

CITY COMMISSION AGENDA

April 7, 2020

The Honorable City Commission
The City of Springfield, Ohio

The City Commission will hold a special VIRTUAL legislative meeting at 10:00 AM on Tuesday, April 7, 2020 in place of its regular evening session via the ZOOM Meeting application that is available at www.zoom.us.

CALL TO ORDER

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

FIRST READINGS – ORDINANCES

The following legislation is being presented for the first time and requires presentation at a second meeting before vote on passage. The City Manager recommends passage at the next scheduled City Commission meeting:

100-20 Authorizing the City Manager to enter into a contract for demolition services with Tony Smith dba Tony Smith Wrecking & Trucking for an amount not to exceed \$600,000.00.

101-20 Authorizing the City Manager to enter into an LPA Federal Local-LET Project Agreement No. 33222 between the City and the Ohio Department of Transportation to provide the City with eligible costs of up to a maximum sum of \$1,544,209.40 for the CLA Yellow Springs Street Reconstruction, Phase 2, PID No. 109607; authorizing the City Manager, Law Director and Finance Director to do all things they deem necessary to implement said agreement; and authorizing an expenditure up to \$386,052.35 to be used as matching funds in connection with the agreement to be entered into with the Ohio Department of Transportation.

102-20 Consenting to the micro surface of the existing pavement on IR 70 in Clark County from SR 40 to just west of Selma Road, including a portion within the City of Springfield, by the Ohio Department of Transportation (identified as CLA 70-14.00, and further identified by PID No. 109790); providing for the maintenance of the right-of-way; and authorizing the City Manager to enter into agreements with the Director of Transportation of the State of Ohio necessary to complete the project.

SECOND READINGS – ORDINANCES

The City Manager recommends passage of the following legislation, presented for a second time:

079-20 Authorizing the City Manager to apply for and accept a 2020 Energized Community Grant through the Northeast Ohio Public Energy Council (“NOPEC”) in an amount up to \$86,100.00 to be used for implementation of energy savings or energy infrastructure measures; authorizing the City Manager to execute a Grant Agreement for the acceptance of said Grant; and authorizing the City Manager, Law Director and the Director of Finance to do all things necessary for the submission of the application and acceptance of the grant and to comply with all relevant local, state and federal legal requirements.

256-19 Amending Ordinance No. 91-90, passed March 12, 1991, and commonly known as the Codified Ordinances of The City of Springfield, Ohio, by repealing and replacing Section 1213.07(k) within Chapter 1213 entitled Plan Approval Procedures relating to the adopted Subdivision Regulations.

108-19 Authorizing the City Manager to enter into Amendment No. 2 to the contract for demolition services with Tony Smith dba Tony Smith Wrecking & Trucking to increase the contract amount by \$220,000.00, for a total amount not to exceed \$620,000.00.

081-20 Approving and adopting the Clark County Multi-Jurisdictional Hazard Mitigation 5-Year Plan Update for The City of Springfield, Ohio.

006-19 Authorizing the City Manager to enter into LPA Agreement No. 33109 - Amendment No. 2 between the City and the Ohio Department of Transportation in connection with the CLA Yellow Springs Street Reconstruction, Phase 1, PID No. 109491 to increase funding limits and revise funding for all phases of the project.

082-20 Authorizing the City Manager to enter into a Loan Agreement with Opportunities Industrialization Center of Clark County, Ohio, Inc. (“OIC”) in connection with the construction of a new single-family home on Rubsam St. as part of the OIC YouthBuild Program, for an amount not to exceed \$182,300.00 of HOME funding.

090-20 Authorizing the acceptance of a donation in the amount of \$30,000.00 from the Springfield Citizens Police Academy Alumni Association to be used for the purchase of a mini-caliber robot from ICOR Technology Inc.

EMERGENCY ORDINANCE

The following emergency legislation is being presented for the first time. The City Manager recommends passage upon approval:

103-20 Authorizing an expenditure to assist property owners of 307, 311, and 357 N. Bechtle Ave, to connect their properties to an existing, more accessible to maintain water service and to enable the City to abandon the water service taps and 6" water main that are on Broadway.

NEW ITEMS ON THE AGENDA

REMARKS FROM THE AUDIENCE

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Bryan Heck', written in a cursive style.

Bryan Heck
City Manager

Request for Commission Action

City of Springfield, Ohio

Item Number: 100-20

Agenda Date: 04/07/2020

Today's Date: 04/1/2020

Subject: Demolition of Condemned Structures

Submitted By: Mark Beckdahl, Finance Director

Department: Community Development

Contact: Steve Thompson, Code Admin.

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|---|---|--|
| <input checked="" type="checkbox"/> 14-Day Ordinance | <input type="checkbox"/> Emergency Ordinance (provide justification below) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input checked="" type="checkbox"/> Contract | |

**Prior
Ordinance/Resolution:**

**Date of Prior
Ordinance/Resolution:**

Summary:

It is respectfully requested that the City Commission authorize the City Manager to enter into a one-year contract with Tony Smith Wrecking, 2855 Oletha Avenue, Springfield, Ohio 45505 for the demolition of condemned structures for an amount Not-To-Exceed \$600,000.00. This recommendation is based on the lowest and best of two bids received.

Justification for Emergency Action: *(use reverse side if needed)*

Department/Division	Fund Description	Account Number	Actual Cost
Development/Code Enf.	TIL	750911-4070	\$200,000.00
Development/Code Enf.	528/CDBG	740528-4070	\$300,000.00
Service Center/Sewer	630/Sewer	331322-4070	\$100,000.00

Total Cost: \$600,000.00

AN ORDINANCE NO. _____

Authorizing the City Manager to enter into a contract for demolition services with Tony Smith dba Tony Smith Wrecking & Trucking for an amount not to exceed \$600,000.00.

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WHEREAS, the City's Purchasing Division has advertised for and received a bid for the demolition of condemned structures for use by the Community Development Department; and

WHEREAS, after receiving and reviewing the bids submitted, the City's Purchasing Division has recommended an award of contract to Tony Smith dba Tony Smith Wrecking & Trucking for an amount not to exceed \$600,000.00, which was the lowest and best bidder; NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the City Manager is hereby authorized to enter into a contract for demolition services with Tony Smith dba Tony Smith Wrecking & Trucking for an amount not to exceed \$600,000.00.

Section 2. That the contract entered into by the City shall incorporate the specifications prepared by the Purchasing Division, which are hereby approved, and made available to providers submitting bids to the City, and shall conform to the recommendations of the City's Purchasing Division as made to this Commission.

Section 3. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

Request for Commission Action

City of Springfield, Ohio

Item Number 101-20

Agenda Date: 4/7/2020

Today's Date: 3/24/2020

Subject: Authorization to enter into LPA Project Agreement No. 33222 for Project CLA - Yellow Springs St, Recon. Ph 2, PID No. 109607

Submitted By: Leo Shanayda, City Engineer

Department: Service

Contact: Chris Moore, Service Director

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|---|---|--|
| <input checked="" type="checkbox"/> 14-Day Ordinance | <input type="checkbox"/> Emergency Ordinance (provide justification below) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input checked="" type="checkbox"/> Contract | |

**Prior
Ordinance/Resolution:**

**Date of Prior
Ordinance/Resolution:**

Summary:

In order to receive federal funding for the above referenced project, the City must enter into an LPA Federal Project Agreement with ODOT. This project consists of reconstructing the roadway and adding ADA ramp at the intersections on Yellow Springs Street, from Pleasant Street to Grand Avenue.

This project will cost approximately \$1,930,261.75. FHWA/ODOT is providing 80% of the funding and the City is responsible for 20%. In order to receive the funding for the above referenced project, the City must enter into an LPA Project Agreement with ODOT.

Justification for Emergency Action: *(use reverse side if needed)*

Department/Division	Fund Description	Account Number	Actual Cost
Engineering	FHWA/ODOT		\$ 1,544,209.40
Engineering	City		\$ 386,052.35

Total Cost: \$ 1,930,261.75

AN ORDINANCE NO. _____

Authorizing the City Manager to enter into an LPA Federal Local-LET Project Agreement No. 33222 between the City and the Ohio Department of Transportation to provide the City with eligible costs of up to a maximum sum of \$1,544,209.40 for the CLA Yellow Springs Street Reconstruction, Phase 2, PID No. 109607; authorizing the City Manager, Law Director and Finance Director to do all things they deem necessary to implement said agreement; and authorizing an expenditure up to \$386,052.35 to be used as matching funds in connection with the agreement to be entered into with the Ohio Department of Transportation.

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WHEREAS, the City has been tendered an LPA Federal Local – Let Project Agreement No. 33222 by the State of Ohio, Ohio Department of Transportation, in connection with the CLA Yellow Springs Street Reconstruction, Phase 2, PID No. 109607, consisting of reconstructing the roadway on Yellow Springs Street from Pleasant Street to Grand Avenue, and adding ADA ramps at the intersections on Yellow Springs Street; and

WHEREAS, the tendered LPA Federal Local – Let Project Agreement No. 33222 will provide funding available to the City up to \$1,544,209.40 and an additional match in an amount up to \$386,052.35 from the City may be required: NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the City Manager is hereby authorized to enter into an LPA Federal Local-LET Project Agreement No. 33222 between the City and the Ohio Department of Transportation to provide the City with eligible costs of up to a maximum sum of \$1,544,209.40 for the CLA Yellow Springs Street Reconstruction, Phase 2, PID No. 109607.

Section 2. That LPA Federal Local-LET Project Agreement No. 33222, a copy of which is attached hereto, is hereby approved.

Section 3. That the City Manager, Law Director and Finance Director are hereby authorized to do all things they deem necessary to implement and perform said agreement, and to comply with all relevant local, state and federal legal requirements.

Section 4. That a local revenue match in an amount up to \$386,052.35, pursuant to the terms and conditions of the LPA Agreement, is hereby authorized.

Section 5. The City Manager is authorized to approve amendments to the LPA Federal Local-LET Project Agreement No. 33222 so long as the scope of the work is not

materially changed and the amount hereby authorized is not exceeded.

Section 6. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

CFDA 20.205

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the City of Springfield, hereinafter referred to as the LPA, 76 E. High Street, Springfield, Ohio 45502.

1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The CLA-Yellow Springs St. Recon Ph.2 (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES AND COMPLIANCE

- 2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:
 - a. National Transportation Act, Title 23, U.S.C.; 23 CFR 635.105;
 - b. Federal Funding Accountability and Transparency Act of 2006 (FFATA);
 - c. 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
 - d. ODOT Locally Administered Transportation Projects, Manual of Procedures; and
 - e. State of Ohio Department of Transportation Construction and Material Specifications Manual (applicable to dates of PROJECT).
- 2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be \$ 1,930,261.75 as set forth in Attachment 1. ODOT shall provide to the LPA 80 percent of the eligible costs, up to a maximum of \$1,544,209.40 in Federal (STP 4TA7) funds for construction and inspection. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.
- 3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, cost overruns and contractor claims.

4. PROJECT DEVELOPMENT AND DESIGN

- 4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.
- 4.2 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.
- 4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The LPA shall (**option one**: follow its own formally written set of local design standards **or option two**: make use of ODOT's Location and Design Manual (L&D), or the appropriate AASHTO publication). Even though the LPA may use its own standards, ODOT may require the LPA to use a design based on the L&D Manual for projects that contain a high crash rate or areas of crash concentrations. Where the LPA has adopted ODOT standards for the PROJECT, the LPA shall be responsible for ensuring that any ODOT standards used for the PROJECT are current and/or updated. The LPA shall be responsible for periodically contacting the ODOT District LPA Coordinator or through the following Internet website for any changes or updates: www.dot.state.oh.us/drrc/Pages/default.aspx
- 4.4 The LPA shall either designate an LPA employee, who is a registered professional engineer, to act as the Project Design Engineer and serve as the LPA's principal representative for attending to project responsibilities or engage the services of a pre-qualified ODOT consultant, who has been chosen using a Qualification-Based Selection (QBS) process, as required pursuant to ORC sections 153.65 through 153.71. The pre-qualified list is available on the ODOT website at: www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT
- 4.5 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 4.6 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

5. ENVIRONMENTAL RESPONSIBILITIES

- 5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act; and for securing all necessary permits.

- 5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-Qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at www.dot.state.oh.us/CONTRACT. If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 5.3 ODOT shall be responsible for the review of all environmental documents and reports and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- 5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the PROJECT.
- 5.5 The LPA shall require its consultant, selected to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act, to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- 5.6 The LPA shall submit a NOI to Ohio EPA to obtain coverage under the National Pollution Discharge Elimination System (NPDES) Construction General Permit for all projects where the combined Contractor and Project Earth Disturbing Activity (EDA) are one acre or more. If the LPA chooses not to use ODOT's L&D Vol. 2 on Local-Let LPA projects, they may use an alternative post-construction BMP criteria with Ohio EPA approval.
6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION
- 6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT.
- 6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.
- 6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with project construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the project real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.
- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that, if any property acquired for this PROJECT is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this PROJECT that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.
7. ADVERTISING, SALE AND AWARD
- 7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.
- 7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.
- 7.4 The LPA must incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices

that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.

- 7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.
- 7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. In accordance with FHWA Form 1273 Section VII and 23 CFR 635.116, the "prime" contractor must perform no less than 30 percent of the total original contract price. The 30-percent prime requirement does not apply to design-build contracts.
- 7.7 In accordance with ORC Section 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond. If the LPA has 100 percent locally-funded work product within this Agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100 percent locally-funded work product.
- 7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC Section 9.24, that the contractor has taken the appropriate remedial steps required under ORC Section 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at <https://ohioauditor.gov/findings.html> . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.
- 7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 7.10 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.
- 7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this Agreement, if applicable.

8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC sections 153.65 through 153.71. Any construction contract administration or engineering costs incurred by

the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this Agreement.

- 8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the PROJECT. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and DBE, if applicable. The LPA is responsible for ensuring all materials incorporated into the PROJECT comply with ODOT's Construction and Material Specifications and meet the requirements of Appendix J in the LATP Manual of Procedures.
- 8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.
- 8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA requests reimbursement, it must provide documentation of payment for the project costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.
- 8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA.
- 8.6 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the ORC may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.
- 8.7 Payment or reimbursement to the LPA shall be submitted to:
- | |
|-------------------------|
| Leo Shanayda, P.E. |
| 76 E. High Street |
| Springfield, Ohio 45502 |
- 8.8 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated

suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all Federal funding commitments.

- 8.9 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and, if necessary, unilaterally modify any other term of this Agreement in order to preserve its Federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.
- 8.10 Any LPA right, claim, interest, and/or right of action, whether contingent or vested, arising out of, or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the Claim), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in/to the Claim and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim. The LPA further authorizes ODOT to sue, compromise, or settle any such Claim. It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all of the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim including requests for information and/or documents and/or to testify.
- 8.11 After completion of the PROJECT, and in accordance with Title 23 United States Code 116 and applicable provisions of the ORC, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies, and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any Federally-funded programs.
- 8.12 The LPA must provide the final invoices, and final report (Appendix P located in the Construction Chapter of the LPA Manual) along with all necessary closeout documentation within 6 months of the physical completion date of the PROJECT. All costs must be submitted within 6 months of the established completion date. Failure to submit final invoices along with the necessary closeout documentation within the 6-month period may result in closeout of the PROJECT and loss of eligibility of any remaining Federal and or State funds.

9. CERTIFICATION AND RECAPTURE OF FUNDS

- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.
- 9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the PROJECT, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such project work.
- 10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this PROJECT for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the **ORC**.

ODOT shall supply the percentage goal to the LPA upon review of the Engineer's Estimate. Prior to executing the contract with the contractor, and in order for ODOT to encumber the Federal/State funds, the contractor must demonstrate compliance with the DBE Utilization Plan and Good Faith Efforts requirements.

GOOD FAITH EFFORTS (GFEs)

In the event that the DBE contract goal established by ODOT is not met on a project, the Contractor shall demonstrate that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

The Contractor shall demonstrate its GFEs by submitting information including but not limited to the following to the LPA:

- (1) All written quotes received from certified DBE firms;
- (2) All written (including email) communications between the Contractor and DBE firms;
- (3) All written solicitations to DBE firms, even if unsuccessful;

- (4) Copies of each non-DBE quote when a non-DBE was selected over a DBE for work on the contract;
- (5) Phone logs of communications with DBE firms.

The LPA will send the GFE documentation including their recommendation to ODOT at the following address:

Office of Small & Disadvantaged Business Enterprise
The Ohio Department of Transportation
1980 West Broad Street, Mail Stop 3270
Columbus, Ohio 43223

ODOT shall utilize the guidance set forth in 49 CFR §26.53 Appendix A in determining whether the Contractor has made adequate good faith efforts to meet the goal. ODOT will review the GFE documentation and the LPA's recommendation and issue a written determination on whether adequate GFEs have been demonstrated by the Contractor.

The Contractor may request administrative reconsideration within two (2) days of being informed that it did not perform a GFE. The Contractor must make this request in writing to the following official:

Ohio Department of Transportation
Division of Chief Legal Counsel
1980 West Broad Street, Mail Stop 1500
Columbus, Ohio 43223

The reconsideration official will not have played any role in the original determination that the Contractor did not document sufficient good faith effort.

As part of this reconsideration, the Contractor will have the opportunity to provide written documentation or an argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. ODOT will send the Contractor a written decision on reconsideration explaining the basis for finding that the Contractor did or did not meet the goal or make adequate good faith efforts. The result of the reconsideration process is not administratively appealable.

ODOT may issue sanctions if the Contractor fails to comply with the contract requirements and/or fails to demonstrate the necessary good faith effort. ODOT may impose any of the following sanctions:

- (a) letter of reprimand;
- (b) contract termination; and/or
- (c) other remedies available by law including administrative suspension.

Factors to be considered in issuing sanctions include, but are not limited to:

- (a) the magnitude and the type of offense;
- (b) the degree of the Consultant's culpability;
- (c) any steps taken to rectify the situation;
- (d) the Contractor's record of performance on other projects including, but not limited to:
 - (1) annual DBE participation over DBE goals;
 - (2) annual DBE participation on projects without goals;
 - (3) number of complaints ODOT has received from DBEs regarding the Contractor; and,
 - (4) the number of times the Contractor has been previously sanctioned by ODOT; and,
- (e) Whether the Contractor falsified, misrepresented, or withheld information.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest agrees as follows:

- (a) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

- (b) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.
- (c) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency.
- (d) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- (e) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
 - (1) withholding of payments to the LPA under the contract until the LPA complies, and/or
 - (2) cancellation, termination or suspension of the contract, in whole or in part.
- (f) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs 10.4 (a) through (e) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such

litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

- 11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.
- 11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.
- 11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

- 12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this Agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.
- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.
- 12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors.

Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

- 12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.
- 12.5 This Agreement and obligation of the parties herein may be terminated by either party with thirty days written notice to the other party. In the event of termination, the LPA shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.
- 12.3. In the event of termination for convenience, the LPA shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the LPA shall not exceed the total amount of consideration stated in this Agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the LPA shall be returned to ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

- 13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.
- 13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

- 14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

If to ODOT:

Leo Shanayda, P.E., City Engineer	Scott C. Boyer, P.E., LPA Coordinator
City of Springfield	Ohio Department of Transportation District 7
76 E. High Street	1001 St. Marys Avenue
Springfield, Ohio ZIP	Sidney, OH 43365
lshanayda@springfieldohio.gov	scott.boyer@dot.ohio.gov

15. GENERAL PROVISIONS

15.1 *Recovery of LPA's allocable project Direct Labor, Fringe Benefits, and/or Indirect Costs:*

To be eligible to recover any costs associated with the LPA's internal labor forces allocable to this PROJECT, the LPA shall make an appropriate selection below: *[LPA official must initial the option selected.]*

☐

1. No cost recovery of LPA's project direct labor, fringe benefits, or overhead costs.

- (A) The LPA **does not** currently maintain an ODOT approved federally compliant time-tracking system¹, **and**
- (B) The LPA **does not** intend to have a federally compliant time-tracking system developed, implemented, and approved by ODOT prior to the period of performance of this PROJECT, **and/or**
- (C) The LPA **does not** intend to pursue recovery of these project direct labor, fringe benefits, or overhead costs during the period of performance of this PROJECT Agreement.

☐

2. Direct labor plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.²

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA **does not** currently have, and **does not** intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

☐

3. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.³

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

1 A "federally compliant time-tracking system" is supported by a system of internal controls and record-keeping that accurately reflects the work performed; which provides reasonable assurance that the time being charged is accurate, allowable, and properly allocated; is incorporated in official records such as payroll records; reasonably reflects the employee's total activity; provides a time or percentage breakdown on all activities, both Federally funded and non-Federally funded for the employee and complies with the LPA's pre-established accounting practices and procedures.

2 [Also be sure to read footnote # 1] The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. The definition of MTDC is provided in the regulation at 2 CFR §200.68. Any questions regarding the calculation of MTDC for a specific project should be directed to the Office of Local Programs. Further, regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before an LPA is eligible to invoice ODOT for and recover the 10% de minimis indirect cost rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits. A non-Federal entity that elects to charge the de minimis rate must meet the requirements in 2 CFR 200 Appendix VII Section D, Part 1, paragraph b.

3 [Also be sure to read footnotes # 1 and 2] The fringe benefits rate billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the ODOT Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rate for that fiscal year to determine which rate is



4. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the LPA's ODOT approved Indirect Cost Rate.⁴

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT, **and**
- (C) Instead of using the Federal 10% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this PROJECT.

For any allocable project labor costs to be eligible for reimbursement with Federal and/or State funds, the LPA must maintain compliance with all timekeeping requirements specified in 2 CFR Part 200 and the ODOT LPA Cost Recovery Guidance, including ODOT Questions and Answers and related supplementary guidance, as applicable. Additionally, if the LPA elects to recover fringe and/or indirect costs, the LPA shall maintain compliance with Appendix VII of 2 CFR Part 200 and the LATP Manual of Procedures.

- 15.2 If the LPA decides to change its indirect cost recovery option, the change shall not become effective until this Agreement is amended pursuant to section 15.12 below to reflect the indirect cost recovery option utilized by the LPA on the PROJECT.
- 15.3 *Financial Reporting and Audit Requirements:* One or more phases of this Agreement include a sub award of Federal funds to the LPA. Accordingly, the LPA must comply with the financial reporting and audit requirements of 2 CFR Part 200.

All non-federal entities, including ODOT's LPA sub recipients, that have aggregate federal awards expenditures from all sources of \$750,000 or more in the non-federal entity's fiscal year must have a Single Audit, or program-specific audit, conducted for that year in accordance with the provisions of 2 CFR Part 200.

Federal and State funds expended to or on behalf of a sub recipient must be recorded in the accounting records of the LPA subrecipient. The LPA is responsible for tracking all project payments throughout the life of the PROJECT in order to ensure an accurate Schedule of Expenditures of Federal Awards (SEFA) is prepared annually for all *Applicable Federal Funds*. *Applicable Federal Funds* are those that are identified with the various project phases of this Agreement as a subaward. *Applicable Federal Funds* include not only those LPA project expenditures that ODOT subsequently reimburses with Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

The LPA must separately identify each ODOT PID and/or Project and the corresponding expenditures on its SEFA. LPAs are responsible for ensuring expenditures related to this PROJECT are reported when the activity related to the Federal award occurs. Further, the LPA may make this determination consistent with section 2 CFR §200.502 and its established accounting method to determine expenditures including accrual, modified accrual or cash basis.

applicable. Accordingly, the fringe benefits rate applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rate.

- 4 [Also be sure to read footnote # 1] The fringe benefits and indirect cost rates billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rates for that fiscal year to determine which rates are applicable. Accordingly, the rates applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rates.

When project expenditures are not accurately reported on the SEFA, the LPA may be required to make corrections to and republish the SEFA to ensure Federal funds are accurately reported in the correct fiscal year. An ODOT request for the restatement of a previously published SEFA will be coordinated with the Ohio Auditor of State.

- 15.4 *Record Retention:* The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of project expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

- 15.5 *Ohio Ethics Laws:* LPA agrees that they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.
- 15.6 *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.
- 15.7 *Trade:* Pursuant to the federal Export Administration Act and Ohio Revised Code 9.76(B), the LPA and any contractor or sub-contractor shall warrant that they are not boycotting any jurisdiction with whom the United States and the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

The State of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The LPA certifies that it, its Contractors, subcontractors, and any agent of the Contractor or its subcontractors, acquire any supplies or services in accordance with all trade control laws, regulations or orders of the United States, including the prohibited source regulations set forth in subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation and any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control. A list of those sanctions by country can be found at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>. These sanctions generally preclude acquiring any supplies or services that originate from sources within, or that were located in or transported from or through Cuba, Iran, Libya, North Korea, Syria, or the Crimea region of Ukraine.

- 15.8 *Lobbying:* Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). LPA agrees that it will not use any funds for Lobbying, 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of

Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

- 15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.
- 15.10 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.11 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.12 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.13 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.14 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
- 15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

The parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA: CITY OF SPRINGFIELD	STATE OF OHIO OHIO DEPARTMENT OF TRANSPORTATION
By:	By:
Title:	Jack Marchbanks Director
Date:	Date:

Attachment 1

PROJECT BUDGET – SOURCES AND USES OF FUNDS

SOURCES	LPA FUNDS			FHWA FUNDS			STATE FUNDS			TOTAL
USES	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT										
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS										
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION										
PROJECT CONSTRUCTION COSTS	\$ 367,668.85	20	LNTP	\$ 1,470,675.40	80	4TA7				\$ 1,838,344.25
INSPECTION	\$ 18,383.50	20	LNTP	\$ 73,534	80					\$ 91,917.50
TOTALS	\$386,052.35			\$ 1,544,209.40						\$ 1,930,261.75

Attachment 2

CLA-YELLOW SPRINGS ST. RECON PH. 2
COUNTY-ROUTE-SECTION

109607
PID NUMBER

33222
AGREEMENT NUMBER

07946334
DUNS NUMBER

DIRECT PAYMENT OF CONTRACTOR

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's contractor shall be paid directly to the contractor in the pro-rata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this Agreement, and shall indicate that the payment is to be made to the contractor. In addition, the invoice must state the contractor's name, mailing address and OAKS Vendor ID. Separate invoices shall be submitted for payments that are to be made to the contractor and those that are to be made to the LPA.

When ODOT uses Federal funds to make payment to the contractor, all such payments are considered to be expenditures of Federal funds received and also expended by the LPA (sub recipient). Accordingly, the LPA is responsible for tracking the receipts and payments and reporting the payments Federal (Receipts) Expenditures on the Schedule of Expenditures of Federal Awards (SEFA). An LPA that fails to report these funds accurately and timely may be required to restate the SEFA to comply with Federal reporting requirements.

We (INSERT NAME OF LPA) request that all payments for the Federal/State share of the construction costs of this Agreement performed by (CONTRACTOR'S NAME) be paid directly to (CONTRACTOR'S NAME).

VENDOR Name:	Error! Reference source not found.
Oaks Vendor ID:	0000000000
Mailing Address:	Error! Reference source not found.
	Error! Reference source not found.
LPA signature:	

LPA Name:	Error! Reference source not found.
Oaks Vendor ID:	0000000000
Mailing Address:	Error! Reference source not found.
	Error! Reference source not found.
ODOT Approval signature:	

Request for Commission Action

City of Springfield, Ohio

Item Number: 102-20

Agenda Date: 4/7/2020

Today's Date: 3/24/2020

Subject: Preliminary Participatory Legislation for CLA-70-14.00, PID No. 109790

Submitted By: Leo Shanayda, City Engineer

Department: Service

Contact: Chris Moore, Service Director

☒ **14-Day Ordinance**

☐ **Emergency Ordinance (provide justification below)**

☐ **Resolution (1 Reading)**

☐ **14-Day Resolution (2 Readings)**

☐ **Emergency Resolution**

☐ **Motion**

☒ **Contract**

**Prior
Ordinance/Resolution:**

**Date of Prior
Ordinance/Resolution:**

Summary:

This office has received participatory legislation from the Ohio Department of Transportation. ODOT will be micro surface the existing pavement on IR 70 in Clark County from SR40 to just west of Selma Road. A portion of this project lies within the city limits, thus City Commission must approve preliminary legislation in order for this project to proceed. This is a fiscal year 2022 project and is at no cost to the City of Springfield.

Justification for Emergency Action: *(use reverse side if needed)*

<u>Department/Division</u>	<u>Fund Description</u>	<u>Account Number</u>	<u>Actual Cost</u>
----------------------------	-------------------------	-----------------------	--------------------

Total Cost: \$

AN ORDINANCE NO. _____

Consenting to the micro surface of the existing pavement on IR 70 in Clark County from SR 40 to just west of Selma Road, including a portion within the City of Springfield, by the Ohio Department of Transportation (identified as CLA 70-14.00, and further identified by PID No. 109790); providing for the maintenance of the right-of-way; and authorizing the City Manager to enter into agreements with the Director of Transportation of the State of Ohio necessary to complete the project.

...oooOOOooo...

WHEREAS, the Ohio Department of Transportation has identified the need to micro surface the existing pavement on IR 70 in Clark County from SR 40 to just west of Selma Road, including a portion within the City of Springfield, by the Ohio Department of Transportation (identified as CLA 70-14.00, and further identified by PID No. 109790), said portion of highway within the municipal corporation limits being hereinafter referred to as the project; and

WHEREAS, ODOT will provide 100% of the project costs; and

WHEREAS, the City desires to give its consent to the Director of Transportation of the State of Ohio to complete the said project: NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That this Commission hereby declares it to be in the public interest that the consent of the City be and such consent is hereby given to the Director of Transportation of the State of Ohio to perform the above described project.

Section 2. That ODOT will provide 100% of the funding for the project.

Section 3. That if the City requests to perform any other work beyond the micro surface of the existing pavement on IR 70 in Clark County from SR 40 to just west of Selma Road, within the City of Springfield, the City shall assume and bear 100% of the costs associated with those items.

Section 4. That the City hereby agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs.

Section 5. That the City hereby agrees that all utility accommodations, relocations and reimbursements will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Section 6. That upon completion of said project, and unless otherwise agreed, the City shall (1) provide adequate maintenance for the project in accordance with all applicable state and federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the project; (3) maintain the right-of-way and keep it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 7. That the City Manager is hereby authorized and directed, on behalf of the City, to enter into agreements with the Director of Transportation of the State of Ohio necessary to complete the project.

Section 8. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

CERTIFICATE OF COPY

STATE OF OHIO)
CITY OF SPRINGFIELD)SS
COUNTY OF CLARK)

I, Jill R. Pierce, as Clerk of The City of Springfield, Ohio, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____ passed by the City Commission of The City of Springfield, Ohio, on the _____ day of _____, 2020; that the publication of such Ordinance has been made on _____, _____, 2020, and certified of record according to law; that no proceedings looking to a referendum upon such Ordinance have been taken; and that such Ordinance and certificate of publication thereof are recorded in said City Commission's Ordinance Journal No. _____ on Page _____.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this _____ day of _____, 2020.

CLERK OF THE CITY OF SPRINGFIELD, OHIO

The foregoing is accepted as a basis for proceeding with the project herein described.

FOR THE CITY OF SPRINGFIELD, OHIO

ATTEST:_____

_____, DATE_____
City Manager, Bryan Heck

FOR THE STATE OF OHIO

ATTEST:_____

_____, DATE_____
Director, Ohio Department of Transportation

Request for Commission Action City of Springfield, Ohio

Item Number: 079-20

Agenda Date: 3/10/2020

Today's Date: 3/2/2020

Subject: An ordinance authorizing all actions necessary to accept northeast ohio public energy council (NOPEC) 2020 energized community grant(s) funds

Submitted By: Logan M. Cobbs, Assistant to the City Manager

Department: City Manager's Office

Contact: Logan Cobbs, x7300

<input checked="" type="checkbox"/> 14-Day Ordinance	<input type="checkbox"/> Emergency Ordinance (provide justification below)	
<input type="checkbox"/> Resolution (1 Reading)	<input type="checkbox"/> 14-Day Resolution (2 Readings)	<input type="checkbox"/> Emergency Resolution
<input type="checkbox"/> Motion	<input type="checkbox"/> Contract	

**Prior
Ordinance/Resolution:**

**Date of Prior
Ordinance/Resolution:**

Summary:

Respectfully request City Commission to authorize the City Manager to accept the NOPEC Energized Community (NEC) 2020 Grant. The City of Springfield is a member of the Northeast Ohio Public Energy Council ("NOPEC") and is eligible for the NOPEC Energized Community Grant in the amount of \$86,100. Grants will provide funds to help Springfield implement energy savings or energy infrastructure measures. Eligible projects include those that reduce electric and/or gas utility consumption through facility improvements and/or implementing infrastructure improvements. Examples include interior and exterior lighting, windows and doors, insulation, HVAC, geothermal and solar. Street lights and traffic lights are also eligible, if a demonstrated utility savings to the community will result.

<u>Department/Division</u>	<u>Fund Description</u>	<u>Account Number</u>	<u>Actual Cost</u>
----------------------------	-------------------------	-----------------------	--------------------

Total Cost:

AN ORDINANCE NO. _____

Authorizing the City Manager to apply for and accept a 2020 Energized Community Grant through the Northeast Ohio Public Energy Council ("NOPEC") in an amount up to \$86,100.00 to be used for implementation of energy savings or energy infrastructure measures; authorizing the City Manager to execute a Grant Agreement for the acceptance of said Grant; and authorizing the City Manager, Law Director and the Director of Finance to do all things necessary for the submission of the application and acceptance of the grant and to comply with all relevant local, state and federal legal requirements.

...oooOOOooo...

WHEREAS, the City has received an offer to apply for and accept a 2020 Energized Community Grant through NOPEC to be used for implementation of energy savings or energy infrastructure measures, and this Commission considers it in the best interest of the public that funding be applied for and accepted; NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the City Commission hereby authorizes the City Manager to apply for and accept a 2020 Energized Community Grant through NOPEC in an amount up to \$86,100.00 to be used for implementation of energy savings or energy infrastructure measures.

Section 2. That the City Manager is hereby authorized to execute a Grant Agreement, a copy of which is attached hereto and is hereby approved, to accept the 2020 Energized Community Grant through NOPEC.

Section 3. That the City Manager, Law Director and the Director of Finance are hereby authorized to do all things necessary for the submission of the application and acceptance of the grant and to comply with all relevant local, state and federal legal requirements.

Section 4. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

NOPEC ENERGIZED COMMUNITY

GRANT AGREEMENT

This Grant Agreement (the "Agreement") is made and entered into by and between NOPEC, Inc. ("NOPEC"), and _____, _____ County, Ohio ("Grantee"; NOPEC and Grantee, the "Parties") regarding a grant by NOPEC to Grantee to be used primarily for energy efficiency or energy infrastructure projects in accordance with NOPEC Energized Community Grant criteria, guidelines and requirements ("NOPEC Policy").

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the Parties hereby agree as follows:

1. **Grant of Funds.** NOPEC hereby grants a NOPEC Energized Community Grant ("NEC Grant") to Grantee in the amount calculated by NOPEC based on the number of natural gas and/or electric accounts served by NOPEC in Grantee in accordance with NOPEC Policy in the amount determined by NOPEC ("Funds"), for the purposes set forth in Grantee's Grant Application, as amended, and incorporated by reference into this Agreement.

2. **Use of Funds.** Grantee shall use the Funds granted by NOPEC for the Project(s) approved by NOPEC. Funds shall be paid in accordance with NOPEC Policy. NEC Grant disbursements shall be accompanied by a completed Disbursement Request Form with the expenditures supported by contracts, invoices, vouchers, and other data as appropriate as supporting documents. Funds not used in the year they are granted to Grantee may be escrowed and carried forward for up to two (2) years from NOPEC grant approval. If Grantee does not expend the Funds for the Project(s) approved by NOPEC within three (3) years of NOPEC's approval, Grantee shall forfeit any unused Funds.

3. **Accounting of Funds.** Grantee shall keep all Funds and make all disbursements and expenditures consistent with the manner in which all public funds are kept by Grantee in accordance with applicable law.

4. **Term.** The Parties agree that this Agreement shall begin on January 1, 2020, and shall expire on December 31, 2020, and shall be automatically renewed annually unless NOPEC discontinues the NEC Grant program for any subsequent year or Grantee is no longer a NOPEC member in good standing, as defined herein.

5. **Renewable Energy Credits.** ~~Grantee shall be entitled to claim Renewable Energy Credits, carbon credits, or NOx allowances and/or allowances arising under other trading programs that may be established in the future for the Project(s). NOPEC reserves the right to claim/apply for such allowances if Grantee does not claim such allowances or this Agreement terminates. Grantee must notify NOPEC if Grantee does not wish to trade or sell any such credits or assets.~~

6. **Records, Access and Maintenance.** Grantee shall establish and maintain all records associated with the Funds in accordance with the Ohio Public Records Act and shall promptly make available to NOPEC all of its records with respect to matters covered by this Agreement, and for NOPEC to audit, examine and make copies from such records. Grantee agrees to share and release all of its utility and other data with NOPEC, Inc. and NOPEC and its consultant(s) in order to measure, verify and otherwise track savings from energy efficiency and for such other related uses as NOPEC shall require.

7. **Property and Equipment Purchases.** All items purchased by Grantee from the Funds granted herein are and shall remain the property of Grantee.

8. **Inability to Perform.** In the event that Grantee does not or cannot complete the Project(s) or perform its obligations under this Agreement, Grantee shall immediately notify NOPEC in writing. NOPEC, with the approval of the Committee formed to award NEC Grants (the "Committee"), and Grantee shall jointly identify Project amendments or suitable Project(s) that meet NOPEC Policy.

9. **Dispute Resolution.** In the event Grantee desires clarification or explanation of, or disagrees with, any matter concerning the Agreement, or the interpretation or application of any and all federal or state statutes, rules, regulations, laws or ordinances, the matter must be submitted in writing to NOPEC, which shall convene the Committee to review and decide the matter. All decisions of the Committee shall be final and binding upon Grantee, and non-appealable.

10. **Termination.**

(a) If NOPEC determines that Grantee has failed to perform any requirements of this Agreement, or if Grantee is in default under any provision of this Agreement, or upon just cause, as shall be determined by the Committee, NOPEC, upon approval by the Committee, may terminate the Agreement at any time after providing Grantee with written notice and a period of at least thirty (30) days to cure any and all defaults under this Agreement. During such thirty day cure period, Grantee shall incur only those obligations or expenditures which are necessary to enable Grantee to continue to achieve compliance with the terms of this Agreement.

(b) This Agreement shall automatically terminate if Grantee is not a NOPEC member in good standing. A NOPEC member in good standing means a Northeast Ohio Public Energy Council member whose residents are receiving service from Northeast Ohio Public Energy Council's natural gas or electric aggregation program and which has not provided written notice to withdraw from such Northeast Ohio Public Energy Council's natural gas or electric aggregation program.

11. **Effects of Termination.**

(a) Within sixty (60) days after termination of this Agreement, Grantee shall surrender all reports, data, documents, and other materials assembled and prepared pursuant to this Agreement which shall become the property of NOPEC. Upon surrender of such material, Grantee shall receive Funds only as to a Project that had been approved for a NEC Grant by NOPEC prior to such termination.

(b) The Committee also may withhold final installment payment of the Funds or require Grantee to return all or any part of the Funds awarded if Grantee is found to have violated the provisions of this Agreement. Notwithstanding any other provision in this Agreement, if Grantee either withdraws from membership in the Northeast Ohio Public Energy Council or from its electric or natural gas aggregation program(s), Grantee shall no longer be eligible for any NEC Grants. The provisions of this paragraph are in addition to the termination provisions of this Agreement and to any payments required under the Northeast Ohio Public Energy Council Bylaws and the Northeast Ohio Public Energy Council of Governments Agreement with its member communities in connection with any such withdrawal.

12. **Liability.** Grantee shall maintain, or cause any vendors or subcontractors to maintain, all required liability and property insurance to cover actionable legal claims for liability or loss which are the result of injury to or death of any person, damage to property caused by the negligent acts or omissions, or negligent conduct of the Grantee. To the extent permitted by law, in connection with activities conducted in connection with this Agreement, Grantee agrees to defend NOPEC and pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any liability of any nature whatsoever from Grantee to NOPEC, Inc. or the Northeast Ohio Public Energy Council.

13. **Compliance with Laws.** Grantee agrees to comply with all applicable federal, state, and local laws in the performance of the Project. Grantee is solely responsible for payments of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Grantee on the performance of the work authorized by this Agreement.

14. **Miscellaneous.**

(a) **Governing Law.** The laws of the State of Ohio shall govern this Agreement. All actions regarding this Agreement shall be venued in a court of competent subject matter jurisdiction in Cuyahoga County, Ohio.

(b) **Entire Agreement.** This Agreement and any documents referred to herein constitute the complete understanding of the Parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter hereof.

(c) **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

(d) **Notices.** All notices, consents, demands, requests and other communications which may, or are required to be, given hereunder shall be in writing and delivered to the addresses set forth hereunder or to such other address as the other party hereto may designate from time to time:

In case of NOPEC, to:

Charles W. Keiper, II
President
NOPEC, Inc.
31360 Solon Road
Suite 33
Solon, OH 44139

In case of Grantee, to:

Title: _____
Name: _____
_____, Ohio _____

(e) Amendments or Modifications. Either party may at any time during the term of this Agreement request amendments or modifications. Requests for amendment or modification of this Agreement shall be in writing and shall specify the requested changes and justification therefor. The Parties shall review the request for modification in terms of the Project and NOPEC Policy. Should the Parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original Agreement.

(f) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

(g) Assignment. Neither this Agreement nor any rights, duties or obligations described herein, shall be assigned or subcontracted by Grantee without the prior express written consent of NOPEC.

(h) Authority. The undersigned represents and warrants to the other that each has all the necessary legal power and authority to enter into this Agreement. Grantee further represents and warrants to NOPEC that it has received all necessary approvals from Grantee's legislative authority for Grantee to accept the NEC Grant and enter into this Agreement.

(i) Determinations by NOPEC Final. All determinations as to eligibility of any project for an award of any NEC Grant, and the amount and payment schedule of a NEC Grant, will be made by NOPEC and its Committee, which shall be final, conclusive and binding upon Grantee.

(j) Designation of Grantee Representative. Grantee hereby designates its [Fiscal Officer or other position] to take all actions with respect to the NEC Grant and this Agreement as may be required and NOPEC shall be entitled to rely on the authority of such designated representative of Grantee in connection with this Agreement.

(k) Marketing Consent. Grantee hereby authorizes NOPEC, Inc. and NOPEC to use information about Grantee's grant(s) and project(s) in any marketing they may conduct, and agrees to cooperate with NOPEC in connection with such marketing.

[Signature Page to Follow.]

IN WITNESS WHEREOF, the Parties hereto have executed this Grant Agreement on the last date set forth below.

GRANTEE:

NOPEC, INC.:

_____, Ohio

Individual(s) Authorized by Grantee's
Legislation

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

[Signature page to NOPEC Energized Community Grant Agreement.]

Request for Commission Action

City of Springfield, Ohio

Item Number: 256-19

Agenda Date: March 10, 2020

Today's Date: February 27, 2020

Subject: Amend Codified Ordinance Section 1213.07(k) to change certification authority to City Engineer

Submitted By: Jill Pierce, City Clerk

Department: City Commission

Contact: Jill Pierce

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> 14-Day Ordinance | <input type="checkbox"/> Emergency Ordinance (provide justification below) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input type="checkbox"/> Contract | |

Prior Ordinance/Resolution: 19-289

Date of Prior Ordinance/Resolution: December 10, 2019

Summary:

It is respectfully requested that the City Commission amend the Codified Ordinance Section 1213.07(k) pertaining to Plan Approval Procedures as defined in Part Twelve entitled *Subdivision Regulations*. In December, 2019, several sections of the Codified Ordinances were amended to reorganize the existing Engineering Department as a function of the Service Department. One such amendment changed the certification authority for plan submittals to the Service Director. However, the Ohio Revised Code requires such submittals to be certified by the City Engineer. The proposed amendment changes the authority back to the City Engineer and references the related Ohio Revised Code section.

Justification for Emergency Action: *(use reverse side if needed)*

<u>Department/Division</u>	<u>Fund Description</u>	<u>Account Number</u>	<u>Actual Cost</u>
----------------------------	-------------------------	-----------------------	--------------------

Total Cost:

An Ordinance No. _____

Amending Ordinance No. 91-90, passed March 12, 1991, and commonly known as the Codified Ordinances of The City of Springfield, Ohio, by repealing and replacing Section 1213.07(k) within Chapter 1213 entitled *Plan Approval Procedures* relating to the adopted *Subdivision Regulations*.

~ ~ ~ ~ ~

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That Section 1213.07(k) of Ordinance No. 91-90, passed March 12, 1991, and commonly known as the Codified Ordinances of The City of Springfield, Ohio, is hereby repealed.

Section 2. That Ordinance No. 91-90, passed March 12, 1991, and commonly known as the Codified Ordinances of The City of Springfield, Ohio, is hereby amended by the replacement of Section 1213.07(k) to read as follows:

- (k) Certification by the City Engineer.
I hereby certify that a copy of this plat was filed in the Service Department and that it has been approved by the City Engineer in accordance with Ohio Rev. Code 711.08.

Date _____

By: _____
City Engineer

Section 3. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

Published: *Springfield News-Sun*

_____, 2020

I do hereby certify that the foregoing Ordinance No. _____ was duly published in
the *Springfield News-Sun* on _____, 2020.

CLERK OF THE CITY COMMISSION

Request for Commission Action City of Springfield, Ohio

Item Number: 108-19

Agenda Date: 3/10/20

Today's Date: 2/26/20

Subject: Amendment 2 to Demolition Contract with Tony Smith Wrecking

Submitted By: Shannon Meadows

Department: Community Development

Contact: Stephen Thompson, 324-7674

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> 14-Day Ordinance | <input type="checkbox"/> Emergency Ordinance (provide justification below) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input checked="" type="checkbox"/> Contract | |

Prior
Ordinance/Resolution: 19-217

Date of Prior
Ordinance/Resolution: August 13, 2019

Summary:

Respectfully requesting the City Commission to approve increasing the not-to-exceed contract amount for Tony Smith Wrecking's demolition contract from \$400,000 to \$620,000. The City has demolished multiple properties to this point in the contract and have several more that will be ready to demolish in the remainder of the contract.

Justification for Emergency Action: *(use reverse side if needed)*

Department/Division	Fund Description	Account Number	Actual Cost
Community Development/Code Enforcement		Various	\$220,000.00

Total Cost: \$220,000.00

AN ORDINANCE NO. _____

Authorizing the City Manager to enter into Amendment No. 2 to the contract for demolition services with Tony Smith dba Tony Smith Wrecking & Trucking to increase the contract amount by \$220,000.00, for a total amount not to exceed \$620,000.00.

...oooOOOooo...

WHEREAS, in Ordinance No. 19-128, the City Commission authorized the City Manager to enter into a contract with Tony Smith dba Tony Smith Wrecking & Trucking for demolition services; and

WHEREAS, the City wishes to modify the contract amount in order to continue the demolition of unsafe and nuisance structures; NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the City Manager is hereby authorized to enter into Amendment No. 2 to the contract for demolition services with Tony Smith dba Tony Smith Wrecking & Trucking, a copy of which is attached hereto and is hereby approved, to increase the contract amount by \$220,000.00, for a total amount not to exceed \$620,000.00.

Section 2. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

CONTRACT

Amendment No. 2

THIS AMENDMENT made and entered into as of the ____ day of _____, 2020 by and between The City of Springfield, Ohio ("City") and Tony Smith dba Tony Smith Wrecking & Trucking, whose mailing address is 2855 Oletha, Springfield, Ohio 45505 ("Contractor").

WHEREAS, City and Contractor have entered into a Contract dated May 21, 2019 ("Original Agreement"), and amended August 27, 2019, and wish to modify certain provisions of the Subject Agreement to their mutual benefit.

NOW, THEREFORE, the parties mutually agree as follows:

Section A. Section 3 of the Original Agreement be and hereby is amended to read as follows:

Section 3. The City agrees to pay, and the Contractor agrees to accept as full payment for all work performed in accordance with the Contract Documents at the unit price or lump sum amount quoted by the Contractor for such work in the Contractor's written bid to the City; provided, however, that the total amount paid pursuant to this Contract shall not exceed ~~\$400,000.00~~ 620,000.00, unless authorized by ordinance adopted by the City Commission of the City.

Section B. Full Force and Effect. Except as amended hereby, the Original Agreement shall remain in full force and effect, and the terms of such Original Agreement are incorporated herein by reference, as if fully set forth herein.

Section C. In the event of any inconsistency between the terms of this Amendment and the Original Agreement, this Agreement shall govern and control in all instances.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives in the premises, have hereunto set their hands to duplicate originals as of the date first above written.

APPROVED AS TO FORM
AND CORRECTNESS:

THE CITY OF SPRINGFIELD, OHIO

By: _____
Jill N. Allen, Law Director

BY _____
Bryan Heck, Its City Manager

Date _____

Tony Smith dba TONY SMITH WRECKING

I hereby certify that the money required for payment of the above obligation in the sum of \$ _____ at the time of the making of this contract or order, was lawfully appropriated for such purpose and was in the treasury or in process of collection to the credit of the proper item of appropriation free from any previous encumbrance.

BY _____
Its

Finance Director

Request for Commission Action

City of Springfield, Ohio

Item Number: 081-20

Agenda Date: 03/10/2020

Today's Date: 03/02/2020

Subject: Approve and Adopt the Clark County Multi-Jurisdictional Hazard Mitigation 5-Year Plan Update

Submitted By: Paul Hicks

Department: City Manager's Office

Contact: 324-7300

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> 14-Day Ordinance | <input type="checkbox"/> Emergency Ordinance (provide justification below) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input type="checkbox"/> Contract | |

**Prior
Ordinance/Resolution:**

**Date of Prior
Ordinance/Resolution:**

Summary:

Respectfully request City Commission approve and adopt the Clark County Multi-Jurisdictional Hazard Mitigation 5-year Plan Update. Every 5-years the Federal Emergency Management Agency requires each county and its entities to create a mitigation plan. The City of Springfield along with other county agencies met during 2019 to update the previous 5-year plan. The plan was submitted and accepted by FEMA and staff is recommending Commission accept the plan. The mitigation plan is accessible through the Clark County EMA website (<https://www.clarkcountyohio.gov/DocumentCenter/View/4591>).

Justification for Emergency Action: *(use reverse side if needed)*

<u>Department/Division</u>	<u>Fund Description</u>	<u>Account Number</u>	<u>Actual Cost</u>
----------------------------	-------------------------	-----------------------	--------------------

Total Cost: \$0

AN ORDINANCE NO. _____

Approving and adopting the Clark County Multi-Jurisdictional Hazard Mitigation 5-Year Plan Update for The City of Springfield, Ohio.

...oooOOOooo...

WHEREAS, the Board of County Commission of Clark County, Ohio has approved the Clark County Multi-Jurisdictional Hazard Mitigation 5-Year Plan Update; and

WHEREAS, the Clark County Multi-Jurisdictional Hazard Mitigation 5-Year Plan Update will fulfill the mandates of the Federal Disaster Mitigation Act of 2000, satisfy the requirements of FEMA and Ohio EMA, and meet the needs of The City of Springfield, Ohio to mitigate the harm caused by natural hazards and disasters; and

WHEREAS, the City Commission finds that the Clark County Multi-Jurisdictional Hazard Mitigation 5-Year Plan Update, as applied to The City of Springfield, Ohio will operate to preserve the public peace, health, safety, welfare and property and adoption is in the best interest of the citizens of The City of Springfield, Ohio; NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the findings set forth in the recitals to this Ordinance are made a part hereof and are hereby adopted by this City Commission.

Section 2. That the Clark County Multi-Jurisdictional Hazard Mitigation 5-Year Plan Update, a copy of which on file in the City Manager's Office, is hereby approved and adopted for The City of Springfield, Ohio.

Section 3. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

Request for Commission Action

City of Springfield, Ohio

Item Number: 006-19

Agenda Date: 3/10/2020

Today's Date: 3/2/2020

Subject: Amendment No. 2 to LPA Project Agreement No. 33109 for Project CLA - Yellow Springs St., Recon. Ph 1, PID No. 109491

Submitted By: Leo Shanayda, City Engineer

Department: Service

Contact: Chris Moore, Service Director

<input checked="" type="checkbox"/> 14-Day Ordinance	<input type="checkbox"/> Emergency Ordinance (provide justification below)	
<input type="checkbox"/> Resolution (1 Reading)	<input type="checkbox"/> 14-Day Resolution (2 Readings)	<input type="checkbox"/> Emergency Resolution
<input type="checkbox"/> Motion	<input checked="" type="checkbox"/> Contract	

Prior

Ordinance/Resolution: 19-18
19-244

Date of Prior

Ordinance/Resolution: 1/29/19
9/10/19

Summary:

Amendment is needed for this project to amend Section 3 – Funding to reflect revised funding for all phases of the project. The increase in Gas Tax resulted in the City receiving original funding request for this project.

Justification for Emergency Action: *(use reverse side if needed)*

Department/Division	Fund Description	Account Number	Actual Cost
Engineering	FHWA/ODOT		\$ 2,234,878.40
Engineering	City		\$ 361,052.35

Total Cost: \$ 2,595,930.75

AN ORDINANCE NO. _____

Authorizing the City Manager to enter into LPA Agreement No. 33109 - Amendment No. 2 between the City and the Ohio Department of Transportation in connection with the CLA Yellow Springs Street Reconstruction, Phase 1, PID No. 109491 to increase funding limits and revise funding for all phases of the project.

...oooOOOooo...

WHEREAS, the City and the State of Ohio have entered into LPA Agreement No. 33109 pursuant to Ordinance No. 19-18, and amended in Ordinance No. 19-244, in connection with the CLA Yellow Springs Street Reconstruction, Phase 1; and

WHEREAS, ODOT has tendered an LPA Agreement Amendment No. 2 to increase funding limits and revise funding for all phases of the project; NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the City Manager is hereby authorized to enter into LPA Agreement No. 33109 - Amendment No. 2 between the City and the Ohio Department of Transportation in connection with the CLA Yellow Springs Street Reconstruction, Phase 1, PID No. 109491 to increase funding limits and revise funding for all phases of the project.

Section 2. That LPA Agreement No. 33109 - Amendment No. 2, a copy of which is attached hereto, is hereby approved.

Section 3. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

109481
PID NUMBER

33109
AGREEMENT NUMBER

07946334
DUNS NUMBER

CFDA 20.205

LOCAL-LET PROJECT AMENDMENT No. 2

Amend SECTION 3, to reflect revised funding for all phases of the project.

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be \$ 2,595,930.75 as set forth in Attachment 1. ODOT shall provide to the LPA 80 percent of the eligible costs, up to a maximum of \$ 294,135.20 in Federal (4TA7) funds and 20 percent of the eligible costs, up to a maximum of \$ 73,533.80 in Toll Revenue funds for Preliminary Engineering. ODOT shall provide to the LPA 80 percent of the eligible costs, up to a maximum of \$ 160,000 in Federal (4TA7) funds and 20 percent of the eligible costs, up to a maximum of \$ 40,000 in Toll Revenue funds for Right of Way Acquisition and Right of Way Services. ODOT shall provide to the LPA 80 percent of the eligible costs, up to a maximum of \$ 1,444,209.40 in Federal (4TA7) funds for Construction and Inspection. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.
- 3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns and contractor claims.

SECTION 15.9 - Signatures

This section is amended to acknowledge the changes were made to Section 3, Funding.

- 15.9 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA: CITY OF SPRINGFIELD

**STATE OF OHIO
OHIO DEPARTMENT OF TRANSPORTATION**

By: _____

By: _____
Jack Marchbanks, Director

Title: _____

Date: _____

Date: _____

PROJECT BUDGET – SOURCES AND USES OF FUNDS

2

Request for Commission Action City of Springfield, Ohio

Item Number: 082-20

Agenda Date: 3/10/2020

Today's Date: 3/3/2020

Subject: OIC Single-Family Home - HOME Loan Agreement

Submitted By: Shannon Meadows, Community Development Director

Department: Community Development

Contact: Chelsea Jones x7372

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> 14-Day Ordinance | <input type="checkbox"/> Emergency Ordinance (provide justification below) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input checked="" type="checkbox"/> Contract | |

Prior
Ordinance/Resolution:

Date of Prior
Ordinance/Resolution:

Summary:

Respectfully requesting City Commission consider action to authorize the City Manager to execute a HOME Loan Agreement with Opportunities Industrialization Center (OIC) to construct a single-family two-story home consisting of three bedrooms and two and a half baths on a slab surface. The home will be approximately 1,580 square feet, and will be located on Rubsam St (parcel number 340-06-00005-201-016). The home, once constructed, will be made available for sale by OIC to qualifying families that are 80% AMI or under. The City will make a HOME loan in the amount of \$182,300.00 to assist with the project costs. OIC will provide at least \$20,000.00 in direct funding for the project. The project will be a part of OIC's YouthBuild program, which provides job skills opportunities for at-risk youth in our community.

Justification for Emergency Action: *(use reverse side if needed)*

Department/Division	Fund Description	Account Number	Actual Cost
Community Development	HOME		\$182,300.00

Total Cost: \$182,300.00

AN ORDINANCE NO. _____

Authorizing the City Manager to enter into a Loan Agreement with Opportunities Industrialization Center of Clark County, Ohio, Inc. ("OIC") in connection with the construction of a new single-family home on Rubsam St. as part of the OIC YouthBuild Program, for an amount not to exceed \$182,300.00 of HOME funding.

...oooOOOooo...

WHEREAS, the City is operating and administering housing programs which are funded by moneys provided by the United States Department of Housing and Urban Development (hereinafter referred to as "HUD") under the HOME Investment Partnerships Program; and

WHEREAS, Opportunities Industrialization Center of Clark County, Ohio, Inc. (OIC) has made application to the City for a loan, using HOME funds, to construct a new single-family home through the OIC YouthBuild Program that will be made available for sale to low-income families that meet certain qualifications; NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the City Manager is hereby authorized to enter into a Loan Agreement with Opportunities Industrialization Center of Clark County, Ohio, Inc. in connection with the construction of a new single-family home on Rubsam St. as part of the OIC YouthBuild Program, for an amount not to exceed \$182,300.00 of HOME funding.

Section 2. That the Loan Agreement document, a copy of which is attached hereto, be and hereby is approved.

Section 3. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

**HOMEOWNERSHIP HOUSING NEW CONSTRUCTION
LOAN AGREEMENT
(HOME PROGRAM FUNDED CONSTRUCTION)
(2020-2021 New Construction Development Project – Rubsam Street)**

This Project Agreement (the "Agreement") is entered into on _____, 2020, by The City of Springfield (the "City") and **Opportunities Industrialization Center of Clark County, Ohio, Inc. ("OIC") aka Opportunities for Individual Change, Inc.**, an Ohio not-for-profit corporation, incorporated under Chapter 1702 of the Ohio Revised Code, whose mailing address is 10 S. Yellow Springs St Springfield, OH, 45506.

1. Recitals and Background

- a. the City is operating and administering affordable housing neighborhood stabilization programs which are funded by moneys provided by the United States Department of Housing and Urban Development (hereinafter referred to as "HUD") under the HOME Investment Partnerships Program (the "HOME Program"); and,
- b. OIC has made application to the City for funding to assist OIC in new housing construction to provide housing for low income families; and,
- c. OIC intends to acquire one site (the "Project Site") on Rubsam Street in Springfield, Ohio for the purpose of constructing one new residential structure (the "Project Structure") to be sold to low income persons at or below 80% of area median income (the "Project"); and,
- d. It is the intent of the Parties to this Agreement that funding will be provided to OIC only if funding is made available to the City by HUD for the purpose of constructing the Project.

The City and OIC therefore agree to the following terms:

2. Agreement

ARTICLE I
DEFINITIONS AND REPRESENTATIONS; PROJECT SITE PROVIDED

Section 1. A "HOME Funded Housing Program Glossary" is a public record on file with the City's Community Development Department and is incorporated herein by this reference. The meanings of terms contained in the "HOME Funded Housing Program Glossary" shall govern in the interpretation and application of this Project Agreement. The foregoing recitals are also incorporated into this Project Agreement by this reference.

Section 2. OIC will acquire the Project Site comprised of one lot suitable for the construction of new residential housing from the CIC Land Bank in Clark County, Ohio.

Section 3. Regulatory Requirements:

- a. OIC acknowledges that the funding (hereinafter referred to as "the Loan") to be made available to OIC by means of this Project Agreement is subject to rules and regulations promulgated by HUD. OIC understands that the Loan is subject to strict compliance with the requirements of 24 CFR Part 8 subpart C, Part 24, Part 35, Part 58, Part 92, 49 CFR Part 24; and 2 CFR Part 200; the requirements imposed under 24 CFR §5.105; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (hereinafter call the "URA") and handbook #1378 Tenant Assistance Relocation and Real Property Acquisition published by HUD. OIC agrees to fully cooperate with the City to ensure that the Loan made pursuant to this Project Agreement and the activities of OIC made possible by the Loan will be conducted in full compliance with these requirements.
- b. OIC acknowledges that the Project Site provided to OIC under this Project Agreement makes it necessary for OIC to comply with HOME Program" 24 CFR Part 92 requirements and OIC agrees to comply with the requirements of the "Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for redevelopment of Abandoned and Foreclosed Homes Grantees under the Housing and Economic recovery Act, 2008" as modified by the "Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for redevelopment of Abandoned and Foreclosed Homes Grantees under the Housing and Economic recovery Act, 2008; Revisions to Neighborhood Stabilization Program (NSP) and Technical Corrections" (collectively referred to as the "NSP-1 Requirements").

Section 4. OIC represents and warrants that all representations and certifications made by OIC to the City are true and correct. Further, should OIC discover that any representations contained in OIC's certification required under 24

CFR Part 24 [debarment of contractors] is in error, OIC will immediately inform HUD as well as the City of such error.

Section 5. OIC acknowledges and warrants that the loan to be made pursuant to this Project Agreement will be used for the construction of one (1) new, two story, single family home containing at minimum 1,580 square feet of living space, three bedrooms, two and one-half bathrooms and a slab surface underneath the Project structure and which is further described in the Project description attached hereto as **Exhibit F**. The Project structure is a "HOME -assisted dwelling unit."

Section 6. OIC has adopted the "Accessible Housing Program", a copy of which is attached hereto as **Exhibit G** and incorporated herein by this reference. OIC shall not make any amendments to the said "Accessible Housing Program" without first submitting such amendments to City for City's review and approval. Such amendments shall be implemented by OIC only after receiving written approval from the City.

ARTICLE II CONSTRUCTION WORK

Section 1. OIC shall CONSTRUCT the Project structure in conformance with Article I, Section 5 of the Project Agreement, with the Project description attached hereto as **Exhibit F** and with the construction specifications, a copy of which shall be provided to City for its approval prior to commencement of any construction on a Project structure. OIC shall use only construction specifications to which the City makes no objection. Upon completion of the construction work the Project shall be comprised of one (1) dwelling unit to be occupied by low income person(s) at or below 80% of area median income.

Section 2. The construction work which OIC is required to perform shall be completed so that the constructed Project conforms to the minimum requirements of Part 13 of the Building Code in the City's Codified Ordinances, the residential units to be constructed pursuant to this Project Agreement must be decent, safe and sanitary [complying with 49 CFR 24.2(f)] and must comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1-R 1972 when the construction work is completed, subject to any applicable exceptions contained in 41 CFR 101-19.604.

Section 3. The construction described in this Article will be performed by 1) OIC and its volunteers and contractors or 2) by a licensed general contractor (hereinafter "Contractor"), utilizing AIA documents A117 and A201 to which shall be attached and incorporated therein the Supplemental Conditions attached hereto as **Exhibit B**. The AIA document A117, A201 and the above referred to Supplemental Conditions are hereinafter referred to as the "Construction Contract".

Section 4. OIC agrees to diligently enforce all terms and conditions of its Construction Contract. OIC shall require Contractor to accept full responsibility for 1)

payments of all unemployment compensation, insurance premiums, worker's compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged in the performance of the work included in the Construction Contract and 2) providing workers with proper safety equipment and taking any and all necessary precautions to guarantee the safety of workers or persons otherwise affected.

Section 5. OIC agrees to commence construction on or before the 60th day following the issuance of the Notice to Proceed and shall complete construction of the one (1) Project structure on or before May 31 2021. The date for completion of construction may be extended only by obtaining the written permission of the City to extend the completion date. The City shall have complete discretion in determining whether or not to grant such permission and shall not be obligated in any way to grant such permission.

Section 6. OIC agrees to provide its "Notice to Proceed" to the City for an approving counter signature before the "Notice to Proceed" is provided to the Contractor employed by OIC authorizing the Contractor to proceed to construct the Project structures.

Section 7. OIC shall allow and shall require OIC's contractor to allow the City to have access to the Project at any time for purposes of inspecting work which was performed or is being performed as well as for OIC's compliance with all other terms of this Project Agreement. OIC hereby gives representatives of the City permission to enter on to the Project lots without prior advance notice to OIC. The City's right to enter onto the Project lots shall continue during rehabilitation and thereafter throughout the term of this Project Agreement.

ARTICLE III PROJECT FUNDING; LOAN

Section 1. OIC represents that as of the date of this Project Agreement it has funding in the amount of at least Twenty Thousand Dollars (\$20,000) which is available to OIC and will be used, together with the HOME Loan, to fund construction of the Project.

Section 2. City Deferred Loan.

- a. The City may make a deferred Loan (a portion of the Loan) to OIC of up to One Hundred Eighty-Two Thousand Three Hundred Dollars (\$182,300.00) to fund OIC's construction costs (herein referred to as "construction costs") incurred in performing the Project.

- b. The deferred Loan shall be a demand loan; however, the City shall not make demand on the demand Loan; provided, that OIC continues to be in substantial compliance with the terms and conditions of this Project Agreement. The City shall be the sole judge as to whether OIC is in substantial compliance with the terms and conditions of this Project Agreement. In the event the OIC is determined not to be in substantial compliance with the terms and conditions of this Project Agreement during a particular year, the City may demand repayment of the then outstanding and unforgiven principal sum of the Loan.
- c. Repayment and Forgiveness:
 - 1) After the Project has been successfully constructed and sold to a qualifying buyer, the City will forgive a portion of the Loan equal to the difference between the amount OIC expended to construct the Project and the fair market value of the completed Project. The forgiveness shall be provided on the closing date for purchase of the completed Project. The fair market value of the completed Project shall be determined by an appraiser employed by OIC and approved by the City in writing.
 - 2) If after the Loan forgiveness described above (§1) leaves a Loan balance remaining, then at the sale of the Project, the City shall forgive a sufficient portion of the Loan balance to enable OIC to recover up to the full Twenty Thousand Dollars invested in the Project by OIC.
 - 3) If after the Loan forgiveness described above (§1 & §2) leaves a Loan balance remaining, then at the sale of the Project, the City shall forgive a sufficient portion of the Loan balance to fund HOME eligible expenditure closing costs (up to \$15,000.00) required by the lending institution financing purchase of the Project by a qualified buyer.
 - 4) If after the Loan forgiveness described above (§1, §2 & §3) leaves a Loan balance remaining, then the remaining Loan balance shall be repaid to the City at the closing for purchase of the Project.
- d. The Loan shall be evidenced by and repayment shall be governed by a demand promissory note, a copy of which is attached as **Exhibit C**. OIC agrees to execute said demand promissory note

Section 3. OIC shall use the Loan proceeds exclusively for construction costs of the Project structure. Loan proceeds may be used only for funding eligible costs pursuant to all applicable law.

Section 4. The OIC may prepay the entire outstanding balance of the principle sum of the Loan at any time and without penalty.

Section 5. The Loan shall be secured by an open end mortgage on the Project Site in the amount of One Hundred Eight-Two Thousand Three Hundred Dollars (\$182,300.00). A copy of the mortgage form is attached hereto as **Exhibit D** and is incorporated herein by this reference. OIC agrees to execute the mortgage. The mortgage shall not be subordinated to any other lien or encumbrance except real estate taxes and assessments not yet due and payable.

Section 6. OIC shall be fully responsible to prepare, record with the Clark County Recorder, serve on the original construction contractor and the City and post at the Project Site the "Notice of Commencement" described in Ohio Revised Code section 1311.04. OIC shall be fully responsible to provide copies of the Notice of Commencement to all entities who request a copy. OIC shall provide City with a copy of all Notices of Furnishing which are served on OIC.

Section 7 Loan proceeds shall be dispersed within fifteen (15) days after City has received a proper and approvable request for disbursement accompanied by a copy of Contractor's invoice to OIC for a progress payment (which OIC has certified to the City to be correct and payable) correct payroll records, if required by law, related to work described in the invoice as required above, verification of the priority of the Restrictive Use Covenant described in Article V of this Project Agreement and of the City's mortgage interest in parcels for which HOME funds are provided and upon receipt of such other documentation as the City may require to disburse funds in compliance with regulations governing disbursement of HOME funds.

ARTICLE IV ELIGIBLE COSTS

Section 1. "Construction Costs" include only; (1) the actual construction costs, costs of corrections necessary for compliance with Article II, Sections 1 through 3, essential improvements as determined in the City's sole discretion (2) other costs necessary (as determined in the City's sole discretion) to the design for construction of the Project such as architectural, engineering related professional services required in the preparation of rehabilitation plans and drawings or write ups and (3) related soft costs as permitted in 24 CFR Section 92.206(c).

Section 2. OIC must incur a minimum of eligible costs equal to at least One Thousand Dollars (\$1,000) before Loan disbursements may commence.

Section 3. . Total Loan disbursements shall not exceed the sum of the following dollar amounts for completed dwelling units in the Project after construction: (i) One Hundred Thirty-Three Thousand One Hundred Thirty-Seven Dollars and Sixty Cents (\$133,137.60) per unit for units with no bedrooms, (ii) One Hundred Fifty-Three Thousand Five Hundred Eight Dollars and Eighty Cents (\$153,508.80) per unit for units with one bedroom, (iii) One Hundred Eighty-Five Thousand One Hundred Thirty-Six Dollars (\$185,136.00) per unit for units with two bedrooms, (iv) Two Hundred Thirty-Six Thousand Nine Hundred Eighty Dollars and Eighty Cents (\$236,980.80) per unit for

units with three bedroom and (v) Two Hundred Sixty-Four Thousand Four Dollars and Eight Cents (\$264,004.80) per unit for units with four or more bedrooms.

Section 4. Eligible costs do not include materials, supplies, labor or work donated to OIC.

Section 5. Eligible costs include only those costs qualifying as such under 24 CFR 92.206.

Section 6. In the event the OIC does not accomplish "Completion of Project" on the Project in full compliance with this Project Agreement none of the costs incurred will qualify as eligible costs and all monies disbursed to OIC by the City shall be immediately repaid to the City upon the City's written demand.

Section 7. In the event HUD determines that any costs which were funded by Loan proceeds were not eligible costs, OIC shall repay to City the amount of the Loan made to fund costs found not to be eligible costs. This section places an absolute obligation on OIC to indemnify and hold the City harmless from any expenditure recovery action by HUD against the City to recover funding for OIC's costs determined by HUD to be ineligible costs or disbursement of HOME funds in violation of 24 CFR part 92.

ARTICLE V AFFORDABLE HOUSING OBLIGATIONS

Section 1. The duties imposed upon the OIC, its successors and assigns, under this Article V shall continue in effect for a period of twenty (20) full years following the date of completion of each Project structure (the "affordability period"); unless the period is reduced by the City. Notwithstanding the foregoing, the affordability period shall in no event be shorter than the term of any FHA insured mortgage given to secure financing for the construction of the Project. (See 24 CFR 92.258)

Section 2. Upon proper Completion of the Project to the City's complete satisfaction, OIC shall market and sell the Project to a low income family, subject to the following conditions:

(a) The initial purchase price that shall not exceed 95% of the median purchase price for the type of single-family housing (1- to 4-family residence, condominium unit, cooperative unit) for The City of Springfield, Ohio as determined by HUD, and which may be appealed in accordance with 24 CFR 203.18b; and

(b) The Project shall be the principal residence of a purchaser whose family qualifies as a low-income family at the time of purchase;

(c) The Project shall be purchased within 36 months if a lease-purchase agreement in conjunction with a homebuyer program is used by OIC to market the

Project;

(d) Throughout the affordability period the City shall have the right to recapture the full HOME investment (i.e. the Loan) out of the net proceeds from sale of Project units. Net proceeds means the sales price minus loan repayment and closing costs.

(e) In the event the Project is not sold within nine months after a certificate of occupancy is issued for the Project, then the Project may be rented to a qualified tenant.

Section 3. Throughout the affordability period the Project structures shall not be rented for a sum greater than the lesser of:

(a) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR §888.111, less the monthly allowance for the utilities and services (excluding telephone) to be paid by the tenant; or

(b) A rent that does not exceed 30 percent of the adjusted income of a family whose gross income equals 65 percent of the median income for the area, as determined by HUD, with adjustment for number of bedrooms in the unit, except that HUD may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of HUD'S findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. In determining the maximum monthly rent that may be charged for a unit that is subject to this limitation, the OIC must subtract a monthly allowance for any utilities and services (excluding telephone) to be paid by the tenant. HUD will provide average occupancy per unit and adjusted income assumptions to be used in calculating the maximum rent allowed under paragraph (b) of this section.

Section 4. Throughout the affordability period, if any part of the Project structure is rented, at least twenty percent (20%) of the units in the Project structure shall be:

(a) Occupied by very low-income families who pay as a contribution toward rent (excluding any federal or state rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by HUD. To obtain the maximum monthly rent that may be charged for a unit that is a subject to this limitation, the OIC shall multiply the annual adjusted income of the tenant family by 30 percent and divide by 12 and, if applicable, subtract a monthly allowance for any utilities ad services (excluding telephone) to be paid by the tenant; or

(b) Occupied by very low-income families and bearing rents not greater than 30 percent of the gross income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustment for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of HUD'S findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. In determining the maximum monthly rent that

may be charged for a unit that is subject to this limitation, the OIC must subtract a monthly allowance for any utilities and services (excluding telephone) to be paid by the tenant. HUD will provide average occupancy per unit assumptions to be used in calculating the maximum rent allowed under paragraph (b) of this section.

The applicable rent under this Section shall be the lower of subsection 4(a) or 4(b).

Section 5. Throughout the affordability period all of the Project structures shall be occupied only by households that qualify as low-income families.

Section 6. Throughout the affordability period, the OIC, its successors and assigns, shall not refuse to lease units in the Project (if any part of the Project is used as a rental dwelling unit) to holders of a certificate of family participation under 24 CFR part 882 (Rental Certificate Program) or a rental voucher under 24 CFR part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in a HOME tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate of family participation, rental voucher, or comparable HOME tenant-based assistance document.

Section 7. The OIC, its successors or assigns, shall not be in violation of this Article V despite a temporary noncompliance with sections 4 and 5 of this Article, if the noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this Article until the noncompliance is corrected. Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted monthly income, as re-certified annually. The preceding sentence shall not apply with respect to funds made available under this part for units that have been allocated at low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986 (26 U.S.C. 42).

Section 8. Throughout the affordability period the City shall have the absolute right to review and approve all rents for units in the Project proposed by the OIC, and any successor in interest to OIC, prior to such rents taking effect and being charged to Project tenants. The City shall have the absolute right to review and approve for all Project units subject to the maximum rent limitations contained in Sections 2 and 3 of this Article, the monthly allowances, proposed by the OIC, for utilities and services to be paid by the tenant. The OIC shall reexamine the income of each tenant household living in low-income units at least annually. The maximum monthly rent shall be recalculated by the OIC and reviewed and approved by the City annually, and may change as changes in the applicable gross rent amounts, the income adjustments, or the monthly allowance for utilities and services warrant. Any increase in rents for lower income units is subject to the provisions of outstanding leases, in any event, the OIC must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

Section 9. The OIC shall include a provision in each lease agreement for a Project unit requiring the tenant to provide to the OIC and the City on an annual basis a signed Annual Tenant Income Certification & Monitoring Form which has been completely filled out by or on behalf of the tenant.

Section 10. The obligations of the OIC and Owners successors and assigns shall be imposed and enforced by means of a restrictive use covenant contained in the "Restrictive Use Covenant" attached as **Exhibit E**. It is the intent of the parties hereto that the restrictive use covenant shall run with the land described as the Project Site. The restrictive use covenant shall remain in full force and effect throughout the affordability period. It is the further intent of the parties hereto that the restrictive use covenant may be enforced by the City, HUD and/or any third party beneficiaries aggrieved by violation of the restrictive use covenant.

ARTICLE VI LONG-TERM OWNER OBLIGATIONS

Section 1. The Project structures shall remain, and OIC shall do all things necessary to ensure that the Project structures remain, in private ownership and in primarily residential use throughout the affordability period; unless, the Project structure is sold to another private owner who agrees to accept assignment of and be bound to all of the terms and conditions of this Project Agreement.

Section 2. The OIC and OIC's lessees shall be obligated throughout the affordability period to rent units in the Project by means of a written lease which meets at least the minimum standards contained in 24 CFR 92.253 and in this Project Agreement. OIC shall contractually obligate OIC's lessees to comply with this provision.

Section 3. The OIC and OIC's lessees shall not discriminate against prospective tenants or purchasers on the basis of their receipt of, or eligibility for, housing assistance under any federal, state or local housing assistance program or, except for a housing project for elderly persons, on the basis that the tenants have a minor child or children who will be residing with them. The OIC shall comply with this obligation not to discriminate throughout the affordability period.

Section 4. The OIC shall comply with the nondiscrimination and equal opportunity requirements of those statutes, regulations and executive orders listed in 24 CFR Sections 92.350 and shall comply with and implement fully (in connection with renting dwelling units in the Project) the City's Affirmative Marketing Policy. The City's Affirmative Marketing Policy is on file in the City's Community Development Department. OIC acknowledges that he has obtained a copy of and has read the City's Affirmative Marketing Policy and understands his obligations under the City's Affirmative Marketing Policy. The OIC shall comply with this obligation not to discriminate and to engage in Affirmative Marketing throughout the affordability period.

Section 5. The OIC shall maintain the Project in primarily residential use throughout the affordability period.

Section 6. For any Project structure that is leased, the OIC and OIC's lessees will not prohibit pets in any living units in the Project structure which are intended for occupancy by elderly persons or by handicapped persons, when elderly persons or handicapped persons are to receive a preference in tenant selection. The OIC will not adopt any pet regulations for the Project structure which are inconsistent with or violate the limitations upon the adoption of pet rules as set forth in 24 CFR Part 243 and shall in all respects strictly comply with all requirements contained in 24 CFR Part 243. The OIC shall comply with the obligations imposed upon him under this section throughout the affordability period. OIC shall contractually obligate OIC's lessees to comply with this provision.

Section 7. OIC shall ensure that all buildings and improvements comprising a Project structure are kept insured against loss by fire or tornado throughout the affordability period or until the Loan has been forgiven in accordance with Article III, Section 4, whichever occurs first. The said insurance shall be in amount and in companies at all times satisfactory to the City. If a Project structure is located in an area identified by the Federal Emergency Management Agency as having special flood hazards the OIC shall ensure that flood insurance is obtained for the Project structure under the National Flood Insurance Program in an amount satisfactory to the City. The OIC shall ensure that such flood insurance is maintained in effect throughout the affordability period. Throughout the affordability period OIC will provide the City with annual (on each of the anniversary dates of this Project Agreement) certificates of insurance certifying that the above insurance coverages remain in effect for the Project structures and that the insurance will not be cancelled without the City receiving at least fifteen (15) days advance notice of cancellation.

Section 8. The OIC will not permit or tolerate the use of Project structures, while owned by OIC, for any unlawful purpose at any time throughout the affordability period. The OIC agrees to use his best efforts to stop any unlawful activities which may be conducted at a Project structure which the Project structure is owned by OIC, including, but not limited to, full cooperation with police agencies and lawful eviction of offending tenants.

Section 9. OIC shall ensure that all buildings and improvements comprising a Project structure are kept in good repair and in such a condition so as to comply with the provisions of Part 13 of the City's Codified Ordinances, and shall ensure that all grounds and landscaping at all Project structures are properly maintained, and shall not commit or permit waste thereon throughout the affordability period.

Section 10. Violation of any of the provisions contained in this Article VI shall be an event of default under the promissory note issued pursuant to this Agreement and the related mortgage. Should such event of default occur, the City shall have the right, without presentment, demand or notice, to immediately declare the outstanding, unpaid

balance of the Loan to be immediately due and payable to the City. The City shall further have the right to avail itself of any and all remedies available to the City under the related mortgage, the restrictive use covenant and/or any provision of this Project Agreement.

ARTICLE VII ADDITIONAL WARRANTIES AND OBLIGATIONS

Section 1. OIC acknowledges that HUD, in selecting the City for award of HOME, relied, in material part, upon assurances made by the City as to the conduct and completion of the housing program receiving HOME funding. The OIC represents that he is familiar with the assurances made by the City to HUD and OIC agrees to and warrants that it will conduct its construction and its rental operations on the Project and all activities engaged in by OIC in performing this Project Agreement so as to conform to the assurances made by the City to HUD.

Section 2. OIC agrees that the transaction which is the subject of this Project Agreement and all activities engaged in by OIC in performing this Project Agreement shall be conducted in full and complete compliance with all federal, state and local constitutions, charters, statutes, ordinances, rules and regulations of whatever nature. OIC shall do all things necessary to accomplish such full and complete compliance. Warning: It is unlawful for officials and employees of City to receive gratuities. OIC shall not engage in any conflict of interest in violation of 24 CFR 92.356.

Section 3. OIC shall keep, maintain and allow access to all books, records and other documents, recording and verifying use of the Loan funds provided pursuant to this Project Agreement and the direct or indirect benefit to OIC therefrom; verifying OIC's affirmative marketing activities; verifying OIC's compliance with Article V; and such other records as the City shall require OIC to generate and maintain to verify compliance with all provisions of this Project Agreement. OIC shall fully cooperate (including vigorous enforcement of lease terms) with the City to obtain such information and documents from OIC's tenants and purchasers as the City may deem necessary. Further, OIC shall give to any authorized representative of the City, of HUD or of the Comptroller General of the United States access to at all times, and right to inspect, copy, audit and examine all such books, records and other documents prepared or obtained in compliance with this section. OIC shall retain such books, records and documents for a period of at least five (5) years after the entire affordability period, OIC has completely satisfied all of its obligations set forth in this Project Agreement and the City has released the Mortgage to secure OIC's performance under this Project Agreement.

Section 4. OIC warrants that to the best of its knowledge no City Commissioner, officer or employee of the City, or their designees, agents or consultants, has or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, resulting from the use of the proceeds of the Loan.

Section 5. OIC shall indemnify and hold the City harmless from any liability of any nature that may result from the acts or omissions of OIC in entering into this Project Agreement, performing this Project Agreement or utilizing the funds loaned pursuant to this Project Agreement. Further, OIC agrees to pay all attorneys fees and court costs incurred by the City in defending itself, its City Commissioners, officials and employees against such liability.

Section 6. OIC warrants that all work write-ups, construction specifications and any construction cost estimates prepared by or on behalf of OIC and submitted to the City have not been prepared by a third party related to or affiliated with the OIC, if the OIC wishes to include the cost of preparing such work write-ups, specifications or estimates as eligible costs.

Section 7. OIC warrants that it has not received Federal funding (including any HOME assistance) and that there are no pending applications for federal funding (including any HOME assistance) to finance any activities previously conducted, now conducted or to be conducted on the Project, federal funding provided pursuant to this Project Agreement or assistance provided pursuant to 24 CFR Parts 882 and 887 (ie. "Section 8 assistance") or tenant-based rental assistance or assistance to a first time homebuyer to acquire housing previously assisted with HOME funds (See 24 CFR 92.214).

Section 8. OIC shall strictly comply with the requirements of the Fair Housing Act, 42 USC Sections 3601-3619 and the implementing regulations at 24 CFR Parts 100, 106 and 109; Executive Order 11063 [Equal Opportunity in Housing], and the implementing regulations at 24 CFR Part 107; Titled VI of the Civil Rights Act of 1964, 42 USC 2000d, and the implementing regulations at 24 CFR Part 1; and the Civil Rights Act of 1991.

Section 9. OIC shall not engage in prohibited discrimination on the basis of age in violation of the Age Discrimination Act of 1975, 42 USC Sections 6101-6107 and the implementing regulations at 24 CFR Part 146.

Section 10. OIC shall not engage in prohibited discrimination on the basis of handicap in violation of Section 504 of the Rehabilitation Act of 1973, 29 USC Section 794 and the implementing regulations at 24 CFR Part 8 or the Americans with Disabilities Act of 1990.

Section 11. OIC shall strictly comply with the requirements of Executive Order 11246 [Equal Employment Opportunity] and the implementing regulations issued under the order at 41 CFR Chapter 60.

Section 12. OIC shall strictly comply with Section 3 of the Housing and Urban Development Act of 1968, 12 USC Section 1701u [Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects] and the implementing regulations at 24 CFR Part 135.

Section 13. OIC shall strictly comply with the requirements of the National Historic Preservation Act, 16 USC Section 470-470t and the implementing regulations at 36 CFR Part 800 [The Protection of Historic And Cultural Properties].

Section 14. [Intentionally omitted]

Section 15. OIC shall, in good faith, fully comply with the spirit and the letter of Chapter 153 of the City's Codified Ordinances entitled "Disadvantaged and Minority Business Enterprises."

Section 16. OIC shall not employ, engage the services of, or award a contract to any general contractor or subcontractor who has been debarred, suspended or placed in ineligibility status by HUD and OIC will place in each contract OIC enters into with a general contractor or subcontractor a provision prohibiting such general contractor or subcontractor from entering into a contract (related to construction of the Project) with a person or other entity who is debarred, suspended or placed in ineligibility status by HUD. OIC shall not lease or rent any unit in the Project to a tenant who is debarred, suspended or placed in ineligibility status by HUD without first obtaining written consent of the City to rent or lease a unit in the Project to such tenant.

Section 17. The OIC will not discriminate against any employees or applicant for employment because of race, religion, color, sex, national origin, disability or age. The OIC will take affirmative action to ensure that applicants are considered for employment and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability or age. The OIC will in all solicitations or advertisements for employees placed by or on behalf of the OIC, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability or age. The OIC will incorporate the requirements of this paragraph in all of its respective contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials), and the OIC will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

Section 18. The OIC warrants that the Project upon completion of construction shall have an estimated appraised value at acquisition by the immediate successor in interest to OIC, if standard, or after any repair needed to meet property standards in 24 CFR § 92.251, that does not exceed the limit described in Article V, Section 2 (a).

ARTICLE IX GENERAL PROVISIONS

Section 1. This Project Agreement shall continue in full force and effect from the date first above written and until OIC's (including OIC's successors in interest to the Project) obligations under Article VII Section 3 (record retention) have been satisfied to the City's complete satisfaction (ie., at a minimum five (5) years after conclusion of the

affordability period).

Section 2. Failure of City to complain of any act or omission on the part of the OIC no matter how long the same may continue, shall not be deemed to be a waiver by City of any of its rights hereunder. No waiver by City at any time, express or implied, of any breach of any provision of this Project Agreement, shall be deemed a waiver of a breach of any other provision of this Project Agreement or a consent to any subsequent breach of the same or any other provision.

Section 3. This Project Agreement, including the recitals which are incorporated herein, constitutes the entire understanding of the parties and shall not be altered, changed, modified, or amended, except by similar instruments in writing, executed by the parties hereto.

Section 4. This Project Agreement is binding upon and inures to the benefit of the parties hereto, their respective legal representatives, successors and assigns.

Section 5. OIC shall provide the City with a written status reports quarterly(an, if necessary, on each subsequent anniversary of each such date) describing:

- (a) the status of construction activities, including percentage of completion of each structure and projected completion date for each dwelling unit,
- (b) the total sum invested in the Project as of the report date,
- (c) the status of any lien or other claims against the Project, and
- (d) the status of occupancy of the Project.

Section 6. Exhibit List:

- A. Project Site Description
- B. Construction Contract Supplemental Conditions
- C. Demand Promissory Note
- D. Mortgage
- E. Restrictive Use Covenant
- F. Project Description
- G. Accessible Housing Program

The parties to this Agreement, by signing below, agree to be bound by its terms and conditions.

APPROVED AS TO FORM
AND CORRECTNESS:

THE CITY OF SPRINGFIELD, OHIO

Assistant Law Director

By: _____
Bryan Heck, City Manager

Date _____

I hereby certify that the money required for payment of the above obligation in the sum of \$_____ at the time of the making of this contract or order, was lawfully appropriated for such purpose and was in the treasury or in process of collection to the credit of the proper item of appropriation free from any previous encumbrance.

Finance Director

**OPPORTUNITIES INDUSTRIALIZATION
CENTER OF CLARK COUNTY, OHIO,
INC.**

By: _____



EXHIBIT A

PROJECT SITE LEGAL DESCRIPTION

PARCEL ONE:

Situated in the City of Springfield, County of Clark and State of Ohio and being Lot No. 4444 as the same is numbered and designated on J.B.Rubsam's Plat, which is recorded in Plat Book 5, Page 21 of the Plat Records of Clark County, Ohio.

ALSO, the South half of the vacated alley that adjoins the North side of said Lot per Vac Ord No. 85-101

PARCEL TWO:

Situated in the City of Springfield, County of Clark and State of Ohio and being Lot No. 4445 as the same is numbered and designated on J.B. Rubsam's Plat which is recorded in Plat Book 5, Page 21 of the Plat Records of Clark County, Ohio.

ALSO the South half of the vacated alley that adjoins the North side of said Lot per Vac Ord No.85-101.

Parcel No. 340-06-00005-201-016

Exhibit B
SUPPLEMENTAL CONDITIONS

SC.01. Permits and Codes. The Contractor shall comply with (including giving all notices required) all applicable laws, ordinances, and codes of The City of Springfield, Ohio (referred to as the "City") including the obtaining of and payment for all required permits. The work described in this Agreement must be completed by Contractor so that the construction of the Building conforms to the minimum requirements of Part 13 of the Building Code in the City's Codified Ordinances and so that the dwelling units in the Building are decent, safe and

SC.02. Paint Containing Lead shall not be used by the Contractor or any subcontractor in conducting the work. The regulations at 24 CFR Part 35: 1.) prohibit the use of lead-based paint in construction, rehabilitation, or modernization of residential structures; 2.) require the elimination of lead-based paint hazards in residential structures; and, 3.) require notification of lead-based paint poisoning hazards to purchasers and tenants of residential structures constructed prior to 1978. The Contractor agrees to do all things necessary so that construction strictly complies with the provisions of 24 CFR Part 35.

SC.03. Inspection of Work. The United States Department of Housing and Urban Development (referred to as "HUD") and inspectors for the City shall have the right to examine and inspect construction work included in this Agreement

SC.04. Employee Welfare and Safety. The Contractor shall exercise proper precautions at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of its prosecution of the work. The safety provisions of applicable laws and building codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as are reasonably necessary. Contractor agrees full responsibility to ensure payment of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged for the performance of work authorized by this Agreement. Contractor accepts full responsibility for providing workers with proper safety equipment and taking any and all necessary precautions to guarantee the safety of workers or persons otherwise affected. Contractor accepts full responsibility for providing workers with proper safety equipment and taking any and all necessary precautions to guarantee the safety of workers or persons otherwise affected.

SC.30. The penalty for making false statements is prescribed in the Criminal Code, 18 U.S.C. 1001.

SC.31. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wages, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated

against by Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

SC.32. Contract Work Hours and Safety Standards Act. As used in SC.35 through SC.38, the terms "laborers" and "mechanics" include watchmen and guards.

SC.33. Overtime requirements. Neither Contractor nor any subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

SC.34. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in Section SC.33, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and any subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in Section SC.33.

SC.35. Withholding for Unpaid Wages and Liquidated Damages. Any Federal Agency having jurisdiction or its designee or the City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or any subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally- assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of Contractor or any subcontractor for unpaid wages and liquidated damages as provided in this Agreement.

SC.36. Required EEO Duty. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability or age. The Contractor will take affirmative action to ensure that applicants are considered for employment and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability or age. The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability or

age. The Contractor will incorporate the requirements of this paragraph in all of its respective contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials).

SC.37. Subcontracts. Contractor or any subcontractor shall insert in any subcontracts the clauses set forth in Section SC.32 through SC.37 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Section SC.32 through SC.37.

SC.38. Health and Safety - Federal.

- a. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- b. Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat 96).
- c. Contractor shall include the provisions of this Section SC.38 in every subcontract so that such provisions will be binding on each subcontractor. Contractor shall take such action with respect to any subcontract as the Federal Agency having jurisdiction shall direct as a means of enforcing such provisions.

SC.39. Interest of Certain Federal and Other Officials.

- a. No member of the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise from same.
- b. No member of the governing body of the City of Springfield and no other officer or employee of the City shall have any interest, direct or indirect, in this Agreement.

SC.40. Equal Employment Opportunity.

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading,

demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

- b. The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.
- c. The Contractor will comply with all provisions of Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.
- d. The Contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963 and by the rules, regulations, and orders of HUD pursuant thereto and will permit access to his books, records, and accounts by the Owner, HUD and the City for purposes of investigation to ascertain compliance with such rules, regulations, and order.
- e. The Contractor will comply with provisions of Executive Order No. 11246 dated September 24, 1965, and Section 3 of the Housing Act of 1968, attached and made a part hereof.
- f. In the event of the Contractor's noncompliance with the nondiscrimination clause of this Agreement or with any of the said rules, regulations, or order, and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and such other sanctions as may be imposed and remedies invoked as provided in the said Executive Order or by rules, regulation, or order of the President's Committee on Equal Employment Opportunity or as otherwise provided by law.
- g. The Contractor will include the provisions of the paragraphs a. through f. in every subcontract or purchase order unless exempted by rules, regulations, or order of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 or Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or order as the Owner may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided however, that in the event the Contractor becomes involved in or is

threatened with litigation with a subcontractor or vendor as a result of such direction by the Owner, the Contractor may request the United States to enter into such litigation to protect the interests of the United States,

SC.41. Debarment. Contractor shall not employ, engage the services of, or award an Agreement to any subcontractor who has been debarred, suspended or placed in ineligibility status by HUD and Contractor will place in every agreement Contractor enters into with a subcontractor a provision prohibiting such subcontractor from entering into an Agreement, related to the work, with a person or other entity who is debarred, suspended or placed in ineligibility status by HUD.

SC.42. ADA. Contractor shall fully comply with all requirements of the Americans With disabilities Act of 1990 and all regulations issued in connection therewith.

SC.43. Conflicts. The parties further state that to the best of their knowledge no member of the City Commission or no other officer, employee, or agent of the City has any personal interest, direct or indirect, in this Agreement. Warning: It is unlawful for officials and employees of City to receive gratuities. Contractor shall not engage in any conflict of interest prohibited under 24 CFR 92.356 or 24 CFR 570.611.

SC.44. Commencement. The Contractor may not commence work until he has received a "Notice to Proceed" signed by the Owner and countersigned by The City of Springfield, Ohio. (see attached form).

SC.45 These supplementary conditions are a part of and incorporated into the Construction Agreement between Owner and Contractor dated _____. In the event there is any conflict between the terms of the Construction Agreement, as completed by Contractor and Owner and these supplementary conditions, the terms of these supplementary conditions shall prevail.

Note: This project will not require compliance with Davis Bacon requirements.

**IN WITNESS WHEREOF, the parties hereto have set their hands to duplicate originals
as of the date first above written.**

**Owner, Opportunities Industrialization
Center of Clark County, Ohio, Inc.**

BY _____

**Contractor
BY** ____

EXHIBIT C
DEMAND PROMISSORY NOTE
(HOME FUNDED PROJECT)

\$182,300.00

_____, 2019

For value received **OPPORTUNITIES INDUSTRIALIZATION CENTER OF CLARK COUNTY, OHIO, INC.**, an Ohio nonprofit corporation incorporated under Chapter 1702 of the Ohio Revised Code, (hereinafter Maker) promises to pay, on demand, to the order of The City of Springfield, Ohio, the sum of One Hundred Eight-Two Thousand Three Hundred Dollars (\$182,300.00) with no interest.

This Demand Note is secured by a mortgage of even date herewith, executed and delivered by Maker on land situate in the City of Springfield, Clark County, Ohio, fully described in said mortgage. If this Note is not paid when due, or within three (3) days thereafter, or if default be made in the performance of any of the agreements or conditions of said mortgage, the entire unpaid principal sum hereof shall, at the option of the Payee and without presentment, demand or notice, which are hereby waived, become immediately due and payable.

**OPPORTUNITIES INDUSTRIALIZATION CENTER OF CLARK
COUNTY, OHIO, INC..**

By: _____

EXHIBIT D

THE CITY OF SPRINGFIELD, OHIO **HOUSING PROGRAM OPEN-END MORTGAGE**

\$182,300.00

KNOW ALL MEN BY THESE PRESENTS THAT- OPPORTUNITIES INDUSTRIALIZATION CENTER OF CLARK COUNTY, OHIO, INC., an Ohio nonprofit corporation incorporated under Chapter 1702 of the Ohio Revised Code, of the County of Clark and State of Ohio, hereby designated and hereafter referred to as "Mortgagor," hereby Grants, Mortgages, Bargains, Sells and Conveys unto **THE CITY OF SPRINGFIELD, OHIO,** a municipal corporation organized under the laws of the State of Ohio, "Mortgagee", its successors and assigns, the following real estate, situated in the City of Springfield in the County of Clark and State of Ohio, and described as follows:

SEE EXHIBIT A FOR LEGAL DESCRIPTION

and all the estate, title and interest of Mortgagor either in law or in equity of, in and to the same premises, together with all the privileges, easements and appurtenances to the same belonging, and all rents, issues and profits thereof, including all heating air conditioning, plumbing, lighting and electrical fixtures, shrubbery, screens, storm doors and windows, attached floor coverings and all improvements on said premises of every nature and description now and hereafter erected on, attached to or fitted for the use of said premises.

The consideration for this Mortgage is the present and future advancement of funds by Mortgagee to Mortgagor in accordance with the "HOMEOWNERSHIP HOUSING NEW CONSTRUCTION LOAN AGREEMENT (HOME PROGRAM FUNDED CONSTRUCTION) (2019-2020 New Construction Development Project - Rubsam Street.)" Loan Agreement between Mortgagor and Mortgagee dated _____, 2020 (hereinafter the "Funding Agreement"). This Mortgage shall secure payment of all future advances and all provisions of this Mortgage shall apply to each future advance as well as to all other indebtedness secured by this Mortgage; provided, however, that the maximum unpaid loan indebtedness secured by this Mortgage shall not exceed \$182,300.00.

TO HAVE AND TO HOLD the said premises unto the said Mortgagee, its successors and assigns forever, for the uses and purposes herein expressed.

And the said Mortgagor hereby jointly and severally covenant with said Mortgagee that said Mortgagor is lawfully seized in fee simple of the premises aforesaid and is in peaceable possession thereof, has good right to sell and convey and mortgage the same; that said Real Estate is clear, free and unencumbered except as to taxes and assessments not yet due and payable and that said Mortgagor will forever warrant and Defend the same against the lawful claim or claims of all persons whomsoever.

PROVIDED ALWAYS and these presents are upon the conditions following, to wit:

That the said Mortgagor shall pay or cause to be paid unto the said Mortgagee, its successors and assigns, the principal, as it falls due, of Mortgagor's certain promissory note of even date herewith (which note is hereby made a part hereof the same as if fully rewritten herein) for the sum hereinabove set forth, payable to the order of Mortgagee and shall perform all of Mortgagor's obligations set forth in the Funding Agreement. This mortgage is intended to secure all of Mortgagor's obligations to pay money to Mortgagee as set forth in the said Funding Agreement between Mortgagor and Mortgagee.

If Mortgagor defaults in any of the other terms and conditions herein mentioned, the principal sum shall at the option of the holder hereof, become due and payable without demand or notice and suit for the collection of the same and foreclosure of this mortgage securing the same may be brought by any legal holder hereof and thereof.

IT IS FURTHER AGREED AND STIPULATED THAT SAID MORTGAGOR SHALL:

a. Keep all buildings and improvements now on said premises or hereafter to be placed thereon insured against loss by fire or tornado during the life of this mortgage, for an amount and in Companies at all times satisfactory to the Mortgagee, and upon request, deliver the policies representing such insurance to said Mortgagee, payable to said Mortgagee as its mortgage interest may appear. If the said premises is located in an area identified by the Federal Emergency Management Agency as having special flood hazards the Mortgagor shall obtain flood insurance under the National Flood Insurance Program in an amount satisfactory to the Mortgagee, and upon request deliver the policy representing such insurance to said Mortgagee, payable to said Mortgagee as its mortgage interest may appear. In the event of any sum of money becoming payable under such policy or policies, the Mortgagee shall have the option either to receive and apply ALL OR ANY part thereof on account of the indebtedness hereby secured, or to permit the Mortgagor to receive and use all, or any part thereof, for the purpose of rebuilding or repairing the damaged premises, or for other purposes, without thereby waiving or impairing any equity or lien or right under or by virtue of this mortgage lien.

b. Pay punctually all taxes and assessments, repair or other charges of every kind that may be levied or assessed or for which a lien might be had upon said real estate or any part thereof; and also the insurance premiums, as they severally become due and payable.

c. Keep all the buildings and improvements on said premises in good repair and condition; not suffer any liens superior to the lien hereby created to attach to or be enforced against said real estate; not commit or permit waste thereon; and not change the ownership thereof without the consent of the Mortgagee.

d. That so long as any part of said mortgage indebtedness secured hereby remains unpaid, the Mortgagor shall own, rent or lease said premises and Mortgagor shall not abandon, vacate or sell or otherwise dispose of the above described premises.

e. Mortgagor covenants that Mortgagor shall fully comply with all of Mortgagor's obligations contained in the Funding Agreement between Mortgagor and Mortgagee.

Upon default of the Mortgagor in the payment when due of said taxes, assessments, repairs or other charges, and insurance premiums, Mortgagee may, at its option, pay the same; may make such repairs as it deems necessary for the protection of its lien herein. All money so advanced shall be secured by this Mortgage, and shall be repaid by said Mortgagor on demand, or on demand made upon the party then in possession of said real estate.

Upon default of Mortgagor in the note secured hereby or in the performance of any of the conditions or covenants herein or in the Funding Agreement between Mortgagor and Mortgagee; it shall be lawful for the Mortgagee, at its option, to enter into and upon the real estate hereby granted or any part thereof, to rent said premises further, if any foreclosure proceeding shall be instituted, the Mortgagee shall be entitled without notice and without regard to the adequacy of the security of this loan and performance of Mortgagor's obligations under the Funding Agreement between Mortgagor and Mortgagee, to the appointment of a receiver to take possession and control of said premises and receive the rents and profits thereof, and apply the net proceeds to repayment of the loan or any other obligation of Mortgagor to pay money to Mortgagee required under the said Funding Agreement hereby secured.

Any failure of the Mortgagee to exercise any right or option given or reserved to it herein shall not stop said Mortgagee from exercising any such right or option upon any subsequent default of the Mortgagor.

All rights and remedies given or reserved to Mortgagee, shall be cumulative and may be exercised contemporaneously so that the exercise of one or more of said rights or remedies shall not exclude or prevent the exercise of the other or others thereof.

This mortgage and the principal note secured thereby are made and executed under and are in all respects to be construed by the laws of the State of Ohio.

All the covenants, promises, undertakings, agreements, rights, privileges, benefits and obligations by this instrument imposed upon or reserved unto the Mortgagor and the Mortgagee shall respectively extend to and be binding upon the respective heirs, executors, administrators, successors and assigns of said parties.

PROVIDED NEVERTHELESS, that if the said Mortgagor shall fully keep and perform each and all the covenants, agreements, and obligations aforesaid on Mortgagor's part to be kept and performed, or expressed in the note and in the Funding Agreement between Mortgagor and Mortgagee, which this mortgage secures, then this Mortgage shall be canceled and void; otherwise to be and remain in full force and virtue.

IN WITNESS WHEREOF, this Mortgage has been executed at Springfield, Ohio this _____, 2020.

**OPPORTUNITIES INDUSTRIALIZATION
CENTER OF CLARK COUNTY, OHIO, INC.**

BY _____

STATE OF OHIO)
COUNTY OF CLARK) SS:

On this ___ day of _____, 2020, before me, a Notary Public, _____, _____ of Opportunities Industrialization Center Of Clark County, Ohio, Inc. who acknowledged himself/herself to be authorized to execute the foregoing Mortgage for the purposes therein contained, by signing the same of the corporation by himself/herself and further acknowledged the signing of same to be his/her free act and deed and the free act and deed of Opportunities Industrialization Center Of Clark County, Ohio, Inc.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Springfield, Ohio this ___ day of _____, 2020.

Notary Public

This instrument prepared by The City of Springfield, Ohio.

EXHIBIT E
RESTRICTIVE USE COVENANT
(New Const. - 7/95)

In consideration of the making of the Loan of HOME Funds by **THE CITY OF SPRINGFIELD, OHIO** (hereinafter the "City") to **OPPORTUNITIES INDUSTRIALIZATION CENTER OF CLARK COUNTY, OHIO, INC.**, an Ohio nonprofit corporation incorporated under Chapter 1702 of the Ohio Revised Code, (hereinafter the "Grantor") and the disbursement of any part thereof, and in order to comply with the requirements of the Cranston-Gonzalez National Affordable Housing Act, 42 USC 12701, et. seq., and 24 CFR Part 92 adopted by the Secretary of Housing and Urban Development pursuant thereto, Grantor and for Grantor's heirs, successors and assigns, agrees and hereby imposes on the real property described as follows:

SEE EXHIBIT A FOR LEGAL DESCRIPTION

Last Prior Deed Reference: Vol. ____, Page ____.

A restrictive use covenant that:

- a. Rental housing units on the said premises shall remain affordable in compliance with 24 CFR 92.252, as it may be amended (which regulations are incorporated by reference), for twenty (20) years from the date Grantee issues a certificate of occupancy for structures placed on the above described real property by Grantor or Grantor's successors in interest.
- b. Nonrental housing units on said premises shall remain affordable in compliance with 24 CFR 92.254, as it may be amended (which regulations are incorporated by reference), for fifteen (15) years from the date Grantee issues a certificate of occupancy for structures placed on the above described real property by Grantor or Grantor's successors in interest.
- c. The preceding use restriction shall: i) run with the land, ii) be binding upon Grantor and Grantor's heirs, personal representatives, successors and assigns and iii) be enforceable by actions at law or in equity by City, its successors and assigns, by the United States Department of Housing and Urban Development, by the State of Ohio and/or by one or more third-party beneficiaries aggrieved by violation of this Restrictive Use Covenant. For the purpose of this agreement a third-party beneficiary shall include any member of a low-income family (as defined in 24 CFR 92.2).

IN WITNESS WHEREOF, the said Grantor, **OPPORTUNITIES INDUSTRIALIZATION CENTER OF CLARK COUNTY, OHIO, INC.** by its authorized representative has hereunto set its hand this _____, 2020, the effective date of this Restrictive Use Covenant.

**OPPORTUNITIES INDUSTRIALIZATION
CENTER OF CLARK COUNTY, OHIO, INC..**

By: _____

STATE OF OHIO)
COUNTY OF CLARK) SS:

On this ___ day of _____, 2020, before me, a Notary Public,
_____, _____ of Opportunities Industrialization
Center Of Clark County, Ohio, Inc. who acknowledged himself/herself to be authorized
to execute the foregoing Restrictive Use Covenant for the purposes therein contained,
by signing the same of the corporation by himself/herself and further acknowledged the
signing of same to be his/her free act and deed and the free act and deed of
Opportunities Industrialization Center Of Clark County, Ohio, Inc..

IN TESTIMONY WHEREOF, I have hereunto set my name and official seal at
Springfield, Ohio this ___ day of _____, 2020.

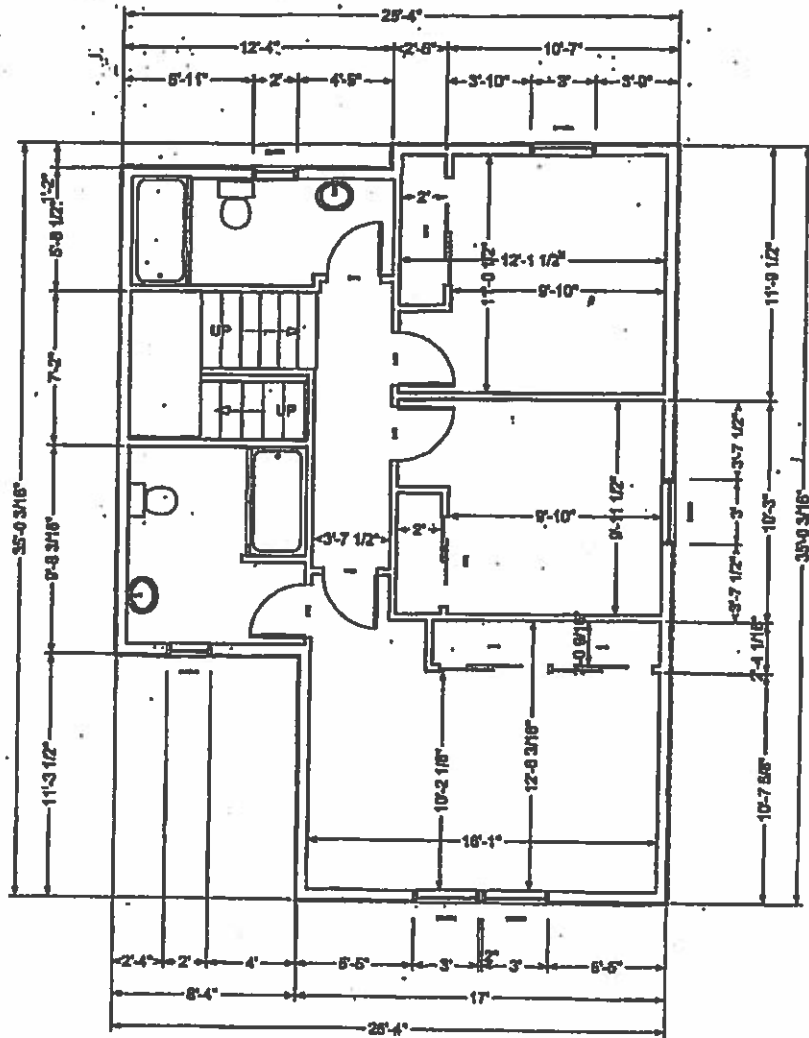
Notary Public

This instrument prepared by The City of Springfield, Ohio.

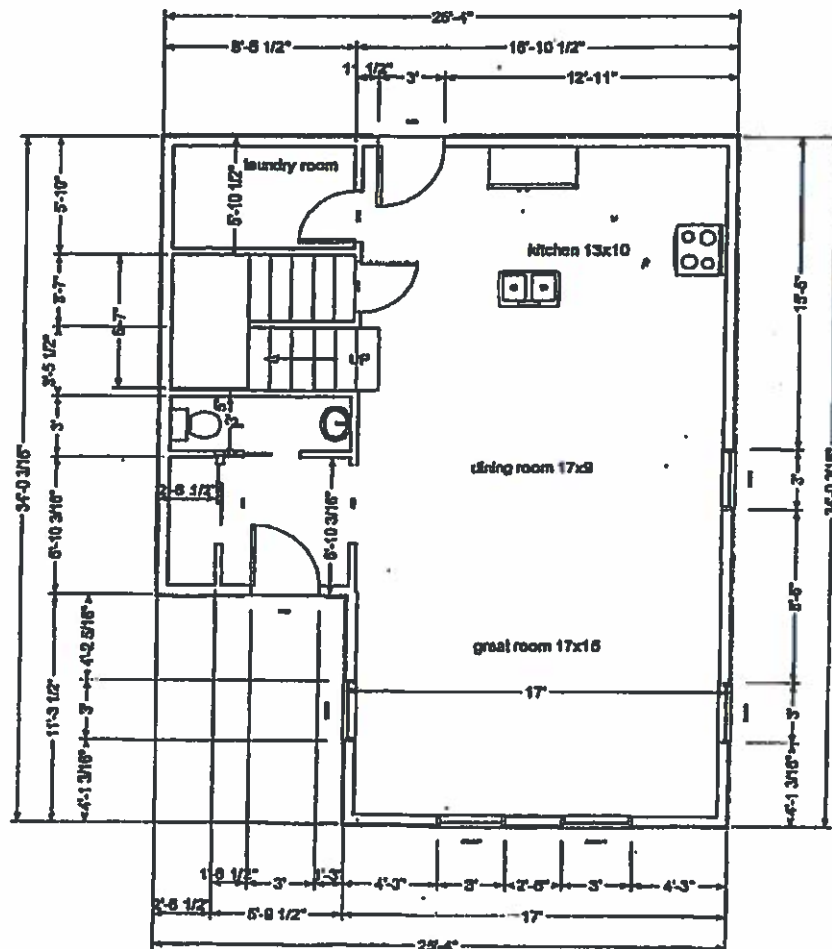
EXHIBIT F

Rubsam - PROJECT DESCRIPTION

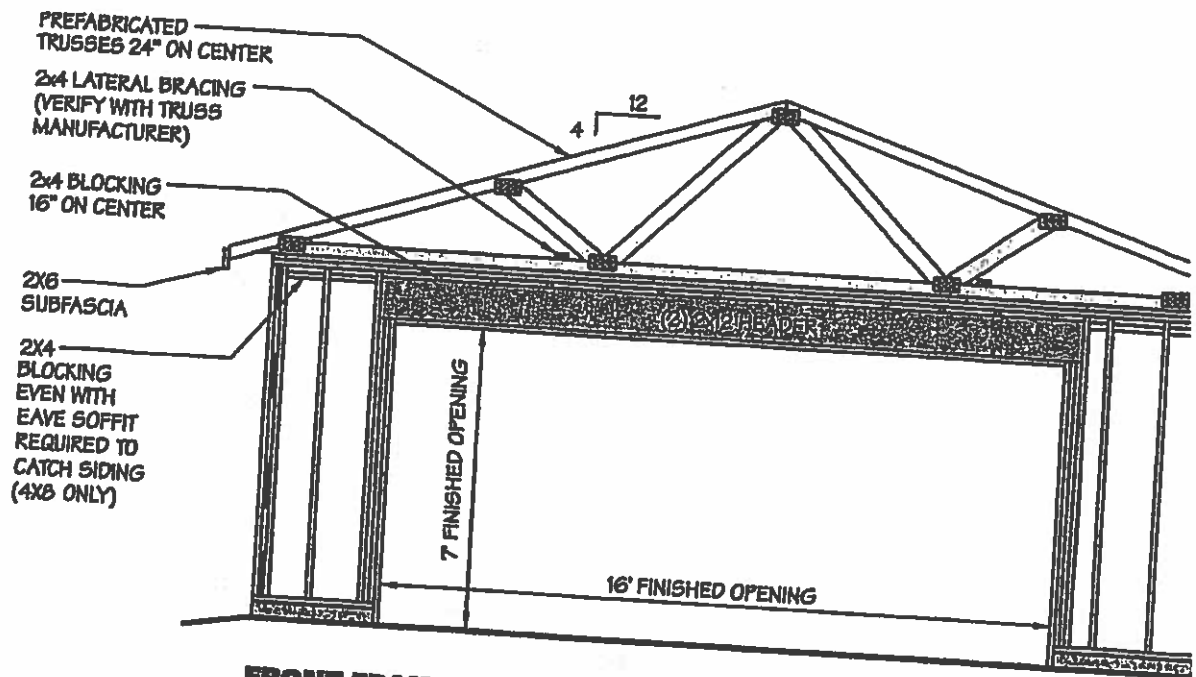
Project entails constructing a new two-story, single-family residence consisting of a three bedrooms, 2.5 baths, situated on a slab surface. Photos of the property are attached. Property to consist of approximately 1,580 square feet in size and upon completion, OIC will sell this property to a qualified homebuyer or other approved agency, as defined by the HOME Program. Additionally, project also entails the construction of a two-car unattached garage. This garage will be approximately 24x24 in size.



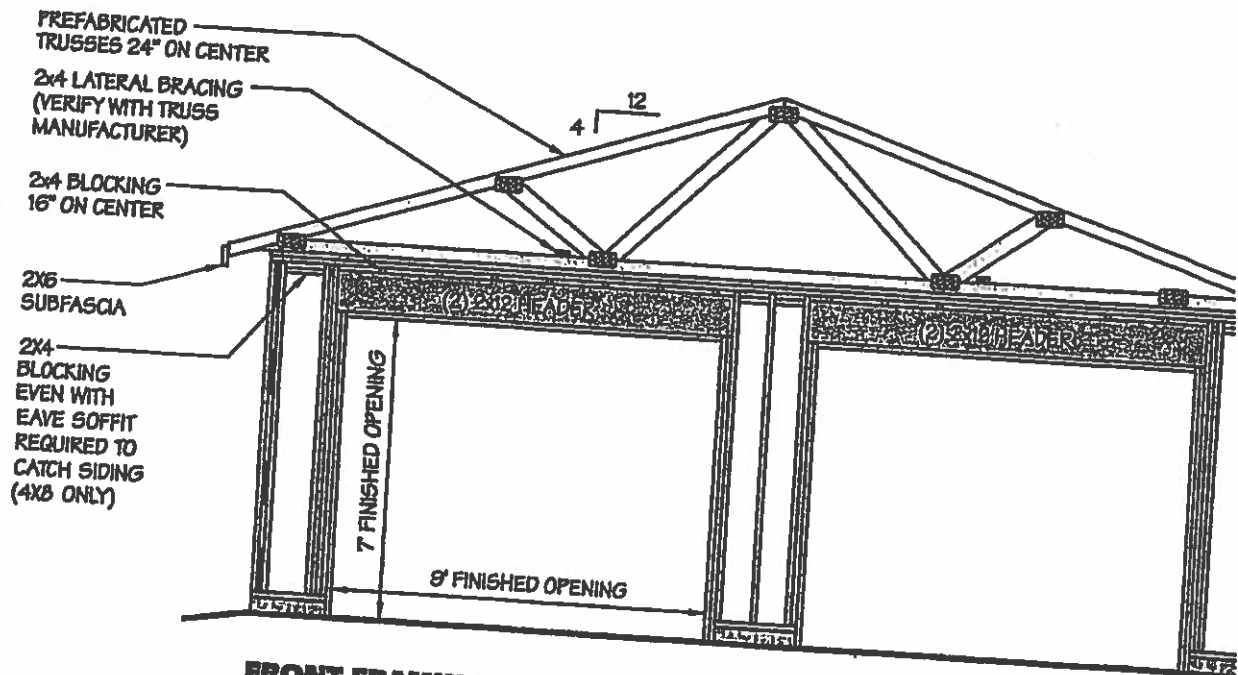
LIVING AREA
178 sq ft



LIVING AREA
788 sq ft



FRONT FRAMING ELEVATION (Included in all Packages)
WITH 16' OVERHEAD GARAGE DOOR



FRONT FRAMING ELEVATION (Optional in all Packages)
WITH DOUBLE 9' OVERHEAD GARAGE DOOR

Revised 2/05

RUBSAM STREET BUDGET
PARCEL NO. 3400600005201016

CONSTRUCTION COSTS

HARD CONSTRUCTION COSTS	\$	148,000	
UNATTACHED GARAGE	\$	12,000	
UTILITIES	\$	<u>18,000</u>	
			\$ <u>178,000</u>

OTHER COSTS

LEGAL/PERMITS, ETC	\$	1,000	
DEVELOPER FEES	\$	<u>15,000</u>	
			\$ <u>16,000</u>

HOLDING COSTS

PROPERTY INSURANCE/LICENSE	\$	600	
UTILITIES	\$	500	
CONTINGENCY	\$	<u>7,200</u>	
			\$ <u>8,300</u>

TOTAL CONSTRUCTION PROJECT			\$ <u>202,300</u>
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OIC of Clark County, Inc.
City of Springfield

\$	20,000
\$	<u>182,300</u>
\$	<u>202,300</u>



Opportunities for
Individual Change
OIC of Clark County

What Is OIC and what does OIC do? OIC of Clark County, located at 10 S. Yellow Springs Street, Springfield, Ohio, is a private, non-profit 501c3 organization which was established in Clark County, Ohio in 1971. It is an affiliate of the national OIC of America movement founded in Philadelphia in 1964 to address the needs of the poor and unemployed. OIC's purpose is to provide its program participants with the hope, skills and opportunities for a better life. Our mission is to provide services to eliminate poverty, unemployment, and illiteracy in Clark County. OIC operates programs that provide the disadvantaged and less fortunate individuals in our community with an opportunity to gain the skills necessary to become self-reliant. All OIC programs focus on the promotion of self-help, self-reliance and self-sufficiency.

OIC serves both youth and adult Clark County residents through the operation of various programs and services that are provided either independently or through contracts with other Clark County social services agencies. Current OIC Programming for individuals includes: Life Skills and Motivational Training; Pre-Employment Services; Job Seeking Services and Work Experience Training Programs; Educational Programs (resulting in a high school diploma or GED attainment); and Vocational Training Programs (including computer training and the Construction Trades program). OIC also provides mentoring, counseling and supportive services throughout all of its programs.

In addition, OIC is a state designated Community Action Agency that is responsible for distribution of Community Service Block Grant (CSBG) and Home Energy Assistance Program (HEAP) funds within Clark County to assist low-income families.

How will the Rubsam Street property project enhance OIC's work, the city and our neighborhood? The Rubsam Street property will address multiple objectives for OIC's mission and vision.

1. The project will provide an excellent training lab for our Construction Trades Programs, where participants will receive real hands on experience...
2. The project will assist in revitalizing a property that has community-wide interest.
3. The completed project will provide housing for those individuals who are often time rejected by more traditional housing opportunities.
4. The level of work to be accomplished at the properties is the construction of a new home.

EXHIBIT G

Who will the housing benefit in the community? Upon completion of the Rubsam Street housing project the home will be offered for sale to a qualified homebuyer meeting the requirements of the HOME program. The housing will be safe, clean, affordable, and will meet all building codes and zoning regulation.

For more information on OIC of Clark County and its varied programs, please visit our website at www.oicclark.org or contact our office directly at (937) 323-6461. ***OIC- Celebrating over 40 years of providing hope, training and opportunities In Clark County.***

Request for Commission Action

City of Springfield, Ohio

Item Number: 090-20

Agenda Date: 03/24/2020

Today's Date: 03/18/2020

Subject: Authorizing acceptance of donation from the Citizens Police Academy Alumni Association in the amount of \$30,000.

Submitted By: Lee E. Graf, Chief of Police

Department: Police

Contact: 937-324-7720

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> 14-Day Ordinance | <input type="checkbox"/> Emergency Ordinance (provide justification below) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input type="checkbox"/> Contract | |

**Prior
Ordinance/Resolution:**

**Date of Prior
Ordinance/Resolution:**

Summary:

It is respectfully requested that the City Commission authorize the Chief of Police and the City Manager authority to accept a donation in the amount of \$30,000 from the Citizens Police Academy Alumni Association to purchase a mini-caliber robot from ICOR Technology Inc; and further authorize the Chief of Police and City Manager to perform all acts and execute all documents they consider necessary to accept the donation and to comply with all relevant local and state requirements.

Justification for Emergency Action: *(use reverse side if needed)*

<u>Department/Division</u>	<u>Fund Description</u>	<u>Account Number</u>	<u>Actual Cost</u>
----------------------------	-------------------------	-----------------------	--------------------

Total Cost:

AN ORDINANCE NO. _____

Authorizing the acceptance of a donation in the amount of \$30,000.00 from the Springfield Citizens Police Academy Alumni Association to be used for the purchase of a mini-caliber robot from ICOR Technology Inc.

...oooOOOooo...

WHEREAS, the Springfield Citizens Police Academy Alumni Association wishes to donate \$30,000.00 to be used for the purchase of a mini-caliber robot from ICOR Technology Inc: NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. That the City Commission hereby authorizes the acceptance of a donation in the amount of \$30,000.00 from the Springfield Citizens Police Academy Alumni Association to be used for the purchase of a mini-caliber robot from ICOR Technology Inc.

Section 2. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

Request for Commission Action

City of Springfield, Ohio

Item Number: 103-20

Agenda Date: April 7, 2020

Today's Date: April 1, 2020

Subject: Authorizing an expenditure to assist property owners on N. Bechtle Avenue to install private water services

Submitted By: Chris Moore, Service Director

Department: Service Department

Contact: Leslie McDermott, 525-5848

- | | | |
|---|--|---|
| <input type="checkbox"/> 14-Day Ordinance | <input checked="" type="checkbox"/> Emergency Ordinance (provide justification below-) | |
| <input type="checkbox"/> Resolution (1 Reading) | <input type="checkbox"/> 14-Day Resolution (2 Readings) | <input type="checkbox"/> Emergency Resolution |
| <input type="checkbox"/> Motion | <input type="checkbox"/> Contract | |

**Prior
Ordinance/Resolution:**

**Date of Prior
Ordinance/Resolution:**

Summary:

Respectfully request authorization of an expenditure to assist property owners at 307, 311 and 357 N. Bechtle Avenue to attach their properties to an existing water main in N. Bechtle Avenue, which will enable the City to abandon a 6" water main in Broadway Street now serving those properties. The expenditure is an amount up to \$3,000 per property for a total not to exceed \$9,000.

Justification for Emergency Action: *(use reverse side if needed)*

Emergency authorization is requested so that property owners may be assured that they will be assisted in receiving continued water service when the current 6" water main serving them is abandoned, and so that City staff can properly inform property owners and provide them with documentation to obtain the assistance.

Department/Division	Fund Description	Account Number	Actual Cost
Service/Water Distribution	620 Water Revenue	221127-6050 PR4740	\$9,000.00

Total Cost: \$9,000.00

AN ORDINANCE NO. _____

Authorizing an expenditure to assist property owners of 307, 311, and 357 N. Bechtle Ave, to connect their properties to an existing, more accessible to maintain water service and to enable the City to abandon the water service taps and 6" water main that are on Broadway, and declaring an emergency therein.

...oooOOOooo...

WHEREAS, the City has an existing water service located in the street right-of-way of N. Bechtle Ave in front of the subject properties, easily accessible to maintain and available to serve properties at 307, 311, 357 N. Bechtle Ave; and

WHEREAS, it will be necessary for properties now being serviced by existing taps on Broadway to be connected to the existing, more accessible water service to enable the obsolete water services to be abandoned on Broadway; and

WHEREAS, the City Commission recognizes that property owners will bear a financial burden to connect their properties to the existing, more accessible water services and the City Commission would like to assist those property owners with up to \$3,000.00 per property to assist in connection to the existing, more accessible water service and that such expenditures will accomplish a proper public purpose; and

WHEREAS, it is necessary that the expenditure authorized in this ordinance be approved immediately so that property owners may be assured that they will receive continued water service when the current water services serving them are abandoned and so that City staff can properly inform property owners and provide them with documentation to obtain the assistance provided under this Ordinance which this Commission finds creates an emergency to preserve the public peace, health, safety and property, necessitating the immediate effectiveness of this Ordinance; NOW THEREFORE

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio, at least four of its members concurring:

Section 1. That an expenditure in an amount of up to \$3,000 per property for each property being disconnected from an existing, obsolete water service tap to be abandoned by the City to enable them to connect to an existing, more accessible water service in N. Bechtle Ave be, and hereby is found to be a proper public expenditure and is authorized.

Section 2. That the water service connection assistance agreement, a copy of which is attached hereto, is authorized for each of the property owners being affected by the abandonment of the mentioned water service taps on Broadway.

Section 3. That by reason of the emergency set forth and defined in the preamble hereto, this Ordinance shall take effect and be in force immediately.

PASSED this _____ day of _____, A.D., 2020.

PRESIDENT OF THE CITY COMMISSION

CLERK OF THE CITY COMMISSION

Agreement

Water Service Connection Assistance Agreement

1. Background, Parties and Recitals

- a. The City of Springfield, Ohio (the "City") has adopted City Ordinance Number 20- authorizing assistance to homeowners along a portion of North Bechtle Ave in Springfield to reduce the cost to identified homeowners of connecting to existing, more accessible water taps (the "Program").
- b. Insert Name(s) of Property Owners (the "Beneficiary") is the owner of Insert Property Address (the "Property") and has requested the benefits of the Program.
- c. The Beneficiary and the City agree as follows:

2. Terms

- a. Beneficiary acknowledges and accepts that the taps on the water service with which they receive water will be changing to an existing, more accessible water service tap.
- b. Beneficiary acknowledges and accepts that their current water service taps are deemed obsolete, and will be shut off on June 1st, 2020.
- c. Beneficiary acknowledges and accepts that they will need to be reconnected to the City's existing, more accessible water service tap no later than Insert Date which will allow the Beneficiary to continue to receive City water.
- d. Beneficiary acknowledges that they will be required to obtain the services of a professional plumber in order to detach and reattach their water service taps to the more accessible water service line.

3. Assistance

- a. The City has approved, through City Ordinance number 20- , financial assistance to the Beneficiary of up to Three Thousand Dollars (\$3,000.00) to help defray the costs incurred by the Beneficiary regarding the new water tap installation.
- b. The Beneficiary will complete their new water tap installation through a privately contracted plumber.
- c. Beneficiary will ensure that the contracted plumber performs the necessary work in coordination with the City Service Department and in compliance with the applicable plumbing code requirements and with the City's requirements for connections to the City's public water infrastructure.

- d. Beneficiary acknowledges and agrees that the responsibility to install the new water tap, necessary connections and all other necessary plumbing requirements, the responsibility to maintain, and the responsibility to pay all costs related to such installation and maintenance, including the procurement of plumbing services and materials, is the responsibility of the Beneficiary and not the City; except for the limited City funding described in this Agreement.
- e. Beneficiary agrees and acknowledges that they will only be eligible to obtain assistance following the completion of the necessary plumbing services described above. Beneficiary may submit to the City a copy of the invoice provided by the Beneficiary's contractor to the Beneficiary. The City will then provide to the Beneficiary, within 15 days, a two-party check in the amount of the invoice for the necessary plumbing work in an amount not to exceed \$3,000.00.

4. Permissions

- a. Beneficiary, by signing this Agreement, grants the City and Clark County Combined Health District access to the property and a right to enter the property, for the sole purpose of inspecting to determine whether Beneficiary is in compliance with this Agreement and the work described in this Agreement was properly completed in accordance with applicable plumbing code requirements and with City's requirements for connections to the City's water infrastructure.

5. Signatures

- a. By signing this Agreement, Beneficiary is representing that they are the property owners, and are in agreement with the terms and conditions of this Agreement, and intend to be bound by its terms.

The City of Springfield, Ohio

Property Owner(s)

By: Bryan Heck, City Manager

Approved as to form:

By: Jason T. Irick, Assistant Law Director
