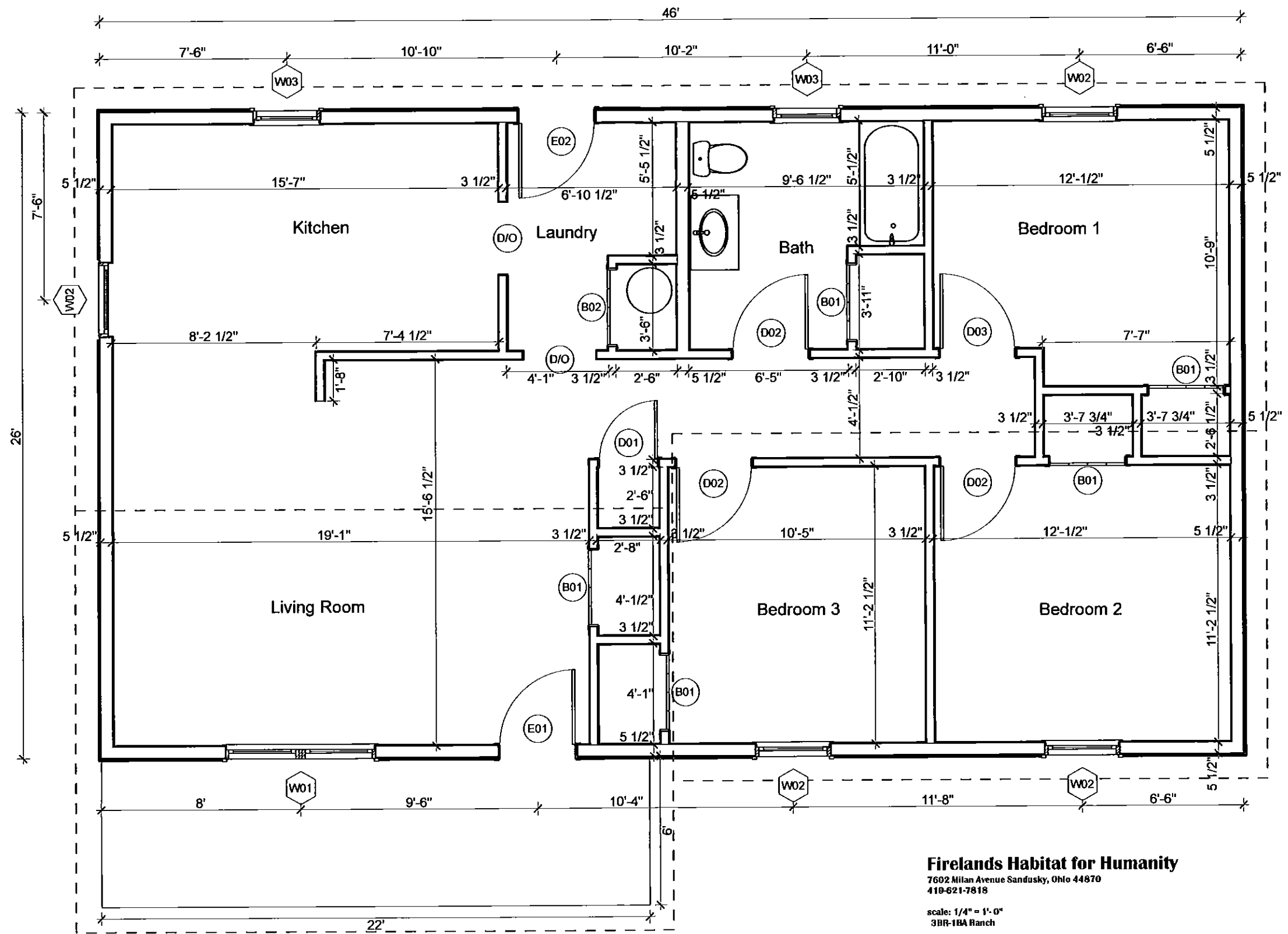
**Situated in the City of Sandusky, County of Erie and State of Ohio:  
And being known as Lot No. 1041 on Parish Street.**

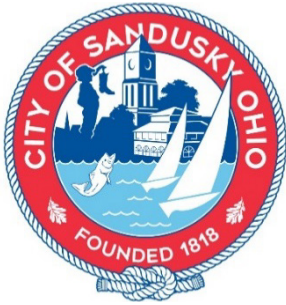
**Tax ID No.: 57-04809.000**

**Tax Mailing Address: 222 Meigs Street, Sandusky, Ohio 44870**

**EXHIBIT "1"**







## DEPARTMENT OF COMMUNITY DEVELOPMENT

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5832  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: John Orzech, Interim City Manager

From: Colleen Gilson, Chief Neighborhood Development Officer/Interim Assistant City Manager

Date: January 31, 2023

Subject: Commission Agenda Item – Professional Services Agreements for FY22 Brownfield Assessment Grant

**ITEM FOR CONSIDERATION:** Requesting legislation authorizing the City Manager to enter into agreements for Professional Services with Terracon Consultants, Inc. of Cleveland, Ohio, and Mannik & Smith Group, Inc. of Maumee, Ohio, to implement the community-wide Brownfields Assessment Grants received from the United States Environmental Protection Agency (US EPA).

**BACKGROUND INFORMATION:** In the Fall of 2021, the City applied to the US EPA for a FY2022 Brownfield Assessment Grant for assessments of hazardous and petroleum contaminated properties and sites. On May 12, 2022, the US EPA announced that the City of Sandusky was selected to receive the grant in the amount of \$500,000. The FY22 Brownfield Assessment Grant funds will be used to conduct Quality Assurance Plans, Phase I Environmental Site Assessments, Phase II Environmental Site Assessments, Remedial Action Plans, Asbestos Surveys training, inventory, and city-wide eligibility assessments.

The City will target brownfield sites in the downtown waterfront area, however, the grant funds can be used to assess public and private sites throughout the City. Prior approval by the Bureau of Underground Storage Tank Regulations (BUSTR) or US EPA, depending on the project, is required for all expenditures of grant funds. Of the available funds, \$495,000 is allocated for contractual services that will be used to hire consultants to perform Quality Assurance Plans, City-Wide Brownfields inventory, Community Outreach, Phase I Environmental Site Assessments, Phase II Environmental Site Assessments, Remedial Action Plans, reports, and cost estimates. The remaining \$5,000 will be used for travel, training, and supplies.

The City issued a formal Request for Qualifications and in which eight (8) submittals were received and evaluated by a selection committee. Staff recommended selecting two (2) firms and Terracon Consultant Inc. and Mannik & Smith Group, Inc. were selected as the most qualified based on their experience, professional expertise and past success with similar projects. The Scope of Services (SOS) are attached to the legislation as Exhibit "A".

**BUDGETARY INFORMATION:** The Brownfields Grant will fund 100% of this contract.

**ACTION REQUESTED:** It is recommended that ordinances for professional services agreements for the Brownfields Assessment Grant Projects with Terracon Consults, Inc. in the amount of \$264,500 and Mannik & Smith Group, Inc. in the amount of \$230,500 be approved and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to execute the agreements and expend the available funds to move forward activities associated with the FY22 Brownfields Assessment Grant program.

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Colleen M. Gilson  
Chief Neighborhood Development Officer/Interim Assistant City Manager

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Jonathan Holody  
Community Development Director

cc:     Brendan Heil, Law Director  
          Michelle Reeder, Finance Director  
          Cathy Myers, Commission Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH TERRACON CONSULTANTS, INC. OF CLEVELAND, OHIO, FOR PROFESSIONAL ENVIRONMENTAL SERVICES IN CONJUNCTION WITH THE FY 2022 BROWNFIELDS ASSESSMENT GRANT RECEIVED FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City Commission approved the acceptance of grant funds from the U.S. Environmental Protection Agency (EPA) through the FY 2022 Brownfields Assessment Grant Program by Ordinance No. 22-107, passed on June 13, 2022, and subsequently entered into a Cooperative Agreement with the US EPA for awarded funds in the amount of \$500,000.00; and

**WHEREAS**, a Request for Qualifications (RFQ) was issued for the implementation of the Community-wide Brownfields Assessment Grant in which eight (8) submittals were received and evaluated by a Selection Committee and at the recommendation of Staff to select two (2) firms, it was determined to select Terracon Consultants, Inc. of Cleveland, Ohio, and Mannik & Smith Group, Inc., of Maumee, Ohio, as the most qualified based upon the firm's experience, professional expertise and professional knowledge and success with similar projects; and

**WHEREAS**, Terracon Consultants, Inc. will be providing Professional Environmental Services relating to the FY2022 Brownfields Assessment Grant and these services are more fully described in the Scope of Services, which is attached to this Ordinance and marked Exhibit "A" and specifically incorporated herein; and

**WHEREAS**, the total cost of the professional services from Terracon Consultants, Inc. is \$264,500.00 and will be paid with funds received through the Brownfields Grant; and

**WHEREAS**, it is being requested in companion legislation to enter into an agreement with the Mannik & Smith Group, Inc. for Professional Environmental Services in conjunction with the FY 2022 Brownfields Assessment Grant received from the U.S. Environmental Protection Agency in the amount of \$230,500.00; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to execute the agreement and expend the available funds to move forward with activities associated with the FY22 Brownfields Assessment Grant Program; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily

operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an agreement with Terracon Consultants, Inc. of Cleveland Ohio, for Professional Environmental Services in conjunction with the Brownfields Assessment Grant received from the U.S. Environmental Protection Agency, substantially in the same form reflected in Exhibit "1" which is attached to this Ordinance and specifically incorporated as if fully rewritten herein together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** Two Hundred Sixty Four Thousand Five Hundred and 00/100 Dollars (\$264,500.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its

adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

**AGREEMENT  
FOR  
PROFESSIONAL SERVICES**

This Agreement for Professional Services (this “Agreement”), made as of \_\_\_\_\_, 2023, by and between the City of Sandusky (the “City”), whose contact person shall be the Director of Community Development designated below or successor (the “Director”), and \_\_\_\_\_ (the “Architect/Engineer”), whose contact person and address are set forth below.

WHEREAS, the City is operating under its Charter, ordinances, and regulations, and it is the intention of the City, in the exercise of its powers, to obtain professional services for the following project (the “Project”):

Project Name: FY22 US EPA Brownfields Assessment Grant

Director of Community Development: Jonathan Holody  
Address: Dept of Community Development  
City of Sandusky  
240 Columbus Ave  
Sandusky, Ohio 44870

Architect/Engineer: Terracon  
Contact: Stephen J Conway  
Address: 12460 Plaza Drive  
Cleveland, Ohio 44130

WHEREAS, the compensation of the Architect/Engineer set forth herein is determined to be fair and reasonable to the City and the Architect/Engineer; and

WHEREAS, the Architect/Engineer desires, and is licensed and capable, to provide professional services for the Project;

WHEREAS, the Architect/Engineer has previously provided certain professional services for the Project;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the City and the Architect/Engineer agree as follows:

**ARTICLE 1. RESPONSIBILITIES OF ARCHITECT/ENGINEER**

**1.1. Architect/Engineer’s Services**

1.1.1. Scope of Services; Applicable Law. The Architect/Engineer shall provide professional services, including, without limitation, services customarily furnished in accordance with generally-accepted architectural or engineering services, for the Project in accordance with the terms of this Agreement. The Architect/Engineer shall provide such services in accordance with the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations and the Contract Documents.

1.1.2. Timeliness; Standard of Care. The Project Schedule shall be established by mutual agreement between the City and the Architect/Engineer within thirty (30) days after the execution hereof. The Architect/Engineer shall perform the Architect/Engineer's services in accordance with professional standards of skill, care, and diligence in a timely manner in accordance with the Project Schedule so as to cause no delay, interference, disruption, or hindrance in the Work, and so that the Project shall be completed as expeditiously and economically as possible within the Construction Budget and in the best interests of the City.

1.1.3. Non-Discrimination. The Architect/Engineer represents that the Architect/Engineer is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.

1.1.4. Consultants. The Architect/Engineer may provide services through one or more consultants employed by the Architect/Engineer (the "Consultants"); provided, however, the Architect/Engineer shall remain responsible to the City for all duties and obligations of the Architect/Engineer under this Agreement. Unless waived or otherwise modified in writing by the City upon written request of the Architect/Engineer, no Consultant shall be retained upon terms inconsistent with this Agreement. The Architect/Engineer shall provide the Director with the names and qualifications of any other proposed Consultant, together with a description of the services to be provided by such Consultant for approval. Once approved by the Director, the identity of any Consultant and the extent of such Consultant's participation in performing the Architect/Engineer's services shall not be altered without the written consent of the Director. Upon the request of the City, the Architect/Engineer shall terminate the employment of any Consultant. The City may communicate with any Consultant either through the Architect/Engineer or directly to the Consultant with notice to the Architect/Engineer.

1.1.5. Ethics Laws. The Architect/Engineer represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

1.1.6. Limitation of Authority. The Architect/Engineer shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Architect/Engineer shall have authority to act on behalf of the City only to the extent provided herein. The Architect/Engineer's authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

## **ARTICLE 2. SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES**

### **2.1. General**

2.1.1. Basic Services to be provided by the Architect/Engineer shall consist of the services set forth in Exhibit A attached hereto and incorporated by reference herein as if fully rewritten.

## **ARTICLE 3. ADDITIONAL SERVICES**

### **3.1. General**

3.1.1. Any services related to the Project not included in Basic Services are Additional Services. Additional Services shall be provided only if requested by the City in writing. Additional Services shall be paid for as provided in this Agreement in addition to the compensation for Basic Services; provided, however, the Architect/Engineer shall not be compensated for any of the following services



made necessary by the act or omission of the Architect/Engineer or any Consultant. Unless waived by the City in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

#### **ARTICLE 4. RESPONSIBILITIES OF THE CITY**

**4.1. Required Actions.** The City shall review, approve, or take such actions as are required of the City by this Agreement and applicable law in a reasonable and timely manner.

**4.2. Instructions to Contractors.** All instructions of the City to Contractors shall be through, or in consultation with, the Architect/Engineer.

**4.3. City's Requirements.** The City shall provide full information regarding its requirements for the Project, any agreements related to the Project, and any design and construction standards and work rules which set forth the City's use, design, time and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, systems and site requirements. The Architect/Engineer shall be entitled to rely upon the accuracy and completeness of information provided by the City under this paragraph which the City represents in writing is complete and accurate; provided, however, the City makes no representation for, and the Architect/Engineer may not rely upon, information from third parties.

**4.4. Authorized Representative.** The City has designated the Director or successor to be the City's Authorized Representative, i.e., a person authorized to act on the City's behalf with respect to the Project to the extent provided in the Contract Documents. If the Director is absent or unavailable, the City's Project Engineer shall serve as the City's Authorized Representative.

**4.5. Notice to Architect/Engineer.** If the City observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt notice thereof shall be given to the Architect/Engineer.

**4.6. Legal Representation.** The City shall not be responsible to provide, or pay for, any legal representation of the Architect/Engineer.

#### **ARTICLE 5. COMPENSATION**

##### **5.1. Direct Personnel Expense**

**5.1.1. Definition.** Direct Personnel Expense shall mean the portion of direct salaries and wages of all personnel of the Architect/Engineer or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law and similar benefits related to their time devoted to the Project. Direct Personnel Expense shall not include any bonus or similar plan or arrangement related to the Architect/Engineer's performance on, or profit from, the Project.

**5.1.2. Records.** Direct Personnel Expense for the Architect/Engineer's employees for such hours of their time as are devoted to performing services to the Project shall be evidenced by time records certified by the Architect/Engineer.

5.1.3. Limit. The Architect/Engineer shall use all reasonable means to minimize Direct Personnel Expense.

## **5.2. Reimbursable Expenses**

5.2.1. Definition. Reimbursable Expenses means actual expenditures incurred by the Architect/Engineer or its Consultants in the interest of the Project approved by the City for travel (if approved in advance) in accordance with City policies, transportation between the office of the Architect/Engineer and the Project, long-distance telephone, facsimile communications, reproduction, mailing, computer time, supplies and materials and Consultants. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.

5.2.2. Limits. The Architect/Engineer shall use all reasonable means to minimize Reimbursable Expenses.

## **5.3. Basis of Compensation**

5.3.1. Basic Fee. For Basic Services provided by the Architect/Engineer and all Consultants, the City shall pay the Architect/Engineer a Basic Fee in accordance with Paragraph 5.4 hereof in the amount of \$264,500 (two hundred sixty four thousand five hundred dollars and zero cents) A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.

5.3.2. Additional Fees. For Additional Services provided by the Architect/Engineer and any Consultants in accordance with Article III, the City shall pay the Architect/Engineer Additional Fees in an amount negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer, but in all events, such Additional Fees shall not exceed two and half (2.5) times the Direct Personnel Expense and any applicable Consultant in providing those Additional Services. Additional Fees may be approved only by an amendment in accordance with Subparagraph 9.5.2.

5.3.3. Extent of Basic Fee. The Architect/Engineer's Basic Fee includes all compensation for Basic Services, including without limitation, for salaries or other compensation of the Architect/Engineer's employees at the principal office, branch offices and the field office, general operating expenses of the Architect/Engineer's principal office, branch offices and the field office, any part of the Architect/Engineer's capital expenses, including interest on the Architect/Engineer's capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the negligence of the Architect/Engineer, the Architect/Engineer's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

5.3.4. Total Compensation. The total compensation of the Architect/Engineer and all Consultants shall consist of the Basic Fee, any Additional Fees, and Reimbursable Expenses.

## **5.4. Method and Terms of Payment**

5.4.1. Basic Fee. Payment of the Basic Fee shall be made monthly upon invoice of actual services performed. The Basic Fee shall be subject to all setoffs in favor of the City for claims against the Architect/Engineer.

5.4.2. Additional Fees, Reimbursable Expenses. Payments of Additional Fees for Additional Services in accordance with Article III and Subparagraph 5.3.2 and for Reimbursable Expenses as set

forth in Paragraph 5.2 shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown by a properly completed and supported invoice of the Architect/Engineer. Invoices shall be sufficiently detailed and supported to permit review by the City for approval or disapproval of any amounts set forth in the invoice.

5.4.3. Payments by Architect/Engineer. Within ten (10) business days of receipt of payment made pursuant to this Agreement, the Architect/Engineer shall pay all portions thereof due to Consultants and to persons who provided items the expenses of which are Reimbursable Expenses.

5.4.4. Compensation for Extension of Project Time. If the Architect/Engineer notifies the City not less than thirty (30) days prior to the time for completion of the Project set by the Project Schedule established pursuant to Subparagraph 1.1.2, that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as a result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.

## **ARTICLE 6. INSURANCE AND INDEMNIFICATION**

### **6.1. Insurance**

6.1.1. Casualty Insurance. Except when a modification is requested in writing by the Architect/Engineer and approved in writing by the City, the Architect/Engineer shall carry and maintain at the Architect/Engineer's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:

- a. Workers' Compensation and employer's liability insurance to the full extent as required by applicable law;
- b. Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage, in not less than the following amounts:
  - i. General Aggregate Limit: \$2,000,000
  - ii. Each Occurrence Limit: \$1,000,000 each occurrence;
- c. Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.

6.1.2. Professional Liability Insurance. Subject to the City's waiver or modification of Professional Liability Insurance upon written request of the Architect/Engineer, the Architect/Engineer shall maintain insurance to protect against claims arising from the performance of the Architect/Engineer's services caused by any negligent acts, errors, or omissions for which the Architect/Engineer is legally liable ("Professional Liability Insurance"). Except when a waiver is approved by the City upon written request of the Architect/Engineer, such Professional Liability Insurance shall be in an amount not less than \$1,000,000 per claim and in the annual aggregate. The Architect/Engineer shall

endeavor to keep such insurance in effect for so long as the Architect/Engineer may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Architect/Engineer commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best's Insurance Reports.

6.1.3. Certificates. The Architect/Engineer shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days' prior written notice to the City.

## **6.2. Indemnification**

6.2.1. Indemnification by Architect/Engineer Generally. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which (a) arise out of, are caused by, or result from performance of the Architect/Engineer's services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use resulting therefrom, but (c) only to the extent they are caused by any negligent acts, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. This Subparagraph is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 of the Ohio Revised Code, to the fullest extent permitted.

6.2.2. Intellectual Property Indemnification. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officials, officers, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which result from infringement of any copyright, patent, or other intangible property right to the extent caused by the negligent act, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. The Architect/Engineer shall not be required to indemnify and hold harmless such persons for such matters when the claimed infringement occurs in materials provided by the City.

## **ARTICLE 7. DISPUTE RESOLUTION PROVISIONS**

7.1. Mediation. Instead of, or in addition to, the procedures set forth below, the City and the Architect/Engineer may, by written agreement, submit any claims, requests, disputes, or matters in question between or among them to mediation upon such terms as shall be mutually reasonably agreeable.

**7.2. Notice and Filing of Requests.** Any request by the Architect/Engineer for additional fees or expenses shall be made in writing to the Authorized Representative and filed prior to the final payment of the Basic Fee. Failure of the Architect/Engineer to timely make such a request shall constitute a waiver by the Architect/Engineer of any request for such fees and expenses.

**7.3. Request Information.** In every written request filed pursuant to Paragraph 7.2, the Architect/Engineer shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

**7.4. Meeting with Authorized Representative.** If the Architect/Engineer files a written request with the Authorized Representative pursuant to Paragraph 7.2, the Authorized Representative shall, within thirty (30) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by Persons expressly and fully authorized to resolve the request on behalf of the Architect/Engineer. The Authorized Representative shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision.

**7.5. Appeal to City Manager.** If the efforts of the Authorized Representative do not lead to resolution of the request within sixty (60) days of receipt of the request provided pursuant to Paragraph 7.2 the Architect/Engineer may appeal to the City Manager by written notice to the Authorized Representative who shall provide the Architect/Engineer an opportunity to present the claim to the City Manager. The City Manager shall render a decision on the request within thirty (30) days of receipt of the claim unless a mutual agreement is made to extend the time for decision. The decision of the City Manager shall be final and conclusive, subject to litigation in a court of competent jurisdiction.

**7.6. Delegation.** No provision of this Paragraph shall prevent the Authorized Representative or the Commission from delegating the duties or authorities of the Authorized Representative or the City to any other Person selected at the discretion of the Authorized Representative.

**7.7. Performance.** The Architect/Engineer shall proceed with the Architect/Engineer's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Architect/Engineer and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Paragraph.

## **ARTICLE 8. TERMINATION AND REMEDIES**

### **8.1. Termination of Agreement**

**8.1.1. Means of Termination.** This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Architect/Engineer shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing, and submitting a voucher

for all reasonably undisputed amounts due to the Architect/Engineer within ten (10) days of receipt of the Architect/Engineer's written notice to terminate. This Agreement may be terminated by the City in whole or in part, without cause upon fifteen (15) days written notice to the Architect/Engineer. This Agreement may be terminated in whole or in part, at any time upon the mutual consent of the City and the Architect/Engineer.

8.1.2. Architect/Engineer's Remedies Upon Termination by City Without Cause or Upon Termination by Architect/Engineer. In the event of a termination which is not due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated for all Basic Services of a completed phase performed prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Reimbursable Expenses incurred prior to the termination date. In such event, for services rendered prior to the termination date in an uncompleted Part and for Additional Services, the Architect/Engineer shall receive compensation based on the percentages of completion of that Part or those Additional Services, as applicable, and as reasonably determined by the City, together with Reimbursable Expenses incurred prior to the termination date.

8.1.3. Architect/Engineer's Remedies Upon Termination by City for Cause. In the event of a termination which is due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated only for Basic Services performed and paid for prior to the termination date in accordance with the actual time at billing rates as set forth in 5.3.1., together with Additional Services completely performed prior to the termination date. In such event, the Architect/Engineer shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.

8.1.4. Architect/Engineer's Remedies Upon Termination by Mutual Consent. In the event of a termination upon the mutual consent of the City and the Architect/Engineer, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.

8.1.5. Post-Termination Matters. If the City and the Architect/Engineer agree that any services are to be performed for the Project by the Architect/Engineer after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

## **8.2. Remedies**

8.2.1. Cumulative Remedies. No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Architect/Engineer by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Architect/Engineer shall be cumulative and shall be in addition to any other remedy given to the Architect/Engineer hereunder or now or hereafter existing.

8.2.2. Remedies Not Waived. No delay, omission, or forbearance to exercise any right, power, or remedy accruing to the City or the Architect/Engineer hereunder shall impair any such right, power, or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power, or remedy may be exercised from time to time and as often as deemed expedient.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **9.1. Ownership and Use of Documents**

9.1.1. Property of City. Drawings and other documents prepared by, or with the cooperation of, the Architect/Engineer or any Consultant pursuant to this Agreement, including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Architect/Engineer or Consultant, as applicable, may retain copies, including reproducible copies of such drawings and other documents for information and reference. Such drawings or other documents may be used by the City or others employed by the City for reference in any completion, construction, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Architect/Engineer or Consultant. Such drawings or other documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Architect/Engineer or Consultant, as applicable. If an event occurs for which the Architect/Engineer or Consultant may be liable, the City shall notify the Architect/Engineer or Consultant of such event as soon as practical after such event and shall provide access to the Project to the Architect/Engineer or Consultant and their representatives. This Subparagraph shall survive termination of this Agreement.

9.1.2. Architect/Engineer's Intellectual Property. All inventions, patents, design patents, and computer programs acquired or developed by the Architect/Engineer in connection with or relation to the Project shall remain the property of the Architect/Engineer and shall be protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Architect/Engineer.

9.2. Public Relations. Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The Architect/Engineer shall not use the City's name or seal, nor any adaptation thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

9.3. Records. The records of all of the Architect/Engineer's Direct Personnel Costs, Reimbursable Expenses and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City at all times and shall be maintained for seven (7) years after final acceptance of the Project by the City. All other records kept by the Architect/Engineer related to the Project shall be available to the City at all times and shall be maintained for six (6) years after final acceptance of the Project by the City. Records related to any claim or dispute shall be retained for any longer period necessary to finally resolve the claim or dispute.

9.4. Successors and Assigns. The City and the Architect/Engineer, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement. The Architect/Engineer shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

## **9.5. Extent of Agreement**

9.5.1. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Architect/Engineer and supersedes all prior negotiations, representations or agreements, either written or oral.

9.5.2. Amendments. This Agreement may be amended only by an amendment prepared by the City and signed by both the Architect/Engineer and the City.

9.5.3. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.5.4. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

9.5.5. Conditions to Validity. None of the rights, duties, and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with.

## **9.6. Governing Law**

9.6.1. Law of Ohio. This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Erie County, Ohio Court of Common Pleas shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.

9.6.2. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

## **9.7. Notices**

9.7.1. Addresses. All notices, certificates, requests, or other communications hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the company or organization for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, to the appropriate address listed on the first page hereof.

9.7.2. Facsimiles/Emails. For convenience of communication only, notices, certificates, requests, or other communications hereunder of fewer than ten (10) pages, except requests for payment, may be sent by email or facsimile transmission to the City at [JHolody@cityofsandusky.com](mailto:JHolody@cityofsandusky.com) (419) 627-5933 and to the Architect/Engineer [Stephen.Conway@terracon.com](mailto:Stephen.Conway@terracon.com) (216) 459-8954. Notices, certificates, requests, or other communications sent by email or facsimile transmission shall not be deemed to be given unless a counterpart is received or mailed in accordance with Subparagraph 9.7.1. Requests for payment may be sent to the City by email or facsimile transmission only upon specific direction from the City.

9.7.3. Emergencies. In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Architect/Engineer shall immediately notify the City by telephone.



9.7.4. Change of Address. The City or the Architect/Engineer may, by notice given hereunder, designate any further or different addresses telephone numbers or facsimile numbers to which subsequent notices, certificates, requests, or communications shall be sent.

9.8. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

9.9. Independent Contractor. The Architect/Engineer and any Consultant is an independent contractor with respect to any services performed hereunder. Neither the Architect/Engineer, nor any Consultant, shall be deemed to be servants, employees, or agents of the City.

# EXHIBIT "1"

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

Firm Name

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_  
John Orzech  
Interim City Manager

APPROVAL: **EXHIBIT "1"**

The legal form and correctness of the within instrument is hereby approved.

\_\_\_\_\_  
Brendan Heil  
Law Director

CERTIFICATE OF FUNDS

In the matter of: \_\_\_\_\_

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky, Ohio under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code (ORC).

Dated: \_\_\_\_\_, 2023

CITY OF SANDUSKY, OHIO  
**EXHIBIT "1"**

By: \_\_\_\_\_  
Michelle Reeder, CPA  
Finance Director

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Not to Exceed Amount



12460 Plaza Drive  
Cleveland, OH 44130  
**P (216) 459-8378**  
**F (216) 459-8954**  
**Terracon.com**

January 10, 2023  
(Revised January 30, 2023)

Mr. Jonathan Holody  
Department of Community Development  
City of Sandusky  
240 Columbus Avenue  
Sandusky, Ohio 44870

Re: **Proposal for Professional Consulting Services – City of Sandusky Brownfields Program**  
**Terracon Proposal No. PN6227345**

Dear Mr. Holody:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to provide Professional Consulting Services to the City of Sandusky Brownfields Program.

## **A. PROJECT INFORMATION**

Terracon and its subcontractors will be providing services to the City of Sandusky (City) in support of its Brownfields Program. In order to fulfill the requirements of the City's US EPA Brownfields Community-wide Assessment Grant, Terracon will provide services for the following tasks as established in the City's Brownfields Assessment Cooperative Agreement Work Plan dated June 27, 2022: Task 2: Community Outreach, Task 3: Phase I and Phase II Assessments, and Task 4: Cleanup and Reuse Planning. Activities conducted under this grant will be in general accordance with Terms and Conditions included with the City of Sandusky's EPA Cooperative Agreement.

## **B. SCOPE OF SERVICES**

The scope of our services will vary based on the needs of the project. See the attached **Exhibit A** for a detailed breakdown of the anticipated services to be provided.

## **C. COMPENSATION**

Services performed will be performed in general accordance with the estimated fees established in the attached Scope of Services (**Exhibit A**) and at rates established in the attached Rate Schedule (**Exhibit B**). Terracon will issue Task Orders as needed for each individual project task and/or individual sub-task as indicated in the attached Scope of Services. Each task order will indicate the billing type (Time and Materials, Lump Sum, etc.) and estimated cost to complete the associated task and/or sub-task. Terracon's compensation for the services described herein will be limited to the available US EPA Grant



Professional Consulting Services  
City of Sandusky Brownfields Program  
City of Sandusky ■ Sandusky, Ohio  
January 10, 2023 ■ Terracon Proposal No. PN6227345

Funding awarded to the City of Sandusky (through the current cooperative agreement or others awarded during the life of this contract) unless prior approval is given by the City.


Our services may be initiated by signing and returning a copy of this proposal and the attached Master Services Agreement to Steve Conway at [stephen.conway@terracon.com](mailto:stephen.conway@terracon.com).

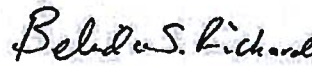
The terms, conditions, and limitations stated in the attached Master Services Agreement (and sections of this proposal incorporated therein) shall constitute the exclusive terms and conditions and services to be performed for this project. This proposal is valid only if authorized within 60 days from the proposal date.

We appreciate the opportunity to provide this proposal and look forward to working with you on this project. If we can provide any additional environmental, occupational health, safety-related, or other services, please call us at (216) 303-7348.

Sincerely,

**Terracon Consultants, Inc.**

  
Stephen J. Conway, C.P.  
Environmental Department Manager  
Senior Associate

  
Belinda Richard  
Senior Principal  
National Manager – Brownfields Program

Attachments: Master Services Agreement  
Exhibit A – Scope of Services  
Exhibit B – Rate Schedule  
Exhibit C – Grant Application and Work Plan Budgets

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2023

City of Sandusky

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

## EXHIBIT A

### Scope of Work – Professional Services City of Sandusky Brownfield Program

#### SCOPE OF SERVICES

Terracon and its subcontractors will be providing services to the City of Sandusky (City) in support of its Brownfields Program. In order to fulfill the requirements of the City's US EPA Brownfields Community-Wide Assessment Grant, Terracon will provide services for the following tasks generally following the City's Brownfields Assessment Cooperative Agreement Work Plan dated June 27, 2022: Task 2: Community Outreach, Task 3: Phase I and Phase II Assessments, and Task 4: Cleanup and Reuse Planning. Activities conducted under this grant will be in general accordance with Terms and Conditions included with the City of Sandusky EPA Cooperative Agreement. It is Terracon's understanding that Task 1: Programmatic Activities will be performed by the City and will not be considered a "contractual" item to be completed by a consultant.

In addition to the scope of services described within this Exhibit A, supplemental services can be provided in support of the brownfields program on an as-needed and individual contract basis. Services may include but are not limited to Grant Writing, Programmatic Support, Site Inventory, Cleanup Implementation, Cleanup Agreements with the Ohio EPA, Site-specific Risk Assessment, and other related activities as requested.

#### **Task 2: Community Outreach/Community Involvement Plan (CIP)**

Terracon will develop a Community Involvement Plan (CIP) specific to this grant which will include an overview, City contact and spokesperson/administrative record information, project history, community background, chronology of community involvement, key concerns, schedule, other contacts and interested parties, as well as methodology for community outreach. This task will require input from City staff. This task will be billed lump sum.

#### *Deliverable under this task includes:*

- Community Involvement Plan

Task 2A: Lump Sum Unit Fee ..... \$ 4,000

### **Task 3: Assessments**

#### **3A. Phase I Environmental Site Assessments (ESAs)**

Terracon estimates the completion of **up to 6** Phase I ESAs. Phase I ESAs will be prepared in accordance with EPA's standard for All Appropriate Inquiries and/or Ohio EPA VAP. The City will utilize the practices in ASTM standard E1527-21 "Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process," or EPA's All Appropriate Inquiries Final Rule "All Appropriate Inquiries Rule and/or Ohio Administrative Code (OAC) 3745-300-06, Standard for Phase I Property Assessments for the Voluntary Action Program: Reporting Requirements Checklist for Assessment Grant Recipients", (Publication Number: EPA 560-R-11-030).

*Deliverables under this task Include:*

- Phase I ESA Reports

Task 3A: Lump Sum Unit Fee (est. **up to 6 @ \$5,000\***).....\$ 30,000\*

*\*Variations in cost may occur due to the size of the properties to be assessed, and whether they the assessments are completed to meet Ohio EPA VAP requirements.*

#### **3B. EPA Quality Assurance Project Plans, Health & Safety Plans, and Phase II ESAs**

Terracon will complete one (1) Generic Quality Assurance Project Plan (QAPP), and **up to 6** Site-Specific QAPPs, in accordance with the EPA Cooperative Agreement Work Plan. Health & Safety Plans will also be completed for each site where a Phase II ESA is recommended. QAPPs will be prepared in accordance with EPA Quality Assurance Guidelines for Conducting Brownfields Site Assessments, and will be submitted to the EPA Project Officer for approval prior to conducting Phase II Environmental Assessment activities. Terracon will complete a Phase II ESA (upon site eligibility approval by EPA Region 5) resulting from the findings of a Phase I ESA in general accordance with the Terms and Conditions of the EPA Cooperative Agreement and ASTM Method E 1903-19 (Phase II Environmental Site Assessment). It is anticipated that **up to 6** Phase II ESAs will be completed under this grant, dependent on the complexity and costs associated with the assessment(s) based on Phase I ESA findings.

*Deliverables under this task Include:*

- One Generic QAPP (\$5,500)

- Phase II ESAs including Site- Specific QAPPs and Health & Safety Plans (Approximately \$32,500 each) – *anticipated range provided in workplan: \$20,000 to \$50,000.*



**Task 3B: Lump Sum Unit Fee for Generic QAPP and up to 6 Phase II  
ESAs including Site Specific QAPPS and HASPs ..... \$ 200,500\***

*\*Variations in cost may occur due to the size of the  
properties to be assessed*

### **3C. Additional Eligible Assessment Service**

Terracon will complete additional site assessment services (upon site eligibility approval by EPA Region 5) resulting from the findings of a Phase I ESA in general accordance with the Terms and Conditions of the EPA Cooperative Agreement and applicable state and federal regulations and standards. Additional assessment activities include, but are not limited to, Natural Resources & Wetlands Surveys, Asbestos Surveys, Lead Paint Surveys, and Mold Surveys.

*Deliverables under this task Include:*

- Additional Assessment Service Reports

**Task 3D: Fees for additional services will be included in the fee for the  
associated site Phase I / II**

**Total Task 3A – 3C:.....\$230,500**

### **Task 4: Cleanup and Reuse Planning**

Terracon will assist the City with Cleanup and Reuse Planning resulting from Phase II ESA findings. Sites undergoing remedial planning through the City's Brownfields Program will be encouraged to consider entering the site(s) into the Ohio EPA Voluntary Action Program (VAP) that provides the regulatory framework for assessment, liability protection, remediation and potential redevelopment of environmentally-impacted sites. In addition, the City may host visioning sessions and charrettes for sites that may undergo remediation and eventual redevelopment. It is anticipated that a firm specializing in urban planning will be engaged to provide support with reuse planning efforts.

*Deliverables under this task may include:*

- ABCAs, Brownfields Reuse Plans and/or Cleanup Plans
- Vision Sessions/Charrettes

**Task 4: Lump Sum Unit Fee .....\$30,000\***

*\*Variations in cost may occur due to the size and complexity of contamination  
or redevelopment options on properties. Fees will be determined based on  
specific project assignment and will be authorized on an individual basis.*



***Additional/Optional Task 5: Site Inventory***

Site Inventory services were not included in the approved Work Plan but were presented in the grant application. Terracon can assist the City of Sandusky's Brownfields Program staff with the identification of sites for inventory and prioritization support. The effort will be to develop a brownfields inventory that will formalize abandoned properties previously identified for inclusion in the program and to identify additional properties of concern that may be affected with hazardous substances and/or petroleum products for inclusion in the inventory. These will include Community-identified sites discussed at outreach meetings and meetings with City staff. Prioritization criteria will be established that supports goals identified from these meetings and ranking criteria will be established based on this input.

This task will assist stakeholders in determining which properties to target for Phase I, Phase II, and additional site assessment activities. Specific activities under this task will be determined through collaboration with the City and may include the following dependent on assignment:

- Research and compile applicable environmental data in a GIS format (shape files);
- Development of a summary of findings with associated maps;
- Provide digital files of the report in PDF format; and
- Assist in the development of an inventory of potential brownfield properties within the designated target areas.

*Deliverables under this section of the task may include (based on assignment):*

- Digital GIS files and maps
- Inventory Spreadsheet

**Total for Tasks 2 through 4: (\$264,500)**

## EXHIBIT B

### Rate Schedule – Professional Services City of Sandusky Brownfield Program

#### Rate Schedule

<b>1. Personnel</b>		
Senior Principal	\$280.00	/hour
Principal	\$260.00	/hour
Senior Geologist/Engineer/Scientist	\$125.00	/hour
Senior Industrial Hygienist	\$160.00	/hour
Department Manager/Certified Professional	\$210.00	/hour
Senior Project Reviewer	\$185.00	/hour
Senior Project Manager I	\$125.00	/hour
Project Geologist/Engineer/Scientist	\$110.00	/hour
Grant Coordinator	\$116.00	/hour
Assistant Project Manager	\$110.00	/hour
Project Industrial Hygienist	\$135.00	/hour
Senior Staff Geologist/Engineer/Industrial Hygienist	\$85.00	/hour
Field Geologist/Engineer/Industrial Hygienist	\$75.00	/hour
GIS Analyst	\$100.00	/hour
GIS Technician	\$80.00	/hour
Senior CAD Operator	\$100.00	/hour
CAD Operator	\$85.00	/hour
CAD Designer	\$65.00	/hour
Clerical/Administrative Staff	\$62.50	/hour
<b>2. Expenses and Supplies</b>		
Vehicle Charge	\$0.63	/mile
Miscellaneous charges, including analytical laboratory tests, shipping charges, rental equipment, outside labor, public transportation, materials, permit fees, or other contracted services.	Cost +20%	

\*Rate indicated is for in-house drilling services



**City of Sandusky, OH**  
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		property of Erie County. They will assist with community outreach for the minority populations in the target area.
MKSK	Arin Blair <a href="mailto:ablair@mkskstudios.com">ablair@mkskstudios.com</a> (614) 621-2796	MKSK is a collective of planners, urban designers, and landscape architects who authored the <i>Downtown Sandusky Master Plan</i> . They will assist with cleanup and future reuse planning.

iii. **Incorporating Community Input:** The City of Sandusky announced at a City Committee meeting (10/25/21) their intention to reapply for the EPA's Brownfield Community-wide Assessment Grant for the Downtown Core target area of Census Tracts 408 and 409. The City has always valued the input of their community members and is committed to keeping them involved in every step of the process, which is evident based on their long Brownfield Program history dating back to 2005. A Community Involvement Plan (CIP) will be created to describe the planned community engagement activities, schedule, project background, and key players, which will be made available for review at the City's Planning and Development Department. Due to the current **COVID-19 pandemic**, community meetings have been and will continue to be held online. Public notice of meetings will be provided via media alerts through a press release to the local newspaper (*Sandusky Register*) and posting a notice on the City's websites, 48 hours in advance, stating the meeting date and time. The City anticipates community input to be received primarily over the phone or online. When in-person meetings are permitted again, meetings will be held within the target area while observing social distancing requirements. Additionally, questions and concerns can be submitted via telephone or through email to the City staff. The City will respond to feedback during the community meetings and via online within two weeks of receipt.

The City will update the community throughout the brownfield project via the City's website and social media platforms as well as through city-news and calendar-announcement emails, which they will encourage residents to subscribe to. As part of the assessment project, the City will develop a brownfield website and brochure explaining the Brownfield Program. The City will place advertisements on the local area radio stations to reach residents at every educational level and those without internet service. The City will also establish a place on its website for grant-related information, which will allow the community to access updated information on the project and provide comment/feedback. The City will include instructions on how to reach these internet forums in the initial press release. The City intends for communications to be primarily provided in English, which is the primary language used in Sandusky. However, to ensure inclusion of all communities, communications may also be provided in other languages when needed. In the event non-English-speaking individuals are present at events, a translator will be made available.

### **3. TASK DESCRIPTIONS, COST ESTIMATES, AND MEASURING PROGRESS**

a. **Description of Tasks/Activities and Outputs:** The City of Sandusky is requesting a US EPA Brownfields Assessment Grant in the amount of \$500,000 for community-wide assessment.

<b>Task 1: Outreach</b>	
i	<i>Project Implementation:</i> The City's Brownfield Project Director will develop a Community Involvement Plan (CIP), outreach materials, brownfield project website, and social media posts with the assistance of the environmental consultant (consultant). City staff will lead the community meetings (virtual/online during COVID-19 and in person post COVID-19) to keep the public informed on project plans and updates. <b>Supplies are budgeted for the printing of outreach materials and office supplies to manage the grant.</b>
ii	<i>Anticipated Project Schedule:</i> CIP created within 3 months of award (upon completion a more concrete schedule will follow). Community Meetings held 1 <sup>st</sup> , 5 <sup>th</sup> & 9 <sup>th</sup> quarter. Website and Outreach Materials created in the 1 <sup>st</sup> quarter and posted monthly throughout the grant project.
iii	<i>Task/Activity Lead:</i> City: Jonathan Holody – Brownfield Project Director
iv	<i>Outputs:</i> CIP, Brownfield Website, 3 Community Meetings, Brochures/Handouts, Social Media Posts, Summary of Community Meetings in EPA required Quarterly Reports.





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<b>Task 2: Site Inventory</b>	
i	<i>Project Implementation:</i> The City's Brownfield Project Director will work with the residents living in the target area during community meetings to create a thorough site inventory for assessment. Although 15 sites have been identified, additional abandoned and underused properties identified by the residents of the target area will be researched further by City staff using the Erie County Auditor's website. Once a list is compiled, the consultant will work with City staff to create an evaluation ranking tool to determine with the help of residents the order in which the sites will be addressed.
ii	<i>Anticipated Project Schedule:</i> Community meeting held in 1 <sup>st</sup> quarter will continue the preliminary inventory process that began with this application, with the evaluation ranking process taking place in the 3 <sup>rd</sup> quarter & continuing throughout the grant project.
iii	<i>Task/Activity Lead:</i> City: Jonathan Holody – Brownfield Project Director
iv	<i>Outputs:</i> Evaluation Ranking Tool, Site Inventory List
<b>Task 3: Assessment</b>	
i	<i>Project Implementation:</i> The consultant will conduct Environmental Site Assessment (ESA) activities at sites selected and ranked through the Site Inventory Task, starting first with the two Priority Sites listed in this application. ASTM-AAI compliant Phase Is; Generic Quality Assurance Project Plan (QAPP); Phase IIs which will include the SS-QAPP. Prior to assessment, site-access agreements and property-eligibility determinations approval will be obtained.
ii	<i>Anticipated Project Schedule:</i> Activities to begin in the 2 <sup>nd</sup> quarter and continue through the grant.
iii	<i>Task/Activity Lead:</i> The consultant will implement the technical aspects of the project with oversight from the City: Jonathan Holody – Brownfield Project Director.
iv	<i>Outputs:</i> 14 Phase I ESAs, 1 Generic QAPP, 10 Phase II ESAs including SS-QAPP, Site Access Agreements and Property Eligibility Determinations.
<b>Task 4: Remediation/Reuse Planning</b>	
i	<i>Project Implementation:</i> For projects identified for cleanup, the consultant will prepare the Analysis for Brownfields Cleanup Alternatives (ABCA) and/or Cleanup Plans. Cleanup planning will include evaluating cleanup alternatives, calculating cleanup costs and determining site appropriate remediation and/or reuse planning to reduce health/environmental risks. A planning consultant will prepare a Brownfields Revitalization Plan for the City. The consultant will assist the City in hosting charrettes/visioning sessions (virtual or in-person depending on COVID restrictions) for key properties.
ii	<i>Anticipated Project Schedule:</i> Cleanup Plans & Charrettes to begin in the 6 <sup>th</sup> quarter and will continue throughout the grant project. Brownfield Revitalization Plan to being in the 3 <sup>rd</sup> quarter.
iii	<i>Task/Activity Lead:</i> The consultant will implement the technical aspects of the project with oversight from the City: Jonathan Holody – Brownfield Project Director.
iv	<i>Outputs:</i> 4 ABCAs, 2 Vision Sessions/Charrettes, 1 Brownfield Revitalization Plan
<b>Task 5: Programmatic Support</b>	
i	<i>Project Implementation:</i> The City will procure an environmental consultant to assist with the Brownfield Grant Project. The City's Brownfield Project Director will oversee grant implementation and administration to ensure compliance with the EPA Cooperative Agreement Work Plan, schedule, and terms and conditions. The consultant will assist the City in completing ACRES Database Reporting, Yearly Financial Reporting, Quarterly Reporting, MBE/WBE Forms, and all additional Programmatic Support for the three-year term of the grant. The City staff travel budget allows for two staff to attend two brownfield conferences/workshops.
ii	<i>Anticipated Project Schedule:</i> Consultant procurement completed in 1 <sup>st</sup> quarter. ACRES Reporting begins in the 1 <sup>st</sup> quarter & Quarterly Reporting begins in the 2 <sup>nd</sup> quarter and continues throughout the grant project. Annual Reporting and Forms created in 5 <sup>th</sup> quarter, 9 <sup>th</sup> quarter, and during final closeout.
iii	<i>Task/Activity Lead:</i> City: Jonathan Holody – Brownfield Project Director
iv	<i>Outputs:</i> Procured consultant. ACRES Database Reporting, 3 Annual Financial Reports, 12 Quarterly Reports, 3 MBE/WBE Forms, Programmatic Support for the three-year grant period. Two staff to attend two conferences.



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**b. Cost Estimates:** Below are the anticipated cost estimates for this project *based on past brownfield projects as determined by local market standards with contractual hourly rates based on the skills needed for the specific tasks*. The budget for this project includes travel, supplies, and contractual costs only. **The City will spend 73% of the budget on the Assessment Task.**

**Task 1 Outreach:** Contractual: Community Involvement Plan \$4,500 (45hrs x \$100); Brownfield Website, Outreach Brochure/Handouts, Social Media Posts \$2,000 (20hrs x \$100); 3 Community Education Meetings \$6,000 (\$2,000/meeting). Supplies: Outreach Supplies (printer color [\$1 per page], paper [\$25 per box], pens [\$5 per pack], Post-it notes [\$5 per pack]) \$1,000. **Task 2 Site Inventory:** Contractual: Potential Brownfield Site Inventory and Evaluation Ranking Tool Creation \$8,000 (64hrs x \$125). **Task 3 Assessment:** Contractual: 14 Phase I ESAs at \$5,000 each for a total of \$70,000; 1 Generic QAPP \$5,500; 10 Phase II ESAs including SS-QAPP at \$29,000 each for a total of \$290,000. **Task 4 Remediation/Reuse Planning:** Contractual: 4 ABCAs \$6,500 for a total of \$26,000; 2 Vision Sessions/Charrettes \$7,000 (\$3,500/meeting); and 1 Brownfield Revitalization Plan \$50,000 (Planner: 130hrs x \$150; Market Analysts: 112hrs x \$125, Environmental Professional: 110hrs x \$150). **Task 5 Programmatic Support:** Contractual: ACRES Database Reporting, Yearly Financial Reporting, Quarterly Reporting, MBE/WBE Forms, Programmatic Support for the three-year grant period \$25,000 (200hrs x \$125). Travel: Two staff to attend two conferences \$5,000 (flights at \$750, 3 nights in hotel at \$350, incidentals and per diem at \$150 x 2 attendees).

Category	Tasks					Totals
	Outreach	Site Inventory	Assessment	Remediation/Reuse Planning	Programmatic Support	
Travel					\$5,000	\$5,000
Supplies	\$1,000					\$1,000
Contractual	\$12,500	\$8,000	\$365,500	\$83,000	\$25,000	\$494,000
<b>Total Budget</b>	<b>\$13,500</b>	<b>\$8,000</b>	<b>\$365,500</b>	<b>\$83,000</b>	<b>\$30,000</b>	<b>\$500,000</b>

**c. Measuring Environmental Results** To ensure this EPA Brownfield Project is on schedule, the City internal Brownfields Team, which will include the consultant, will meet quarterly to track all **outputs identified in 3.a** using an Excel spreadsheet and will report all progress in fulfilling the scope of work, goals, and objectives to the EPA via quarterly reports. Project expenditures and activities will be compared to the projects schedule to ensure the grant project will be completed within the three-year time frame. Site specific information will be entered and tracked in the ACRES database. The outputs to be tracked include the number of neighborhood meetings, public meetings, meetings with community groups and community partners, environmental assessments, ABCAs, and cleanup redevelopment plans. The outcomes to be tracked include community participation, acres assessed, acres ready for reuse, redevelopment dollars leveraged, and jobs created. In the event the project is not being achieved in an efficient manner, the City has countermeasures in place such as making monthly calls to their EPA Project Officer and, if needed, will create a Corrective Action Plan to help the project to get back on schedule.

#### **4. PROGRAMMATIC CAPABILITY AND PAST PERFORMANCE**

**Programmatic Capability** i. Organizational Capacity, ii. Organizational Structure, & iii. Description of Key Staff: The grant will be managed by Sandusky's Department of Community Development, as the department promotes and manages various programs intended to spur and support economic development activities within the City. Jonathan Holody, Director, will serve as the **Brownfield Project Director** and will be the primary point of contact for the project. He will be responsible for the oversight and completion of administrative and financial requirements of the Brownfield Program. He was a lead staff member responsible for administering multiple US

Prepare Disadvantage Business Enterprises (DBE) Reports	U.S. EPA Adrienne Callahan	City	Annually
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#### IV. BUDGET

The bulk of the grant dollars will be spent on Phase I and II assessments to address hazardous substances or petroleum substances and to complete remedial planning and design. This may include legal services to prepare site access agreements, review potential liabilities, and other required legal services under the grant.

<b>Table 1. Budget Table</b>					
<b>Sandusky Community Wide Assessment Grant</b>					
<b>Budget Categories</b>	<b>Task 1 Programmatic Activities</b>	<b>Task 2 Community Outreach</b>	<b>Task 3 Phase I and II Assessments</b>	<b>Task 4 Cleanup and Reuse Planning</b>	<b>Total</b>
Travel	3,000	500			3,500
Supplies		1,500			1,500
Contractual		4,000	461,000	30,000	495,000
<b>Total</b>	<b>3,000</b>	<b>6,000</b>	<b>461,000</b>	<b>30,000</b>	<b>500,000</b>

#### Budget Detail

**Task 1 - Programmatic Activities:** Costs include budget for two staff to attend three brownfield training/conferences. The City will provide additional leveraged in-kind staff resources for hiring a consultant, coordination with agency representatives, site selection and prioritization, communicating with public and private owners, and progress and financial reporting. Outputs: continuing staff training and improved knowledge.

A total of \$3,000 is allocated for travel to one or more of the following brownfield-related conferences:

1. National Brownfields Conference – \$2,300
  - Meals (4 days) \$ 400
  - Travel (for two) \$1,000
  - Hotel (3 nights, 2 people) \$ 900
  - Total \$2,300**
2. Ohio Brownfield Conference – \$ 700
  - Registration (2 people) \$ 200
  - Meals (2 people) \$ 200
  - Hotel (2 nights, 2 people) \$ 300
  - Total \$ 700**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE MANNIK & SMITH GROUP, INC. OF MAUMEE, OHIO, FOR PROFESSIONAL ENVIRONMENTAL SERVICES IN CONJUNCTION WITH THE FY 2022 BROWNFIELDS ASSESSMENT GRANT RECEIVED FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City Commission approved the acceptance of grant funds from the U.S. Environmental Protection Agency (EPA) through the FY 2022 Brownfields Assessment Grant Program by Ordinance No. 22-107, passed on June 13, 2022, and subsequently entered into a Cooperative Agreement with the US EPA for awarded funds in the amount of \$500,000.00; and

**WHEREAS**, a Request for Qualifications (RFQ) was issued for the implementation of the Community-wide Brownfields Assessment Grant in which eight (8) submittals were received and evaluated by a Selection Committee and at the recommendation of Staff to select two (2) firms, it was determined to select Terracon Consultants, Inc. of Cleveland, Ohio, and Mannik & Smith Group, Inc., of Maumee, Ohio, as the most qualified based upon the firm's experience, professional expertise and professional knowledge and success with similar projects; and

**WHEREAS**, Mannik & Smith Group, Inc. will be providing Professional Environmental Services relating to the FY2022 Brownfields Assessment Grant and these services are more fully described in the Scope of Services, which is attached to this Ordinance and marked Exhibit "A" and specifically incorporated herein; and

**WHEREAS**, the total cost of the professional services from the Mannik & Smith Group is \$230,500.00 and will be paid with funds received through the Brownfields Grant; and

**WHEREAS**, it is being requested in companion legislation to enter into an agreement with Terracon Consultants, Inc. for Professional Environmental Services in conjunction with the FY 2022 Brownfields Assessment Grant received from the U.S. Environmental Protection Agency in the amount of \$264,500.00; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to execute the agreement and expend the available funds to move forward with activities associated with the FY22 Brownfields Assessment Grant Program; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily



operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an agreement with the Mannik & Smith Group, Inc. of Maumee, Ohio, for Professional Environmental Services in conjunction with the Brownfields Assessment Grant received from the U.S. Environmental Protection Agency, substantially in the same form as reflected in Exhibit "1" which is attached to this Ordinance and specifically incorporated as if fully rewritten herein together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** Two Hundred Thirty Thousand Five Hundred and 00/100 Dollars (\$230,500.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its



adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

**AGREEMENT  
FOR  
PROFESSIONAL SERVICES**

This Agreement for Professional Services (this “Agreement”), made as of \_\_\_\_\_, 2023, by and between the City of Sandusky (the “City”), whose contact person shall be the Director of Community Development designated below or successor (the “Director”), and \_\_\_\_\_ (the “Architect/Engineer”), whose contact person and address are set forth below.

WHEREAS, the City is operating under its Charter, ordinances, and regulations, and it is the intention of the City, in the exercise of its powers, to obtain professional services for the following project (the “Project”):

Project Name: FY22 US EPA Brownfields Assessment Grant

Director of Community Development: Jonathan Holody  
Address: Dept of Community Development  
City of Sandusky  
240 Columbus Ave  
Sandusky, Ohio 44870

Architect/Engineer: Mannik Smith Group  
Contact: Sally L. Gladwell, CP, CEM, CEI  
Address: 1800 Indian Wood Circle  
Maumee, Ohio 43537

WHEREAS, the compensation of the Architect/Engineer set forth herein is determined to be fair and reasonable to the City and the Architect/Engineer; and

WHEREAS, the Architect/Engineer desires, and is licensed and capable, to provide professional services for the Project;

WHEREAS, the Architect/Engineer has previously provided certain professional services for the Project;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the City and the Architect/Engineer agree as follows:

**ARTICLE 1. RESPONSIBILITIES OF ARCHITECT/ENGINEER**

**1.1. Architect/Engineer’s Services**

1.1.1. Scope of Services; Applicable Law. The Architect/Engineer shall provide professional services, including, without limitation, services customarily furnished in accordance with generally-accepted architectural or engineering services, for the Project in accordance with the terms of this Agreement. The Architect/Engineer shall provide such services in accordance with the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations and the Contract Documents.

1.1.2. Timeliness; Standard of Care. The Project Schedule shall be established by mutual agreement between the City and the Architect/Engineer within thirty (30) days after the execution hereof. The Architect/Engineer shall perform the Architect/Engineer's services in accordance with professional standards of skill, care, and diligence in a timely manner in accordance with the Project Schedule so as to cause no delay, interference, disruption, or hindrance in the Work, and so that the Project shall be completed as expeditiously and economically as possible within the Construction Budget and in the best interests of the City.

1.1.3. Non-Discrimination. The Architect/Engineer represents that the Architect/Engineer is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.

1.1.4. Consultants. The Architect/Engineer may provide services through one or more consultants employed by the Architect/Engineer (the "Consultants"); provided, however, the Architect/Engineer shall remain responsible to the City for all duties and obligations of the Architect/Engineer under this Agreement. Unless waived or otherwise modified in writing by the City upon written request of the Architect/Engineer, no Consultant shall be retained upon terms inconsistent with this Agreement. The Architect/Engineer shall provide the Director with the names and qualifications of any other proposed Consultant, together with a description of the services to be provided by such Consultant for approval. Once approved by the Director, the identity of any Consultant and the extent of such Consultant's participation in performing the Architect/Engineer's services shall not be altered without the written consent of the Director. Upon the request of the City, the Architect/Engineer shall terminate the employment of any Consultant. The City may communicate with any Consultant either through the Architect/Engineer or directly to the Consultant with notice to the Architect/Engineer.

1.1.5. Ethics Laws. The Architect/Engineer represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

1.1.6. Limitation of Authority. The Architect/Engineer shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Architect/Engineer shall have authority to act on behalf of the City only to the extent provided herein. The Architect/Engineer's authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

## **ARTICLE 2. SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES**

### **2.1. General**

2.1.1. Basic Services to be provided by the Architect/Engineer shall consist of the services set forth in Exhibit A attached hereto and incorporated by reference herein as if fully rewritten.

## **ARTICLE 3. ADDITIONAL SERVICES**

### **3.1. General**

3.1.1. Any services related to the Project not included in Basic Services are Additional Services. Additional Services shall be provided only if requested by the City in writing. Additional Services shall be paid for as provided in this Agreement in addition to the compensation for Basic Services; provided, however, the Architect/Engineer shall not be compensated for any of the following services

made necessary by the act or omission of the Architect/Engineer or any Consultant. Unless waived by the City in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

#### **ARTICLE 4. RESPONSIBILITIES OF THE CITY**

**4.1. Required Actions.** The City shall review, approve, or take such actions as are required of the City by this Agreement and applicable law in a reasonable and timely manner.

**4.2. Instructions to Contractors.** All instructions of the City to Contractors shall be through, or in consultation with, the Architect/Engineer.

**4.3. City's Requirements.** The City shall provide full information regarding its requirements for the Project, any agreements related to the Project, and any design and construction standards and work rules which set forth the City's use, design, time and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, systems and site requirements. The Architect/Engineer shall be entitled to rely upon the accuracy and completeness of information provided by the City under this paragraph which the City represents in writing is complete and accurate; provided, however, the City makes no representation for, and the Architect/Engineer may not rely upon, information from third parties.

**4.4. Authorized Representative.** The City has designated the Director or successor to be the City's Authorized Representative, i.e., a person authorized to act on the City's behalf with respect to the Project to the extent provided in the Contract Documents. If the Director is absent or unavailable, the City's Project Engineer shall serve as the City's Authorized Representative.

**4.5. Notice to Architect/Engineer.** If the City observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt notice thereof shall be given to the Architect/Engineer.

**4.6. Legal Representation.** The City shall not be responsible to provide, or pay for, any legal representation of the Architect/Engineer.

#### **ARTICLE 5. COMPENSATION**

##### **5.1. Direct Personnel Expense**

**5.1.1. Definition.** Direct Personnel Expense shall mean the portion of direct salaries and wages of all personnel of the Architect/Engineer or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law and similar benefits related to their time devoted to the Project. Direct Personnel Expense shall not include any bonus or similar plan or arrangement related to the Architect/Engineer's performance on, or profit from, the Project.

**5.1.2. Records.** Direct Personnel Expense for the Architect/Engineer's employees for such hours of their time as are devoted to performing services to the Project shall be evidenced by time records certified by the Architect/Engineer.

5.1.3. Limit. The Architect/Engineer shall use all reasonable means to minimize Direct Personnel Expense.

## **5.2. Reimbursable Expenses**

5.2.1. Definition. Reimbursable Expenses means actual expenditures incurred by the Architect/Engineer or its Consultants in the interest of the Project approved by the City for travel (if approved in advance) in accordance with City policies, transportation between the office of the Architect/Engineer and the Project, long-distance telephone, facsimile communications, reproduction, mailing, computer time, supplies and materials and Consultants. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.

5.2.2. Limits. The Architect/Engineer shall use all reasonable means to minimize Reimbursable Expenses.

## **5.3. Basis of Compensation**

5.3.1. Basic Fee. For Basic Services provided by the Architect/Engineer and all Consultants, the City shall pay the Architect/Engineer a Basic Fee in accordance with Paragraph 5.4 hereof in the amount of \$230,500 (two hundred thirty thousand five hundred dollars and zero cents) A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.

5.3.2. Additional Fees. For Additional Services provided by the Architect/Engineer and any Consultants in accordance with Article III, the City shall pay the Architect/Engineer Additional Fees in an amount negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer, but in all events, such Additional Fees shall not exceed two and half (2.5) times the Direct Personnel Expense and any applicable Consultant in providing those Additional Services. Additional Fees may be approved only by an amendment in accordance with Subparagraph 9.5.2.

5.3.3. Extent of Basic Fee. The Architect/Engineer's Basic Fee includes all compensation for Basic Services, including without limitation, for salaries or other compensation of the Architect/Engineer's employees at the principal office, branch offices and the field office, general operating expenses of the Architect/Engineer's principal office, branch offices and the field office, any part of the Architect/Engineer's capital expenses, including interest on the Architect/Engineer's capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the negligence of the Architect/Engineer, the Architect/Engineer's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

5.3.4. Total Compensation. The total compensation of the Architect/Engineer and all Consultants shall consist of the Basic Fee, any Additional Fees, and Reimbursable Expenses.

## **5.4. Method and Terms of Payment**

5.4.1. Basic Fee. Payment of the Basic Fee shall be made monthly upon invoice of actual services performed. The Basic Fee shall be subject to all setoffs in favor of the City for claims against the Architect/Engineer.

5.4.2. Additional Fees, Reimbursable Expenses. Payments of Additional Fees for Additional Services in accordance with Article III and Subparagraph 5.3.2 and for Reimbursable Expenses as set

forth in Paragraph 5.2 shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown by a properly completed and supported invoice of the Architect/Engineer. Invoices shall be sufficiently detailed and supported to permit review by the City for approval or disapproval of any amounts set forth in the invoice.

5.4.3. Payments by Architect/Engineer. Within ten (10) business days of receipt of payment made pursuant to this Agreement, the Architect/Engineer shall pay all portions thereof due to Consultants and to persons who provided items the expenses of which are Reimbursable Expenses.

5.4.4. Compensation for Extension of Project Time. If the Architect/Engineer notifies the City not less than thirty (30) days prior to the time for completion of the Project set by the Project Schedule established pursuant to Subparagraph 1.1.2, that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as a result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.

## **ARTICLE 6. INSURANCE AND INDEMNIFICATION**

### **6.1. Insurance**

6.1.1. Casualty Insurance. Except when a modification is requested in writing by the Architect/Engineer and approved in writing by the City, the Architect/Engineer shall carry and maintain at the Architect/Engineer's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:

- a. Workers' Compensation and employer's liability insurance to the full extent as required by applicable law;
- b. Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage, in not less than the following amounts:
  - i. General Aggregate Limit: \$2,000,000
  - ii. Each Occurrence Limit: \$1,000,000 each occurrence;
- c. Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.

6.1.2. Professional Liability Insurance. Subject to the City's waiver or modification of Professional Liability Insurance upon written request of the Architect/Engineer, the Architect/Engineer shall maintain insurance to protect against claims arising from the performance of the Architect/Engineer's services caused by any negligent acts, errors, or omissions for which the Architect/Engineer is legally liable ("Professional Liability Insurance"). Except when a waiver is approved by the City upon written request of the Architect/Engineer, such Professional Liability Insurance shall be in an amount not less than \$1,000,000 per claim and in the annual aggregate. The Architect/Engineer shall

endeavor to keep such insurance in effect for so long as the Architect/Engineer may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Architect/Engineer commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best's Insurance Reports.

6.1.3. Certificates. The Architect/Engineer shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days' prior written notice to the City.

## **6.2. Indemnification**

6.2.1. Indemnification by Architect/Engineer Generally. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which (a) arise out of, are caused by, or result from performance of the Architect/Engineer's services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use resulting therefrom, but (c) only to the extent they are caused by any negligent acts, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. This Subparagraph is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 of the Ohio Revised Code, to the fullest extent permitted.

6.2.2. Intellectual Property Indemnification. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officials, officers, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which result from infringement of any copyright, patent, or other intangible property right to the extent caused by the negligent act, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. The Architect/Engineer shall not be required to indemnify and hold harmless such persons for such matters when the claimed infringement occurs in materials provided by the City.

## **ARTICLE 7. DISPUTE RESOLUTION PROVISIONS**

7.1. Mediation. Instead of, or in addition to, the procedures set forth below, the City and the Architect/Engineer may, by written agreement, submit any claims, requests, disputes, or matters in question between or among them to mediation upon such terms as shall be mutually reasonably agreeable.

**7.2. Notice and Filing of Requests.** Any request by the Architect/Engineer for additional fees or expenses shall be made in writing to the Authorized Representative and filed prior to the final payment of the Basic Fee. Failure of the Architect/Engineer to timely make such a request shall constitute a waiver by the Architect/Engineer of any request for such fees and expenses.

**7.3. Request Information.** In every written request filed pursuant to Paragraph 7.2, the Architect/Engineer shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

**7.4. Meeting with Authorized Representative.** If the Architect/Engineer files a written request with the Authorized Representative pursuant to Paragraph 7.2, the Authorized Representative shall, within thirty (30) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by Persons expressly and fully authorized to resolve the request on behalf of the Architect/Engineer. The Authorized Representative shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision.

**7.5. Appeal to City Manager.** If the efforts of the Authorized Representative do not lead to resolution of the request within sixty (60) days of receipt of the request provided pursuant to Paragraph 7.2 the Architect/Engineer may appeal to the City Manager by written notice to the Authorized Representative who shall provide the Architect/Engineer an opportunity to present the claim to the City Manager. The City Manager shall render a decision on the request within thirty (30) days of receipt of the claim unless a mutual agreement is made to extend the time for decision. The decision of the City Manager shall be final and conclusive, subject to litigation in a court of competent jurisdiction.

**7.6. Delegation.** No provision of this Paragraph shall prevent the Authorized Representative or the Commission from delegating the duties or authorities of the Authorized Representative or the City to any other Person selected at the discretion of the Authorized Representative.

**7.7. Performance.** The Architect/Engineer shall proceed with the Architect/Engineer's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Architect/Engineer and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Paragraph.

## **ARTICLE 8. TERMINATION AND REMEDIES**

### **8.1. Termination of Agreement**

**8.1.1. Means of Termination.** This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Architect/Engineer shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing, and submitting a voucher



for all reasonably undisputed amounts due to the Architect/Engineer within ten (10) days of receipt of the Architect/Engineer's written notice to terminate. This Agreement may be terminated by the City in whole or in part, without cause upon fifteen (15) days written notice to the Architect/Engineer. This Agreement may be terminated in whole or in part, at any time upon the mutual consent of the City and the Architect/Engineer.

8.1.2. Architect/Engineer's Remedies Upon Termination by City Without Cause or Upon Termination by Architect/Engineer. In the event of a termination which is not due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated for all Basic Services of a completed phase performed prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Reimbursable Expenses incurred prior to the termination date. In such event, for services rendered prior to the termination date in an uncompleted Part and for Additional Services, the Architect/Engineer shall receive compensation based on the percentages of completion of that Part or those Additional Services, as applicable, and as reasonably determined by the City, together with Reimbursable Expenses incurred prior to the termination date.

8.1.3. Architect/Engineer's Remedies Upon Termination by City for Cause. In the event of a termination which is due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated only for Basic Services performed and paid for prior to the termination date in accordance with the actual time at billing rates as set forth in 5.3.1., together with Additional Services completely performed prior to the termination date. In such event, the Architect/Engineer shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.

8.1.4. Architect/Engineer's Remedies Upon Termination by Mutual Consent. In the event of a termination upon the mutual consent of the City and the Architect/Engineer, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.

8.1.5. Post-Termination Matters. If the City and the Architect/Engineer agree that any services are to be performed for the Project by the Architect/Engineer after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

## **8.2. Remedies**

8.2.1. Cumulative Remedies. No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Architect/Engineer by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Architect/Engineer shall be cumulative and shall be in addition to any other remedy given to the Architect/Engineer hereunder or now or hereafter existing.

8.2.2. Remedies Not Waived. No delay, omission, or forbearance to exercise any right, power, or remedy accruing to the City or the Architect/Engineer hereunder shall impair any such right, power, or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power, or remedy may be exercised from time to time and as often as deemed expedient.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **9.1. Ownership and Use of Documents**

9.1.1. Property of City. Drawings and other documents prepared by, or with the cooperation of, the Architect/Engineer or any Consultant pursuant to this Agreement, including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Architect/Engineer or Consultant, as applicable, may retain copies, including reproducible copies of such drawings and other documents for information and reference. Such drawings or other documents may be used by the City or others employed by the City for reference in any completion, construction, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Architect/Engineer or Consultant. Such drawings or other documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Architect/Engineer or Consultant, as applicable. If an event occurs for which the Architect/Engineer or Consultant may be liable, the City shall notify the Architect/Engineer or Consultant of such event as soon as practical after such event and shall provide access to the Project to the Architect/Engineer or Consultant and their representatives. This Subparagraph shall survive termination of this Agreement.

9.1.2. Architect/Engineer's Intellectual Property. All inventions, patents, design patents, and computer programs acquired or developed by the Architect/Engineer in connection with or relation to the Project shall remain the property of the Architect/Engineer and shall be protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Architect/Engineer.

9.2. Public Relations. Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The Architect/Engineer shall not use the City's name or seal, nor any adaptation thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

9.3. Records. The records of all of the Architect/Engineer's Direct Personnel Costs, Reimbursable Expenses and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City at all times and shall be maintained for seven (7) years after final acceptance of the Project by the City. All other records kept by the Architect/Engineer related to the Project shall be available to the City at all times and shall be maintained for six (6) years after final acceptance of the Project by the City. Records related to any claim or dispute shall be retained for any longer period necessary to finally resolve the claim or dispute.

9.4. Successors and Assigns. The City and the Architect/Engineer, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement. The Architect/Engineer shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

## **9.5. Extent of Agreement**

9.5.1. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Architect/Engineer and supersedes all prior negotiations, representations or agreements, either written or oral.

9.5.2. Amendments. This Agreement may be amended only by an amendment prepared by the City and signed by both the Architect/Engineer and the City.

9.5.3. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.5.4. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

9.5.5. Conditions to Validity. None of the rights, duties, and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with.

## **9.6. Governing Law**

9.6.1. Law of Ohio. This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Erie County, Ohio Court of Common Pleas shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.

9.6.2. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

## **9.7. Notices**

9.7.1. Addresses. All notices, certificates, requests, or other communications hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the company or organization for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, to the appropriate address listed on the first page hereof.

9.7.2. Facsimiles/Emails. For convenience of communication only, notices, certificates, requests, or other communications hereunder of fewer than ten (10) pages, except requests for payment, may be sent by email or facsimile transmission to the City at [JHolody@cityofsandusky.com](mailto:JHolody@cityofsandusky.com) (419) 627-5933 and to the Architect/Engineer [SGladwell@manniksmithgroup.com](mailto:SGladwell@manniksmithgroup.com) (419) 891-1595. Notices, certificates, requests, or other communications sent by email or facsimile transmission shall not be deemed to be given unless a counterpart is received or mailed in accordance with Subparagraph 9.7.1. Requests for payment may be sent to the City by email or facsimile transmission only upon specific direction from the City.

9.7.3. Emergencies. In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Architect/Engineer shall immediately notify the City by telephone.

9.7.4. Change of Address. The City or the Architect/Engineer may, by notice given hereunder, designate any further or different addresses telephone numbers or facsimile numbers to which subsequent notices, certificates, requests, or communications shall be sent.

9.8. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

9.9. Independent Contractor. The Architect/Engineer and any Consultant is an independent contractor with respect to any services performed hereunder. Neither the Architect/Engineer, nor any Consultant, shall be deemed to be servants, employees, or agents of the City.

# EXHIBIT "1"

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

Firm Name

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_

John Orzech  
Interim City Manager

APPROVAL: **EXHIBIT "1"**

The legal form and correctness of the within instrument is hereby approved.

\_\_\_\_\_  
Brendan Heil  
Law Director

CERTIFICATE OF FUNDS

In the matter of: \_\_\_\_\_

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky, Ohio under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code (ORC).

Dated: \_\_\_\_\_, 2023

CITY OF SANDUSKY, OHIO  
**EXHIBIT "1"**

By: \_\_\_\_\_  
Michelle Reeder, CPA  
Finance Director

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Not to Exceed Amount



January 5, 2023

Ms. Colleen Gilson  
Chief Neighborhood Development Officer  
City of Sandusky  
240 Columbus Avenue  
Sandusky, Ohio 44870



**RE: 2022-2025 U.S. EPA Brownfields Grant Implementation**

Dear Ms. Gilson:

The Mannik & Smith Group, Inc. (MSG) is pleased to provide the City of Sandusky with the following general scope of work to implement activities funded by the City's U.S. Environmental Protection Agency (EPA) Fiscal Year 2022 (FY22) Community Wide Brownfields Assessment Grant project, including completing:

- Brownfield inventories;
- Phase I Environmental Site Assessments (ESAs);
- Asbestos Inspections;
- Geophysical Surveys;
- Phase II ESAs;
- Bureau of Underground Storage Tank Regulations (BUSTR) Tier 1 and Tier 2 Investigations;
- Remedial Planning and/or Remedial Action Plans (RAPs);
- Risk Assessments;
- Community Involvement / Reuse Planning; and,
- Grant required reporting and documentation via Assessment, Cleanup and Redevelopment Exchange System (ACRES).

#### **BACKGROUND**

The City of Sandusky has entered into a Cooperative Agreement (CA) with the U.S. EPA for the FY22 Community Wide Brownfields Assessment Grant project. Per the CA, grant monies will allow the City of Sandusky to take the first step in addressing the many brownfields that have significantly limited redevelopment options. The City anticipates that the assessment funds will help spur investment, ideally allowing the City to gain momentum as an attractive and healthy place to live and work. The grant award was for \$500,000, of which \$495,000 is allocated for contractual purposes.

#### **SCOPE OF WORK**

MSG will complete all work under the direction of an Ohio Voluntary Action Program (VAP) Certified Professional. Further, MSG's work will conform to the standards under the Ohio VAP, American Society of Testing and Materials

TECHNICAL SKILL.  
CREATIVE SPIRIT.

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(ASTM), and/or the Ohio State Fire Marshall, Bureau of Underground Storage Tank Regulations (BUSTR) as appropriate depending on the current status of the site and/or its intended future use.

Each site assessed under this grant will require a site-specific scope and budget dependent on the type of services requested for the site. The following provides a general scope of work for some of the types of environmental assessment projects that are anticipated to be completed under the grant. MSG understands that the City of Sandusky will issue individual work orders for identified sites to be assessed under this grant project.

#### **Phase I ESAs**

MSG will complete all Phase I ESAs under this grant project in conformance with the scope and limitations of ASTM Standard Practices E1527-13 and/or E1527-21 "***Environmental Site Assessments: Phase I Environmental Site Assessment Process***." ASTM E1527-13 currently complies with the federal ***All Appropriate Inquiries (AAI)*** rule codified in 40 CFR Part 312 of the Federal Register; however, the U.S. EPA amended the AAI rule on December 15, 2022 to establish E1527-21 as the ASTM standard for satisfying AAI requirements effective on February 13, 2023. Accordingly, MSG's Phase I ESAs will conform with the ASTM standard in compliance with AAI at the time of completion of the Phase I ESA. Further, to afford the City maximum flexibility for further assessment and/or cleanup of brownfield sites, MSG will complete all Phase I ESAs under this grant project in conformance with the standards set forth under the Ohio VAP in accordance with Ohio Administrative Code (OAC) 3745-300-06.

The goal of the process established by the ASTM practices is to identify recognized environmental conditions (RECs), historical RECs (HRECs), controlled RECs (CRECs), and *de minimis* conditions, as defined within Standard Practices E1527-13 and E1527-21 and, per the VAP, document Identified Areas (IAs) and/or Off-Site Source(s) or Source Area(s) of potential environmental contamination in accordance with OAC 3745-300-06. Additionally, Phase I ESAs will permit the user, whom we understand to be the City of Sandusky, to satisfy the requirements necessary to qualify for the innocent landowner, contiguous property owner, or bona fide prospective purchaser defenses, as defined within the Small Business Liability Relief and Brownfields Revitalization Act amendments to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

#### **Document Review**

MSG will review records that are publicly available, reasonably obtainable, and practically reviewable, as described in ASTM Standard Practices E1527-13 and E1527-21. For the purposes of the Phase I ESAs completed under this grant, we assume that visits to regulatory agencies to complete in-person file reviews are not included in the scope of work. If in the judgment of the *Environmental Professional* (EP) responsible for completing a Phase I ESA, performance of a regulatory file review is warranted to address whether or not an environmental condition does or does not constitute a REC, CREC, HREC and/or IA we will contact you regarding the scope and schedule implications of such a determination. No such regulatory agency file review will be completed without your express written authorization.

MSG will review historical use information to develop a history of the previous uses of the selected sites and surrounding areas to help identify the likelihood that past uses have led to RECs, CRECs, HRECs, or IAs. Pursuant with the ASTM standards, we will attempt to identify known uses of each site from the present, back to each site's obvious first developed use or 1940—*whichever is earlier*.

MSG will review a combination records and historical sources for each site, as available, to comply with ASTM Standards E1527-13 and E1527-21 and OAC 3745-300-06.

#### ***The records and sources include:***

- standard ASTM and VAP federal and state environmental databases;
- additional state and local environmental databases;
- current United States Geological Survey (USGS) 7.5-minute topographic map of each site;



- aerial photographs;
- fire insurance maps;
- mineral, oil, and gas development maps;
- historical ownership information;
- local city directories;
- zoning/land use records; and,
- alternate historical sources, *as appropriate and available.*

### Site Reconnaissance

MSG will complete a reconnaissance of each site to observe the periphery of the site to the extent not obstructed by bodies of water, adjacent buildings, or other obstacles. Furthermore, MSG will review the interiors and exteriors of buildings on each site. For the purpose of this proposal, we have assumed that access to sites will be available and that we will coordinate our efforts with you and/or your designee.

#### ***Further objectives of the site reconnaissance will be to identify the following:***

- current use of the site and adjoining properties;
- past use of the site and adjoining properties;
- current and past use of the surrounding area;
- geologic (*soils*), hydrologic (*surface waters*) and topographic conditions;
- general description of structures, roads, potable water supply, and sewage disposal system;
- hazardous substances and petroleum products in connection with identified and unidentified uses;
- underground and aboveground storage tanks, and drums;
- pungent or noxious odors, and pools of liquid;
- unidentified substance containers;
- suspect poly-chlorinated biphenyl (*PCB*)—containing equipment, stains and corrosion;
- possible source of vapor intrusion on and off the Site;
- pits, ponds, lagoons and stressed vegetation;
- solid waste and waste water; and
- wells and septic systems.

### Interviews

Unless requested otherwise by our client, MSG will attempt to interview the current property owner(s), tenant(s) and/or previous property owner(s) for each site.

### User Provided Information

ASTM Standard Practices E1527-13 and E1527-21 require that *User Provided Information* be included in Phase I ESA reports. The *User* is the entity that will use the Phase I ESA report, which we assume to be the City of Sandusky. *User Provided Information* includes judicial and title records, environmental liens, specialized knowledge of the site, valuation reduction of the property due to environmental issues, and reasons for performing the Phase I ESA. We anticipate that this information will be provided to MSG from you or your designee for inclusion in the each Phase I ESA report. If this information is not provided, MSG may note such information in our reports as a limiting condition.

### Evaluation and Report Preparation

#### ***Phase I ESA reports will, at a minimum, include the following:***

- executive summary;
- introduction;
- Site description;

- user provided information;
- records review;
- information from Site reconnaissance and interviews;
- findings, data gaps, opinions and conclusions;
- references to identify sources of information;
- a Site location map using the most currently available USGS topographic map;
- a Site layout map that identifies pertinent site features;
- color photographs from the Site reconnaissance;
- signatures and qualifications of *Environmental Professionals*; and,
- appendices of supporting documentation.

### ***Phase II ESAs and BUSTR Tier 1 and 2 Investigations***

A Phase II ESA or BUSTR Tier 1 or 2 Investigation may be requested following completion of a Phase I ESA. MSG will complete all Phase II ESAs for hazardous substance sites in accordance with Ohio VAP standards and guidance. For petroleum sites involving underground storage tanks (USTs), MSG will complete Phase II ESA and/or Tier 1 or 2 Investigations in accordance with BUSTR guidelines. Phase II ESAs or BUSTR Tier Investigations may include sampling soil, groundwater, soil vapor, and/or indoor air. MSG will send environmental samples designated for analysis to an independent laboratory certified to complete the required analyses in accordance with regulatory program requirements. MSG will complete sampling in accordance with industry standards and according to MSG Standard Operating Procedures (SOPs). MSG will develop a site-specific sampling plan and health and safety plan for each site investigated. If Phase II ESA or BUSTR Tier 1 or 2 services are requested, MSG will submit a detailed proposal fully describing the services to be provided (i.e number of soil borings and/or monitoring wells, sampling protocol, proposed analytical parameters, etc.). The proposed services will be site-specific, based upon site knowledge, and will be tailored to satisfy the requirements of a specific regulatory program, such as the Ohio VAP or BUSTR, as appropriate, and we will complete all work in compliance with the U.S. EPA approved Quality Assurance Project Plan (QAPP).

### ***Asbestos Surveys***

According to the National Emissions Standard for Hazardous Air Pollutants (NESHAP) regulations covering asbestos, buildings that are renovated or demolished have to be "thoroughly inspected" for asbestos containing materials (ACM). Further friable (easily crumbled) ACM must be removed prior to demolition. If asbestos survey services are requested, MSG will submit a proposal that shall fully describe the services to be provided. The proposed services will be site-specific, based upon site knowledge, and MSG will base the anticipated samples of suspect materials to be collected on the ages, sizes, and layouts of the buildings to be assessed.

MSG will provide a State of Ohio accredited Asbestos Hazard Evaluation Specialist to complete NESHAP-compliant asbestos surveys of requested sites to identify suspect ACM. MSG will submit samples of suspect ACM to a National Voluntary Laboratory Accreditation Program (NVLAP) accredited laboratory for analysis of asbestos by polarized light microscopy (PLM). **Furthermore, MSG assumes that destructive sampling techniques will be acceptable for asbestos surveys completed under this grant program.** Destructive sampling techniques include opening hidden areas to inspect each building system (i.e behind walls, above ceilings, etc.) and peeling back exterior siding on every side of the structure to inspect for transite.

After completion of field activities and upon receipt of the laboratory analytical results, MSG will generate a summary report of the asbestos survey results. Documentation will include a discussion of sampling methodology, figures depicting the location of where suspect materials samples were collected, and a table summarizing the location, conditions, and quantities of materials found to be positive for asbestos that will require removal prior to demolition.

### ***Assumptions:***

- *All areas of buildings will be accessible to be evaluated;*
- *Five-day turnaround time for analytical data is sufficient to meet the project timeline;*

- *Positive stop analysis will be used for the PLM samples to control costs for the City; and,*
- *Point count analysis, if needed, is not included in this scope of work and will be negotiated separately.*

### **Geophysical Surveys**

MSG will contract with a subcontractor to complete geophysical surveys at requested sites to investigate for the presence of abandoned underground storage tanks (USTs) or if not, their former locations. The geophysical surveys will include electromagnetic induction (EM) and ground-penetrating radar (GPR) methods to survey each site. Following completion of geophysical surveys, MSG will incorporate the results into an accompanying Phase I or II ESA report.

### **PROJECT SCHEDULE**

Project schedules for assessments of sites under this grant program will be determined on a site-by-site basis based upon the type of service being requested. Typical timeframes for completing the services described above are outlined in the following table:

SCHEDULE OF ACTIVITIES	
TASK	TIMEFRAME FOR COMPLETION
Phase I ESA	Within three weeks from receipt of notice to proceed
Phase II ESA	Four to six weeks from receipt of notice to proceed
BUSTR Tier 1 Investigation	Four to six weeks from receipt of notice to proceed
BUSTR Tier 2 Evaluation	Six to eight weeks from receipt of notice to proceed
Asbestos Survey	Within three weeks from receipt of notice to proceed
Geophysical Survey	Within three weeks from receipt of notice to proceed

### **PROJECT FEE**

MSG will determine budgets for assessments completed under this grant program on a site-by-site basis based upon the type of service being requested via a work order. The overall total for activities completed under this contract is shown below and will not be exceeded without prior written authorization from the City.

**TOTAL PROJECT COST .....\$230,500**

### **Fiscal Control**

For the purposes of fiscal control, MSG will notify you at such time as it becomes apparent that costs may exceed the estimated amount and will seek your approval to proceed. In the absence of such communication, we guarantee our costs for the above work will not exceed the total indicated above. We agree that reasonable variation to the work to be performed may be made, but reserve the right to renegotiate the above amounts should significant variation be requested.

### **Additional Work**

Work requested to be performed by the client beyond the Scope of Work, e.g., meetings, presentations, report copies, or other related activities beyond those described above will be charged on the same time and materials fee basis.

## AGREEMENT

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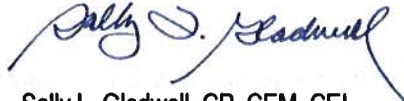
MSG understands that the City of Sandusky will issue an Agreement for Professional Services (Agreement) for the contract amount listed above and attach this proposal as an exhibit outlining the basic services MSG will perform under the Agreement.

MSG appreciates the opportunity to provide this proposal and looks forward to serving the City of Sandusky. Please do not hesitate to contact the undersigned if you have any questions or would like additional information.

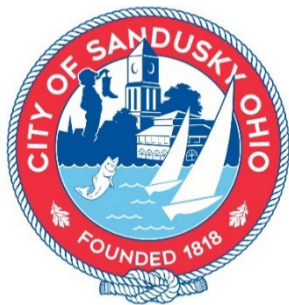
Sincerely,



Matthew S. Pesci, CPG  
Associate / Senior Project Manager



Sally L. Gladwell, CP, CEM, CEI  
Senior Vice President / Senior Principal



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

To: John Orzech, Interim City Manager

From: Aaron M. Klein, P.E.

Date: January 24, 2023

**Subject: Commission Agenda Item - Awarding a Contract to Republic Services of Sandusky, OH for Refuse & Recycling Collection at City Properties and Recycling Collection at the City's Drop-Off Recycling Location at the Service Center**

**ITEM FOR CONSIDERATION:** Legislation authorizing the approval to enter into a contract with Republic Services of Sandusky, Ohio for Refuse & Recycling Collection on City Properties and Recycling Collection at the City's Drop-Off Recycling location at the Service Center for a one year period beginning March 1, 2023 and ending February 29, 2024.

**BACKGROUND INFORMATION:** Annually the City advertises for bids on refuse and recycling services at City Properties, this also includes all public parks, downtown, and pathway areas, and recycling collection at the City's Drop-Off Recycling on Cement Avenue.

The City began advertising for bids on December 20, 2022, in the Sandusky Register and on the City's Website, with bids being due on Wednesday, January 11, 2023, of which only one bid was received from Republic Services of Sandusky, Ohio. The bid submitted has been determined to be the lowest and best.

**BUDGETARY INFORMATION:** The cost of refuse and recycling collection at City properties is paid with General Funds, Recreation Funds, and Water Funds in the amount of \$90,775.40, plus a contingency amount of \$2,500.00 for additional dumpster service. Collection of recyclables at the City's Drop-Off Recycling location at the Service Center is paid with General funds and Ground Maintenance Funds in an amount not to exceed \$96,433.56. Total contract amount is not to exceed \$189,708.96.

**ACTION REQUESTED:** It is recommended that proper legislation be prepared authorizing a one (1) year contract with Republic Services of Sandusky, Ohio for the Refuse & Recycling Collection at City Properties and Service of the City Service Complex Recycling Center beginning March 1, 2023 and ending February 29, 2024, for a total amount not to exceed \$189,708.96 be approved and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter to allow for execution of the contract prior to the start of the contract service date of March 1, 2023 and to prevent any interruption of the services currently being provided.

I concur with this recommendation:

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John Orzech, Interim City Manager

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director



## CERTIFICATE OF FUNDS

In the Matter of: Republic Services Refuse & Recycling Contract

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #110, 227, 612

By: \_\_\_\_\_



Michelle Reeder

Finance Director

Dated: 1/18/2023

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH REPUBLIC SERVICES OF SANDUSKY, OHIO, FOR REFUSE & RECYCLING COLLECTION ON CITY PROPERTY AND RECYCLING COLLECTION AT THE CITY'S DROP-OFF RECYCLING LOCATION AT THE SERVICE CENTER FOR THE PERIOD OF MARCH 1, 2023, THROUGH FEBRUARY 29, 2024; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this City Commission authorized and directed the City Manager to enter into a contract with Republic Services of Sandusky, Ohio, for refuse / recycling collection on City property and recycling collection at the City's drop-off recycling location at the Service Center for the period of March 1, 2022, through February 28, 2022, by Ordinance No. 22-030, passed on February 28, 2022; and

**WHEREAS**, upon public competitive bidding as required by law one (1) appropriate bid was received, and the bid of Republic Services of Sandusky, Ohio, was determined to be the lowest and best bid; and

**WHEREAS**, this proposed contract involves the pickup of refuse and recycling collection at City properties which includes all public parks, downtown, and pathway areas as well as collection of recycling at the City's Drop-Off Recycling location at the Service Center; and

**WHEREAS**, the cost of refuse and recycling collection at City properties is \$90,775.40 plus a contingency amount of \$2,500.00 for additional dumpster service and will be paid with General Funds, Recreation Funds, and Water Funds; the cost of the recycling collection at the Service Center is \$96,433.56 and will be paid with General Funds and Ground Maintenance Funds for a total cost \$189,708.96; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to execute the contract with Republic Services which begins on March 1, 2023, and to prevent any interruption of the services currently being provided; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a contract with Republic Services of Sandusky, Ohio, for refuse and recycling collection on City property and recycling collection at the City's Drop-off location at the Service Center for the period of March 1, 2023, through February 29, 2024, in an

amount **not to exceed** One Hundred Eighty Nine Thousand Seven Hundred Eight and 96/100 Dollars (\$189,708.96) consistent with the bid submitted by Republic Services of Sandusky, Ohio, currently on file in the office of the Director of Public Works.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

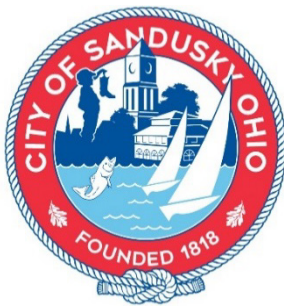
Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023





## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

To: John Orzech, Interim City Manager

From: Aaron M. Klein, P.E.

Date: January 26, 2023

Subject: Commission Agenda Item- Change Order #1 and Final with Mosser Construction, Inc. for the WWTP Emergency Back-up Generator Repair project

**ITEM FOR CONSIDERATION:** Requesting legislation for approval of Change Order #1 and Final for the WWTP Emergency Back-up Generator Repair project.

**BACKGROUND INFORMATION:** Staff presented legislation at the February 28, 2022, City Commission meeting requesting permission to award repairs to the emergency back-up generator at the Wastewater Treatment Plant (Ordinance 22-033). This project entails the rebuild of an existing 1998 standby generator that operates the 36 MGD ultraviolet disinfection system, two effluent pumps, a 120-volt control panel, and a process gate at the wastewater treatment plant that became inoperable as the engine on the unit was damaged due to a leak of engine coolant into the crankcase. The contractor disconnected and reconnected the generator, transported it to and from the repair facility for full evaluation, then performed any necessary and approved repairs. All materials and temporary back-up power were provided due to potential supply chain issues so the WWTP could ensure continued operation. While substantially complete and fully operational several months ago, the contractor finally received and installed the final breaker in January.

This Change Order represents unused allowances for crankshaft replacement, generator controls replacement, and generator allowances and additional costs for a temporary generator.

**BUDGETARY INFORMATION:** This original contract was not to exceed \$485,000.00. The final contract amount will be \$467,607.70, which is a deduction of \$17,392.30. This is an overall reduction of 3.6%. All costs will be from the Sewer Funds with 46.18% required reimbursement from Erie County as per the Sewer Services Agreement.

**ACTION REQUESTED:** It is requested that legislation be prepared to allow for the approval for Change Order #1 and Final for the WWTP Emergency Back-up Generator project. It is further requested that this be passed in accordance with Section 14 of the City Charter so the contractor can be paid in full and retainage released and to close out the completed project.

I concur with this recommendation:

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John Orzech, Interim City Manager

cc: C. Meyers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

CITY OF SANDUSKY, OHIO  
DEPARTMENT OF PUBLIC WORKS

**Project: WWTP Emergency Back-Up Generator Repair**  
**Construction Work Order No.: 1 & Final**

**CONTRACT: 2980**  
**ORDINANCE NO. 22-033**

**Contractor: Mosser Construction, Inc.**  
**122 South Wilson Avenue**  
**Fremont, Ohio 43420**

**STREET OR LOCATON OF WORK: 304 Harrison Street, Generator for UV Disinfection and Effluent Pumping Station**

Order is hereby issued and accepted for the following additions to or deductions from the quantities as specified in the original contract.

Bid Item No.	Location	Plan Quantity		Unit	Description		Bid Price	Actual Price	Total ADD/DED
1		1.00		LS	Generator Removal, Reinstallation, Transportation, Startup/Commissining/Load Test and Warranty		\$ 140,000.00	\$ 140,000.00	\$ -
2		1.00		LS	Engine Repairs - Engine Evaluation and Report		\$ 103,000.00	\$ 103,000.00	\$ -
3		1.00		LS	Engine Repairs - Cylinder Overhaul		\$ 38,000.00	\$ 38,000.00	\$ -
4		1.00		LS	Engine Repairs - Crankshaft Replacement		\$ 30,000.00	\$ -	\$ (30,000.00)
5		1.00		LS	Engine Repairs - Additional Repairs Not Listed in Bid Items 2A-2C (Provide listing with the bid - see specifications)		\$ 5,000.00	\$ 5,000.00	\$ -
6		1.00		LS	Generator Controls Replacement Allowance		\$ 40,000.00	\$ 39,130.00	\$ (870.00)
7		1.00		LS	Generator Circuit Breaker Replacement		\$ 15,000.00	\$ 15,000.00	\$ -
8		1.00		LS	Temporary Generator		\$ 60,000.00	\$ 80,000.00	\$ 20,000.00
9		1.00		LS	General Allowance		\$ 50,000.00	\$ 43,477.70	\$ (6,522.30)
10		1.00		LS	Bid Bond		\$ 4,000.00	\$ 4,000.00	\$ -

Explanation: Change order & Contingency reflects work performed in the field.

**Total Difference** \$ 467,607.70 \$ (17,392.30)

Accepted: \_\_\_\_\_ Date: \_\_\_\_\_, 2023  
Contractor

**Original Contract Price = \$ 485,000.00**  
**Contract Price after CO1 = \$ 467,607.70**  
**% Increase = -3.6%**

Accepted: \_\_\_\_\_ Date: \_\_\_\_\_, 2023  
City Engineer

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPROVE THE FIRST & FINAL CHANGE ORDER FOR WORK PERFORMED BY MOSSER CONSTRUCTION INC., OF FREMONT, OHIO, FOR THE WASTEWATER TREATMENT PLANT (WWTP) EMERGENCY BACK-UP GENERATOR REPAIR PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the WWTP Emergency Back-up Generator Repair Project involved the rebuilding of an existing 1998 standby generator that operates the 36 MGD ultraviolet disinfection system, two effluent pumps, a 120-volt control panel, and a process gate at the Wastewater Treatment Plant, that became inoperable as the engine on the unit was damaged due to a leak of engine coolant into the crankcase, and the work includes disconnecting and reconnecting the generator, transport to and from the repair facility, all materials, and any temporary back-up power needed if supply chain issues delay service; and

**WHEREAS**, this City Commission declared the necessity to proceed with the proposed WWTP Emergency Back-up Generator Repair Project by Resolution No. 005-22R, passed on January 10, 2022; and

**WHEREAS**, this City Commission approved the awarding of the contract to Mosser Construction Inc., of Fremont, Ohio, for work to be performed for the WWTP Emergency Back-up Generator Repair Project by Ordinance No. 22-033, passed on February 28, 2022; and

**WHEREAS**, this First & Final Change Order provides for unused allowances for crankshaft replacement, generator controls replacement, and generator allowances and additional costs for a temporary generator; and

**WHEREAS**, the original contract with Mosser Construction Inc. was \$485,000.00, and with the **deduction** of this First & Final Change Order in the amount of \$17,392.30, the final contract cost is \$467,607.70 and will initially be paid with Sewer Funds with partial reimbursement from Erie County pursuant to the Sewer Services Agreement; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to process final payment to the contractor for work already provided and to close out the completed project; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is hereby authorized and directed to approve this First & Final Change Order for work performed for the Wastewater Treatment Plant (WWTP) Emergency Back-up Generator Repair Project and to **deduct** from the contract amount the sum of Seventeen Thousand Three Hundred Ninety Two and 30/100 Dollars (\$17,392.30) resulting in the final contract cost of Four Hundred Sixty Seven Thousand Six Hundred Seven and 07/100 Dollars (\$467,607.70) with Mosser Construction Inc., of Fremont, Ohio.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

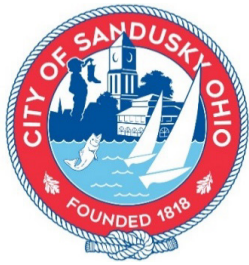
Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: John Orzech, Interim City Manager

From: Aaron M. Klein, P.E.

Date: February 2, 2023

Subject: **Commission Agenda Item – WWTP Sludge Hauling for CY 2023**

**ITEM FOR CONSIDERATION:** Legislation appropriating funds for the dumping of Class B Biosolids (a.k.a. sludge cake) and dewatered combined material from the Wastewater Treatment Plant (WWTP) and Sewer Maintenance (SM) at the Erie County Sanitary Landfill in an amount not to exceed \$156,800.00 for CY 2023.

**BACKGROUND INFORMATION:** Typical daily treatment operations at the Wastewater Treatment Plant generate solids, called sludge cake, as a byproduct. In 2022, the WWTP disposed of 3,614.43 tons of material at the Erie County Sanitary Landfill.

In addition, vacuum trucks used to clean storm, sanitary and combined sewers empty their contents in a basin that allows the water to drain back into the plant for treatment while the debris, grease and solids remain. Materials from the WWTP grit removal process and grease from the scum concentrator are also allowed to separate in this same manner. In 2021, this process, called dewatering, generated approximately 320 tons of solid byproducts that were disposed of at the Erie County Sanitary Landfill.

An additional 9.88 tons of miscellaneous waste and dewatered and compressed solids from the WWTP bar screens or other daily operations at the plant or within the sewer maintenance department were generated.

Combined disposal costs for these materials in 2022 were approximately \$145,000.00. Materials are removed from the WWTP and transported to the Erie County Sanitary Landfill by CDL-licensed city staff, using city vehicles. This process is approved by the Ohio EPA. Sludge is considered Municipal Solid Waste (MSW). Erie County Sanitary Landfill has flow control for all MSW, meaning that the material must be hauled to and disposed of at that location. Public bidding will not be used.

The city is estimating up to 4,300 tons of Class B Biosolids (Sludge Cake) at \$30.00 per ton and up to 350 tons of dewater combined material at \$52.00 per ton will be taken to the Erie County Sanitary Landfill for disposal in 2023.

**BUDGETARY INFORMATION:** The estimated cost of disposal by the Wastewater Treatment Plant at the Erie County Sanitary Landfill for 2023 shall not exceed \$156,800.00, which will be paid out of the Contractual Services portion of the Operation and Maintenance budget through the Sewer Fund.

**ACTION REQUESTED:** It is recommended that legislation be approved appropriating funds to continue dumping at the Erie County Sanitary Landfill for an amount not to exceed \$156,800 for CY 2023. It is requested that legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to continue uninterrupted disposal.

I concur with this recommendation:

---

John Orzech  
Interim City Manager

cc: C. Myers, Commission Clerk; B. Heil, Law Director; M. Reeder, Finance Director

## CERTIFICATE OF FUNDS

In the Matter of: Erie County Landfill Sludge

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #613-5420-53000

By: 

Michelle Reeder

Finance Director

Dated: 2/8/2023

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROPRIATING FUNDS FOR THE DUMPING OF CLASS B BIOSOLIDS (A.K.A. SLUDGE CAKE) AND OTHER DEWATERED AND COMPRESSED SOLIDS FROM THE WASTEWATER TREATMENT PLANT (WWTP) AT THE ERIE COUNTY SANITARY LANDFILL FOR CY 2023; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the Wastewater Treatment Plant generates biosolids called sludge cake along with other dewatered and compressed solid byproducts during daily operations that are disposed of at the Erie County Sanitary Landfill; and

**WHEREAS**, the Erie County Sanitary Landfill has flow control for all Municipal Solid Waste (MSW), which sludge is considered, and therefore must be hauled to and disposed of at the Erie County Sanitary Landfill; and

**WHEREAS**, the sludge and other dewatered and compressed solid byproducts are removed from the Wastewater Treatment Plant and transported to the Erie County Sanitary Landfill by CDL-licensed City staff using City vehicles which is an approved process by the Ohio EPA and the combined disposal costs for these materials in 2022 were approximately \$145,000.00; and

**WHEREAS**, the estimated cost of disposal by the Wastewater Treatment Plant at the Erie County Sanitary Landfill for CY 2023 is not to exceed \$156,800.00 and will be paid with Sewer Funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to appropriate funds and continue uninterrupted disposal of sludge from the Wastewater Treatment Plant; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission authorizes and directs the City Manager and/or Finance Director to appropriate funds in an amount **not to exceed** One Hundred Fifty Six Thousand Eight Hundred and 00/100 Dollars (\$156,800.00) to make timely payments for the dumping of Class B Biosolids (a.k.a. sludge cake) and



other dewatered and compressed solids from the Wastewater Treatment Plant at the Erie County Sanitary Landfill for the CY 2023.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: John Orzech, Interim City Manager

From: Aaron M. Klein, P.E.

Date: January 25, 2023

**Subject: Commission Agenda Item – Miscellaneous Purchases from Core & Main, LP**

**ITEM FOR CONSIDERATION:** Requesting legislation authorizing purchases of miscellaneous materials from Core & Main, LP, of Ashland, Ohio, for improvements and repairs to water service infrastructure.

**BACKGROUND INFORMATION:** Each year, water services staff purchases a variety of steel products for water line improvements and repairs such as valves, pipes, bends, meters and hydrants. Core & Main, LP is the current local distributor of parts for steel water systems and Sensus water meters, and their customer service has proven to be quite exceptional. On several occasions, the sales representative has personally delivered materials to a job site, including in the middle of the night, to expedite repairs if city crews could not leave the main break or when the branch warehouse, located in Ashland, Ohio is closed. One reason for this is because they stock most of Sandusky's common items, acting as a supplemental warehouse for the City, so additional materials don't have to be stored at Water Distribution. In addition, they also stock Cedar Point and Erie County items so availability of non-typical items is also very good. All materials are lead-free, and many are American-made.

Due to prices, some of which individually exceed \$10,000, purchasing materials for a specific repair or in-house project often exceeds the restrictive limit in the charter. Crews would have to make additional trips, or the City would have to hire a consultant to prepare a design and bid documents, or crews would have to store materials onsite in case they may need to perform improvements and repairs at some point in the future. These processes are very inefficient and often more costly.

Water crews have been actively changing out full routes of water meters based on which routes take the most time to walk since the new meters can be read from their vehicle. New meters improve accuracy of readings since many of the current meters are past their useful life. As they age, the moving parts inside the meters slow down and read lower and lower. Therefore, the higher the consumption, the more revenue is lost to the City. Accurate readings mean that we will be billing consumers for exactly what they are using.

The goal is to eventually get to a time when field crews can read the entire City in a few hours per month rather than taking almost the entire month to do so. All labor will be performed in-house and supplemented with seasonal staff. All meters are being spatially located within the GIS system. Currently, it takes eighteen (18) total hours to read the two (2) routes selected for 2023. The first route encompasses properties located on W. Monroe, headed North to Shoreline Drive and on Columbus Avenue, headed West to Shelby Street. The second route includes properties located from Bennett Avenue to the West and South city limits. Driving would free up at least eleven (11) hours per month that could be used for other projects directly related to infrastructure improvements. The total cost to completely replace these routes, totaling 1,410 meters, is approximately \$600,000.

Please refer to the attached maps for work planned in 2023 and work already completed to date.

**BUDGETARY INFORMATION:** The budgeted cost for Core & Main, LP, as approved in the operating budget is \$824,000. This year's allocation for hydrants, valves, and miscellaneous materials (\$224,000) and meters (\$600,000 – split evenly with sewer maintenance) will be paid with Water Funds in the amount of \$524,000 and Sewer Funds in the amount of \$300,000. Purchases exceeding this amount from Core & Main, LP would require approval from City Commission.

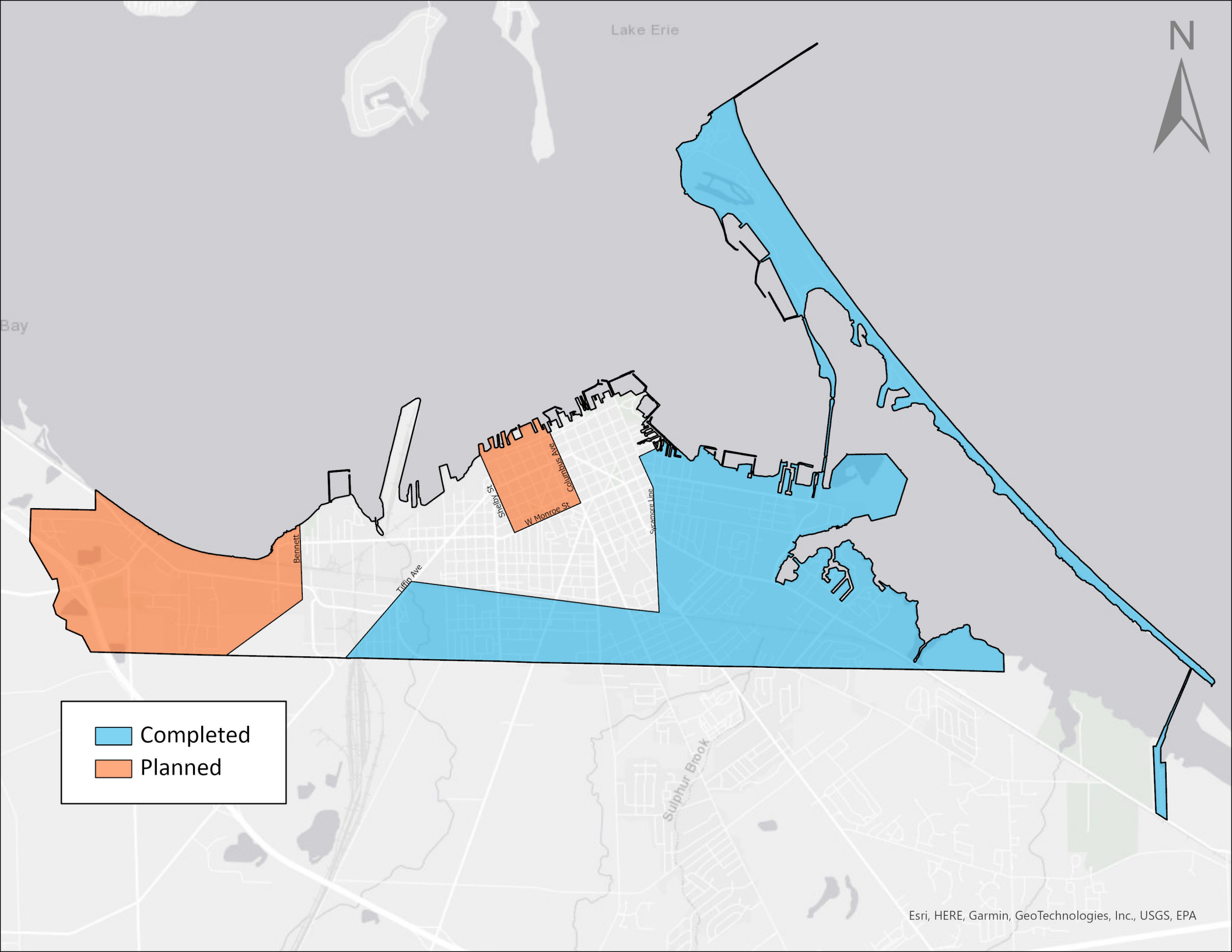
**ACTION REQUESTED:** It is recommended that the purchase of materials from Core & Main, LP for use within the water distribution system be approved and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter which will allow crews to purchase materials and parts as needed for repairs and replacement throughout the year.

I concur with this recommendation:

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John Orzech  
Interim City Manager

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director



Lake Erie

N

Bay

Bennett

Tiffin Ave

St. James St

Columbus Ave

W Monroe St

Sycamore Line

Sulphur Brook

Completed  
Planned

## CERTIFICATE OF FUNDS

In the Matter of: Core & Main Purchases

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #612-5250-54000, 612-5260-55513, 613-5450-5513

By: \_\_\_\_\_



Michelle Reeder

Finance Director

Dated: 2/8/2023

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXPEND FUNDS TO CORE & MAIN, LP, OF ASHLAND, OHIO, FOR THE PURCHASE OF MATERIALS AND PARTS FOR IMPROVEMENTS AND REPAIRS TO WATER SERVICE INFRASTRUCTURE IN CALENDAR YEAR 2023; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City replaced all water meters in 1990 with new Sensus water meters and it was recommended by Sensus Metering Systems that the City purchase Sensus meters from the local distributor as they had Sensus trained specialists with a smaller territory than the factory representatives and was located in Ashland, Ohio; and

**WHEREAS**, the City purchases a variety of steel products for water line repairs such as valves, pipes, bends, meters, and hydrants from Core & Main, LP who is the current local distributor for Sensus water meters that outfits the City's entire system; and

**WHEREAS**, Core & Main, LP, has exceptional customer service and stocks many of the City's common items, acting as a supplemental warehouse, so spare materials do not need to be stored at the Water Distribution facility; and

**WHEREAS**, since 2018, City crews have been systematically replacing meters and this year, two (2) routes totaling 1,410 meters were selected for replacement and they are as follows:

First Route - encompasses properties located on W. Monroe Street, headed north to Shoreline Drive, and on Columbus Avenue, headed west to Shelby Street.

Second Route – includes properties located from Bennett Avenue to the west and south city limits.

**WHEREAS**, the allocation for 2023 is hydrants, valves, and miscellaneous materials (\$224,000.00) and meters (\$600,000.00 - split evenly with sewer maintenance) totaling \$824,000.00 of which \$524,000.00 will be paid with Water Funds and \$300,000.00 will be paid with Sewer Funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter to allow City crews to purchase materials and parts as needed for repairs and replacement throughout the year; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take

immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager and/or Finance Director is authorized and directed to expend funds for materials and parts to be used for improvements and repairs to water service infrastructure in CY 2023 at an amount **not to exceed** Eight Hundred Twenty Four Thousand and 00/100 Dollars (\$824,000.00) to be paid to Core & Main, LP, of Ashland, Ohio.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

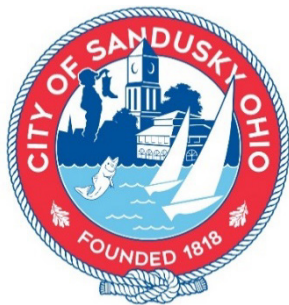
Section 3. This Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: John Orzech, Interim City Manager

From: Jane E. Cullen, P.E.

Date: January 24, 2023

**Subject: Commission Agenda Item – Change Order No. 1 and Final with Fresch Electric, Inc. for the Emergency Purchase & Installation of a New VFD for the 8 MGD High Service Pump #5 at Big Island Water Works**

**ITEM FOR CONSIDERATION:** Requesting legislation for approval of Change Order No. 1 and Final for the Emergency Purchase and Installation of New VFD for the 8 MGD High Service Pump #5 at the Big Island Water Works (BIWW) plant.

**BACKGROUND INFORMATION:** The VFD installation, start-up services and electrical work was awarded to Fresh Electric, Inc. at the February 14, 2022 city commission meeting per Ordinance No. 22-015 in the amount of \$14,720.00. The purchase of the VFD was awarded to Rexel USA, Inc. at the same meeting per Ordinance No. 22-014 in the amount of \$58,183.00. The new VFD has been installed and the electrical work is completed.

**BUDGETARY INFORMATION:** Change Order No. 1, a deduction in the amount of \$2,998.31 will revise the contract amount to \$11,721.69 for Fresch Electric, Inc. There is no change to the Rexel USA, Inc. contract. The final costs for the project are to be paid with Water Funds.

**ACTION REQUESTED:** It is requested that legislation be prepared to allow for the approval of Change No. 1 and Final with Fresch Electric, Inc. of Sandusky, Ohio, for final quantities for the Emergency Purchase & Installation of a New VFD for the 8 MGD High Service Pump #5 at Big Island Water Works project. It is further requested that this be passed under suspension of the rules and in accordance with Section 14 of the City Charter so that the completed project can be closed out.

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Aaron M. Klein, PE  
Director of Public Works

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director



CITY OF SANDUSKY, OHIO  
DEPARTMENT OF ENGINEERING AND CONSTRUCTION

Change Order No. 1 and Final

ORDINANCE NO. 22-015

Contractor: Fresch Electric, Inc.  
1414 Milan Road Sandusky, OH44870

STREET OR LOCATON OF WORK: Emergency Purchase & Installation of New VFD for 8MGD High Service Pump #5 at BIWW

Order is hereby issued and accepted for the following additions to or deductions from the quantities as specified in the original contract.

Description	Estimated Cost	Final Cost				TOTAL ADD	TOTAL DEDUCT
Labor	\$9,950.00	\$9,120.00					-\$830.00
Materials	\$2,340.00	\$1,593.18					-\$746.82
Equipment	\$2,430.00	\$1,008.51					-\$1,421.49
	\$14,720.00	\$11,721.69				\$0.00	-\$2,998.31

Explanation: Change order reflects work performed in the field.

ORIGINAL CONTRACT AMOUNT= \$14,720.00  
CHANGE IN CONTRACT= -\$2,998.31  
REVISED CONTRACT AMOUNT= \$11,721.69

Accepted:   
Contractor

Date: 1-24-2023, 2022

Accepted: \_\_\_\_\_  
Director of Public Works

Date: \_\_\_\_\_, 2022

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPROVE THE FIRST & FINAL CHANGE ORDER FOR WORK PERFORMED BY FRESCH ELECTRIC INC. OF SANDUSKY, OHIO, FOR THE EMERGENCY INSTALLATION OF A NEW ALLEN-BRADLEY VARIABLE FREQUENCY DRIVE (VFD) FOR THE #5 HIGH SERVICE PUMP AT THE BIG ISLAND WATER WORKS (BIWW) PLANT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

**WHEREAS**, on December 17, 2021, an existing Allen-Bradley Variable Frequency Drive (VFD) unit at the BIWW Plant failed, and this VFD unit is used to allow the pumps to throttle up and down slowly to reduce the possibility of water hammer, which is a main reason that pumps or pipes burst; and

**WHEREAS**, the #5 High Service Pump, which is the plant's largest and most-used pump, failed to restart correctly after a power outage at the BIWW plant and subsequent to troubleshooting, it was determined the VFD could not be repaired or put back into service and needs to be replaced as soon as possible; and

**WHEREAS**, the Public Works Director notified the City Commission at their January 10, 2022, regularly scheduled meeting of the emergency situation and a motion was passed approving the emergency purchasing of a replacement VFD at the BIWW Plant; and

**WHEREAS**, this City Commission authorized the expenditure of funds for the emergency work to be performed by Fresch Electric Inc. of Sandusky, Ohio, for the installation of a new Allen-Bradley Variable Frequency Drive (VFD) for the #5 High Service Pump at the Big Island Water Works (BIWW) Plant by Ordinance No. 22-015, passed on February 14, 2022; and

**WHEREAS**, this First & Final Change Order reflects the actual quantities used and work performed in the field by the contractor; and

**WHEREAS**, the original contract with Fresch Electric Inc. was \$14,720.00 and with the **deduction** of this First & Final Change Order in the amount of \$2,998.31, the final contract cost is \$11,721.69, and will be paid with Water Funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter so that the completed project can be closed out; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take

immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is hereby authorized and directed to approve this First & Final Change Order for the emergency work performed for the installation of a new Allen-Bradley Variable Frequency Drive (VFD) for the #5 High Service Pump at the Big Island Water Works (BIWW) Plant and to **deduct** from the contract amount the sum of Two Thousand Nine Hundred Ninety Eight and 31/100 Dollars (\$2,998.31) resulting in the final contract cost of Eleven Thousand Seven Hundred Twenty One and 69/100 Dollars (\$11,721.69) with Fresch Electric Inc. of Sandusky, Ohio.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## FIRE DEPARTMENT

600 West Market Street

Sandusky, Ohio 44870

419.627.5822

Fire Prevention 419.627.5823

Fax 419.627.5820

[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

**TO:** John Orzech, Interim City Manager

**FROM:** Mario D'Amico III, Fire Chief

**DATE:** January 25, 2023

**RE:** Commission Agenda Item – Disposal of Hose Dryer

**ITEM FOR CONSIDERATION:** Legislation authorizing the sale of one Circul-Air Hose Dryer, Model No. DL6T on GovDeals, an online auction site for governmental entities.

**BACKGROUND INFORMATION:** It has been determined by the Fire Chief to sell and/or dispose of the Circul-Air Hose Dryer as it is unnecessary and no longer needed for City use as it has not worked properly in years. The Hose Dryer was installed in 1968 and is housed at fire station #7 on Venice Rd.

**BUDGETARY INFORMATION:** Proceeds from the sale of the Circul-Air Hose Dryer will be placed into the EMS Fund.

**ACTION REQUESTED:** It is requested that the proper legislation be prepared to allow for the sale and/or disposal of the Circul-Air Hose Dryer on Govdeals, an online auction site for governmental entities. It is further requested that this legislation take immediate effect in full accordance with Section 14 of the city Charter to continue with good housekeeping practices and to open up and provide additional space along the west wall for vehicles coming in and out.

**Approved:**

**I concur with this recommendation:**

\_\_\_\_\_  
Mario D'Amico III, Fire Chief

\_\_\_\_\_  
John Orzech, Interim City Manager

**CC:** Brendan Heil, Law Director  
Michelle Reeder, Finance Director

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO DISPOSE OF ONE (1) CIRCUL-AIR HOSE DRYER AS HAVING BECOME UNNECESSARY AND UNFIT FOR CITY USE PURSUANT TO SECTION 25 OF THE CITY CHARTER; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, Section 25 of the City Charter authorizes the City Manager to conduct all sales of personal property that has become obsolete, unnecessary and unfit for City use; and

**WHEREAS**, the Fire Chief has determined that a Circul-Air Hose Dryer, Model No. DL6T, installed in 1968 and housed at Fire Station #7 on Venice Road is no longer needed for City use and is recommending that this Hose Dryer be declared obsolete, unnecessary and unfit for City use, as it has not worked properly in several years, and be disposed of via [www.Govdeals.com](http://www.Govdeals.com), which is an internet auction site for governmental entities; and

**WHEREAS**, the proceeds from the sale of the Hose Dryer will be placed into the EMS Fund; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to allow the Hose Dryer to be placed on the internet at the earliest opportunity to continue with good housekeeping practices and to provide additional space for vehicle traffic; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Fire Department, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission finds and determines that a Circul-Air Hose Dryer, Model No. DL6T, has become obsolete and is unnecessary and unfit for City use pursuant to Section 25 of the City Charter and the City Manager is authorized and directed to dispose of the item no longer needed for City purposes through public auction, sale process, or by internet auction with the proceeds from the sale of the vehicle to be placed into the EMS Fund.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: John Orzech, Interim City Manager

From: Joshua R. Snyder, P.E.

Date: January 24, 2023

Subject: **Commission Agenda Item – Permission to Bid the Warren Street Reconstruction Project**

**ITEM FOR CONSIDERATION:** Requesting legislation authorizing the City to accept bids for the Warren Street Reconstruction Project.

**BACKGROUND INFORMATION:** In early 2021, City Commission approved legislation (Resolution No. 037-21R) allowing City Staff to apply for and receive funds through the Ohio Public Works Commission (OPWC) later in 2021 for the Warren Street Reconstruction project. Once awarded, City staff then contracted with the LJB, Inc. (Resolution No. 20-061) for the design for the project, design was completed by Red Barn Engineering, a local firm.

This segment of Warren St. runs from Water St. to Market Street, then again from Washington to E. Monroe Street, totaling nearly a half mile in length. The 6-inch waterline being replaced is over 80 years old and most of the pavement was last paved prior to 1970 and has had few paved-patches since then. We have had over 30 water main breaks recorded within this stretch of Warren St. and the roadway contains 5 of the 10 worst-conditioned street sections city-wide.

Work consists of replacing the water main, fire hydrants, service lines and meters, adding storm sewer, curbing, driveway aprons, a sidewalk on the East side and an asphalt multi-use path on the West side tying Shoreline Park to Huron Park. Lastly, full depth asphalt pavement will be placed.

With the extent of underground work required prior to paving, the substantial completion date for this project has been set for December 1, 2023, with paving taking place late this year. Like Meigs Street, shallow bedrock is known to exist in portions of this work area and will expectedly slow portions of the underground utility construction. It may be likely that final restoration needs to take place in the spring of 2024.

Careful coordination with the contractor will be crucial as construction activity will take place during the summer months, so leaving access to all businesses in this area will be a top priority. City Staff will work closely with all stakeholders in this area to keep an open line of communication throughout construction.

Due to fuel, asphalt, piping and waterline price increases, the City has placed the signal replacement portion of this project as an “alternate” bid item, meaning we have the option to perform that replacement also, if pricing comes in within the allowed amount.

**BUDGETARY INFORMATION:** The engineer's estimate for the construction costs is \$3,169,476.00, which is estimated to be split between the following:

<b>Fund</b>	<b>Amount</b>
OPWC - grant	\$ 325,000.00
OPWC - loan	\$ 162,500.00
Issue 8 Street	\$ 300,000.00
PRK/ADM - Path	\$ 150,000.00
PRK/ADM - Street	\$ 517,827.00
Stimulus Street	\$ 168,649.00
Water Loan (OWDA)	\$ 834,000.00
Sewer Loan (OWDA)	\$ 711,500.00
<b>TOTAL:</b>	<b>\$ 3,169,476.00</b>

**ACTION REQUESTED:** It is recommended that the proper legislation be approved accepting bids for the Warren Street Reconstruction Project under suspension of the rules and in accordance with Section 14 of the City in order to bid the project as soon as funding allows and get a contractor started on the underground work and ordering materials early in the calendar year so that pavement may be laid down within this same construction season.

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Aaron Klein, P.E.  
Director

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director





## CERTIFICATE OF FUNDS

In the Matter of: 2023 Local Street Resurfacing

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #240-0000-530000

By: Michelle Reeder

Michelle Reeder

Finance Director

Dated: 2/8/2023

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DECLARING THE NECESSITY FOR THE CITY TO PROCEED WITH THE PROPOSED WARREN STREET RECONSTRUCTION PROJECT; APPROVING THE SPECIFICATIONS AND ENGINEER'S ESTIMATE OF COST THEREOF; AND DIRECTING THE CITY MANAGER TO ADVERTISE FOR AND RECEIVE BIDS IN RELATION THERETO; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, Warren Street was home to the former alignment of multiple sets of train tracks and is in very poor condition and in dire need of pavement reconstruction due to its structural damage and lack of drainage and most of the water line in this area was constructed in 1937 and the existing combination sewer was installed in 1908; and

**WHEREAS**, the Warren Street Reconstruction Project involves the reconstruction of Warren Street between Water Street and Market Street and between Washington Street and E. Monroe Street and includes the replacement of the waterline, fire hydrants, service lines and meters, adding storm sewer, curbing, driveway aprons, a sidewalk on the east side and an asphalt multi-use path on the west side tying Shoreline Park to Huron Park and full depth asphalt pavement will be placed; and

**WHEREAS**, the City Commission approved an Agreement for Professional Design Services with LJB, Inc. of Fairview Park, Ohio, for preliminary engineering and design for the Warren Street Reconstruction Project by Ordinance No. 20-061, passed on March 23, 2020; and

**WHEREAS**, the City Commission approved a First Amendment to the Agreement for Professional Design Services with LJB, Inc. of Fairview Park, Ohio, for additional work including encroachment license agreements, Elm Street realignment, and manage combined sewer cleaning contract for the Warren Street Reconstruction Project by Ordinance No. 20-108, passed on July 27, 2020, and the final design was completed by a local firm, Red Barn Engineering, Inc.; and

**WHEREAS**, the City Commission authorized the submission of an application and to enter into a Project Agreement with the Ohio Public Works Commission (OPWC) to participate in the Ohio Public Works Commission's State Capital Improvement and/or Local Transportation Improvement Programs authorized by Chapter 164 (Aid to Local Government Improvements) of the Ohio Revised Code for the Warren Street Reconstruction Project by Resolution No. 037-21R, passed on August 23, 2021; and

**WHEREAS**, the estimated construction cost of the project is \$3,169,476.00, and is estimated to be paid as follows:

Fund	Amount
OPWC - grant	\$ 325,000.00
OPWC - loan	\$ 162,500.00
Issue 8 Street	\$ 300,000.00
PRK/ADM - Path	\$ 150,000.00
PRK/ADM - Street	\$ 517,827.00
Stimulus Street	\$ 168,649.00
Water Loan (OWDA)	\$ 834,000.00
Sewer Loan (OWDA)	\$ 711,500.00
TOTAL: \$ 3,169,476.00	

**WHEREAS**, this Resolution should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to bid the project and receive competitive bids, award a contract, and allow the contractor to order materials and begin the underground work so the pavement can be completed this construction season; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The specifications and estimates of cost as prepared by the Director of Public Works and submitted to this City Commission, and which are now on file in the offices of the Director of Public Works and the Clerk of the City Commission, for the proposed Warren Street Reconstruction Project be and the same hereby are approved by this City Commission.

Section 2. This City Commission hereby declares it necessary to proceed with the proposed Warren Street Reconstruction Project, at the earliest possible time.

Section 3. The City Manager is authorized and directed to advertise for and to receive bids in relation to the proposed Warren Street Reconstruction Project, as required by law.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

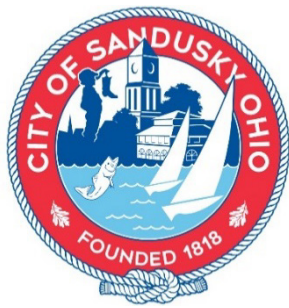
Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

To: John Orzech, Interim City Manager

From: Joshua Snyder, P.E., Public Works Engineer

Date: January 27, 2023

Subject: **Commission Agenda Item – Award the 2022 W Monroe Street Drainage Project to Ed Burdue & Co., LLC of Sandusky, OH**

**ITEM FOR CONSIDERATION:** Legislation awarding a contract to Ed Burdue & Co., LLC of Sandusky, OH for the 2022 West Monroe Drainage Project.

**BACKGROUND INFORMATION:** With the approval of City Commission at the November 14, 2022, meeting, Resolution 061-22R, City staff began soliciting for bids on Thursday, January 12, 2023. The project consists of installing a dedicated storm sewer pipe along W. Monroe Street from Decatur to Fulton Street.

This project addresses historical flooding in the area of Monroe Street, Poplar, Decatur and Fulton Street, by separating the roadway runoff from the combined sewer running up and down Decatur Street. The Decatur Street line is undersized to take the sewer in addition to the road runoff generated in this area.

Bids were due to the City no later than Friday, January 27, 2023, of which a total of two (2) bids were received;

<b>Ed Burdue &amp; Co., LLC</b>	<b>\$105,749.16</b>
<b>Sandusky, OH</b>	<b>100% Bid Bond</b>
 D2 Excavating, LLC	 \$105,614.00
Vickery, OH	100% Bid Bond

The engineer's estimate for the base bid was \$108,180.00, with Ed Burdue & Co., LLC being the lowest and best bidder. The Local Preference ordinance was used to evaluate bids.

**BUDGETARY INFORMATION:** The total construction cost for the project shall not exceed \$105,749.16 and shall be paid with Sewer Funds.

**ACTION REQUESTED:** It is requested that legislation be approved awarding a contract to Ed Burdue & Co., LLC of Sandusky, OH for the 2022 West Monroe Street Drainage Project in an amount not to exceed \$105,749.16 and the necessary legislation be passed under suspension of the rules and in accordance

with Section 14 of the City Charter in order for the contractor to begin work to meet the June 9, 2023, project completion date.

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Aaron Klein  
Director

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

## CERTIFICATE OF FUNDS

In the Matter of: Ed Burdue- West Monroe Street Drainage Project

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #613-5263-55990

By: \_\_\_\_\_



Michelle Reeder

Finance Director

Dated: 2/8/2023



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ED BURDUE & CO. LLC, OF SANDUSKY, OHIO, FOR THE 2022 W. MONROE STREET DRAINAGE PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, currently there is a single combined sewer in the intersection and along each of W. Monroe and Decatur Streets and due to the limited capacity within these existing combination sewers, backups occur on a regular basis during heavy rain events; and

**WHEREAS**, the 2022 W. Monroe Street Drainage Project involves the re-routing of stormwater runoff from along W. Monroe Street from Decatur Street to Fulton Street westward to Central Avenue where there is ample capacity to take the additional flow and specifically the project will add a 12" storm sewer dedicated for carrying the stormwater flows westward, away from the intersection, collecting runoff from eight (8) new catch basin structures that will have the ability to take more runoff than the existing basins; and

**WHEREAS**, this City Commission declared the necessity to proceed with the proposed 2022 W. Monroe Street Drainage Project by Resolution No. 061-22R, passed on November 14, 2022; and

**WHEREAS**, upon public competitive bidding as required by law two (2) appropriate bids were received and the bid from Ed Burdue & Co. LLC, of Sandusky, Ohio, was determined to be the lowest and best bid; and

**WHEREAS**, the total construction cost of this project based on bids is \$105,749.16 and will be paid with Sewer Funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order for the contractor to begin the work to meet the project completion deadline of June 9, 2023; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a contract with Ed Burdue & Co. LLC, of Sandusky, Ohio, for the 2022 W. Monroe Street Drainage Project in an amount **not to exceed** One Hundred Five Thousand Seven Hundred Forty-Nine and 16/100 Dollars (\$105,749.16) consistent with the

bid submitted by Ed Burdue & Co. LLC, of Sandusky, Ohio, currently on file in the office of the Director of Public Works.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

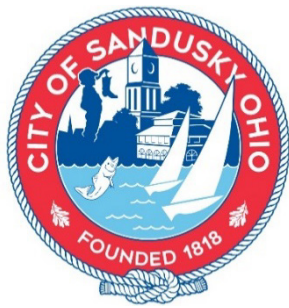
Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

To: John Orzech, Interim City Manager

From: Joshua Snyder, P.E., Public Works Engineer

Date: January 27, 2023

Subject: **Commission Agenda Item – Award the Cleveland Road Waterline Replacement Project to Ed Burdue & Co., LLC of Sandusky, OH**

**ITEM FOR CONSIDERATION:** Legislation awarding a contract to Ed Burdue & Co., LLC of Sandusky, OH for the Cleveland Road Waterline Replacement Project.

**BACKGROUND INFORMATION:** With the approval of City Commission at the November 28, 2022, meeting, Resolution 062-22R, City staff began soliciting for bids on Thursday, January 12, 2023. The project consists of re-aligning the water mains intersecting at Cleveland Road and Cedar Point Drive.

This project replaces 60 and 80 year old water lines and aligns them to accommodate the intersection layout that will be re-aligned with the Cleveland Road Safety project.

Bids were due to the City no later than Friday, January 27, 2023, of which a total of five (5) bids were received;

D2 Excavating, LLC Vickery, OH	\$352,968.55 100% Bid Bond	Buckeye Excavating, LLC Norwalk, OH	\$333,475.00 100% Bid Bond
<b>Ed Burdue &amp; Co., LLC Sandusky, OH</b>	<b>\$298,699.92 100% Bid Bond</b>	Hillabrand & Sons Millbury, OH	\$392,821.17 100% Bid Bond
Great Lakes Demolition Clyde, OH	\$294,925.00 100% Bid Bond		

The engineer's estimate for the base bid was \$358,052.00, with Ed Burdue & Co., LLC of Sandusky, OH, being the lowest and best bidder. The Local Preference ordinance was used to evaluate bids.

**BUDGETARY INFORMATION:** The total construction cost for the project shall not exceed \$298,699.92 and shall be paid with Water Funds.

**ACTION REQUESTED:** It is requested that legislation be approved awarding a contract to Ed Burdue & Co., LLC of Sandusky, OH for the Cleveland Road Waterline Replacement Project in an amount not to exceed \$298,699.92 and the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order for the contractor to begin work to meet the May 5, 2023, project completion date.

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Aaron Klein  
Director

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

## CERTIFICATE OF FUNDS

In the Matter of: Ed Burdue- Cleveland Road Waterline

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #612-5243-53000

By: \_\_\_\_\_



Michelle Reeder

Finance Director

Dated: 2/8/2023

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ED BURDUE & CO. LLC, OF SANDUSKY, OHIO, FOR THE CLEVELAND ROAD WATERLINE REPLACEMENT PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this City Commission approved an agreement for Professional Design Services with Structurepoint, Inc. of Cleveland, Ohio, for waterline improvements in conjunction with the Cleveland Road Safety Improvement Project by Ordinances No. 22-063, passed on March 28, 2022; and

**WHEREAS**, the Cleveland Road Waterline Replacement Project involves the re-alignment of the water mains intersecting at Cleveland Road and Cedar Point Drive to align with the roadway geometry for future maintenance purposes and furthermore, the existing lines entering this intersection are 64 and 51 years old, respectively; and

**WHEREAS**, this City Commission declared the necessity to proceed with the proposed Cleveland Road Waterline Replacement Project by Resolution No. 062-22R, passed on November 28, 2022; and

**WHEREAS**, upon public competitive bidding as required by law five (5) appropriate bids were received and the bid from Ed Burdue & Co. LLC, of Sandusky, Ohio, was determined to be the lowest and best bid; and

**WHEREAS**, the total construction cost of this project based on bids is \$298,699.92 and will be paid with Water Funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order for the contractor to begin the work to meet the project completion deadline of May 5, 2023; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a contract with Ed Burdue & Co. LLC, of Sandusky, Ohio, for the Cleveland Road Waterline Replacement Project in an amount **not to exceed** Two Hundred Ninety-Eight Thousand Six Hundred Ninety-Nine and 92/100 Dollars (\$298,699.92) consistent with the bid submitted by Ed Burdue & Co. LLC, of Sandusky, Ohio,

currently on file in the office of the Director of Public Works.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

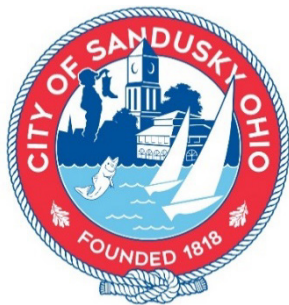
Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

To: John Orzech, Interim City Manager

From: Jane E. Cullen, P.E., Assistant City Engineer

Date: January 20, 2023

Subject: **Commission Agenda Item – Professional Services Agreement with K.E. McCartney & Associates Inc., for 2023 Project Construction Administration and Inspection Services**

**ITEM FOR CONSIDERATION:** Legislation for approval to enter into a professional service agreement for 2023 Project Construction Inspection and Construction Management Services with K.E. McCartney & Associates, Inc. of Mansfield, OH.

**BACKGROUND INFORMATION:** At the January 9<sup>th</sup>, 2023 city commission meeting the construction contract for ERI-SR4-10.66 (Hayes Avenue) Project was awarded to Miller Cable Co., Green Springs, Ohio per Ordinance No. 23-005 in the amount of \$809,400.00. The construction project will provide for full traffic signal reconstruction at Pierce Street and the Columbus Avenue intersections, high visibility crosswalk markings at all crosswalks, school zone flashers on Hayes Avenue, RFBS at Johnson St and Firelands south campus, and pavement marking upgrades from Pierce Street to Osborne Street.

A request for Qualifications (RFQ) for 2023 Project Construction Inspection and Construction Management Services directed interested consultants to submit qualifications to the Department of Public Works by December 7, 2022. This RFQ request included three projects that will begin construction this year: ERI-SR4-10.66(Hayes Avenue) PID 109523, ER-CR0504-00.49 (Monroe St) PID 110322 and ERI-CR0503-00.81 (E Water St) PID 113958. Each project will have its own service agreement.

Eight (8) qualification packages were received and evaluated by a selection committee and the firm with the highest score was to be selected.

After the firms were scored, City staff determined K.E. McCartney & Associates, Inc. was the most qualified and was ranked number one based on their relevant project experience, professional expertise and past success with similar projects. Scope of Services (SOS), dated January 12, 2023 and agreements for professional design services, are attached to the legislation.

**ERI-SR4-10.66 (Healthy Hayes Safety Improvements Project) PID109523**

Construction Contractor: Miller Cable Co., Green Springs, Ohio

Construction Contract Amount: \$809,400.00 per Ordinance 23-005 1/9/23

Construction Inspection Management Services Amount: \$80,912.00

Construction Schedule: April 2023 to March 2024

Scope of construction work involves work along Hayes Avenue from Orlando Pace Drive to Columbus Avenue. Traffic signal replacement at Pierce and Columbus intersections. Curb ramp replacement, pavement markings, flashing school zone assemblies.



**ERI-CR0504-00.49 (East Monroe Street Resurfacing Project) PID 110322**

Construction Contractor: Erie Blacktop, Inc. Sandusky, Ohio

Construction Contract Amount: \$769,134.27 per Ordinance 23-004 1/9/23

Construction Inspection Management Services Amount: \$76,996.00

Construction Schedule: April 2023 to October 2023

Scope of construction work involves work along Monroe Street from Decatur Street to Meigs Street. Resurfacing, curb ramps and sidewalks, full and partial depth pavement replacement, pavement markings.

**ERI-CR0503-00.81 (East Water Street Resurfacing Project) PID113958**

Estimated Construction Budget: \$1,073,941.56

Stage 3/final construction plans & estimate: March 2023

Bid Construction Contract: May 2023

Construction Inspection Management Services Amount: \$99,999.00

Estimated Construction Schedule: July 2023 to May 2024

Scope of construction work involves work along Water Street from Franklin Street to Meigs Street. Resurfacing, curbs, concrete bumpouts, curb ramps and sidewalks, full and partial depth pavement replacement, pavement markings 10' multi-use path.

**BUDGETARY INFORMATION:** The estimated amount of the Consultant fees for contract administration and inspection services is not to exceed the following amounts (Total=\$257,907.00) and will be paid with Issue 8 Street Funds from the Capital Projects Fund:

\$80,912.00 for ERI-SR4-10.66 (Hayes Avenue)

\$76,996.00 for ERI-CR0504-00.49 (Monroe St)

\$99,999.00 for ERI-CR0503-00.81 (E Water St)

**ACTION REQUESTED:** It is recommended that professional services agreements with K.E. McCartney & Associates, Inc. for 2023 Project Construction Administration and Inspection Services be executed and that the necessary legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order for the agreement to be executed so that the consultant can get started with the contract administration and inspection services for the construction projects that begin spring and summer 2023.

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Aaron Klein, P.E.  
Director of Public Works

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

## CERTIFICATE OF FUNDS

In the Matter of: K.E. McCartney Professional Services-Hayes, Monroe, E. Water Street

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #431-6200-55990, 431-6201-55990

By: \_\_\_\_\_



Michelle Reeder

Finance Director

Dated: 2/8/2023

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL SERVICES WITH K.E. MCCARTNEY & ASSOCIATES, INC., OF MANSFIELD, OHIO, FOR CONTRACT ADMINISTRATION AND INSPECTION SERVICES FOR THE HEALTHY HAYES SAFETY IMPROVEMENTS PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the Healthy Hayes Safety Improvements Project will include full traffic signal reconstruction at Pierce Street and Columbus Avenue intersections, signal upgrades at Osborne and Tyler Street intersections, high visibility crosswalk markings at all crosswalks, school zone flashers on Hayes Avenue, Rectangular Rapid Flash Beacons (RRFBS) at Johnson Street and Firelands south campus, and pavement marking upgrades from Pierce Street to Osborne Street; and

**WHEREAS**, the City Commission approved an agreement for Professional Design Services with Carpenter Marty Transportation, Inc. of Columbus, Ohio, for the Healthy Hayes Safety Improvements Project by Ordinance No. 20-078, passed on May 11, 2020; and

**WHEREAS**, this City Commission declared the necessity for the City to proceed with the proposed Healthy Hayes Safety Improvements Project by Resolution No. 060-22R, passed on October 24, 2022; and

**WHEREAS**, this City Commission approved a contract with Miller Cable Co. of Green Springs, Ohio, for the Healthy Hayes Safety Improvements Project by Ordinance No. 23-005, passed on January 9, 2023; and

**WHEREAS**, K.E. McCartney & Associates, Inc. will be providing project contract administration and inspection services for the Healthy Hayes Safety Improvements Project and these services are more fully described in the Scope of Services, which is attached to this Ordinance and marked Exhibit "A" and specifically incorporated herein; and

**WHEREAS**, the City issued a Requests for Qualifications (RFQ) for Construction Inspection and Construction Management Services for three (3) separate projects (Healthy Hayes Safety Improvements Project, East Monroe Street Resurfacing Project, and East Water Street Resurfacing Project) in which eight (8) submittals were received, evaluated and ranked by a selection committee and based on the firm's experience, professional expertise and technical ability necessary to complete the required tasks, and past successes with similar projects, it was determined K.E. McCartney & Associates, Inc., of Mansfield, Ohio, was the most qualified; and

**WHEREAS**, the cost for contract administration and inspection services is \$80,912.00 and will be paid with Issue 8 Street Funds from the Capital Projects Fund; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the agreement so the consultant can begin the contract

administration and inspection services for the construction project that begins in the spring of 2023; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an Agreement for Professional Services with K.E. McCartney & Associates, Inc., of Mansfield, Ohio, for contract administration and inspection services for the Healthy Hayes Safety Improvements Project (ERI-SR4-10.66: PID No. 109523), substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** Eighty Thousand Nine Hundred Twelve and 00/100 Dollars (\$80,912.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take

immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

AGREEMENT  
FOR  
PROFESSIONAL SERVICES

This Agreement for Professional Services (this "Agreement"), made as of \_\_\_\_\_, 2023, by and between the City of Sandusky (the "City"), whose contact person shall be the Director of Public Works designated below or successor (the "City Engineer"), and K.E. McCartney & Associates (the "Architect/Engineer"), whose contact person and address are set forth below.

WHEREAS, the City is operating under its Charter, ordinances, and regulations, and it is the intention of the City, in the exercise of its powers, to obtain professional services for the following project (the "Project"):

Project Name:	ERI-SR4-10.66 Hayes Ave PID 109523
Director of Public Works: Address:	Aaron Klein, P.E. Department of Public Works City of Sandusky 240 Columbus Ave Sandusky, Ohio 44870
Architect/Engineer: Contact: Address:	K.E. McCartney & Associates Brian Sarratore 52 N Diamond St Mansfield, OH 44902

WHEREAS, the compensation of the Architect/Engineer set forth herein is determined to be fair and reasonable to the City and the Architect/Engineer; and

WHEREAS, the Architect/Engineer desires, and is licensed and capable, to provide professional services for the Project;

WHEREAS, the Architect/Engineer has previously provided certain professional services for the Project;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the City and the Architect/Engineer agree as follows:

**ARTICLE 1. RESPONSIBILITIES OF ARCHITECT/ENGINEER**

**1.1. Architect/Engineer's Services**

1.1.1. Scope of Services; Applicable Law. The Architect/Engineer shall provide professional services, including, without limitation, services customarily furnished in accordance with generally-accepted architectural or engineering services, for the Project in accordance with the terms of this Agreement. The Architect/Engineer shall provide such services in accordance with the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations and the Contract Documents.

1.1.2. Timeliness; Standard of Care. The Project Schedule shall be established by mutual agreement between the City and the Architect/Engineer within thirty (30) days after the execution hereof. The Architect/Engineer shall perform the Architect/Engineer's services in accordance with professional standards of skill, care, and diligence in a timely manner in accordance with the Project Schedule so as to cause no delay, interference, disruption, or hindrance in the Work, and so that the Project shall be completed as expeditiously and economically as possible within the Construction Budget and in the best interests of the City.

1.1.3. Non-Discrimination. The Architect/Engineer represents that the Architect/Engineer is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.

1.1.4. Consultants. The Architect/Engineer may provide services through one or more consultants employed by the Architect/Engineer (the "Consultants"); provided, however, the Architect/Engineer shall remain responsible to the City for all duties and obligations of the Architect/Engineer under this Agreement. Unless waived or otherwise modified in writing by the City upon written request of the Architect/Engineer, no Consultant shall be retained upon terms inconsistent with this Agreement. The Architect/Engineer shall provide the City Engineer with the names and qualifications of any other proposed Consultant, together with a description of the services to be provided by such Consultant for approval. Once approved by the City Engineer, the identity of any Consultant and the extent of such Consultant's participation in performing the Architect/Engineer's services shall not be altered without the written consent of the City Engineer. Upon the request of the City, the Architect/Engineer shall terminate the employment of any Consultant. The City may communicate with any Consultant either through the Architect/Engineer or directly to the Consultant with notice to the Architect/Engineer.

1.1.5. Ethics Laws. The Architect/Engineer represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

1.1.6. Limitation of Authority. The Architect/Engineer shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Architect/Engineer shall have authority to act on behalf of the City only to the extent provided herein. The Architect/Engineer's authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

## **ARTICLE 2. SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES**

### **2.1. General**

2.1.1. Basic Services to be provided by the Architect/Engineer shall consist of the services set forth in Exhibit A attached hereto and incorporated by reference herein as if fully rewritten.

## **ARTICLE 3. ADDITIONAL SERVICES**

### **3.1. General**

3.1.1. Any services related to the Project not included in Basic Services are Additional Services. Additional Services shall be provided only if requested by the City in writing. Additional Services shall be paid for as provided in this Agreement in addition to the compensation for Basic Services; provided, however, the Architect/Engineer shall not be compensated for any of the following services made necessary by the act or omission of the Architect/Engineer or any Consultant. Unless waived by the City in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

## **ARTICLE 4. RESPONSIBILITIES OF THE CITY**

**4.1. Required Actions.** The City shall review, approve, or take such actions as are required of the City by this Agreement and applicable law in a reasonable and timely manner.

**4.2. Instructions to Contractors.** All instructions of the City to Contractors shall be through, or in consultation with, the Architect/Engineer.

**4.3. City's Requirements.** The City shall provide full information regarding its requirements for the Project, any agreements related to the Project, and any design and construction standards and work rules which set forth the City's use, design, time and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, systems and site requirements. The Architect/Engineer shall be entitled to rely upon the accuracy and completeness of information provided by the City under this paragraph which the City represents in writing is complete and accurate; provided, however, the City makes no representation for, and the Architect/Engineer may not rely upon, information from third parties.

**4.4. Authorized Representative.** The City has designated the City Engineer or successor to be the City's Authorized Representative, i.e., a person authorized to act on the City's behalf with respect to the Project to the extent provided in the Contract Documents. If the City Engineer is absent or unavailable, the City's Project Engineer shall serve as the City's Authorized Representative.

**4.5. Notice to Architect/Engineer.** If the City observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt notice thereof shall be given to the Architect/Engineer.



**4.6. Legal Representation.** The City shall not be responsible to provide, or pay for, any legal representation of the Architect/Engineer.

## **ARTICLE 5. COMPENSATION**

### **5.1. Direct Personnel Expense**

5.1.1. Definition. Direct Personnel Expense shall mean the portion of direct salaries and wages of all personnel of the Architect/Engineer or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law and similar benefits related to their time devoted to the Project. Direct Personnel Expense shall not include any bonus or similar plan or arrangement related to the Architect/Engineer's performance on, or profit from, the Project.

5.1.2. Records. Direct Personnel Expense for the Architect/Engineer's employees for such hours of their time as are devoted to performing services to the Project shall be evidenced by time records certified by the Architect/Engineer.

5.1.3. Limit. The Architect/Engineer shall use all reasonable means to minimize Direct Personnel Expense.

### **5.2. Reimbursable Expenses**

5.2.1. Definition. Reimbursable Expenses means actual expenditures incurred by the Architect/Engineer or its Consultants in the interest of the Project approved by the City for travel (if approved in advance) in accordance with City policies, transportation between the office of the Architect/Engineer and the Project, long-distance telephone, facsimile communications, reproduction, mailing, computer time, supplies and materials and Consultants. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.

5.2.2. Limits. The Architect/Engineer shall use all reasonable means to minimize Reimbursable Expenses.

### **5.3. Basis of Compensation**

5.3.1. Basic Fee. For Basic Services provided by the Architect/Engineer and all Consultants, the City shall pay the Architect/Engineer a Basic Fee in accordance with Paragraph 5.4 hereof in the amount of \$80,912.00. A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.

5.3.2. Additional Fees. For Additional Services provided by the Architect/Engineer and any Consultants in accordance with Article III, the City shall pay the Architect/Engineer Additional

Fees in an amount negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer, but in all events, such Additional Fees shall not exceed two and half (2.5) times the Direct Personnel Expense and any applicable Consultant in providing those Additional Services. Additional Fees may be approved only by an amendment in accordance with Subparagraph 9.5.2.

5.3.3. Extent of Basic Fee. The Architect/Engineer's Basic Fee includes all compensation for Basic Services, including without limitation, for salaries or other compensation of the Architect/Engineer's employees at the principal office, branch offices and the field office, general operating expenses of the Architect/Engineer's principal office, branch offices and the field office, any part of the Architect/Engineer's capital expenses, including interest on the Architect/Engineer's capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the negligence of the Architect/Engineer, the Architect/Engineer's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

5.3.4. Total Compensation. The total compensation of the Architect/Engineer and all Consultants shall consist of the Basic Fee, any Additional Fees, and Reimbursable Expenses.

#### **5.4. Method and Terms of Payment**

5.4.1. Basic Fee. Payment of the Basic Fee shall be made monthly upon invoice of actual services performed. The Basic Fee shall be subject to all setoffs in favor of the City for claims against the Architect/Engineer.

5.4.2. Additional Fees, Reimbursable Expenses. Payments of Additional Fees for Additional Services in accordance with Article III and Subparagraph 5.3.2 and for Reimbursable Expenses as set forth in Paragraph 5.2 shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown by a properly completed and supported invoice of the Architect/Engineer. Invoices shall be sufficiently detailed and supported to permit review by the City for approval or disapproval of any amounts set forth in the invoice.

5.4.3. Payments by Architect/Engineer. Within ten (10) business days of receipt of payment made pursuant to this Agreement, the Architect/Engineer shall pay all portions thereof due to Consultants and to persons who provided items the expenses of which are Reimbursable Expenses.

5.4.4. Compensation for Extension of Project Time. If the Architect/Engineer notifies the City not less than thirty (30) days prior to the time for completion of the Project set by the Project Schedule established pursuant to Subparagraph 1.1.2, that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as a result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be

executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.

## **ARTICLE 6. INSURANCE AND INDEMNIFICATION**

### **6.1. Insurance**

6.1.1. Casualty Insurance. Except when a modification is requested in writing by the Architect/Engineer and approved in writing by the City, the Architect/Engineer shall carry and maintain at the Architect/Engineer's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:

- a. Workers' Compensation and employer's liability insurance to the full extent as required by applicable law;
- b. Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage, in not less than the following amounts:
  - i. General Aggregate Limit: \$2,000,000
  - ii. Each Occurrence Limit: \$1,000,000 each occurrence;
- c. Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.

6.1.2. Professional Liability Insurance. Subject to the City's waiver or modification of Professional Liability Insurance upon written request of the Architect/Engineer, the Architect/Engineer shall maintain insurance to protect against claims arising from the performance of the Architect/Engineer's services caused by any negligent acts, errors, or omissions for which the Architect/Engineer is legally liable ("Professional Liability Insurance"). Except when a waiver is approved by the City upon written request of the Architect/Engineer, such Professional Liability Insurance shall be in an amount not less than \$1,000,000 per claim and in the annual aggregate. The Architect/Engineer shall endeavor to keep such insurance in effect for so long as the Architect/Engineer may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Architect/Engineer commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best's Insurance Reports.

6.1.3. Certificates. The Architect/Engineer shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of

renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days' prior written notice to the City.

## **6.2. Indemnification**

6.2.1. Indemnification by Architect/Engineer Generally. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which (a) arise out of, are caused by, or result from performance of the Architect/Engineer's services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use resulting therefrom, but (c) only to the extent they are caused by any negligent acts, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. This Subparagraph is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 of the Ohio Revised Code, to the fullest extent permitted.

6.2.2. Intellectual Property Indemnification. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officials, officers, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which result from infringement of any copyright, patent, or other intangible property right to the extent caused by the negligent act, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. The Architect/Engineer shall not be required to indemnify and hold harmless such persons for such matters when the claimed infringement occurs in materials provided by the City.

## **ARTICLE 7. DISPUTE RESOLUTION PROVISIONS**

7.1. Mediation. Instead of, or in addition to, the procedures set forth below, the City and the Architect/Engineer may, by written agreement, submit any claims, requests, disputes, or matters in question between or among them to mediation upon such terms as shall be mutually reasonably agreeable.

7.2. Notice and Filing of Requests. Any request by the Architect/Engineer for additional fees or expenses shall be made in writing to the Authorized Representative and filed prior to the final payment of the Basic Fee. Failure of the Architect/Engineer to timely make

such a request shall constitute a waiver by the Architect/Engineer of any request for such fees and expenses.

**7.3. Request Information.** In every written request filed pursuant to Paragraph 7.2, the Architect/Engineer shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

**7.4. Meeting with Authorized Representative.** If the Architect/Engineer files a written request with the Authorized Representative pursuant to Paragraph 7.2, the Authorized Representative shall, within thirty (30) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by Persons expressly and fully authorized to resolve the request on behalf of the Architect/Engineer. The Authorized Representative shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision.

**7.5. Appeal to City Manager.** If the efforts of the Authorized Representative do not lead to resolution of the request within sixty (60) days of receipt of the request provided pursuant to Paragraph 7.2 the Architect/Engineer may appeal to the City Manager by written notice to the Authorized Representative who shall provide the Architect/Engineer an opportunity to present the claim to the City Manager. The City Manager shall render a decision on the request within thirty (30) days of receipt of the claim unless a mutual agreement is made to extend the time for decision. The decision of the City Manager shall be final and conclusive, subject to litigation in a court of competent jurisdiction.

**7.6. Delegation.** No provision of this Paragraph shall prevent the Authorized Representative or the Commission from delegating the duties or authorities of the Authorized Representative or the City to any other Person selected at the discretion of the Authorized Representative.

**7.7. Performance.** The Architect/Engineer shall proceed with the Architect/Engineer's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Architect/Engineer and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Paragraph.

## **ARTICLE 8. TERMINATION AND REMEDIES**

## **8.1. Termination of Agreement**

8.1.1. Means of Termination. This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Architect/Engineer shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing, and submitting a voucher for all reasonably undisputed amounts due to the Architect/Engineer within ten (10) days of receipt of the Architect/Engineer's written notice to terminate. This Agreement may be terminated by the City in whole or in part, without cause upon fifteen (15) days written notice to the Architect/Engineer. This Agreement may be terminated in whole or in part, at any time upon the mutual consent of the City and the Architect/Engineer.

8.1.2. Architect/Engineer's Remedies Upon Termination by City Without Cause or Upon Termination by Architect/Engineer. In the event of a termination which is not due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated for all Basic Services of a completed phase performed prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Reimbursable Expenses incurred prior to the termination date. In such event, for services rendered prior to the termination date in an uncompleted Part and for Additional Services, the Architect/Engineer shall receive compensation based on the percentages of completion of that Part or those Additional Services, as applicable, and as reasonably determined by the City, together with Reimbursable Expenses incurred prior to the termination date.

8.1.3. Architect/Engineer's Remedies Upon Termination by City for Cause. In the event of a termination which is due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated only for Basic Services performed and paid for prior to the termination date in accordance with the actual time at billing rates as set forth in 5.3.1., together with Additional Services completely performed prior to the termination date. In such event, the Architect/Engineer shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.

8.1.4. Architect/Engineer's Remedies Upon Termination by Mutual Consent. In the event of a termination upon the mutual consent of the City and the Architect/Engineer, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.

8.1.5. Post-Termination Matters. If the City and the Architect/Engineer agree that any services are to be performed for the Project by the Architect/Engineer after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the

commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

## **8.2. Remedies**

8.2.1. Cumulative Remedies. No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Architect/Engineer by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Architect/Engineer shall be cumulative and shall be in addition to any other remedy given to the Architect/Engineer hereunder or now or hereafter existing.

8.2.2. Remedies Not Waived. No delay, omission, or forbearance to exercise any right, power, or remedy accruing to the City or the Architect/Engineer hereunder shall impair any such right, power, or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power, or remedy may be exercised from time to time and as often as deemed expedient.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **9.1. Ownership and Use of Documents**

9.1.1. Property of City. Drawings and other documents prepared by, or with the cooperation of, the Architect/Engineer or any Consultant pursuant to this Agreement, including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Architect/Engineer or Consultant, as applicable, may retain copies, including reproducible copies of such drawings and other documents for information and reference. Such drawings or other documents may be used by the City or others employed by the City for reference in any completion, construction, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Architect/Engineer or Consultant. Such drawings or other documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Architect/Engineer or Consultant, as applicable. If an event occurs for which the Architect/Engineer or Consultant may be liable, the City shall notify the Architect/Engineer or Consultant of such event as soon as practical after such event and shall provide access to the Project to the Architect/Engineer or Consultant and their representatives. This Subparagraph shall survive termination of this Agreement.

9.1.2. Architect/Engineer's Intellectual Property. All inventions, patents, design patents, and computer programs acquired or developed by the Architect/Engineer in connection with or relation to the Project shall remain the property of the Architect/Engineer and shall be

protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Architect/Engineer.

**9.2. Public Relations.** Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The Architect/Engineer shall not use the City's name or seal, nor any adaptation thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

**9.3. Records.** The records of all of the Architect/Engineer's Direct Personnel Costs, Reimbursable Expenses and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City at all times and shall be maintained for seven (7) years after final acceptance of the Project by the City. All other records kept by the Architect/Engineer related to the Project shall be available to the City at all times and shall be maintained for six (6) years after final acceptance of the Project by the City. Records related to any claim or dispute shall be retained for any longer period necessary to finally resolve the claim or dispute.

**9.4. Successors and Assigns.** The City and the Architect/Engineer, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement. The Architect/Engineer shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

**9.5. Extent of Agreement**

9.5.1. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Architect/Engineer and supersede all prior negotiations, representations or agreements, either written or oral.

9.5.2. Amendments. This Agreement may be amended only by an amendment prepared by the City and signed by both the Architect/Engineer and the City.

9.5.3. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.5.4. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

9.5.5. Conditions to Validity. None of the rights, duties, and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with.

**9.6. Governing Law**

9.6.1. Law of Ohio. This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Erie County, Ohio Court of Common Pleas



shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.

9.6.2. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

## **9.7.           Notices**

9.7.1. Addresses. All notices, certificates, requests, or other communications hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the company or organization for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, to the appropriate address listed on the first page hereof.

9.7.2. Facsimiles. For convenience of communication only, notices, certificates, requests, or other communications hereunder of fewer than ten (10) pages, except requests for payment, may be sent by facsimile transmission to the City at (419) 627-5933 and to the Architect/Engineer at bsarratore@kemccartney.com. Notices, certificates, requests, or other communications sent by facsimile transmission shall not be deemed to be given unless a counterpart is received or mailed in accordance with Subparagraph 9.7.1. Requests for payment may be sent to the City by facsimile transmission only upon specific direction from the City.

9.7.3. Emergencies. In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Architect/Engineer shall immediately notify the City by telephone.

9.7.4. Change of Address. The City or the Architect/Engineer may, by notice given hereunder, designate any further or different addresses telephone numbers or facsimile numbers to which subsequent notices, certificates, requests, or communications shall be sent.

**9.8.           Severability**. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

**9.9.           Independent Contractor**. The Architect/Engineer and any Consultant is an independent contractor with respect to any services performed hereunder. Neither the Architect/Engineer, nor any Consultant, shall be deemed to be servants, employees, or agents of the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

K.E. McCartney & Associates

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_

John Orzech  
Interim City Manager

APPROVAL:

The legal form and correctness of the within instrument is hereby approved.

\_\_\_\_\_  
Brendan Heil  
Law Director

CERTIFICATE OF FUNDS

In the matter of:                      ERI-SR4-10.66 Hayes Avenue PID 109523

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky, Ohio under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code (ORC).

Dated: \_\_\_\_\_, 2023

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_  
Michelle Reeder, CPA  
Finance Director

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Not to Exceed Amount



January 12, 2023

Ms. Jane E. Cullen, P.E.  
Assistant City Engineer  
City of Sandusky  
240 Columbus Avenue  
Sandusky, Ohio 44870

**RE: Proposal for Construction Administration and Inspection Services  
ERI-SR4-10.66 Hayes Avenue  
PID No. 109523**

Dear Ms. Cullen,

Enclosed, please find the proposal to provide Construction Administration and Inspection Services for the above referenced project. The proposal was prepared in accordance with ODOT requirements for submittal on LPA Local Let Projects and includes the following:

- Scope of Services and Compensation
- ODOT's Hourly Rate Calculations
- Copies of Professional Liability Insurance, Vehicle Insurance, and BWC Certificates

KEM proposes to provide Construction Engineering Services per the attached "Exhibit A", invoiced on an hourly rate basis as required. The specific needs for this project will vary depending on the contractor's schedule, critical items of work and weather conditions.

K.E. McCartney & Associates, Inc. appreciates the opportunity to be considered for providing services to the City of Sandusky and we look forward to working with you and your staff on this project. Please let me know if there are any questions or further information is required.

Sincerely,

A handwritten signature in blue ink that reads "Ryan Simon".

Ryan Simon  
Construction Services Manager - Elyria

## **“EXHIBIT “A”**

### **Scope of Services and Compensation ERI-SR4-10.66 Hayes Avenue PID No. 109523**

#### **A. Duties and Responsibilities**

K.E. McCartney & Associates, Inc. (ENGINEER) shall provide project coordination, construction administration and inspection services and shall serve as the City of Sandusky's (CITY) liaison with the Contractors and assist them in understanding the detailed scope and intent of the Contract Documents. The ENGINEER shall provide an experienced licensed professional engineer to oversee all construction activities for the Project. The ENGINEER shall comply with all ODOT Local Let requirements related to construction contract administration activities.

#### **B. Construction Administration Phase**

The ENGINEER will coordinate and conduct the Pre-Construction meeting.

The ENGINEER will respond to all Requests for Information submitted by the Contractor or CITY during construction.

The ENGINEER will schedule and conduct regular progress meetings.

The ENGINEER will be responsible for tracking the work schedule and updates.

The ENGINEER shall act as a liaison between the CITY and the Contractor.

The ENGINEER will assist the CITY in the review and negotiation of Contractor change order requests.

The ENGINEER will provide administrative support for the resident project engineer and field personnel. Clerical support is also to be provided for the field staff for the preparation of reports and other project documentation.

The ENGINEER shall supply experienced technicians to perform site inspection. These technicians shall work under the direct supervision of the registered professional engineer described above.

The ENGINEER shall perform all functions of Prevailing Wage, EEO and DBE Compliance for the CITY. The ENGINEER shall perform, and record prevailing wage interviews as required. Violations and/or discrepancies to be resolved prior to project closeout.

The ENGINEER shall transmit to the Contractor all clarifications and modifications to the Contract Documents as directed by the CITY.

The ENGINEER shall transmit the CITY all reasonable requests for modifications to the Contract Documents from the Contractor.

The ENGINEER shall provide assistance to the CITY in coordinating and communicating the work with affected property owners.

### **C. Resident Inspector Phase**

#### Construction Inspection

The ENGINEER'S Inspector(s) shall be present during all critical on-site activities by the Contractor and conduct observations of the work in progress to determine compliance with contract requirements.

The ENGINEER'S Inspector shall be present during and shall verify results for all field quality control tests required by the Contract. The ENGINEER'S Inspector will verify that the Contractor is maintaining adequate records.

The ENGINEER'S Inspector shall attend all pre-construction, construction progress, post construction and other meetings between the CITY and the Contractor.

#### Reports

The ENGINEER shall furnish the CITY detailed and legible written and verbal daily reports detailing the progress of the work, tabulated quantity expenditures, commentary on quality control events, progress on the construction schedule, contacts with members of the public, all test data, and any other comments relative to the project.

The ENGINEER shall notify the CITY of proposed non-routine test, inspections, or major phases of work.

The ENGINEER'S Inspectors shall submit all reports on standard forms accepted by the CITY and ODOT.

The ENGINEER shall call to the attention of the Contractor any and all deviations from the Contract Documents, any shortcomings in maintenance of traffic or any unnecessary inconveniences imposed on access to private properties. Any lack of corrective action or lack of cooperation shall immediately be referred to the CITY for further action.

The ENGINEER shall reject non-specified materials, either during the submittal phase, or as they arrive at the project site.

The ENGINEER shall determine the accuracy of Contractor pay requests and resolve discrepancies with the Contractor as an agent of the CITY. Pay requests shall then be forwarded to the CITY with recommendations, resulting tabulated item balances, work completed, and

materials and equipment delivered to the site but not incorporated in the work. All pay requests will be reviewed by the CITY, in correlation with the daily reports, prior to processing. All pay requests disputes between the ENGINEER and the Contractor will be resolved by the CITY.

#### Testing

The ENGINEER shall provide field quality control construction testing services of Contractor-placed materials in compliance with Contract and ODOT requirements.

#### Project Completion

The ENGINEER shall submit to the Contractor and the CITY a list of observed deficiency items that require correction.

The ENGINEER shall conduct inspections with the CITY and Contractor after the Contractor has addressed the deficiency list and prepares a new list of deficiencies, if needed.

The ENGINEER shall verify all contract items have been completed and make acceptance recommendations to the CITY.

The ENGINEER shall provide all required Contract Administration and supervision of the performance of its on-site personnel and shall insure that the requirements of the contract are fulfilled. The ENGINEER'S Project Manager shall be the point of contact for the CITY in regard to Contract performance and administration and shall act in a general consulting capacity to the CITY with regard to constructability issues.

The ENGINEER shall prepare all closeout documentation and files required by ODOT, including review of those files with ODOT representatives.

*The authority of the ENGINEER shall have the following limitations, except as duly authorized in writing by the CITY and agreed upon by the ENGINEER:*

- Deviations from the Contract Documents and any changes in materials or equipment shall not be authorized.
- The ENGINEER will not perform any function that is the responsibility of the Contractor or any of the Contractor's suppliers or sub-contractors.
- No directives shall be expressed to the Contractor as to the means, methods, techniques, sequences, or procedures of construction outside of those detailed in the contract documents or as directed by the CITY.
- No directives shall be expressed as the Contractor's safety programs or procedures.
- The ENGINEER shall not be liable for defective work, acts of omission or operating procedures of the Contractor.

#### **D. Compensation**

1. Professional services will be provided on an hourly rate basis, per the attached ODOT Hourly Rate Calculation Schedule.
2. Vehicle reimbursement will be at the daily rate of \$49.00 for company owned vehicles and at 0.52 per mile for employee-owned vehicles.
3. Concrete Control Kit reimbursement will be at the daily rate of \$15.00.
4. Subconsultant costs will be invoiced at actual costs.
5. KEM anticipates utilizing Geo-Sci, Inc. for material testing services related to compaction, asphalt, and concrete lab testing.
6. KEM can provide necessary services immediately upon authorization to proceed.
7. The maximum prime compensation shall not exceed \$80,912.00. All costs shall be included in the prime compensation.

SUBMITTED BY:

**K.E. MCCARTNEY & ASSOCIATES, INC.**



---

Ryan Simon

Construction Services Manager - Elyria

APPROVED BY:

City of Sandusky

---





### Cost Proposal Breakdown

Construction Administration and Inspection Services

Contract Duration = 12 Months

Est. Start Date: 4/1/2023 Completion: 3/29/2024

ERI-SR4-10.66 Hayes Ave

City of Sandusky

PID No. 109523

### Labor

<u>Task</u>	<u>Estimated Hours</u>		
	<u>Proj. Mgr.</u>	<u>Proj. Eng.</u>	<u>R.P.R.</u>
Pre Construction Meeting	4.0	4.0	1.0
Scheduling	4.0	4.0	---
Project Updates for Owner	12.0	8.0	---
Shop Drawing & Materials Review	16.0	30.0	---
Const. Progress Meetings	8.0	6.0	6.0
Progress Payments	12.0	12.0	---
On Site Inspection \ Coordination	16.0	260.0	150.0
On Site Testing	---	8.0	12.0
Certified Payrolls\ DBE \ EEO (Wage Interviews)	8.0	16.0	8.0
Reports & Records	6.0	6.0	6.0
Project Closeout \ Internal Audit	10.0	24.0	---
ODOT Audits (Interim & Final)	4.0	4.0	---
Post Construction Finalization	4.0	4.0	---
Total Hours	104.0	386.0	183.0
Hourly Rate	\$ 142.00	\$ 119.00	\$ 91.00
Sub Total - Labor	\$ 14,768.00	\$ 45,934.00	\$ 16,653.00
	<b>Total - Labor</b>		<b>\$ 77,355.00</b>

Remarks: Labor Rates include allowable overhead and net fee per attached breakdown.

### Reimbursables

Testing \ Subconsultants:

Asphalt Testing per 448	\$ 1,000.00
Concrete Control Testing Equipment - 5 Days @ \$15/day	\$ 75.00
Concrete Cylinders -9 Cylinders @ \$15/per break	\$ 135.00

Sub Total - Testing \$ 1,210.00

Vehicles: Vehicle for R.P.R. & Project Engineer @ \$49.00/day	41 \$ 2,009.00
Estimated Mileage for Proj. Mgr. & Proj. Eng. at current	650 \$ 338.00
O.D.O.T allowable rate of \$0.52/mile	

**Total - Reimbursables \$ 3,557.00**

**Grand Total \$ 80,912.00**



# Hourly Rate Calculations

Instructions - Insert information in yellow highlighted cells only. On Sheet 2, input information to determine rates per classification. Hourly rates will be calculated automatically.

Agreement No.:

C-R-S:

Firm Name:

ERI-SR4-10.66 Hayes Ave
K.E.McCartney & Assoc., Inc.

Company Overhead: 157.25%

Average Overhead: 157.25%

Cost of Money: 0.50%

Net Fee %: 10%

The Company records OT premim as: Direct Labor

Does the company anticipate billing overtime? Yes

Classification	1.5X OT?	Avg. Raw Rate	Overhead	C.O.M	Net Fee	Computed Straight Time/OT Exempt Billing Rate <sup>1</sup>	Computed Overtime Billing Rate <sup>1</sup>
<b>Project Manager</b>	<b>No</b>	\$50.00	\$78.63	\$0.25	\$12.86	<b>\$142</b>	<b>\$142</b>
<b>Project Engineer</b>	<b>No</b>	\$42.00	\$66.05	\$0.21	\$10.80	<b>\$119</b>	<b>\$119</b>
<b>Project Inspector</b>	<b>Yes</b>	\$32.00	\$50.32	\$0.16	\$8.23	<b>\$91</b>	<b>\$132</b>
<b>Eng. \ Documentation Clerk</b>	<b>Yes</b>	\$18.00	\$28.31	\$0.09	\$4.63	<b>\$51</b>	<b>\$74</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>

<sup>1</sup> **Note:** Rounded the nearest dollar.

# Average Raw Rate Calculations per Classification

Agreement No.:

C-R-S: ERI-SR4-10.66 Hayes Ave

Firm Name: K.E.McCartney & Assoc., Inc.

Instructions - Insert classification descriptions as applicable. They will be carried forward to Sheet 1. Input employee names or ID along with their rate. Rates should be actual employee pay rates. Add lines as needed for additional employee rates if necessary. For each classification, indicate whether employees in the classification are eligible for overtime paid at time-and-a-half (non-exempt). Average rates for each classification will be calculated automatically and exported to Sheet 1.

Project Manager	
Is overtime paid at 1.5X? ----->	No
Employee Name or I.D	Rate
2700	\$50.00
Average Raw Rate	\$50.00

Project Engineer	
Is overtime paid at 1.5X? ----->	No
Employee Name or I.D	Rate
TBD	\$42.00
Average Raw Rate	\$42.00

Project Inspector	
Is overtime paid at 1.5X? ----->	Yes
Employee Name or I.D	Rate
1020	\$32.00
Average Raw Rate	\$32.00

Eng. \ Documentation Clerk	
Is overtime paid at 1.5X? ----->	Yes
Employee Name or I.D	Rate
TBD	\$18.00
Average Raw Rate	\$18.00



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/21/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	<b>The Ball Agency, Inc</b> <b>4135 Park Ave West</b> <b>Mansfield, OH 44903</b>	CONTACT NAME: <b>Jeremy Ball</b> PHONE (A/C, No, Ext): <b>(419)775-5209</b> FAX (A/C, No): <b>(419)775-7169</b> E-MAIL ADDRESS: <b>jeremy@theballagency.com</b>
INSURED	<b>K E McCartney &amp; Associates, Inc</b> <b>52 N Diamond St</b> <b>Mansfield, OH 44902-1324</b>	INSURER(S) AFFORDING COVERAGE INSURER A: <b>Auto Owners</b> NAIC #: <b>18988</b> INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

## COVERAGES

CERTIFICATE NUMBER: 00000759-1428143

REVISION NUMBER: 81

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		05709878	11/25/2022	11/25/2023	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b>
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		4704698101	11/25/2022	11/25/2023	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			4704698100	11/25/2022	11/25/2023	EACH OCCURRENCE \$ <b>4,000,000</b> AGGREGATE \$ <b>4,000,000</b>
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	05709878	11/25/2022	11/25/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
A	<b>Employers Liability</b>			05709878	11/25/2022	11/25/2023	Ohio Stop Gap <b>1,000,000</b>
A	<b>Tools &amp; Equipment</b>			05709878	11/25/2022	11/25/2023	unscheduled <b>\$25,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

**City of Sandusky**  
**240 Columbus Ave.**  
**Sandusky, OH 44870**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

(JSB)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/16/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> The James B. Oswald Company 1100 Superior Avenue, Suite 1500 Cleveland OH 44114	<b>CONTACT NAME:</b> Jared Breeze	<b>FAX (A/C, No):</b> 216-839-2815	
	<b>PHONE (A/C, No, Ext):</b> 513-577-4123	<b>E-MAIL ADDRESS:</b> jbreeze@oswaldcompanies.com	
<b>INSURED</b> K.E. McCartney & Associates, Inc. 52 N. Diamond St. Mansfield OH 44902-1324	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	INSURER A : Hartford Fire Insurance Co.		19682
	INSURER B :		
	INSURER C :		
	INSURER D :		
	INSURER E :		
INSURER F :			

**COVERAGES** **CERTIFICATE NUMBER:** 1772401588 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability Claims Made Retro Date: Full Prior Acts	N	Y	33 OH 0488329-22	11/12/2022	11/12/2023	Each Claim Aggregate \$1,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Waiver of Subrogation as designated above is provided when required of the Named Insured by written contract or agreement.

**CERTIFICATE HOLDER****CANCELLATION**

City of Sandusky  
240 Columbus Ave.  
Sandusky, OH 44870

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**Bureau of Workers'  
Compensation**

30 W. Spring St.  
Columbus, OH 43215

### **Certificate of Ohio Workers' Compensation**

This certifies that the employer listed below participates in the Ohio State Insurance Fund as required by law. Therefore, the employer is entitled to the rights and benefits of the fund for the period specified. This certificate is only valid if premiums and assessments, including installments, are paid by the applicable due date. To verify coverage, visit [www.bwc.ohio.gov](http://www.bwc.ohio.gov), or call 1-800-644-6292.

This certificate must be conspicuously posted.

Policy number and employer  
00696554

Period Specified Below  
07/01/2022 to 07/01/2023

K E MCCARTNEY & ASSOCIATES INC  
52 N DIAMOND ST  
MANSFIELD OH 44902-1324



[www.bwc.ohio.gov](http://www.bwc.ohio.gov)  
Issued by: BWC

*Stephanie McCloud*

Administrator/CEO

You can reproduce this certificate as needed.

### **Ohio Bureau of Workers' Compensation**

#### **Required Posting**

Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means an employee may dispute or prove untrue the presumption (or belief) that alcohol, marihuana or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove the presence of alcohol, marihuana or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.



**Bureau of Workers'  
Compensation**

You must post this language with the Certificate of Ohio Workers' Compensation.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL SERVICES WITH K.E. MCCARTNEY & ASSOCIATES, INC., OF MANSFIELD, OHIO, FOR CONTRACT ADMINISTRATION AND INSPECTION SERVICES FOR THE EAST MONROE STREET RESURFACING PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the East Monroe Street Resurfacing Project will provide for improvements to East Monroe Street from Decatur Street to Meigs Street and includes the milling of existing pavement, resurfacing with intermediate and surface courses of asphalt, full depth and partial depth base repairs, limited curb and gutter improvements, adjustments to manholes, monument boxes, curb ramps and sidewalks, and pavement markings; and

**WHEREAS**, the City Commission approved an Agreement for Professional Services with Bramhall Engineering & Surveying Company of Avon, Ohio, for the East Monroe Street Resurfacing Project by Ordinance No. 20-184 passed on December 14, 2020; and

**WHEREAS**, this City Commission declared the necessity for the City to proceed with the proposed East Monroe Street Resurfacing Project by Resolution No. 059-22R, passed on October 24, 2022; and

**WHEREAS**, this City Commission approved a contract with Erie Blacktop, Inc., of Sandusky, Ohio, for the East Monroe Street Resurfacing Project by Ordinance No. 23-004, passed on January 9, 2023; and

**WHEREAS**, K.E. McCartney & Associates, Inc. will be providing project contract administration and inspection services for the East Monroe Street Resurfacing Project and these services are more fully described in the Scope of Services, which is attached to this Ordinance and marked Exhibit "A" and specifically incorporated herein; and

**WHEREAS**, the City issued a Requests for Qualifications (RFQ) for Construction Inspection and Construction Management Services for three (3) separate projects (Healthy Hayes Safety Improvements Project, East Monroe Street Resurfacing Project, and East Water Street Resurfacing Project) in which eight (8) submittals were received, evaluated and ranked by a selection committee and based on the firm's experience, professional expertise and technical ability necessary to complete the required tasks, and past successes with similar projects, it was determined K.E. McCartney & Associates, Inc., of Mansfield, Ohio, was the most qualified; and

**WHEREAS**, the cost for contract administration and inspection services is \$76,996.00 and will be paid with Issue 8 Street Funds from the Capital Projects Fund; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the agreement so the consultant can begin the contract

administration and inspection services for the construction project that begins in the spring of 2023; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an Agreement for Professional Services with K.E. McCartney & Associates, Inc., of Mansfield, Ohio, for contract administration and inspection services for the East Monroe Street Resurfacing Project (ERI-CR504-00.49: PID No. 110322), substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** Seventy Six Thousand Nine Hundred Ninety Six and 00/100 Dollars (\$76,996.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its



adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

AGREEMENT  
FOR  
PROFESSIONAL SERVICES

This Agreement for Professional Services (this "Agreement"), made as of \_\_\_\_\_, 2023, by and between the City of Sandusky (the "City"), whose contact person shall be the Director of Public Works designated below or successor (the "City Engineer"), and K.E. McCartney & Associates (the "Architect/Engineer"), whose contact person and address are set forth below.

WHEREAS, the City is operating under its Charter, ordinances, and regulations, and it is the intention of the City, in the exercise of its powers, to obtain professional services for the following project (the "Project"):

Project Name:	ERI-CR504-0.49 Monroe St PID 110322
Director of Public Works: Address:	Aaron Klein, P.E. Department of Public Works City of Sandusky 240 Columbus Ave Sandusky, Ohio 44870
Architect/Engineer: Contact: Address:	K.E. McCartney & Associates Brian Sarratore 52 N Diamond St Mansfield, OH 44902

WHEREAS, the compensation of the Architect/Engineer set forth herein is determined to be fair and reasonable to the City and the Architect/Engineer; and

WHEREAS, the Architect/Engineer desires, and is licensed and capable, to provide professional services for the Project;

WHEREAS, the Architect/Engineer has previously provided certain professional services for the Project;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the City and the Architect/Engineer agree as follows:

**ARTICLE 1. RESPONSIBILITIES OF ARCHITECT/ENGINEER**

**1.1. Architect/Engineer's Services**

1.1.1. Scope of Services; Applicable Law. The Architect/Engineer shall provide professional services, including, without limitation, services customarily furnished in accordance with generally-accepted architectural or engineering services, for the Project in accordance with the terms of this Agreement. The Architect/Engineer shall provide such services in accordance with the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations and the Contract Documents.

1.1.2. Timeliness; Standard of Care. The Project Schedule shall be established by mutual agreement between the City and the Architect/Engineer within thirty (30) days after the execution hereof. The Architect/Engineer shall perform the Architect/Engineer's services in accordance with professional standards of skill, care, and diligence in a timely manner in accordance with the Project Schedule so as to cause no delay, interference, disruption, or hindrance in the Work, and so that the Project shall be completed as expeditiously and economically as possible within the Construction Budget and in the best interests of the City.

1.1.3. Non-Discrimination. The Architect/Engineer represents that the Architect/Engineer is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.

1.1.4. Consultants. The Architect/Engineer may provide services through one or more consultants employed by the Architect/Engineer (the "Consultants"); provided, however, the Architect/Engineer shall remain responsible to the City for all duties and obligations of the Architect/Engineer under this Agreement. Unless waived or otherwise modified in writing by the City upon written request of the Architect/Engineer, no Consultant shall be retained upon terms inconsistent with this Agreement. The Architect/Engineer shall provide the City Engineer with the names and qualifications of any other proposed Consultant, together with a description of the services to be provided by such Consultant for approval. Once approved by the City Engineer, the identity of any Consultant and the extent of such Consultant's participation in performing the Architect/Engineer's services shall not be altered without the written consent of the City Engineer. Upon the request of the City, the Architect/Engineer shall terminate the employment of any Consultant. The City may communicate with any Consultant either through the Architect/Engineer or directly to the Consultant with notice to the Architect/Engineer.

1.1.5. Ethics Laws. The Architect/Engineer represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

1.1.6. Limitation of Authority. The Architect/Engineer shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Architect/Engineer shall have authority to act on behalf of the City only to the extent provided herein. The Architect/Engineer's authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

## **ARTICLE 2. SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES**

### **2.1. General**

2.1.1. Basic Services to be provided by the Architect/Engineer shall consist of the services set forth in Exhibit A attached hereto and incorporated by reference herein as if fully rewritten.

## **ARTICLE 3. ADDITIONAL SERVICES**

### **3.1. General**

3.1.1. Any services related to the Project not included in Basic Services are Additional Services. Additional Services shall be provided only if requested by the City in writing. Additional Services shall be paid for as provided in this Agreement in addition to the compensation for Basic Services; provided, however, the Architect/Engineer shall not be compensated for any of the following services made necessary by the act or omission of the Architect/Engineer or any Consultant. Unless waived by the City in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

## **ARTICLE 4. RESPONSIBILITIES OF THE CITY**

**4.1. Required Actions.** The City shall review, approve, or take such actions as are required of the City by this Agreement and applicable law in a reasonable and timely manner.

**4.2. Instructions to Contractors.** All instructions of the City to Contractors shall be through, or in consultation with, the Architect/Engineer.

**4.3. City's Requirements.** The City shall provide full information regarding its requirements for the Project, any agreements related to the Project, and any design and construction standards and work rules which set forth the City's use, design, time and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, systems and site requirements. The Architect/Engineer shall be entitled to rely upon the accuracy and completeness of information provided by the City under this paragraph which the City represents in writing is complete and accurate; provided, however, the City makes no representation for, and the Architect/Engineer may not rely upon, information from third parties.

**4.4. Authorized Representative.** The City has designated the City Engineer or successor to be the City's Authorized Representative, i.e., a person authorized to act on the City's behalf with respect to the Project to the extent provided in the Contract Documents. If the City Engineer is absent or unavailable, the City's Project Engineer shall serve as the City's Authorized Representative.

**4.5. Notice to Architect/Engineer.** If the City observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt notice thereof shall be given to the Architect/Engineer.

**4.6. Legal Representation.** The City shall not be responsible to provide, or pay for, any legal representation of the Architect/Engineer.

## **ARTICLE 5. COMPENSATION**

### **5.1. Direct Personnel Expense**

5.1.1. Definition. Direct Personnel Expense shall mean the portion of direct salaries and wages of all personnel of the Architect/Engineer or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law and similar benefits related to their time devoted to the Project. Direct Personnel Expense shall not include any bonus or similar plan or arrangement related to the Architect/Engineer's performance on, or profit from, the Project.

5.1.2. Records. Direct Personnel Expense for the Architect/Engineer's employees for such hours of their time as are devoted to performing services to the Project shall be evidenced by time records certified by the Architect/Engineer.

5.1.3. Limit. The Architect/Engineer shall use all reasonable means to minimize Direct Personnel Expense.

### **5.2. Reimbursable Expenses**

5.2.1. Definition. Reimbursable Expenses means actual expenditures incurred by the Architect/Engineer or its Consultants in the interest of the Project approved by the City for travel (if approved in advance) in accordance with City policies, transportation between the office of the Architect/Engineer and the Project, long-distance telephone, facsimile communications, reproduction, mailing, computer time, supplies and materials and Consultants. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.

5.2.2. Limits. The Architect/Engineer shall use all reasonable means to minimize Reimbursable Expenses.

### **5.3. Basis of Compensation**

5.3.1. Basic Fee. For Basic Services provided by the Architect/Engineer and all Consultants, the City shall pay the Architect/Engineer a Basic Fee in accordance with Paragraph 5.4 hereof in the amount of \$76,996.00. A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.

5.3.2. Additional Fees. For Additional Services provided by the Architect/Engineer and any Consultants in accordance with Article III, the City shall pay the Architect/Engineer Additional

Fees in an amount negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer, but in all events, such Additional Fees shall not exceed two and half (2.5) times the Direct Personnel Expense and any applicable Consultant in providing those Additional Services. Additional Fees may be approved only by an amendment in accordance with Subparagraph 9.5.2.

5.3.3. Extent of Basic Fee. The Architect/Engineer's Basic Fee includes all compensation for Basic Services, including without limitation, for salaries or other compensation of the Architect/Engineer's employees at the principal office, branch offices and the field office, general operating expenses of the Architect/Engineer's principal office, branch offices and the field office, any part of the Architect/Engineer's capital expenses, including interest on the Architect/Engineer's capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the negligence of the Architect/Engineer, the Architect/Engineer's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

5.3.4. Total Compensation. The total compensation of the Architect/Engineer and all Consultants shall consist of the Basic Fee, any Additional Fees, and Reimbursable Expenses.

#### **5.4. Method and Terms of Payment**

5.4.1. Basic Fee. Payment of the Basic Fee shall be made monthly upon invoice of actual services performed. The Basic Fee shall be subject to all setoffs in favor of the City for claims against the Architect/Engineer.

5.4.2. Additional Fees, Reimbursable Expenses. Payments of Additional Fees for Additional Services in accordance with Article III and Subparagraph 5.3.2 and for Reimbursable Expenses as set forth in Paragraph 5.2 shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown by a properly completed and supported invoice of the Architect/Engineer. Invoices shall be sufficiently detailed and supported to permit review by the City for approval or disapproval of any amounts set forth in the invoice.

5.4.3. Payments by Architect/Engineer. Within ten (10) business days of receipt of payment made pursuant to this Agreement, the Architect/Engineer shall pay all portions thereof due to Consultants and to persons who provided items the expenses of which are Reimbursable Expenses.

5.4.4. Compensation for Extension of Project Time. If the Architect/Engineer notifies the City not less than thirty (30) days prior to the time for completion of the Project set by the Project Schedule established pursuant to Subparagraph 1.1.2, that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as a result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be

executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.

## **ARTICLE 6. INSURANCE AND INDEMNIFICATION**

### **6.1. Insurance**

6.1.1. Casualty Insurance. Except when a modification is requested in writing by the Architect/Engineer and approved in writing by the City, the Architect/Engineer shall carry and maintain at the Architect/Engineer's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:

- a. Workers' Compensation and employer's liability insurance to the full extent as required by applicable law;
- b. Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage, in not less than the following amounts:
  - i. General Aggregate Limit: \$2,000,000
  - ii. Each Occurrence Limit: \$1,000,000 each occurrence;
- c. Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.

6.1.2. Professional Liability Insurance. Subject to the City's waiver or modification of Professional Liability Insurance upon written request of the Architect/Engineer, the Architect/Engineer shall maintain insurance to protect against claims arising from the performance of the Architect/Engineer's services caused by any negligent acts, errors, or omissions for which the Architect/Engineer is legally liable ("Professional Liability Insurance"). Except when a waiver is approved by the City upon written request of the Architect/Engineer, such Professional Liability Insurance shall be in an amount not less than \$1,000,000 per claim and in the annual aggregate. The Architect/Engineer shall endeavor to keep such insurance in effect for so long as the Architect/Engineer may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Architect/Engineer commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best's Insurance Reports.

6.1.3. Certificates. The Architect/Engineer shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of

renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days' prior written notice to the City.

## **6.2. Indemnification**

6.2.1. Indemnification by Architect/Engineer Generally. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which (a) arise out of, are caused by, or result from performance of the Architect/Engineer's services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use resulting therefrom, but (c) only to the extent they are caused by any negligent acts, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. This Subparagraph is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 of the Ohio Revised Code, to the fullest extent permitted.

6.2.2. Intellectual Property Indemnification. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officials, officers, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which result from infringement of any copyright, patent, or other intangible property right to the extent caused by the negligent act, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. The Architect/Engineer shall not be required to indemnify and hold harmless such persons for such matters when the claimed infringement occurs in materials provided by the City.

## **ARTICLE 7. DISPUTE RESOLUTION PROVISIONS**

7.1. Mediation. Instead of, or in addition to, the procedures set forth below, the City and the Architect/Engineer may, by written agreement, submit any claims, requests, disputes, or matters in question between or among them to mediation upon such terms as shall be mutually reasonably agreeable.

7.2. Notice and Filing of Requests. Any request by the Architect/Engineer for additional fees or expenses shall be made in writing to the Authorized Representative and filed prior to the final payment of the Basic Fee. Failure of the Architect/Engineer to timely make



such a request shall constitute a waiver by the Architect/Engineer of any request for such fees and expenses.

**7.3. Request Information.** In every written request filed pursuant to Paragraph 7.2, the Architect/Engineer shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

**7.4. Meeting with Authorized Representative.** If the Architect/Engineer files a written request with the Authorized Representative pursuant to Paragraph 7.2, the Authorized Representative shall, within thirty (30) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by Persons expressly and fully authorized to resolve the request on behalf of the Architect/Engineer. The Authorized Representative shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision.

**7.5. Appeal to City Manager.** If the efforts of the Authorized Representative do not lead to resolution of the request within sixty (60) days of receipt of the request provided pursuant to Paragraph 7.2 the Architect/Engineer may appeal to the City Manager by written notice to the Authorized Representative who shall provide the Architect/Engineer an opportunity to present the claim to the City Manager. The City Manager shall render a decision on the request within thirty (30) days of receipt of the claim unless a mutual agreement is made to extend the time for decision. The decision of the City Manager shall be final and conclusive, subject to litigation in a court of competent jurisdiction.

**7.6. Delegation.** No provision of this Paragraph shall prevent the Authorized Representative or the Commission from delegating the duties or authorities of the Authorized Representative or the City to any other Person selected at the discretion of the Authorized Representative.

**7.7. Performance.** The Architect/Engineer shall proceed with the Architect/Engineer's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Architect/Engineer and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Paragraph.

## **ARTICLE 8. TERMINATION AND REMEDIES**

## **8.1. Termination of Agreement**

8.1.1. Means of Termination. This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Architect/Engineer shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing, and submitting a voucher for all reasonably undisputed amounts due to the Architect/Engineer within ten (10) days of receipt of the Architect/Engineer's written notice to terminate. This Agreement may be terminated by the City in whole or in part, without cause upon fifteen (15) days written notice to the Architect/Engineer. This Agreement may be terminated in whole or in part, at any time upon the mutual consent of the City and the Architect/Engineer.

8.1.2. Architect/Engineer's Remedies Upon Termination by City Without Cause or Upon Termination by Architect/Engineer. In the event of a termination which is not due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated for all Basic Services of a completed phase performed prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Reimbursable Expenses incurred prior to the termination date. In such event, for services rendered prior to the termination date in an uncompleted Part and for Additional Services, the Architect/Engineer shall receive compensation based on the percentages of completion of that Part or those Additional Services, as applicable, and as reasonably determined by the City, together with Reimbursable Expenses incurred prior to the termination date.

8.1.3. Architect/Engineer's Remedies Upon Termination by City for Cause. In the event of a termination which is due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated only for Basic Services performed and paid for prior to the termination date in accordance with the actual time at billing rates as set forth in 5.3.1., together with Additional Services completely performed prior to the termination date. In such event, the Architect/Engineer shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.

8.1.4. Architect/Engineer's Remedies Upon Termination by Mutual Consent. In the event of a termination upon the mutual consent of the City and the Architect/Engineer, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.

8.1.5. Post-Termination Matters. If the City and the Architect/Engineer agree that any services are to be performed for the Project by the Architect/Engineer after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the

commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

## **8.2. Remedies**

8.2.1. Cumulative Remedies. No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Architect/Engineer by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Architect/Engineer shall be cumulative and shall be in addition to any other remedy given to the Architect/Engineer hereunder or now or hereafter existing.

8.2.2. Remedies Not Waived. No delay, omission, or forbearance to exercise any right, power, or remedy accruing to the City or the Architect/Engineer hereunder shall impair any such right, power, or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power, or remedy may be exercised from time to time and as often as deemed expedient.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **9.1. Ownership and Use of Documents**

9.1.1. Property of City. Drawings and other documents prepared by, or with the cooperation of, the Architect/Engineer or any Consultant pursuant to this Agreement, including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Architect/Engineer or Consultant, as applicable, may retain copies, including reproducible copies of such drawings and other documents for information and reference. Such drawings or other documents may be used by the City or others employed by the City for reference in any completion, construction, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Architect/Engineer or Consultant. Such drawings or other documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Architect/Engineer or Consultant, as applicable. If an event occurs for which the Architect/Engineer or Consultant may be liable, the City shall notify the Architect/Engineer or Consultant of such event as soon as practical after such event and shall provide access to the Project to the Architect/Engineer or Consultant and their representatives. This Subparagraph shall survive termination of this Agreement.

9.1.2. Architect/Engineer's Intellectual Property. All inventions, patents, design patents, and computer programs acquired or developed by the Architect/Engineer in connection with or relation to the Project shall remain the property of the Architect/Engineer and shall be

protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Architect/Engineer.

**9.2. Public Relations.** Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The Architect/Engineer shall not use the City's name or seal, nor any adaptation thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

**9.3. Records.** The records of all of the Architect/Engineer's Direct Personnel Costs, Reimbursable Expenses and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City at all times and shall be maintained for seven (7) years after final acceptance of the Project by the City. All other records kept by the Architect/Engineer related to the Project shall be available to the City at all times and shall be maintained for six (6) years after final acceptance of the Project by the City. Records related to any claim or dispute shall be retained for any longer period necessary to finally resolve the claim or dispute.

**9.4. Successors and Assigns.** The City and the Architect/Engineer, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement. The Architect/Engineer shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

**9.5. Extent of Agreement**

9.5.1. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Architect/Engineer and supersede all prior negotiations, representations or agreements, either written or oral.

9.5.2. Amendments. This Agreement may be amended only by an amendment prepared by the City and signed by both the Architect/Engineer and the City.

9.5.3. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.5.4. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

9.5.5. Conditions to Validity. None of the rights, duties, and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with.

**9.6. Governing Law**

9.6.1. Law of Ohio. This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Erie County, Ohio Court of Common Pleas

shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.

9.6.2. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

## **9.7.           Notices**

9.7.1. Addresses. All notices, certificates, requests, or other communications hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the company or organization for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, to the appropriate address listed on the first page hereof.

9.7.2. Facsimiles. For convenience of communication only, notices, certificates, requests, or other communications hereunder of fewer than ten (10) pages, except requests for payment, may be sent by facsimile transmission to the City at (419) 627-5933 and to the Architect/Engineer at bsarratore@kemccartney.com. Notices, certificates, requests, or other communications sent by facsimile transmission shall not be deemed to be given unless a counterpart is received or mailed in accordance with Subparagraph 9.7.1. Requests for payment may be sent to the City by facsimile transmission only upon specific direction from the City.

9.7.3. Emergencies. In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Architect/Engineer shall immediately notify the City by telephone.

9.7.4. Change of Address. The City or the Architect/Engineer may, by notice given hereunder, designate any further or different addresses telephone numbers or facsimile numbers to which subsequent notices, certificates, requests, or communications shall be sent.

**9.8.           Severability**. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

**9.9.           Independent Contractor**. The Architect/Engineer and any Consultant is an independent contractor with respect to any services performed hereunder. Neither the Architect/Engineer, nor any Consultant, shall be deemed to be servants, employees, or agents of the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

K.E. McCartney & Associates

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_

John Orzech  
Interim City Manager

APPROVAL:

The legal form and correctness of the within instrument is hereby approved.

\_\_\_\_\_  
Brendan Heil  
Law Director

CERTIFICATE OF FUNDS

In the matter of: ERI-CR504-0.49 Monroe Street PID No. 110322

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky, Ohio under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code (ORC).

Dated: \_\_\_\_\_, 2023

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_  
Michelle Reeder, CPA  
Finance Director

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Not to Exceed Amount



January 12, 2023

Ms. Jane E. Cullen, P.E.  
Assistant City Engineer  
City of Sandusky  
240 Columbus Avenue  
Sandusky, Ohio 44870

**RE: Proposal for Construction Administration and Inspection Services  
ERI-CR504-0.49 Monroe Street  
PID No. 110322**

Dear Ms. Cullen,

Enclosed, please find the proposal to provide Construction Administration and Inspection Services for the above referenced project. The proposal was prepared in accordance with ODOT requirements for submittal on LPA Local Let Projects and includes the following:

- Scope of Services and Compensation
- ODOT's Hourly Rate Calculations
- Copies of Professional Liability Insurance, Vehicle Insurance, and BWC Certificates

KEM proposes to provide Construction Engineering Services per the attached "Exhibit A", invoiced on an hourly rate basis as required. The specific needs for this project will vary depending on the contractor's schedule, critical items of work and weather conditions.

K.E. McCartney & Associates, Inc. appreciates the opportunity to be considered for providing services to the City of Sandusky and we look forward to working with you and your staff on this project. Please let me know if there are any questions or further information is required.

Sincerely,

A handwritten signature in blue ink that reads "Ryan Simon".

Ryan Simon  
Construction Services Manager - Elyria



## **“EXHIBIT “A”**

### **Scope of Services and Compensation ERI-CR504-0.49 Monroe St PID No. 110322**

#### **A. Duties and Responsibilities**

K.E. McCartney & Associates, Inc. (ENGINEER) shall provide project coordination, construction administration and inspection services and shall serve as the City of Sandusky's (CITY) liaison with the Contractors and assist them in understanding the detailed scope and intent of the Contract Documents. The ENGINEER shall provide an experienced licensed professional engineer to oversee all construction activities for the Project. The ENGINEER shall comply with all ODOT Local Let requirements related to construction contract administration activities.

#### **B. Construction Administration Phase**

The ENGINEER will coordinate and conduct the Pre-Construction meeting.

The ENGINEER will respond to all Requests for Information submitted by the Contractor or CITY during construction.

The ENGINEER will schedule and conduct regular progress meetings.

The ENGINEER will be responsible for tracking the work schedule and updates.

The ENGINEER shall act as a liaison between the CITY and the Contractor.

The ENGINEER will assist the CITY in the review and negotiation of Contractor change order requests.

The ENGINEER will provide administrative support for the resident project engineer and field personnel. Clerical support is also to be provided for the field staff for the preparation of reports and other project documentation.

The ENGINEER shall supply experienced technicians to perform site inspection. These technicians shall work under the direct supervision of the registered professional engineer described above.

The ENGINEER shall perform all functions of Prevailing Wage, EEO and DBE Compliance for the CITY. The ENGINEER shall perform, and record prevailing wage interviews as required. Violations and/or discrepancies to be resolved prior to project closeout.

The ENGINEER shall transmit to the Contractor all clarifications and modifications to the Contract Documents as directed by the CITY.

The ENGINEER shall transmit the CITY all reasonable requests for modifications to the Contract Documents from the Contractor.

The ENGINEER shall provide assistance to the CITY in coordinating and communicating the work with affected property owners.

### **C. Resident Inspector Phase**

#### Construction Inspection

The ENGINEER'S Inspector(s) shall be present during all critical on-site activities by the Contractor and conduct observations of the work in progress to determine compliance with contract requirements.

The ENGINEER'S Inspector shall be present during and shall verify results for all field quality control tests required by the Contract. The ENGINEER'S Inspector will verify that the Contractor is maintaining adequate records.

The ENGINEER'S Inspector shall attend all pre-construction, construction progress, post construction and other meetings between the CITY and the Contractor.

#### Reports

The ENGINEER shall furnish the CITY detailed and legible written and verbal daily reports detailing the progress of the work, tabulated quantity expenditures, commentary on quality control events, progress on the construction schedule, contacts with members of the public, all test data, and any other comments relative to the project.

The ENGINEER shall notify the CITY of proposed non-routine test, inspections, or major phases of work.

The ENGINEER'S Inspectors shall submit all reports on standard forms accepted by the CITY and ODOT.

The ENGINEER shall call to the attention of the Contractor any and all deviations from the Contract Documents, any shortcomings in maintenance of traffic or any unnecessary inconveniences imposed on access to private properties. Any lack of corrective action or lack of cooperation shall immediately be referred to the CITY for further action.

The ENGINEER shall reject non-specified materials, either during the submittal phase, or as they arrive at the project site.

The ENGINEER shall determine the accuracy of Contractor pay requests and resolve discrepancies with the Contractor as an agent of the CITY. Pay requests shall then be forwarded to the CITY with recommendations, resulting tabulated item balances, work completed, and

materials and equipment delivered to the site but not incorporated in the work. All pay requests will be reviewed by the CITY, in correlation with the daily reports, prior to processing. All pay requests disputes between the ENGINEER and the Contractor will be resolved by the CITY.

#### Testing

The ENGINEER shall provide field quality control construction testing services of Contractor-placed materials in compliance with Contract and ODOT requirements.

#### Project Completion

The ENGINEER shall submit to the Contractor and the CITY a list of observed deficiency items that require correction.

The ENGINEER shall conduct inspections with the CITY and Contractor after the Contractor has addressed the deficiency list and prepares a new list of deficiencies, if needed.

The ENGINEER shall verify all contract items have been completed and make acceptance recommendations to the CITY.

The ENGINEER shall provide all required Contract Administration and supervision of the performance of its on-site personnel and shall insure that the requirements of the contract are fulfilled. The ENGINEER'S Project Manager shall be the point of contact for the CITY in regard to Contract performance and administration and shall act in a general consulting capacity to the CITY with regard to constructability issues.

The ENGINEER shall prepare all closeout documentation and files required by ODOT, including review of those files with ODOT representatives.

*The authority of the ENGINEER shall have the following limitations, except as duly authorized in writing by the CITY and agreed upon by the ENGINEER:*

- Deviations from the Contract Documents and any changes in materials or equipment shall not be authorized.
- The ENGINEER will not perform any function that is the responsibility of the Contractor or any of the Contractor's suppliers or sub-contractors.
- No directives shall be expressed to the Contractor as to the means, methods, techniques, sequences, or procedures of construction outside of those detailed in the contract documents or as directed by the CITY.
- No directives shall be expressed as the Contractor's safety programs or procedures.
- The ENGINEER shall not be liable for defective work, acts of omission or operating procedures of the Contractor.

#### **D. Compensation**

1. Professional services will be provided on an hourly rate basis, per the attached ODOT Hourly Rate Calculation Schedule.
2. Vehicle reimbursement will be at the daily rate of \$49.00 for company owned vehicles and at 0.52 per mile for employee-owned vehicles.
3. Concrete Control Kit reimbursement will be at the daily rate of \$15.00.
4. Subconsultant costs will be invoiced at actual costs.
5. KEM anticipates utilizing Geo-Sci, Inc. for material testing services related to compaction, asphalt, and concrete lab testing.
6. KEM can provide necessary services immediately upon authorization to proceed.
7. The maximum prime compensation shall not exceed \$76,996.00. All costs shall be included in the prime compensation.

SUBMITTED BY:

**K.E. MCCARTNEY & ASSOCIATES, INC.**



---

Ryan Simon

Construction Services Manager - Elyria

APPROVED BY:

City of Sandusky

---



### Cost Proposal Breakdown

Construction Administration and Inspection Services

Contract Duration = 7 Months

Est. Start Date: 4/1/2023 Completion: 10/31/2023

ERI-CR504-0.49 Monroe Street

City of Sandusky

PID No. 110322

### Labor

<u>Task</u>	<u>Estimated Hours</u>		
	<u>Proj. Mgr.</u>	<u>Proj. Eng.</u>	<u>R.P.R.</u>
Pre Construction Meeting	4.0	4.0	1.0
Scheduling	4.0	4.0	---
Project Updates for Owner	12.0	8.0	---
Shop Drawing & Materials Review	8.0	24.0	---
Const. Progress Meetings	8.0	6.0	1.0
Progress Payments	12.0	12.0	---
On Site Inspection \ Coordination	16.0	64.0	400.0
On Site Testing	---	8.0	8.0
Certified Payrolls\ DBE \ EEO (Wage Interviews)	8.0	16.0	8.0
Reports & Records	4.0	4.0	6.0
Project Closeout \ Internal Audit	8.0	24.0	---
ODOT Audits (Interim & Final)	4.0	4.0	---
Post Construction Finalization	4.0	4.0	---
Total Hours	92.0	182.0	424.0
Hourly Rate	\$ 142.00	\$ 119.00	\$ 91.00
Sub Total - Labor	\$ 13,064.00	\$ 21,658.00	\$ 38,584.00
	<b>Total - Labor \$ 73,306.00</b>		

Remarks: Labor Rates include allowable overhead and net fee per attached breakdown.

### Reimbursables

Testing \ Subconsultants:			
Asphalt Testing per 448		\$	1,000.00
Sub Total - Testing \$ 1,000.00			
Vehicles: Vehicle for R.P.R. & Project Engineer @ \$49.00/day	48	\$	2,352.00
Estimated Mileage for Proj. Mgr. & Proj. Eng. at current	650	\$	338.00
O.D.O.T allowable rate of \$0.52/mile			
Total - Reimbursables \$ 3,690.00			
Grand Total \$ 76,996.00			



# Hourly Rate Calculations

Instructions - Insert information in yellow highlighted cells only. On Sheet 2, input information to determine rates per classification. Hourly rates will be calculated automatically.

Agreement No.:

C-R-S:

Firm Name:

ERI-CR504-0.49 Monroe St
K.E.McCartney & Assoc., Inc.

Company Overhead: 157.25%

Average Overhead: 157.25%

Cost of Money: 0.50%

Net Fee %: 10%

The Company records OT premim as: Direct Labor

Does the company anticipate billing overtime? Yes

Classification	1.5X OT?	Avg. Raw Rate	Overhead	C.O.M	Net Fee	Computed Straight Time/OT Exempt Billing Rate <sup>1</sup>	Computed Overtime Billing Rate <sup>1</sup>
<b>Project Manager</b>	<b>No</b>	\$50.00	\$78.63	\$0.25	\$12.86	<b>\$142</b>	<b>\$142</b>
<b>Project Engineer</b>	<b>No</b>	\$42.00	\$66.05	\$0.21	\$10.80	<b>\$119</b>	<b>\$119</b>
<b>Project Inspector</b>	<b>Yes</b>	\$32.00	\$50.32	\$0.16	\$8.23	<b>\$91</b>	<b>\$132</b>
<b>Eng. \ Documentation Clerk</b>	<b>Yes</b>	\$18.00	\$28.31	\$0.09	\$4.63	<b>\$51</b>	<b>\$74</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>

<sup>1</sup> **Note:** Rounded the nearest dollar.

# Average Raw Rate Calculations per Classification

Agreement No.:

C-R-S: ERI-CR504-0.49 Monroe St

Firm Name: K.E.McCartney & Assoc., Inc.

Instructions - Insert classification descriptions as applicable. They will be carried forward to Sheet 1. Input employee names or ID along with their rate. Rates should be actual employee pay rates. Add lines as needed for additional employee rates if necessary. For each classification, indicate whether employees in the classification are eligible for overtime paid at time-and-a-half (non-exempt). Average rates for each classification will be calculated automatically and exported to Sheet 1.

Project Manager	
Is overtime paid at 1.5X? ----->	No
Employee Name or I.D	Rate
2700	\$50.00
Average Raw Rate	\$50.00

Project Engineer	
Is overtime paid at 1.5X? ----->	No
Employee Name or I.D	Rate
TBD	\$42.00
Average Raw Rate	\$42.00

Project Inspector	
Is overtime paid at 1.5X? ----->	Yes
Employee Name or I.D	Rate
1020	\$32.00
Average Raw Rate	\$32.00

Eng. \ Documentation Clerk	
Is overtime paid at 1.5X? ----->	Yes
Employee Name or I.D	Rate
TBD	\$18.00
Average Raw Rate	\$18.00



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/21/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	<b>The Ball Agency, Inc</b> <b>4135 Park Ave West</b> <b>Mansfield, OH 44903</b>	CONTACT NAME: <b>Jeremy Ball</b> PHONE (A/C, No, Ext): <b>(419)775-5209</b> FAX (A/C, No): <b>(419)775-7169</b> E-MAIL ADDRESS: <b>jeremy@theballagency.com</b>
INSURED	<b>K E McCartney &amp; Associates, Inc</b> <b>52 N Diamond St</b> <b>Mansfield, OH 44902-1324</b>	INSURER(S) AFFORDING COVERAGE INSURER A: <b>Auto Owners</b> NAIC #: <b>18988</b> INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

## COVERAGES

CERTIFICATE NUMBER: 00000759-1428143

REVISION NUMBER: 81

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		05709878	11/25/2022	11/25/2023	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b>
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		4704698101	11/25/2022	11/25/2023	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			4704698100	11/25/2022	11/25/2023	EACH OCCURRENCE \$ <b>4,000,000</b> AGGREGATE \$ <b>4,000,000</b>
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	05709878	11/25/2022	11/25/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
A	Employers Liability			05709878	11/25/2022	11/25/2023	Ohio Stop Gap \$ <b>1,000,000</b>
A	Tools & Equipment			05709878	11/25/2022	11/25/2023	unscheduled \$ <b>\$25,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

**City of Sandusky**  
**240 Columbus Ave.**  
**Sandusky, OH 44870**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

(JSB)





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/16/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> The James B. Oswald Company 1100 Superior Avenue, Suite 1500 Cleveland OH 44114	<b>CONTACT NAME:</b> Jared Breeze	<b>FAX (A/C, No):</b> 216-839-2815	
	<b>PHONE (A/C, No, Ext):</b> 513-577-4123	<b>E-MAIL ADDRESS:</b> jbreeze@oswaldcompanies.com	
<b>INSURED</b> K.E. McCartney & Associates, Inc. 52 N. Diamond St. Mansfield OH 44902-1324	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	INSURER A : Hartford Fire Insurance Co.		19682
	INSURER B :		
	INSURER C :		
	INSURER D :		
	INSURER E :		
INSURER F :			

**COVERAGES** **CERTIFICATE NUMBER:** 1772401588 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability Claims Made Retro Date: Full Prior Acts	N	Y	33 OH 0488329-22	11/12/2022	11/12/2023	Each Claim Aggregate \$1,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Waiver of Subrogation as designated above is provided when required of the Named Insured by written contract or agreement.

**CERTIFICATE HOLDER****CANCELLATION**

City of Sandusky  
240 Columbus Ave.  
Sandusky, OH 44870

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**Bureau of Workers'  
Compensation**

30 W. Spring St.  
Columbus, OH 43215

### **Certificate of Ohio Workers' Compensation**

This certifies that the employer listed below participates in the Ohio State Insurance Fund as required by law. Therefore, the employer is entitled to the rights and benefits of the fund for the period specified. This certificate is only valid if premiums and assessments, including installments, are paid by the applicable due date. To verify coverage, visit [www.bwc.ohio.gov](http://www.bwc.ohio.gov), or call 1-800-644-6292.

This certificate must be conspicuously posted.

Policy number and employer  
00696554

Period Specified Below  
07/01/2022 to 07/01/2023

K E MCCARTNEY & ASSOCIATES INC  
52 N DIAMOND ST  
MANSFIELD OH 44902-1324



[www.bwc.ohio.gov](http://www.bwc.ohio.gov)  
Issued by: BWC

*Stephanie McCloud*

Administrator/CEO

You can reproduce this certificate as needed.

### **Ohio Bureau of Workers' Compensation**

#### **Required Posting**

Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means an employee may dispute or prove untrue the presumption (or belief) that alcohol, marihuana or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove the presence of alcohol, marihuana or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.



**Bureau of Workers'  
Compensation**

You must post this language with the Certificate of Ohio Workers' Compensation.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL SERVICES WITH K.E. MCCARTNEY & ASSOCIATES, INC., OF MANSFIELD, OHIO, FOR CONTRACT ADMINISTRATION AND INSPECTION SERVICES FOR THE EAST WATER STREET RESURFACING PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the East Water Street Resurfacing Project will provide for improvements on East Water Street from Franklin Street to Meigs Street and includes curbs, concrete bumpouts, curb ramps and sidewalks, full and partial depth pavement replacement, pavement markings and 10 foot multi-use path; and

**WHEREAS**, K.E. McCartney & Associates, Inc. will be providing project contract administration and inspection services for the East Water Street Resurfacing Project and these services are more fully described in the Scope of Services, which is attached to this Ordinance and marked Exhibit "A" and specifically incorporated herein; and

**WHEREAS**, the City issued a Requests for Qualifications (RFQ) for Construction Inspection and Construction Management Services for three (3) separate projects (Healthy Hayes Safety Improvements Project, East Monroe Street Resurfacing Project, and East Water Street Resurfacing Project) in which eight (8) submittals were received, evaluated and ranked by a selection committee and based on the firm's experience, professional expertise and technical ability necessary to complete the required tasks, and past successes with similar projects, it was determined K.E. McCartney & Associates, Inc., of Mansfield, Ohio, was the most qualified; and

**WHEREAS**, the cost for contract administration and inspection services is \$99,999.00 and will be paid with Issue 8 Street Funds from the Capital Projects Fund; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the agreement so the consultant can begin the contract administration and inspection services for the construction project that begins in the summer of 2023; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an Agreement for Professional Services with K.E. McCartney & Associates, Inc., of Mansfield, Ohio, for contract administration and inspection services for the East Water Street Resurfacing Project (ERI-CR503-00.81: PID No. 113958), substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** Ninety Nine Thousand Nine Hundred Ninety Nine and 00/100 Dollars (\$99,999.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

AGREEMENT  
FOR  
PROFESSIONAL SERVICES

This Agreement for Professional Services (this "Agreement"), made as of \_\_\_\_\_, 2023, by and between the City of Sandusky (the "City"), whose contact person shall be the Director of Public Works designated below or successor (the "City Engineer"), and K.E. McCartney & Associates (the "Architect/Engineer"), whose contact person and address are set forth below.

WHEREAS, the City is operating under its Charter, ordinances, and regulations, and it is the intention of the City, in the exercise of its powers, to obtain professional services for the following project (the "Project"):

Project Name:	ERI-CR503-0.81 E Water Street PID 113958
Director of Public Works: Address:	Aaron Klein, P.E. Department of Public Works City of Sandusky 240 Columbus Ave Sandusky, Ohio 44870
Architect/Engineer: Contact: Address:	K.E. McCartney & Associates Brian Sarratore 52 N Diamond St Mansfield, OH 44902

WHEREAS, the compensation of the Architect/Engineer set forth herein is determined to be fair and reasonable to the City and the Architect/Engineer; and

WHEREAS, the Architect/Engineer desires, and is licensed and capable, to provide professional services for the Project;

WHEREAS, the Architect/Engineer has previously provided certain professional services for the Project;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the City and the Architect/Engineer agree as follows:

**ARTICLE 1. RESPONSIBILITIES OF ARCHITECT/ENGINEER**

**1.1. Architect/Engineer's Services**

1.1.1. Scope of Services; Applicable Law. The Architect/Engineer shall provide professional services, including, without limitation, services customarily furnished in accordance with generally-accepted architectural or engineering services, for the Project in accordance with the terms of this Agreement. The Architect/Engineer shall provide such services in accordance with the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations and the Contract Documents.

1.1.2. Timeliness; Standard of Care. The Project Schedule shall be established by mutual agreement between the City and the Architect/Engineer within thirty (30) days after the execution hereof. The Architect/Engineer shall perform the Architect/Engineer's services in accordance with professional standards of skill, care, and diligence in a timely manner in accordance with the Project Schedule so as to cause no delay, interference, disruption, or hindrance in the Work, and so that the Project shall be completed as expeditiously and economically as possible within the Construction Budget and in the best interests of the City.

1.1.3. Non-Discrimination. The Architect/Engineer represents that the Architect/Engineer is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.

1.1.4. Consultants. The Architect/Engineer may provide services through one or more consultants employed by the Architect/Engineer (the "Consultants"); provided, however, the Architect/Engineer shall remain responsible to the City for all duties and obligations of the Architect/Engineer under this Agreement. Unless waived or otherwise modified in writing by the City upon written request of the Architect/Engineer, no Consultant shall be retained upon terms inconsistent with this Agreement. The Architect/Engineer shall provide the City Engineer with the names and qualifications of any other proposed Consultant, together with a description of the services to be provided by such Consultant for approval. Once approved by the City Engineer, the identity of any Consultant and the extent of such Consultant's participation in performing the Architect/Engineer's services shall not be altered without the written consent of the City Engineer. Upon the request of the City, the Architect/Engineer shall terminate the employment of any Consultant. The City may communicate with any Consultant either through the Architect/Engineer or directly to the Consultant with notice to the Architect/Engineer.

1.1.5. Ethics Laws. The Architect/Engineer represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

1.1.6. Limitation of Authority. The Architect/Engineer shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Architect/Engineer shall have authority to act on behalf of the City only to the extent provided herein. The Architect/Engineer's authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

## **ARTICLE 2. SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES**

### **2.1. General**

2.1.1. Basic Services to be provided by the Architect/Engineer shall consist of the services set forth in Exhibit A attached hereto and incorporated by reference herein as if fully rewritten.

## **ARTICLE 3. ADDITIONAL SERVICES**

### **3.1. General**

3.1.1. Any services related to the Project not included in Basic Services are Additional Services. Additional Services shall be provided only if requested by the City in writing. Additional Services shall be paid for as provided in this Agreement in addition to the compensation for Basic Services; provided, however, the Architect/Engineer shall not be compensated for any of the following services made necessary by the act or omission of the Architect/Engineer or any Consultant. Unless waived by the City in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

## **ARTICLE 4. RESPONSIBILITIES OF THE CITY**

**4.1. Required Actions.** The City shall review, approve, or take such actions as are required of the City by this Agreement and applicable law in a reasonable and timely manner.

**4.2. Instructions to Contractors.** All instructions of the City to Contractors shall be through, or in consultation with, the Architect/Engineer.

**4.3. City's Requirements.** The City shall provide full information regarding its requirements for the Project, any agreements related to the Project, and any design and construction standards and work rules which set forth the City's use, design, time and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, systems and site requirements. The Architect/Engineer shall be entitled to rely upon the accuracy and completeness of information provided by the City under this paragraph which the City represents in writing is complete and accurate; provided, however, the City makes no representation for, and the Architect/Engineer may not rely upon, information from third parties.

**4.4. Authorized Representative.** The City has designated the City Engineer or successor to be the City's Authorized Representative, i.e., a person authorized to act on the City's behalf with respect to the Project to the extent provided in the Contract Documents. If the City Engineer is absent or unavailable, the City's Project Engineer shall serve as the City's Authorized Representative.

**4.5. Notice to Architect/Engineer.** If the City observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt notice thereof shall be given to the Architect/Engineer.

**4.6. Legal Representation.** The City shall not be responsible to provide, or pay for, any legal representation of the Architect/Engineer.

## **ARTICLE 5. COMPENSATION**

### **5.1. Direct Personnel Expense**

5.1.1. Definition. Direct Personnel Expense shall mean the portion of direct salaries and wages of all personnel of the Architect/Engineer or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law and similar benefits related to their time devoted to the Project. Direct Personnel Expense shall not include any bonus or similar plan or arrangement related to the Architect/Engineer's performance on, or profit from, the Project.

5.1.2. Records. Direct Personnel Expense for the Architect/Engineer's employees for such hours of their time as are devoted to performing services to the Project shall be evidenced by time records certified by the Architect/Engineer.

5.1.3. Limit. The Architect/Engineer shall use all reasonable means to minimize Direct Personnel Expense.

### **5.2. Reimbursable Expenses**

5.2.1. Definition. Reimbursable Expenses means actual expenditures incurred by the Architect/Engineer or its Consultants in the interest of the Project approved by the City for travel (if approved in advance) in accordance with City policies, transportation between the office of the Architect/Engineer and the Project, long-distance telephone, facsimile communications, reproduction, mailing, computer time, supplies and materials and Consultants. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.

5.2.2. Limits. The Architect/Engineer shall use all reasonable means to minimize Reimbursable Expenses.

### **5.3. Basis of Compensation**

5.3.1. Basic Fee. For Basic Services provided by the Architect/Engineer and all Consultants, the City shall pay the Architect/Engineer a Basic Fee in accordance with Paragraph 5.4 hereof in the amount of \$99,999.00. A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.

5.3.2. Additional Fees. For Additional Services provided by the Architect/Engineer and any Consultants in accordance with Article III, the City shall pay the Architect/Engineer Additional



Fees in an amount negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer, but in all events, such Additional Fees shall not exceed two and half (2.5) times the Direct Personnel Expense and any applicable Consultant in providing those Additional Services. Additional Fees may be approved only by an amendment in accordance with Subparagraph 9.5.2.

5.3.3. Extent of Basic Fee. The Architect/Engineer's Basic Fee includes all compensation for Basic Services, including without limitation, for salaries or other compensation of the Architect/Engineer's employees at the principal office, branch offices and the field office, general operating expenses of the Architect/Engineer's principal office, branch offices and the field office, any part of the Architect/Engineer's capital expenses, including interest on the Architect/Engineer's capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the negligence of the Architect/Engineer, the Architect/Engineer's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

5.3.4. Total Compensation. The total compensation of the Architect/Engineer and all Consultants shall consist of the Basic Fee, any Additional Fees, and Reimbursable Expenses.

#### **5.4. Method and Terms of Payment**

5.4.1. Basic Fee. Payment of the Basic Fee shall be made monthly upon invoice of actual services performed. The Basic Fee shall be subject to all setoffs in favor of the City for claims against the Architect/Engineer.

5.4.2. Additional Fees, Reimbursable Expenses. Payments of Additional Fees for Additional Services in accordance with Article III and Subparagraph 5.3.2 and for Reimbursable Expenses as set forth in Paragraph 5.2 shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown by a properly completed and supported invoice of the Architect/Engineer. Invoices shall be sufficiently detailed and supported to permit review by the City for approval or disapproval of any amounts set forth in the invoice.

5.4.3. Payments by Architect/Engineer. Within ten (10) business days of receipt of payment made pursuant to this Agreement, the Architect/Engineer shall pay all portions thereof due to Consultants and to persons who provided items the expenses of which are Reimbursable Expenses.

5.4.4. Compensation for Extension of Project Time. If the Architect/Engineer notifies the City not less than thirty (30) days prior to the time for completion of the Project set by the Project Schedule established pursuant to Subparagraph 1.1.2, that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as a result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be

executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.

## **ARTICLE 6. INSURANCE AND INDEMNIFICATION**

### **6.1. Insurance**

6.1.1. Casualty Insurance. Except when a modification is requested in writing by the Architect/Engineer and approved in writing by the City, the Architect/Engineer shall carry and maintain at the Architect/Engineer's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:

- a. Workers' Compensation and employer's liability insurance to the full extent as required by applicable law;
- b. Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage, in not less than the following amounts:
  - i. General Aggregate Limit: \$2,000,000
  - ii. Each Occurrence Limit: \$1,000,000 each occurrence;
- c. Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.

6.1.2. Professional Liability Insurance. Subject to the City's waiver or modification of Professional Liability Insurance upon written request of the Architect/Engineer, the Architect/Engineer shall maintain insurance to protect against claims arising from the performance of the Architect/Engineer's services caused by any negligent acts, errors, or omissions for which the Architect/Engineer is legally liable ("Professional Liability Insurance"). Except when a waiver is approved by the City upon written request of the Architect/Engineer, such Professional Liability Insurance shall be in an amount not less than \$1,000,000 per claim and in the annual aggregate. The Architect/Engineer shall endeavor to keep such insurance in effect for so long as the Architect/Engineer may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Architect/Engineer commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best's Insurance Reports.

6.1.3. Certificates. The Architect/Engineer shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of

renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days' prior written notice to the City.

## **6.2. Indemnification**

6.2.1. Indemnification by Architect/Engineer Generally. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which (a) arise out of, are caused by, or result from performance of the Architect/Engineer's services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use resulting therefrom, but (c) only to the extent they are caused by any negligent acts, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. This Subparagraph is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 of the Ohio Revised Code, to the fullest extent permitted.

6.2.2. Intellectual Property Indemnification. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officials, officers, employees, and representatives from and against insurable damages, losses, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which result from infringement of any copyright, patent, or other intangible property right to the extent caused by the negligent act, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. The Architect/Engineer shall not be required to indemnify and hold harmless such persons for such matters when the claimed infringement occurs in materials provided by the City.

## **ARTICLE 7. DISPUTE RESOLUTION PROVISIONS**

7.1. Mediation. Instead of, or in addition to, the procedures set forth below, the City and the Architect/Engineer may, by written agreement, submit any claims, requests, disputes, or matters in question between or among them to mediation upon such terms as shall be mutually reasonably agreeable.

7.2. Notice and Filing of Requests. Any request by the Architect/Engineer for additional fees or expenses shall be made in writing to the Authorized Representative and filed prior to the final payment of the Basic Fee. Failure of the Architect/Engineer to timely make

such a request shall constitute a waiver by the Architect/Engineer of any request for such fees and expenses.

**7.3. Request Information.** In every written request filed pursuant to Paragraph 7.2, the Architect/Engineer shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

**7.4. Meeting with Authorized Representative.** If the Architect/Engineer files a written request with the Authorized Representative pursuant to Paragraph 7.2, the Authorized Representative shall, within thirty (30) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by Persons expressly and fully authorized to resolve the request on behalf of the Architect/Engineer. The Authorized Representative shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision.

**7.5. Appeal to City Manager.** If the efforts of the Authorized Representative do not lead to resolution of the request within sixty (60) days of receipt of the request provided pursuant to Paragraph 7.2 the Architect/Engineer may appeal to the City Manager by written notice to the Authorized Representative who shall provide the Architect/Engineer an opportunity to present the claim to the City Manager. The City Manager shall render a decision on the request within thirty (30) days of receipt of the claim unless a mutual agreement is made to extend the time for decision. The decision of the City Manager shall be final and conclusive, subject to litigation in a court of competent jurisdiction.

**7.6. Delegation.** No provision of this Paragraph shall prevent the Authorized Representative or the Commission from delegating the duties or authorities of the Authorized Representative or the City to any other Person selected at the discretion of the Authorized Representative.

**7.7. Performance.** The Architect/Engineer shall proceed with the Architect/Engineer's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Architect/Engineer and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Paragraph.

## **ARTICLE 8. TERMINATION AND REMEDIES**

## **8.1. Termination of Agreement**

8.1.1. Means of Termination. This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Architect/Engineer shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing, and submitting a voucher for all reasonably undisputed amounts due to the Architect/Engineer within ten (10) days of receipt of the Architect/Engineer's written notice to terminate. This Agreement may be terminated by the City in whole or in part, without cause upon fifteen (15) days written notice to the Architect/Engineer. This Agreement may be terminated in whole or in part, at any time upon the mutual consent of the City and the Architect/Engineer.

8.1.2. Architect/Engineer's Remedies Upon Termination by City Without Cause or Upon Termination by Architect/Engineer. In the event of a termination which is not due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated for all Basic Services of a completed phase performed prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Reimbursable Expenses incurred prior to the termination date. In such event, for services rendered prior to the termination date in an uncompleted Part and for Additional Services, the Architect/Engineer shall receive compensation based on the percentages of completion of that Part or those Additional Services, as applicable, and as reasonably determined by the City, together with Reimbursable Expenses incurred prior to the termination date.

8.1.3. Architect/Engineer's Remedies Upon Termination by City for Cause. In the event of a termination which is due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated only for Basic Services performed and paid for prior to the termination date in accordance with the actual time at billing rates as set forth in 5.3.1., together with Additional Services completely performed prior to the termination date. In such event, the Architect/Engineer shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.

8.1.4. Architect/Engineer's Remedies Upon Termination by Mutual Consent. In the event of a termination upon the mutual consent of the City and the Architect/Engineer, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.

8.1.5. Post-Termination Matters. If the City and the Architect/Engineer agree that any services are to be performed for the Project by the Architect/Engineer after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the

commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

## **8.2. Remedies**

8.2.1. Cumulative Remedies. No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Architect/Engineer by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Architect/Engineer shall be cumulative and shall be in addition to any other remedy given to the Architect/Engineer hereunder or now or hereafter existing.

8.2.2. Remedies Not Waived. No delay, omission, or forbearance to exercise any right, power, or remedy accruing to the City or the Architect/Engineer hereunder shall impair any such right, power, or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power, or remedy may be exercised from time to time and as often as deemed expedient.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **9.1. Ownership and Use of Documents**

9.1.1. Property of City. Drawings and other documents prepared by, or with the cooperation of, the Architect/Engineer or any Consultant pursuant to this Agreement, including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Architect/Engineer or Consultant, as applicable, may retain copies, including reproducible copies of such drawings and other documents for information and reference. Such drawings or other documents may be used by the City or others employed by the City for reference in any completion, construction, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Architect/Engineer or Consultant. Such drawings or other documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Architect/Engineer or Consultant, as applicable. If an event occurs for which the Architect/Engineer or Consultant may be liable, the City shall notify the Architect/Engineer or Consultant of such event as soon as practical after such event and shall provide access to the Project to the Architect/Engineer or Consultant and their representatives. This Subparagraph shall survive termination of this Agreement.

9.1.2. Architect/Engineer's Intellectual Property. All inventions, patents, design patents, and computer programs acquired or developed by the Architect/Engineer in connection with or relation to the Project shall remain the property of the Architect/Engineer and shall be

protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Architect/Engineer.

**9.2. Public Relations.** Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The Architect/Engineer shall not use the City's name or seal, nor any adaptation thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

**9.3. Records.** The records of all of the Architect/Engineer's Direct Personnel Costs, Reimbursable Expenses and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City at all times and shall be maintained for seven (7) years after final acceptance of the Project by the City. All other records kept by the Architect/Engineer related to the Project shall be available to the City at all times and shall be maintained for six (6) years after final acceptance of the Project by the City. Records related to any claim or dispute shall be retained for any longer period necessary to finally resolve the claim or dispute.

**9.4. Successors and Assigns.** The City and the Architect/Engineer, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement. The Architect/Engineer shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

**9.5. Extent of Agreement**

9.5.1. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Architect/Engineer and supersede all prior negotiations, representations or agreements, either written or oral.

9.5.2. Amendments. This Agreement may be amended only by an amendment prepared by the City and signed by both the Architect/Engineer and the City.

9.5.3. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.5.4. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

9.5.5. Conditions to Validity. None of the rights, duties, and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with.

**9.6. Governing Law**

9.6.1. Law of Ohio. This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Erie County, Ohio Court of Common Pleas

shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.

9.6.2. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

## **9.7.           Notices**

9.7.1. Addresses. All notices, certificates, requests, or other communications hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the company or organization for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, to the appropriate address listed on the first page hereof.

9.7.2. Facsimiles. For convenience of communication only, notices, certificates, requests, or other communications hereunder of fewer than ten (10) pages, except requests for payment, may be sent by facsimile transmission to the City at (419) 627-5933 and to the Architect/Engineer at bsarratore@kemccartney.com. Notices, certificates, requests, or other communications sent by facsimile transmission shall not be deemed to be given unless a counterpart is received or mailed in accordance with Subparagraph 9.7.1. Requests for payment may be sent to the City by facsimile transmission only upon specific direction from the City.

9.7.3. Emergencies. In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Architect/Engineer shall immediately notify the City by telephone.

9.7.4. Change of Address. The City or the Architect/Engineer may, by notice given hereunder, designate any further or different addresses telephone numbers or facsimile numbers to which subsequent notices, certificates, requests, or communications shall be sent.

**9.8.           Severability**. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

**9.9.           Independent Contractor**. The Architect/Engineer and any Consultant is an independent contractor with respect to any services performed hereunder. Neither the Architect/Engineer, nor any Consultant, shall be deemed to be servants, employees, or agents of the City.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

K.E. McCartney & Associates

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_

John Orzech  
Interim City Manager

APPROVAL:

The legal form and correctness of the within instrument is hereby approved.

\_\_\_\_\_  
Brendan Heil  
Law Director

CERTIFICATE OF FUNDS

In the matter of:                      ERI-CR503-0.81 E Water Street  
PID 113958

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky, Ohio under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code (ORC).

Dated: \_\_\_\_\_, 2023

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_  
Michelle Reeder, CPA  
Finance Director

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Not to Exceed Amount



January 12, 2023

Ms. Jane E. Cullen, P.E.  
Assistant City Engineer  
City of Sandusky  
240 Columbus Avenue  
Sandusky, Ohio 44870

**RE: Proposal for Construction Administration and Inspection Services  
ERI-CR503-0.81 E Water Street  
PID No. 113958**

Dear Ms. Cullen,

Enclosed, please find the proposal to provide Construction Administration and Inspection Services for the above referenced project. The proposal was prepared in accordance with ODOT requirements for submittal on LPA Local Let Projects and includes the following:

- Scope of Services and Compensation
- ODOT's Hourly Rate Calculations
- Copies of Professional Liability Insurance, Vehicle Insurance, and BWC Certificates

KEM proposes to provide Construction Engineering Services per the attached "Exhibit A", invoiced on an hourly rate basis as required. The specific needs for this project will vary depending on the contractor's schedule, critical items of work and weather conditions.

K.E. McCartney & Associates, Inc. appreciates the opportunity to be considered for providing services to the City of Sandusky and we look forward to working with you and your staff on this project. Please let me know if there are any questions or further information is required.

Sincerely,

A handwritten signature in blue ink that reads "Ryan Simon".

Ryan Simon  
Construction Services Manager - Elyria

## **“EXHIBIT “A”**

### **Scope of Services and Compensation ERI-CR503-0.81 E Water Street PID No. 113958**

#### **A. Duties and Responsibilities**

K.E. McCartney & Associates, Inc. (ENGINEER) shall provide project coordination, construction administration and inspection services and shall serve as the City of Sandusky's (CITY) liaison with the Contractors and assist them in understanding the detailed scope and intent of the Contract Documents. The ENGINEER shall provide an experienced licensed professional engineer to oversee all construction activities for the Project. The ENGINEER shall comply with all ODOT Local Let requirements related to construction contract administration activities.

#### **B. Construction Administration Phase**

The ENGINEER will coordinate and conduct the Pre-Construction meeting.

The ENGINEER will respond to all Requests for Information submitted by the Contractor or CITY during construction.

The ENGINEER will schedule and conduct regular progress meetings.

The ENGINEER will be responsible for tracking the work schedule and updates.

The ENGINEER shall act as a liaison between the CITY and the Contractor.

The ENGINEER will assist the CITY in the review and negotiation of Contractor change order requests.

The ENGINEER will provide administrative support for the resident project engineer and field personnel. Clerical support is also to be provided for the field staff for the preparation of reports and other project documentation.

The ENGINEER shall supply experienced technicians to perform site inspection. These technicians shall work under the direct supervision of the registered professional engineer described above.

The ENGINEER shall perform all functions of Prevailing Wage, EEO and DBE Compliance for the CITY. The ENGINEER shall perform, and record prevailing wage interviews as required. Violations and/or discrepancies to be resolved prior to project closeout.

The ENGINEER shall transmit to the Contractor all clarifications and modifications to the Contract Documents as directed by the CITY.

The ENGINEER shall transmit the CITY all reasonable requests for modifications to the Contract Documents from the Contractor.

The ENGINEER shall provide assistance to the CITY in coordinating and communicating the work with affected property owners.

### **C. Resident Inspector Phase**

#### Construction Inspection

The ENGINEER'S Inspector(s) shall be present during all critical on-site activities by the Contractor and conduct observations of the work in progress to determine compliance with contract requirements.

The ENGINEER'S Inspector shall be present during and shall verify results for all field quality control tests required by the Contract. The ENGINEER'S Inspector will verify that the Contractor is maintaining adequate records.

The ENGINEER'S Inspector shall attend all pre-construction, construction progress, post construction and other meetings between the CITY and the Contractor.

#### Reports

The ENGINEER shall furnish the CITY detailed and legible written and verbal daily reports detailing the progress of the work, tabulated quantity expenditures, commentary on quality control events, progress on the construction schedule, contacts with members of the public, all test data, and any other comments relative to the project.

The ENGINEER shall notify the CITY of proposed non-routine test, inspections, or major phases of work.

The ENGINEER'S Inspectors shall submit all reports on standard forms accepted by the CITY and ODOT.

The ENGINEER shall call to the attention of the Contractor any and all deviations from the Contract Documents, any shortcomings in maintenance of traffic or any unnecessary inconveniences imposed on access to private properties. Any lack of corrective action or lack of cooperation shall immediately be referred to the CITY for further action.

The ENGINEER shall reject non-specified materials, either during the submittal phase, or as they arrive at the project site.

The ENGINEER shall determine the accuracy of Contractor pay requests and resolve discrepancies with the Contractor as an agent of the CITY. Pay requests shall then be forwarded to the CITY with recommendations, resulting tabulated item balances, work completed, and

materials and equipment delivered to the site but not incorporated in the work. All pay requests will be reviewed by the CITY, in correlation with the daily reports, prior to processing. All pay requests disputes between the ENGINEER and the Contractor will be resolved by the CITY.

#### Testing

The ENGINEER shall provide field quality control construction testing services of Contractor-placed materials in compliance with Contract and ODOT requirements.

#### Project Completion

The ENGINEER shall submit to the Contractor and the CITY a list of observed deficiency items that require correction.

The ENGINEER shall conduct inspections with the CITY and Contractor after the Contractor has addressed the deficiency list and prepares a new list of deficiencies, if needed.

The ENGINEER shall verify all contract items have been completed and make acceptance recommendations to the CITY.

The ENGINEER shall provide all required Contract Administration and supervision of the performance of its on-site personnel and shall insure that the requirements of the contract are fulfilled. The ENGINEER'S Project Manager shall be the point of contact for the CITY in regard to Contract performance and administration and shall act in a general consulting capacity to the CITY with regard to constructability issues.

The ENGINEER shall prepare all closeout documentation and files required by ODOT, including review of those files with ODOT representatives.

*The authority of the ENGINEER shall have the following limitations, except as duly authorized in writing by the CITY and agreed upon by the ENGINEER:*

- Deviations from the Contract Documents and any changes in materials or equipment shall not be authorized.
- The ENGINEER will not perform any function that is the responsibility of the Contractor or any of the Contractor's suppliers or sub-contractors.
- No directives shall be expressed to the Contractor as to the means, methods, techniques, sequences, or procedures of construction outside of those detailed in the contract documents or as directed by the CITY.
- No directives shall be expressed as the Contractor's safety programs or procedures.
- The ENGINEER shall not be liable for defective work, acts of omission or operating procedures of the Contractor.

#### **D. Compensation**

1. Professional services will be provided on an hourly rate basis, per the attached ODOT Hourly Rate Calculation Schedule.
2. Vehicle reimbursement will be at the daily rate of \$49.00 for company owned vehicles and at 0.52 per mile for employee-owned vehicles.
3. Concrete Control Kit reimbursement will be at the daily rate of \$15.00.
4. Subconsultant costs will be invoiced at actual costs.
5. KEM anticipates utilizing Geo-Sci, Inc. for material testing services related to compaction, asphalt, and concrete lab testing.
6. KEM can provide necessary services immediately upon authorization to proceed.
7. The maximum prime compensation shall not exceed \$99,999.00. All costs shall be included in the prime compensation.

SUBMITTED BY:

**K.E. MCCARTNEY & ASSOCIATES, INC.**



---

Ryan Simon

Construction Services Manager - Elyria

APPROVED BY:

City of Sandusky

---



### Cost Proposal Breakdown

Construction Administration and Inspection Services

Contract Duration = 11 Months

Est. Start Date: 7/1/2023 Completion: 5/31/2024

ERI-CR503-0.81 E Water Street

City of Sandusky

PID No. 113958

### Labor

<u>Task</u>	<u>Estimated Hours</u>		
	<u>Proj. Mgr.</u>	<u>Proj. Eng.</u>	<u>R.P.R.</u>
Pre Construction Meeting	4.0	4.0	1.0
Scheduling	4.0	4.0	---
Project Updates for Owner	12.0	8.0	---
Shop Drawing & Materials Review	16.0	28.0	---
Const. Progress Meetings	8.0	6.0	6.0
Progress Payments	12.0	12.0	---
On Site Inspection \ Coordination	16.0	80.0	600.0
On Site Testing	---	6.0	10.0
Certified Payrolls\ DBE \ EEO (Wage Interviews)	8.0	16.0	8.0
Reports & Records	4.0	4.0	6.0
Project Closeout \ Internal Audit	8.0	24.0	---
ODOT Audits (Interim & Final)	4.0	4.0	---
Post Construction Finalization	4.0	4.0	---
Total Hours	100.0	200.0	631.0
Hourly Rate	\$ 142.00	\$ 119.00	\$ 91.00
Sub Total - Labor	\$ 14,200.00	\$ 23,800.00	\$ 57,421.00
	<b>Total - Labor \$ 95,421.00</b>		

Remarks: Labor Rates include allowable overhead and net fee per attached breakdown.

### Reimbursables

Testing \ Subconsultants:

Asphalt Testing per 448	\$ 1,000.00
Concrete Control Testing Equipment - 5 Days @ \$15/day	\$ 75.00
Concrete Cylinders -15 Cylinders @ \$15/per break	\$ 225.00

Sub Total - Testing \$ 1,300.00

Vehicles: Vehicle for R.P.R. & Project Engineer @ \$49.00/day	60 \$ 2,940.00
Estimated Mileage for Proj. Mgr. & Proj. Eng. at current O.D.O.T allowable rate of \$0.52/mile	650 \$ 338.00

**Total - Reimbursables \$ 4,578.00**

**Grand Total \$ 99,999.00**





# Hourly Rate Calculations

Instructions - Insert information in yellow highlighted cells only. On Sheet 2, input information to determine rates per classification. Hourly rates will be calculated automatically.

Agreement No.:

C-R-S:

Firm Name:

ERI-CR503-0.81 E Water St
K.E.McCartney & Assoc., Inc.

Company Overhead: 157.25%

Average Overhead: 157.25%

Cost of Money: 0.50%

Net Fee %: 10%

The Company records OT premim as: Direct Labor

Does the company anticipate billing overtime? Yes

Classification	1.5X OT?	Avg. Raw Rate	Overhead	C.O.M	Net Fee	Computed Straight Time/OT Exempt Billing Rate <sup>1</sup>	Computed Overtime Billing Rate <sup>1</sup>
<b>Project Manager</b>	<b>No</b>	\$50.00	\$78.63	\$0.25	\$12.86	<b>\$142</b>	<b>\$142</b>
<b>Project Engineer</b>	<b>No</b>	\$42.00	\$66.05	\$0.21	\$10.80	<b>\$119</b>	<b>\$119</b>
<b>Project Inspector</b>	<b>Yes</b>	\$32.00	\$50.32	\$0.16	\$8.23	<b>\$91</b>	<b>\$132</b>
<b>Eng. \ Documentation Clerk</b>	<b>Yes</b>	\$18.00	\$28.31	\$0.09	\$4.63	<b>\$51</b>	<b>\$74</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>
		\$0.00	\$0.00	\$0.00	\$0.00	<b>N/A</b>	<b>\$0</b>

<sup>1</sup> **Note:** Rounded the nearest dollar.

# Average Raw Rate Calculations per Classification

Agreement No.:

C-R-S: ERI-CR503-0.81 E Water Street

Firm Name: K.E.McCartney & Assoc., Inc.

Instructions - Insert classification descriptions as applicable. They will be carried forward to Sheet 1. Input employee names or ID along with their rate. Rates should be actual employee pay rates. Add lines as needed for additional employee rates if necessary. For each classification, indicate whether employees in the classification are eligible for overtime paid at time-and-a-half (non-exempt). Average rates for each classification will be calculated automatically and exported to Sheet 1.

<b>Project Manager</b>	
<b>Is overtime paid at 1.5X? -----&gt;</b>	<b>No</b>
<b>Employee Name or I.D</b>	<b>Rate</b>
2700	\$50.00
Average Raw Rate	<b>\$50.00</b>

<b>Project Engineer</b>	
<b>Is overtime paid at 1.5X? -----&gt;</b>	<b>No</b>
<b>Employee Name or I.D</b>	<b>Rate</b>
TBD	\$42.00
Average Raw Rate	<b>\$42.00</b>

<b>Project Inspector</b>	
<b>Is overtime paid at 1.5X? -----&gt;</b>	<b>Yes</b>
<b>Employee Name or I.D</b>	<b>Rate</b>
1020	\$32.00
Average Raw Rate	<b>\$32.00</b>

<b>Eng. \ Documentation Clerk</b>	
<b>Is overtime paid at 1.5X? -----&gt;</b>	<b>Yes</b>
<b>Employee Name or I.D</b>	<b>Rate</b>
TBD	\$18.00
Average Raw Rate	<b>\$18.00</b>



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/21/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	<b>The Ball Agency, Inc</b> <b>4135 Park Ave West</b> <b>Mansfield, OH 44903</b>	CONTACT NAME: <b>Jeremy Ball</b> PHONE (A/C, No, Ext): <b>(419)775-5209</b> FAX (A/C, No): <b>(419)775-7169</b> E-MAIL ADDRESS: <b>jeremy@theballagency.com</b>
INSURED	<b>K E McCartney &amp; Associates, Inc</b> <b>52 N Diamond St</b> <b>Mansfield, OH 44902-1324</b>	INSURER(S) AFFORDING COVERAGE INSURER A: <b>Auto Owners</b> NAIC #: <b>18988</b> INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

## COVERAGES

CERTIFICATE NUMBER: 00000759-1428143

REVISION NUMBER: 81

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		05709878	11/25/2022	11/25/2023	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b>
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		4704698101	11/25/2022	11/25/2023	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			4704698100	11/25/2022	11/25/2023	EACH OCCURRENCE \$ <b>4,000,000</b> AGGREGATE \$ <b>4,000,000</b>
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	05709878	11/25/2022	11/25/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
A	Employers Liability			05709878	11/25/2022	11/25/2023	Ohio Stop Gap \$ <b>1,000,000</b>
A	Tools & Equipment			05709878	11/25/2022	11/25/2023	unscheduled \$ <b>\$25,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

**City of Sandusky**  
**240 Columbus Ave.**  
**Sandusky, OH 44870**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

(JSB)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/16/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> The James B. Oswald Company 1100 Superior Avenue, Suite 1500 Cleveland OH 44114	<b>CONTACT NAME:</b> Jared Breeze <b>PHONE (A/C, No, Ext):</b> 513-577-4123 <b>E-MAIL ADDRESS:</b> jbreeze@oswaldcompanies.com <b>FAX (A/C, No):</b> 216-839-2815
<b>INSURED</b> K.E. McCartney & Associates, Inc. 52 N. Diamond St. Mansfield OH 44902-1324	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Hartford Fire Insurance Co. <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>
<b>MCCAR-4</b>	<b>NAIC #</b> 19682

**COVERAGES****CERTIFICATE NUMBER:** 1772401588**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <b>EXCESS LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A						PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability Claims Made Retro Date: Full Prior Acts	N	Y	33 OH 0488329-22	11/12/2022	11/12/2023	Each Claim Aggregate \$1,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Waiver of Subrogation as designated above is provided when required of the Named Insured by written contract or agreement.

**CERTIFICATE HOLDER****CANCELLATION**

City of Sandusky  
240 Columbus Ave.  
Sandusky, OH 44870

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**Bureau of Workers'  
Compensation**

30 W. Spring St.  
Columbus, OH 43215

### **Certificate of Ohio Workers' Compensation**

This certifies that the employer listed below participates in the Ohio State Insurance Fund as required by law. Therefore, the employer is entitled to the rights and benefits of the fund for the period specified. This certificate is only valid if premiums and assessments, including installments, are paid by the applicable due date. To verify coverage, visit [www.bwc.ohio.gov](http://www.bwc.ohio.gov), or call 1-800-644-6292.

This certificate must be conspicuously posted.

Policy number and employer  
00696554

Period Specified Below  
07/01/2022 to 07/01/2023

K E MCCARTNEY & ASSOCIATES INC  
52 N DIAMOND ST  
MANSFIELD OH 44902-1324



[www.bwc.ohio.gov](http://www.bwc.ohio.gov)  
Issued by: BWC

*Stephanie McCloud*

Administrator/CEO

You can reproduce this certificate as needed.

### **Ohio Bureau of Workers' Compensation**

#### **Required Posting**

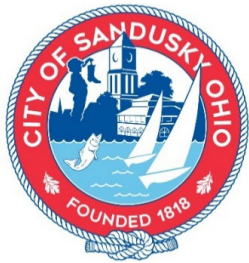
Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means an employee may dispute or prove untrue the presumption (or belief) that alcohol, marihuana or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove the presence of alcohol, marihuana or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.



**Bureau of Workers'  
Compensation**

You must post this language with the Certificate of Ohio Workers' Compensation.



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: John Orzech, Interim City Manager

From: Jane Cullen, P.E.

Date: January 30, 2023

Subject: **Commission Agenda Item – Emergency Purchase & Installation of Dystor Membrane Unit for the WWTP Secondary Digester #3 Building**

**ITEM FOR CONSIDERATION:** Legislation ratifying the emergency purchase and authorizing the installation of a new Dystor Membrane Unit for the WWTP Secondary Digester #3 Building.

**BACKGROUND INFORMATION:** The Dystor membrane unit is the roof/cover for the WWTP Digester #3 building. The emergency replacement of the Dystor unit was approved by motion at the city commission meeting on September 12, 2022 during the manager's report. An inspection that is completed every few years revealed that the 60-foot domed cover of the Dystor unit at the wastewater treatment plant has leaks in the outer seams that are in locations that cannot be patched in place and the unit needs to be replaced. This unit, which stores gases generated from the sludge digestion process, was originally installed as part of the Phase II plant expansion project in 2010 and consists of an outer and inner membrane.

**BUDGETARY INFORMATION:** The estimated not to exceed cost for the new Dystor Membrane Unit including installation is \$558,000.00 and will be paid with Sewer Funds.

**ACTION REQUESTED:** It is recommended that legislation be prepared to ratify the emergency purchase and authorize the installation of the new Dystor Membrane Unit from EVOQUA Water Technologies, LLC of Holland, Michigan not to exceed amount of \$558,000.00 and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter to ratify the purchase of the Dystor Membrane Unit which has already been ordered and to allow the installation work to begin as soon as possible once the unit is received.

I concur with this recommendation:

---

John Orzech  
Interim City Manager

---

Aaron Klein  
Director of Public Works

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

## SANDUSKY WWTP DYSTOR REPLACEMENT PROJECT

Proposal 43382 – September 2022

Questions related to this Proposal should be directed to Evoqua's area sales representative.

*Cory Stewart*

### **BISSNUSS INC**

Cory Stewart  
7 COURT ST STE 210A  
Canfield, OH 44406-1476  
Phone: 419-779-3180  
[cstewart@bissnussinc.com](mailto:cstewart@bissnussinc.com)



To: Jeffery Meinert  
Owner: Sandusky WWTP  
Engineer:  
Bid Date: 9/21/2022

## 1. SUMMARY

Evoqua Water Technologies LLC (Evoqua) proposes to furnish the equipment specified in this Quotation in accordance to the scope of supply described in this quotation and subject to the Clarifications/Exceptions and Standard Terms of Sale stated herein.

Addenda received:

The information in this quotation is confidential and/or proprietary and has been prepared solely for the recipient's use in considering the purchase of the equipment and/or services described herein. Transmission of all or any part of this information to others, or use by the recipient, for other purposes is expressly prohibited without Evoqua's prior written consent.

ITEM & DESCRIPTION	PRICE
--------------------	-------

Membrane Gas Holder Cover Replacement	\$558,000 USD
---------------------------------------	---------------

Evoqua's price includes only the specific items detailed in this quotation. Items not specifically identified herein are to be furnished by others. Please refer to the excluded items in section 4 of this quotation for a list of items to be furnished by others.

**Please provide tax exempt certificate and copy of payment bond, as applicable, with purchase order.**

**A. OPTIONS:** An order for items quoted as an extra cost option will be accepted only when included with the basic equipment order: None

**B. FREIGHT:** Pricing is FCA jobsite with standard freight allowed to the job site. Our price includes costs for unloading, transporting on the site.

**C. QUOTATION VALIDITY:** This quotation is valid for sixty (60) days unless extended in writing by Evoqua. Due to current raw material price fluctuation, Evoqua reserves the right to re-quote the equipment proposed herein after that time.

Due to volatility in steel costs, prices quoted in this proposal will be adjusted to reflect changes in the Metal and Metal Products Index (MMPI) published by the U.S. Department of Labor, Bureau of Labor Statistics. The most recent published MMPI is 323.7 for August 2022. If the MMPI exceeds 330.2 at the time the Equipment is released for manufacture, then the price will be increased by the same percentage as the MMPI exceeds 330.2.



Further Evoqua's price does not account for increased costs, delays and inefficiencies associated with current regulations and guidelines concerning COVID-19. Should these, or any additional, restrictions be implemented by any governing body, the CDC, or the customer or user of the Equipment to address COVID-19, Evoqua reserves the right to request a change order to the extent its costs or time for performance are increased by additional restrictions

**D. FIELD SERVICES:** Evoqua's pricing includes the services of a factory field service technician for checking the installed equipment and instruction of Owner's personnel; all of which shall be performed over a total of:

***Two (2) Trips***

***Three (3) Days on Site***

**E. PAYMENT AND PRICE TERMS:** The terms of payment are net 30 in accordance with the following milestones:

- 10% on order;
- 10% on drawing submittal delivery;
- 75% on shipment of equipment, or offer to ship;
- 5% on startup of equipment or 120 days from final delivery, whichever occurs first.

**CANCELLATION POLICY:** If Evoqua is issued an order and Buyer cancels or suspends its order for any reason other than Evoqua's breach, Buyer shall promptly pay Evoqua for work performed prior to cancellation or suspension and any other direct costs incurred by Evoqua as a result of such cancellation or suspension. At a minimum, cancellation after executed contract will result in a cancellation fee of 10% of the total order value.

**Evoqua's prices are exclusive of any taxes. If this project is not subject to sales or use tax, please issue a Tax-Exempt Certificate with any ensuing purchase order (P.O.). If applicable, please provide a copy of payment bond information with the P.O. With no exemption or if this project is subject to sales or use tax, the Purchaser will be invoiced for taxes at the then-current rate of sales, use or other tax for the jobsite location.**

## **2. DRAWING AND SHIPPING INFORMATION**

Evoqua will furnish drawings for record only and equipment per the following project schedule:

- Record Drawings: Within six (6) to eight (8) weeks from the date of final agreement by both parties.
- Release to fabrication: Within two (2) weeks from the final agreement by both parties.
- Shipment of Equipment: Within six (6) to eight (8) weeks after final agreement by both parties.
- Demolition and Installation: Will be determined at a later date.

Evoqua has provided typical standard times and shipment dates. Actual times will be provided upon receipt of a Purchase Order based upon current backlog. Evoqua will work closely with the Owner and/or Engineer to provide delivery dates to meet the overall project schedule as possible.

### 3. EQUIPMENT SCOPE

#### MEMBRANE GAS HOLDER COVER

Evoqua will furnish and replace the existing Dystor air and gas membranes for one (1) existing 60' diameter Free Membrane Dystor. Replacement work will include the removal of the existing membranes and the installation of new membranes, along with all associated gaskets. Evoqua will furnish and install the following replacement items:

- One (1) set of 60' diameter air and gas membranes.
- Associated gaskets and mounting hardware required for membrane installation.
- Two (2) 4" flexible air hoses with SS clamps.
- One (1) laser level for gas membrane level.
- One (1) ea. air and gas pressure transmitters
- One (1) LEL transmitter
- Scaffolding will be provided for one (1) month

Evoqua is only replacing the items specifically called out in the above list. All other Dystor components will be reused including, but not limited to, the air system fans, air pressure control valve, flame traps, purge valve, control panel, all air system piping, restraining cables, cable brackets, membrane clamp bars, membrane cable catcher, and clamp bar anchors.

**Mobilization – Evoqua anticipates their scope of work required to install the digester membranes will be completed within seven (7) days over the course of two (2) mobilizations at the project site.**

The replacement work will be performed by a subcontractor of Evoqua's choice utilizing local prevailing wages on an open shop basis.

Replacement work performed under this contract will consist of the below-listed tasks:

- Mobilization to the site
- Install scaffolding for use by Evoqua's subcontractor
- Crane will be provided by Evoqua's subcontractor for membrane removal and installation
- Removal of existing membranes and placement in a dumpster (provided by others).
- Inventory all hardware and equipment to be reused
- Demobilize
- Remobilize
- Clean top of tank and install new sealant
- Install new air and gas membranes, new air and gas hoses, hose clamps and existing cables
- Inflate the membranes and perform pressure testing of the membranes
- Demobilization from the site

The Authority will be responsible for supplying a 30 cubic yard roll off container and disposal of the existing membranes.

### 4. EXCLUDED ITEMS

The price from Evoqua includes only those items listed in this Quotation. The items listed below are excluded:

- 30 yard roll off container
- Filling the tank with water (secondary effluent) prior to installation of the membranes
- Electrical, hydraulic, or pneumatic controls.
- Wiring of motors or controls, control panels, or panel supports.
- Piping, valves, wall sleeves, gates, drains, weirs, baffles.
- Floor grating, stairways, ladders, platforms, handrailing.
- Concrete, grout, mastic, sealing compounds, shims.
- Lubricants, grease piping, grease gun.
- Machinery or bearing supports, shims.
- Detail shop fabrication drawings (other than those specified in paragraph 1.3).
- Tools or spare parts.
- Modifications to existing equipment or structures.
- Supervisory services; laboratory, shop, or field testing (other than Dystor seal testing).
- Underwriters Laboratory inspection of electrical controls.
- Special written process performance or extended mechanical warranties.

## 5. CLARIFICATIONS/EXCEPTIONS

The equipment specified herein shall conform to the specification sections referenced in section 1 of Evoqua's Quotation to the extent they are technically applicable to Evoqua's scope of supply as described in this Quotation and subject to the following clarifications

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Evoqua's warranty only extends to the new equipment being supplied under this project. All existing and reused equipment is not covered under any warranty for this project.

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**The specified laser level device will require an electrician provided by the City of Sandusky to make connections at the control to the 24 volt coaxial cable.**

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The laser level does not require a target baffle on the gas membrane.

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Scaffolding rental longer than 28 days will be an additional charge

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**Evoqua's standard terms and conditions, including without limitation Evoqua's warranty obligations in Article 7 govern the purchase and sale of equipment, products, and related services, referred to in Evoqua's proposal. Evoqua's offer or acceptance is expressly conditioned on Buyer's assent to these terms. Evoqua rejects all additional or different terms in any of Buyer's forms or documents. In addition, Evoqua takes exception to all performance commitments, guarantees or obligations, unless provided for in Evoqua's proposal.**

## 6. ADDITIONAL FIELD SERVICES

Additional services may be purchased at the per diem rate stated below.

In the event Purchaser wishes to videotape the Evoqua field service personnel during start-up and/or field service, Purchaser must execute Evoqua's standard "Videotape Agreement" in which the Purchaser shall expressly waive any claim against Evoqua, for injury or damage caused by inaccuracies or errors in such videotape(s), and acknowledge that such videotaping is done by Purchaser at its sole risk.

**TERMS GOVERNING FIELD SERVICES:** Services of a factory field service technician to inspect installation and/or first operation of the products specified in the quotation can be furnished by Evoqua at the following rates:

- A)** Supervision or consultation of a process service technician within the continental limits of the United States: \$1,400 per eight (8) hour day, Monday through Friday inclusive.
- B)** Supervision or inspection of a field service technician within the continental limits of the United States: \$1,200 per eight (8) hour day, Monday through Friday inclusive. Overtime Monday through Friday and Saturday work is charged at time and one-half. Time worked on Sunday will be charged double time; time worked on U.S. Holidays will be charged triple time.
- C)** Traveling, living and incidental expenses at cost, including shipping charges on tools and other equipment which the factory field service technician has shipped to the construction site.
- D)** Travel time will be charged to and from Purchaser's construction site, and weekend or holiday travel request or required by Purchaser will be charged at the overtime rates.

Rates shown above apply only to additional services performed within twelve (12) months from the date of Quotation. Additional services performed after twelve (12) months from the date of Quotation shall be subject to Evoqua's current rates at the time such service is provided. Except for the direct acts or omissions of the factory field service technician, the responsibility for the installation and/or first operation shall be Purchaser's. Evoqua will assume responsibility for workmen's compensation coverage of Evoqua employees only and will provide umbrella liability coverage during installation. All other insurance coverage and necessary materials to accomplish installation shall be provided by Purchaser.

**QUOTATION SUBMITTED BY EVOQUA WATER TECHNOLOGIES LLC:**

Signature below indicates acceptance of this quotation, including the Standard Terms of Sale attached hereto.

Accepted by Buyer:

Acknowledged by Seller:

\_\_\_\_\_  
Company

Evoqua Water Technologies LLC

\_\_\_\_\_  
Company

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_

\_\_\_\_\_

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Title

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Title

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Signature

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Signature

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Date

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Date

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Billing Address

Evoqua Water Technologies, LLC  
N19 W23993 Ridgeview Pkwy, Suite 200  
Waukesha, WI 5318

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Address

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Shipping Address

## CERTIFICATE OF FUNDS

In the Matter of: Evoqua- Emergency Dystor Replacement

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #613-5430-54090

By: \_\_\_\_\_



Michelle Reeder

Finance Director

Dated: 2/8/2023

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RATIFYING THE EMERGENCY PURCHASE OF A NEW DYSTOR MEMBRANE UNIT FOR THE SECONDARY DIGESTER #3 BUILDING AT THE WASTEWATER TREATMENT PLANT (WWTP); AUTHORIZING AND DIRECTING THE CITY MANAGER AND/OR THE FINANCE DIRECTOR TO EXPEND FUNDS FOR THE PURCHASE AND INSTALLATION TO EVOQUA WATER TECHNOLOGIES, LLC OF HOLLAND, MICHIGAN, IN THE AMOUNT OF \$558,000.00; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, upon inspection, it was discovered that the sixty (60) foot domed cover of the Dystor unit at the Wastewater Treatment Plant has leaks in the outer seams that are in locations that cannot be patched and the unit needs to be replaced; and

**WHEREAS**, the Dystor Membrane Unit, which stores gases generated from the sludge digestion process, was originally installed as part of the Phase II WWTP Expansion Project in 2010 and consists of an outer and inner membrane; and

**WHEREAS**, the City Manager notified this City Commission at their September 12, 2022, regularly scheduled meeting of the emergency nature of the situation and a motion was passed approving the emergency purchase of a replacement Dystor Membrane Unit for the Secondary Digester #3 Building at the Wastewater Treatment Plant; and

**WHEREAS**, pursuant to Section 24 of the City Charter the emergency nature of the work obviates the necessity to comply with formal competitive bidding and advertising; and

**WHEREAS**, the total cost for the new Dystor Membrane Unit is \$558,000.00 and will be paid with Sewer Funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to ratify the purchase of the Dystor Membrane Unit, which has already been ordered, and to allow the installation work to begin as soon as possible once the unit is received; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission approves and ratifies the emergency purchase of a new Dystor Membrane Unit for the Secondary Digester #3 Building at the Wastewater Treatment Plant (WWTP) and authorizes and directs the City Manager and/or Finance Director to expend funds for the purchase and installation to EVOQUA Water Technologies, LLC, of Holland, Michigan, at an amount **not to exceed** Five Hundred Fifty-Eight Thousand and 00/100 Dollars (\$558,000.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

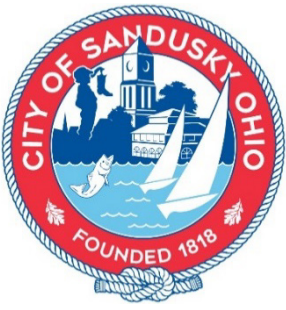
\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST:

\_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023





## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.cityofsandusky.com](http://www.cityofsandusky.com)

To: John Orzech, Interim City Manager

From: Jane E. Cullen, P.E.

Date: January 27, 2023

Subject: **Commission Agenda Item – Permission to Bid the Follett Street and Mills Street Elevated Water Tank Inspection & THM Removal System Project**

**ITEM FOR CONSIDERATION:** Requesting legislation authorizing the City to accept bids for the Follett Street and Mills Street Elevated Water Tank Inspection & THM Removal System Project

**BACKGROUND INFORMATION:** Last year Big Island Waterworks (BIWW) staff had preliminary inspections completed on the THM (trihalomethanes) removal systems at both elevated water tanks. THMs occur as a disinfection byproduct of water treatment and levels are regulated by the EPA. Routine inspections are essential to ensure proper operation of the equipment. Each system consists of a 7.5 hp pump, control panel, 3" conduit piping, a spray manifold with nozzles to form a water mist, ventilation unit and an active mixer. Based on the inspection reports, the 3" conduit, manifold systems and nozzles should be replaced along with adding an additional ventilation system to vent the mist from the nozzles. The current conduit and manifold system is made of carbon steel, which is corroding resulting in plugged spray nozzles. The recommendation is to replace this system with non-corroding stainless steel and larger sized nozzles. Both elevated water tanks are due for their five year interior and exterior inspection as required by the Ohio EPA. The last EPA inspections were done in 2018. Therefore, included in this project will be the required inspections that are due in 2023 to save costs over hiring a separate independent company for that work.

**BUDGETARY INFORMATION:** The estimated cost of the project, including construction, engineering and inspection is \$250,000 and will be paid with Water Funds.

**ACTION REQUESTED:** It is recommended that the proposed Follett Street and Mills Street Elevated Water Tank Inspection & THM Removal System Project be approved and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to bid the project, receive competitive prices and award a contract as soon as possible to complete the required EPA inspections and restore full functionality of the THM removal system.

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Aaron M. Klein  
Director of Public Works

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DECLARING THE NECESSITY FOR THE CITY TO PROCEED WITH THE PROPOSED FOLLETT STREET AND MILLS STREET ELEVATED WATER TANK INSPECTION & THM REMOVAL SYSTEM PROJECT; APPROVING THE SPECIFICATIONS AND ENGINEER'S ESTIMATE OF COST THEREOF; AND DIRECTING THE CITY MANAGER TO ADVERTISE FOR AND RECEIVE BIDS IN RELATION THERETO; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, last year Big Island Waterworks (BIWW) Staff had preliminary inspections completed on the THM (trihalomethanes) removal systems at both the Follett Street and Mills Street elevated water tanks as routine inspections are essential to ensure proper operation of the equipment; and

**WHEREAS**, each system consists of a 7.5 hp pump, control panel, 3" conduit piping, a spray manifold with nozzles to form a water mist, ventilation unit and an active mixer and THMs occur as a disinfection byproduct of water treatment and levels are regulated by the Environmental Protection Agency (EPA); and

**WHEREAS**, based on the inspection reports, the Follett Street and Mills Street Elevated Water Tank Inspection & THM Removal System Project will involve the replacement of the conduit and manifold systems with non-corroding stainless steel, using larger sized nozzles, adding an additional ventilation system to vent the mist from the nozzles, and will also include a five-year interior and exterior inspection on both tanks as required by the Ohio EPA; and

**WHEREAS**, the estimated cost of the project, including construction, engineering and inspection is \$250,000 and will paid with Water Funds; and

**WHEREAS**, this Resolution should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to bid the project, receive competitive prices and award a contract as soon as possible to complete the required EPA inspections and restore full functionality of the THM removal system; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The specifications and estimates of cost as prepared by the Director of Public Works and submitted to this City Commission, and which are now on file in the offices of the Director of Public Works and the Clerk of the City Commission, for the proposed Follett Street and Mills Street Elevated Water Tank

Inspection & THM Removal System Project be and the same hereby are approved by this City Commission.

Section 2. This City Commission hereby declares it necessary to proceed with the proposed Follett Street and Mills Street Elevated Water Tank Inspection & THM Removal System Project, at the earliest possible time.

Section 3. The City Manager is authorized and directed to advertise for and to receive bids in relation to the proposed Follett Street and Mills Street Elevated Water Tank Inspection & THM Removal System Project, as required by law.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF COMMUNITY DEVELOPMENT

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: John Orzech, Interim City Manager

From: Jonathan Holody, Community Development Director

Date: February 6, 2023

**Subject: Commission Agenda Item – Chapter Section 1341.32 Transient rental property regulation ordinance update**

**ITEM FOR CONSIDERATION:** Legislation to adopt an updated section 1341.32 Transient rental property regulation into Part Thirteen – Building Code, Title Five – Additional Local Provisions, Chapter 1341 Environmental Health Housing Code of the Sandusky Codified Ordinances.

**BACKGROUND INFORMATION:** The city received a decision from the Sixth District Court of Appeals regarding a longstanding transient rental dispute that sought to invalidate the City's transient rental regulations. The Sixth District Court of Appeals determined that Ordinance No. 17-088 was invalidated because the City did not follow all the necessary procedural requirements for passing a zoning ordinance. Based on their reasoning, the court invalidated the entirety of Ordinance 17-088 but did not declare it unconstitutional.

In order to ensure existing transient rental operators remain in compliance, have the ability to operate under their previously obtained permit, or seek a renewal of their permit in 2023, the city must pass legislation to reinstate rules and regulations for transient rental property regulation. The proposed ordinance is identical to the language contained in the prior ordinance with the some minor changes and the following language added to address a longstanding issue for owners:

- (e) Transfer of Transient Rental Permit.
- (1) The Housing Manager may approve the transfer of a transient rental permit for a dwelling from the prior owner of a dwelling to the purchaser of the dwelling following a request from the purchaser to do so, which request shall not unreasonably be denied.
  - (2) If the transfer is approved, the purchaser must register as required under section 1341(d)(2) but no additional fee is required for that calendar year.

Based on findings from several cases in the community, the transfer policy is drafted to best equitably serve the community's need. Per the previous ordinance, if an owner or operator sells a property the new owner must pay another \$500 for the same transient rental in order to use the rental for the rest of

that calendar year. This has caused some issues with purchasers (especially those transactions that are late in the year) paying an additional \$500 for a few weeks/months of usage. The proposed change would still require the new owner to register but would not require an additional \$500 fee for a property that was previously registered and paid the \$500 fee for that year. All transient rental permits must be renewed annually to operate in compliance, and this provision would not change that requirement or process.

**BUDGETARY INFORMATION:** Adoption of the ordinance will enable staff to collect new and renewal fees for 2023 transient rental permits.

**ACTION REQUESTED:** It is the proposed ordinance be approved and passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to immediately return to transient rental property regulation protocols in the city.

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Jonathan Holody, Community Development Director

I concur with this recommendation:

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John Orzech  
Interim City Manager

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Brendan Heil  
Law Director

cc: C. Myers, Commission Clerk; M. Reeder, Finance Director; S. Rucker, Housing Manager

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING ORDINANCE 17-088 AMENDING CHAPTER 1341 (ENVIRONMENTAL HEALTH HOUSING CODE), BY THE REPLACEMENT OF FORMER SECTION 1341.32 (TRANSIENT RENTAL PROPERTY REGULATION), OF THE CODIFIED ORDINANCES, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the purpose and intent of these amendments is to regulate the health, safety and wellness of the public, including the owners, occupants, and neighboring property owners of properties being utilized for transient occupancy within the City; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to reinstitute the City's transient rental regulations invalidated by the recent Sixth District Court of Appeals Decision in *Judith A. Kinzel, Trustee, et al. v. Douglas Ebner, et al.* Case No. E-21-0036; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

**NEW LANGUAGE APPEARS IN BOLD PRINT**

**LANGUAGE TO BE STRICKEN APPEARS WITH A STRIKE THROUGH IT**

**LANGUAGE TO REMAIN UNCHANGED APPEARS IN REGULAR PRINT**

Section 1. Part Thirteen (Building Code), Title Five (Additional Local Provisions), Chapter 1341 (Environmental Health Housing Code), of the Codified Ordinances of the City be amended by the replacement of former Section 1341.32 (Transient Rental Property Regulation), which was invalidated by Case No. [], as follows:

**1341.32      TRANSIENT RENTAL PROPERTY REGULATION**

**(a)      Purpose and intent.**

**The purpose and intent of this section is to regulate the health, safety and wellness of the public, including the owners, occupants, and neighboring property owners of properties being utilized for transient occupancy within the City.**

**(b)      Definitions.**

- (1) **“Transient occupancy” means to use, occupy or possess, or the use, occupancy, or possession of a dwelling or other living accommodation for a period of 30 consecutive calendar days or less.**
- (2) **“Transient rental” means the renting, letting, subletting, leasing or subleasing of a dwelling for a period of 30 consecutive calendar days or less.**

**(c) Code Enforcement Division.**

- (1) **The Code Enforcement Division shall maintain a registry of individuals offering transient rentals and maintaining essential records on licensed transient rentals.**
- (2) **Monitor transient rentals for compliance with building codes, health codes, and provisions of this section.**
- (3) **Inspect the interior and exterior of the dwelling to be used as a transient rental upon submission of a transient rental permit application.**
- (4) **Investigate suspected violations of this section.**
- (5) **Refer suspected violations of the fire, health, building, or tax codes, zoning regulations, or other laws regarding transient rentals to the appropriate City department or the appropriate governmental agency.**

**(d) Transient Rental Permit Application.**

- (1) **Each owner of a dwelling being used for transient occupancy must apply to the Code Enforcement Division for an annual permit which expires on December 31<sup>st</sup> of the year the permit is issued, and pay an annual fee of \$500.00 per dwelling annually.**
- (2) **To obtain a permit, the owner of a dwelling intended on being used for transient occupancy must apply for a permit on a form approved by the City Manager, that will include the following:**
  - A. **A certification from the Housing Manager that the dwelling is not subject to outstanding City Code or State law violations;**
  - B. **The name, street address, mailing address, and telephone number of the owner of the dwelling to be used for transient occupancy purposes;**
  - C. **The name, street address, mailing address, and telephone number of the operator of the dwelling to be used for transient occupancy purposes if different than the owner;**
  - D. **The street address of the dwelling to be used for transient occupancy purposes;**
  - E. **A floor plan of the dwelling showing number of bedrooms, points of ingress/egress, basement rooms, points of exits, and locations of smoke alarms, as well**

- as a parking plan;
  - F. Proof of property insurance;
  - G. Proof of payment of all applicable taxes, including real estate taxes, due as of the date of submission of the application; and
  - H. Any other information requested by the City Manager necessary to protect the health, safety, and welfare of the City of Sandusky.
- (3) No transient occupancy permit shall be issued for a dwelling unless the Code Enforcement Division has conducted an internal and external inspection of the dwelling including any dwelling units and determined that:
  - A. The dwelling and any common spaces in the dwelling meet health, fire, and building code standards for the type of dwelling;
  - B. The dwelling meets any other requirements that the Code Enforcement Division deems necessary to ensure the health and safety of visitors during transient occupancy.
- (4) No owner of a dwelling in any Residential Zoned area, except the Residential Business area shall be able to apply for a transient rental permit, unless the City of Sandusky Planning and Zoning Division has determined that the dwelling has been legally provided a legal non-conforming use for transient occupancy or the dwelling is located in a Transient Occupancy Overlay District.
- (6) The permit shall be valid from the date of issuance shall expire on December 31<sup>st</sup> of the year of issuance. If it is found that a dwelling has been used for transient occupancy without a permit, there shall be a one year waiting period from the date of such finding for the owner of the dwelling to become eligible to apply for a transient rental permit.
- (e) Transfer of Transient Rental Permit.
  - (1) The Housing Manager may approve the transfer of a transient rental permit for a dwelling from the prior owner of a dwelling to the purchaser of the dwelling following a request from the purchaser to do so, which request shall not unreasonably be denied.
  - (2) If the transfer is approved, the purchaser must register as required under section 1341.32(d)(2) but no additional registration fee is required for that calendar year.
- (f) Transient rental health and safety regulations.
  - (1) The maximum number of persons who may occupy the



dwelling overnight during a transient occupancy shall be limited to two (2) persons per bedroom, plus three (3) additional persons per dwelling in a dwelling located in a residentially zoned area. The overnight occupancy limit of dwellings located in areas other than residentially zoned areas shall be determined on a case by case basis by the Code Enforcement Division at the time a permit application is submitted.

- (2) Only one open rental agreement per dwelling is permitted at a time for the purposes of transient occupancy.
- (3) The owner of a dwelling being utilized for transient occupancy must maintain a copy of all rental agreements for the dwelling being used for transient occupancy for a period of twenty-four (24) months, and provides said agreements to City for inspection upon request.
- (4) The dwelling being utilized for transient occupancy must have an off-street parking plan approved by the Planning and Zoning Division.
- (5) No transient rental dwelling shall allow overnight on-street parking, unless approved prior to the issuance of a permit by the Planning and Zoning Division.
- (6) A property being utilized as a transient rental shall visibly display a transient occupancy permit outside the main entry of the property.
- (7) The registered owner or operator for the transient rental shall be within a one-hour arrival of the transient rental unit while the transient rental is being occupied.
- (8) No person shall sell food to a transient guest while the guest uses the property unless such person has obtained food safety permits.
- (9) No person shall sell or provide alcoholic beverages to any transient guest while the guest uses the dwelling unless such person obtains an appropriate license from the State of Ohio.
- (10) No person shall be allowed to transient rent a dwelling that is in violation of the City of Sandusky's health code, building code, or zoning regulations.
- (11) No person shall display a transient occupancy permit or allow transient occupancy of a dwelling that has had its permit suspended, revoked, or denied.
- (12) No person shall allow a dwelling to be listed or advertised as a transient rental prior to obtaining a valid transient

occupancy permit.

- (13) No person shall allow a dwelling to be listed or advertised as a transient rental if the transient occupancy permit has been suspended, revoked, or denied.**

**(g) Enforcement procedures.**

- (1) Upon the filing of a complaint that a person has engaged in a transient rental in violation of this section, the Code Enforcement Division shall take all steps necessary to determine the validity of the complaint.**
- (2) The Code Enforcement Division shall independently determine whether a person has offered transient rental in violation of this section.**
- (3) If while investigating transient rental activity the Code Enforcement officer discovers suspected violations of the fire, health, building, or tax codes, or the zoning regulations, or other laws, the Code Enforcement officer shall report such suspected violation to the relevant City department or governmental agency.**
- (4) To determine if there is a violation of this section, the Code Enforcement Division shall initiate an investigation of the subject property and/or request any pertinent information from a person offering transient rental, including records required by this section, leases, or other documents.**
- (5) If the Code Enforcement Division determines that a person has violated any provision of this section, the Code Enforcement Division shall issue a cease and desist order and shall assess the appropriate penalty and fines for said violation.**
- (6) The Code Enforcement Division's ability to assess penalties and fines for violations of this section, are separate and apart from any civil or criminal violations, penalties, and fines able to be assessed by any other City department, including, but not limited to, the City of Sandusky Fire Department, the City of Sandusky Police Department, and the City of Sandusky Planning and Zoning Division.**

**(h) Penalties and fines.**

- (1) The Code Enforcement Division shall assess the owner for violations of this section as follows:**
  - A. First Violation -- \$500 fine;**
  - B. Second Violation -- \$1,000 fine; and**
  - C. Third Violation -- \$2,500 fine.**

- (2) Multiple violations that arise out of the same set of facts or circumstances, or occur on the same date, may constitute one violation or multiple violations based upon the severity of the violations as determined by the City of Sandusky Code Enforcement Division.**
  - (3) Each day the dwelling owner violates this section shall constitute a separate violation.**
  - (4) The City has the right to revoke the owner's right to use his or her dwelling for transient occupancy after three violations of this section within a period of 12-months. If the City revokes the owner's right to use his or her dwelling for transient occupancy, such revocation shall be for a period of no less than twelve (12) months from the date of the third violation.**
- (i) Other Remedies.**
- (1) Civil Action. The following parties may seek also injunctive or other relief to prevent or remedy violations of this section:**

    - A. The Law Director for the City of Sandusky;**
    - B. A neighborhood association whose borders include the property; and**
    - C. Any neighboring property owner or occupant who would be specially damaged by any such violation.**

**The prevailing party in such an action shall be entitled to recover reasonable costs, attorney's fees, and statutory damages.**
  - (2) Criminal Action. Any person who violates any provision of this section may be guilty of a misdemeanor of the third degree. Any person convicted of a misdemeanor hereunder shall be punishable by a maximum fine of \$500 for each dwelling offered for transient occupancy in violation of this section, or by imprisonment for a period not exceeding 60 days, or both.**
  - (3) Additional Remedies. Any person convicted of violating any provision of this section in a criminal case or found to be in violation of this section in a civil case shall remit all illegally obtained revenue to the City of Sandusky.**

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and

such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

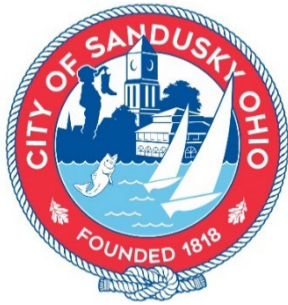
Section 4. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST:

\_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## DEPARTMENT OF COMMUNITY DEVELOPMENT

240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5707  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

**To:** John Orzech, Interim City Manager

**From:** Jonathan Holody, Director of Community Development

**Date:** February 1, 2023

**Subject:** Commission Agenda Item – ED Fund Grant Agreement – EPH Sandusky, LLC

**Items for Consideration:** Legislation approving a Grant Agreement with EPH Sandusky, LLC for the purposes of furthering economic development efforts in the City.

**Background Information:** In December 2022, EPH Sandusky, LLC purchased the former Mecca Motel at 2227 Cleveland Road, Sandusky, Ohio. The company plans to renovate the property into the Explorer Motel, a boutique 25-room motel catering to active travelers.

The Mecca Motel featured 28 rooms. The property had suffered from deterioration and poor reviews in recent years.

EPH Sandusky, LLC plans to conduct a full renovation of the guest rooms, redesign the outdoor pool, construct new outdoor amenities and install a new food truck park. The property acquisition costs \$690,000, and the renovations are estimated to cost \$1,382,000 for a total estimated project cost of \$2,072,000.

A grant in the amount of \$200,000 was recommended for approval by the Economic Development Incentive Committee at its meeting on January 10, 2023.

**Budgetary Information:** The City will be responsible for providing a total of \$200,000 in grant proceeds from the Economic Development Capital Projects Fund on a reimbursable basis at the completion of the project. The project will have an ongoing positive impact on the general fund due to increased income and property taxes.

**Action Requested:** It is requested that the proper legislation be prepared to allow the City to enter into a Grant Agreement with the company. It is further requested that this legislation be passed in accordance with Section 14 of the City Charter in order to immediately approve the Grant Agreement to ensure the timely completion of the project.

I concur with this recommendation:

---

John Orzech  
Interim City Manager

---

Jonathan Holody  
Community Development Director

cc: Brendan Heil, Law Director  
Michelle Reeder, Finance Director  
Cathy Myers, Clerk of the City Commission

## CERTIFICATE OF FUNDS

In the Matter of: EPH Sandusky LLC Economic Development Grant

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account #431-6506-53000, 431-4070-53000

By: \_\_\_\_\_



Michelle Reeder

Finance Director

Dated: 2/8/2023

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND APPROVING A GRANT IN THE AMOUNT OF \$200,000.00 THROUGH THE ECONOMIC DEVELOPMENT FUND PROGRAM TO EPH SANDUSKY, LLC, IN RELATION TO THE PROPERTY LOCATED AT 2227 CLEVELAND ROAD, SANDUSKY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, EPH Sandusky, LLC recently purchased the former Mecca Motel located at 2227 Cleveland Road and plans to renovate the property into the Explorer Motel, a boutique 25-room motel catering to active travelers; and

**WHEREAS**, the project consists of a full renovation of the guest rooms, redesign of the outdoor pool, new outdoor amenities and renovations, and a new food truck park at an estimated cost of \$1,382,000.00, including the property acquisition costs of \$690,000.00, the total estimated project cost is \$2,072,000.00; and

**WHEREAS**, the City has determined that this project pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City and for the health and safety and welfare of its residents, and are necessary to improve the economic and general welfare of people of the City; and

**WHEREAS**, the Economic Development Incentive Committee met on January 10, 2023, and is recommending to approve a grant to EPH Sandusky, LLC, in the amount of \$200,000.00 to assist with project costs; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately approve the Grant Agreement to ensure the timely completion of the project; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission authorizes and directs the City Manager to enter into a Grant Agreement with EPH Sandusky, LLC, for financial assistance through the Economic Development Fund Program for the purpose of furthering economic development, substantially in the same form as Exhibit "A", a copy of which is attached to this Ordinance and is specifically incorporated as if fully

rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. This City Commission authorizes and approves the grant funding to EPH Sandusky, LLC, in an amount **not to exceed** Two Hundred Thousand and 00/100 Dollars (\$200,000.00) from the Economic Development Capital Projects Fund of the City of Sandusky pursuant to and in accordance with the terms of the Grant Agreement.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City's Commission and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023



## GRANT AGREEMENT

This Grant Agreement (the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023 between the CITY OF SANDUSKY, OHIO (the "City"), a municipal corporation and political subdivision duly organized and validly existing under the Constitution, its Charter, and the laws of the State of Ohio, and EPH Sandusky, LLC ("the Company"), an Ohio Limited Liability Company.

### WITNESSETH:

WHEREAS, in December 2022, the Company purchased the former Mecca Motel at 2227 Cleveland Road, Sandusky, Ohio and further identified as Permanent Parcel #57-02305.000 (the "Property"); and

WHEREAS, the Company plans to renovate the property into the Explorer Motel, a boutique 25-room motel catering to active travelers; and

WHEREAS, the building improvements at the Property will consist of the full renovation of the guest rooms, redesign of the outdoor pool, new outdoor amenities and renovations, and a new food truck park at a total cost of \$1,382,000.00 (the "Project"); and

WHEREAS, the Project will increase employment, reuse a currently vacant property and bring a new overnight accommodations to the City of Sandusky; and

WHEREAS, to induce the Project, the City has agreed to provide economic incentive grants to the Company to assist in the payment of a portion of the costs of the Project as further described in Section 1 hereof; and

WHEREAS, the City has determined that this Project pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City and for the health and safety and welfare of its residents, and are necessary to improve the economic and general welfare of people of the City;

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties hereto agree as follows:

### **Section 1. City Grant.**

The City agrees to grant up to \$200,000.00 in the form of an Economic Development Fund grant to the Company (the "City Grant") toward the costs of the Project, which shall be disbursed upon the completion of the Project. This City Grant shall be disbursed from the 2023 Economic Development Capital Projects Fund (the "Fund"). This City Grant will not increase if the applicant chooses to make additional improvements not contemplated in the grant application. The City reserves the right to make adjustments to the awarded grant amount, if recommended by the Economic Development Incentive Committee, for substantive changes to the project scope only. Construction must be done in accordance with and to the reasonable satisfaction of the City, which includes, but is not limited to, compliance with all Planning, Zoning and Building code regulations, and other applicable codes and regulations of the City, including obtaining permits. Furthermore, the Company agrees to display a sign during construction and for at least one (1) year upon completion of the Project noting the City's support; and

The Company shall notify the City promptly following the completion of the Project consistent with this Section and provide the City with any documents it reasonably requests related to Project costs and construction. The City shall then promptly review those documents and inspect the site and let the Company know if it has satisfied the conditions set forth in this Section and, if not, describe what is found to be deficient. In order to receive the City Grant, the Project will need to be completed by December 31, 2023. This date may be extended at the discretion of the City Manager.

The City shall pay the City Grant by check placed in the U.S. regular mail within fourteen (14) days following confirmation of the satisfactory completion of construction to the notice address provided in Section 6 below.

**Section 2. Authority to Sign.**

The Company and the City both represent that this Agreement has been approved by formal action of the duly authorized representatives of both parties.

**Section 3. Assignment or Transfer.**

The Company agrees that this Agreement is not transferable or assignable without the express, written approval of the City.

**Section 4. Choice of Law.**

This Agreement shall be governed and interpreted in accordance with the laws of the State of Ohio and the parties hereto agree that any dispute or other matter arising out of the interpretation or operation of this Agreement shall be determined in a Court of competent jurisdiction located within the State of Ohio and County of Erie.

**Section 5. Binding Agreement.**

This Agreement shall be binding on each of the parties and their respective successors and assigns.

**Section 6. Miscellaneous.**

- (a) **Notice.** Any notice or communication required or permitted to be given under this Agreement by either party to the other shall be deemed sufficiently given if delivered personally or mailed by United States registered or certified mail postage prepaid or by overnight delivery and addressed as follows:

(i) TO THE CITY: City Manager  
c/o Director of Community Development  
City of Sandusky, Ohio  
240 Columbus Avenue  
Sandusky, OH 44870

(ii) TO THE COMPANY: EPH Sandusky, LLC  
P.O. Box 495  
Huron, OH 44839  
Attn: Lisa Brady

Any party may change its address for notice purposes by providing written notice of such change to the other party.

- (b) Amendments. This Agreement may only be amended by written instrument executed by all parties.
- (c) Effect of Agreement. This Agreement is signed by the parties as a final expression of all the terms, covenants and conditions of their agreement and as a complete and exclusive statement of its terms, covenants and conditions and is intended to supersede all prior agreements and understandings concerning the subject matter of this Agreement.
- (d) Counterparts. This Agreement may be signed in several counterparts, each of which shall be an original, but all of which shall constitute but one and the same instrument.

*SIGNATURES EXECUTED ON THE FOLLOWING PAGE*

IN WITNESS WHEREOF the parties hereto, by and through their duly authorized representatives, have executed this Agreement on behalf of the corporate entities identified herein, on the date first written above.

EPH SANDUSKY, LLC  
An Ohio limited liability company

\_\_\_\_\_  
Title: Member

CITY OF SANDUSKY

\_\_\_\_\_  
Title: Interim City Manager

The legal form of the within instrument  
Is hereby approved.

\_\_\_\_\_  
Director of Law  
City of Sandusky

## **CERTIFICATE OF DIRECTOR OF FINANCE**

The undersigned, fiscal officer of the City of Sandusky, Ohio, hereby certifies that the money required to meet the obligations of the City under the foregoing Agreement has been lawfully appropriated by the City Commission of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

---

Michelle Reeder, Finance Director

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RATIFYING, ACCEPTING AND APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANDUSKY, AN OHIO CHARTER MUNICIPAL CORPORATION, AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL #327 THE COLLECTIVE BARGAINING UNIT FOR CERTAIN EMPLOYEES OF THE SANDUSKY FIRE DEPARTMENT, FOR THE PERIOD JANUARY 1, 2022, THROUGH DECEMBER 31, 2024, A COPY OF WHICH IS ATTACHED TO THIS ORDINANCE; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the most recent collective bargaining agreement between the City of Sandusky, Ohio, an Ohio Charter Municipal Corporation, and the International Association of Fire Fighters Local #327, the collective bargaining unit for certain employees of the Sandusky Fire Department, expired on December 31, 2021; and

**WHEREAS**, pursuant to the terms and provisions of Chapter 4117 of the Ohio Revised Code, the City engaged in negotiations with the bargaining unit for the purpose of agreeing upon and entering into a successor agreement to the most recent collective bargaining agreement; and

**WHEREAS**, representatives of the City and the bargaining unit have negotiated a new agreement, a copy of which is attached to this Ordinance, marked Exhibit "A" and specifically incorporated as if fully rewritten herein; and

**WHEREAS**, this agreement is subject to the ratification, acceptance, and approval by this City Commission and it is the recommendation of the representatives of the City that the agreement substantially in the same form as reflected in Exhibit "A" be ratified, accepted, and approved by this City Commission; and

**WHEREAS** this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter to allow the new agreement to be ratified, accepted and approved immediately as the predecessor agreement expired on December 31, 2021; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Fire Department of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists to permit the immediate ratification, acceptance and approval of the collective bargaining agreement with the International Association of Fire Fighters Local #327, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The agreement between the City of Sandusky, Ohio and the International Association of Fire Fighters Local #327, by its terms effective from

January 1, 2022, through December 31, 2024, substantially in the same form as reflected in Exhibit “A” which is specifically incorporated as if fully rewritten herein is ratified, accepted, and approved by this City Commission together with such revisions or additions as are approved by the Law Director as not being substantially adverse to the City and as being consistent with the purpose of this Ordinance as set forth in the preambles hereto.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. The City Manager is authorized and directed to forward certified copies of the foregoing Ordinance, together with copies of the agreement appended hereto to the State of Ohio, Employment Relations Board, and to the Association.

Section 5. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023

***AGREEMENT BETWEEN***  
***CITY OF SANDUSKY, OHIO***

***AND***

***INTERNATIONAL ASSOCIATION  
OF FIREFIGHTERS  
LOCAL 327***



**EFFECTIVE:**

**JANUARY 1, 2022 through DECEMBER 31, 2024**



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2022-2024 AGREEMENT BETWEEN IAFF LOCAL 327 AND CITY OF SANDUSKY

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***ARTICLE 1***

***PURPOSE***

- 1.1 This Agreement, entered into between the City of Sandusky, hereinafter referred to as the "Employer" and the International Association of Fire Fighters Local 327, hereinafter referred to as the "Union," and collectively referred to as the "Parties."
- 1.2 This Agreement has as its purpose the following:
  - A. To achieve and maintain a satisfactory and stabilized employee-employer relationship, to promote improved work performance, and to promote a harmonious relationship between labor and management.
  - B. To provide for the peaceful and equitable adjustment of differences which may arise.
  - C. To attract and retain qualified employees by providing those benefits in this Agreement which ensure the safety and economic welfare of the employee, while considering the financial resources of the Employer.
  - D. To assure the effectiveness of service by providing an opportunity for employees to meet with the Employer, either individually or through their representatives to exchange views and opinions on policies and procedures effecting the conditions of their employment, subject to the Sandusky City Charter, State Law, Federal law, Constitution of the State of Ohio, and the United States of America.
  - E. To ensure the right of every employee to fair and impartial treatment.
  - F. To provide an opportunity for the Union and the Employer to negotiate as to wages, benefits, terms and conditions of employment. This Agreement pertains to employees within the bargaining unit defined herein.

**ARTICLE 2**

**UNION RECOGNITION**

- 2.1 The Employer recognizes the Union as the sole and exclusive representative for the purpose of negotiating wages, benefits and terms and conditions of employment for those employees of the Fire Department in the bargaining unit. Wherever used in this Agreement, the term “bargaining unit” shall be deemed to include those individuals employed full-time and holding the following classifications:

BATTALION CHIEF  
FIRE CAPTAIN  
FIRE LIEUTENANT  
FIRE MARSHAL  
FIRE FIGHTER

- 2.2 All positions and classifications not specifically established herein as being included in the bargaining unit shall be excluded from the bargaining unit.
- 2.3 Definition of the Senior Battalion Chief shall be the person with the most time in grade.
- 2.4 When the Employer intends to create a new position within the bargaining unit, the parties shall meet to negotiate the wages, hours and terms and conditions of employment for that position. Any new position shall be posted for thirty (30) days to allow employees to apply for the vacancy.

**ARTICLE 3**

**UNION SECURITY**

- 3.1 The Employer and the Union agree that membership in the Union is available to all employees occupying classifications, that have been determined by this Agreement to be within the bargaining unit, upon the employee's successful completion of his/her probation period, not to exceed one year.
- 3.2 The Employer agrees to deduct regular Union membership dues, fees and assessments each pay of any employee eligible for membership in the bargaining unit upon receiving written authorization signed individually and voluntarily by the employee. The signed payroll deduction form (See form at the end of this Article) must be presented to the Employer by the employee or by the Union. Upon receipt of the proper authorization, the Employer will request the Finance Director to deduct Union dues, fees and assessments from the pay period in which the authorization was received by the Employer, and in which Union dues are deducted.
- 3.3 It is specifically agreed that the Employer assumes no obligation, financial or otherwise, arising out of provisions of the Article regarding the deduction of Union dues, fees and assessments, and the Union hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions or proceedings by any employee arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.
- 3.4 The Employer shall be relieved from making such individual "check off" deductions upon:
- (a) termination of employment,
  - (b) transfer to another job other than one covered by the bargaining unit,
  - (c) layoff from work,
  - (d) an agreed unpaid leave of absence, or
  - (e) revocations of the check off authorization in accordance with the terms of this agreement or applicable law.
- 3.5 The Employer shall not be obligated to make deductions from any Employee who, during any month involved, shall have failed to receive sufficient wages to equal the amount deductible for dues, fees, and assessments.
- 3.6 It is agreed that neither the employees nor the Union shall have a claim against the Employer for errors in the processing of deductions unless a claim of error is made to the Employer in writing within sixty (60) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that deductions for Union dues, fees and assessments will normally be made by deducting the proper amount, provided the deduction does not exceed a total of two (2) months of regular dues from the pay of any Union member.
- 3.7 The rate at which dues, fees and assessments are to be deducted shall be certified to the payroll clerk by the Secretary-Treasurer of the Union during January of each year. One (1) month advance notice must be given to the payroll clerk prior to making any changes in an individual's dues, fees and assessments deduction.
- 3.8 The Employer acknowledges the terms of membership in the Union and the withdrawal procedures are determined by the Union. Each eligible employee's written authorization for dues, fees and assessment deduction shall be honored by the Employer for the duration of this

2022-2024 AGREEMENT BETWEEN IAFF LOCAL 327 AND CITY OF SANDUSKY

Agreement, unless the eligible employee certifies in writing by certified mail to the Employer and the Union that the check off authorization has been revoked and withdrawals from membership as required by the Union's Constitution and By-Laws. If an employee notifies the Employer he/she wishes to revoke his/her membership, the Employer will direct the employee to the Union. Dues will cease for that employee effective the pay period following the pay period in which the written deduction revocation was received by the Employer and the Union, and the Union has confirmed the employee's withdrawal has been completed as required by the Union's Constitution and By-Laws.

All dues, fees and assessment deductions for any month in which Union members individually or collectively engage in a work slowdown, strike, walkout, or any concerted effort to interfere with public service, as defined by the Ohio Revised Code §4117, may be cancelled at the Employer's option upon written notice by certified mail to the Union.

**Sandusky Fire Fighters Union  
IAFF Local 327**



P.O. Box 412  
Sandusky, Ohio 44871

**Union Dues Deduction**

The Employer agrees to deduct union membership, initiation fee, assessments, and once each month, dues from the pay of those employees who individually have and shall request in writing that such deduction be made. The amounts to be deducted shall be certified to the Employer by the Treasurer of the Union, and the aggregate deductions of all employees shall be remitted together, with an itemized statement, to the Treasurer by the Employer for the current month, after such deductions are made.

The City of Sandusky shall recognize the following as the authorization for payroll deduction of Union dues for members of Sandusky Fire Fighters IAFF Local 327, International Association of Fire Fighters, AFL-CIO.

**Authorization for Payroll Deduction of Union Dues**

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Employee Name

Employee Address

Effective immediately, I hereby authorize the City of Sandusky to deduct from my earnings each month, union dues in the amount certified by Sandusky Fire Fighters IAFF Local 327, International Association of Fire Fighters, AFL-CIO. Dues deducted shall be remitted to the Treasurer of Local 327. This authorization shall terminate 30 days after I notify the department head in writing to cancel it, or upon termination of employment.

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Employee Signature

Date

**ARTICLE 4**

**MANAGEMENT RIGHTS**

- 4.1 The Union shall recognize the right and authority of the Employer to administer the business of the City of Sandusky and the Fire Department and in addition to other functions and responsibilities which are required by law, the Union shall recognize that the Employer has and will retain the full right and responsibility to direct the operations of the City of Sandusky and the Fire Department, to implement reasonable rules and regulations and to otherwise exercise the prerogatives of management, and more particularly, including but not limited to, the following:
- A. To manage and direct its employees, including the right to select, hire, promote, transfer, assign, evaluate, layoff, recall, reprimand, suspend, discharge or discipline for just cause, and to maintain order among employees;
  - B. To manage and to determine the location, type and number of physical facilities, equipment and the work to be performed on the condition that the Employer take such steps as are reasonably necessary, and which are within its ability to reasonably implement to provide for the safety of employees in the discharge of their duties, and to afford them equipment and material adequate to permit them to complete the same,
  - C. To determine the Employer's goals, objectives, programs, and services, and to utilize personnel in a manner designed to effectively meet these purposes;
  - D. To determine the size and composition of the work force and the Employer's organizational structure, including the right to relieve employees from duty due to lack of work or lack of funds;
  - E. To determine the hours of work, work schedules and to establish the necessary and reasonable work rules for all employees, unless otherwise specified in this agreement;
  - F. To determine when a job vacancy exists, the duties to be included in all job classifications, and the standards of quality and performance to be maintained;
  - G. To maintain the security of records and other pertinent information pursuant to applicable laws.



**ARTICLE 5**

***PLEDGE AGAINST DISCRIMINATION and COERCION***

- 5.1 The provisions of this Agreement and all rules and regulations shall be applied equally to all employees in the bargaining unit without unlawful discrimination as to age, sex, marital status, sexual orientation, gender identity or expression, race, color, creed, national origin, political affiliation and involvement or noninvolvement in the Union, to the extent required by applicable Federal and State statutes and regulations.
- 5.2 All references to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.
- 5.3 The Employer agrees not to interfere with the rights of employees to become members of the Union, and there shall be no unlawful discrimination, interference, restraint, or coercion by the Employer or any Employer representative against any employee because of Union membership.
- 5.4 The Union recognizes its responsibility as a bargaining agent and agrees to equally represent all employees in the bargaining unit without unlawful discrimination, interference, restraint, or coercion.
- 5.5 The Union agrees that it will not interfere with the rights of employees to not become members of the Union, and there shall be no unlawful discrimination, interference, restraint, or coercion by the Union or its representatives against any employee exercising the right to abstain from membership in the Union or involvement in Union activities.

***ARTICLE 6***

***PRINTING and SUPPLYING AGREEMENT COPIES***

- 6.1 The Employer will make available electronic copies of the contract and email a copy to all members at their City email address. Additionally, eighteen (18) hard copies of the Agreement will be supplied to the Union by the Employer.

**ARTICLE 7**

**UNION REPRESENTATION**

- 7.1 Staff representatives will be recognized by the Employer as Union representatives in accordance with this Agreement and upon receipt of a letter so identifying them and signed by the President of IAFF Local 327 or his/her designee.
- 7.2 Union representatives shall be responsible for processing grievances and, on request, for representing employees in conferences or inquiries which could reasonably lead to disciplinary action. Each calendar quarter, the Employer shall provide the Union a summary list of all disciplinary action concerning bargaining unit employees.
- 7.3 The Union shall provide to the Employer an official roster of its officers and shift representatives, which is to be kept current at all times and shall include the following:
1. Name
  2. Address
  3. Telephone number
  4. Immediate supervisor and
  5. Union office held
- The Union President and Vice President, as well as three (3) bargaining unit employees may be designated as shift representatives, in accordance with Union procedures.
- 7.4 The investigation and writing of grievances shall be done off duty or while on duty during non-work time. At steps 2, 3 and 4 of the grievance procedure, a written grievance can be filed at any time, within the stated time limits, with the Shift Commander, Chief or City Manager, respectively, by the Union Shift Representative, Vice President or President.
- 7.5 Rules governing the activity of the Union Representatives are as follows:
1. The Union agrees that no official of the Union (employee or non-employee) shall interfere, interrupt or disrupt the normal work duties of other employees. The Union further agrees not to conduct Union business while on duty except during non-work time.
  2. The Union shall not conduct Union activities in any work area without notifying the supervisor in charge of that area the nature of the Union activity.
  3. The Union official, upon being advised that he/she is in violation of this Agreement, shall cease union activities immediately upon the request of the supervisor of the area in which union activity is to be conducted or upon request of the president's or representative's immediate supervisor, or the Shift Commander or Fire Chief.
  4. If it is determined that the Union President or Representative are habitually abusing the rules of this Section, they shall be subject to disciplinary action.
- 7.6 The Employer agrees that not more than three (3) non-employee officers or representatives of the Union shall be admitted to the Employer's facilities and sites during working hours. With advance notice to the Employer, the non-employee officers or representatives' limitation may be expressly waived by the Employer. Such visitation shall be for the purpose of processing

grievances or to attend other meetings permitted herein. Such activities shall not interfere with the normal work duties of employees, except to the extent authorized in advance by the Employer.

- 7.7 The President of IAFF Local 327 and/or his/her designee may be allowed time off with pay to perform business for IAFF Local 327 as long as, at the time the request is made, there is sufficient departmental minimum manning available for the date requested (See Section 7.8), as defined hereunder:
1. Representation of a bargaining unit member at any step of the grievance procedure, conference or inquiries.
  2. Attendance at IAFF, OAPFF, AFL-CIO or labor relations seminars or any meeting or seminar the President of IAFF Local 327 or his/her designee deems necessary to attend.
- 7.8 The President or his/her designee shall perform such IAFF business with proper regard for the operational needs of the Employer not to exceed 168 hours per calendar year. Forty-eight (48) of these hours will be guaranteed time off, regardless of staffing levels for the time being requested. For the remaining one hundred twenty hours (120), requested time off to conduct Union business, will be approved provided there is adequate staffing as of the day the request is made. The President or his/her designee shall complete an IAFF Business Register (See end of this Article) prior to leaving on IAFF business. The aforementioned form shall be obtained from and returned to the appropriate Shift Commander on duty.
- 7.9 Duty-time spent in IAFF Business shall be compensated at the applicable straight time rate of pay and there shall be no overtime compensation for time spent on IAFF business which extends beyond the employee's regularly scheduled work day or work week.
- 7.10 Whenever a firefighter, who is a sworn member of a fire department in Erie County, Ohio is killed in the line of duty, one (1) on duty member of the Union, IAFF Local 327 shall be given time off with pay to attend the funeral. Such representative shall be appointed by the president of IAFF Local 327.
- 7.11 The Employer agrees that the central fire station will be available for purposes of conducting union meetings. The use of meeting rooms will be scheduled in accordance with the scheduling policy for utilization of the facility.
- 7.12 The Employer shall inform a bargaining unit member within twenty-four (24) hours of a public records request to review that employee's personnel file.

## IAFF Local 327 - Business Register



**Date:** \_\_\_\_\_

**Name (President or Designee):** \_\_\_\_\_

**Date & Time of Request:** \_\_\_\_\_

**Nature of Business:**

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**Scheduled Shift Strength:** \_\_\_\_\_

**Employee Signature:** \_\_\_\_\_

**Union President Signature:** \_\_\_\_\_

**Shift Commander Signature:** \_\_\_\_\_

**Fire Chief Signature:** \_\_\_\_\_

**Remarks:**

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**ARTICLE 8**

***LABOR/MANAGEMENT MEETINGS***

- 8.1 In the interest of sound labor/management relations, unless mutually agreed otherwise, as needed at a mutually agreeable day and time, the Fire Chief and/or his/her designee and the City Manager and/or his/her designee shall meet with not more than three (3) representatives of the Union to discuss pending problems and to promote a more harmonious labor/management relationship.
- 8.2 An agenda will be furnished by both parties to the other at least five (5) working days in advance of the scheduled meetings with a list of the matters to be taken up in the meeting, and the names of those Union Representatives who will be attending. The purpose of such meeting shall be to:
- A. Discuss the administration of this Agreement;
  - B. Notify the Union of changes made by the Employer, which affect bargaining unit members of the Union;
  - C. Discuss grievances which have not processed beyond the final step of the Grievance Procedure, when such discussions are mutually agreed to by the parties;
  - D. Disseminate general information of interest to the parties;
  - E. Discuss ways to increase productivity and improve efficiency;
  - F. Consider and discuss health and safety matters relating to employees.
- 8.3 It is further agreed that if special labor/management meetings have been requested and mutually agreed upon, they shall be convened as soon as feasible.
- 8.4 The Employer and the Union agree to meet in labor/management meetings on a quarterly basis to discuss matters of concern, including but not limited to the items set forth in Section 8.2.

**ARTICLE 9**

**BULLETIN BOARDS**

- 9.1 The Employer agrees to provide bulletin board space in an agreed upon area of each of the fire stations for use by the Union. Such space will be clearly marked "IAFF Local 327."
- 9.2 All notices which appear on the bulletin boards shall be posted and removed by the appropriate Union officials during non-work time and shall be related to items of interest to the members. Union notices relating to the following matters may be posted:
1. Newspaper and magazine articles.
  2. Union members' personal notices.
  3. Union recreational and social notices.
  4. Notices of Union meetings.
  5. Notices of Union elections.
  6. Results of Union elections.
  7. Union appointments.
  8. Rulings, policies, reports of committees and officers of the IAFF, OAPFF, AFL-CIO and IAFF Local 327.
  9. Reports of non-political standing committees and independent non-political arms of the Union.
  10. General business notices of the Union.
  11. Comments, as determined by the Union body, regarding a candidate and/or political issue excluding City of Sandusky officials.
- 9.3 All other notices of any kind not covered in the above listing must receive prior approval of the Fire Chief or his/her designated representative. It is also understood that no material may be posted on the Union bulletin boards at any time which contains the following:
1. Personal attacks upon any other employee.
  2. Scandalous, scurrilous, or derogatory attacks upon the administration or City of Sandusky officials.
  3. Attacks on any other employee organization.
  4. Articles of a discriminatory nature.
- 9.4 The Employer shall be permitted to remove any posted material not in conformance with the provisions of this Article. The Employer shall immediately notify the Union when materials are removed, and the subject material shall be returned to the Union immediately.

**ARTICLE 10**

***NO STRIKE/NO LOCKOUT***

- 10.1 Inasmuch, this Agreement provides an avenue for the orderly resolution of grievances, the Employer and IAFF Local 327 recognize their mutual responsibility to provide for uninterrupted services to the citizens of the City of Sandusky. THEREFORE;
- A. IAFF Local 327 agrees that neither it, its officer, agents, representatives, nor members, will authorize, instigate, cause, aid, condone or participate in any strike, work stoppage or any other concerted action, interruption of operations or services of the Employer by its members or other employees of the Employer. When the Employer notifies IAFF Local 327 that any of its members are engaged in any such strike, as outlined above, IAFF Local 327 shall immediately and conspicuously post notice over the signature of an authorized representative of IAFF Local 327 to the effect that a violation is in progress and such notice shall instruct all Employees to immediately return to work. Any Employee failing to return to work after notification by IAFF Local 327 as provided herein, or who participates or promotes such strike activities as previously outlined, may be subject to disciplinary action.
  - B. The Employer agrees that neither it, its officer, agents, or representatives, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of members of IAFF Local 327, unless those members have violated Section A of this Article.
- 10.2 In the event the Ohio Revised Code does change, this Article shall be renegotiated within sixty (60) calendar days to the satisfaction of both parties, pursuant to the collective bargaining laws.



***ARTICLE 11***

***PROBATIONARY PERIOD***

- 11.1 The probationary period and the retention, reduction, or removal of probationary employees shall be governed by the applicable Civil Service laws and rules and shall not be subject to the grievance procedure contained herein.

**ARTICLE 12**

***RULES and REGULATIONS***

- 12.1 Establishment of Rules/Regulations. The Union recognizes that the Employer or his/her designee(s), in order to carry out his/her statutory mandates and goals, has the right to declare reasonable rules and regulations, policies, and directives consistent with the statutory authority to regulate employee conduct and the conduct of the Employer's services and programs.
- 12.2 Application of Rules/Regulations. It is the Employer's intention that rules and regulations, policies, and directives shall be interpreted and applied uniformly to all employees under similar circumstances.
- 12.3 Notice of Rule Revisions/Changes. It is agreed that, where the Employer has determined that written rules and regulations are necessary, the Employer will make them available to the employees. Employees will be notified in advance of any change in the rules and regulations. This shall be done by posting a notice on the bulletin board(s) or through general distribution of a memorandum. Copies of newly established written rules and regulations, or amendments to existing written rules and regulations, will be furnished to, and discussed with, representatives of the Union.
- 12.4 Basic Standards of Work-Related Conduct. This Article shall not be interpreted in any manner to relieve an employee of his/her responsibilities to follow established rules and procedures of good work related conduct, whether or not such rules and procedures have been reduced to writing.
- 12.5 Access to Rules/Regulations. A copy of Fire Department rules and regulations, policies and directives shall be maintained and kept current and shall be available for inspection at each station.
- 12.6 Grievance Procedure Review. The employee shall have the right to grieve any rules and regulations, policies, procedures, or directives that they feel are not consistent with the terms of this Agreement.

**ARTICLE 13**

**MINIMUM QUALIFICATIONS**

- 13.1 The Employer will not remove or discipline any employee in the bargaining unit for failure to meet any minimum qualifications that were not in effect for his/her classification on his/her date of hire, except as otherwise provided below.
- 13.2 This Article does not prohibit the Employer from taking appropriate measures against an employee in the bargaining unit who does not attempt, in good faith, to successfully complete training and/or course work required of employees, or from taking appropriate measures against an employee for failing to perform or being unable to do the duties of his/her classification.
- 13.3 The Employer agrees to extend work privileges for a period not to exceed one hundred twenty (120) days after an employee loses his/her minimum qualification. During the first thirty (30) days of this period, the employee will receive 100% of their normal pay. After the expiration of the initial thirty (30) day period, the employee shall be paid at the rate of 85% of his/her normal rate of pay for up to ninety (90) days. Once the employee has met the minimum qualifications, the employee shall be returned to their normal rate of pay.
- 13.4 For purposes of this contract, the minimum job qualifications for an employee shall be the qualifications as required by federal, state, or local law, including but not limited to, obtaining and continuously maintaining an EMT-Basic or Paramedic license, an Ohio Certified Firefighter II Certification and a valid driver's license that allows for the operation of a motor vehicle for work purposes.

***ARTICLE 14***

***TECHNOLOGICAL CHANGE***

14.1 Whenever practicable, sixty (60) days prior to the introduction or implementation of a substantial technological change affecting employees, the Employer shall, by written notice, post and furnish the Union with full information of planned changes. This notice shall contain relevant information with respect to:

1. The nature and the degree of the change.
2. The date or dates on which the Employer plans to effect the change.
3. The location or locations involved.

Any discussion relative to such notice shall be the proper subject of a labor/management committee if requested by either party. Any such meeting shall be scheduled within fifteen (15) days of such request.

***ARTICLE 15***

***CONTRACTING OUT***

- 15.1 The Employer shall not during the life of this Agreement, contract out work that results in the layoff or reduction of regular hours of any employee in the bargaining unit.

This would not prohibit the Employer from contracting out work or services of a nature and size that they could not be economically performed by employees in the bargaining unit.

- 15.2 Grievances over whether contracting out violates this provision of the Agreement shall be filed at the City Manager level of the grievance procedure.

***ARTICLE 16***

***FACILITY STANDARDS***

- 16.1 During the life of this Agreement the Employer will continue to provide employees with such linens, sleeping quarters, lounge facilities with adequate furniture, common area televisions, kitchen equipment, microwave ovens, eating facilities, air conditioning, lockers, and restroom/shower facilities as are currently provided.
- 16.2 Employee(s) may own, use and maintain union provided internet service, televisions, radios, video recorders, microwave ovens, vending machines and kitchen equipment as currently allowed.
- 16.3 Employee(s) may continue such activities of watching television, listening to radios, receiving and reading newspapers, telephone, and visitation privileges. To own, operate and maintain exercise, sporting and recreation equipment, provided such activities do not interfere with their responsibilities and duties and are approved by the appropriate Shift Commander.

**ARTICLE 17**

***CORRECTIVE ACTION, DISCHARGE or SUSPENSION***

- 17.1 No employee, for disciplinary reasons, shall be reduced in pay or position, suspended, discharged or disciplined without just cause.

Disciplinary action must be initiated within a reasonable time period, provided the Employer can show that it exercised due diligence in investigating the alleged incident.

- 17.2 Discipline

- A. Progressive Discipline/Serious Misconduct Defined. Except in cases of serious misconduct, discipline will be progressive. Serious misconduct shall include the following offenses: drunkenness, dishonesty, using illegal drugs or alcohol while on duty, being under the influence of illegal drugs or alcohol while on duty, the same being verified by a valid sobriety test or medical examination, refusal to submit to such a sobriety test or medical examination shall establish a presumption of being under such influence, or on duty misconduct of a serious nature that results in significant public disrepute to the individual or the department as a whole.

The employer agrees not to discharge or suspend an employee without first offering the employee an opportunity for a hearing. This hearing is to be held between the Employer, the Employee, and the Union representative and/or legal counsel of the Employee's choice. The hearing shall consist of written notice of the charges, a brief explanation of the evidence, and an opportunity for the employee to respond. However, an employee may be suspended immediately without loss of pay for cases involving serious misconduct in work related cases. When an employee is suspended immediately a hearing shall be scheduled within two (2) calendar days and the hearing actually held within fourteen (14) days of the date of the suspension.

- B. Progressive discipline shall take into account the nature of the violation, the employee's record of discipline and the employee's record of performance and conduct.
- C. Appeals from either discharge or suspension must be submitted in the form of a grievance (See Article 30) within ten (10) calendar days from the date of notification to employee at Step 4 of the Grievance Procedure, and a copy to the Union. If appealed, a suspension without pay shall not be put in effect until the final disposition of the grievance.
- D. Should an employee be disciplined for personal, off-duty misconduct, just cause must be related to the employee's job performance, job effectiveness, or misconduct of a serious nature that results in significant public disrepute to the department.

- 17.3 Records of Disciplinary Action. Records of disciplinary action shall cease to have force and effect per the following schedule, providing there has been no intervening disciplinary actions taken during the referenced time period.

<u>TYPE</u>	<u>EFFECTIVE PERIOD</u>	<u>Removal from Active Personnel File</u>
Oral	Twelve (12) months	Twelve (12) months
Written	Twenty-four (24) months	Thirty-six (36) months
Suspension thirty (30) days or less	Three (3) years	Five (5) years
Suspension over thirty (30) days	Permanent	Permanent

- 17.4 The Employer agrees that all disciplinary procedures shall be carried out in private and in a business-like manner.
- 17.5 If there is a transcript of a hearing, the employee or the Union may obtain a copy at his/her/its expense.



**ARTICLE 18**

***DEFINITION OF DEPARTMENTAL SENIORITY***

- 18.1 Departmental seniority shall be determined by continuous service in the Sandusky Fire Department, calculated from the date of employment. Continuous service shall be broken only by resignation, discharge, or retirement. Employees with the same employment date shall be assigned to the seniority list in the order of their ranking eligibility on the Civil Service Eligibility List.
- 18.2 Departmental seniority shall be used in the determination of the following:
1. Order of vacation pick.
  2. Order of Kelly day pick (respective list officer or firefighter).
  3. Easter, Thanksgiving or Christmas Holiday time off pick.
  4. Layoff and recall per Civil Services Rules and Regulations.
  5. The Employer will, annually, provide a current seniority list to the Union. Errors in seniority lists shall be reported in writing to the Fire Chief, who shall cause such lists to be corrected if they are erroneous.

**ARTICLE 19**

***HOURS OF WORK, KELLY DAYS, OVERTIME AND CALL BACK PAY***

**Hours of Work:**

- 19.1 The Sandusky Fire Department Fire Suppression Personnel shall consist of three (3) shifts. Each shift shall work twenty-four (24) hours and the starting time shall be 0700 hours and the ending time shall be 0700 hours the following day. Each shift shall work a fifty-one (51) hour average work week. A work week shall be as follows: twenty-four (24) hours on duty, followed by twenty-four (24) hours off duty, followed by twenty-four (24) hours on duty, followed by twenty-four hours off duty, followed by twenty-four (24) hours on duty, followed by ninety-six (96) hours off duty. Fire Suppression Personnel shall earn one (1) Kelly Day off each five (5) weeks.

**Kelly Days:**

- 19.2 The following rules and guidelines shall be used in choosing Kelly Days:
1. The Shift Commander will oversee the picking of Kelly Days. Trading of Kelly Days shall be left to the discretion of the Shift Commander. The Shift Commander shall ensure that the daily log and time books are correct and accurate.
  2. All Kelly Days must be taken.
  3. All personnel shall pick one Kelly Day per Kelly Day period.
  4. Lists shall be made out in five (5) week increments for choosing Kelly Days.
  5. A list will be shown for each five (5) week increment for both fire fighters and officers. Both groups shall pick by departmental seniority.
  6. There will be two (2) slots dedicated for Kelly Day picks. Vacation Day slots can be filled with a Kelly Day if they are open at the time of choosing Kelly Days. This may then allow four (4) shift personnel to be off for a Kelly Day.
  7. Each Kelly Day list shall be completed and approved by the Shift Commander one (1) month prior to the start of that period. Any employee not picking in a reasonable amount of time will have their Kelly Day assigned by the Shift Commander.
  8. After Kelly Days have been selected and approved by the Shift Commander, they may not be changed by the Employer without the approval of the employee.
  9. Kelly Days will not be picked for Easter, Thanksgiving or Christmas Day.

**Overtime & Call Back:**

- 19.3 The City Manager shall designate those classifications and conditions thereto for which overtime compensation shall apply.
- 19.4 Call in overtime is defined as overtime that attaches to a regular tour of duty. Call in overtime will be paid at the premium rate from the time of reporting to the time the regular tour of duty or scheduled overtime begins.
- 19.5 When an eligible employee is required by the Employer to work hours in excess of his/her normal work day or normal work week as set out in Section 19.1, the employee shall be compensated at one and one-half (1-1/2) times their regular hourly rate of pay.
- 19.6 To determine the regular hourly rate of pay, the monthly rate of pay shall be multiplied by twelve (12) and divided by 2080 for the average forty (40) hour work week; 2,652 for the average fifty-one (51) hour work week; except that for overtime in the division of fire, the regular hourly rate of pay shall be computed as if the average work week consisted of forty (40) hours.
- 19.7 With the approval of the City Manager, an employee may take compensatory time off in lieu of a cash payment for overtime, not to exceed three (3) days per calendar month.
- 19.8 Employees shall receive a minimum of four (4) hours premium pay for emergency call back overtime. Call back overtime is defined as overtime not attached to a regular tour of duty or to scheduled overtime.

***ARTICLE 20***

***PARENTAL LEAVE/FMLA***

- 20.1 The Union and Employer agree to abide by the terms of the Employer's FMLA policy which is attached hereto as Appendix A and which is incorporated herein by reference.

**ARTICLE 21**

**VACATIONS**

- 21.1 Each employee shall be entitled to annual vacation with pay in accordance with the following schedule:

0-1 years of service	0 work weeks
1-5 years of service	2 work weeks
6-11 years of service	3 work weeks
12-17 years of service	4 work weeks
18-24 years of service	5 work weeks
25 or more years of service	6 work weeks

The above scale shall be converted to hours as follows:

<b>Weeks</b>	<b>Suppression</b>	<b>40 Hour Employees</b>
2 weeks	144 hours	80 hours
3 weeks	216 hours	120 hours
4 weeks	288 hours	160 hours
5 weeks	360 hours	200 hours
6 weeks	432 hours	240 hours

Employees with 25 years or more of total service credit in the Fire Service with the State of Ohio or any of its political subdivisions shall receive an additional one (1) work week of vacation leave. Employees, however, shall not exceed six (6) weeks of vacation.

- 21.2 An employee will be eligible for the full amount of vacation leave on the above leave schedule as of January 1 of the year the employee will obtain the applicable years of service.

- 21.3 Vacation selection shall be based on the following:

1. A list for picking vacations shall be established in September for the upcoming calendar year (January through December).
2. There will be two (2) slots dedicated for Vacation Day picks. Kelly Day slots can be filled with a Vacation Day only after Kelly Days have been chosen for that period. This may then allow four (4) shift personnel to be off for a Vacation Day.

An exception to this may be granted to personnel being transferred, on excused sick or injury leave and as granted by the City Manager.

3. Once an individual has picked a vacation it may not be changed without the approval of the Shift Commander.
4. Each individual shall pick his/her vacation in a reasonable amount of time, as determined by the Shift Commander. If an individual fails to do so they will be passed over and the next in seniority shall have the opportunity to pick.
5. Vacation time earned may not be carried over to the next year without the approval of the City Manager.

6. Probationary employees cannot use vacation leave until they have worked one year with the Employer.
  7. The method and guidelines by which vacations are picked will be established and determined through a labor management meeting.
- 21.4 For the members of IAFF Local 327 who work a forty (40) hour shift in the Fire Prevention Bureau (FPB), the following shall constitute the Sandusky Fire Department procedure for scheduling vacations:
- a. With the approval of the Fire Chief, an employee assigned to the FPB may be permitted to use vacation according to the number of hours, days, or weeks for which the employee will qualify during the year being scheduled. With the approval of the Fire Chief, an FPB employee may at any time schedule as few or as many hours, days, or weeks for which he or she qualifies.
  - b. The employee must use all vacation accrued and shall not carry over vacation time from one year to the next.
- 21.5 If an employee leaves the service of the Employer before such vacation is actually earned, the vacation pay shall be deducted from his/her final paycheck and/or from any other payments owed to the employee by the Employer.
- 21.6 In some cases, an employee taking vacation time before it is actually earned may occur. In such cases, the employee will have a negative vacation balance until their anniversary date. If the employee leaves the service of the Employer with a negative balance, the provisions of Section 21.5 shall apply.

**ARTICLE 22**

***SHIFT TRANSFER/SHIFT TRADING***

- 22.1 In the event of a transfer after vacations or Kelly Days have been chosen, the employee will be allowed to utilize the same time period.
- His/her pick shall not affect any previously chosen vacation. If the employee agrees to change his/her vacation, the employee will only be allowed to select any not chosen vacation time, following all applicable guidelines.
- 22.2 Employees of the Fire Department shall be allowed to exchange days or hours of work providing the following criteria are followed:
- a. Firefighters may trade time only with Firefighters; Firefighters who are working out of class (WOC) eligible may trade with any officer provided such trade does not result in a firefighter being the Shift Commander. All officers (Lieutenants, Captains, Shift Commanders) may trade time with each other, provided there is at least one officer on duty at all times.
  - b. Trades are made with the approval of the Shift Commander or shift officer. The trading of vacations shall be made only upon approval of the Shift Commander and may be done throughout the ranks.
- 22.3 The employees agree that when trades are made, they shall not result in overtime or compensatory time and there will be no trading of minimum staffing overtime hours.
- 22.4 Trading time shall not be denied if there is a willing person to assume his/her slot on duty within the effected classification. Verbal trades will be approved if notification is provided to the on-duty Shift Commander prior to 0700 hours.

**ARTICLE 23**

***HOLIDAY, COMPENSATORY and PERSONAL TIME***

**Holiday Time:**

- 23.1 Employees on fifty-one (51) hour work weeks shall be paid an annual allowance of one hundred sixty-eight (168) hours of pay per year in lieu of the following holidays:

New Year's Day  
Martin Luther King Day  
President's Day  
Memorial Day  
Juneteenth  
Independence Day  
Labor Day  
General Election Day\*  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving Day  
Christmas Day  
New Year's Eve (1/2 day)  
Good Friday (1/2 day)  
Christmas Eve

\*General Election Day is defined as the election held on the first Tuesday after the first Monday in each November (See, ORC 3501.01 (A)).

- 23.2 Holiday hours may be taken as compensatory time with approval of the Shift Commander at any time during the calendar year in which it was earned. Any time not used as compensatory time during the year shall be considered as Holiday pay.
- 23.3 Employees who do not complete an entire year of service with the Employer will only be paid for those holidays encompassed by his/her time in the service of the Employer.
- 23.4 Employees on a forty (40) hour work week will observe the above holidays in accordance with the Employer's policies. An employee on duty will be granted two (2) hours off on Easter, Thanksgiving and Christmas to be with their family, subject to recall where operational needs require. In the event the employee is unable to take the time off due to operational reasons, it shall be converted to compensatory time and thereafter be used in accordance with this contract.
- 23.5 Employees in the Bargaining Unit shall receive Holiday Pay in the twenty-fourth (24th) pay period.
- 23.6 If the employee leaves the service of the Employer before such Holiday time is actually earned, the Holiday time shall be deducted from his/her final paycheck and/or from any other payment owed to the employee by the Employer.



**Compensatory and Personal Time:**

23.7 The Shift Commander shall deny the use of compensatory time only in the event the use of such time would reduce manpower below the acceptable minimum manning level for the time period involved.

23.8 In the event of a personal emergency, an employee may take immediate emergency leave that reduces manpower below the minimum manning level. The emergency leave will be deducted from the employee's accrued compensatory time, personal time or holiday time (as chosen by the employee). Employees shall not use more than twenty-four (24) hours of emergency leave in a calendar year.

23.9

Fire personnel shall be entitled to take one personal day per year. A personal day will be considered a normal work day for a 40-hour or 51-hour employee. The following should be considered when scheduling personal time:

- A. Personal time can be scheduled for any time throughout the year, except during Easter, Thanksgiving, or Christmas Day.
- B. Personal time can be scheduled in quarter (0.25) hour increments.
- C. More than one employee can use their personal time on a given day as long as there are openings available when the personal time was scheduled.
- D. Only one employee will be allowed to use their personal time, on a given day, if it creates overtime. In this situation, the personal time must be scheduled five (5) days prior to its use to be approved by the Shift Commander or Officer in Charge. If the personal time is requested with less than five (5) days until its use, it must be approved by the Fire Chief.
- E. Unused personal days will carry over from year to year, but may be cashed out at the then current straight time rate if requested by the employee.

***ARTICLE 24***

***SICK LEAVE***

- 24.1 Each forty (40) hour employee shall earn five (5) hours of sick leave per pay period. Each fifty-one (51) hour employee shall earn seven (7) hours of sick leave per pay period. Pay periods shall be computed at twenty-six (26) pay periods per year.
- 24.2 There shall be no limit on the amount of sick leave an employee may accumulate.

**ARTICLE 25**

***SICK LEAVE USE and CONVERSION***

- 25.1 Sick leave may be granted to an employee upon approval of the Employer for the following reasons:
1. Illness or injury of the employee or a member of his/her family, wherein the employee's presence is required for the care and assistance of the ill/injured family member.
  2. Death of a member of his/her immediate family (sick leave usage to a maximum of five [5] working days).
  3. Medical, dental, or optical examination, treatment, or therapy of the employee or a member of his/her immediate family at a medical facility, which requires the employee's presence and which cannot be scheduled during non-working hours.
  4. If a member of the immediate family is afflicted with a contagious disease or requires the care and attendance of the employee or where, through exposure to a contagious disease, the presence of employee at his/her job would jeopardize the health of others.
- 25.2 Definition of immediate family for the purpose of Sick Leave is as follows: grandparents, mother, father, sister, brother, father-in-law, mother-in-law, spouse, child, stepchild, stepmother, stepfather and foster children.
- 25.3 Sick leave shall be charged in minimum units of one-quarter (1/4) hour. An employee shall be charged for sick leave only for days upon which he/she would otherwise have been scheduled to work; sick leave payment shall not exceed the normal scheduled work day or work week earnings.
- 25.4 Additional leave may be approved by the City Manager under special circumstances to be deducted from sick leave for the purpose of this Article.
- 25.5 After more than forty-eight (48) consecutive work hours of sick leave, employees shall be required to furnish satisfactory proof, including a physician, dentist or chiropractor certificate to the effect that the absence resulted from one of the causes enumerated in this section. Falsification of either a written, signed statement or a physician's certificate shall be cause for disciplinary action.
- 25.6 For reasonable cause, the Employer may require an employee to take an examination to determine the physical or mental capability to perform the duties of his/her position. If found not qualified, the employee may be placed in a job he/she can perform in the Fire Department or on sick or disability leave. The cost of such examination shall be paid by the Employer.
- 25.7 An employee may select at the time of retirement from active service with the Employer and after ten (10) years of service with the Employer, to be paid in cash for the value of his/her accrued but unused sick leave. Such payment shall be based on the employee's rate of pay at the time of retirement and shall be paid only once to an employee and is to be paid upon the following schedule:

For forty (40) hour employees:

2022-2024 AGREEMENT BETWEEN IAFF LOCAL 327 AND CITY OF SANDUSKY

- a. Employees with less than 1000 hours will receive 25% of the accumulated hours upon retirement, after ten (10) years of service with the Employer.
- b. Employees with 1000 hours but less than 1500 hours will receive 30% of the total accumulated hours upon retirement, after ten (10) years of service with the Employer.
- c. Employees with 1500 hours but less than 2200 hours will receive 35% of the total accumulated hours upon retirement, after ten (10) years of service with the Employer.
- d. Employees with more than 2200 hours will receive 45% of the total accumulated hours upon retirement, after ten (10) years of service with the Employer.

The proportional schedule for a fifty-one (51) hour employee is as follows:

- a. Employees with less than 1300 hours will receive 25% of the accumulated hours upon retirement, after ten (10) years of service with the Employer.
- b. Employees with 1300 hours, but less than 1950 hours will receive 30% of the total accumulated hours upon retirement, after ten (10) years of service with the Employer.
- c. Employees with 1950 hours but less than 2860 hours will receive 35% of the total accumulated hours upon retirement, after ten (10) years of service with the Employer.
- d. Employees with more than 2860 hours will receive 45% of the total accumulated hours upon retirement and after ten (10) years of service with the Employer.

Payment for sick leave on this basis shall be considered to eliminate all sick leave credit accrued by the employee. This program shall replace all other sick leave reduction incentives in this contract.

- 25.71 For any employee hired on or after January 1<sup>st</sup>, 2019, said employee may select at the time of retirement from active service with the Employer, after ten (10) years of service with the Employer, to be paid in cash for the value of his/her accrued but unused sick leave. Such payment shall be based on the employee's rate of pay at the time of retirement and shall be paid only once to an employee and is to be paid upon the following tiered schedule.

For forty (40) hour employees:

- a. Employees with less than 1000 hours will receive 25% of the accumulated hours upon retirement, after ten (10) years of service with the Employer.
- b. Employees with 1000 hours but less than 1500 hours will receive 30% of these hours upon retirement, after ten (10) years of service with the Employer.
- c. Employees with 1500 hours but less than 2200 hours will receive 35% of these hours upon retirement, after ten (10) years of service with the Employer.
- d. Employees with more than 2200 hours will receive 45% of these hours upon retirement, after ten (10) years of service with the Employer.

The proportional schedule for a fifty-one (51) hour employee is as follows:

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- b. Employees with 1300 hours but less than 1950 hours will receive 30% of these hours upon retirement, after ten (10) years of service with the Employer.
- c. Employees with 1950 hours but less than 2860 hours will receive 35% of these hours upon retirement, after ten (10) years of service with the Employer.
- d. Employees with more than 2860 hours will receive 45% of these hours upon retirement, after ten (10) years of service with the Employer.

For example, a 51-hour employee with 3500 hours of total accumulated sick time will receive 25% of all hours below 1300 (1299 hours) multiplied by their rate of pay, plus 30% of all hours between 1300 and 1949 hours (649 hours) multiplied by their rate of pay, plus 35% of all hours between 1950 and 2859 hours (909 hours) multiplied by their rate of pay, plus 45% of all hours above 2860 (640 hours) multiplied by their rate of pay. The total from each tier is then added together to determine the final sick time payout.

Payment for sick leave on this basis shall be considered to eliminate all sick leave credit accrued by the employee. This program shall replace all other sick leave reduction incentives in this contract.

- 25.8 The previously accumulated sick leave of an employee who has been separated from public service shall be placed to his/her credit upon his/her reemployment with the Employer provided that such reemployment takes place within ten (10) years of the date on which the employee was last terminated from public service and provided the employee did not request payment for accumulated but unused sick leave by claiming retirement from service.

- 25.9 Sick Leave Donation Program: Members of the bargaining unit may donate sick leave to a fellow employee (union or non-union) within the fire department who is otherwise eligible to accrue and use sick leave under the Personnel Policies or a current Labor Agreement. The intent of the Leave Donation Program is to allow members of the bargaining unit to voluntarily provide assistance to their co-workers who are in critical need of leave due to non-work related serious illness or injury of the employee.

- (A) A member of the bargaining unit may receive donated sick leave, up to the number of hours the member is scheduled to work each pay period or as provided in (A)(4) below, if the member who is to receive donated sick leave:

- (1) Has a serious illness or injury;
- (2) Has no accrued leave;
- (3) Has not been approved to receive other benefits; and
- (4) Has applied for any paid leave, or benefits programs for which the member is eligible. A member who has applied for these programs may use donated sick leave to satisfy any waiting period for such benefits, when applicable.

- (B) Members may donate sick leave if the donating member:

- (1) Voluntarily elects to donate sick leave and does so with the understanding that donated leave will not be returned;

- (2) Donates a minimum of eight hours; and
  - (3) Retains a sick leave balance of at least four hundred (400) hours.
- (C) The Sick Leave Donation Program shall be administered on a pay period by pay period basis. Members using donated sick leave shall be considered in active pay status and shall accrue leave (except holidays) and be entitled to any benefits to which they would otherwise be entitled. Holidays shall be taken hour for hour as they fall and the member shall not be charged sick leave on that day. Leave accrued by a member while using donated sick leave shall be used, if necessary, in the following pay period before additional donated sick leave may be received. Donated sick leave shall not count toward the probationary period of an employee who receives donated sick leave during his or her probationary period. Donated sick leave shall never be converted to a cash benefit.
- (D) Members who wish to donate sick leave shall certify on a form provided by the Employer:
  - (1) The name of the employee for whom the donated sick leave is intended;
  - (2) The number of hours to be donated;
  - (3) That the donating member will have a minimum sick leave balance of four hundred (400) hours; and
  - (4) That the sick leave is donated voluntarily and the member understands that the donated sick leave will not be returned.
- (E) No member shall be forced to donate sick leave. The Employer or the Union may inform other members of the critical need for the donation of sick leave. Neither the Union nor the Employer shall directly solicit sick leave donations from members. The donation shall occur strictly on a voluntary basis.

**ARTICLE 26**

***JOB RELATED DISABILITY LEAVE***

- 26.1 Any employee unable to perform the substantial and material duties of his/her position of employment as a result of a job-related disability condition or injury shall be entitled to a leave of absence at his/her regular rate of pay for the duration of the period which he/she is medically certified as being unable to perform said duties up to a total period not to exceed twelve (12) months for each disability or for each series of related disabilities. During any such period of disability leave, the Employer, in addition to paying the employee's regular salary, will make payment into any and all insurance and/or pension plans as required by this agreement, any amendment hereto, and/or otherwise as a part of the employment relationship between the Employer and the employee. During any such period of disability leave the employee shall continue to earn seniority, pension credit, sick leave or sick leave credit and vacation time. Uniform allowance will be provided.
- 26.2 The Employer has the right to insist on an examination of the employee. The Union and the Employer agree that the examination will be conducted by Corporate Health through Firelands Regional Medical Center or by a physician affiliated with or referred by Corporate Health. This examination shall be at the Employer's expense. The opinion of the Corporate Health physician or the physician referred by Corporate Health shall be used to determine the employee's eligibility for medical leave under this section. The Employer shall have the right to disapprove paid leave and/or require the employee to return to work at any time from service injury leave status.
- 26.3 The Employer shall pay for the cost of all treatment when an employee is exposed to any contagious disease, provided the employee is not covered by hospitalization/medical insurance(s), or Workers' Compensation. It shall be the decision of a licensed physician if such treatment shall be needed. The employee shall have the decision if he/she wants to receive such treatment.

**ARTICLE 27**

**ASSIGNMENT DURING DISABILITY**

- 27.1 An employee injured off-duty may be assigned, and an employee injured on duty will be assigned, less strenuous duties when recommended and verified in writing by a licensed physician, dentist, or chiropractor due to mental or physical health, or disability for a period not to exceed sixty (60) calendar days. An employee who becomes pregnant may be assigned less strenuous duties when recommended and verified in writing by a physician, for a period not to exceed sixty (60) calendar days. Such assignments shall be based upon operational needs and requirements as determined by the Employer and within the Fire Department. Said employee shall receive compensation and benefits, attached to his/her normal assigned position. The Employer reserves the right, in its sole discretion, to extend the period of light/transitional duty set forth herein.
- 27.2 The Employer may require an employee to undergo an examination. The examination will be conducted by Corporate Health through Firelands regional Medical Center or by a physician affiliated with or referred by Corporate Health to determine the physical or mental capability to perform the duties of a position, when reasonable cause exists. The cost of such examination shall be paid by the Employer. The parties agree to be bound by the decision of the physician.

If the employee is unable to perform the duties of his/her classification, the employee may be placed on light-duty assignment or on administrative leave with pay not to exceed thirty (30) calendar days pending the final disposition of the mutually selected physician.



**ARTICLE 28**

***FUNERAL LEAVE***

- 28.1 Funeral leave shall be granted to any employee without loss of pay or accumulated sick leave due to the death of his/her father, mother, spouse, child, stepchild, stepfather, stepmother, or foster child for those work days within a four (4) day period beginning with the day of death or ending with the day of the funeral.

For funerals of relatives set forth in this section requiring travel of 150 miles or more one way, the employee shall be granted leave without loss of pay or accumulated sick leave for those work days within a seven (7) day calendar period beginning with the day of death.

- 28.2 Funeral leave shall be granted to any employee without loss of pay or accumulated sick leave due to the death of his/her brother, sister, grandparent, step grandparent, grandchild, spouse's mother, spouse's father, spouse's grandparent, aunt, uncle, niece or nephew for those work days within a three (3) day period beginning with the day of death or ending with the day of the funeral.
- 28.3 Additional leave may be approved, up to 3 days, when requested, by the Fire Chief under special circumstances to be deducted from sick leave.
- 28.4 Application for funeral leave must be made on forms provided by the Employer and must be approved by the Fire Chief or the City Manager.
- 28.5 The Fire Chief shall have the authority under special circumstances to grant funeral leave not otherwise covered by this Article to an employee without loss of pay or accumulated sick leave. Application for such leave shall be made in accordance with Section 28.4.

***ARTICLE 29***

***COURT LEAVE***

- 29.1 The Employer shall grant leave without pay to an employee for the period of time he/she is required to appear before a court, judge, justice, magistrate, coroner or any other official or official group or commission as a plaintiff, defendant, or witness provided twenty-four (24) hour advance notice is given. The notice requirement may be waived by the Employer in case of an emergency. The employee may request to have the time deducted from his/her compensatory time or holiday time.
- 29.2 The Employer shall grant leave with pay to any employee for the period of time he/she is required to appear before a court, judge, magistrate, coroner, or any other official or official group or commission as a plaintiff, defendant or witness in all work-related cases, except when the employee is bringing legal action against the Employer.
- 29.3 An employee required to appear for jury selection or service shall receive his/her regular daily wage for each day which would have been worked but for such jury participation and shall submit any payment received for such participation to the Employer.
- 29.4 An employee who is required to appear before a judge, magistrate, coroner, police inquiry or any other official or official group or commission in the performance of his/her duties, on a non-scheduled work day, shall be compensated or receive time back at the premium rate.

**ARTICLE 30**

**GRIEVANCE PROCEDURE**

- 30.1 The grievance procedure is a formal mechanism intended to ensure that employee grievances arising from misunderstandings that will inevitably develop in the day to day activities of public service are promptly heard and answered and appropriate action is taken to correct the grievance being presented. Punitive action shall not be taken against any employee for submitting a grievance in good faith.
- 30.2 The term "grievance" shall mean an allegation by a bargaining unit employee that there has been a breach, misinterpretation, or improper application of this Agreement. It is not intended that the grievance procedure be used to affect changes in the Articles of this Agreement nor those matters which are controlled by the City Charter, or by the provisions of the United States or Ohio Constitutions.
- 30.3 A grievance may be brought by any member of the bargaining unit. Where a group of bargaining unit members desire to file a grievance involving a situation affecting each member in the same manner, one member selected by such group, shall process the grievance.
- 30.4 Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect or by allowing the time requirements of any step to lapse without further appeal.
- 30.5 Any grievance not answered by management within the stipulated time limits may be advanced by the employee to the next step of the Grievance procedure. All time limits on grievances may be waived upon mutual consent of the parties. For purposes of counting time under this procedure, calendar days shall be used.

All written grievances shall contain the following:

1. Aggrieved employee's name and signature
2. Aggrieved employee's classification
3. Date grievance was first discussed
4. Date grievance was filed in writing
5. Name of supervisor with whom grievance was discussed
6. Date and time grievance occurred
7. Where grievance occurred
8. Description of incident giving rise to the grievance
9. Articles and Sections of Agreement violated
10. Resolution requested

- 30.6 When an employee covered by this Agreement represents himself/herself in a grievance, no settlement shall be in conflict with any provisions of this Agreement. In discipline cases, an employee may be represented by counsel at Steps 4 and 5 at his/her own expense.
- 30.7 The Employer and the Union will develop, jointly, a Grievance Form (See end of this Article), which shall provide the information as outlined in Article 30.6. The Union shall have the responsibility for the duplication, distribution and accounting of the grievance forms.
- 30.8 If the absence of the Shift Commander or Chief delays the grievance procedure in any manner, which adversely affects the time limits, the grievance shall automatically progress to the next step, provided that the employee has made every effort to file a grievance at such a time to avoid a delay in the grievance process.
- 30.9 The following steps shall be followed in the processing of a grievance in order for an alleged grievance to receive consideration.

Step 1: **Shift Commander:** A grievance must be processed within fourteen (14) calendar days of the date the grievant has knowledge of alleged incident. An oral discussion between the aggrieved employee and his/her supervising Shift Commander is the preliminary step prior to pursuing the formal steps of the grievance procedure. An employee shall be accompanied by and/or represented by a Union representative, of his/her choice, at all steps of the grievance procedure.

Step 2: **Shift Commander:** If the employee and the Shift Commander are unable to resolve the alleged grievance in Step 1, the employee may process the grievance to Step 2. The grievant will present the alleged grievance, in writing within ten (10) calendar days following the Shift Commander's oral response, using the form jointly developed by the parties (See end of this Article). It shall be the responsibility of the Shift Commander to investigate and provide written answers to the grievant within ten (10) calendar days following the day on which the Shift Commander was presented the written grievance.

Step 3: **Fire Chief:** If the employee and the Shift Commander are unable to resolve the grievance at Step 2, the employee may process the grievance to Step 3. The grievant must present the alleged grievance to the Fire Chief within ten (10) calendar days following the reply at Step 2. It shall be the responsibility of the Fire Chief to investigate and provide written answers to the grievant within ten (10) calendar days following the day on which the Fire Chief was presented the grievance.

Step 4: **City Manager:** The employee may process the grievance with the City Manager or his/her designated representative within ten (10) calendar days after receiving the Step 3 reply. The City Manager or his/her designee shall have seven (7) calendar days in which to schedule a meeting, if he/she deems such necessary, with the aggrieved employee. The City Manager or his/her designee shall investigate and attempt to adjust the matter and shall respond to the grievant with a written answer within ten (10) calendar days following the filing of the grievance at Step 4.

Step 5: **Arbitration:** If the grievance is not satisfactorily resolved at Step 4, it may be submitted to Arbitration upon request of the Union in accordance with this Section of this Article.

The Union, based on the facts presented, has the right to decide whether to arbitrate a grievance. The right of the Union to request arbitration over an unadjusted grievance is limited to a period of fourteen (14) calendar days from the date final action was taken on such grievance under Step 4 in the grievance procedure and any grievance not submitted within such period shall be deemed settled on the basis of the last answer given by the Employer.

- A. Upon receipt of a notice to arbitrate, the Employer and the Union shall appoint a spokesperson to represent them at the hearing. The two (2) designated spokespersons will meet and appoint a third disinterested person to act as Arbitrator. In the event the two (2) designated spokespersons cannot agree upon the third person within ten (10) calendar days of the demand for arbitration, either party may request the Federal Mediation and Conciliation Service to submit a list of seven (7) impartial persons qualified to act as Arbitrator in accordance with applicable rules and regulations. The Arbitrator shall limit his/her decision strictly to the interpretation, application, or enforcement of the specific Articles and Sections of this Agreement, and he/she shall be without power and authority to make any decision:
  - 1. Contrary to or inconsistent with or modify or varying in any way the terms of this agreement or applicable laws.
  - 2. Contrary to, inconsistent with, changing, altering, limiting, modifying any practice, written policy rules or regulations presently or in the future established by the Employer so long such practice, rules, policy, or regulations do not conflict with this agreement.
  - 3. Concerning the establishment of wage scales rates on new or changed jobs or changes in any wage rates.
  - 4. Providing agreement for the parties in those cases, where, by their contract, they may have agreed that future negotiations should occur to cover the matter in dispute.
  - 5. Granting any right or relief of any alleged grievance at any time other than the contract period in which such right originated.
- B. The question of arbitrating a grievance may be raised by either party before the arbitration hearing of the grievance, on the grounds that the matter is non-arbitrable or beyond the arbitrator's jurisdiction. The first question to be placed before the Arbitrator will be whether or not the alleged grievance is arbitrable. If the Arbitrator determines the grievance is within the purview of arbitration, the alleged grievance will then be heard on its merits before the same arbitrator on the same day.
- C. The decision of the Arbitrator resulting from an arbitration of grievances, hereunder, shall be in writing and sent to the Employer, the Spokesperson, and the grievant. The decision of the Arbitrator shall be final and binding.
- D. The cost of any services of the Arbitrator, the cost of any proofs produced at the direction of the Arbitrator, the fee of the Arbitrator and rent, if any, for the hearing rooms, shall be borne by the losing party. The expenses of any

nonemployee witness shall be borne, if at all, by the party calling them. The fees of the court recorder shall be paid by the party asking for one; such fees shall be split equally if both parties desire a recorder or request a copy of any transcript. Any bargaining unit member whose attendance is required for such hearing shall not lose pay or benefits to the extent such hearing hours are during his/her normally scheduled working hours on the day of the hearing.

**IAFF Local 327**  
**Step 2: Grievance Appeal (Shift Commander Level)**

**Name of Employee/Rank:** \_\_\_\_\_

**Date Grievance First Discussed (Step 1):** \_\_\_\_\_

**Date Grievance Filed (Step 2):** \_\_\_\_\_

**Nature of Grievance – Article & Section Violated:**

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**Resolution Requested:**

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**Employee Signature:** \_\_\_\_\_

**Union Representative Signature:** \_\_\_\_\_

**Received By:** \_\_\_\_\_ **Date Received:** \_\_\_\_\_

**Shift Commander/Fire Chief Answer:**

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**Shift Commander/Fire Chief Signature:** \_\_\_\_\_

**Date Signed:** \_\_\_\_\_

### **IAFF Local 327**

#### **Step 3: Grievance Appeal (Fire Chief Level)**

**Name of Employee:**\_\_\_\_\_

**Date Grievance Filed:** \_\_\_\_\_

**Employee Signature:** \_\_\_\_\_

**Union Representative Signature:** \_\_\_\_\_

**Received By:** \_\_\_\_\_ **Date Received:** \_\_\_\_\_

**Department Head/Fire Chief Answer:**

[illegible]

**Department Head/Fire Chief Signature:** \_\_\_\_\_

**Date Signed:** \_\_\_\_\_



**Date Received:** \_\_\_\_\_

[illegible]

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***ARTICLE 31***

***SAFETY AND HEALTH***

- 31.1 The Employer will continue to exert every reasonable effort to provide and maintain safe and healthy working conditions for every employee. The employee(s) agree(s) that, in the course of performing their regularly assigned duties, they will be alert to unsafe and/or unhealthy practices or conditions and report them to their immediate supervisors for corrective action, within a reasonable amount of time, provided the supervisor determines that an unsafe and/or unhealthy practice or condition exists. A grievance alleging a violation of this Article may be filed directly with the City Manager.

**ARTICLE 32**

**UNIFORM ALLOWANCE**

- 32.1 The Employer and Union have agreed to the implementation of a quartermaster system for the provision of uniforms. The Employer has agreed as part of this system to designate at least two (2) vendors for uniforms and one (1) vendor for t-shirts and workout attire. Effective January 1, each year, each member of the Union will be given a credit, at the vendors selected by the Employer, in the aggregate amount of \$1,000. Bargaining unit members may use up to \$500 of this amount on approved uniform items, equipment and/or professional development. Each member of the Union may utilize the credit to purchase annual items from the Uniform and Safety Equipment Replacement List as set forth at the end of this Article and for business expenses, including training opportunities, which shall be as approved by the Fire Chief. The Allowance may be used to purchase approved boots, helmets, safety equipment, and professional development expenses.
- The parties further agree that the Employer shall pay for the purchase of one (1) dress uniform for each member of the bargaining unit who has not previously had a dress uniform provided by the Employer. The Employer will purchase the dress uniform and it will, thereafter, be the responsibility of the member to maintain and/or replace the uniform as the need arises. Dress uniforms shall be inspected in January of each year. Funds for uniform allowance shall not be released until employees pass the dress uniform inspection.
- 32.2 The allowance payable to newly hired employees and to each entitled employee leaving the service of the Employer shall be prorated so that the appropriate allowance is paid only for the actual time of service with the Employer.
- 32.3 Upon the approval of the Fire Chief, uniforms damaged or stained in the line of duty, at the scene of a fire or during a response to and from an emergency call will be replaced. Damaged or stained uniforms shall be reported no later than the next duty day after the damage occurred.
- 32.4 Glasses or dentures clearly damaged in the line of duty, where there is no negligence on the part of the employee, will be repaired or replaced by the Employer as determined by the City Manager, provided damage is reported during the shift of occurrence.
- 32.5 The Employer and the Union agree that IAFF Local 327 bargaining unit members shall be permitted to purchase sunglasses through their quartermaster system that meet or exceed the minimum safety standards of *ANSI Z87.1 "Eye and Face Protect – 2003*. In addition, *the sunglasses shall block out at least 99% of both UV-A and UV-B radiation*.
- 32.6 The Employer and the Union agree to continue the less restrictive uniform policy that allows firefighters to wear t-shirts, sweat shirts and duty shirts.
- 32.7 Any employee that changes rank will be issued one (1) job shirt.
- 32.8 The ordering of quartermaster items may be done between January 1<sup>st</sup> and November 30<sup>th</sup> of each calendar year.

## **Uniform and Safety Equipment Replacement List**

### **Pants/Shorts/Belt**

- Duty Pants and/or Shorts
- Black Belt
- “Under Armour” Cold Weather Type Pants

### **Shirts**

- Duty Shirt - Short Sleeve
- Duty Shirt - Long Sleeve
- Polo Shirt
- T-shirt - Short Sleeve (no pocket)
- T-shirt - Long Sleeve

### **Sweatshirts/Cold Gear Shirts**

- Regular Sweatshirt
- Hooded Sweatshirt
- Job shirt
- Mock Turtleneck
- “Under Armour” Cold Weather Type Shirt

### **Athletic Clothing**

- Shorts
- Pants

### **Socks**

- Long Black
- Short Black

### **Shoes & Boots**

- Athletic (1 pair/year)
- Duty Boots (1 pair/year) – polishable or non-polishable
- Duty Shoes (1 pair/year) – polishable or non-polishable

### **Hats**

- Ball Cap
- Stocking Cap
- Skull Cap

### **Badges**

- Shirt
- Coat

### **Coats**

- EMS Coat w/Liner
- EMS Coat Liner
- Duty Champ Coat

### **Class “A” Uniform**

- Jacket
- Pants
- White Dress Shirt
- Tie
- Hat
- White Gloves
- Black Dress Shoes
- Raincoat
- Service Stars, Stripes, Buttons
- Garment Bag

### **Firefighting/EMS Gear**

- Helmets (credit for normal replacement cost)
- Fire Boots (credit for normal replacement cost)
- Hoods (firefighting)
- Gloves (firefighting, technical and/or specialized rescue)
- Suspenders (firefighting)
- Safety Glasses (**\$70 maximum**)
- Sunglasses
- Flashlights (**1 every 3 years or unserviceable**)
- Knives and/or Multi-tools
- Bags (gear, mask, station) – **Departmental approved**
- Dive Gear (mask, fins, snorkel, gloves, tools)
- Firefighting/EMS/Rescue tools that could be used while performing duties for Sandusky Fire Department (**\$100 maximum**)

### **Linens – Departmental Approved (1 each/year)**

- Bed linens (sheets, pillowcase, blanket, pillow)

**ARTICLE 33**

***SAFETY EQUIPMENT AND PROTECTIVE CLOTHING***

- 33.1 The Employer shall provide and maintain safety equipment and clothing to be utilized by employees in the performance of their job duties. Such equipment and clothing will include that which is currently provided and is not necessarily limited to the following:
- 1) Traditional Helmets
  - 2) Gloves
  - 3) Bunker pants
  - 4) Bunker coat
  - 5) Respiratory apparatus
  - 6) Nomex hoods
  - 7) Flashlights
  - 8) Approved leather firefighting boots
  - 9) Public Safety Vests
  - 10) Safety glasses
  - 11) EMS squad coats
- 33.2 The Employer shall repair or replace all protective clothing or equipment clearly damaged or lost in the line of duty. Damaged equipment and protective clothing shall be reported no later than the end of the next duty day after the damage or loss occurred. Articles may also be replaced when worn out as approved by the Employer.
- 33.3 The safety equipment and protective clothing listed in Article 33.1 will be replaced based on NFPA or manufacturer safety standards and time limits or as stated in Article 33.2.

***ARTICLE 34***

***STAFFING COMMITTEE***

- 34.1 Once a calendar year and at the request of the Union, but no more than three (3) times per calendar year, two (2) representatives of the Union, the Fire Chief, the City Manager and one (1) additional representative of the Employer shall meet regarding staffing of the Fire Department., and if a majority consensus is reached, issue recommendations on potential improvements in Fire Department staffing for consideration by the Employer. The recommendations shall be issued to the City Manager for review within ninety (90) calendar days of the Staffing Committee's first meeting date. The Employer shall issue a written response to the recommendations within thirty (30) calendar days of receipt of the Committee's recommendations.

***ARTICLE 35***

***MILEAGE and TRAVEL ALLOWANCE***

- 35.1 When an employee of the Fire Department is required and approved by the Employer to travel in the performance of his/her duties: to attend mandatory training or seminars; to attend an official hearing; or any other task or responsibility arising from his/her employment, he/she shall be furnished a department vehicle if one is available. Should a vehicle not be available, or at management's discretion, the employee shall be reimbursed for use of his/her private vehicle at the mileage rate established by the Internal Revenue Service. For purposes of this Section, employees shall be covered by the Employer's Workers' Compensation policy for all travel time.

**ARTICLE 36**

***EDUCATIONAL DIFFERENTIAL/TUITION REIMBURSEMENT***

- 36.1 Each employee in the bargaining unit shall be entitled to additional compensation of two percent (2%) of base pay for one (1) completed year or four percent (4%) of base pay for two (2) completed years of accredited college courses in Fire Science and/or Fire Administration, Public Administration, or Business Administration, on approval by the City Manager. Forty-five (45) quarter hours of credit of "C" average or above shall constitute a completed year.

Payments made under this section shall be pro-rated based on the date the employee receives the degree. For new hires who have one of the degrees, payment shall be pro-rated based on the employee's hire date.

- 36.2 The Employer shall pay the cost of any books, fees, and tuition for work related courses as required by the Employer.
- 36.3 Employees attending such courses during their normal work schedule shall receive their normal rate of pay. Employees attending courses during their non-scheduled work time shall receive a choice of either compensatory time or the appropriate overtime for such hours, including travel time, hours in class, meal time and break time at the premium rate. Compensatory time shall be scheduled off in accordance with departmental procedure. This section is subject to the provisions contained in Section 36.6 as they relate to the maintenance of a certified paramedic status.
- 36.4 Personnel assigned to a forty (40) hour work week to attend assigned training shall be compensated overtime at the appropriate rate for all hours accumulated over the forty (40) hours. All time accumulated means all travel time, mealtime, breaks, and class time. Compensation shall be in the form of compensatory time or cash at the forty (40) hour rate. This shall be the employee's option. Meal time may be included in the forty (40) hour period should the actual class time be less than forty (40) hours, however should the time spent in training exceed forty (40) hours the inclusion of meal time is not applicable.
- 36.5 Those personnel assigned to the FF I and FF II Certification School shall be compensated at the appropriate rate for miles traveled for each weekly trip down and back and shall be given compensatory time for each weekly trip down and back.
- 36.6 Each employee in the bargaining unit shall be entitled to additional compensation of 6% of the Class A firefighter rate for time spent in obtaining and maintaining a certified Paramedic Status. The employee shall be paid the proportionate share of the compensation set forth herein for years in which the employee does not have the paramedic certification for the entire year. For example, if an employee has the certification only three (3) months of the calendar year they would receive 3/12<sup>th</sup> of the compensation due hereunder.

New hires with a paramedic certification shall receive a pro-rated payment under this section based on their hire date.

It shall be the responsibility of each employee to keep track of and satisfy all requirements for the maintenance of a certified paramedic status. The Employer has available in-house training which will provide the necessary credits to comply with the Continuing Educational requirements for paramedics. Employees must utilize these courses in order to maintain their Paramedic Status. Employees who fail to utilize the in-house training shall be solely



responsible for obtaining the necessary credits and shall be required to pay all outside tuition costs and shall not be entitled to compensation for attendance at these outside courses. An employee who fails to obtain and maintain a certified paramedic status shall not be entitled to the additional compensation listed herein.

- 36.7 All payments under this Article shall be paid in the second pay period in February and eligibility shall be based on the prior calendar year (January 1 - December 31).
- 36.8 In the event that the Employee leaves employment with the Employer, for any reason other than full retirement or disability retirement, within three (3) years of the date of the payment for an expenditure related to initial firefighter and/or EMT certification at any level for new employee members and for all union members for non-mandatory education or training, the employee shall be required to reimburse the Employer for such costs upon the following schedule: If the employee leaves within one (1) year of the date on which the expenditure is incurred, the employee shall reimburse the Employer for 100% of the costs incurred; within two (2) years, 75%; and within three (3) years, 50%. Reimbursable costs shall include tuition, books, educational materials and related lodging and per diem expenses.

**ARTICLE 37**

***HEALTH and LIFE INSURANCE PLAN  
and  
LINE OF DUTY DEATH BENEFITS***

- 37.1 The Employer will fund a health and life insurance benefit plan (hereinafter referred to as the “Buy-up Plan”) for each covered employee as set forth in Appendix B, subject to modification as set forth herein.

Bargaining unit employees shall pay one hundred and twenty dollars (\$120.00) per pay period for family coverage and seventy dollars (\$70.00) per pay period for single coverage. The Employer has the right to reopen negotiations if the Employer premiums for health insurance increase fifteen (15%) percent.

Dental and Vision coverage will continue at current levels as more fully described in the attached plan summary and henceforth, dental and vision coverage may be subject to modification as set forth herein

The plan will continue to provide life insurance coverage equal to the employee’s base salary up to an amount not to exceed \$50,000 per year.

- 37.2 There shall be an Employer health insurance committee to review coverage and make recommendations for benefits in the following calendar year. The committee shall consist of one (1) voting representative from each of the labor organizations representing the Employer’s employees and an equal number of representatives of the Employer. The committee may discuss, and by majority agreement, issue recommendations regarding a change in health care providers or insurers or modifications to the existing schedule of benefits (Appendix B), including dental and vision benefits. However, the committee’s recommendations are not binding on the parties and any changes in health care benefits continue to be subject to good-faith bargaining and agreement by the parties.

The committee shall meet at least once annually before October 1st to address any issues with the health insurance plan and once after bids for a change in health insurance have been received. Either the Employer or any member of the committee can request an additional meeting at any time.

Should the Employer’s cost to maintain the existing schedule of benefits exceed a 15% increase in annual cost from the preceding year or there is a majority vote by the committee to change the schedule of benefits and either of the parties have rejected the committee’s recommended changes, the Employer may request reopener negotiations concerning proposed modifications to the schedule of benefits set forth under Appendix B. The Employer shall endeavor to make such a request in writing to the Union at least ninety (90) days before, but no less than sixty (60) days before any proposed change may take effect. As a part of any such negotiations, IAFF Local 327 may counter-propose equivalent economic offsets to a proposed increase in employee costs. Any impasse between the parties in such reopener negotiations shall be resolved as set forth herein.

The parties shall meet for the reopener negotiations within thirty (30) days of the filing of the notice to negotiate for the reopener. If the parties are unable to reach an agreement, the outstanding issues shall be resolved through a conciliation hearing. Conciliation shall be initiated by requesting a list of five (5) conciliators from the State Employment Relations

Board, with the conciliator being selected through an alternate strike method. The list of conciliators may be requested by either party any time after one (1) meeting between the parties. The conciliation decision shall be issued within two (2) weeks of the hearing. The procedures for conciliation set forth in Chapter 4117 of the Ohio Revised Code and applicable regulations shall apply, except as expressly superseded herein. The conciliation decision shall be final and binding in accordance with Chapter 4117.

For purposes of the reopener negotiations, the provisions of R.C. 4117.14(G)(11) shall not apply. The parties waive the fact-finding process for these reopener negotiations.

- 37.3 An employee will be eligible to receive health insurance benefits the day following completion of thirty (30) days of employment. To be a covered employee, the employee must be in active status as of the first working day of the month. If an employee returns to active pay status before the end of the month, the employer portion of the health insurance premium that was paid by the employee shall be refunded.
- 37.4 The health benefits for covered family and dependents of an employee who has been killed in the line of duty shall continue for a period of one (1) year from the date of death of the employee without premium contribution from the employee's family and/or dependents. Further, the Employer shall pay the funeral expenses for the deceased firefighter at a cost up to Eight Thousand Five Hundred Dollars (\$8,500.00).
- 37.5 As a sign of respect and in good faith by the Employer, an employee who dies in the line of duty shall be promoted posthumously to the next highest pay grade, Firefighter to Lieutenant, Lieutenant to Captain, or Captain to Battalion Chief. All payouts owed to the employee shall be calculated and paid at the posthumously promoted pay grade.
- 37.6 "In the line of duty" as used in this Article shall be defined as a death that is the direct result of a traumatic injury sustained at or in the course of an emergency.
- A. Examples of *in the line of duty death* circumstances include, but are not limited to, the following:
- i. Deaths directly resulting from traumatic injuries sustained during response to, at the scene of, or during return from an emergency incident including but not limited to fires, emergency medical calls, hazardous materials incidents, natural disasters, technical rescue incidents, and search and rescue missions;
  - ii. Deaths directly resulting from traumatic injuries sustained while engaged in department authorized emergency training drill;
  - iii. Deaths directly resulting from a cardiovascular event that occurs immediately after, or within 24 hours of, returning from an emergency response.
- B. Examples of circumstances that are *not in the line of duty deaths for posthumous promotion* include, but are not limited to, the following:
- i. Deaths that occur while the firefighter was engaged in a non-emergency fire department duty, i.e. – station or apparatus maintenance, special event standby assignments, parades, community service details, fundraising events, etc.;
  - ii. Deaths that occur during the firefighter's commute to/from their place of employment;

- iii. Deaths where there is a report of alcohol or controlled substance involvement on behalf of the deceased employee or the actions taken were in violation of department policies or procedures.

37.8 Alternative Plan Offerings. Notwithstanding the provisions above, which provide for health care coverage, the Union agrees that the Employer may offer alternative health care coverage programs. The costs, contribution rates, and/or the terms and conditions of said alternative programs shall be at the discretion of the employer and may be subject to change. In the event of changes in the cost, contribution rates, and/or terms and conditions of such alternative programs, employees shall be notified of such changes thirty (30) days in advance of the effective date of such changes and may withdraw from said program and shall be entitled to enrollment in the Buy-up Plan.

**ARTICLE 38**

***WAGES (See end of this Article)***

38.1            Effective January 1, 2022            2.0% increase

38.2            Either party may re-open the contract for the purposes of negotiating wage rates by giving written notice to the other party by October 31, 2022.

Should neither party open the contract, there shall be a 3% increase effective 1-1-23.

38.3            If the collective bargaining agreement is not re-opened pursuant to Section 38.2 above, either party may re-open the contract for the purposes of negotiating wage rates by giving written notice to the other party by October 31, 2023.  
Should neither party open the contract, there shall be a 2% increase effective 1-1-24.

The re-openers herein shall proceed in accordance with the procedures in Section 37.2 above.

The pay raises set forth in this contract shall be payable in and effective for the first payday of the designated year.

38.4            The Employer further agrees to establish a thirteen (13%) percent differential between ranks. (Does not include Fire Marshal, this is a designated pay rate of 10% over firefighter class A)

38.5            The Employer will maintain a pension "Pick-up" plan in accordance with Internal Revenue Service regulations and Ohio Attorney General Opinions, whereby State and Federal Income Taxes on employee pension contributions by all bargaining unit members are deferred.

38.6            Starting wages for new hires, depending on certification, and base wage for Class A Firefighter effective the first payroll of 2022 and annual wage adjustments shall be as illustrated in the table at the end of this Article.

38.7            Pay shall be distributed via direct deposit. Direct deposit shall be mandatory for all members of the bargaining unit.

38.8            In recognition of the extraordinary service during the past pandemic, the City will make a one-time payment as follows:

The City shall pay the sum of five hundred dollars (\$ 500.00) to each bargaining unit member having two (2) years of service as of 12-31-21 who remain employed as of the date of ratification of this Agreement.

The City shall pay the sum of two hundred fifty dollars (\$ 250.00) to each bargaining unit member having less than two (2) years of service as of 12-31-21 who remain employed as of the date of ratification of this Agreement.

Said payment shall be made in the first pay period commencing after ratification of this Agreement.

2022-2024 AGREEMENT BETWEEN IAFF LOCAL 327 AND CITY OF SANDUSKY

**INTERNATIONAL ASSOC OF FIRE FIGHTERS - WAGES**

CODE/RNG/STP					JAN 2022	JAN 2023	JAN 2024
				% OF CLASS B FIREFIGHTER	2.00%	3.00%	2.00%
FIREFIGHTER		ANNUAL	New hire-No training	66.517%	\$ 43,302	\$ 44,601	\$ 45,493
		BIWEEKLY			1,665.45	1,715.41	1,749.72
	6000 19 A (80)	HOURLY		40 HR	20.8181	21.4427	21.8715
	6510 19 A (102)			51 HR	16.3279	16.8178	17.1542
FIREFIGHTER		ANNUAL	New hire-has f/f or paramedic cert	69.524%	\$ 45,259	\$ 46,617	\$ 47,549
		BIWEEKLY			1,740.74	1,792.96	1,828.82
	6000 19 B (80)	HOURLY		40 HR	21.7592	22.4120	22.8603
	6510 19 B (102)			51 HR	17.0661	17.5781	17.9296
FIREFIGHTER		ANNUAL	New hire-has f/f and paramedic cert	83.275%	\$ 54,211	\$ 55,837	\$ 56,954
		BIWEEKLY			2,085.03	2,147.59	2,190.54
	6100 20 A (80)	HOURLY		40 HR	26.0629	26.8449	27.3818
	6550 20 A (102)			51 HR	20.4415	21.0548	21.4759
FIREFIGHTER		ANNUAL	Automatic after 2 yrs		65,099	\$ 67,052	\$ 68,393
		BIWEEKLY			2,503.79	2,578.91	2,630.49
	6100 20 B (80)	HOURLY		40 HR	31.2974	32.2364	32.8812
	6550 20 B (102)			51 HR	24.5470	25.2835	25.7892
				CLASS DIFFERENTIAL			
LIEUTENANT		ANNUAL		13%	\$ 73,562	\$ 75,768	\$ 77,284
		BIWEEKLY			2,829.29	2,914.17	2,972.45
	6200 21 B (80)	HOURLY		40 HR	35.3661	36.4272	37.1557
	6650 21 B (102)			51 HR	27.7381	28.5703	29.1417
CAPTAIN		ANNUAL		13%	\$ 83,124	\$ 85,618	\$ 87,331
		BIWEEKLY			3,197.09	3,293.01	3,358.87
	6300 22 B (80)	HOURLY		40 HR	39.9636	41.1627	41.9859
	6750 22 B (102)			51 HR	31.3440	32.2845	32.9301
BATTALIAN CHIEF		ANNUAL		13%	\$ 93,930	\$ 96,749	\$ 98,684
		BIWEEKLY			3,612.71	3,721.10	3,795.52
	6400 23 B (80)	HOURLY		40 HR	45.1589	46.5138	47.4440
	6850 23 B (102)			51 HR	35.4187	36.4814	37.2110
Working Out of Class Rate - Firefighter working as Lieutenant:					3.1911	3.2868	3.3525
Working Out of Class Rate -Lieutenant working as Captain:					3.6059	3.7142	3.7884

***ARTICLE 39***

***LONGEVITY***

- 39.1 As a means of rewarding employees for loyal service and to serve as an incentive for retaining those employees, the Employer will pay to the employees who have completed three (3) full years of continuous service as of December 1 of each calendar year, the following amounts:

1-5 years	\$25.00 per year
6-11 years	\$35.00 per year
12-17 years	\$50.00 per year
18 and over	\$65.00 per year

- 39.2 The amount shall be included in the payroll period that includes the 22nd pay period.

***ARTICLE 40***

***SEVERABILITY***

- 40.1 This Agreement is subject to the City Charter and all applicable Federal and State laws, or judicial decisions interpreting them. In event any provision of this Agreement is found to be contrary to the above by a court, tribunal, or official of competent jurisdiction, it shall be of no further force and effect. The parties will meet, within a reasonable amount of time, to discuss any such invalidated provision(s).
- 40.2 This Agreement shall in no way abrogate, suspend, waive or violate any of the provisions set forth in Chapter 4117 of the Ohio Revised Code as to any rights, privileges or duties of the exclusive employee representative or the Employer.



**ARTICLE 41**

**WAIVER IN CASE OF EMERGENCY**

- 41.1 In cases of an emergency declared by the President of the United States, the Governor of the State of Ohio, the Mayor of the City of Sandusky, the Federal or State Legislature, such as acts of God, the following conditions of this Agreement shall automatically be suspended:
- A. Time limits for the Union's or the management's replies on grievances;
  - B. All rules and regulations and/or agreements and practices relating to the assignment of all employees.
- 41.2 Upon the termination of the emergency, should valid grievances exist, they shall be processed, in accordance with the provisions outlined in the grievance procedure, and shall proceed from the point in the grievance procedure to which they (the grievance(s)) had properly progressed.

**ARTICLE 42**

***DURATION OF AGREEMENT***

- 42.1 This Agreement shall remain in full force and effect from January 1, 2022 until December 31, 2024 unless otherwise terminated as provided herein.
- 42.2 If either party desires to modify, amend or terminate this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to the expiration day, not later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks upon receiving notice of intent.
- 42.3 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the Union for the life of this Agreement, each voluntarily and unequivocally waive the right, and each agrees that the other shall not be obligated, to bargain collectively or individually with respect to any subject matter referred to or covered in this Agreement or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subject or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this Agreement.
- 42.4 This Agreement constitutes the entire Agreement between the parties, and all other Agreements either written or oral are hereby cancelled.
- 42.5 However, nothing in this Article shall preclude the parties from mutually agreeing to amend or modify this Agreement, provided such amendment or modification is reduced to writing and signed by the parties.

**ARTICLE 43**

**WORKING OUT OF CLASSIFICATION**

- 43.1 If a firefighter works for at least one (1) hour during any twenty-four (24) hour shift as an Acting Lieutenant, he or she shall be paid for that period at the higher rate of pay for each hour worked in that capacity. The Fire Chief shall decide assignment based on established guidelines administered by the Fire Chief or his/her designee.
- 43.2 For illness, injury, etc., to a Battalion Chief that results in him/her missing ten (10) consecutive twenty-four (24) hour duty shifts, the Captain would become the Acting Battalion Chief at the Battalion Chief's rate of pay and carry out all duties of that rank until the Battalion Chief returns to duty.
- When a vacancy exists at the Battalion Chief level that necessitates promotional testing to fill the position, the affected Captain will be made Acting Battalion Chief at the Battalion Chief's rate of pay and carry out all duties of that rank immediately.
- 43.3 If a Lieutenant works for at least one (1) hour during any twenty-four (24) hour shift as an Acting Captain/Shift Commander, he or she shall be paid for that period at the higher rate of pay for each hour worked in that capacity. The Fire Chief shall decide assignment based on established guidelines administered by the Fire Chief or his/her designee.
- 43.4 If a certified promotional eligibility list expires that list shall be used to establish a Working Out of Classification ("WOC") list for that rank until the new eligibility list for that rank is certified. Seniority in rank shall only be used to fill a WOC when there are no available individuals on a current promotional eligibility list or WOC list.

**ARTICLE 44**

**DRUG FREE WORKPLACE**

- 44.1 The parties to this Agreement acknowledge that, pursuant to Federal Law, the City of Sandusky has established a policy of maintaining itself as a Drug Free Workplace. Pursuant to said policy, therefore, the parties agree:
- A. That the unlawful manufacture, distribution, dispensing, possession, or use of controlled substance in the workplaces of the City of Sandusky is prohibited;
  - B. That as a condition of employment with the City of Sandusky, employees of the City of Sandusky will abide by the policy set out in item A above, and will also notify the City of Sandusky of any criminal drug statute conviction for a violation occurring in the workplace, and that said notification shall be made within a period of five (5) days after said conviction;
  - C. That an employee who violates the requirements of this Section shall be subject to reasonable disciplinary action and, in addition to such disciplinary action, the City of Sandusky may mandatorily refer violators who have engaged in substance abuse to the Employer's Assistance Program for diagnosis and treatment at the Employer's expense;
  - D. That the City of Sandusky shall provide notice of the content of this policy to each employee;
  - E. To the adoption of the City of Sandusky's Drug-Free Workplace Policy which is incorporated herein and attached hereto as Appendix D. The parties further agree that members of the bargaining unit shall be subject to all terms and conditions of the Drug-Free Workplace Policy and shall be subject to Random Drug Testing. The Random Drug Testing program shall be administered in accordance with the Drug-Free Workplace Policy.

**ARTICLE 45**

**PROMOTIONAL TESTING**

- 45.1 The Union and the Employer agree that, except as modified herein, promotions within the Fire Service shall be governed by local Civil Service Rules and the Ohio Revised Code as they currently exist or as they are from time to time amended.
- 45.2 The Union and the Employer agree that the Employer shall determine the method of testing or review for vacant positions. Testing shall include a written test and may include structured oral examinations, which the scoring will be weighted 50% - 50% between the written and oral examination. Testing shall be administered by a qualified assessment center. The assessor shall be selected from a list established by a Joint Labor-Management Committee. If the Employer utilizes an assessment center in the administration of an examination, the Union and the employees will be notified in the notice of the examination of such.
- 45.3 Written promotional exams shall be administered for the position of Lieutenant every two years sixty (60) days prior to the expiration of the current list. The Employer shall provide at least sixty (60) days advance notice of the exam.

**ARTICLE 46**

**LAYOFF AND RECALL**

- 46.1 The Employer may layoff bargaining unit employees and/or abolish positions due to lack of funds, lack of work or reorganization of the department. The Employer shall notify the Union and affected bargaining unit members at least fifteen (15) calendar days in advance of such layoffs. Upon request, the Employer shall meet with the Union to discuss the impact of the layoffs on the bargaining unit.
- 46.2 Layoffs shall be based on an employee's seniority with the Employer. In the event layoffs include officer positions, the least senior officers based on seniority within the affected classification(s) shall be subject to layoff. An officer who is subject to layoff under this Article shall have the right to displace a less senior employee based on length of service with the Sandusky Fire Department in the next lower rank or in successively lower ranks if applicable.
- 46.3 An employee who is laid off from the Employer shall be entitled to pay out of all earned but unused vacation leave (with at least one year of service), compensatory time and pro-rated holiday pay.
- 46.4 An employee who is laid off retains his/her right to reinstatement for two (2) years from the date of his/her layoff. Employees shall be recalled, if applicable, in the inverse order of their layoff provided they are presently qualified to perform the work for which they are recalled.
- An employee who is demoted from his/her position as a result of a layoff or job abolishment has a right to reinstatement to his/her former position for up to three (3) years from the date of such demotion. The Employer shall not fill any bargaining unit positions through testing until all employees on the recall list(s) have been offered the opportunity to be reinstated to their former position.
- 46.5 Notice of recall shall be sent by certified mail to the last mailing address provided by the employee. The employee shall have ten (10) calendar days following the date of the recall notice to inform the Employer of his/her intention to return to work. Bargaining unit employees shall have fifteen (15) calendar days from the date of the recall notice to return to work unless the parties agree to other arrangements.
- 46.6 Bargaining unit employees who are laid off and later reinstated under this Article shall retain the seniority they had at the time of the layoff, but shall not be given credit for the time spent on layoff status.
- 46.7 The parties agree that layoffs or demotion under this Article may only be challenged through the grievance/arbitration provision of this Agreement. The Sandusky Civil Service Commission shall have no authority to review layoffs or demotions of bargaining unit members.

**ARTICLE 47**

**FIRE DEPARTMENT STAFFING**

47.1 To address staffing concerns and provide for the safety of the Firefighters and the citizens of the City of Sandusky, the City shall maintain a staffing level of forty-eight (48) bargaining unit members employed in emergency response positions (twenty-four [24] hour shift positions).

47.2 In the event a permanent vacancy drops the emergency response staffing below forty-eight (48) bargaining unit members, the City shall fill the vacancy within ninety (90) days of the vacancy occurring. In the event of circumstances that prevent the City from filling the vacancy within the 90-day period, the Union and the City may agree to extend the 90-day period to a specific date. The Union shall not unreasonably withhold an agreement on an extension. The City shall not unreasonably delay filling the vacancy.

The City shall initially have until December 31, 2022 to satisfy the staffing required by this Article.

47.3 The above minimum staffing requirement shall be temporarily waived upon the following conditions: (1) the City has already laid off seasonal, part-time, and 5.0% of the total full-time non-safety service employees (as calculated at the time of the full-time layoffs); and (2) the City's total General Fund balance, including reserve funds, as of the date the City issues notice of layoff or abolishment for any IAFF Local 327 bargaining unit member or position, is less than 15.0% of the total available cash balance (General Fund and reserve funds) divided into total General Fund expenditures, compared to the same date twelve (12) months prior; and (3) the combined revenues of the City's tax revenue (income, admissions, lodging, parking, boat, dock, property, regardless of the fund deposited) plus revenues from fees and charges for services, as of the effective date the City issues notice of layoff or abolishment for any IAFF Local 327 bargaining unit member or position, have decreased by 10.0% compared to the same date twelve (12) months prior.

Any layoff or abolishment of a bargaining unit member/position shall be in accordance with the terms of Article 46 except as otherwise expressly stated in this Article.

The temporary waiver of the minimum staffing requirement shall remain in effect until any laid off City employee is recalled, or new employee is hired (seasonal, part-time, full-time), at which point the above minimum staffing requirement shall be effective.

2022-2024 AGREEMENT BETWEEN IAFF LOCAL 327 AND CITY OF SANDUSKY

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

FOR THE EMPLOYER

\_\_\_\_\_  
Dick Brady, Commission President

\_\_\_\_\_  
Eric Wobser, City Manager

\_\_\_\_\_  
Michelle Reeder, Finance Director

\_\_\_\_\_  
Mario D'Amico, Fire Chief

Approved as to Form and Correctness:

\_\_\_\_\_  
Brendan Heil, Law Director

FOR IAFF

\_\_\_\_\_  
James Snyder, President IAFF 327  
Negotiation Committee

\_\_\_\_\_  
Jack Felter, Vice-President IAFF 327  
Negotiation Committee

\_\_\_\_\_  
John Secue, Secretary/Treasurer IAFF 327  
Negotiation Committee

\_\_\_\_\_  
Chris Bodle, IAFF Negotiator  
Negotiation Committee

\_\_\_\_\_  
Matt Cox, IAFF Negotiator  
Negotiation Committee

\_\_\_\_\_  
Dana Portentoso, IAFF Negotiator  
Negotiation Committee

\_\_\_\_\_  
Jacob Wooten, IAFF Negotiator  
Negotiation Committee

Date Signed: \_\_\_\_\_



**Appendix A**  
**FMLA Policy**

**POLICY OF  
THE CITY OF SANDUSKY  
ON THE FAMILY MEDICAL LEAVE ACT**

**I. POLICY**

It is the policy of the City of Sandusky that employees may request time off for family and/or medical leave of absence with job protection and no loss of accumulated service provided the employee meets the conditions outlined in this policy and returns to work in accordance with the Family and Medical Leave Act of 1993 (FMLA).

**A. Definitions**

As used in this policy, the following terms and phrases shall be defined as follows:

1. Family and/or Medical Leave of Absence – an approved absence available to eligible employees for up to twelve (12) weeks of unpaid leave per year under particular circumstances. Such leave may be taken only for the following qualifying events:
  - (a) upon the birth of an employee's child and in order to care for the child;
  - (b) upon the placement of a child with an employee for adoption or foster care;
  - (c) when an employee is needed to care for a family member who has a serious health condition; or
  - (d) when an employee is unable to perform the functions of his/her position because of the employee's own serious health condition.
2. Per Year – a rolling twelve (12) month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City of Sandusky will compute the amount of leave the employee has taken under this policy and subtract it from the twelve (12) weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee used four weeks of FMLA leave beginning February 4, 1996, and four weeks beginning June 1, 1996, and four weeks beginning December 1, 1996, the employee would not be entitled to any additional leave until February 4, 1997.
3. Serious Health Condition – any illness, injury, impairment, or physical or mental condition that involves:
  - a. Inpatient care
  - b. Any period of incapacity of more than three (3) calendar days that Also involves:
    - (1) two (2) or more treatments by a health care provider; or
    - (2) treatment by a health care provider on one occasion that results in a regimen of continuing treatment under the supervision of a health care provider

- c. Any period of incapacity due to pregnancy or for prenatal care
  - d. A chronic serious health condition which
    - (1) requires periodic visits for treatment to a health care provider;
    - (2) continues over an extended period of time; and
    - (3) may be periodic rather than a continuing incapacity
  - e. Any period of incapacity which is permanent or long term and for which treatment may not be effective (i.e. terminal stages of a disease, Alzheimer's disease, etc.)
  - f. Absence for restorative surgery after an accident/injury or for a condition that would likely result in an absence of more than three (3) days at a later date without medical intervention at the present time (i.e. chemotherapy for cancer, dialysis for kidney disease, etc.)
- 4. Licensed Health Care Provider – a doctor of medicine, a doctor of osteopathy, podiatrists, dentists, optometrists, psychiatrists, clinical psychologists, and other as specified by law.
  - 5. Family Member – as defined in the sick leave ordinance or as per union contract.

**B. Leave Entitlement**

- 1. To be eligible for leave under this policy, an employee must meet all of the following conditions:
  - (a) The employee must have worked for the City of Sandusky for at least twelve (12) months, or fifty-two (52) weeks. The twelve (12) months, or fifty-two weeks (52) weeks, need not have been consecutive; and
  - (b) The employee must have worked at least 1250 hours during the twelve (12) month period immediately prior to the date when the FMLA leave is scheduled to begin; and
  - (c) The employee must work at a location where the City of Sandusky employs fifty (50) or more employees within a seventy-five (75) mile radius.
- 2. The entitlement to FMLA leave for the birth or placement for adoption or foster care of a child shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.
- 3. Spouses who are both employed by the City of Sandusky are jointly entitled to a combined leave total of twelve (12) weeks (rather than twelve (12) weeks each) for the birth of a child, upon the placement of a child with the employees for adoption or foster care, or for the care of a family member with a serious health condition.
- 4. An employee may only take FMLA leave because of his/her own serious health condition if such condition renders the employee unable to perform the functions of the his/her position.

**C. Use Of Leave**

1. The provisions of this policy shall apply to all family and medical leaves of absence as follows:

(a) Generally

- (1) Whether the leave is paid, unpaid, or a combination of both, an employee is only entitled to a total of twelve (12) weeks of leave under the FMLA. If an employee has accrued paid leave, the employee must use such accrued paid leave, as set forth below:
  - Shall take accumulated sick time and upon its expiration
  - Shall take vacation time and upon its expiration
  - Shall take accumulated personal and/or Kelly days, upon its expiration
  - The employee may elect to use accumulated comp time
  - And the remainder of the twelve (12) weeks shall be unpaid leave
- (2) Employees will be required to exhaust all accumulated leave as allowed by law prior to being granted leave without pay for FMLA leave requests. In addition, any time off that may, by law, be counted against an employee's twelve (12) week FMLA entitlement will be counted against such time.

(b) FMLA Leave Use for Birth of an Employee's Child

- (1) An employee who is taking leave for the birth of the employee's child must first use all available accrued paid vacation and personal leave prior to being eligible for unpaid leave for the remainder of the twelve (12) week period. However, if the employee requests leave for the employee's own serious health condition as a result of the pregnancy, the employee will also be required to exhaust all of the employee's sick leave prior to being eligible for unpaid leave for the remainder of the twelve (12) week period. [Note: see number (5) below for information on disability leaves.]

(c) FMLA Leave Use for Placement of a Child for Adoption or Foster Care

- (1) An employee who is taking leave for the placement of a child with him/her for adoption or foster care must first use all available accrued paid vacation and personal leave prior to being eligible for unpaid leave for the remainder of the twelve (12) week period.

(d) FMLA Leave Use Because of the Employee's Own Serious Health Condition or the Serious Health Condition of a Family Member

- (1) An employee who is taking leave because of the employee's own serious health condition or the serious health condition of a family member must use all available accrued paid vacation, personal and sick leave prior to being eligible for unpaid leave for the remainder of the twelve (12) week period.

(e) FMLA Leave and Disability / Workers' Compensation Plans or Programs

- (1) An employee who is eligible for FMLA leave because of his/her own serious health condition may also be eligible for either temporary disability or workers' compensation. Regardless of whether or not an employee is on either program, the City of Sandusky may designate the absence as FMLA leave and count it against the employee's twelve (12) week FMLA

entitlement if the injury or illness constitutes a serious health condition under the FMLA. In addition, as these are compensated absences, if the employee participates in such a program, the employee is not eligible to use paid leave of any type (except as supplemental benefits, if applicable and requested by the employee), nor can the City of Sandusky require him/her to do so, while the employee is receiving compensation from such a program.

- (2) Disability leave for the birth of a child is considered FMLA leave for a serious health condition of the employee and will be counted against the employee's twelve (12) week FMLA entitlement. As described above, because the leave pursuant to a temporary disability is compensated, the employee is not eligible to use paid leave of any type (except as supplemental benefits, if applicable and requested by the employee), nor can the City of Sandusky require him/her to do so, while the employee is receiving compensation from such a program.

#### **D. Procedures for Requesting FMLA Leave**

- (1) Requests for FMLA leave must be submitted in writing at least thirty (30) days prior to taking leave or, if this is not possible, as soon as practicable. If the employee fails to provide thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the leave may be denied until at least thirty (30) days from the date the City of Sandusky receives notice.
- (2) Requests for FMLA leave must be submitted on a standard leave form prescribed by the City of Sandusky. The City of Sandusky will determine whether the leave qualifies as FMLA leave, designate it as leave that counts against the employee's twelve (12) week entitlement, if appropriate, and notify the employee that the leave has been designated as FMLA leave.
- (3) When a request is made for a foreseeable FMLA leave due to a serious health condition of either the employee or a member of the employee's family which involves planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to unreasonably interfere with the operations of the City of Sandusky, subject to the approval of the health care provider of the employee or the employee's family member.

#### **E. Certification of Need for FMLA Leave**

- (1) An employee requesting FMLA leave due to a serious health condition of the employee or his/her family member must provide a doctor's certification of the serious health condition. Such certification shall be submitted at the time FMLA leave is requested, or when the need for leave is not foreseen, as soon as practicable. An employee requesting FMLA leave due to the birth or placement of a child must submit appropriate documentation as required by the City of Sandusky at the time FMLA leave is requested.
- (2) The City of Sandusky, in its discretion, may require a second medical opinion prior to granting FMLA leave. Such opinion shall be rendered by a health care provider designated or approved by the City of Sandusky. If a second medical opinion is requested, the cost of obtaining such opinion shall be paid for by the City of Sandusky. If the first and second opinion differ, the City of Sandusky, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the City of Sandusky and the employee. Failure or refusal of the employee to submit to or cooperate in obtaining either the second or third opinions, if requested, shall result in the denial of the FMLA leave request.

- (3) Employees who request and are granted FMLA leave due to a serious health condition of the employee or his/her family member may be required to submit periodic written reports to the City of Sandusky, in order to assess the continued qualification for FMLA leave.
- (4) The City of Sandusky may request additional reports if the circumstances described in the previous certification have changed significantly (duration or frequency of absences, the severity of the condition, complications, etc.) or if the City of Sandusky receives information that casts doubt on the employee's stated reason for the absence.
- (5) The employee must provide the requested additional reports to the City of Sandusky within fifteen (15) days, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. Any costs associated with the additional reports requested by the City of Sandusky shall be at the employee's expense.

**F. Intermittent / Reduced Schedule Leave**

- (1) When medically necessary, an employee of the City of Sandusky may take FMLA leave on an intermittent or reduced work schedule basis for a serious health condition of the employee or a serious health condition of an employee's family member. An employee may not take leave on an intermittent or reduced schedule basis for either the birth of the employee's child or upon the placement of a child for adoption or foster care with the employee. In all cases, the FMLA leave granted to any employee shall not exceed a total of twelve (12) weeks per year.

Requests for intermittent or reduced schedule FMLA leave must be submitted in writing at least thirty (30) days prior to taking leave or, if this is not possible, as soon as practicable.

- (2) To be entitled to leave on an intermittent or reduced schedule basis, the employee must, at the time such leave is requested, submit additional certification as prescribed by the City of Sandusky which establishes the medical necessity for such intermittent or reduced schedule leave. This shall be in addition to the documentation certifying the condition as FMLA qualifying. The additional certification shall include the dates and the duration of treatment, if any, the expected duration of the intermittent or reduced schedule leave, and a statement from the health care provider describing the facts which support the medical necessity for taking FMLA leave on an intermittent or reduced schedule. The employee must meet with his/her supervisor and/or the Director of Administrative Services to discuss the intermittent or reduced schedule leave.
- (3) An employee who requests and is granted FMLA leave on a intermittent or reduced schedule basis may be temporarily transferred to an available alternative position with equivalent class, pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.
- (4) An employee who requests intermittent or reduced schedule leave due to foreseeable medical treatment shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the City of Sandusky.

**G. Employee Benefits**

- (1) Except as provided below, while an employee is on FMLA leave, the City of Sandusky will continue to pay the employer portion premiums for any life, medical, vision, and dental insurance benefits which the employee receives through the City of Sandusky, under the same terms and conditions as if the employee had continued to work throughout the leave. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
- (2) The City of Sandusky will not continue to pay the employer portion of premiums for any life, medical care, vision and dental insurance benefits which the employee receives through the City of Sandusky, if, while the employee is on FMLA leave, the employee fails to pay the employee's portion of such premiums, if any, or, if the employee's payment for his/her portion of the premium is late by more than thirty (30) days.
- (3) If the employee chooses not to continue health care coverage during FMLA leave, the employee will be entitled to reinstatement into the benefit plan upon return to work.
- (4) If the employee chooses not to return to work for reasons other than a continued serious health condition or circumstances beyond the employee's control, the City of Sandusky may seek reimbursement from the employee for any amounts paid by the City of Sandusky for insurance benefits which the employee received through the City of Sandusky during any period of unpaid FMLA leave.
- (5) Leave balances accrued by an employee prior to taking FMLA leave and not used by the employee as outlined in the section entitled "Use of Leave" will be retained by the employee.
- (6) FMLA leave, whether paid or unpaid, will not constitute a break in service credit for employees of the City of Sandusky. Upon the completion of unpaid FMLA leave and return to service, the employee will return to the same level of service credit as the employee previously held immediately prior to the commencement of FMLA leave. Service credit shall continue to accrue during periods of paid FMLA leave. In addition, FMLA leave will be treated as continuous service for the purpose of calculating benefits which are based on length of service. However, specific leave times (i.e., vacation, holiday, personal and sick leaves) will not accrue during any period of unpaid FMLA leave.

**H. Reinstatement**

- (1) An employee on FMLA leave must give the City of Sandusky at least two (2) business days notice of his/her intent to return to work, regardless of the employee's anticipated date of return.
- (2) Most employees who take leave under this policy will be reinstated to the same or a similar position upon return from leave.
- (3) Upon request for reinstatement, if the position that the employee occupied prior to taking FMLA leave is not available, the employee will be placed in a position which entails substantially equivalent levels of skill, effort, responsibility and authority and which carries equivalent status, pay, benefits and other terms and conditions of employment as the position

the employee occupied prior to taking FMLA leave. The determination as to whether a position is an “equivalent position” will be made by the Director of Administrative Services.

- (4) An employee of the City of Sandusky will not be laid off as a result of exercising his/her right to take FMLA leave. However, the City of Sandusky will not reinstate an employee who has taken FMLA leave if, as a result of a layoff within the City of Sandusky, the employee would not otherwise be employed in the City of Sandusky at the time reinstatement is requested.
- (5) An employee on FMLA leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during his/her FMLA leave period.
- (6) Prior to reinstatement, employees who take FMLA leave based on their own serious health condition shall provide certification from the employee’s health care provider that the employee is able to resume work.
- (7) In the event that at the end of twelve continuous months, the employee is still unable to return to work, this shall constitute abandonment of his/her position and the City of Sandusky may declare the employee’s job vacant.

**I. Records**

- (1) All records relative to FMLA leave will be maintained by the City of Sandusky as required by law. Any medical records accompanying FMLA requests will be kept separate from an employee’s regular personnel files.
- (2) To the extent permitted by law, medical records related to FMLA leave shall be kept confidential.

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**DATE ISSUED**



## REQUEST FOR FAMILY / MEDICAL LEAVE

TO: Director, Administrative Services

FROM: \_\_\_\_\_  
Employee Name

DATE: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_

I \_\_\_\_\_ hereby request the use of FMLA leave beginning on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (a.m.) (p.m.) and ending on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (a.m.) (p.m.) I understand that falsification of any information on this form shall be classified as misconduct. I request this leave for the following reason:

- ☐ Birth of employee's child and in order to care for child
- ☐ Placement of a child with employee for adoption or foster care
- ☐ Care for a family member who has a serious health condition
- ☐ Employee is unable to perform the essential functions of his/her job because of a serious health condition

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Department Head Signature

**\*\*A doctor's certification must be filed at the time of this request\*\***

You are ☐ eligible ☐ not eligible for leave under the FMLA leave policy. This requested leave ☐ will ☐ will not be counted against your twelve-week entitlement. The Policy of The City of Sandusky on the Family Medical Leave Act will be followed in administering this leave.

APPROVED:

APPROVED:

\_\_\_\_\_  
Director Administrative Services

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

COPY:

☐ Finance Department ☐ Employee ☐ Division/Department Head ☐ Manager

## **Appendix B**

### **Health and Life Insurance Benefit Plan**

**CITY OF SANDUSKY  
Non-Grandfathered  
Employee Benefit Plan**

**EFFECTIVE DATE**

January 1, 2016

**REVISED DATE**

June 1, 2021

**FOR COVERAGE INQUIRIES OR  
TO CONTACT THE CLAIMS ADMINISTRATOR:**

**MUTUAL HEALTH SERVICES**

P.O. Box 5700

Cleveland, Ohio 44101

Phone: (330) 666-0337 or

1-800-367-3762 National Toll Free

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**SCHEDULE OF BENEFITS - BUY-UP PLAN  
COMPREHENSIVE MAJOR MEDICAL BENEFITS**

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**Precertification Review:** Precertification review is required for all inpatient Hospital Confinements. For elective stays, certification is required at least 24 hours prior to admission. For emergency admissions, certification is required within 48 hours following admission.

**All benefits will be based upon Allowed Amount**

Overall Benefit Period Maximum ..... Unlimited

**Network (PPO Network Providers)**

Calendar Year Deductible:

Per Individual ..... \$100.00  
Per Family ..... \$200.00

After the Deductible is met all eligible charges will be paid at 90% until the Out-of-Pocket Maximum has been satisfied.

Then: 100% payment on eligible charges thereafter for that Individual for the remainder of that Calendar Year.

Out-of-Pocket Maximum per Calendar Year (including any applicable Copayments, Deductible and Coinsurance):

Per Individual ..... \$350.00  
Per Family ..... \$700.00

**Non-Network (Non-PPO Network Providers)**

Calendar Year Deductible:

Per Individual ..... \$100.00  
Per Family ..... \$300.00

After the Deductible is met all eligible charges will be paid at 80% until the Out-of-Pocket Maximum has been satisfied.

Then: 100% payment on eligible charges thereafter for that Individual for the remainder of that Calendar Year.

Out-of-Pocket Maximum per Calendar Year (including the Copayments, Deductible and Coinsurance):

Per Individual ..... \$1,000.00  
Per Family ..... \$2,000.00

**Network and Non-Network do not Cross Apply**

**COVERED SERVICES for the BUY-UP PLAN**

<b><u>Subject to Deductible unless otherwise stated:</u></b>	<b>Percentage Payable</b>	
	<b><u>Network</u></b>	<b><u>Non-Network</u></b>
<b><u>Emergency Services</u></b>		
Emergency Room (Medical/Accident) (Copay waived if admitted).....	\$75 Copay then 90% no Deductible	
Emergency Room (Medical/Accident) Ancillaries and Physician.....	90% no Deductible	
Non-Emergency Room (Including Ancillaries and Physician).....	\$75 Copay no Deductible in or out of Network: then 90%	\$75 Copay then 80%
<b><u>Inpatient Services</u></b>		
Anesthesia.....	90%	90%
Consultations.....	90%	80%
Newborn Care.....	90%	80%
Institutional Services (precertification is required) .....	90%	80%
Physical Medicine and Rehabilitation .....	90%	80%
Professional Services (inpatient Physician visits only).....	90%	inpatient-90% all other places of service-80%
Skilled Nursing Facility .....	90%	80%
Surgical Services (inpatient surgery).....	90%	80%
<b><u>Mental Illness, Alcoholism and Drug Abuse</u></b>		
In accordance with Federal Mental Health Parity requirements, this Plan will not apply any financial requirement or treatment limitation to Mental Illness, Alcoholism or Drug Abuse benefits in any classification that is more restrictive than the predominant financial requirement or treatment limitation applied to substantially all medical/surgical benefits in the same classification.		
<b><u>Office Visit (Illness/Injury)</u></b>		
Physician/Specialist Office Visit/Consultations.....	\$15 Copay the 100% no Deductible	80%
Exam only. Including Scheduled Telemedicine Services.		
On-Demand, Virtual Telemedicine Services.....	\$15 Copay the 100% no Deductible	80%
Urgent Care Provider Office Visits.....	\$15 Copay then 100% no Deductible	80%
Includes facility. Urgent Care Related Services will be paid based on the services rendered.		
<b><u>Outpatient Services</u></b>		
Allergy Testing.....	90%	90%
Allergy Treatment.....	90%	80%
Diagnostic Imaging/Lab/Medical Tests/X-ray.....	90%	90%

**COVERED SERVICES for the BUY-UP PLAN**

<b><u>Subject to Deductible unless otherwise stated:</u></b>	<b>Percentage Payable</b>	
	<b><u>Network</u></b>	<b><u>Non-Network</u></b>
<b><u>Outpatient Services continued</u></b>		
Diabetic Education and Training only.....	100% no Deductible	100%
Professional only; limited to 2 visits per Covered Person per Benefit Period or as otherwise required by PPACA		
Home Health Care.....	90%	90%
Pre-Admission Testing.....	90%	90%
Surgical Services- Anesthesia.....	90%	90%
Surgical Services.....	90%	80%
Assistant surgeon, surgery professional and surgical facility		
Surgical Services – Oral surgery (accidental injury only).....	90%	80%
<b><u>Outpatient Therapy</u></b>		
Cardiac Rehabilitation.....	90%	80%
Chemotherapy and Radiation Therapy.....	90%	80%
Chiropractic.....	\$15 Copay the 100% no Deductible	80%
Dialysis Treatment.....	90%	80%
Hyperbaric, Respiratory and Pulmonary Therapy.....	90%	80%
Physical, Occupational and Speech Therapy.....	90%	80%
<b><u>Preventive/Wellness</u></b>		
Health Care Reform Preventive Benefits.....	100% no Deductible	80%
		Unless otherwise specified below
Women's Preventive Health Benefits.....	100% no Deductible	80%
		Unless otherwise specified below
Immunizations (required by PPACA).....	100% no Deductible	80%
Immunizations (not required by PPACA).....	90%	80%
Medically Necessary Immunizations: rabies, tetanus toxoid, meningococcal polysaccharide-conjugate and H1N1 vaccine administration-Medically Necessary only		
Physical Exam.....	100% no Deductible	80%
Age 21 and over; 1 per Benefit Period maximum		
Prostate Exam (no Deductible in or out of Network).....	100%	100%
Bone Density Tests (females, all ages).....	100% no Deductible	100%

**COVERED SERVICES for the BUY-UP PLAN**

<u>Subject to Deductible unless otherwise stated:</u>	<u>Percentage Payable</u>	
	<u>Network</u>	<u>Non-Network</u>
<u>Preventive/Wellness continued</u>		
Endoscopic Services.....	100% no Deductible	100%
Lab, Medical Tests and X-rays (no Deductible in or out of Network).....	100%	100%
Mammogram (no Deductible in or out of Network).....	100%	100%
All ages; 1 per Benefit Period maximum		
Pap Tests (no Deductible in or out of Network).....	100%	100%
All ages; 1 per Benefit Period maximum		
PSA Tests (no Deductible in or out of Network) .....	100%	100%
Standard Tests (no Deductible in or out of Network).....	100%	100%
Including one each per Benefit Period: chest x-ray, complete blood count, comprehensive metabolic panel, EKG and urinalysis		
Cholesterol Tests (all ages) (no Deductible in or out of Network) .....	100%	100%
<u>Well Child Care (birth to age 21)</u>		
Well Child Care- Exams and Immunizations.....	100% no Deductible	80%
Well Child Care- Hearing and Vision Exams.....	100% no Deductible	100%
Vision Exams include refractions		
Well Child Care- Labs (no Deductible in or out of Network).....	100%	100%
<u>Additional Services</u>		
Abortions (spontaneous miscarriages and therapeutic only).....	90%	90%
Ambulance.....	90%	80%
Autism Spectrum Disorders.....	Benefits are paid based on services rendered	
Applied Behavioral Analysis (ABA) is not covered		
Durable Medical Equipment.....	90%	80%
Including: Wigs (cranial prosthetics) (1 wig per Covered Person per Lifetime Maximum) and Bra following mastectomy (2 bras per Benefit Period maximum if due to mastectomy)		
Gender Dysphoria Treatment.....	Benefits are paid based on the services rendered	
Hospice.....	90%	80%
Infertility Testing only.....	90%	80%
Medical Supplies (including jobst stockings- 2 pair/4 units per Benefit Period).....	90%	80%
Oral Accident.....	90%	80%
Organ Transplant.....covered under a separate Transplant Policy, services not covered under the separate policy will be covered as any other medical Condition under this Plan.		

**COVERED SERVICES for the BUY-UP PLAN**

<b><u>Subject to Deductible unless otherwise stated:</u></b>	<b>Percentage Payable</b>	
	<b><u>Network</u></b>	<b><u>Non-Network</u></b>
<b><u>Additional Services continued</u></b>		
Private Duty Nursing.....	90%	80%
Sleep Disorder.....	Benefits are paid based on the services rendered	
Medically Necessary or Elective Sterilization.....	90%	90%
Therapeutic Injections.....	90%	80%
TMJ.....	100% no Deductible	80%
(surgical and non-surgical treatment- when received in other than a Physician's office)		

**COVID-19 Coverage During the National Public Health Emergency (declared by HHS on January 31, 2020, effective January 27, 2020)**

COVID-19 treatment will be paid at the in-network level of benefits, whether the services are rendered in network or out of network; all member cost sharing, as applicable, will apply. COVID-19 treatment does not include testing and the items and services related to the provider's associated visit as described below.

Coverage for COVID-19 testing, as well as any items and services related to the provider's associated visit, which may include a telehealth (also known as "telemedicine") visit, urgent care or emergency room visit, to determine whether the COVID-19 testing is required and to administer the test will be paid without any member cost sharing, prior authorization or medical management requirements.

Please refer to the provision entitled, "COVID-19 Coverage During The National Public Health Emergency" for more information.



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**PRESCRIPTION DRUG BENEFITS for the BUY-UP PLAN**


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Preventive Prescription Drugs in compliance with PPACA ..... Plan pays 100%

Retail Copayment 30 day supply:

Generic.....	\$5.00
Formulary .....	\$15.00
Non-Formulary .....	\$25.00

**Note:** Coverage for maintenance medications require a 90 day fill at either a Retail Network Pharmacy (all pharmacies in the Kroger network; but not limited to only Kroger pharmacies) or through Mail Order.

Retail Copayment 90 day supply for maintenance medications:

Generic.....	\$5.00
Formulary .....	\$15.00
Non-Formulary .....	\$25.00

Mail Order Copayment 90 day supply:

Generic.....	\$5.00
Formulary .....	\$15.00
Non-Formulary .....	\$25.00

Specialty Prescription Drugs 30 day supply .....\$125.00

Specialty360\* Copay Assistance Program.....30% of the total cost of the specialty product  
 Specialty 360\* Copays: \$115/ \$125/ \$150/ \$153/ \$184/ \$261/ \$276/ \$288/ \$369/ \$384/ \$423/  
 \$461/ \$480/ \$500/ \$553/ \$576/ \$692/ \$769/ \$846/ \$923/ \$961/ \$1,000/ \$1,076/ \$1,153/ \$1,230/  
 \$1,343/ \$1,500/ \$1,538/ \$1,846/ \$1,892/ \$1,923/ \$2,222/ \$2,418/ \$2,857/ \$3,115/ \$3,500/  
 \$3,692/ \$3,037

Out-of-Pocket Maximum per Calendar Year:

Per Individual.....	\$6,250.00
Per Family .....	\$12,500.00

However, if a brand name Prescription Drug is purchased when a generic Prescription Drug is available and medically appropriate (as determined by the Covered Person's Physician), the difference between the cost of the generic and brand name Prescription Drug that the Covered Person pays is not counted toward the Out-of-Pocket Maximum.

Please note: When a generic is available, but the pharmacy dispenses the brand-name medication for any reason other than doctor or other Prescriber indicates "dispense as written", you will pay the difference between the brand-name medication and the generic plus the brand Copayment.

\*For Specialty360 Copay Assistance Program:

Listed Specialty Prescription Drugs

For certain Specialty Prescription Drugs, manufacturer Copay assistance may be available under the Specialty360 program administered by Kroger Prescription Plans, Inc. ("KPP"), the

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pharmacy claims administrator for the Plan, and Kroger Specialty Pharmacy, the Plan's specialty pharmacy provider.

If a Covered Person is prescribed a Specialty Prescription Drug that qualifies for Copay assistance under the Specialty360 program, the Covered Person may choose to enroll in the drug manufacturer's Copay assistance program with KPP's assistance. If a Covered Person is enrolled in the drug manufacturer's Copay assistance program, some or all of the Copay shown above will be offset so that the Covered Person's actual cost will be reduced. The Copay percentage or dollar amount of the Copay varies based on the particular Specialty Prescription Drug. However, only the amount paid directly by the Covered Person is credited to the Covered Person's Out-of-Pocket Maximum. The portion of the Copay paid by the drug manufacturer is not credited to the Covered Person's Out-of-Pocket Maximum.

If a Covered Person does not enroll in the drug manufacturer Copay assistance program, the Covered Person will pay the full amount of the Copay percentage or dollar amount as shown in the Schedule of Benefits above for the Specialty Prescription Drug. In this case, the higher Copay amount will be applied to the Covered Person's Out-of-Pocket Maximum.

#### Other Prescription Drugs

Manufacturer Copay assistance programs or coupons may be available for Prescription Drugs other than those listed Specialty Prescription Drugs covered by the Specialty360 program. To the extent that any Covered Person utilizes a drug manufacturer's coupon or enrolls in a drug manufacturer's Copay assistance program that pays for all or some of the Covered Person's Copay for a Prescription Drug covered by the Plan, the portion of the Copay paid by the drug manufacturer will not be credited to the Covered Person's Out-of-Pocket Maximum.

**Appendix C**

**Alternative Plan Offering**

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**SCHEDULE OF BENEFITS - CORE PLAN**  
**COMPREHENSIVE MAJOR MEDICAL BENEFITS**

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**Precertification Review:** Precertification review is required for all inpatient Hospital Confinements. For elective stays, certification is required at least 24 hours prior to admission. For emergency admissions, certification is required within 48 hours following admission.

**All benefits will be based upon Allowed Amount**

Overall Benefit Period Maximum..... Unlimited

**Network (PPO Network Providers)**

Calendar Year Deductible:

Per Individual ..... \$1,000.00  
Per Family..... \$2,000.00

After the Deductible is met all eligible charges will be paid at 80% until the Out-of-Pocket Maximum has been satisfied.

Then: 100% payment on eligible charges thereafter for that Individual for the remainder of that Calendar Year.

Out-of-Pocket Maximum per Calendar Year (including any applicable Copayments, Deductible and Coinsurance):

Per Individual ..... \$2,000.00  
Per Family..... \$4,000.00

**Non-Network (Non-PPO Network Providers)**

Calendar Year Deductible:

Per Individual ..... \$2,000.00  
Per Family..... \$4,000.00

After the Deductible is met all eligible charges will be paid at 70% until the Out-of-Pocket Maximum has been satisfied.

Then: 100% payment on eligible charges thereafter for that Individual for the remainder of that Calendar Year.

Out-of-Pocket Maximum per Calendar Year (including the Copayments, Deductible and Coinsurance):

Per Individual ..... \$4,000.00  
Per Family..... \$8,000.00

**Network and Non-Network do not Cross Apply**

**COVERED SERVICES for the CORE PLAN**

<b><u>Subject to Deductible unless otherwise stated:</u></b>	<b>Percentage Payable</b>	
	<b><u>Network</u></b>	<b><u>Non-Network</u></b>
<b><u>Emergency Services</u></b>		
Emergency Room (Medical/Accident).....\$150 Copay then 80% no Deductible (Copay waived if admitted)		
Emergency Room (Medical/Accident) Ancillaries and Physician.....	80% no Deductible	
Non-Emergency Room (Including Ancillaries and Physician).....\$150 Copay no Deductible in or out of Network: then 80%		\$150 Copay then 70%
<b><u>Inpatient Services</u></b>		
Anesthesia.....	80%	80%
Consultations.....	80%	70%
Newborn Care.....	80%	70%
Institutional Services (precertification is required) .....	80%	70%
Physical Medicine and Rehabilitation.....	80%	70%
Professional Services (inpatient Physician visits only).....	80%	inpatient-80% all other places of service-70%
Skilled Nursing Facility .....	80%	80%
Surgical Services (inpatient surgery).....	80%	70%
<b><u>Mental Illness, Alcoholism and Drug Abuse</u></b>		
In accordance with Federal Mental Health Parity requirements, this Plan will not apply any financial requirement or treatment limitation to Mental Illness, Alcoholism or Drug Abuse benefits in any classification that is more restrictive than the predominant financial requirement or treatment limitation applied to substantially all medical/surgical benefits in the same classification.		
<b><u>Office Visit (Illness/Injury)</u></b>		
Physician Office Visit/Consultations.....\$20 Copay then 100% no Deductible Exam only. Including Scheduled Telemedicine Services.		70%
Specialist Office Visit/Consultations.....\$20 Copay then 100% no Deductible Exam only. Including Scheduled Telemedicine Services.		70%
On-Demand, Virtual Telemedicine Services.....\$20 Copay the 100% no Deductible		70%
Urgent Care Provider Office Visits.....\$20 Copay then 100% no Deductible Includes facility. Urgent Care Related Services will be paid based on the services rendered		70%
<b><u>Outpatient Services</u></b>		
Allergy Testing.....	80%	80%

**COVERED SERVICES for the CORE PLAN**

<b><u>Subject to Deductible unless otherwise stated:</u></b>	<b>Percentage Payable</b>	
	<b><u>Network</u></b>	<b><u>Non-Network</u></b>
<b><u>Outpatient Services continued</u></b>		
Allergy Treatment.....	80%	70%
Diagnostic Imaging/Lab/Medical Tests/X-ray.....	80%	80%
Diabetic Education and Training only.....	100% no Deductible	100%
Professional only; limited to 2 visits per Covered Person per Benefit Period or as otherwise required by PPACA		
Home Health Care.....	80%	80%
Pre-Admission Testing.....	80%	80%
Surgical Services- Anesthesia.....	80%	80%
Surgical Services.....	80%	70%
Assistant surgeon, surgery professional and surgical facility		
Surgical Services – Oral surgery (accidental injury only).....	80%	70%
<b><u>Outpatient Therapy</u></b>		
Cardiac Rehabilitation.....	80%	70%
Chemotherapy and Radiation Therapy.....	80%	70%
Chiropractic.....	\$20 Copay then 100% no Deductible	70%
Dialysis Treatment.....	80%	70%
Hyperbaric, Respiratory and Pulmonary Therapy.....	80%	70%
Physical, Occupational and Speech Therapy.....	80%	70%
<b><u>Preventive/Wellness</u></b>		
Health Care Reform Preventive Benefits.....	100% no Deductible	70%
		Unless otherwise specified below
Women's Preventive Health Benefits.....	100% no Deductible	70%
		Unless otherwise specified below
Immunizations (required by PPACA).....	100% no Deductible	70%
Immunizations (not required by PPACA).....	80%	70%
Medically Necessary Immunizations: rabies, tetanus toxoid, meningococcal polysaccharide-conjugate and H1N1 vaccine administration-Medically Necessary only		
Physical Exam.....	100% no Deductible	70%
Age 21 and over; 1 per Benefit Period maximum		

**COVERED SERVICES for the CORE PLAN**

<u>Subject to Deductible unless otherwise stated:</u>	<u>Percentage Payable</u>	
	<u>Network</u>	<u>Non-Network</u>
<u>Preventive/Wellness continued</u>		
Prostate Exam (no Deductible in or out of Network).....	100%	100%
Bone Density Tests (females, all ages).....	100% no Deductible	100%
Endoscopic Services.....	100% no Deductible	100%
Lab, Medical Tests and X-rays (no Deductible in or out of Network).....	100%	100%
Mammogram (no Deductible in or out of Network).....	100%	100%
All ages; 1 per Benefit Period maximum		
Pap Tests (no Deductible in or out of Network).....	100%	100%
All ages; 1 per Benefit Period maximum		
PSA Tests (no Deductible in or out of Network) .....	100%	100%
Standard Tests (no Deductible in or out of Network).....	100%	100%
Including one each per Benefit Period: chest x-ray, complete blood count, comprehensive metabolic panel, EKG and urinalysis		
Cholesterol Tests (all ages) (no Deductible in or out of Network) .....	100%	100%
<u>Well Child Care (birth to age 21)</u>		
Well Child Care- Exams and Immunizations.....	100% no Deductible	70%
Well Child Care- Hearing and Vision Exams.....	100% no Deductible	100%
Vision Exams include refractions		
Well Child Care- Labs (no Deductible in or out of Network).....	100%	100%
<u>Additional Services</u>		
Abortions (spontaneous miscarriages and therapeutic only).....	80%	80%
Ambulance.....	80%	70%
Autism Spectrum Disorders.....	Benefits are paid based on services rendered	
Applied Behavioral Analysis (ABA) is not covered		
Durable Medical Equipment.....	80%	70%
Including: Wigs (cranial prosthetics) (1 wig per Covered Person per Lifetime Maximum) and Bra following mastectomy (2 bras per Benefit Period maximum if due to mastectomy)		
Gender Dysphoria Treatment.....	Benefits are paid based on the services rendered	
Hospice.....	80%	70%
Infertility Testing only.....	80%	70%
Medical Supplies (including jobst stockings- 2 pair/4 units per Benefit Period)....	80%	70%

**COVERED SERVICES for the CORE PLAN**

<b><u>Subject to Deductible unless otherwise stated:</u></b>	<b>Percentage Payable</b>	
	<b><u>Network</u></b>	<b><u>Non-Network</u></b>
<b><u>Additional Services continued</u></b>		
Oral Accident.....	80%	70%
Organ Transplant.....covered under a separate Transplant Policy, services not covered under the separate policy will be covered as any other medical Condition under this Plan.		
Private Duty Nursing.....	80%	70%
Sleep Disorder.....	Benefits are paid based on the services rendered	
Medically Necessary or Elective Sterilization.....	80%	80%
Therapeutic Injections.....	80%	70%
TMJ.....	90% no Deductible	70%
(surgical and non-surgical treatment- when received in other than a Physician's office)		

**COVID-19 Coverage During the National Public Health Emergency (declared by HHS on January 31, 2020, effective January 27, 2020)**

COVID-19 treatment will be paid at the in-network level of benefits, whether the services are rendered in network or out of network; all member cost sharing, as applicable, will apply. COVID-19 treatment does not include testing and the items and services related to the provider's associated visit as described below.

Coverage for COVID-19 testing, as well as any items and services related to the provider's associated visit, which may include a telehealth (also known as "telemedicine") visit, urgent care or emergency room visit, to determine whether the COVID-19 testing is required and to administer the test will be paid without any member cost sharing, prior authorization or medical management requirements.

Please refer to the provision entitled, "COVID-19 Coverage During The National Public Health Emergency" for more information.



### PRESCRIPTION DRUG BENEFITS for the CORE PLAN

Preventive Prescription Drugs in compliance with PPACA ..... Plan pays 100%

Retail Copayment 30 day supply:

Generic.....	\$10.00
Formulary .....	\$20.00
Non-Formulary .....	\$30.00

**Note:** Coverage for maintenance medications require a 90 day fill at either a Retail Network Pharmacy (all pharmacies in the Kroger network; but not limited to only Kroger pharmacies) or through Mail Order.

Retail Copayment 90 day supply for maintenance medications:

Generic.....	\$10.00
Formulary .....	\$20.00
Non-Formulary .....	\$30.00

Mail Order Copayment 90 day supply:

Generic.....	\$10.00
Formulary .....	\$20.00
Non-Formulary .....	\$30.00

Specialty Prescription Drugs 30 day supply ..... \$350.00

Specialty360\* Copay Assistance Program.....30% of the total cost of the specialty product  
 Specialty 360\* Copays: \$115/ \$125/ \$150/ \$153/ \$184/ \$261/ \$276/ \$288/ \$369/ \$384/ \$423/  
 \$461/ \$480/ \$500/ \$553/ \$576/ \$692/ \$769/ \$846/ \$923/ \$961/ \$1,000/ \$1,076/ \$1,153/ \$1,230/  
 \$1,343/ \$1,500/ \$1,538/ \$1,846/ \$1,892/ \$1,923/ \$2,222/ \$2,418/ \$2,857/ \$3,115/ \$3,500/  
 \$3,692/ \$3,037

Out-of-Pocket Maximum per Calendar Year:

Per Individual.....	\$5,350.00
Per Family .....	\$10,700.00

However, if a brand name Prescription Drug is purchased when a generic Prescription Drug is available and medically appropriate (as determined by the Covered Person's Physician), the difference between the cost of the generic and brand name Prescription Drug that the Covered Person pays is not counted toward the Out-of-Pocket Maximum.

Please note: When a generic is available, but the pharmacy dispenses the brand-name medication for any reason other than doctor or other Prescriber indicates "dispense as written", you will pay the difference between the brand-name medication and the generic plus the brand Copayment.

\*For Specialty360 Copay Assistance Program:

Listed Specialty Prescription Drugs

For certain Specialty Prescription Drugs, manufacturer Copay assistance may be available under the Specialty360 program administered by Kroger Prescription Plans, Inc. ("KPP"), the

pharmacy claims administrator for the Plan, and Kroger Specialty Pharmacy, the Plan's specialty pharmacy provider.

If a Covered Person is prescribed a Specialty Prescription Drug that qualifies for Copay assistance under the Specialty360 program, the Covered Person may choose to enroll in the drug manufacturer's Copay assistance program with KPP's assistance. If a Covered Person is enrolled in the drug manufacturer's Copay assistance program, some or all of the Copay shown above will be offset so that the Covered Person's actual cost will be reduced. The Copay percentage or dollar amount of the Copay varies based on the particular Specialty Prescription Drug. However, only the amount paid directly by the Covered Person is credited to the Covered Person's Out-of-Pocket Maximum. The portion of the Copay paid by the drug manufacturer is not credited to the Covered Person's Out-of-Pocket Maximum.

If a Covered Person does not enroll in the drug manufacturer Copay assistance program, the Covered Person will pay the full amount of the Copay percentage or dollar amount as shown in the Schedule of Benefits above for the Specialty Prescription Drug. In this case, the higher Copay amount will be applied to the Covered Person's Out-of-Pocket Maximum.

#### Other Prescription Drugs

Manufacturer Copay assistance programs or coupons may be available for Prescription Drugs other than those listed Specialty Prescription Drugs covered by the Specialty360 program. To the extent that any Covered Person utilizes a drug manufacturer's coupon or enrolls in a drug manufacturer's Copay assistance program that pays for all or some of the Covered Person's Copay for a Prescription Drug covered by the Plan, the portion of the Copay paid by the drug manufacturer will not be credited to the Covered Person's Out-of-Pocket Maximum.

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**DENTAL BENEFITS**

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**FOR COVERED PERSONS AGE 19 AND OVER:**

All benefits will be based upon Dental Allowed Amount

Calendar Year Maximum (per Covered Person).....\$1,200.00

Calendar Year Deductible (per Covered Person).....\$25.00

Orthodontic Treatment Lifetime Maximum.....\$750.00  
(per eligible Dependent after the end of the month in which the Dependent attains age 19 to 23 only)

**Percentages Payable:**

- |      |                            |                                 |
|------|----------------------------|---------------------------------|
| I.   | Preventive Services .....  | 100%, not subject to Deductible |
| II.  | Essential Services.....    | 80%, subject to Deductible      |
| III. | Complex Services .....     | 80%, subject to Deductible      |
| IV.  | Orthodontic Services ..... | 60%, subject to Deductible      |

**FOR COVERED PERSONS UNDER AGE 19:**

Calendar Year Deductible (per Covered Person).....\$25.00

For Dependents to the end of the month in which they attain age 19:

Non-Medically Necessary Orthodontic Treatment Lifetime Maximum.....\$750.00  
per Covered Person

Medically Necessary Orthodontic Treatment Lifetime Maximum .....Unlimited\*  
per Covered Person

Retainer appliances billed separately from treatment are limited to one per arch in a lifetime.

**Percentages Payable:**

- |      |   |                                 |
|------|---|---------------------------------|
| I.   | Preventive Services .....   | 100%, not subject to Deductible |
| II.  | Basic Services .....  | 80%, subject to Deductible      |
| III. | Major Services .....  | 80%, subject to Deductible      |
| IV.  | Non-Medically Necessary and Medically Necessary* Orthodontic Treatment..... |                                 |
|      | .....   | 60%, subject to Deductible      |

\*Predetermination of Benefits is required for Medically Necessary Orthodontic Treatment

**Out-of-Pocket Maximum per Calendar Year:**

Any Copayments, Deductibles or Coinsurance that apply to this benefit will count toward the Network Out-of-Pocket Maximum shown in the Comprehensive Major Medical Benefits section of this Schedule. (There is no Out-of-Pocket Maximum for charges received from a Non-Network Provider.)

Please refer to the Dental Benefits section for types of service and maximums or limitations.

## **Appendix D**

### **Drug Free Workplace Policy**

**DRUG FREE WORKPLACE**

**AND**

**DRUG TESTING/EAP PROGRAM**

**CITY OF SANDUSKY**

REVISED: \_\_\_\_\_, 2004

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### **HISTORICAL OVERVIEW RELATED TO DRUG-FREE WORKPLACE**

The Drug-Free Workplace Act of 1988 established that employers who are federal contractors with contracts of \$25,000.00 or more must provide and maintain a drug-free workplace by satisfying the following requirements.

1. Publishing a policy statement prohibiting the unlawful manufacture, distribution, possession or use of a controlled substance in the workplace and specifying what actions will be taken against employees who violate the policy;
2. Establishing a drug-free awareness program to inform employees of the dangers of drug abuse in the workplace and of the availability of drug counseling, rehabilitation and the employee assistance program;
3. Providing employees working under the program with a copy of the policy.
4. Including in the policy statement a notice to employees that, as a condition of employment, they must abide by the policy and must notify the employer if they are convicted of a criminal drug offense occurring in the workplace within five days after the conviction;
5. Notifying the contracting agency...(NA)
6. Imposing sanctions (including, but not limited to, termination) on the convicted employee or requiring the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program; and
7. Making a good faith effort to maintain a drug-free workplace by satisfying the foregoing requirements.

### **HISTORICAL OVERVIEW RELATED TO COMMERCIAL VEHICLES**

In 1984, Congress enacted the Motor Carrier Safety Act (49 U.S.C. app. 2501-2520). the regulations which followed this law, the Federal Motor Carrier Safety Regulations (FMCSR), provide safety guidelines for operating commercial motor vehicle including:

- a. Driver Qualification Requirements (49 CFR Part 391)
- b. Operating Rules (49 CFR part 392)
- c. Parts and Accessories (49 CFR part 393)
- d. Hours of Services (49 CFR part 395)
- e. Inspection, Repair, Maintenance (49 CFR part 396)

- f. Transportation of Hazardous materials: driving and parking rules (49 CFR part 397)

The Federal Highway Administration (FHWA) had regulatory authority over motor carriers. This law applied to private sector motor carriers.

In 1986, Congress passed the **Commercial Motor Vehicle Safety Act** that included Federal, State and local governments in the definition of employers (49 U.S.C. app. 2701 et. sig.). This act required the issuance of commercial driver's licenses to all drivers operating large commercial motor vehicles in interstate and intrastate commerce.

On October 28, 1991, President George Bush signed the **Omnibus Transportation Employee Testing Act of 1991** (Pub. L. 102-143, Title V). This act required the Department of Transportation (DOT) to prescribe regulations requiring testing of safety-sensitive employees in the aviation, highway, rail and transit industries for alcohol and controlled substance use.

The 1991 Act states:

All employers, including political subdivisions of the state, of operators of commercial motor vehicles (CMV) must establish and maintain programs to combat drug and alcohol abuse, including testing of commercial motor vehicle drivers for the use of alcohol and controlled substances.

The final rules issued February 15, 1994, 59 FR 7302, the Department of Transportation cited statistics gathered by the National transportation Safety Board indicating that thirty-three percent (33%) of the fatally injured CMV operators tested positive for alcohol or drugs. The National Safety Council estimates that one on-the-job accident is four (4) times more costly than one that occurs in a personal vehicle. An average cost to employers is \$168,000 for fatal accidents and \$6,900 for non-fatal accidents.

## **II. DRUG AND ALCOHOL POLICY**

### **A. Purpose**

1. The City recognizes that the ability of an employee to properly perform his or her duties depends, in part, on a workplace that is free of substance abuse. In an effort to promote public safety, to provide employees who may be drug or alcohol dependent with an opportunity for treatment to be productive employees of the City, the City has this drug and alcohol policy. It is the purpose of this policy to provide a method for responding to the risks presented by the presence of substance abuse in the workplace by:



- a. Dealing with incidents of substance abuse which present a reasonable likelihood of significant risk to employees, the general public, or other employees of the City;
  - b. Providing information through training regarding the effects of alcohol and controlled substance use on an individual's health, work, and personal life, and information about drug and alcohol counseling, rehabilitation, and employee assistance programs;
  - c. Providing assistance to an employee with drug or alcohol dependency problems; and
  - d. Disciplining an employee whose work performance is adversely affected by substance abuse or who fails to comply with the requirements of this Policy.
2. Recognizing that drug and alcohol abuse are treatable illnesses that should be dealt with initially by treatment and education, it is the City's desire to prevent and rehabilitate rather than terminate an employee that is alcohol and/or drug dependent when practicable. No employee will be discharged for voluntarily seeking assistance for a substance abuse problem; however, co-occurring work performance may result in disciplinary action up to and including termination.
3. All new employees and re-hired employees who drive City vehicles are subject to pre-employment testing. All new employees will receive a copy of this policy during their orientation. No employee shall be tested until a copy of this policy is provided to the employee.

## **B. Definitions**

**Alcohol use** means the consumption of any beverage, mixture, or preparation, including a medication, containing alcohol.

**Confirmation Test** For alcohol testing means a second test, following a screening test with a result of more than 0.02 grams of the person's breath, that provides quantitative data of alcohol concentration. For controlled substances testing means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

**Controlled Substance** means any illegal drugs and prescription medications or non-prescription medications.

**Illegal Drugs** means those substances listed in ORC 3719.41 that are not being used under the supervision of a licensed health care professional, or otherwise in accordance with federal law.

**Medical Review Officer (MRO)** means a licensed physician responsible for receiving laboratory results generated by the City's controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

**On-duty** means all time while the employee is at work, attending training, or operating a city-owned vehicle.

**Reasonable suspicion** is a belief based on objective facts sufficient to lead a reasonably prudent Supervisor to suspect that an employee is under the influence of drugs or alcohol.

**Screening test** for alcohol means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

**Substance abuse professional (SAP) means** a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

**Under the Influence** means the employee has consumed some alcohol and/or controlled substance, regardless of quantity.

### **III. Voluntary Request for Assistance**

1. An employee may voluntarily enter rehabilitation prior to being required to submit to alcohol and controlled substance testing. An employee shall not be disciplined for voluntarily entering rehabilitation, provided the employee:
  - a. Agrees to cooperate in and successfully complete appropriate treatment as determined by the Substance Abuse Professional (SAP) or physician involved;
  - b. Discontinues use of illegal drugs or misuse of alcohol;
  - c. Agrees to authorize persons involved in counseling, diagnosing and treating the employee to disclose to the City Manager and

- the Law Director or his or her designees, the employee's progress, cooperation, drug and alcohol use, completion or non-completion of counseling and treatment and any threat to property or safety perceived in connection with the employee's continued performance of his or her job duties;
- d. Completes any course of counseling or treatment prescribed, including an "after-care" group for a period of up to twelve (12) months;
  - e. Agrees to submit to follow-up testing, at times determined by the City, for a minimum of six (6) times per twelve (12) month period for thirty-six (36) months beginning after the employee's return to duty, at the employee's expense; and
  - f. However, an employee may still be subject to discipline up to and including termination for the underlining act caused by being under the influence of alcohol and/or drugs.
2. Employees who do not agree to act or who do not act in accordance with the foregoing shall be subject to discipline up to and including termination. This policy shall not be construed as an obligation on the part of the City to retain an employee on active status throughout the period of rehabilitation if it is appropriately determined that the employee's current use of alcohol or drugs prevents such individual from safely performing his or her duties or whose continuance on active status would constitute a direct threat to property or safety.

#### **IV. Prohibited Actions**

Employees covered by this policy are prohibited from engaging in the following:

1. Reporting to duty or remaining on duty while having an alcohol concentration of greater than 0.02;
2. Reporting to duty or remaining on duty while under the influence of alcohol and/or a controlled substance;
3. Intentionally using a prescription medication contrary to the instructions of the doctor or dentist who prescribed it or the instructions that accompany the drug;
4. Reporting to duty or remaining on duty while using a controlled substance (including prescription drugs, unless the employee has been advised by a physician or a pharmacist that the controlled substance will not adversely affect the employee's ability to perform his/her job duties) or if the employee tests positive for controlled substances;

5. Possessing alcohol or illegal drugs while on duty;
6. Using alcohol or controlled substances (unless the employee has been advised by a physician or a pharmacist that the controlled substance will not adversely affect the employee's ability to perform his/her job) while on duty;
7. Using alcohol or a controlled substance for eight (8) hours following an accident in which the employee is required to submit to post-accident testing or until the employee undergoes post-accident testing, whichever occurs first;
8. Refusing to submit to a post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance test; and
9. Failing to notify the City Manager and/or designee within three (3) working days of being arrested, charged, or convicted of a criminal or traffic offense involving drugs or alcohol. It is further understood that compliance with the notification required shall not prohibit appropriate discipline based upon the specific facts and circumstances.

**V. Use of Medication**

1. An employee is required to report to his or her Supervisor the use of any prescription or non-prescription medicines that may impair or interfere with the safe performance of the employee's job.
2. At the time any medication is prescribed to an employee, the employee shall ask the treating physician whether the medication will impair or interfere with the safe performance of the employee's job. The employee shall be required to produce a signed statement from the treating physician stating how the medication may impair the employee's ability to perform his/her job and/or interfere with the safe performance of the employee's job.
3. If it is determined by a licensed physician that the medication will impair or interfere with the safe performance of the employee's job, the City will adhere to federal and state regulations and local home rule in accordance with this policy.

**VI. Post-Accident Testing**

1. An employee shall be required to submit to post-accident alcohol and controlled substance testing following any work-related traffic crash

involving a motor vehicle if as a result of the crash any person:

- a. Suffers bodily injury requiring off-site medical attention; or
  - b. Dies.
2. An employee may be required to submit to post-accident alcohol and controlled substance testing following any work-related traffic crash involving a motor vehicle if as a result of the crash:
    - a. A traffic citation is issued to the employee for a moving violation in connection with a vehicular crash;
    - b. A vehicle is damaged and the cost to repair is \$500.00 or more and/or some type of personal injury is sustained;
    - c. Non-vehicular property is damaged; or
    - d. The Supervisor has reasonable suspicion to believe the traffic crash was related to alcohol and or drugs.
  3. Employees other than the operator of the motor vehicle may be required to submit to drug and alcohol testing, if the performance of an employee, other than the operator, may have contributed to the accident.
  4. An employee who is subject to a post-accident test shall remain readily available for such test or shall be deemed to have refused to submit to testing. Unless emergency personnel transport the employee, a representative of the City shall transport the employee to the collection site.
  5. Nothing in this Section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain or render assistance in responding to the accident.
  6. Following the completion of the test, the employee shall not be permitted to return to duty unless and until negative alcohol and controlled substance test results are reported.
  7. Following a positive alcohol or controlled substance test result, the employee shall be disciplined in accordance with this policy.

## **VII. Reasonable Suspicion Testing**

1. The City may require an employee to submit to an alcohol and/or controlled substance test whenever it has **reasonable suspicion** to believe that an employee has violated the prohibitions of this policy. A Supervisor who has completed the City's drug and alcohol Supervisor training shall make the determination of reasonable suspicion.

2. Any of the following, alone or in combination, ***not all inclusive***, may constitute **reasonable suspicion**:
  - a. Odor of alcoholic beverage on breath
  - b. Slurred and/or thick speech
  - c. Staggered gait (Unsteady walking and movement)
  - d. Vertical and/or horizontal nystagmus
  - e. Abnormally constricted pupils which are non-responsive to light
  - f. Abnormally dilated pupils which are non-responsive to light
  - g. Loss of attention span under controlled conditions
  - h. Inability to comprehend under controlled conditions
  - i. Hallucinating
  - j. An accident involving City property, where there is reason to believe that employee impairment may have been a factor regardless of whether the accident meets the requirements for post-accident testing
  - k. Possession of alcohol on the job
  - l. Possession of an illegal drug
  - m. Possession of a prescription drug on the job without a valid prescription
  - n. Objective symptoms of drug usage identified by a trained medical practitioner or law enforcement officer.
3. Any Supervisor directing an employee to submit to an alcohol and/or controlled substance test shall give the employee a reasonable opportunity, prior to the test, to request the presence of, or to seek advice from a representative. The member and the employee's representative, if available, shall be given an opportunity to communicate any information or other explanation relevant to the circumstances to the Supervisor. The exercise of these rights shall not unreasonably delay the collection of the test sample. For alcohol tests, "unreasonable delay" means more than 20 minutes; for drug tests, "unreasonable delay" means more than 1 hour.
4. Any Supervisor directing an employee to submit to a drug and/or alcohol test shall document in writing, on the form provided by the City, the facts constituting **reasonable suspicion** that the employee in question is under the influence of drugs or alcohol.
5. If an employee is directed to submit to an alcohol and controlled substance test, the employee must immediately cease work and shall be transported to the collection site by a representative of the City. The employee shall not be permitted to return to duty unless and until negative alcohol and controlled substance test results are reported.

6. The employee shall be placed on paid administrative leave pending the outcome of the reasonable suspicion testing.
7. If both the alcohol and controlled substance test results are negative, and no other work rule violation(s) have occurred, the employee shall be returned to his/her position. If either the alcohol or controlled substance test results are positive, the employee shall be disciplined in accordance with this policy.
8. The Supervisor shall arrange for the employee to be safely transported home after the employee has undergone or refused to submit to the reasonable suspicion testing.

#### **VIII. Random Testing**

1. Random testing will be performed for employees who drive the City's commercial motor vehicles (CMV) and operate or perform safety sensitive equipment.
2. At least twenty-five percent (25%) of employees annually will be randomly selected using a scientifically valid method in which each employee will have an equal chance of being tested each time selections are made. The dates for testing shall be unannounced and spread throughout the calendar year.
3. If an employee is directed to submit to an alcohol and controlled substance test, the employee must immediately cease work and shall be transported to the collection site by a representative of the City. The employee shall return to duty after providing the requested breath, urine, or blood samples.
4. If either the alcohol or controlled substance test results are positive, the employee shall be disciplined in accordance with this policy.

#### **IX. Return-to-Duty Testing**

1. Before an employee who has been found to be in violation of the prohibitions set out in policy, may return to duty, the employee must successfully undergo testing for alcohol and controlled substances. The results of the alcohol test or controlled substance test must be negative.
2. Any employee whose return to duty test results are greater than 0.00 grams of the employee's breath for alcohol or positive for controlled substances shall be terminated from employment.
3. Any costs associated with these tests shall be the responsibility of the employee at the time the test is administered and shall be subtracted from the employee's last pay.

**X. Follow-up Testing**

1. When an employee has been found to be in violation of the prohibitions set out in this policy, and the SAP has determined that the employee needs assistance in resolving alcohol or substance abuse problems, the employee will be subject to a minimum of six (6) unannounced follow-up tests per twelve months for thirty-six (36) months or as directed by the SAP and as a condition of continued employment the employee shall follow the recommendations of the SAP.
2. Any employee whose follow-up test results are greater than 0.02 grams of the employee's breath for alcohol or positive for controlled substances shall be terminated from employment.
3. Any costs associated with these tests are the responsibility of the employee at the time the test is administered.

**XI. Refusal to Submit to Test**

1. Actions constituting a refusal to submit to a test include:
  - a. Failing to provide adequate breath for alcohol testing;
  - b. Failing to provide adequate urine for controlled substance testing;
  - c. Failing to provide a blood sample for controlled substance testing;
  - d. Engaging in conduct that clearly obstructs the testing procedure / process;
  - e. Failing to remain readily available for a post-accident test.
2. If an employee refuses to submit to any tests required by this policy, the employee's refusal shall be documented in writing. The employee shall be placed on administrative leave without pay pending a disciplinary hearing.
3. Refusal to submit to any tests required by this policy shall be treated as a positive result and insubordination and shall result in the employee's termination from employment.
4. Adding any substance to the test and/or body to manipulate the test shall result in termination.

**XII. Testing Procedures**



1. Both the collection site and laboratory performing testing under this policy shall be selected by the City and shall be done by a facility that meets the requirements of 49 CFR Part 40.
2. The City, the collection site, and the laboratory shall have a clear and well-documented procedure for collection, shipment, and assessment of testing samples, which procedure shall, upon request, be provided in writing to the employee subject to testing or the employee's representative (must have employee consent).
3. For controlled substance testing, the City, the collection site, and the laboratory shall follow the procedures set forth in 49 CFR Part 40, including an evidentiary chain of custody and control and split sample collection and testing. The collection site is responsible for maintaining the integrity of any specimen collection and transfer. Alcohol breath testing shall be conducted at the collection site and shall be conducted by a technician trained in such testing. Appropriate records of testing(s) will be maintained by the collection site for review by the employee and/or employee's representative.
4. Employees have a right for a Representative to be present during the collection of samples, but the exercise of such right shall not unreasonably delay the collection of the sample and cannot interfere with any testing process. For alcohol tests, "unreasonable delay" means 20 minutes or more; for drug tests, "unreasonable delay" means 1 hour. Unreasonable delay of the test shall constitute a refusal. Prior to submitting a breath, urine or blood specimen, the employee will be required to sign a consent form.
5. Any refusals to conditions/procedures in this policy may result in discipline up to and including termination.
6. Employees will initially be requested to provide a urine sample for controlled substance testing. In the event that a urine sample cannot be produced or that a sufficient quantity cannot be produced, then the employee shall be required to submit a blood sample for controlled substance testing.
7. Tests for drugs shall use the screening test cut-off levels and the confirmation test cut-off levels for such drugs established by the testing laboratory in accordance with the standards established by this Policy or HHS standards, if any.
8. With regard to drug tests, if the test results are positive, and the employee has not offered an explanation to the Medical Review Officer (MRO)

sufficient to cause the MRO to consider the results negative, the Assistant City Manager or designee shall be notified and the Assistant City Manager or designee shall in turn contact the employee and the Department Head. The City will provide employees who test positive for drugs with an opportunity to have the split urine specimen tested by a clinical laboratory or hospital facility of the employee's choosing, at the employee's own expense, providing the employee notifies the city within seventy-two (72) hours of receiving the positive results and provided further that the laboratory or clinic and the testing procedure, including chain of custody, meets or exceeds the standards established in this policy. If the employee does not request the testing of the sample within the second container after the sample within the first container tests positive, or if the employee requests the testing of the sample within the second container and it also tests positive for an illegal drug or alcohol, rehabilitative or disciplinary action shall be taken.

9. An employee that tests positive shall be evaluated by a Substance Abuse Professional (SAP), and may not return to work until released to return to work by the SAP. The employee may be required to sign a release form allowing the SAP to release information regarding the employee's evaluation, treatment plan, and progress to the City. Refusal to sign the release shall be deemed a failure to cooperate and result in termination. Any costs associated with the evaluation and prescribed counseling, treatment, or rehabilitation program are the responsibility of the employee unless otherwise covered by the Employer-sponsored medical benefit plan to which the employee belongs. Failure to complete or participate in prescribed counseling rehabilitation program shall result in the employee's termination.

### **XIII. Disciplinary Action**

1. An employee, who violates any of the prohibitions listed in this policy, may be disciplined up to and including termination.
2. The City normally will not terminate an employee the first time he or she tests positive for drugs and/or alcohol, provided the employee:
  - a. Cooperates in an evaluation for chemical dependency by an individual qualified under 49 C.F.R. Part 40 to be a Substance Abuse Professional and provide the City with a copy of the evaluation;
  - b. Successfully completes all counseling, treatment or after-care of up to 12 months, recommended by the Substance Abuse Professional;
  - c. Discontinues and does not resume the use of illegal drugs, abuse

- of controlled substances, and misuse of alcohol;
  - d. Agrees to authorize persons involved in evaluation, counseling, diagnosing and treating the employee, to disclose to the City Manager, and the City Attorney or designees, the employee's evaluation, progress, cooperation, drug and alcohol use and successful completion or non-completion of counseling and treatment, and any threat to property or safety involved in the employee performing job duties or returning to active duty;
  - e. Agrees to submit to follow-up testing, at times determined by the City, for a minimum of six (6) times per twelve (12) month period for thirty-six (36) months beginning after the employee's return to duty; and
  - f. Agrees that during or after this last chance period in (5), above, if the employee tests positive again or otherwise violates this Policy the employee shall be terminated.
  - g. Nothing in this policy shall limit the City in imposing discipline, which may include random alcohol and/or drug testing, alcohol and/or drug counseling, suspension, or a combination up to and including termination, for gross or serious misconduct that may be coincident with an employee's improper use of drugs or alcohol.
3. Employees who do not agree to act or who do not act in accordance with the foregoing shall be subject to discipline, up to and including termination. This policy shall not be construed as an obligation on the part of the City to retain an employee on active status throughout the period of rehabilitation if it is appropriately determined that the employee's current use of alcohol or drugs prevents such individual from performing his duties or whose continuance on active status would constitute a direct threat to the property and safety of others.
4. An employee shall not be permitted to return to work until released to return to duty by the SAP. The employee may be required to apply for Family and Medical Leave in accordance with the procedures set forth in that policy. The employee will be permitted to apply for accumulated paid leave (e.g., sick, vacation, compensatory, personal, etc.) If no paid leave is available, the employee may apply for an unpaid leave of absence (e.g., Family and Medical Leave, disability leave, personal leave, or other unpaid leave of absence) in accordance with City policy.
5. The length of a first offense suspension shall be determined on a case-by-case basis.
6. In no event shall an employee be permitted more than one (1) chance at rehabilitation. A second offense under this policy shall result in the employee's termination from employment.

#### **XIV. Right of Appeal**

An aggrieved employee has the right to challenge results of the drug or alcohol tests and any discipline imposed in the same manner that any other employer action under the terms of this policy is grievable. Any evidence concerning test results that is obtained in violation of the standards contained in this policy shall not be admissible in any disciplinary proceeding involving the employee, unless the City establishes that deviation from such standards has not affected the reliability, accuracy, or verification of the test results.

#### **XV. Treatment costs**

Treatment and rehabilitation costs arising out of the employee's use of such services, if covered, may be paid for by the employee's insurance program, subject to any deductible, co-payment and policy limits under the employee's insurance program. Employees may be allowed to use their accrued and earned leave (vacation, holiday, sick leave, comp time) or take an unpaid leave of absence for the necessary time off involved in a treatment or rehabilitation program. Other than as specified in this policy or required by law, the City shall have no obligation to pay for or insure treatment or rehabilitation.

#### **XVI. Employee Assistance Program (EAP)**

The City's Employee Assistance Program (EAP) shall include counseling for drug and/or alcohol problems. Voluntary requests for assistance with drug and/or alcohol problems shall be held strictly confidential by the EAP to the extent required by law and the terms of this Policy. If an employee voluntarily enters rehabilitation pursuant to this policy the City Manager and/or designee shall be the only ones informed of any such request or any treatment that may be given and they shall hold such information strictly confidential to the extent required by law. All such information shall also be available to the employee's representative to whom disclosure is specifically authorized in writing by the employee. Employees are encouraged to use the EAP, but involvement in that program does not prevent the City from disciplining an employee if there are co-occurring performance, attendance or behavioral problems. Furthermore, involvement in the EAP does not preclude the City from discharging a probationary employee during the employee's original period of probation.

#### **XVII. Changes in Testing Procedures**

The City recognizes that during the life of this policy there may be improvements in the technology of testing procedure that provide more accurate testing. In that event, the City will determine whether to amend this procedure to include such improvements.

**XVIII. Confidentiality**

All testing and actions taken under or pursuant to this policy shall be kept confidential to the extent permitted by federal and state law, except where disclosure is warranted to comply with the provisions of this policy relative to disciplinary action taken against an employee.

**XVIII. Other Laws**

1. This policy is in no way intended to supersede or waive any rights that an employee may be entitled to under federal or state constitutions or any applicable law.
2. Any employee convicted of an offense under a criminal drug or traffic violation involving drugs or alcohol occurring within the workplace or during the course of the employee's job must report the conviction to the Assistant City Manager no later than five (5) working days after the conviction.
7. This policy is not to be utilized for criminal law enforcement purposes. Furthermore, this policy does not prevent criminal law enforcement investigation of illegal activity. However, evidence derived in a criminal investigation, including drug or alcohol testing, may be used as evidence in a disciplinary proceeding.

**XX. DRUG AND ALCOHOL POLICY ACKNOWLEDGEMENT**

I hereby acknowledge that I have received, read, and understand the City of Sandusky non-tolerance Drug and Alcohol Policy. I agree to comply with the policy and procedure contained therein.

Employee's signature\_\_\_\_\_

Date\_\_\_\_\_

<b>Employee Name:</b>	
<b>Department:</b>	
<b>Observation:</b>	<b>Date:</b> <b>Time (Include am/pm):</b> <b>Location (Street/City/State/Zip):</b>

### CAUSE FOR SUSPICION

1. **Presence of Alcohol, Drugs, and or Drug Paraphernalia (*specify*)**

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2. **Appearance:**
- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Normal                              | <input type="checkbox"/> Flushed                    | <input type="checkbox"/> Puncture Marks   |
| <input type="checkbox"/> Disheveled                          | <input type="checkbox"/> Bloodshot Eyes             | <input type="checkbox"/> Body Odors       |
| <input type="checkbox"/> Tremors                             | <input type="checkbox"/> Dry-mouth Symptoms         | <input type="checkbox"/> Profuse Sweating |
| <input type="checkbox"/> Runny Nose/Sores                    | <input type="checkbox"/> Dilated/Constricted Pupils |   |
| <input type="checkbox"/> Inappropriate Wearing of Sunglasses |   |   |
| <input type="checkbox"/> Other:                              |   |   |

3. **Behavior:**

- Speech
- |                                       |                                     |                                     |                                 |
|---------------------------------------|-------------------------------------|-------------------------------------|---------------------------------|
| <input type="checkbox"/> Normal       | <input type="checkbox"/> Incoherent | <input type="checkbox"/> Slurred    | <input type="checkbox"/> Silent |
| <input type="checkbox"/> Confused     | <input type="checkbox"/> Slowed     | <input type="checkbox"/> Whispering |                                 |
| <input type="checkbox"/> Other: _____ |                                     |                                     |                                 |

- Awareness
- |   |                                      |                                      |                                   |
|---|--------------------------------------|--------------------------------------|-----------------------------------|
| <input type="checkbox"/> Normal               | <input type="checkbox"/> Confused    | <input type="checkbox"/> Euphoria    | <input type="checkbox"/> Paranoid |
| <input type="checkbox"/> Lethargic            | <input type="checkbox"/> Disoriented | <input type="checkbox"/> Mood Swings |                                   |
| <input type="checkbox"/> Lack of Coordination |                                      |                                      |                                   |

4. **Motor Skills:**

Balance      ☐ Normal      ☐ Swaying      ☐ Falling      ☐ Staggering  
☐ Other \_\_\_\_\_

Walking &      ☐ Normal      ☐ Swaying      ☐ Arms Raised for Balance  
Turning      ☐ Stumbling      ☐ Falling      ☐ Reaching for Support  
☐ Other \_\_\_\_\_

5. **Other Observed Actions or Behavior (specify):**

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**WITNESSED BY:**

Signature/ Title/ Date/ Time –
Signature/ Title/ Date/ Time -