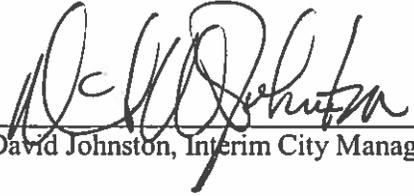


Jo Ann Simpson, HR Director

Date

Final Signature: City Manager.


David Johnston, Interim City Manager

4/10/2018
Date

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17 LEGISLATIVE: Just Caucus

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: A Presentation by the City's Manager of Data & Analytics.

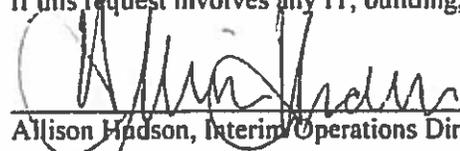
Background of the request: Dr. Todd Sink will be presenting to the Mayor & Commission to provide an update on the following: (1) COVDATA datasets; (2) Department performance measurement status and; (3) the COVDATA Reporting Manual.

Staff recommendation and analysis: Approve

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: TODD SINK

 4/4/18
Department Director Date

If this request involves any IT, building, or compliance matters:

 4/4/18
Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Finance Department Date

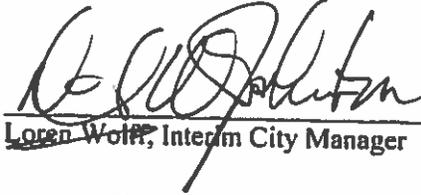
If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director _____ Date

Final Signature: City Manager.

 _____ 4/10/2018
Loren Wolff, Interim City Manager Date



GOV DATA

Outline

- Datasets (internal and external)
 - 1.75 million records warehoused in centralized database and regularly updated
 - 45 database tables
- Performance Management Progress on Customer Service
 - Fire
 - Police
 - Code Enforcement
 - Housing Choice Voucher
- Reporting Manual



Datasets

- Handout of warehoused datasets



Performance Management

- Fire
 - All Emergency Calls
 1. Achieve a 80 second or less turnout time (notification to roll) for at least 90% of emergency runs
 2. In 90% of emergency runs the first apparatus on scene will have a travel time of no more than 240 seconds
 3. Achieve a first unit arriving response time (notification to arrival for first arriving unit dispatched) of no more than 320 seconds for at least 90% of emergency runs
 4. Achieve a full complement travel time (roll to arrival for all units dispatched) of no more than 480 seconds 90% of the time.
 - EMS Calls
 5. Achieve a 120 second or less turnout time (notification to roll) for at least 90% of emergency runs between Midnight and 8 am
 6. Achieve a 60 second or less turnout time (notification to roll) for at least 90% of emergency runs not between Midnight and 8 am
 7. Achieve a response time (notification to arrival for all units dispatched) of no more than 300 seconds for 90% of all EMS runs
- Police (April FY 2018)
 - Achieve a first unit response time of no more than 180 seconds for at least 90% of calls for service
- Code Enforcement (May FY 2018)
 - Close active cases within 3 months



Performance Management cont.

- Housing Choice Voucher
- Inspect a potential property within 14 days of receiving a request for tenancy approval
- HUD standard



Reporting Manual

- Report Documentation
- Internal Reports
- Public Reports
- Report Specifications
- Updating Procedures

F. Response Times Under 320 Seconds for First Arriving Apparatus

1. Worksheet: 1stResponseTimes_OverallPercent

|

2. Data

Variable	Role, Type & Measure	Folder/ Source	Description	Formula
Notif_Time_AMPM	Discrete Dimension, Database Column, Datetime	FireUnitResp.csv	Datetime of unit notification in MM/DD/YYYY HH:MM:SS P	NA
Arrival_Time_AMPM	Discrete Dimension, Database Column, Datetime	FireUnitResp.csv	Datetime of unit arrival on scene in MM/DD/YYYY HH:MM:SS P	NA
Time (Notif to Arrival B) Sacs	Continuous Measure, Calculated Field	Response Time Performance	Difference in seconds between unit notification time and unit arrival	DATEDIF('second', [Notif_Time_AMPM], [Arrival_Time_AMPM])
Response Time Minimum Counts (InclNo, LOD)	Continuous Measure, Calculated Field	Response Time Performance	Distinct count of incidents by incident number	COUNTD([Incl No])
Response Time Minimum Counts Below Target (InclNo, LOD)	Continuous Measure, Calculated Field	Response Time Performance	Number of first unit arrivals that arrived on scene in 320 seconds or less from time of unit notification	IF (FIXED ([Incl No]: MIN([Time (Notif to Arrival B) Sacs]) <= 320.00 THEN [Number of Records] END
Percent Below Response Time Target (InclNo, LOD)	Continuous Measure, Calculated Field	Response Time Performance	Percentage of all first unit arrivals that arrived on scene in 320 seconds or less	SUM([Response Time Minimum Counts Below Target (InclNo, LOD)])/[Response Time Minimum Counts (InclNo, LOD)]



Summary of Warehoused Datasets (as of March, 2018). 1.75 million records of information

#	Database	Table	Rows X Columns	Years	Level of Detail
1	Police	Police Runs	302,012 X 28	2013-March, 2018	Coordinates, Address, PIDN, Neighborhood, Beat
2		Police Unit Responses	587,359 X 23	2013-March, 2018	Coordinates, Address, Unit, PIDN, Neighborhood, Beat
3		Arrests	37,390 X 14	2014-March, 2018	Name, Coordinates, Address, PIDN, Neighborhood, Beat
4		Clearance Rates	1,058 X 9	2015-Jan. 2018	Charge
5		Park Safety	4,813 X 17	2013-March, 2018	Coordinates, Park, Neighborhood, Beat
6	Fire	Fire Runs	60,298 X 59	2013-March, 2018	Coordinates, Address, PIDN, Neighborhood, Sector
7		Fire Unit Responses	108,909 X 55	2013-March, 2018	Coordinates, Address, PIDN, Neighborhood, Sector, Unit
8		Ambulance Runs	39,843 X 32	2014-March, 2018	Coordinates, Address, PIDN, Neighborhood, Sector
9		Suspected Overdoses Covington	11,257 X 7	2014-March, 2018	Coordinates, Neighborhood, Zip Code
10		Suspected Overdoses Kenton County	21,251 X 7	2014-March, 2018	Coordinates, Neighborhood, Zip Code, City
11		Training	78,234 X 20	2014-March, 2018	Staff, Course
12	Solid Waste	City Cans	484 X 11	Current	Coordinates, Address, Neighborhood, Park
13		Green Stickers	1,964 X 13	Jan. 2017 – March, 2018	Owner, Address, PIDN
14		Recycling Monthly	640 X 8	2016-March, 2018	Neighborhood
15		Red Tags	1,273 X 20	2015-March, 2018	Name, Coordinates Address, Neighborhood, Zip Code
16		Waste / Recycling Tonnage	16,513 X 6	2015-March, 2018	Processing Location
17		Work Order Misses	2,304 X 15	2015-March, 2018	Customer, Coordinates, Address, Neighborhood, PIDN

Summary Continued

#	Database	Table	Rows X Columns	Years	Level of Detail
18	Code Enf.	Closed Cases	36,335 X 92	2009-March, 2018	Coordinates, Address, PIDN, Neighborhood, Tract, Block Group
19		Active Cases (coming May, FY 18)			
20		Cut List	4,243 X 12	2015-2016 (updating for 17 soon)	Address, PIDN, Neighborhood
21	Econ. Dev.	Building Permits	3,674 X 13	2013-March, 2018	Owner, Coordinates, Address, Neighborhood
22		Business Retention Visits	343 X 106	2013-2017	Owner, Coordinates, Neighborhood, Zip Code, Address
23	Comm. Dev.	Homebuyer Assistance Loans	542 X 24	2012-Jan. 2018	Grantee, Address, City, Coordinates, Neighborhood
24	HCV	Request for Tenancy Approval	553 X 12	Sept. 2016-March 2018	Tenant, Address, Staff Assigned
25	Subsidized Housing	LIHTC	70 X 11	As of Dec. 2017	Property, Address, City, Coordinates, Neighborhood
26		PBCA	14 X 10	As of Dec. 2017	Property, Address, City, Coordinates, Neighborhood
27		Public Housing Devlps.	33 X 9	As of Dec. 2017	Project Name, Coordinates, Neighborhood
28		Section 8	640 X 6	As of Dec. 2017	Address, Coordinates, Neighborhood
29		Other Housing Devlps.	6 X 10	As of Dec. 2017	Project, Address, City, Coordinates, Neighborhood
30	HR	Current Employees	368 X 9	As of Dec. 2016	Position, Service Years
31		Workers Compensation Claims	721 X 31	2005-July, 2017	Department, Cause, Injury

Summary Continued

#	Database	Table	Rows X Columns	Years	Level of Detail
32	Legal	230 Am Permits Holders	89 X 21	2014-2017	Business Name, Address, Coordinates, Neighborhood, PIDN
33		Police Calls for Service at 230 AM	1,867 X 35	2014-2017	Business Name, Address, Coordinates, Neighborhood, PIDN
34		Police Calls for Service at 230 AM Aggregated by Permit Holder	89 X 6	2014-2017	Business Name, Address, PIDN
35	Open Data (Available to the Public)	Building Permits	3,674 X 12	2013-March 2018	Address, Coordinates, Neighborhood
36		Fire/EMS Runs	49,770 X 9	2013-March 2018	Neighborhood, Sector
37		Closed HBA Loans	389 X 10	2012-Jan. 2018	City, Neighborhood
38		Park Safety	4,813	2013-March 2018	Park, Beat, Neighborhood
39		Part 1_2 Crimes	1,058 X 9	2014-Jan. 2018	Charge
40		Police Arrests	36,869 X 7	2013-March, 2018	Beat, Neighborhood
41		Police Runs	311,945 X 9	2013-March, 2018	Beat, Neighborhood
42		Recycling Accounts Monthly	640 X 9	2016-March, 2018	Neighborhood
43		Waste/Recycling Tonnage	16,513 X 8	2015-March, 2018	Processing Location
44		Waste Red Tags	1,273 X 7	2015-March, 2018	Street Name (without number), Neighborhood
45		Waste Work Order Misses	2,304 X 7	2015-March, 2018	Street Name (without number), Neighborhood

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

David W. Johnston, City Manager Date

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17/18

LEGISLATIVE: 4/24/18

Ordinance



Order

Resolution

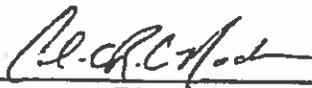
Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: To create a job description for a Records Custodian Position which would be a non-union salaried supervisory position.

Background of the request: In 2012 with the decision to eliminate our city Communication Center, and 12 dispatchers, the city also eliminated two of our rank positions through attrition (a captain and a sergeant). The two rank positions were responsible for both the operations of our Dispatch Center and our Records Unit, formerly known as the "Records and Technology Bureau." After the positions were eliminated, a void in the supervision of the Records Unit was created. This position sought will oversee our ever increasing open records requests, review/redaction of body camera footage which is extremely time consuming, court ordered expungements, continuous validations of missing persons and stolen property, and records retention and destruction. Also, after the Communications Center vacated, the responsibilities previously performed by dispatchers, including maintaining NCIC records (validations, NCIC user certifications, accountability, ensuring our agency passes an annual NCIC audit) and obtaining criminal histories was left to the Police Department to maintain. This void is currently filled by one of our records clerks, though there is no supervisory position listed in the AFSCME contract.

Staff recommendation and analysis:

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: Chief Robert Nader

 4/13/18
Department Director Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Jerome Heist, Interim Director of Finance Date

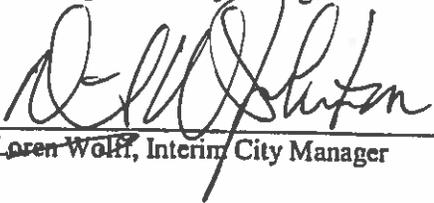
If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.



Loren Wolff, Interim City Manager Date 4/10/2018

City of Covington

Job Description

Job Title: Full Time Records Custodian
Department: Police Department
Reports to: Police Chief or Assistant Police Chief/Services
FLSA Status: Non-Exempt
Union: No
Civil Service: No
Classification:
Salary range: \$52,000-\$57,000 (based on local comps)
Probation period: None
Prepared by: Police Department
Prepared date: 1/26/2018
Approved by:
Approved date:

Summary:

The following duties are normal for this position. The omission of specific statements of the duties does not exclude them from the classification if the work is similar, related, or a logical assignment for this position. Other duties may be required, assigned, and expected commensurate with the information management needs of the department.

Incumbents perform at a professional level. Assignments will include individual work in research, project or process design and management, and the preparation of reports and presentations for review. Duties are generally administrative and may include technical functions including conducting studies and surveys, interpreting data, coordinating the gathering and storage of information and data. Incumbents will act as a liaison with other departments, as well as other outside agencies. Under limited supervision, the incumbent will perform a variety of technical support and administrative management support for an assigned team.

The principal function of an employee in this position is to provide the efficient and systematic control of all police-related documents/records through their life-cycle, from receipt, maintenance, use and disposition, including the processes for capturing and maintaining evidence of, and information about the organization, its activities and transactions in the form of records; ensuring compliance on the local, state, and federal level with regards to these documents; and the creation, maintenance, and adaption of process development, data management and synthesis of said documents/records.

Essential duties and responsibilities:

Duties will include, but are not limited to the following, and may include other job related duties as requested by the Police Chief or the Assistant Chief of Police/Services.

- Creates, compiles, indexes, and stores documents using industry best practices while ensuring compliance with Kentucky Records Retention Schedules and HIPAA regulations
- Maintain and ensure Federal, State, and local law compliance and accuracy of police records
- Maintain and ensure compliance with NCIC policies for police record data/information
- Performs searches and provides analysis using collected data from police records
- Maintain and update training materials for agency pertaining to Records processes and procedures
- Provide training pertaining to Records processes and procedures for records clerks, police officers, cadets, and park rangers
- Ensures accuracy of data captured and entered by officers and records clerks
- Performs management duties for assigned records staff, including performance evaluations, training compliance
- Assign work for records clerks on a daily, weekly, and monthly schedule, based on volume
- Serves as the dissemination point of contact to other police and law enforcement agencies for Discovery requests
- Serves as the dissemination point of contact for all Open Records Requests/FOIA requests pertaining to Covington Police documents and video in compliance with Kentucky State Open Records laws and Attorney General opinions
- Prepares reports or summaries of data from complex records and multiple sources
- Analyzes and researches related issues
- Performs research and statistical analysis of department and division performance to benchmark against other agencies
- Identifies project milestones; establishes timelines; identifies work, tasks, and activities necessary to meet project goals; establishes project required processes and procedures, and develops project plans
- Files, mails, correspond, and respond to customer/employee inquiries
- Reconciles financial transactions relating to open records and records requests, monitor and assurance compliance with department policy and procedure relating to these transactions by assigned employees
- Participates in a variety of meetings, briefings, committees, and/or other related groups to provide support and/or expertise in assigned area of responsibility
- Conducts research, gathering information as requested on potential systems, hardware, and software pertaining to police records and data/information management
- Prepares slide and/or PowerPoint presentations for use in presentations pertaining to police records and data/information management

- Assists the general public, government agencies, other internal departments, and/or other written documentation related to the assigned area of responsibility, which may include assisting in drafting recommendations for changes in department policies, and operational procedures to improve efficiency and effectiveness with regard to police records and data/information management
- Other duties assigned

Qualifications:

To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Essential duties:

The following duties are normal for this position. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned. Qualifications commensurate with the ability to achieve Essential Duties and Responsibilities are expected.

Knowledge:

- Federal, State, County, and City laws, codes, and ordinances
- Possession of a valid driver's license
- City and department procedures and practices
- Business English and writing skills
- Ordinances, practices, procedures and terminology of governmental and assigned area operations
- Microsoft Office Suite of products with emphasis in Excel, Word, PowerPoint, and Outlook
- Data and information analysis

Skills:

- Superior verbal and written communication skills
- Strategic thinking
- Resource management
- Interpersonal skills
- Strong organizational skills
- Team building skills
- Attention to detail
- Dedication to highest level customer service
- Self-motivated, results oriented and expertly organized work style

Ability:

- Represent the Police Department to internal and external customers
- Interpret and enforce provisions of department policies
- Establish and maintain cooperative working relationships
- Establish and maintain effective working relationships with co-workers and supervisors
- Observance, review and check the work of bureau to ensure conformance to standards
- Handle multiple projects simultaneously, use good judgement in applying and following established procedures in meeting deadlines
- Follow oral and written instructions, exercising independence and judgement in applying and following established procedures and in meeting deadlines
- Listen, communicate, and work effectively with a diverse group of people
- Proficiently performing computerized work processing, comprehension, summarizing, and writing/editing
- Prepare and present effective oral and written reports and prepare original correspondence

Education and/or Experience:

- Bachelor or Higher level degree
- **AND**
- Five or more years of satisfactory performance in a similar role for a Law Enforcement Agency
- **OR**
- An equivalent combination of education and experience

Language Skills:

Ability to write routine reports and correspondence with exacting detail to grammar and punctuation.

Ability to speak and communicate effectively to various size groups of people.

Mathematical Skills:

Ability to calculate figures and understand statistical calculations. Ability to generate, understand, and disseminate statistical data. Ability to maintain accurate financial reconciliation/balance sheets.

Reasoning Ability:

Ability to apply common sense understanding to carry out instructions furnished in written, oral, or diagram form. Ability to solve practical and complex problems. Ability to deal with a variety of variables in situations where only limited standardization exists.

Physical Demands:

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to talk and hear. The employee frequently is required to sit. The employee must occasionally be able to squat and/or kneel, lift and/or move up to 20 pounds.

Work Environment:

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Job type/Work hours:

This is a full time position. Days and hours of work are typically Monday through Friday, 8 a.m. – 4:30 p.m. Evening, week-end or hours adjustments may be required as job duties demand.

Acknowledgement

Please note that this job description is not designed to cover or contain a comprehensive listing of activities, duties or responsibilities that are required of the employee for this job. Duties, responsibilities and activities may change at any time with or without notice.

Employee signature below constitutes employee's understanding of the requirements, essential functions and duties of this position.

Employee: _____ Date: _____

City of Covington

Job Description

Job Title: Full Time Records Custodian
Department: Police Department
Reports to: Police Chief or Assistant Police Chief/Services
FLSA Status: Non-Exempt
Union: No
Civil Service: No
Classification:
Salary range: \$52,000-\$57,000 (based on local comps)
Probation period: None
Prepared by: Police Department
Prepared date: 1/26/2018
Approved by:
Approved date:

Summary:

The following duties are normal for this position. The omission of specific statements of the duties does not exclude them from the classification if the work is similar, related, or a logical assignment for this position. Other duties may be required, assigned, and expected commensurate with the information management needs of the department.

Incumbents perform at a professional level. Assignments will include individual work in research, project or process design and management, and the preparation of reports and presentations for review. Duties are generally administrative and may include technical functions including conducting studies and surveys, interpreting data, coordinating the gathering and storage of information and data. Incumbents will act as a liaison with other departments, as well as other outside agencies. Under limited supervision, the incumbent will perform a variety of technical support and administrative management support for an assigned team.

The principal function of an employee in this position is to provide the efficient and systematic control of all police-related documents/records through their life-cycle, from receipt, maintenance, use and disposition, including the processes for capturing and maintaining evidence of, and information about the organization, its activities and transactions in the form of records; ensuring compliance on the local, state, and federal level with regards to these documents; and the creation, maintenance, and adaption of process development, data management and synthesis of said documents/records.

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17/18 LEGISLATIVE: 4/24/18

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: Fire Department application to the Kentucky Office of Homeland Security

Background of the request: The fire department is requesting application to the Kentucky Office of homeland Security for the annual grant process. We are requesting equipment to update and improve our current capabilities. The application requires a "resolution", sample language included. This is a non-match grant.

A ^{7. MS} RESOLUTION OF THE CITY OF COVINGTON , KENTUCKY AUTHORIZING THE MAYOR TO MAKE APPLICATION FOR AND, UPON APPROVAL, TO ENTER INTO AN AGREEMENT WITH THE KENTUCKY OFFICE OF HOMELAND SECURITY (KOHS), TO EXECUTE ANY DOCUMENTS WHICH ARE DEEMED NECESSARY BY KOHS TO FACILITATE AND ADMINISTER THE PROJECT AND TO ACT AS THE AUTHORIZED CORRESPONDENT FOR THIS PROJECT. THIS RESOLUTION ALSO ESTABLISHES PROCUREMENT POLICY FOR ANY KOHS APPROVED PROJECT FOR THE FY-2018 APPLICATION CYCLE.

WHEREAS, the City of Covington , Kentucky desires to make an application for United States Department of Homeland Security and/or Commonwealth of Kentucky funds for a project to be administered by Kentucky Office of Homeland Security:

WHEREAS, it is recognized that an application for and approval of Kentucky Office of Homeland Security funds impose certain obligations and responsibilities upon the city:

NOW, THEREFORE, be it resolved this [insert date], by the City of Covington, Kentucky.

The Mayor is hereby authorized to execute and furnish all required documentation, including a memorandum of agreement, as may be required by KOHS for the furtherance of the above-referenced project and to act as the authorized correspondent for said project.

For the purpose of any KOHS funded projects using FY-2018 funds the city will use the provisions of KRS 45A for the purchase of equipment and/or services. For any equipment and/or services under \$20,000 three (3) quotes will be obtained. For any equipment and/or services that exceeds \$20,000 the provisions of KRS 45A will apply.

Staff recommendation and analysis: Approval

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: Interim Fire Chief

2-21-17
COMMISSIONERS' ORDER NO. ORD-58-17

AN ORDER AUTHORIZING THE APPLICATION OF A GRANT FROM THE KENTUCKY OFFICE OF HOMELAND SECURITY (KOHS) FOR THE PURCHASE OF FIRST RESPONDER EQUIPMENT, AND AUTHORIZING THE MAYOR TO EXECUTE ANY DOCUMENTS WHICH ARE DEEMED NECESSARY BY KOHS TO FACILITATE AND ADMINISTER THE PROJECT AND TO ACT AS THE AUTHORIZED CORRESPONDENT FOR THE PROJECT. THIS RESOLUTION ALSO ESTABLISHES PROCUREMENT POLICY FOR ANY KOHS APPROVED PROJECT FOR THE FY-~~2017~~ APPLICATION CYCLE.

2018

* * * *

WHEREAS, the City of Covington, Kentucky, desires to make an application for United States Department of Homeland Security and/or Commonwealth of Kentucky funds for a project to be administered by Kentucky Office of Homeland Security; and

WHEREAS, it is recognized that an application for and approval of Kentucky Office of Homeland Security funds impose certain obligations and responsibilities upon the City.

NOW, THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

The Mayor is hereby authorized to execute and furnish all required documentation, including a memorandum of agreement, as may be required by KOHS for the furtherance of the above-referenced project and to act as the authorized correspondent for said project. For the purpose of any KOHS funded projects using FY-~~2017~~ funds, the City will use the provisions of KRS 45A for the purchase of equipment and/or services. For any equipment and/or services under \$20,000, three quotes will be obtained. For any equipment and/or services that exceeds \$20,000 the provisions of KRS 45A will apply. The City Fire Chief will assist the Mayor in facilitating the grant application and its requirements.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

Joseph W. Meyer
MAYOR

ATTEST:

Margaret M. Ryan
CITY CLERK

Passed: 2-21-17



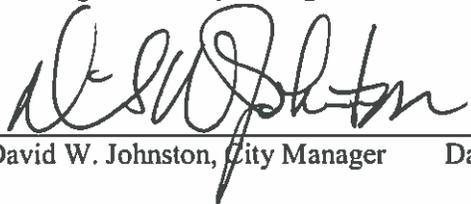
If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

 4.5.15
Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

 4/10/2018
David W. Johnston, City Manager Date

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17/18 LEGISLATIVE: 4/24/18

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description:

AN ORDER AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR LEGAL REPRESENTATION RELATED TO LITIGATION AGAINST MANUFACTURERS, DISTRIBUTORS, AND ~~PRESCRIBERS~~ **PRESCRIBERS** OF PRESCRIPTION OPIATES.

Background of the request:

The opioid crisis is well documented across the nation and the impact of the overuse of prescription opiates is well known in Covington. Local governments began initiating lawsuits against manufacturers, distributors, and prescribers of prescription opiates in 2017 to recover the costs incurred by the local governments in responding to the opioid crisis.

Several firms have approached City staff with proposals to join in existing litigation and protect Covington's financial interests in this matters. One local, Covington-based firm, Bonar, Bucher and Rankin, PSC, submitted a proposal where the City will be represented by the local firm, along with firms located in Syracuse, New York and Utica, New York.

City legal staff has reviewed several proposals and recommends proceeding with Bonar, Bucher and Rankin, PSC, et al. to assert and protect the City's legal rights in any litigation involving against manufacturers, distributors, and prescribers of prescription opiates.

The agreement with Bonar, Bucher and Rankin, PSC, et al. will be a contingency based fee agreement, meaning the City will not pay any attorney's fees or case expenses unless the outside attorneys successful recover any settlement or judgment amount on the City's behalf.

Staff recommendation and analysis: Approve

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: Michael Bartlett

 4.5.18

Department Director Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director Date

AUTHORITY TO REPRESENT

THIS AGREEMENT, dated as of _____, 2018 is entered into by and between The CITY of COVINGTON (the "The City of Covington") and the attorneys of BONAR, BUCHER, and RANKIN, PSC, 3611 Decoursey Ave, Covington, Ky., BRINDISI, MURAD, BRINDISI & PEARLMAN, LLP of 2713 Genesee Street, Utica, New York; The Cherundolo Law Firm of 100 Madison Street #1701, Syracuse, New York 13202 and ROBERT F. JULIAN, PC of 2037 Genesee Street, Utica, New York 13501, (hereinafter referred to as "The Attorneys".)

WHEREAS, The City of Covington wishes to determine the feasibility of commencing an action to recover costs incurred by the City of Covington resulting from the use of opiates; and

WHEREAS, the City of Covington, upon information and belief, may have viable claims against manufacturers, distributors, and prescribers of prescription opiates; and

WHEREAS, the City of Covington wishes to retain outside counsel to investigate, and if appropriate, commence litigation against those parties responsible for any and all costs incurred by the City of Covington related to the use of opiates, with such legal services to be performed on a contingency fee basis; and

WHEREAS, the City of Covington has decided to engage to investigate the feasibility of commencing such an action and, if appropriate, to pursue such litigation;

NOW THEREFORE, in consideration of the covenants, promises, and consents herein contained, the City of Covington and the Attorneys agree as follows:

1. The Attorneys, for the consideration provided below, agree to represent the City of Covington in connection with the investigation of damages incurred by the City of Covington caused by prescription opiates. The Attorneys shall investigate the costs incurred by the City of Covington as a result of the prescription of opiates, analyze and opine on the causation of the incurrence of those costs and those responsible for the incurrence of those costs, and advise as to the propriety of commencing litigation to recover those costs.

2. The Firm, upon the authorization of the City of Covington, shall commence litigation on behalf of the City of Covington against those parties identified by the Firm.

3. This Agreement shall commence on _____, 2018, and terminate upon the conclusion of such litigation. This Agreement may also be terminated by the City of Covington upon at least ten (10) days' notice. In the event of such early termination by the City of Covington, neither party shall have any further rights against the other, except that in the event of recovery by the City of Covington subsequent to such termination, the Attorneys shall have a quantum meruit claim against the City of Covington to recover fees, costs and expenses reasonably incurred by the Attorneys in the course of its representation of the City of Covington. In the event of termination of this Agreement for any reason, the Attorneys shall immediately return to the City of Covington all materials and documents of every kind and nature, including but not limited to City of Covington documents and computer disks, and any documents or reports prepared by outside entities relating to this Agreement, provided the City of Covington has paid

any associated disbursement due to the Attorneys for such outside entities' work. In the event of any termination of this Agreement, the Attorneys shall, regardless of the reason for termination, take all actions reasonably requested by the City of Covington to assist the City of Covington in transitioning the Attorneys' responsibilities under this Agreement. The provisions hereinabove relating to the transfer of responsibilities shall survive termination of this Agreement.

4. The Attorneys and the City of Covington agree that the Attorneys shall be compensated upon a contingency fee basis and that the City of Covington shall not be obligated to pay the Attorneys unless a recovery acceptable to the City of Covington is obtained by the Attorneys on behalf of the City of Covington, whether by suit, settlement, or otherwise. The Attorneys agrees to advance all costs associated with prosecuting any action on behalf of the City of Covington. The Attorneys and the City of Covington agree that the contingent attorneys' fees pursuant to this Agreement shall be as follows:

- 10% of recovery prior to rulings on motions to dismiss;
- 20% of the recovery after rulings on motions to dismiss;
- 25% of the recovery after ruling on motions for summary judgment;
- 33.33% of recovery after commencement of trial; and
- 40% of the recovery after post-verdict appeal papers are filed.

The calculation of the fee shall be made by applying the applicable fee percentage to the net amount of the recovery procured by the Attorneys after deducting allowable expenses that have been advanced by the Attorneys and approved by the City of Covington as set forth below. The Attorneys' agreement for splitting the fees is that 40% of the attorney fees will go to BONAR, BUCHER and RANKIN, PSC, and the remaining 60% of the attorney fees will go to the attorneys of BRINDISI, MURAD, BRINDISI & PEARLMAN, LLP, The Cherundolo Law Firm, and ROBERT F. JULIAN, PC.

5. The City of Covington shall reimburse the Attorneys for all costs and disbursements advanced by the Attorneys if a recovery is made. If no recovery is made, no reimbursement of costs and disbursements will be sought by the Attorneys or owed by the City. Costs and disbursements shall include, but not be limited to, court fees, process server fees, transcript fees, expert witness fees, courier service fees, appellate printing fees and necessary travel expenses. The Attorneys shall consult with the City of Covington with regard to expert witness fees and travel fees or any other disbursement exceeding \$3,000.00 prior to incurring such costs or disbursements. Any meetings with representatives of the City of Covington or appearances before or reports to the City of Covington Commission or any committee thereof are to be included as part of the services to be provided hereunder and the Attorneys agrees that no additional fees shall be charged by the Attorneys or owed by the City of Covington for such meetings, consultations or appearances.

5. The City of Covington acknowledges that the work to be performed hereunder may be referred by the Attorneys to another attorney(s) or law firm(s). The Attorneys acknowledge and agree that no such referral shall be made without the express written consent of the City of Covington. In the event of a referral, there may be a sharing of fees by and between the Attorneys and any affiliate counsel in accordance with agreements between the Attorneys and such affiliate counsel.

6. The Attorneys shall report to and keep the City of Covington Attorney fully and currently informed as to its activities under this agreement and in the applicable litigation

7. The parties acknowledge and agree that all records, information, and data ("Information") acquired in connection with the performance or administration of this Agreement shall be used and disclosed solely for the purpose of the performance of the services to be provided hereunder and shall be

held and kept by the Attorneys in accordance with any and all laws, rules, and regulations pertaining to the Information.

8. Information provided to the Attorneys by the City of Covington shall remain the property of the City of Covington. All reports, documents or information created by the Attorneys or for the Attorneys by outside consultants on behalf of the City of Covington relative to the performance hereunder shall be deemed the property of the City of Covington. Upon the City of Covington's request, completion of the services hereunder, or termination of this Agreement, all such The City of Covington Information, shall be returned to the City of Covington.

9. It is expressly agreed that the Attorneys' status hereunder is that of an independent contractor and the employees of the Attorneys shall not be considered employees of the The City of Covington for any purpose.

10. The City of Covington acknowledges and agrees that the Attorneys may represent additional counties and/or municipalities with regard to opiate cost recovery litigation. In such instance, the Attorneys shall inform the City of Covington of such other clients. In such instance, the Attorneys may incur generic expenses and/or shared expenses in the course of the prosecution of the litigation. The City of Covington agrees to pay a pro rata share of such generic or shared costs, if such generic or shared costs are approved in advance by the City. The Attorneys shall provide a detailed accounting of such generic or shared costs to the City of Covington when requesting payment therefor.

11. Without the prior written approval of the City of Covington, the Attorneys shall not simultaneously represent other private clients and actions or proceedings against the City of Covington, its agencies or The City of Covington employees in their official capacity. The Attorneys shall disclose to the City of Covington the existence of any such adverse representation whether existing or potential. This duty shall continue so long as the Attorneys are retained on behalf of the City of Covington pursuant to this Agreement. The determination as to the existence of a conflict in violation of the terms of this Agreement shall be in the discretion of the City of Covington.

12. This Agreement and the rights and obligations hereunder may not be, in whole or part, assigned, transferred or disposed of, amended, waived or subcontracted, without the prior written consent of the City of Covington, and any purported assignment, other disposal or modification without such prior written consent shall be null and void.

13. The Attorneys shall not enter into any agreement binding the City of Covington or otherwise obligating the City of Covington without the prior written approval of the City of Covington. The Attorneys acknowledge that pursuant to the City of Covington's governance, any settlement agreement may require the approval of the City of Covington Board of Commissioners.

14. The Attorneys shall perform under this Agreement in a professional manner consistent with the best practices of the legal profession. The Attorneys shall take all actions necessary or appropriate to meet the obligations described here under including obtaining and maintaining all approvals, licenses, and certifications necessary or appropriate in connection with this Agreement. The Attorneys is and shall remain liable for the successful completion of all work in accordance with this Agreement irrespective of whether the Attorneys is performing the work itself or through an affiliated counsel. The Attorneys shall provide a certificate of professional liability insurance with limits of not less than \$2,000,000.00 per claim. It is further expressly agreed that the Attorneys shall hold the City of Covington harmless from any liability arising from any negligence, act, or omission of the Attorneys with respect to this Agreement and the applicable litigation.

15. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Venue shall be designated in the United States District Court for the Eastern District of Kentucky. If jurisdiction cannot be established in the United States District Court for the Eastern District of Kentucky, venue shall be the Kenton County Circuit Court.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

On behalf of the Attorneys:

On behalf of the City of Covington:

Cherundolo Law Firm, PLLC

JOHN C. CHERUNDOLO

Mayor Joseph U. Meyer

Dated: _____

Dated: _____

Brindisi, Murad, Brindisi & Pearlman, LLP

LOUIS T. BRINDISI

Dated: _____

Robert F. Julian, PC

ROBERT F. JULIAN

Dated: _____

Bonar, Bucher, and Rankin, PSC

BARBARA D. BONAR

Dated: _____

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17/2018 LEGISLATIVE: 4/24/2018

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: AN ORDER AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE KENTON COUNTY FISCAL COURT ALLOWING THE USE OF A PORTION OF LAND WITHIN DEVOU PARK FOR THE CONSTRUCTION AND OPERATION OF A RADIO TOWER FOR EMERGENCY COMMUNICATION AND DISPATCH PURPOSES.

Background of the request:

Kenton County approached the City to discuss locating a radio tower on a specific area within Devou Park for the purposes of providing a communications system for first responders throughout the northern portion of Kenton County. The County needed to replace the existing tower, which was located on private property within the Devou Park area.

During discussions about where the radio tower could be located, the radio tower which previously served to facilitate communications among first responders was damaged and required demolition, which took place in August 2017.

Since the demolition of the damaged previous radio tower, a portion of the dispatch and emergency communications for the northern part of Kenton County has operated on a temporary system.

The City and County have agreed to terms to allow the installation of a radio tower within Devou Park to provide emergency communications systems to first responders.

Staff recommendation and analysis: Approve

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: David Johnston, Michael Bartlett

 4-13-18

Department Director Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Jerome Heist, Interim Director of Finance Date

911 RADIO TOWER SITE AGREEMENT

THIS TOWER SITE AGREEMENT ("Agreement"), dated as of the ____ day of _____, 201__ (the "Commencement Date"), is entered into by the City of Covington, Kentucky, having its principal office at 20 West Pike Street, Covington, Kentucky, (hereinafter referred to as "Owner") and the Kenton County Fiscal Court, having its principal office at 303 Court Street, Room 205, Covington, Kentucky (hereinafter referred to as "Occupant").

BACKGROUND

WHEREAS, Owner owns that certain plot, parcel or tract of land, together with all rights and privileges arising in connection therewith, located in Devou Park along Montague Road, approximately 300 yards northwest of the intersection of Montague Road and Home Road, Covington, Kentucky 41011 (collectively, "Property");

WHEREAS, Occupant approached Owner to discuss locating a radio tower on the Property for the purposes of providing a communications system for first responders throughout the northern portion of Kenton County;

WHEREAS, the radio tower which previously served to facilitate communications among first responders was damaged and required demolition, which took place in August 2017;

WHEREAS, since the demolition of the damaged previous radio tower, a portion of the dispatch and emergency communications for the northern part of Kenton County has operated on a temporary system; and

WHEREAS, Owner desires to allow Occupant to occupy a certain portion of the Property for the purpose of constructing an emergency communications system radio tower.

AGREEMENT

The parties agree as follows:

1. TOWER SITE.

a) Owner hereby grants to Occupant the right to access and occupy a portion of the Property measuring approximately _____ square feet ("Occupied Premises") on which Occupant plans to construct, maintain, and operate a communications tower (the "Tower") as generally depicted on the site plan attached hereto as Exhibit A (the "Occupied Premises" legal description) and **Exhibit B** (the "Site");

Plan”), together with unrestricted access to the Occupied Premises for Occupant’s uses from the nearest public right-of-way along the Property. Such unrestricted access shall not materially interfere or impair operations related to the park or use of the park by park guests and visitors, and access may be restricted in the event of an emergency.

2. RIGHT-OF-WAY FOR ACCESS. Owner grants to Occupant a right-of-way across that portion of the Property which is depicted on the Site Plan (the “Right-of-Way”) and more formally described in Exhibit C for the purposes of unrestricted ingress and egress to the Occupied Premises to properly, construct, install, maintain, operate and service the Tower and any necessary and related improvements and assets (collectively, with the Tower, the “Tower Asset”) and to do those things which relate to the construction, installation, maintenance, operation and service of the Tower on the Occupied Premises. Occupant and Occupant’s employees, agents, contractors and Occupant’s tenants and licensees and their respective employees, agents and contractors shall have unrestricted use of the Right-of-Way twenty-four (24) hours per day, seven (7) days per week. Such unrestricted access shall not materially interfere or impair operations related to the park or use of the park by park guests and visitors, and access may be restricted in the event of an emergency. This Right-of-Way shall remain in effect throughout the Term of this Agreement (defined in Paragraph 6, below).

3. PERMITTED USE. Occupant may use the Occupied Premises for the installation, construction, modification, supplementation, maintenance, upgrade, replacement and operation of a telecommunications tower site and all related activities. Occupant agrees to restrict its use of the Occupied Premises to Occupant’s Permitted Use and not to use, or permit the use of the Occupied Premises for any other purpose without first obtaining the written consent of the Owner. Occupant shall fence and maintain the fence on the Occupied Premises as set forth in Exhibit A.

4. EASEMENT FOR UTILITIES. Owner grants to Occupant an easement across those portions of the Property on which utilities are currently located to the extent necessary to provide utility service to the Occupied Premises and the Tower (the “Easement”) and the area for this easement is formally described in Exhibit D. This Easement shall remain in effect throughout the term of this agreement. Further, Owner agrees, subject to reasonable terms and conditions, but at no additional cost to Occupant, to grant to Occupant such other easements on the Owner’s Property for the installation of additional utilities to the extent necessary to provide utility service to Occupied Premises and the Tower, provided that the location of such easements shall be subject to the approval of Owner, which approval shall not be unreasonably withheld, conditioned, or unduly delayed.

5. **SURVEY.** A survey, prepared at Occupant's expense, depicting and describing the Occupied Premises, the Right-of-Way and all Easements is attached hereto and incorporated into the site plan.

6. **TERM.**

a) The initial term of occupancy will be thirty (30) years ("Initial Term"), commencing upon the Commencement Date. The Initial Term will terminate on the last day of the month in which the thirtieth (30th) anniversary of the Commencement Date occurred.

b) Provided that (i) Occupant is not in default under the terms and conditions of this Agreement, and (ii) that this Agreement is in full force and effect, Occupant shall have the right to renew this Agreement upon the same terms and conditions for five (5) additional terms of ten (10) years each (each, a "Renewal Term"). Occupant shall be deemed to have exercised each of these options and this Agreement shall be automatically renewed unless Occupant delivers a written notice to Owner at least one (1) year before the expiration of the Initial Term (or any Renewal Term) declaring Occupant's intention to not exercise its option to renew. If Occupant delivers such a notice, then the Agreement Term shall expire at the end of the Initial Term or Renewal Term, as applicable.

c) The Initial Term and any Renewal Term are collectively referred to as the "Agreement Term".

7. **CONSIDERATION.** Occupant shall pay Owner an annual payment (the "Consideration") in the amount of \$500.00 (Five Hundred Dollars) which shall be due on the Commencement Date and each subsequent anniversary thereof for the duration of the Agreement Term. The Consideration shall be payable to the Owner at Owner's address specified in Paragraph 22 below. Payment shall be due and payable to Owner without demand. After the Initial Term, and in the event Occupant exercises its right to continue this agreement pursuant to the terms herein, the Consideration due during any Renewal Term thereafter shall be adjusted on the anniversary of the Commencement Date at the beginning of the Renewal Term by an amount equal to the change in the Consumer Price Index (as hereinafter defined) for the twelve (12) month period ending one month prior to the anniversary of the Commencement Date; provided, however, that the increase shall not be less than ten percent (10.0%) or greater than twenty five percent (25.0%) of the annual consideration due during the previous term. The consumer price index (the "Consumer Price Index") is the consumer price index for all-urban consumers published by the United States Department of Labor as of the close of the twelve-month period ending one month prior to the anniversary of the Commencement Date. If this Agreement is terminated at a time other than the last day of the year, the Consideration shall be prorated as of the date of termination for any reason other than a default by

Occupant, and all excess prepaid Consideration shall be refunded to Occupant. Occupant shall be responsible for providing the calculation and supporting documentation for any price adjustments under this section, subject to Owner's acceptance.

8. POSSESSION/COMPLIANCE. Owner shall deliver possession of the Occupied Premises to Occupant on the Commencement Date.

9. OWNER'S RIGHTS TO USE OF TOWER. Owner shall, subject to structural analysis, space availability, and radio-frequency (RF) studies, be permitted to install non-public safety RF equipment for use solely by Occupant's governmental operations upon the Occupant's Tower subject to final approval of the Occupant. Such approval shall only be withheld in the event the RF equipment of the Owner would exceed the structural capability of the Tower or interfere with the use, operation, or location of Occupant's equipment or any other equipment then existing and operating on the Tower.

10. UTILITIES. Owner shall not be responsible for Occupant's utility service. Occupant shall contract directly with the utility companies for its own utility services, and Occupant shall have the right to install additional utility lines and services on the Property pursuant to Paragraph 3 hereof, so long as Occupant pays all expenses associated with the additional installation and service and so long as any additional utility lines or services do not materially interfere with Owner's use of the Property. Any utilities used by Owner in conjunction with operating equipment installed on the tower pursuant to Paragraph 10 shall be paid by the Owner.

11. INSURANCE. Throughout the Agreement Term the Occupant, at its own cost and expense, shall purchase and carry a policy of general liability insurance with combined single limits for each occurrence of at least Two Million Dollars (\$2,000,000) with respect to bodily injury or death and property damage, and worker's compensation insurance as required by law. The Occupant's policy shall name the Owner as an additional insured. Occupant shall provide a certificate of insurance to Owner annually and upon reasonable request by Owner.

12. DUTIES OF OCCUPANT. Occupant shall maintain and repair: (a) any fences Occupant constructs surrounding the Occupied Premises; (b) the Tower; and (c) all other improvements installed or constructed on the Occupied Premises by Occupant; and (d) Occupant shall restore all areas disturbed during construction of the Tower to the Owner's satisfaction. Additionally, Occupant shall provide adequate landscape buffers in areas in view of the Devou Park Golf Course and install 'slatting' or other material on the fencing to block views of the site. Owner acknowledges that it has no interest in the Tower, the Tower Assets or any of the property which is stored or erected or to be erected on the Occupied Premises by Occupant or any persons or entities legally bound to Occupant (collectively, the "Personal Property"), and Owner shall not be responsible for the repair, maintenance and security of the Personal Property during the Agreement

Term, except those assets installed by the Owner pursuant to Paragraph 10. Occupant shall not engage in or permit any other person or entity to engage in any activity on, or near the Property which materially interferes with or materially interrupts Owner's use of the public park or golf course.

13. DUTIES OF OWNER. Owner shall not engage in or permit any other person or entity to engage in any activity on, or near the Property which materially interferes with or materially interrupts Occupant's or its lessee's ability to conduct operations at the Occupied Premises.

14. LOSS THROUGH CASUALTY. Occupant shall be responsible for all damages caused by fire or other casualty on the Occupied Premises and on the Easement and Right-of-Way, provided such damage to the Right-of-Way or the Easement is caused solely by Occupant or any person or entity to whom Occupant is legally bound. Owner shall promptly repair and restore, at Owner's cost and expense, any damage to the Right-of-Way or Easement not caused solely by Occupant or its third parties. If the Tower is damaged by any casualty (excluding any casualty caused by Occupant) to such an extent that Occupant's Tower is deemed a "total-loss" Occupant shall have the option to deliver written notice to Owner terminating this Agreement within ninety (90) days after the casualty, but Occupant shall remain liable for any damages for which it otherwise bears responsibility under the terms of this agreement or under applicable law.

15. LOSS THROUGH CONDEMNATION OR REGULATION. If any part of the Occupied Premises is condemned or taken for any public or quasi-public use or if Occupant's operation becomes subject to regulations which make it no longer feasible to operate, then Occupant shall have the right to terminate this Agreement effective with the date the condemning authority takes possession or the regulations take effect. If Occupant does not terminate this Agreement, then the Rent shall be diminished by an amount equal to the Rent per square foot for each square foot in the Occupied Premises which is condemned or taken. Owner shall be entitled to receive the entire condemnation award allocable to the Property and Occupant shall receive the award allocable to the Tower, the Personal Property and any other amounts separately awarded to Occupant in its own right.

16. INDEMNIFICATION. Occupant agrees to indemnify, defend and hold Owner harmless from and against any and all injury, loss, damage or liability (or any claim in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) occasioned by or arising out of the use and occupancy of the Occupied Premises by Occupant, its agents, employees, guests and invitees or Occupant's breach of any provision of this Agreement to the extent allowed by law. Occupant further agrees, to the extent allowed by law, to indemnify and make Owner whole for any business interruption claims, losses, or damages, including loss of revenue affecting the operation of the Devou Golf & Event Center arising from Occupant's acts or omissions. The terms

of this section notwithstanding, Owner agrees to indemnify, defend and hold harmless against any and all injury, loss, damage, or liability (or any claims in respect of the foregoing) costs or expenses (including reasonable attorney's fees and court costs) occasioned by or arising out of Owner's use of the tower pursuant to Section 10 of this agreement, to the extent permitted by law.

17. THIRD PARTY OCCUPANCY. Occupant shall have the right to allow all or any part of the Occupied Premises to be occupied by any other person or entity after reasonable notice is given to Owner and Owner's consent is given. Occupant shall have the right, upon ten (10) days prior written notice to Owner, to assign this agreement to a party that assumes all of Occupant's rights and obligations hereunder subject to Owner's consent. Upon assignment of this Agreement to a party that assumes all of Occupant's rights and obligations hereunder, Occupant shall be released from all obligations, duties and liabilities with respect to this Agreement. Occupant will remain liable for any rights and obligations hereunder not assumed by assignee. This notice requirement shall not apply to routine maintenance activities by Occupant or its designee on the Tower and related equipment in the Occupied Premises.

18. DEFAULT/ REMEDIES. Occupant shall be in default under this Agreement if Occupant fails to pay any annual Installment or to perform any of its other covenants or agreements in this Agreement within thirty (30) days after its receipt of written notice from Owner. Owner shall be in default if it fails to perform any of its covenants or agreements in this Agreement within thirty (30) days after its receipt of written notice from Occupant to Owner. After a default, the non-defaulting party shall be entitled to exercise all rights and remedies which are available in law or equity, all of which shall be cumulative and in addition to every other right or remedy.

19. EXCLUSIVE OCCUPANCY. Owner promises that, so long as Occupant performs its obligations under this Agreement, Occupant shall have the following rights:

a) Occupant shall peaceably and quietly enjoy the Occupied Premises throughout the Agreement Term and shall be permitted to operate the Tower and Tower Assets on the Occupied Premises without restriction or interference from others; and

b) During the Agreement Term, Occupant shall enjoy the exclusive right to construct and/or operate communications towers and lease space thereon, and conduct any other form of wireless communications or services on the Property; provided, however, Owner and Occupant agree that Occupant will restrict its use of the Property to the Occupied Premises, the Right-of-Way and the Easement.

c) Occupant will make a good faith effort to notify Owner and the operators of the Devou Park golf course in advance of any activities associated with the Tower or Occupied Premises which may affect the public's enjoyment of the park or golf

course. When practicable, Occupant and Owner shall work collaboratively to minimize any negative impact on the enjoyment or use of the park or golf course by park guests.

20. PAYMENTS/NOTICES. All payments due under this Agreement shall be paid to Owner at its address provided below. All notices required to be delivered under this Agreement shall be in writing and shall be deemed to have been duly given on the date they are received if they are delivered personally or by any nationally recognized overnight mail delivery service, or transmitted via telecopy transmission with electronic confirmation of receipt, or sent by certified mail return receipt requested, to the following address,:

To Occupant:

Kenton County Fiscal Court
c/o Judge/Executive
303 Court Street, Room 205
Covington, KY 41011

To Owner:

City of Covington
c/o City Manager
20 W. Pike Street
Covington, Kentucky 41011

Either party may change its address for notice by delivering notice of the change of address in the manner provided above. Notices shall be deemed to have been delivered if they are delivered to the address stated in this Agreement (or any properly delivered modification), even if service is refused or if service is returned as undeliverable for any reason.

21. GENERAL PROVISIONS. This Agreement: (a) is the entire agreement between the parties and there are no other oral or written representations, conditions or agreements; (b) may not be amended, waived or extended except by a written amendment executed by both parties; (c) is binding upon and inures to the benefit of each of the parties and their permitted successors and assigns; (d) is to be governed, construed and enforced in accordance with laws of the Commonwealth of Kentucky; (e) venue shall be the Kenton County Circuit Court for any litigation or legal disputes requiring such action; (f) neither party's failure to insist upon the other party's strict performance of any provision of this Agreement nor failure to promptly exercise any right available in connection with this Agreement shall constitute a waiver of any provision or an amendment to this Agreement; (g) any provision in the Agreement which is held to be illegal or unenforceable shall be ineffective to the extent of such illegality or

unenforceability without invalidating the remaining provisions and any such illegal or unenforceable provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law; (h) both parties have had the opportunity to review this Agreement with counsel and therefore neither party shall be construed as the "drafter" of this Agreement; and (i) the parties have executed this Agreement effective on the Commencement Date.

22. RIGHT TO TERMINATE. This Agreement may be terminated, without penalty or further liability, by Owner on written notice if Occupant remains in default under this Agreement after the applicable cure periods. Owner may also terminate this Agreement if it is determined by a court of competent jurisdiction that this Agreement is unenforceable or contrary to existing legal authority.

Occupant shall have the right to terminate this Agreement, at any time, by delivering to Owner written notice of Occupant's intention to terminate this Agreement. Upon delivery of such written notice to Owner, this Agreement shall terminate on the date which is ninety (90) days after the date set forth on said written notice.

Upon Occupant declaring to Owner in writing that it no longer needs to operate the Tower on the premises, and in the event either Owner or Occupant choose to terminate this agreement pursuant to the applicable termination provisions herein, Occupant shall, at its sole cost and expense, remove all equipment, assets, and improvements on the Occupied Premises and restore the area to the Owner's satisfaction.

23. OWNER'S AUTHORITY. Owner represents and warrants to Occupant that Owner has full power, authority and the legal right to sign and deliver this Agreement without the consent of any other person or entity. Occupant represents and warrants to Owner that Occupant has full power, authority and the legal right to sign and deliver this Agreement without the consent of any other person or entity.

24. NO OFFER. The submission of this Agreement to Owner shall not be construed as an offer, and neither party hereto shall have any rights hereunder until both such parties have fully executed this Agreement and delivered an executed copy thereof to the other.

27. COMMENCEMENT AND COMPLETION OF CONSTRUCTION. Occupant shall commence construction of the tower within one (1) year of the Commencement Date and shall complete construction of the tower within one (1) year of the commencement of construction. Failure to commence or complete construction of the tower within these time frames without the consent of Owner shall void this agreement.

(a) For purposes of this section, construction shall be deemed completed when the tower is capable of hosting and broadcasting the emergency communication equipment of the Kenton County Fiscal Court.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the Commencement Date.

OWNER:

City of Covington, Kentucky

By: _____

Name: _____

Its: _____

Date: _____

OCCUPANT:

Kenton County Fiscal Court

By: _____

Name: _____

Its: _____

Date: _____

[NOTARY ON FOLLOWING PAGE]

Exhibit A

DEVOU PARK OCCUPIED PREMISES LEGAL DESCRIPTION

Situated in the County of Kenton and State of Kentucky, known as being a part of land conveyed to City of Covington (Devou Park) as recorded in Deed Book 140, Page 151 of Kenton County Records further bounded and described as follows:

Commencing at the Southeast corner of Lot 33 of Rivers Breeze Subdivision Section 9 as recorded in Plat Cabinet 2041;

Thence along the Eastern line of said Lot 33 and the Northerly prolongation thereof, bearing North 23°32'28" East, a distance of 333.27 feet to a point on the Eastern line of Lot 34 of said Rivers Breeze Subdivision Section 9;

Thence at a right angle, bearing South 66°27'32" East, a distance of 184.43 feet to a point, and the **TRUE PLACE OF BEGINNING** of the proposed Occupied Premises Area herein described;

Thence at a right angle, bearing North 23°32'28" East, a distance of 60.00 feet to a point;

Thence at a right angle, bearing South 66°27'32" East, a distance of 60.00 feet to a point;

Thence at a right angle, bearing South 23°32'28" West, a distance of 60.00 feet to a point;

Thence at a right angle, bearing North 66°27'32" West, a distance of 60.00 feet to a point and the **TRUE PLACE OF BEGINNING**, containing 0.0826 acres (3,600 square feet) of land, more or less but subject to all legal highways and all covenants and agreements of record.

Exhibit B

SITE SURVEY

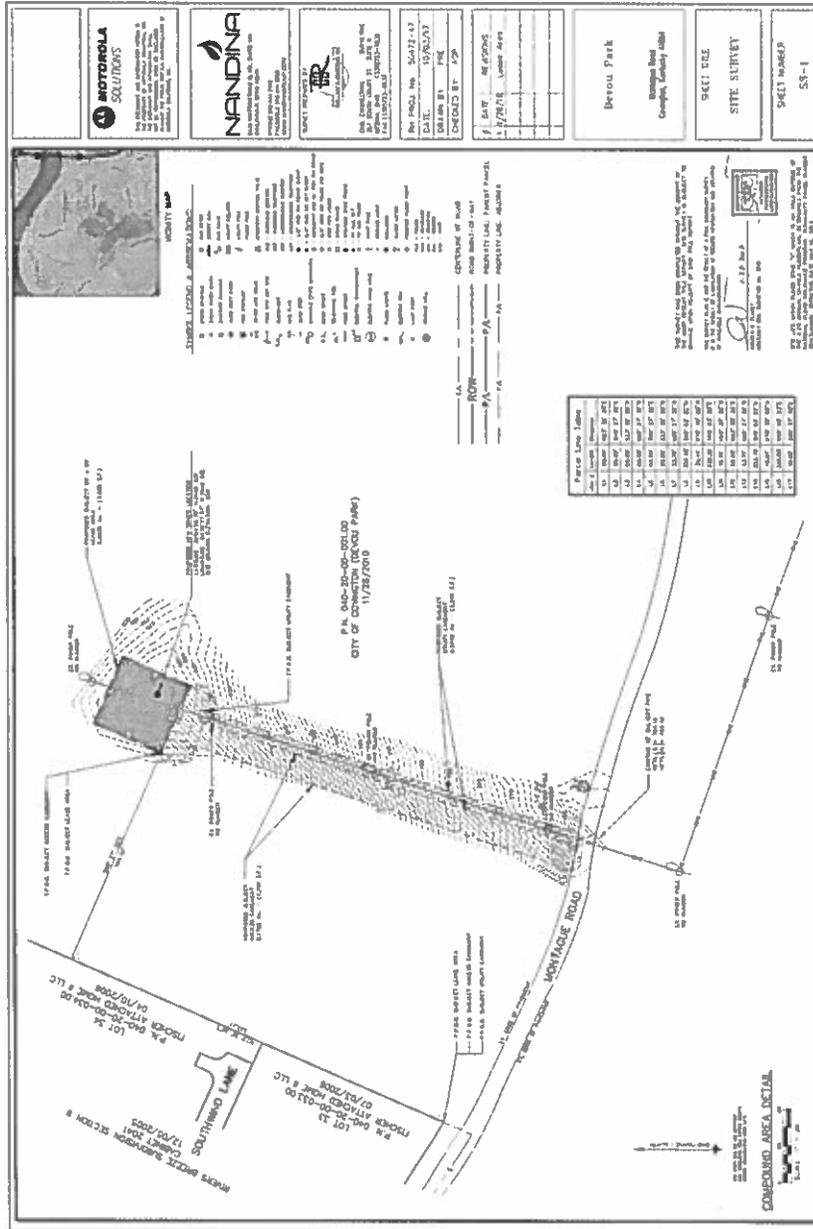


Exhibit C

ACCESS EASEMENT

Situated in the County of Kenton and State of Kentucky, known as being a part of land conveyed to City of Covington (Devou Park) as recorded in Deed Book 140, Page 151 of Kenton County Records further bounded and described as follows:

Commencing at the Southeast corner of Lot 33 of Rivers Breeze Subdivision Section 9 as recorded in Plat Cabinet 2041;

Thence along the Eastern line of said Lot 33 and the Northerly prolongation thereof, bearing North 23°32'28" East, a distance of 333.27 feet to a point on the Eastern line of Lot 34 of said Rivers Breeze Subdivision Section 9;

Thence at a right angle, bearing South 66°27'32" East, a distance of 184.43 feet to the Southwest corner of a proposed Lease Area, and the **TRUE PLACE OF BEGINNING** of the proposed Access Easement herein described;

Thence along the Southern line of said Lease Area, bearing South 66°27'32" East, a distance of 60.00 feet to the Southeast corner thereof;

Thence at a right angle, bearing South 23°32'28" West, a distance of 20.00 feet to a point;

Thence at a right angle; bearing North 66°27'32" West, a distance of 23.75 feet to a point;

Thence, bearing South 18°03'22" West, a distance of 325.92 feet to a point;

Thence, bearing North 78°39'02" West, a distance of 20.14 feet to a point;

Thence, bearing North 18°03'22" East, a distance of 330.20 feet to a point;

Thence, bearing North 66°27'32" West, a distance of 16.16 feet to a point;

Thence at a right angle, bearing North 23°32'28" East, a distance of 20.00 feet to the Southwest corner of a proposed Lease Area, and the **TRUE PLACE OF BEGINNING**, containing 0.1782 acres (7,761 square feet) of land, more or less but subject to all legal highways and all covenants and agreements of record.

Exhibit D

UTILITY EASEMENT

Situated in the County of Kenton and State of Kentucky, known as being a part of land conveyed to City of Covington (Devou Park) as recorded in Deed Book 140, Page 151 of Kenton County Records further bounded and described as follows:

Commencing at the Southeast corner of Lot 33 of Rivers Breeze Subdivision Section 9 as recorded in Plat Cabinet 2041;

Thence along the Eastern line of said Lot 33 and the Northerly prolongation thereof, bearing North 23°32'28" East, a distance of 333.27 feet to a point on the Eastern line of Lot 34 of said Rivers Breeze Subdivision Section 9;

Thence at a right angle, bearing South 66°27'32" East, a distance of 244.43 feet to a the Southeast corner of a proposed Lease Area;

Thence at a right angle, bearing South 23°32'28" West, a distance of 20.00 feet to a point;

Thence at a right angle, bearing North 66°27'32" West, 13.71 feet to a point and the **TRUE PLACE OF BEGINNING** of the proposed Utility Easement herein described;

Thence, bearing South 18°03'22" West, a distance of 323.79 feet to a point;

Thence, bearing North 78°39'02" West, a distance of 10.07 feet to a point;

Thence, bearing North 18°03'22" East, a distance of 325.93 feet to a point;

Thence, bearing South 66°27'32" East, a distance of 10.05 feet to a point and the **TRUE PLACE OF BEGINNING**, containing 0.0746 acres (3,249 square feet) of land, more or less but subject to all legal highways and all covenants and agreements of record.

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Jerome Heist, Interim Director of Finance Date

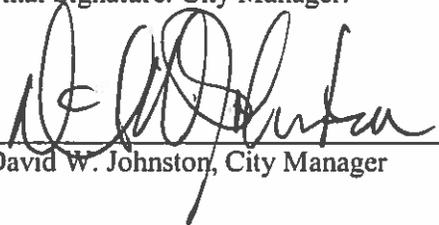
If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

 4/11/2018

David W. Johnston, City Manager Date

**EXCLUSIVE REVOCABLE LICENSE AND NON-EXCLUSIVE
EASEMENT AGREEMENT**

RECITALS

This **EXCLUSIVE REVOCABLE LICENSE AGREEMENT** ("Agreement") is entered into this ____ day of _____, 2018 by and between the **CITY OF COVINGTON**, a Kentucky municipal corporation of the home rule class ("City"), and 601 Main Street, LLC dba Cock and Bull English Pub ("Licensee"), a Kentucky limited liability company with a principal address at 1250 SPRINGFIELD PIKE, Cincinnati, OH 45215.

RECITALS

A. **WHEREAS**, Licensee operates a restaurant (the "Business") at 601 Main Street, Covington, Kentucky ("the Pub") and is the holder of a Kentucky and City of Covington Liquor License.

B. **WHEREAS**, the City is the owner of the public right of way located on the plaza to the west of Main Street on Sixth Street in Covington, Kentucky; and

C. **WHEREAS**, in order to activate the public space and foster vitality and economic growth to the City's downtown area, it is in the interest of the City to grant an exclusive revocable license and a non-exclusive easement to Licensee to permit the operation of an outdoor dining area upon the northern and southern half of the plaza surrounding the Goose Girl Fountain.

STATEMENT OF THE AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises contained herein, the Parties agree as follows:

1. **Licensed Premises**. The City is the record owner of the plaza that is located to the west of Main Street on Sixth Street in Covington, Kentucky as well as the public-right of way extending from the Business across Sixth Street (together these areas shall be referred to as the "Licensed Premises"). Said Licensed Premises are depicted in greater detail in the document that is attached hereto as Exhibit A.

2. **Grant of Exclusive License**. Subject to the terms and conditions set forth herein and under Chapter 96.70 of the Covington Code of Ordinances, the City grants to Licensee a temporary, exclusive, revocable and non-assignable, license ("License") to the portion of the Licensed Premises that is highlighted in yellow on the attached Exhibit A (the "License Area") for the sole purpose of installing tables and chairs to operate and maintain an outdoor dining area. (the "Purpose"). Licensee shall have the right to serve alcoholic beverages upon the License Area, provided it obtains all necessary licenses and permits from the City and the State. The City retains a four (4) foot easement of ingress and egress on all sides of the License Area during the Term of this Agreement.

3. **Grant of Non-Exclusive Easement**. Subject to the terms and conditions set forth herein and under Chapter 96.70 of the Covington Code of Ordinances, the City further grants a temporary, non-exclusive, revocable and non-assignable easement for ingress and egress over the portion the Licensed Premises that is highlighted in red on the document attached hereto as Exhibit A. (the "Easement Area"). Said Easement Area shall be used to facilitate ingress and

gress to fulfill the Purpose of this Agreement. The City retains the right to allow vehicular traffic to traverse the Easement Area throughout the Term of this Agreement.

4. Term. The term of this Agreement shall begin upon the date of execution of this Agreement and unless sooner terminated pursuant to Paragraph 14, shall expire on October 31, 2018. (the "Term") Thereafter the Parties, by mutual written agreement, may extend this Agreement for subsequent terms concurrent with the term of any Tables and Chairs permit issued pursuant to Chapter 96.70 of the Covington Code of Ordinances.

5. Hours of Operation. Seating, outdoor service, and outdoor music shall be conducted in compliance with all relevant provisions of Chapter 96.70.

6. Licensee's Standard of Care. Throughout the Term, the Licensee, its agents, employees, invitees, or contractors must use reasonable care and perform the maintenance, operation, and repairs in a workmanlike manner.

7. Legal Requirements. Throughout the Term, Licensee covenants and agrees to obtain and maintain, if any, all necessary licenses and permits from the relevant local authorities and to operate the Licensed Premises in accordance with all applicable federal, state, and local laws, codes, ordinances and other governmental requirements, including without limitation Chapter 96.70 ("the "Tables and Chairs Ordinance"); Chapter 92 of the Covington Code of Ordinances (the "Nuisance Ordinance") and Chapter 95 of the Covington Code of Ordinances (the "Solid Waste and Litter Abatement Ordinance"). (together the "Legal Requirements").

8. Restrictions on Use. Licensee covenants that it shall not permit any use of the Licensed Premises other than to fulfill the Purpose, including without limitation, not permitting (i) any unlawful activity, (ii) the posting of any commercial message; (iii) the performance of any activity that, in the sole discretion of the City, disrupts or damages any surrounding properties; or (iv) any action that would constitute a violation of any Legal Requirement.

9. No Subterranean Alterations or Improvements. The Licensee covenants not to fill, excavate, mine, drill, remove topsoil, sand, gravel, rock, minerals, concrete, asphalt or other materials which alter the street, roadway surface, or topography of the Licensed Premises, except as required to fulfill the Purpose of this Agreement. Should the Purpose require such alterations, the Licensee shall not proceed without written approval from the City Manager.

10. City's Warranties and Representations. The City makes no representations or warranties with regard to the condition of the Licensed Premises, any encumbrances, restrictions and conditions, which may affect the Licensed Premises, the suitability of the Licensed Premises for the Purpose, or the compliance of the Purpose with any applicable Legal Requirements.

11. City's Maintenance Obligations. Throughout the Term, the City shall not be required to furnish any services, make any repairs, complete any improvements, or expend any sums with regard to the Licensed Premises. The City shall not be responsible for any loss or damage to personal property on the Licensed Premises. From time to time, the City may enter upon the Licensed Premises for any reason, including inspection. Nothing contained in this Paragraph shall create a duty to the City to make any repairs or perform any work upon the Licensed Premises.

12. Insurance. During the Term, the Licensee shall maintain general liability insurance that meets the requirements provided within the Tables and Chairs Ordinance. The policy shall be procured from a reputable insurance provider authorized to do business in the Commonwealth of Kentucky and acceptable to the City. The policy shall contain a statement

naming the City as an additional insured and the Licensee shall provide the City with a declaration sheet prior to the Effective Date.

13. Indemnification. Licensee shall save and hold harmless the City, its agents, employees, commissioners, officers, and officials from any loss, damage, or injury of any kind or character, whatsoever, that may arise from anything done, or omitted to be done, by Licensee, its agents, invitees, guests, licensees, employees, or contractors in connection with or in any way related to the matters authorized by this Agreement. Licensee agrees to release, indemnify, and hold harmless the City (including, but not limited to, reasonable attorney fees, expert witness costs, and court costs), without limitation, from and against any and all claims, suits, injuries, damage claims, liability and/or cause of action which may ever arise as a result of injury and/or damage to property or persons claimed to be the result of the installation, operation, or ongoing maintenance of the Licensed Premises by Licensee, including any personal injury resulting from the ingress and egress to the License Area. This Paragraph shall survive the expiration or earlier termination of this Agreement to the extent that they pertain to any injury that occurs during the term of the Agreement.

14. Termination. The Parties may terminate this Agreement for the reasons set forth below with notice being provided to the other pursuant to Paragraph 18 below:

- a. Mutual Agreement. The Parties may terminate this Agreement at any time by mutual agreement.
- b. Termination for Default. Either Party may terminate this Agreement for a material breach of any covenant herein with fifteen (15) days written notice of default and the failure of the breaching party to cure said default within a reasonable time as established by the Parties in writing.
- c. Automatic Termination. This Agreement shall terminate automatically upon the first day that, in the sole discretion of the City, the Licensed Premises cease to be used to fulfill the Purpose.

15. Licensee's Obligations upon Termination. Upon expiration or earlier termination, Licensee shall remove the all fixtures, and any personal property from the Licensed Premises and return the Licensed Premises to a condition that, in the sole discretion of the City, is substantially the same as it was at the beginning of the Term. (the "Original Condition"). Licensee shall be solely responsible for the cost of removal and any repairs necessary to restore the Licensed Premises to its Original Condition. Licensee agrees that if the Licensed Premises is not returned to its Original Condition within fifteen (15) days of expiration or sooner termination, that the City shall have the right, at its option, to restore the Licensed Premises with the Licensee remitting all costs of restoration to the City within thirty (30) days. This Paragraph shall survive the expiration or earlier termination of this Agreement.

16. Assignments and Leases. Licensee shall not assign this Agreement nor sublet the Licensed Premises or any part thereof without first obtaining the written consent of the City. No assignment or other license or lease shall operate to relieve Licensee from any obligations under this Agreement unless the City specifically agrees in its written consent to such assignment or other license or lease that the same shall have such effect.

17. Successors in Interest. This Agreement shall be binding upon, and inure to the benefit of, and be enforceable by and against the respective heirs, successors, and assigns of the City and Licensee; however, no assignment of this Agreement, whether by act of Licensee

or by operation of law, in violation of any provisions of this Agreement shall vest in any assignee any right, title, or interest whatsoever.

18. Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed effective for all purposes as of the date such communication is (a) personally delivered to; or (b) received by registered or certified mail, return receipt requested, at the following address or at such other address as may be furnished by one party to the other:

If to City: City of Covington
 20 W. Pike Street
 Covington, KY 41011

If to
Licensee: _____

19. Non-waiver. The failure by the City to exercise any right or remedy it has with respect to any Default by Licensee shall not operate to prevent the City from terminating this Agreement.

20. Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Kentucky. Any lawsuit related to this Agreement shall be brought in the state or federal courts situated in Kenton County, Kentucky.

21. Entire Agreement. This Agreement constitutes the entire agreement between City and Licensee relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by City and Licensee.

[Signature Page Below]

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first written above.

CITY OF COVINGTON

Joseph U. Meyer, Mayor

LICENSEE

By: _____

Its: _____

This instrument prepared by:

Cassandra J. Zoda (#96871)
City of Covington
Office of the City Solicitor
20 W. Pike Street
Covington, KY 41011

**EXHIBIT A
LICENSED PREMISES**

EXHIBIT B
TABLES AND CHAIRS PERMIT

EXCLUSIVE REVOCABLE LICENSE AND NON-EXCLUSIVE EASEMENT AGREEMENT

This **EXCLUSIVE REVOCABLE LICENSE AGREEMENT** ("Agreement") is effective as of _____, 2018 by and between the **CITY OF COVINGTON**, a Kentucky municipal corporation of the home rule class ("City"), and **Frida, LLC** ("Licensee"), a Kentucky limited liability company with a principal address at 521 Main Street, Covington, KY 41011.

RECITALS

A. **WHEREAS**, Licensee operates a restaurant (the "Business") at 521 Main Street, Covington, Kentucky ("the Restaurant") and is the holder of a Kentucky and City of Covington Liquor License.

B. **WHEREAS**, the City is the owner of the public right of way located on the plaza to the east of Main Street on Sixth Street in Covington, Kentucky; and

C. **WHEREAS**, in order to activate the public space and foster vitality and economic growth to the City's downtown area, it is in the interest of the City to grant an exclusive revocable license and a non-exclusive easement to Licensee to permit the operation of an outdoor dining area upon the southern half of the plaza.

STATEMENT OF THE AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises contained herein, the Parties agree as follows:

1. **Licensed Premises**. The City is the record owner of the plaza that is located to the east of Main Street on Sixth Street in Covington, Kentucky as well as the public-right of way extending from the Restaurant across Sixth Street (together these areas shall be referred to as the "Licensed Premises"). Said Licensed Premises are depicted in greater detail in the document that is attached hereto as Exhibit A.

2. **Grant of Exclusive License**. Subject to the terms and conditions set forth herein and under Chapter 96.70 of the Covington Code of Ordinances, the City grants to Licensee a temporary, exclusive, revocable and non-assignable, license ("License") to the portion of the Licensed Premises that is highlighted in yellow on the attached Exhibit A (the "License Area") for the sole purpose of installing tables and chairs to operate and maintain an outdoor dining area (the "Purpose"). Licensee shall have the right to serve alcoholic beverages upon the License Area, provided it obtains all necessary licenses and permits from the City and the State. The City retains a four (4) foot easement of ingress and egress on all sides of the License Area during the Term of this Agreement.

3. **Grant of Non-Exclusive Easement**. Subject to the terms and conditions set forth herein and under Chapter 96.70 of the Covington Code of Ordinances, the City further grants a temporary, non-exclusive, revocable and non-assignable easement for ingress and egress over the portion the Licensed Premises that is highlighted in red on the document attached hereto as Exhibit A. (the "Easement Area"). Said Easement Area shall be used to facilitate ingress and egress to fulfill the Purpose of this Agreement. The City retains the right to allow vehicular traffic to traverse the Easement Area throughout the Term of this Agreement.

4. **Term**. The term of this Agreement shall begin upon the date of execution of this Agreement and unless sooner terminated pursuant to Paragraph 14, shall expire on October 31,

2018 (the "Term"). Thereafter the Parties, by mutual written agreement, may extend this Agreement for subsequent terms concurrent with the term of any Tables and Chairs permit issued pursuant to Chapter 96.70 of the Covington Code of Ordinances.

5. Hours of Operation. Seating, outdoor service, and outdoor music shall be conducted in compliance with all relevant provisions of Chapter 96.70.

6. Licensee's Standard of Care. Throughout the Term, the Licensee, its agents, employees, invitees, or contractors must use reasonable care and perform the maintenance, operation, and repairs in a workmanlike manner.

7. Legal Requirements. Throughout the Term, Licensee covenants and agrees to obtain and maintain, if any, all necessary licenses and permits from the relevant local authorities and to operate the Licensed Premises in accordance with all applicable federal, state, and local laws, codes, ordinances and other governmental requirements, including without limitation Covington's Table and Seating Ordinance; Chapter 92 of the Covington Code of Ordinances (the "Nuisance Ordinance") and Chapter 95 of the Covington Code of Ordinances (the "Solid Waste and Litter Abatement Ordinance"). (together the "Legal Requirements").

8. Restrictions on Use. Licensee covenants that it shall not permit any use of the Licensed Premises other than to fulfill the Purpose, including without limitation, not permitting (i) any unlawful activity, (ii) the posting of any commercial message; (iii) the performance of any activity that, in the sole discretion of the City, disrupts or damages any surrounding properties; or (iv) any action that would constitute a violation of any Legal Requirement.

9. No Subterranean Alterations or Improvements. The Licensee covenants not to fill, excavate, mine, drill, remove topsoil, sand, gravel, rock, minerals, concrete, asphalt or other materials which alter the street, roadway surface, or topography of the Licensed Premises, except as required to fulfill the Purpose of this Agreement. Should the Purpose require such alterations, the Licensee shall not proceed without written approval from the City Manager.

10. City's Warranties and Representations. The City makes no representations or warranties with regard to the condition of the Licensed Premises, any encumbrances, restrictions and conditions, which may affect the Licensed Premises, the suitability of the Licensed Premises for the Purpose, or the compliance of the Purpose with any applicable Legal Requirements.

11. City's Maintenance Obligations. Throughout the Term, the City shall not be required to furnish any services, make any repairs, complete any improvements, or expend any sums with regard to the Licensed Premises. The City shall not be responsible for any loss or damage to personal property on the Licensed Premises. From time to time, the City may enter upon the Licensed Premises for any reason, including inspection. Nothing contained in this Paragraph shall create a duty to the City to make any repairs or perform any work upon the Licensed Premises.

12. Insurance. During the Term, the Licensee shall maintain general liability insurance that meets the requirements provided within the Tables and Chairs Ordinance. The policy shall be procured from a reputable insurance provider authorized to do business in the Commonwealth of Kentucky and acceptable to the City. The policy shall contain a statement naming the City as an additional insured and the Licensee shall provide the City with a declaration sheet prior to the Effective Date.

13. Indemnification. Licensee shall save and hold harmless the City, its agents, employees, commissioners, officers, and officials from any loss, damage, or injury of any kind or character, whatsoever, that may arise from anything done, or omitted to be done, by Licensee,

its agents, invitees, guests, licensees, employees, or contractors in connection with or in any way related to the matters authorized by this Agreement. Licensee agrees to release, indemnify, and hold harmless the City (including, but not limited to, reasonable attorney fees, expert witness costs, and court costs), without limitation, from and against any and all claims, suits, injuries, damage claims, liability and/or cause of action which may ever arise as a result of injury and/or damage to property or persons claimed to be the result of the installation, operation, or ongoing maintenance of the Licensed Premises by Licensee, including any personal injury resulting from the ingress and egress to the License Area. This Paragraph shall survive the expiration or earlier termination of this Agreement to the extent that they pertain to any injury that occurs during the term of the Agreement.

14. Termination. The Parties may terminate this Agreement for the reasons set forth below with notice being provided to the other pursuant to Paragraph 18 below:

- a. Mutual Agreement. The Parties may terminate this Agreement at any time by mutual agreement.
- b. Termination for Default. Either Party may terminate this Agreement for a material breach of any covenant herein with fifteen (15) days written notice of default and the failure of the breaching party to cure said default within a reasonable time as established by the Parties in writing.
- c. Automatic Termination. This Agreement shall terminate automatically upon the first day that, in the sole discretion of the City, the Licensed Premises cease to be used to fulfill the Purpose.

15. Licensee's Obligations upon Termination. Upon expiration or earlier termination, Licensee shall remove the all fixtures, and any personal property from the Licensed Premises and return the Licensed Premises to a condition that, in the sole discretion of the City, is substantially the same as it was at the beginning of the Term. (the "Original Condition"). Licensee shall be solely responsible for the cost of removal and any repairs necessary to restore the Licensed Premises to its Original Condition. Licensee agrees that if the Licensed Premises is not returned to its Original Condition within fifteen (15) days of expiration or sooner termination, that the City shall have the right, at its option, to restore the Licensed Premises with the Licensee remitting all costs of restoration to the City within thirty (30) days. This Paragraph shall survive the expiration or earlier termination of this Agreement.

16. Assignments and Leases. Licensee shall not assign this Agreement nor sublet the Licensed Premises or any part thereof without first obtaining the written consent of the City. No assignment or other license or lease shall operate to relieve Licensee from any obligations under this Agreement unless the City specifically agrees in its written consent to such assignment or other license or lease that the same shall have such effect.

17. Successors in Interest. This Agreement shall be binding upon, and inure to the benefit of, and be enforceable by and against the respective heirs, successors, and assigns of the City and Licensee; however, no assignment of this Agreement, whether by act of Licensee or by operation of law, in violation of any provisions of this Agreement shall vest in any assignee any right, title, or interest whatsoever.

18. Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed effective for all purposes as of the date such communication is (a) personally delivered to; or (b) received by registered or certified mail, return receipt

requested, at the following address or at such other address as may be furnished by one party to the other:

If to City: City of Covington
ATTN: City Manager
20 W. Pike Street
Covington, KY 41011

If to Frida: _____

19. Non-waiver. The failure by the City to exercise any right or remedy it has with respect to any Default by Licensee shall not operate to prevent the City from terminating this Agreement.

20. Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Kentucky. Any lawsuit related to this Agreement shall be brought in the state or federal courts situated in Kenton County, Kentucky.

21. Entire Agreement. This Agreement constitutes the entire agreement between City and Licensee relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by City and Licensee.

[Signature Page Below]

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first written above.

CITY OF COVINGTON

Joseph U. Meyer, Mayor

LICENSEE

By: _____
Its: _____

This instrument prepared by:

Cassandra J. Zoda (#96871)
City of Covington
Office of the City Solicitor
20 W. Pike Street
Covington, KY 41011

EXHIBIT A
LICENSED PREMISES

**EXHIBIT B
TABLES AND CHAIRS PERMIT**

EXCLUSIVE REVOCABLE LICENSE AND NON-EXCLUSIVE EASEMENT AGREEMENT

This **EXCLUSIVE REVOCABLE LICENSE AGREEMENT** ("Agreement") is entered into this ____ day of _____, 2018 by and between the **CITY OF COVINGTON**, a Kentucky municipal corporation of the home rule class ("City"), and Lisse, LLC ("Licensee"), a Kentucky limited liability company with a principal address at 7450 Industrial Road, Florence, KY 41042.

RECITALS

A. **WHEREAS**, Licensee operates a restaurant (the "Business") at 530 Main Street, Covington, Kentucky ("the Restaurant") and is the holder of a Kentucky and City of Covington Liquor License.

B. **WHEREAS**, the City is the owner of the public right of way located on the plaza to the east of Main Street on Sixth Street in Covington, Kentucky; and

C. **WHEREAS**, in order to activate the public space and foster vitality and economic growth to the City's downtown area, it is in the interest of the City to grant an exclusive revocable license and a non-exclusive easement to Licensee to permit the operation of an outdoor dining area upon the northern half of the plaza.

STATEMENT OF THE AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises contained herein, the Parties agree as follows:

1. **Licensed Premises**. The City is the record owner of the plaza that is located to the east of Main Street on Sixth Street in Covington, Kentucky as well as the public-right of way extending from the Business across Sixth Street (together these areas shall be referred to as the "Licensed Premises"). Said Licensed Premises are depicted in greater detail in the document that is attached hereto as Exhibit A.

2. **Grant of Exclusive License**. Subject to the terms and conditions set forth herein and under Chapter 96.70 of the Covington Code of Ordinances, the City grants to Licensee a temporary, exclusive, revocable and non-assignable, license ("License") to the portion of the Licensed Premises that is highlighted in yellow on the attached Exhibit A (the "License Area") for the sole purpose of installing tables and chairs to operate and maintain an outdoor dining area. (the "Purpose"). Licensee shall have the right to serve alcoholic beverages upon the License Area, provided it obtains all necessary licenses and permits from the City and the State. The City retains a four (4) foot easement of ingress and egress on all sides of the License Area during the Term of this Agreement.

3. **Grant of Non-Exclusive Easement**. Subject to the terms and conditions set forth herein and under Chapter 96.70 of the Covington Code of Ordinances, the City further grants a temporary, non-exclusive, revocable and non-assignable easement for ingress and egress over the portion the Licensed Premises that is highlighted in red on the document attached hereto as Exhibit A. (the "Easement Area"). Said Easement Area shall be used to facilitate ingress and egress to fulfill the Purpose of this Agreement. The City retains the right to allow vehicular traffic to traverse the Easement Area throughout the Term of this Agreement.

4. **Term**. The term of this Agreement shall begin upon the date of execution of this Agreement and unless sooner terminated pursuant to Paragraph 14, shall expire on October 31,

2018. (the "Term") Thereafter the Parties, by mutual written agreement, may extend this Agreement for subsequent terms concurrent with the term of any Tables and Chairs permit issued pursuant to Chapter 96.70 of the Covington Code of Ordinances.

5. Hours of Operation. Seating, outdoor service, and outdoor music shall be conducted in compliance with all relevant provisions of Chapter 96.70.

6. Licensee's Standard of Care. Throughout the Term, the Licensee, its agents, employees, invitees, or contractors must use reasonable care and perform the maintenance, operation, and repairs in a workmanlike manner.

7. Legal Requirements. Throughout the Term, Licensee covenants and agrees to obtain and maintain, if any, all necessary licenses and permits from the relevant local authorities and to operate the Licensed Premises in accordance with all applicable federal, state, and local laws, codes, ordinances and other governmental requirements, including without limitation Covington's Table and Seating Ordinance; Chapter 92 of the Covington Code of Ordinances (the "Nuisance Ordinance") and Chapter 95 of the Covington Code of Ordinances (the "Solid Waste and Litter Abatement Ordinance"). (together the "Legal Requirements").

8. Restrictions on Use. Licensee covenants that it shall not permit any use of the Licensed Premises other than to fulfill the Purpose, including without limitation, not permitting (i) any unlawful activity, (ii) the posting of any commercial message; (iii) the performance of any activity that, in the sole discretion of the City, disrupts or damages any surrounding properties; or (iv) any action that would constitute a violation of any Legal Requirement.

9. No Subterranean Alterations or Improvements. The Licensee covenants not to fill, excavate, mine, drill, remove topsoil, sand, gravel, rock, minerals, concrete, asphalt or other materials which alter the street, roadway surface, or topography of the Licensed Premises, except as required to fulfill the Purpose of this Agreement. Should the Purpose require such alterations, the Licensee shall not proceed without written approval from the City Manager.

10. City's Warranties and Representations. The City makes no representations or warranties with regard to the condition of the Licensed Premises, any encumbrances, restrictions and conditions, which may affect the Licensed Premises, the suitability of the Licensed Premises for the Purpose, or the compliance of the Purpose with any applicable Legal Requirements.

11. City's Maintenance Obligations. Throughout the Term, the City shall not be required to furnish any services, make any repairs, complete any improvements, or expend any sums with regard to the Licensed Premises. The City shall not be responsible for any loss or damage to personal property on the Licensed Premises. From time to time, the City may enter upon the Licensed Premises for any reason, including inspection. Nothing contained in this Paragraph shall create a duty to the City to make any repairs or perform any work upon the Licensed Premises.

12. Insurance. During the Term, the Licensee shall maintain general liability insurance that meets the requirements provided within the Tables and Chairs Ordinance. The policy shall be procured from a reputable insurance provider authorized to do business in the Commonwealth of Kentucky and acceptable to the City. The policy shall contain a statement naming the City as an additional insured and the Licensee shall provide the City with a declaration sheet prior to the Effective Date.

13. Indemnification. Licensee shall save and hold harmless the City, its agents, employees, commissioners, officers, and officials from any loss, damage, or injury of any kind or character, whatsoever, that may arise from anything done, or omitted to be done, by Licensee,

its agents, invitees, guests, licensees, employees, or contractors in connection with or in any way related to the matters authorized by this Agreement. Licensee agrees to release, indemnify, and hold harmless the City (including, but not limited to, reasonable attorney fees, expert witness costs, and court costs), without limitation, from and against any and all claims, suits, injuries, damage claims, liability and/or cause of action which may ever arise as a result of injury and/or damage to property or persons claimed to be the result of the installation, operation, or ongoing maintenance of the Licensed Premises by Licensee, including any personal injury resulting from the ingress and egress to the License Area. This Paragraph shall survive the expiration or earlier termination of this Agreement to the extent that they pertain to any injury that occurs during the term of the Agreement.

14. Termination. The Parties may terminate this Agreement for the reasons set forth below with notice being provided to the other pursuant to Paragraph 18 below:

- a. Mutual Agreement. The Parties may terminate this Agreement at any time by mutual agreement.
- b. Termination for Default. Either Party may terminate this Agreement for a material breach of any covenant herein with fifteen (15) days written notice of default and the failure of the breaching party to cure said default within a reasonable time as established by the Parties in writing.
- c. Automatic Termination. This Agreement shall terminate automatically upon the first day that, in the sole discretion of the City, the Licensed Premises cease to be used to fulfill the Purpose.

15. Licensee's Obligations upon Termination. Upon expiration or earlier termination, Licensee shall remove the all fixtures, and any personal property from the Licensed Premises and return the Licensed Premises to a condition that, in the sole discretion of the City, is substantially the same as it was at the beginning of the Term. (the "Original Condition"). Licensee shall be solely responsible for the cost of removal and any repairs necessary to restore the Licensed Premises to its Original Condition. Licensee agrees that if the Licensed Premises is not returned to its Original Condition within fifteen (15) days of expiration or sooner termination, that the City shall have the right, at its option, to restore the Licensed Premises with the Licensee remitting all costs of restoration to the City within thirty (30) days. This Paragraph shall survive the expiration or earlier termination of this Agreement.

16. Assignments and Leases. Licensee shall not assign this Agreement nor sublet the Licensed Premises or any part thereof without first obtaining the written consent of the City. No assignment or other license or lease shall operate to relieve Licensee from any obligations under this Agreement unless the City specifically agrees in its written consent to such assignment or other license or lease that the same shall have such effect.

17. Successors in Interest. This Agreement shall be binding upon, and inure to the benefit of, and be enforceable by and against the respective heirs, successors, and assigns of the City and Licensee; however, no assignment of this Agreement, whether by act of Licensee or by operation of law, in violation of any provisions of this Agreement shall vest in any assignee any right, title, or interest whatsoever.

18. Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed effective for all purposes as of the date such communication is (a) personally delivered to; or (b) received by registered or certified mail, return receipt

requested, at the following address or at such other address as may be furnished by one party to the other:

If to City: City of Covington
 City Manager
 20 W. Pike Street
 Covington, KY 41011

If to Lisse: _____

19. Non-waiver. The failure by the City to exercise any right or remedy it has with respect to any Default by Licensee shall not operate to prevent the City from terminating this Agreement.

20. Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Kentucky. Any lawsuit related to this Agreement shall be brought in the state or federal courts situated in Kenton County, Kentucky.

21. Entire Agreement. This Agreement constitutes the entire agreement between City and Licensee relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by City and Licensee.

[Signature Page Below]

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first written above.

CITY OF COVINGTON

Joseph U. Meyer, Mayor

LICENSEE

By: _____

Its: _____

This instrument prepared by:

Cassandra J. Zoda (#96871)
City of Covington
Office of the City Solicitor
20 W. Pike Street
Covington, KY 41011

EXHIBIT A
LICENSED PREMISES

EXHIBIT B
TABLES AND CHAIRS PERMIT

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17/18

LEGISLATIVE: 4/24/18

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description:

AN ORDER AUTHORIZING THE CITY MANAGER TO SOLICIT PROPOSALS FOR THE SALE AND REDEVELOPMENT OF THE CITY-OWNED PROPERTY LOCATED AT 1316 GREENUP FOR ECONOMIC DEVELOPMENT PURPOSES, PURSUANT TO KRS 82.083(3).

Background of the request:

KRS 82.083(3) states:

Before selling or otherwise disposing of any real or personal property, the city shall make a written determination setting forth and fully describing:

- (a) The real or personal property;*
- (b) Its intended use at the time of acquisition;*
- (c) The reason why it is in the public interest to dispose of it; and*
- (d) The method of disposition to be used.*

The City of Covington (the "City") acquired the parcel and structure located at 1316 Greenup Street in 2006 for the purpose of elimination of blight. Since that time, the property has been vacant and does not contribute to the economic, social or aesthetic value of the neighborhood, nor does it produce revenue for the City.

In the past month, the City has received two inquiries about the possibility of selling the property to business or developers for the purpose of rehabilitating the existing building for commercial or mixed-use development (commercial and residential).

Staff is requesting authorization to solicit proposals to redevelop the property with selection criteria based on proposed purchase price, development schedule, total investment, jobs to be created, future revenue generation, positive impacts on the neighborhood, etc.

The opportunity will be advertised on the City's website for two weeks and sent directly to the two individuals who inquired about a potential purchase.

City staff also believes specifications cannot be made sufficiently specific to permit award on the basis of either the lowest bid price or the lowest evaluated bid price, and competitive negotiation is thus appropriate in accordance with KRS § 45A.370.

Staff recommendation and analysis:

Approve

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item:

Tom West

 4/5/18

Tom West, Department Director Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source: GENERAL FUND
Due to the anticipated cost and length of the project timeline, funds from FY 18 will be supplemented with funds from FY19

Jerome Heist, Interim Director of Finance Date

If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

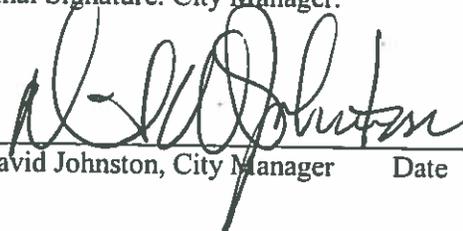
 4-10-18

Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

 4/10/2018

David Johnston, City Manager Date

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17/18 LEGISLATIVE: 4/24/18

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: AN ORDER ACCEPTING THE RECOMMENDATIONS OF THE ORCHARD ~~PARKING~~ RFP/Q REVIEW PANEL TO REJECT ALL PROPOSALS FOR SITE A, REVISE AND RE-ISSUE THE RFQ FOR SITE A AND SELECT CENTER FOR GREAT NEIGHBORHOODS AS THE PREFERRED DEVELOPER OF SITE B OF THE IMPLEMENTATION OF THE CITY OF COVINGTON'S ORCHARD PARK REDEVELOPMENT PLAN AND NEGOTIATE A DEVELOPMENT AGREEMENT FOR CONSIDERATION BY THE COMMISSION AT A LATER DATE.

Background of the request:

The City of Covington issued a Request for Qualifications/Proposals on June 19, 2017 with a due date for responses of July 10, 2017. The RFQ/P allowed interested developers to propose for Site A, a single family in-fill site of approximately 12,000 sf area east of Locust Street with two existing structures, or Site B, a multi-family/mixed use development site of approximately 0.30 acre located north of Martin Luther King Jr. Boulevard between Holman and Banklick Street, or both sites. Three proposals were received. One proposal was for Site A only and two were for both sites. A selection committee including representation from various city departments, the City Commission and a neighborhood representative reviewed the proposals and interviewed all three developers. Based on the proposals, interviews and committee discussions, the Center for Great Neighborhoods (CGN) was asked to submit a final and best proposal for Site B and another team was asked to submit a final and best proposal for Site A.

During discussions with the proposers for site A prior to submission of its final proposal, several questions were raised about Site A regarding the City's vision for the area, the overall goal of the project, the future of the greenspace on the west side of Locust Street, the City's position on the demolition of the two existing structures and the overall City commitment to the project (financial, park development, etc.). In light of the outstanding questions, the committee voted to recommend rejecting all proposals for Site A, in order to first better define the project's goals, future of the greenspace, city's role, etc. and allow the City to issue a revised RFP/Q for this part of the project. The committee also reviewed the final proposal from CGN and voted to recommend the Commission grant CGN preferred developer status for Site B and begin negotiating a development agreement.

Staff recommendation and analysis:

Approve the Committee's recommendations

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item:

Tom West

 4/16/18
Department Director Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Jerome Heist, Interim Director of Finance Date

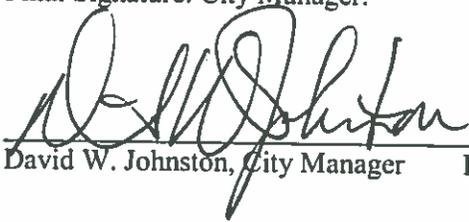
If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

 _____ 4-10-18
Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

 _____ 4/10/2018
David W. Johnston, City Manager Date

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17/18 LEGISLATIVE: 4/24/18

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: AN ORDER RECOGNIZING COVINGTON BUSINESS COUNCIL, RENAISSANCE COVINGTON, SOUTHBANK, AND MEETNKY FOR EFFORTS TO CREATE DESIGN STANDARDS TO IMPROVE THE AESTHETICS OF THE PUBLIC REALM IN CERTAIN BUSINESS DISTRICTS IN THE CITY OF COVINGTON, APPOINTING KEY CITY STAFF TO SERVE ON THE ADVISORY COMMITTEE IN ORDER TO ASSURE THE STANDARDS MEET CITY'S REQUIREMENTS, AND MAKING A RECOMMENDATION TO THE COMMISSION FOR POSSIBLE ADOPTION.

Background of the request:

In early 2017 a group of economic development stakeholders held meetings with City staff to discuss the need for a more deliberate approach to improving the aesthetics of streetscape and other public spaces in certain business districts. With broad support from organizations such as Southbank Partners, MeetNKY, CBC, Renaissance Covington and others, efforts to raise the funding required to develop the standards got underway. Based on a proposal from MKSK (See attached), approximately \$60,000 has been committed to fund the project. To date, funding commitments have been received from the following organizations: Southbank Partners (\$15,000), Meet NKY (\$15,000), CBC (\$30,000)

The contract with MKSK will be with the Covington Business Council and managed by same. The input of an advisory committee will inform the designer. Members of the advisory committee will be determined by the City, CBC, MeetNKY and Southbank. A list of recommended City staff and representative groups is included below with the staff recommendation.

The anticipated project schedule is as follows:

- Execute agreement with MKSK – 4/23/2018;
- Commence scope of work 5/1/2018;
- Complete scope of work 8/1/2018;
- City review of work 8/1-9/1/2018 ;
- City adoption – October – date TBD.

Staff recommendation and analysis:

Approve the Order

Consider the following individuals for appointment to the Advisory Committee:

- Emily Ahouse – Historic Preservation/Urban Design
- Crystal Courtney – Urban Forestry
- Rick Davis – Public Works/Engineering
- Jeremy Wallace – Community Development Block Grants
- Tom West – Economic Development

Recommended Stakeholder groups to be represented:

- Mainstrasse Village Association
- Covington Business Council
- Renaissance Covington
- MeetNKY
- Kenton County
- Southbank Partners
- Center for Great Neighborhoods
- Business Owners/
- Developers with experience in the target areas (Downtown, Roebling Point, Mainstrasse, Linden Gateway)

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item:
Tom West with Pat Frew

 4/11/18
Department Director Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Jerome Heist, Interim Director of Finance Date

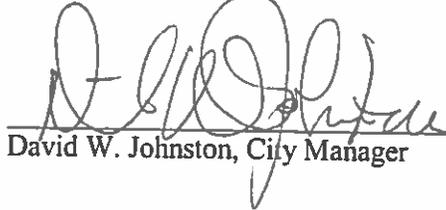
If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

 4/13/2018
David W. Johnston, City Manager Date

MKSK

MKSK STUDIOS COVINGTON
27 West 7th Street
Covington, KY 41011

DRAFT FOR REVIEW AND COMMENT

October 9, 2017

Honorable Joseph Meyer, Mayor
City of Covington
20 West Pike Street
Covington, Ky 41011
c/o Jeanne Schroer, Director, The Catalytic Fund

* Note:
Contract would be
w/ Catalytic Fund, CBC
not City

RE: PROFESSIONAL URBAN PLANNING & DESIGN SERVICES FOR THE DEVELOPMENT ON STREETScape DESIGN GUIDELINES FOR THE CITY'S TARGETED PUBLIC REALM ENHANCEMENTS

Dear Mayor Meyer:

Thank you for the invitation to present a proposal to provide design and planning services for the City of Covington's priority public realm enhancements. We understand that our work will result in the establishment of design criteria for urban design and public realm improvements associated with the following targeted corridors and districts:

- The Duveneck Square Area including 7th Street Corridor extending west from Greenup Street to Russell Street and Madison Avenue between 8th and 5th.
- The Mainstrass Area including Main south to Pike and 6th Street east to Scott Street.
- The Roebling Point Area including Greenup and Scott Street between 3rd and 4th and Scott Street Corridor extending south to 8th Street.
- The Bavarian Brewery Area along Pike Street east to Russell Street
- The Northern Kentucky Convention Center Area extending along Rivercenter Boulevard and Madison Avenue

Our work will be conducted by the professionals responsible for The City of Lexington's Cheapside District Enhancements; Lawrenceburg, Indiana Civic Park; Columbus, Ohio *Scioto Mile & Arena District* Improvements; Uptown Cincinnati's USquare; and the City of Indianapolis's Capital Square Enhancements.

We understand that all work will be directed by the Catalytic Fund acting on behalf of the City of Covington with input from your designated "Advisory/Coordinating Committee" composed of representatives from the City of Covington, Catalytic Fund, Renaissance Covington, Kenton County, Southbank Partners, MeetNKY,

B. Conceptual Design Guidelines

1. Identify and catalogue opportunities for improvements to alleyways, cross-streets and significant civic spaces as destinations. Identify strategies to create a more walk-able, accessible and inviting pedestrian network, and address improved bicycle mobility, alternative transportation options and potential traffic calming measures.
2. Provide recommendations for the development of more sustainable, earth-friendly design and construction practices including those that support the SDI's Consent Decree goals.
3. Provide recommendations for the development of enhancements to the public realm including recommended improvements to gathering and events spaces, parks and greenspaces, streets and alleyways, wayfinding and signage.
4. With City staff, provide recommendations with cost implications for possible improvements to existing overhead utilities and traffic control infrastructure.
5. Prepare prototypical streetscape design standards with options as may arise and seem logical, all in to-scale working paper form. These plans will build upon any prior conceptual plans and illustrate proposed improvements within and adjacent to the public right-of-way. Design guidelines to consider the following:
 - a. *Future curb sidewalk arrangement,*
 - b. *Lane configuration & intersection geometries*
 - c. *On-street bike facilities, transit stops, and lateral connections of the above into adjoining streets and the larger district.*
 - d. *On-street parking and metering facilities*
 - e. *District identity, gateway, signing and wayfinding elements*
 - f. *Specialty pavements,*
 - g. *Street furniture,*
 - h. *Street lighting*
 - i. *WIFI integration.*
 - j. *Tree selection & placement,*
 - k. *Sustainable design and construction practices*
 - l. *Potential interim/temporary improvements*
6. Prepare initial presentation package including the exhibits noted above with prototypical plan, cross-section and 3-d illustrations, potential materials palette, and other supporting design information.
7. Prepare conceptual, line-item estimate of costs and review same with CF and City Staff to develop consensus on design direction and budgeting moving forward.
8. Prepare initial phasing and implementation strategy including potential sequencing, construction budgets, and funding strategies and review same with CF and City Staff for concurrence on presentation deliverables to advisory committee.
9. Conduct interim review meeting with the advisory committee to solicit comment on work to date. (one (1) ninety-minute meeting is planned).
10. Revise presentation materials and content as appropriate and conduct interim project review meeting(s) or open house with invited district stakeholders to solicit comment on work to date and gain concurrence on the design direction, prioritization and phasing of work moving forward. (Note: If this forum was an open house we could probably accomplish it with one (1) two-hour

Items A Through B

Fixed Fee

.....\$58,500.
00

Item C

Time and Expense as requested

F. Agreement

Should these arrangements be acceptable to you, please execute both copies, retain one (1) copy for your records and return one (1) copy to this office to act as the basis of our agreement and our notice to proceed. Should another form of contract be desirable to you, please contact this office and we will begin processing immediately.

Thank you for considering **MKSK** for this important project. We look forward to our involvement with you.

Respectfully submitted,
MKSK

Clete J. Benken, ASLA
Principal

cc: Joe Nickol, Senior Associate, MKSK
Jack McGlasson, Project Manager, MKSK

APPROVED:

By: _____ Title: _____ Date: _____

Signature: _____

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17 LEGISLATIVE: 4/24

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: **AN ORDER/RESOLUTION DECLARING CERTAIN CITY PROPERTY AS SURPLUS AND AUTHORIZING ITS SALE AND TRANSFER PURSUANT TO KRS 82.083 AND 45A.425.** Several older technology items are included in the list of items to surplus.

Background of the request:

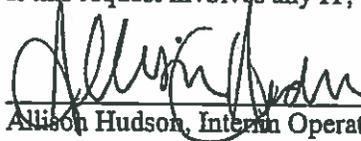
Approval allows the City to dispose of obsolete and/or inefficient equipment and to maximize the resale potential. I do not recommend that we donate due the age and condition of the equipment.

Staff recommendation and analysis: Approve

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: Kendall Huff

 4/16/18
Department Director Date

If this request involves any IT, building, or compliance matters:

 4/16/18
Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Jerome Heist, Finance Department Date

If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

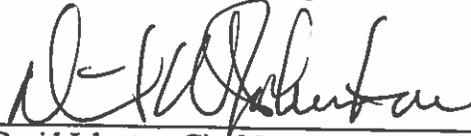
 4-10-18
Legal Department by: Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director

Date

Final Signature: City Manager.

 9/10/2018

David Johnston, City Manager Date

Service Tag	Serial #	Location	Make	Model	Type
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10080367957	4MPL9P1	City Hall	Dell	Optiplex 380	CPU
28469099269	D2TRLL1	City Hall	Dell	Optiplex 380	CPU
24751200493	BDC84J1	City Hall	Dell	Optiplex 380	CPU
2996573905	1DK2281	City Hall	Dell	Optiplex 380	CPU
441528409	210LDQ1	City Hall	Dell	Optiplex 380	CPU
14231687761	6JD6GK1	City Hall	Dell	Optiplex 380	CPU
19544920993	828JHK1	City Hall	Dell	Optiplex 380	CPU
33411060433	FCK2Z81	City Hall	Dell	Optiplex 380	CPU
32822663941	F2TRLL1	City Hall	Dell	Optiplex 380	CPU
5354754769	2GK2Z81	City Hall	Dell	Optiplex 380	CPU

38279179045	HC2FNC1	City Hall	Dell	Optiplex 380	CPU
Scanner x 1	N/A	City Hall	Epson	V500	Scanner
Mice x 62	N/A	City Hall			
Keyboards x 63	N/A	City Hall			

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 4/17 LEGISLATIVE: 4/24

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: **An order authorizing the publication of a request for proposals for property insurance coverage.**

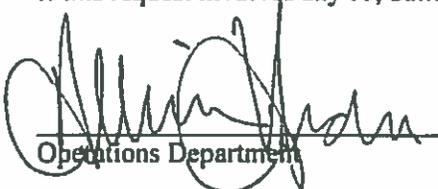
Background of the request: The City currently carries property insurance coverage through Cincinnati Insurance Company. The current coverage has an annual, (1) year term. This term expires on 7/1/18. The City insures both occupied and vacant City properties. The City is required to place this coverage out for competitive negotiation. The City would like to issue an RFP as to property insurance coverage.

Staff recommendation and analysis: Approve

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: Allison Hudson

 4-12-18
Department Director Date

If this request involves any IT, building, or compliance matters:

 4-12-18
Operations Department Date

If this request involves an expenditure of funds, please identify the funding source. Funding source:

Finance Department Date

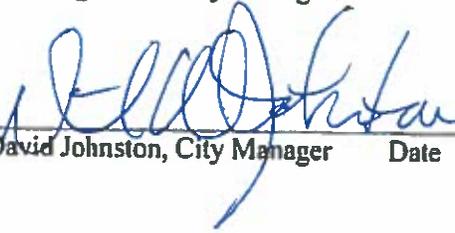
If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department

C Zoda - pending review of RFP
Legal Department by: _____ Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

 4/12/2018

David Johnston, City Manager Date

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: April 17, 2018 LEGISLATIVE: _____

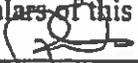
Ordinance Order Resolution Discussion/Item of Interest _____

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: *Approval to hire two full time driver positions in the General Maintenance Division of the Public Works Department.*

Background of the request: These are open positions due to retirements, promotions, and transfers within the Public Works Department recently. These positions are budgeted within the Public Works Operating Budget.

Staff recommendation and analysis: *Approval to hire two Driver Positions.*

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item: *Rick Davis*

 4/11/18
Department Director Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director Date

If this request involves an expenditure of funds, please identify the funding source. Funding source: *API*

Jerome Heist, Interim Director of Finance Date

If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

Legal Department by: _____ Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director Date

Final Signature: City Manager.

David Johnston, City Manager Date

AGENDA ITEM REQUEST/STAFF REPORT

Meeting Dates: CAUCUS: 04/17/18 LEGISLATIVE: _____

Ordinance Order Resolution Discussion/Item of Interest

A Supplemental Statement describing the specific nature of the request to be added to Commission meeting agenda header description: An order awarding the resurfacing contract to Bluegrass Paving, Inc. in an amount not to exceed \$631,148.06 + 10% (\$63,114.06) = \$694,262.87 to perform the annual resurfacing work for the City.

Background of the request: An ^{IFB}RFP was advertised and 4 bids were received. Bluegrass Paving, Inc. was the lowest responsive bidder. They have performed work for the City in the past and have done a great job.

The locations that are within CDBG eligible areas will be funded with CDBG money. The areas outside the CDBG eligible areas will be funded with money that was allocated from the Municipal Road Aid. The source of the funding will be CDBG funds and the Municipal Road Aid Capital Improvement Funds.

Staff recommendation and analysis: Approve awarding contract to Bluegrass Paving, Inc

Staff member or third party who will be in attendance to present this item and/or answer questions regarding the particulars of this item:

Rick Davis

Department Director  4/11/18 Date

If this request involves any IT, building, or compliance matters:

Allison Hudson, Interim Operations Director _____ Date

If this request involves an expenditure of funds, please identify the funding source. Funding source: ROAD AID
CDBG

Jerome Heist, Interim Director of Finance _____ Date

If this request involves a Request for Proposals or other legal documents, it must be signed by a member of the Legal Department. Please attach any contracts, MOUs, etc. that need to be reviewed by the Legal Department.

Legal Department by: _____ Date

If this request involves any personnel action, it must signed by the Director of Human Resource, Jo Ann Simpson:

Jo Ann Simpson, HR Director _____ Date

Final Signature: City Manager.

David Johnston, City Manager _____ Date

BID:
Annual Street Resurfacing

Published: March 24, 2018

Opening: April 11, 2018

<u>Company/Contractor/Bidder Name</u>	<u>Amount</u>
Riegler	\$ 631,757.75
Eaton	\$ 654,584.00
Bluegrass	\$ 631,148.06
Paul Michels	\$ 739,539.30

ANNUAL PAVING AGREEMENT

THIS ANNUAL PAVING AGREEMENT is entered into this ___ day of _____, 2018, by and between **BLUEGRASS PAVING, INC.**, a Kentucky corporation with a principal place of business at PO Box 667, Florence, Kentucky 41022 (the "Contractor") and the **CITY OF COVINGTON, KENTUCKY**, a Kentucky city of the home rule class with a principal place of business at 20 W. Pike Street, Covington, KY 41011 (the "City").

RECITALS

1. **WHEREAS**, the City sought proposals for its public improvements project related to paving certain streets and roadways throughout its jurisdictional boundaries (the "Sites").

2. **WHEREAS**, pursuant to Board of Commissioner's Order No. _____, the Mayor was authorized to enter into this agreement with the Contractor to perform the annual paving project (the "Work").

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

STATEMENT OF THE AGREEMENT

1. Compensation. That for and in consideration of the payment of a sum not to exceed **\$631,148.06** (the "Contract Price") to be paid by the City according to the terms set forth in Paragraph 4 of this Agreement, the Contractor agrees to perform the work provided herein.

2. Work. The Contractor shall do, perform and carry out, in a satisfactory and workmanlike manner with due diligence all of the professional services and provide all of the materials necessary to perform the operations set forth in the Contract Documents. Said services and materials shall hereinafter be referred to as "the Work."

3. Controlling Documents. The documents as listed below are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work. Together said documents shall hereinafter be referred to as "the Contract Documents" and shall include:

- a. This Agreement
- b. **EXHIBIT A PROJECT SPECIFICATIONS**
- c. **EXHIBIT B THE CONTRACTOR'S BID**
- d. **EXHIBIT D SCOPE OF CDBG CONTRACTS**
- e. **EXHIBIT E HUD FORM 4010**

4. Payment. The City shall pay the Contract Price by monthly payments minus ten percent (10%) retainage. Payment will be made by the City's Finance Department within thirty (30) days of receipt in a detailed monthly statement regarding the work that was completed, and upon the submission by Contractor of a completed and notarized Acknowledgment Form in a form substantially similar to that attached as Exhibit C. The City reserves the right to refuse payment if it is determined, by its Finance Director, that the monthly statement is inadequate. The City further reserves the right to refuse payment if it is determined by the City Engineer, City Manager, or their designee that the work

performed or materials provided for the Work are inadequate or defective. If it is determined by the City's Finance Director, City Manager, or Designee, that the monthly statement is inadequate, or that work performed or materials provided are inadequate or defective, the City shall notify the Contractor and tender written explanation for such action within ten (10) days of the action. Upon receipt of such notice, the Cure provisions provided in Paragraph 15 shall apply.

Invoices need to show the breakdown between CDBG streets and Capital Streets when submitted. The CDBG streets will be those highlighted in yellow on Bid Form Breakdown, Section 300.

5. Payment of Retainage. The ten percent (10%) retainage held by the City shall be paid to Contractor after the Contractor completes the Work and submits a final request for payment (the "Final Payment") and after the City has inspected the work performed and materials provided and reasonably determines the Work has been completed in a workmanlike manner and in accordance with the terms and specifications of the Contract Documents. If the City or the Designee determines that the work or materials are defective then the City may institute the remedies provided in Paragraph 15.

6. Contract Times. The Work will be complete and ready for Final Payment according to the Notice to Proceed included in the **PROJECT SPECIFICATIONS**

a. **CDBG WORK** shall be completed and invoiced first.

b. All **PAVING PROJECTS** included in the Work, including but not limited to the CDBG work, shall be completed within ninety (90) days of Project start date.

7. Compensatory Damages. The Contractor shall reimburse the City (1) for any fines, fees or penalties imposed on the City as a direct result of the Contractor's failure to complete the Work according to the **PROJECT SPECIFICATIONS**, and (2) for the actual costs, reasonably incurred by the City for engineering, observation, inspection, and administrative services needed to complete the Work following an Event of Default.

8. Liquidated Damages. In addition to the Compensatory Damages provided above, the Parties agree that an amount of **\$200.00/Day** shall be assessed for each day after any Milestone Date that the Work is not complete and ready for Final Payment. The Parties further agree that this amount does not represent a penalty and that the actual amount of damages for delay cannot be readily ascertained at the time of executing this Agreement.

9. Contractor's Deliveries Prior to Work. The Contractor hereby agrees to make the following deliveries prior to the commencing the Work:

a. Insurance. The Contractor shall furnish the City with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of insurance policies as further described in the **PROJECT SPECIFICATIONS**. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the City of Covington, Kentucky." The Contractor covenants and agrees to keep all

insurance coverage in full force and effect until completion of the Work. The City will be named as an additional insured on all liability policies.

- b. Occupational License. The Contractor shall acquire, or demonstrate prior acquisition of, a City of Covington Occupational/Business Regulatory Licenses prior to commencing the Work. The Contractor shall also ensure that any Sub-Contractor on the Work has acquired all licenses necessary to do business in the City of Covington.

10. Contractor's Warranties, Representations, and Covenants. Upon executing this Agreement, Contractor makes the following representations and warranties:

- a. Contractor's representations and warranties made by virtue of its submission of the **CONTRACTOR'S BID** are hereby incorporated as if restated in full.
- b. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Work.
- c. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.
- d. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- e. Contractor has considered the information known to contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Work Documents; and the Site-related reports and drawings identified in the Work Documents, if any, with respect to the effect of such information observations, and documents on (1) the cost, progress and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and (3) Contractor's safety precautions and programs.
- f. Contractor represents that it has, or will have, at its own expense, all personnel required in performing the Work. Such personnel shall not be employees of, or have any contractual relationship with the City.
- g. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance to the other terms and conditions of the Contract.
- h. Contractor is aware of the general nature of the work to be performed by others at the site that relates to the Work as indicated in the Contract Documents and acknowledges that the Designee may refuse inadequate or defective work.
- i. Contractor has given notice to the City or the Designee of any conflicts, errors, ambiguities, or discrepancies that the Contractor has discovered in the Contract Documents.

- j. Contractor agrees to comply with all requirements of the Davis-Bacon Act, and all other provisions of HUD Form 4010 attached hereto as Exhibit E and incorporated herein by reference.
- k. The Contract Documents are generally sufficient to convey the understanding of all terms and conditions for performance and furnishing of the Work.
- l. Contractor represents that it has revealed any final determination of a violation of KRS Chapters 136 "Corporation and Utility Taxes", 139 "Sales and Use Taxes", 141 "Income Taxes", 337 "Wages and Hours", 338 "Occupational Safety and Health of Employees", and 342 "Workers' Compensation" by the within the previous five (5) years, and further covenants that it shall be in continuous compliance with the provisions of KRS Chapters 136 "Corporation and Utility Taxes", 139 "Sales and Use Taxes", 141 "Income Taxes", 337 "Wages and Hours", 341 "Unemployment Compensation", and 342 "Workers' Compensation" for the duration of this Contract.
- m. **By signing this Agreement Contractor affirms that is aware of the prohibition against conflicts of interest, gratuities, and kickbacks as set forth is KRS 45A.455, which are incorporated by reference into this Agreement, and agrees not to violate these provisions.**
- n. By executing this Agreement, Contractor hereby restates all representations made within the Bid Package.

11. Equal Opportunity Employment. Unless exempted by KRS 45.590, during the performance of the Agreement the Contractor agrees as follows:

- a. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin.
- b. The contractor shall take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin.
- c. The contractor shall state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin.
- d. The contractor shall post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section.
- e. The contractor shall send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or

understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

12. Section 3 Compliance Provisions.

- a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- c. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- d. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- e. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- g. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education

Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and sub contracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

13. Additional Federal Compliance Provisions.

- a. Patent Rights (24 CFR 85.36(i)(8)). No discovery or patent rights arising from any discovery or invention which arises or is developed in the course of or under this contract shall be exercised by or on behalf of the contractor. Copyrights (24 CFR 85.36(i)(9)) No reports, handbooks, documents, maps, data, or pamphlets produced in whole or in part under this contract will be the subject of any application for copyright by, or on behalf of the contractor.
- b. Copyrights (24 CFR 85.36(i)(9)). No reports, handbooks, documents, maps, data, or pamphlets produced in whole or in part under this contract will be the subject of any application for copyright by, or on behalf of the contractor.
- c. Environmental Compliance (24 CFR 85.36(i)(12)). Contracts must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (H)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15) prohibiting the use of facilities included on the EPA List of Violating Facilities.
- d. Energy Efficiency (24 CFR 85.36(i)(13)). The Work must be in compliance with the Energy Policy and Conservation Act (P.L. 94-163).
- e. Contract Work Hours and Safety Standards Act. Contractor shall complete the Work in compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5).
- f. Patent Rights (24 CFR 85.36(i)(8)). No discovery or patent rights arising from any discovery or invention which arises or is developed in the course of or under this contract shall be exercised by or on behalf of the contractor. Copyrights (24 CFR 85.36(i)(9)) No reports, handbooks, documents, maps, data, or pamphlets produced in whole or in part under this contract will be the subject of any application for copyright by, or on behalf of the contractor.

14. Events of Default. The following acts shall constitute an Event of Default under this Agreement:

- a. The Contractor's failure to fully perform and carry out any of the obligations, covenants and/or conditions of this Agreement; and/or
- b. The discovery at any time after the execution of this Agreement that any representation or warranty is inaccurate or untrue.

15. Cure. Upon an Event of Default, that the City in its sole discretion deems subject to cure, the City shall provide written notice to the Contractor with a request that the Contractor cure said Event of Default within a reasonable time (the "Cure Period"). If the Contractor fails to cure said default within such reasonable time or if the City determines that an Event of Default may not be cured, the City reserves the right to institute the Remedies provided in Paragraph 16 below.

16. Remedies. Upon the occurrence of an uncured Event of Default or an Event of Default that is not subject to cure, the City, in its sole discretion, may implement any or all of the following remedies:

- a. Terminate and cancel the Agreement;
- b. Withhold any payment that may be due, provided that such retention of any payment due shall not release the Contractor from liability for the default;
- c. Withhold any retainage that may be held by the City; and/or
- d. Contract with a third party and complete the Contract at the expense of the Contractor, or if applicable its surety.

17. Attorney's fees. In the event the City institutes any of the above remedies, the Contractor shall pay the City's attorney's fees, court costs and expenses incurred by the City as a result of the Contractor's uncured default. If City or the Designee inspects the Work and determines that a Final Payment is due Contractor, but later discovers a defective condition in work or materials, then the final payment shall not waive any rights that the City may have against the Contractor and the Contractor shall correct any defect without additional consideration.

18. Cumulative Remedies. The implementation of any or all of the remedies in Paragraph 16, shall not affect or terminate any of the rights of the City as against the Contractor then existing or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the City under the law, including attorneys' fees incurred in curing the default.

19. Dispute Resolution. Any dispute between the Parties arising under this Agreement, shall be subject to the following dispute resolution procedures:

LEVEL 1 The Parties shall conduct an informal mediation facilitated by the City's Designee.

LEVEL 2 Provided the Parties do not resolve any dispute in accordance with the Level 1 mediation procedure, within fourteen (14) days of the unsuccessful Level 1 mediation, the Parties shall select a mutually agreeable, neutral mediator and schedule a mediation. The Parties shall share the costs of any Level 2 mediation.

LEVEL 3 Should any dispute remain unresolved after Level 2 mediation, the dispute shall be resolved through litigation in a court of competent jurisdiction located in Kenton County, Kentucky.

20. Sub-Contracting. The Contractor hereby agrees that none of the work or services covered by this Contract shall be subcontracted without prior written approval of the City

21. Notice. All notices required or permitted under this agreement shall be in writing, and directed to the Parties at the following addresses:

- a. Any communication to the Contractor shall be deemed effective for all purposes as of the date such communication is personally delivered to or received by registered or certified mail, return receipt requested:

- b. Any communication to the City shall be deemed effective for all purposes as of the date such communication is personally delivered to or received by registered or certified mail, return receipt requested:

CITY OF COVINGTON
David W. Johnston City Manager,
20 W. Pike Street,
Covington, Kentucky 41011

22. Modification. The City may, from time to time, require changes in the Work. Such changes, including any increase or decrease in compensation, which are mutually agreed upon between the City and the Contractor, may be contingent upon approval by the Covington Board of Commissioners and shall be incorporated as written amendments to this Contract.

23. Assignment. The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the City.

24. Governing Law and Venue. This Agreement shall be interpreted and construed in conformity with the laws of the Commonwealth of Kentucky. Any litigation related to this contract shall take place in a court of competent jurisdiction in Kenton County, Kentucky.

25. Indemnification. The Contractor shall indemnify the City against any damages to property or injuries to or death of any person or persons, including property and employees or agents of the city, and shall defend and indemnify the City from any claims, demands, suits, actions or proceedings of any kind, including workers' compensation claims, of or by anyone, in any way resulting from or arising out of the Work in connection here, including operations of subcontractors and acts or omissions of employees or agents of the Contractor or Contractor's subcontractors. Insurance coverage specified here and in the special conditions constitutes the minimum requirements and those requirements shall in no way lessen or limit the liability of the contractor under the terms of the contract.

26. Duty to Defend. In addition to the indemnities provided above, Contractor shall defend City, its officers, agents, and employees (i) against any suit, proceeding, claims for losses, costs, damages or expenses including, without limitation, charges for personal injury, death or property damage that arise out of any and all acts or omissions of employees or agents of the Contractor or Contractor's subcontractors in connection with the Work; and (ii) shall pay all damages, costs and expenses in connection with such actions, including City's attorneys' fees.

27. Force Majeure. Neither the City nor the Contractor shall hold the other responsible for damages or delays in performance caused by uncontrollable events, which could not reasonably have been anticipated or prevented, including without limitation, acts of God, the public enemy, acts of the United State Government or of the several states, or any foreign country, or any of them acting in their sovereign capacity, wars, riots, terrorism, rebellions, sabotage, fires, explosions or accidents not the fault of either Party, floods or other natural disasters causing materially different Site conditions, strikes, or other concerned acts of workers, lockouts, or changes in law, regulations, or ordinances.

28. Severability. In the event that any provision or portion of this Contract shall be found to be invalid or unenforceable, then such provision or portion of the Contract shall not affect the validity or enforceability of any other provision or portion of the Contract.

29. Entire Agreement. This Contract including the Bid Package and Construction Documents constitutes the entire agreement between the City and the Contractor with respect to the Work. It is intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement.

30. Meaning. The terms used in this Agreement will have the meanings stated herein. This Agreement is to be construed according to the terms, conditions and promises contained herein as well as those contained in the Contract Documents, which are incorporated by reference. In the case of conflicting terms between this Agreement and **THE PROJECT SPECIFICATIONS**, this Agreement shall govern. In the case of conflicting terms between **THE PROJECT SPECIFICATIONS** and **CONTRACTOR'S BID** the **PROJECT SPECIFICATIONS** shall govern.

[Signature page follows.]

IN WITNESS WHEREOF, the **CITY** and the **CONTRACTOR** have executed this agreement as of the date first above written.

CITY OF COVINGTON, KENTUCKY

Joseph U. Meyer, Mayor
Pursuant to Order No. _____

Witness

BLUEGRASS PAVING, INC.

BY:

Witness

ITS: _____

EXHIBIT A
THE PROJECT SPECIFICATIONS

**EXHIBIT B
CONTRACTOR'S BID**

EXHIBIT C – ACKNOWLEDGMENT FORM

Date of Application:	
Contractor:	
Project:	
Street Name where work completed:	
Total Amount of Work Completed	
10% Retainage	
Total Payment Requested	

The Contractor hereby acknowledges that: (1) it has completed the work detailed in the invoice submitted to the Finance Department of the City of Covington on the date herewith; and (2) it has substantially complied with all of the terms and conditions set forth in the Agreement/Contract dated _____, 2018.

CONTRACTOR

By: _____ Date: _____

Its: _____.

State of Kentucky)
 County of Kenton) SS:

The foregoing Acknowledgement Form was subscribed, sworn to and acknowledged before me this ____ day of _____, 2018 by the CONTRACTOR, _____, by and through its duly authorized agents, _____.

My Commission Expires: _____ Notary Public, State at Large

EXHIBIT D
SCOPE OF CDBG CONTRACTS

EXHIBIT E
HUD FORM 4010

PUBLIC AND CIVIC												
Colleges and Universities	C	C	C	C	-	P	-	-	C	C	C	
Cultural Exhibits and Libraries	P	P	P	P	P	P	-	P	-	-	-	
Day Care	P	P	P	P	P	P	-	-	C	-	-	§Section 6.07
Hospital	C	C	C	C	C	P	-	-	-	-	-	§Section 6.14
Lodge or Private Club	C	C	C	C	C	C	-	C	C	-	-	§Section 6.17
Recreation and Open Space												
Low-Intensity	P	P	P	P	P	P	P	P	P	C	C	C
High-Intensity	C	C	C	C	C	C	C	C	C	C	C	C
Postal Service	P	P	P	P	P	P	-	-	P	P	P	
Religious Assembly	P	P	P	C	C	P	-	-	-	-	-	
Safety Services	P	P	P	P	P	P	-	-	P	P	P	§Section 6.25
Schools	C	C	C	C	C	C	-	-	-	-	-	
Utilities												
Essential services	P	P	P	P	P	P	P	P	P	P	P	
Major	C	C	C	C	C	C	C	C	C	C	C	
COMMERCIAL												
Animal Services												
Sales and grooming	P	P	P	P	-	P	-	-	-	-	-	§Section 6.03
Veterinary hospitals	C	P	P	-	-	-	-	-	P	P	P	
Kennels and shelters	-	-	C	-	-	-	-	-	P	P	P	
Other (not specifically listed, above)	-	-	C	-	-	-	-	-	P	P	P	
Artist Galleries and Studios (excluding Body Art Services)	P	-	P	P	P	-	-	-	-	-	-	
Body Art Services	-	-	-	-	C	-	-	-	-	-	-	§Section 6.06
Building Maintenance Services												
Indoor	-	-	P	C	-	P	-	-	P	P	P	
Outdoor	-	-	C	-	-	-	-	-	P	P	P	
Business Equipment Sales and Service	P	P	P	P	-	P	-	-	P	-	-	
Business Support Services												
Day laborer employment	-	-	-	-	-	-	-	-	-	C	C	P

USE GROUP	Commercial Zones								Industrial Zones			Use-Specific Standards
Use Category	CN	CC	CG	CBD	CT	CO	CRL	CRG	IP	IL	IG	
I Specific Use Type												
P = permitted by right C = conditional use - = not permitted												
agency or pick-up facility												
Other (not specifically listed, above)	-	C	P	P	-	P	-	-	P	P	P	
Communication Service Establishments	-	-	P	P	-	P	-	-	P	-	-	
Construction Sales and Service												
Indoor	-	-	P	-	-	-	-	-	P	P	P	
Outdoor	-	-	P	-	-	-	-	-	P	P	P	
Repair or Laundry Service, Consumer												
Laundromat	-	C	-	-	-	-	-	-	-	-	-	
Other (not specifically listed, above)	P	P	P	P	P	P	-	-	P	-	-	
Eating/Drinking Establishments												
Microdistillery	-	C	C	C	C	C	-	-	-	P	-	
Microbrewery	-	C	C	C	C	C	-	-	-	P	-	§Section 6.28
Brewpub	-	P	P	P	P	-	-	-	-	-	-	
Restaurant with or without beer, wine or alcohol	P	P	P	P	P	P	P	P	P	^[-] C	-	§Section 6.28
Tavern	P	P	P	P	P	P	P	P	P	-	-	§Section 6.28
Entertainment												
Small	P	P	P	P	P	-	P	P	-	-	-	
Medium	-	C	P	P	P	-	C	P	-	-	-	§Section 6.08
Large	-	-	C	C	C	-	C	C	-	C	-	§Section 6.09
Bingo Hall	-	C	-	-	-	-	-	-	-	-	-	
Financial Services												
Currency exchange (check cashing)	-	C	-	-	-	-	-	-	-	-	-	§Section 6.10
Payday loan	-	C	-	-	-	-	-	-	-	-	-	§Section 6.10
Pawn shop	-	C	-	-	-	-	-	-	-	-	-	§Section 6.10
Tax Preparation Service	C	C	-	-	-	C	-	-	-	-	-	§Section 6.10
Other (not specifically listed, above)	C	P	P	P	P	P	-	-	-	-	-	
Food and Beverage Sales, Retail												
Package Liquor (Distilled Spirits)	-	P	C	-	-	-	-	-	-	-	-	
Other (not specifically listed, above)	P	P	P	P	P	P	-	-	-	-	-	
Fortune Telling Service	-	C	-	-	C	-	-	-	-	-	-	§Section 6.11
Funeral and Internment Services	C	C	P	-	-	C	-	-	-	-	-	
Gasoline Stations	-	C	P	-	-	C	-	-	P	P	-	§Section 6.12
Lodging												
Bed and breakfast	P	P	P	P	P	P	-	P	-	-	-	§Section 6.04
Hotel/motel	-	-	P	P	P	P	-	P	-	-	-	
Medical Service	C	P	P	P	-	P	-	-	-	-	-	

USE GROUP Use Category	Commercial Zones								Industrial Zones			Use-Specific Standards
	CN	CC	CG	CBD	CT	CO	CRL	CRG	IP	IL	IG	
1 Specific Use Type	P = permitted by right C = conditional use - = not permitted											
Office	P	P	P	P	P	P	-	-	C	C	C	§Section 6.21
Personal Improvement Service	P	P	P	P	P	P	-	-	C	C	-	
Residential Storage Warehouse	-	-	-	-	-	-	-	-	C	C	C	§Section 6.23
Retail Sales and Service												
Antique shop	P	P	P	P	P	P	-	P	-	-	-	
Flea market	-	-	-	-	-	-	-	-	-	C	-	§Section 6.24
Furniture rental, consumer	-	C	-	-	-	-	-	-	-	-	-	§Section 6.24
Secondhand store	C	C	-	-	-	-	-	-	-	-	-	§Section 6.24
Vintage clothing store	-	-	-	C	C	-	-	-	-	-	-	
Other (not specifically listed above or specifically excluded herein)	P	P	P	P	P	P	-	P	-	<u>C</u>	-	
Sexually Oriented Business												
Sexually oriented media store, sex shop or service-oriented escort bureau	-	P	-	P	-	-	-	-	-	-	-	§Section 6.26
A sexually oriented business featuring on-premise entertainment	-	P	-	P	-	-	-	-	-	P	P	§Section 6.26
Vehicle Sales and Service												
Auto supply/ accessory sales	-	-	P	-	-	-	-	-	-	-	-	
Car wash	-	-	P	-	-	-	-	-	-	P	-	
New vehicle and equipment sales, light	-	P	P	-	-	-	-	-	-	P	P	
Used vehicle and equipment sales, light	-	-	-	-	-	-	-	-	-	C	C	§Section 6.29
Vehicle and equipment sales, heavy	-	-	-	-	-	-	-	-	-	P	P	
Vehicle servicing, minor	-	P	P	-	-	-	-	-	-	-	-	§Section 6.19
Vehicle repair, minor	-	C	C	-	-	-	-	-	-	P	-	§Section 6.19
Vehicle repair, major	-	-	-	-	-	-	-	-	-	P	P	
INDUSTRIAL												
Junk/Salvage Yard	-	-	-	-	-	-	-	-	-	C	P	§Section 6.15
Manufacturing, Production, and Industrial Service												
Limited	-	-	P	-	-	-	-	-	P	P	P	§Section 6.16
General	-	-	-	-	-	-	-	-	-	P	P	
Intensive	-	-	-	-	-	-	-	-	-	-	P	
Mining/Excavation	-	-	-	-	-	-	-	-	-	-	P	
Recycling Facilities												
Class I	-	-	-	-	-	-	-	-	P	P	P	
Class II	-	-	-	-	-	-	-	-	-	P	P	
Class III	-	-	-	-	-	-	-	-	-	C	P	
Warehouse and Freight Movement												
Indoor	-	-	C	-	-	-	-	-	P	P	P	
Outdoor	-	-	-	-	-	-	-	-	-	P	P	

USE GROUP Use Category	Commercial Zones								Industrial Zones			Use-Specific Standards
	CN	CC	CG	CBD	CT	CO	CRL	CRG	IP	IL	IG	
1 Specific Use Type												
P = permitted by right C = conditional use - = not permitted												
Waste-Related Service	-	-	-	-	-	-	-	-	-	-	C	§Section 6.30
OTHER												
Marine-related Use												
Temporary passenger watercraft loading	-	-	-	-	-	-	P	P	-	-	-	
Boat docking facilities	-	-	-	-	-	-	P	P	-	-	-	§Section 6.05
Barge and industrial facilities	-	-	-	-	-	-	-	-	-	P	P	
Parking, Non-accessory	-	C	P	P	C	C	C	C	P	-	-	
Signs, Advertising	-	-	-	-	-	-	-	-	-	-	-	

Section 2

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.

MAYOR

ATTEST:

CITY CLERK

Passed: _____ (Second Reading)

_____ (First Reading)