

REQUESTS FOR COUNCIL ACTION/DISCUSSION

Finance Committee

- 23-098-5/8 – Budget Amendments
- 23-099-5/8 – Purchasing Card Policy Update
- 23-100-5/8 – Job Creation Grant – Allfasteners USA LLC
- 23-101-5/8 – Agreement w/Kleinfelder – Administrative Services CHIP Grant
- 23-102-5/8 – Change of Vendor – P.O. #2022-1601 Rotunda Flooring Project – ARPA
- 23-103-5/8 – Use of Remaining ARPA Funds
- 23-104-5/8 – Agreement w/ lamGIS – GIS System Renewal – Engineering
- 23-105-5/8 – Discussion Re: Collection of Signatures for Petitions
- 23-106-5/8 – Revise Civil Service Rules – Communication Operators Lateral Transfers
- 23-107-5/8 – EMA Agreement

5/8/23

REQUEST FOR COUNCIL ACTION

FROM: Jess Hazeltine
DATE: June 14, 2022
SUBJECT: Display of Flags on Government Property

No. RCA 22-155-6/27
Committee: Special Legislation
Finance
C.O.W 1-18-23 6-28-2

SUMMARY AND BACKGROUND:

I am respectfully proposing the attached ordinance be adopted into law by City Council upon review by the Law Director. This ordinance protects the City of Medina and its right to approve and fly flags that align with the City of Medina's Mission Statement and goals. Upon adoption of this ordinance, the City of Medina will have an established policy in place for future displays by the City.

6-28 Ramb - Not going to vote on tonight
11-9-22 Jess - Read Mission Statement - proposed legislation to fly flags on city owned posts & property. we will consider any other Council members request.
• Not uncommon in Ohio.
Paul - prepared statement (read)
11/14/22 Bill Ramb - Guideline for using government speech.
Jess.
Hubel - Northeastern (6:50 pm)
Regi - The hot flag is the PRIDE flag. - supports proposal - about all of us.
Coyle - Shields - Keep Am. flag up all time & have another pole - Should always be respect to

Estimated Cost:

Suggested Funding:

- sufficient funds in Account No.
- transfer needed from Account No. to Account No.
- NEW APPROPRIATION needed in Account No.

Emergency Clause Requested:

Reason:

COUNCIL USE ONLY:

Committee Action/Recommendation:

Council Action Taken: 6/28/22 Hold for LD review
11/9/22 JH/BL move to Finance
2-1 (PR)
11/14/22 - HOLD
1/18/23 - No action taken

Ord./Res.

Date:



132 North Elmwood Ave.
P.O. Box 703
Medina, Ohio 44258-0703
Phone: 330-725-8864
Fax: 330-722-9045
www.medinaoh.org

January 11, 2023

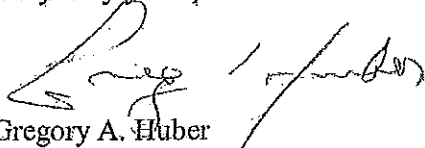
Council:

Enclosed is a redraft of the proposed ceremonial flag ordinance. I took out the section about prohibited religious and political flags. I think this issue can be handled internally by the Council as the Council decides what flags will be flown. I recommend that you not keep an across-the-board prohibition on religious or political flags in the ordinance that is adopted in light of some of the more recent federal court decisions that I reviewed.

I added a section requiring that any ceremonial flags are, in fact, flags that City Council authorizes for purchase. This helps maintain a bright line between government speech and private speech. Any other changes to this ordinance we can cover as the issues are discussed next week.

If you have any questions, please do not hesitate to contact me.

Very truly yours,


Gregory A. Huber
Law Director

GAH/sjs
Enclosure
cc: Kathy Patton, Clerk of Council

Preserving the Past. Forging the Future.

ORDINANCE NO. XX-22

Re-draft
1/11/23

**AN ORDINANCE ADOPTING GUIDELINES
REGARDING THE DISPLAY OF
COMMEMORATIVE FLAGS ON CITY
PROPERTY.**

WHEREAS: City Council desires to establish clear guidelines regarding the display of all flags flown on City owned property; and,

WHEREAS: City Council declares that flagpoles on property owned by the City of Medina are not intended to serve as a forum for free expression by the public, but rather as a non-public forum only for the display of flags authorized by City Council either as required by law or as an expression of the City's official government speech.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, COUNTY OF MEDINA, STATE OF OHIO:

SEC. 1: Flags displayed on City-owned property shall be displayed in accordance with federal and state statutes and regulations, including but not limited to, United States Code, Title 4, Chapter 1, and Ohio Revised Code Section 5.012.

SEC. 2: That Council adopts the following guidelines regarding the display of commemorative flags on City-owned property:

1. As used in these guidelines, a "Commemorative Flag" shall mean a flag that identifies with a specific historical event, cause, theme, nation, or group of people that the City Council chooses to honor, recognize, or commemorate consistent with the City's policies and priorities.
2. The Mayor may order the Commemorative Flag of any duly recognized Sister City of the City of Medina to be flown on property owned by the City of Medina during official visits of representatives of the Sister City provided that City Council has not authorized another Commemorative Flag for the same location and period of time.
3. The Mayor may order the Commemorative Flag recognizing the City of Medina as a Tree City USA on property owned by the City of Medina during the week before and the week following National Arbor Day provided that City Council has not authorized another Commemorative Flag for the same location and period of time.
4. Except as provided above, Commemorative Flags may be displayed only as authorized by resolution of City Council as an expression of the City's official government speech.

5. City Council shall only consider a request to display a Commemorative Flag made by a member of City Council. Requests to fly a Commemorative Flag made by members of the public will not be considered.
6. City Council shall set forth in the authorizing resolution the specific location and period of time that the Commemorative Flag shall be displayed.
7. Commemorative Flags authorized for display by the City Council shall only involve flags that are purchased by the City of Medina as authorized by the Medina City Council. Commemorative Flags shall not involve flags donated or given to the City by private individuals, non-profit organizations, private entities, or for-profit organizations.
8. Commemorative Flags must be the same size or smaller than the United States or Ohio flags being flown.
9. If any other flag is being flown at half-staff, the Commemorative Flag will also be flown at half-staff.

SEC. 4: That the Clerk of Council be and hereby is instructed to record this Ordinance in the appropriate record book.

SEC. 5: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 6: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

RCA 22-155-6/2021

MEMO

TO: Mayor Dennis Hanwell

FROM: Gregory A. Huber, Law Director

DATE: July 5, 2022

RE: Raising Flags as Private Speech as Opposed to Raising Flags by Way of Government Speech

You asked that I summarize the law that applies when the City of Medina raises flags at the behest of private individuals or private groups. Recently, the City of Medina raised pride flags on city-owned flagpoles utilizing city employees at the request of Councilwoman Hazeltine; my understanding is that the flags were purchased by a non-profit group for display. The question that you have asked me has to do with whether we can receive flags at the request of an outside group of individuals, and at the same time, deny the request from a different group of individuals if they want to raise flags that City of Medina citizens may find offensive. In other words, if we begin to raise flags at the behest of private individuals or private groups, do we lose control over the content of what is on the flags? The federal courts analyze this issue in terms of whether flag flying constitutes private speech as opposed to government speech. The distinction between private speech and government speech seems to very much turn upon the procedure and process by which these flags are acquired and subsequently raised.

Councilwoman Hazeltine provided me with a Supreme Court case entitled *Shurtleff v. City of Boston*, 142 S. Ct. 1583 (2022). The providing of this case for my review was helpful as the case is the most recent and relevant precedent on the subject from the highest court. There are other federal cases that also bear upon these issues. My conclusion from reading the relevant case law is that the flying of LGBTQ+ Pride flags at the behest of private individuals, non-profits, or private organizations, in fact, constitutes private speech. Because these ceremonial flags constitute private speech, the City of Medina, down the road, will find it difficult to deny requests to fly other flags based upon their content if the city engages in permitting private speech. On the other hand, if the City of Medina seeks to fly LGBTQ+ Pride flags on its own accord where the City of Medina purchases the flags, and we put them up ourselves, the courts consider the flying of the flags under those conditions as "government speech." If the city purchases the flags and the city puts them upon city flagpoles, the city is not obligated in the future to fly other flags as the city is free to limit its own speech based upon content. If the city flies Pride flags as government speech and the city denies other individuals the right to fly flags they want to fly and we are flying Pride flags by way of government speech, we are permitted to discriminate on what it is that we are putting on our flag poles.

In *Shurtleff v. City of Boston*, 142 S. Ct. 1583 (2022), the Supreme Court of the United States analyzed how it is that a city may allow private individuals and groups to fly ceremonial flags. Boston City Hall maintains three flagpoles on the exterior of its building. The first pole flies the flag of the United States of America; the second pole flies the flag of the State of Massachusetts; and the third pole typically flies the flag of the City of Boston. On occasion, at the request of private groups or individuals, the city would allow ceremonial flags to be flown in place of the city flag. Over the course of 12 years between 2005 and 2017, the City of Boston approved 50 unique flags to be flown on the third pole. Those flags typically included foreign nations. Some of the flags were for specific groups or causes like the Pride flag and a flag honoring emergency services personnel. In 2017, the Plaintiff, Mr. Shurtleff, requested leave to file a Christian flag in connection with his work with an upcoming event being held for Camp Constitution. The Boston City Commissioners declined Mr. Shurtleff's request citing concerns over whether a religious flag would, in fact, constitute government speech promoting a specific religion, and thus, resulting in a violation of the Constitutional Establishment Clause. Upon denial of his request, Mr. Shurtleff sued the city alleging violations of his First Amendment Free Speech rights. The Shurtleff case is a good example of litigation that can occur when flags are permitted by a city at the request of one group, and flags are not permitted by the city at the request of another group.

The U. S. Supreme Court began its analysis in *Shurtleff* by considering the meaning behind the three flags that were typically raised by the City of Boston. The three flags as noted hereinabove that were typically flown involved the American flag, the state flag, and the flag for the City of Boston. The court noted that the third flag, the City of Boston flag, clearly symbolizes the City of Boston and that these flags usually conveyed the city's messages. Thus, the question became in *Shurtleff* whether when a City of Boston flag was swapped out for a ceremonial flag, did the ceremonial flag also represent the city's message. In determining whether the flag displays were government speech, the court considered whether the City of Boston shaped or controlled the flag's content and meaning. The United States Supreme Court reasons as follows:

The circumstantial evidence of the public's perception does not resolve the issue. The most salient feature of this case is that Boston neither actively controlled these flag raisings nor shaped the messages the flags sent. To be sure, Boston maintained control over the plaza's physical premises, presumably to avoid chaos. But the key issue is whether Boston shaped or controlled the flag's content and meaning; such evidence would tend to show that Boston intended to convey the flag's messages as its own.

The U. S. Supreme Court in examining these issues also looked to evidence of "the history of expression at issue; the public's likely perception as to who (the government or a private person) is speaking; and the extent to which the government has actively shaped or controlled the expression." *See also, Walker v. Texas Div., Sons of Confederate Veterans Inc.*, 576 U.S. 200 at 209-214.

The City of Boston had an application form for whenever someone wanted to hold an event at Boston's public forums. The public forums included the public plaza at Boston City Hall. The form merely asked for contact information for the organizer and a brief description of the event with proposed dates and times. The Boston city employee who processed the applications testified that he did not request information with respect to reviewing flags prior to the events, and in fact, the practice of the City of Boston was to approve all requested flags until receiving Mr. Shurtleff's request. The city did not have any policy in place that provided guidance on permissible flag content. As for its involvement in the flags, the city did provide a hand crank to the groups raising a ceremonial flag so that groups could raise their own chosen flags. The United State Supreme Court found that the physical control of the flags was not dispositive on whether the flag flying was personal speech or private speech. The court found that the City of Boston's control over the flag's content and meaning is the essential consideration. The U. S. Supreme Court found in the Boston case that because the ceremonial flag was being raised at the behest of a private organization, the ceremonial flag was not government speech. The City of Boston was not controlling flag content and was raising flags upon private request.

The U. S. Supreme Court in the City of Boston case examined other cases where the court found that internal control over the content of the flag and internal purchase of a flag by a government, in fact, did constitute government speech. Good examples of government speech involve the cases, *Walker v. Texas Div., Sons of Confederate Veterans Inc.*, 576 U.S. 200 at 209-214, and *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009). If the city is engaging in government speech, the city can deny other requests for other flags that the city does not want. After comparing the *Pleasant Grove City* case and the *Walker* case, the U. S. Supreme Court found that Boston had no record of controlling the flags that it was flying on its ceremonial flagpole. The court concluded that because the City of Boston was not exercising control over the flags that were flying on the ceremonial flagpole and because the flags were being provided by outside groups, the flying of the ceremonial flags in Boston was "private speech." The court held:

Because the flag raising program did not express government speech, Boston's refusal to let Petitioner Shurtleff fly his flag in fact violated the Free Speech Clause of the First Amendment. When the government does not speak for itself, it may not exclude private speech based on 'religious viewpoint'; doing so, constitutes impermissible viewpoint discrimination.

The U. S. Supreme Court in the City of Boston case further found that if Boston wanted the ceremonial flags to be deemed "government speech," it could have implemented a policy to that effect. The court cited to the flag policy implemented by the City of San Jose. San Jose takes the position that none of the flagpoles on its campuses are intended for use as a form for free expression by the public. The San Jose policy goes on to list flags that are approved for flying, i.e. national holiday and other federally approved flags. Given the City of Boston's

failure to have a policy and its lack of involvement in the content and meaning of ceremonial flags, the City of Boston flag-flying program constituted private speech. Because the ceremonial flag-flying program in Boston constitutes private speech, the city could not deny anyone from flying any flag without engaging in viewpoint discrimination. The court noted that the City of Boston is free to change its policy going forward.

In the matter at hand, the City of Medina does not have an established policy regulating the content and meaning of ceremonial flags that it permits to be flown on city grounds or city property. If the City of Medina further engages in the flying of flags at the behest of private individuals, private groups, or non-profit groups, the flying of flags in this manner will be considered "private speech." If we pursue that model, we may have to accept the flying of confederate flags, religious flags, or other flags that have possible offensive content. On the other hand, if the City of Medina seeks to raise ceremonial flags on its own initiative in accordance with recognized national holidays or other specifically recognized city purposes, then presumably that ceremonial flag flying will constitute government speech, and the city may deny requests to fly other flags based upon their content. Implementing a policy like that in place in San Jose could quell any confusion and may clarify the city's intention to speak or not speak through the use of ceremonial flags. I am including a copy of San Jose's written policy with this memorandum.

Summary

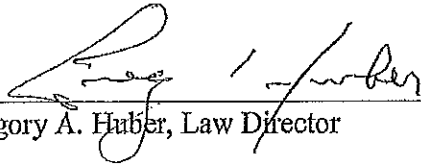
Options available with respect to ceremonial flags are as follows:

- (1) Refuse to fly ceremonial flags and simply fly the American flag and/or the State of Ohio flag.
- (2) Permit "private speech" where the city flies flags at the behest of private individuals, private groups, or non-profit organizations. Permitting private speech will prevent the city from regulating the content of flags.
- (3) Permit "government speech" where a ceremonial flag is purchased by the city and erected by the city with the intent that it represent "communication directly from the government." By engaging in government speech, the city may prevent the flying of flags that are not acceptable to the Medina City Council. If the ceremonial flag is controversial, there may be political disagreement, but government speech is defensible in court if inappropriate flags are disallowed.
- (4) Follow the example as set out in the City of Boston case and simply designate a flagpole as a place where citizens may put up flags of their choosing. This

Page 5

methodology will be considered "private speech" and the content of flags at this flagpole will not be regulated.

I am enclosing a written example of the San Jose flag policy with this memorandum. If anyone should have any questions, please do not hesitate to contact me.



Gregory A. Huber, Law Director

GAH/sjs
Enclosure

Batch Number
(Finance use only)
Batch Posted?

RCA Number
(Council use only)

RCA 23-098-5/8
Finance

REQUEST FOR APPROPRIATION ADJUSTMENT

TYPE OF ADJUSTMENT
(CHECK ONE)

ADMINISTRATIVE
FINANCE COMMITTEE
COUNCIL

NO. 2023-028
(Finance use only)

FROM ACCOUNT NUMBER	ACCOUNT DESCRIPTION	TO ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT	TRANSFER OF EXISTING APPROPRIATION	UNAPPROPRIATED FUNDS	REASON
		171-0743-52214	arpa - advert	4,930.00		x	adj arpa appropriate amts from py po's closed in 2023
		547-0650-54413	airport - land improvements	50,000.00		x	airport maintenance
138-0460-51126	medicare - PY20CDBG- Chip	138-0460-53315	TOOLS / MINOR EQUIP - PY20 CDBG - CHIP	1,220.20	x		to cover py20 grant
171-0410-52215	arpa - p&z-contractual	171-0743-52214	arpa - advert	5,700.00	x		adj arpa appropriations
			Total increases to fund:				
			Total reductions to fund:				
			Total transfers within fund:				

EXPLANATION:

DEPARTMENT HEAD: Keth Dirham / Lori Bowers

DATE: 5/2/2023

MAYOR'S APPROVAL:
(WHEN NECESSARY) _____

DATE: _____

COUNCIL/COMMITTEE ACTION:

APPROVED: _____
DENIED: _____
RETURNED FOR EXPLANATION: _____
RETURNED TO USE EXISTING ACCOUNT FUNDS: _____

ORD. NO.

92-23

CLERK OF COUNCIL/DATE

ROUTING: ORIGINAL TO FINANCE
COPY TO DEPT. HEAD
COPY TO COUNCIL

(Finance use only)

OK Hammer 5/27/23

RCA Number RCA 23-098
(Council use only) 518

REQUEST FOR APPROPRIATION ADJUSTMENT

NO. 2023-029

TYPE OF ADJUSTMENT
(CHECK ONE)

ADMINISTRATIVE
FINANCE COMMITTEE
COUNCIL

FROM ACCOUNT NUMBER	ACCOUNT DESCRIPTION	TO ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT	TRANSFER OF EXISTING APPROPRIATION	UNAPPROPRIATED FUNDS
		104-0301-54411	Parks Maintenance - Land Improvements	\$1,080.00		x

EXPLANATION:
 Accept Huntington National Bank check # 13883174 in the amount of 75.00 Girl Scouts of North East Ohio Troop 91434 for Arbor Day tree planting.
 Accept Huntington National Bank check # 13882975 in the amount of 100.00 from Girl Scout Troop #90665 for Arbor Day tree planting.
 Accept GSNEO Troop 91227 check # 104 in the amount of 150.00 for Arbor Day tree planting.
 Accept Girl Scouts of North East Ohio Troop 90059 check # 1101 in the amount of 75.00 for Arbor Day tree planting.
 Accept Girl Scouts of Northeast Ohio SU 944 check # 167 in the amount of 150.00 for Arbor Day tree planting.
 Accept Girl Scouts of North East Troop 90614 check # 111 in the amount of 180.00 for Arbor Day tree planting.
 Accept Melissa C. Murray and William R. Murray check #169 in the amount of 150.00 for Arbor Day tree planting.
 Accept Linda A Metz / Angela Wish / Kenneth R Metz check # 4426 in the amount of 200.00 from Girl Scout Troop #90665 for Arbor Day tree planting.

DEPARTMENT HEAD: _____
 MAYOR'S APPROVAL (WHEN NECESSARY) _____

DATE: 5/12/23

COUNCIL/COMMITTEE ACTION:

APPROVED: _____
 DENIED: _____
 RETURNED FOR EXPLANATION: _____
 RETURNED TO USE EXISTING ACCOUNT FUNDS: _____

ORD. NO. 92-23

CLERK OF COUNCIL/DATE

ROUTING: ORIGINAL TO FINANCE
COPY TO DEPT. HEAD
COPY TO COUNCIL

REQUEST FOR COUNCIL ACTION

No. RCA 23-099-5/8
Committee: Finance

FROM: Keith H. Dirham
DATE: Friday, April 21, 2023
SUBJECT: Purchasing Card Policy Update

SUMMARY AND BACKGROUND:

I respectfully request that Council adopt the attached updated Purchasing Card Policy. The only change is that the per-card limit has been increased to \$4,000 from \$2,500.

Estimated Cost:

Suggested Funding:

- sufficient funds in Account No.
- transfer needed from Account No.
to Account No.
- NEW APPROPRIATION needed in Account No.

Emergency Clause Requested:

Reason:

COUNCIL USE ONLY:

Committee Action/Recommendation:

Council Action Taken:

Ord./Res.
Date:

ORDINANCE NO. 204-21

**AN ORDINANCE REPEALING ORDINANCE NO. 8-18,
PASSED JANUARY 8, 2018 AND READOPTING A NEW
PURCHASING CARD POLICY FOR THE CITY OF MEDINA.**

WHEREAS: Ordinance No. 8-18, passed January 8, 2018, adopted a Purchasing Card Policy for the City of Medina; and

WHEREAS: After further review, several items were omitted that need included.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY
OF MEDINA, OHIO:**

SEC. 1: That Ordinance No. 8-18, passed January 8, 2018 is hereby repealed.

SEC. 2: That a Purchasing Card Policy is hereby adopted for the City of Medina.

SEC. 3: That a copy of said Policy is marked Exhibit A, attached hereto and made a part hereof.

SEC. 4: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 5: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: December 13, 2021

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: December 14, 2021

SIGNED: Dennis Hanwell
Mayor

**CITY OF MEDINA
PURCHASING CARD POLICY**

OVERVIEW

The objective of the City of Medina's Purchasing Card Program is to improve the way we conduct business. It will allow us to obtain favorable pricing by enabling us to purchase from vendors who do not accept purchase orders, or expedite a transaction in an emergency situation. This program is designed to be easy to use, however, appropriate controls must be in place to ensure the ongoing success of the program.

This program is not intended to avoid or bypass current purchasing and payment procedures (i.e. purchase order and payment by check direct to vendor). Rather, the program enhances the existing process. Policies and procedures cannot cover every issue, exception or contingency that may arise in the use of purchasing cards, therefore, users should use common sense and good judgement in the use of government resources. City funds are committed each time a purchasing card is used, a responsibility that cannot be taken lightly.

GUIDELINES

1. Purchasing card transactions are hereby authorized for in-store, internet, telephone, fax or mail order acquisitions, only when a purchase order is not accepted by the vendor or in emergency situations where use of a purchasing card would be more efficient. You must have a purchase order in place to sign out the card from the Finance Department.
2. The Finance Director shall be responsible for the issuance, monitoring, retrieval and general oversight of compliance with this Purchasing Card Policy.
3. Purchasing cards shall be in the name of City of Medina. Transactions made on behalf of the City are ONLY to be made by City employees authorized by the Finance Director to do so. Authorized user lists will be maintained in the Finance Department.
4. Purchasing cards shall only be used for the purchase of goods and services that are the official business of the City of Medina.
5. All purchasing cards issued to the City of Medina will be maintained in the Finance Department. Should it become necessary for an employee to use a card for the purchase of goods or services as part of official City business, the employee shall sign out the card providing his/her name, department, date of use, vendor, reason for purchase, purchase order number and date of card's return.
6. Because of short payment terms and costly late fees and interest charges, a purchase order must be on file in the Finance Department BEFORE the purchasing card is signed out and used.

7. When providing the vendor with an email address for a purchasing card transaction, the employee must use accountspayable@medinaoh.org as the primary contact so that transactions and amounts can be monitored. Any emails received will then be forwarded to the employee who made the purchase for receipt processing.
8. The employee needs to ensure that sales tax is not charged at the point of sale – the City cannot pay sales tax. The employee is responsible for getting the vendor to remove any sales tax applied in error. If sales tax is not removed, the employee will be required to reimburse the City for that amount. Failure to reimburse will result in payroll deduction for the tax amount.
9. Documentation itemizing the goods and services purchased with City purchasing cards shall be required for all transactions. Obtaining appropriate receipts is the responsibility of the user. Acceptable receipts must be **itemized** and contain vendor name, dollar amounts, description of all items purchased, and date of purchase. This may be a signed credit card slip, sales receipt, invoice showing payment was made, purchase confirmation email, or a combination thereof. If this documentation cannot be provided, the employee shall reimburse the City for the entire amount of the purchase. Failure to reimburse will result in payroll deduction for the entire amount. Habitual failure to turn in appropriate receipts will result in termination of purchasing card privileges.
10. City purchasing cards shall not be used for personal use, cash advances, or other vendor category exclusions (i.e. alcohol, tobacco products, etc.). See “Card Controls and Limits” below.
11. Any refunds from purchasing card sales must be credited back to the purchasing card.
12. All benefits derived from the use of purchasing cards shall become the property of the City of Medina.
13. A purchasing card must be used for hotel stays so the City avoids paying a majority of the taxes. However, the card is only to be used for the room rate and any parking fees. No room service, mini bar food or drink, or entertainment expenses, or anything else other than room rate and parking fees are to be charged to the card.
14. Meals may not be charged to the card.
15. If an employee experiences denials when using a City purchasing card, the employee shall immediately notify Accounts Payable, who will then investigate the denial.
16. Employees shall be responsible for the protection and custody of the purchasing card while in their possession. Employees shall not knowingly post or otherwise make public available card data that could potentially result in fraud or unauthorized charges. If a card is lost or stolen, the employee shall immediately notify Accounts Payable. Repeated card loss may result in termination of card privileges.

17. The Medina Municipal Court is to adhere to said policy per the Ohio State Auditor's Office.

18. Any City employee who violates the provisions of this Purchasing Card Policy shall be subject to disciplinary action, up to and including discharge and/or civil or criminal action.

CARD CONTROLS AND LIMITS

The purchasing cards have embedded limits and restrictions. Each time a card is used, the vendor is required to obtain authorization from the banking network. This ensures the purchase is within the program controls and limits established to safeguard against possible improper and/or fraudulent use.

The following is an outline of the types of embedded restrictions on the cards. They are designed to protect you and the City of Medina:

1. Spending limits:
 - Monthly purchase limit - \$2,500 per card; \$10,000 City wide.
 - The splitting of purchases into separate transactions to avoid either of these requirements is strictly prohibited.
 - Board of Control approval is required to increase any limits.

2. City of Medina purchasing cards are not to be used for items such as:
 - Personal purchases
 - Cash advances, ATM transactions, and other cash related activities
 - Entertainment expenses
 - Alcohol and tobacco

I have read the City of Medina purchasing card policy and agree to abide by all of the requirements.

(Employee name – printed)

(Employee signature)

(Date)

OK
Dr. Hammer
4-28-2023

REQUEST FOR COUNCIL ACTION

No. ROA 23-100-5/8

FROM: Kimberly Marshall

Committee Finance

DATE: April 28, 2023

SUBJECT: Job Creation Grant for Allfasteners USA LLC

SUMMARY AND BACKGROUND:

This request is for council to authorize the Mayor to enter into a Job Creation Grant agreement with Allfasteners USA, LLC for the purpose of expanding their business in the City of Medina. This project entails acquisition and renovations of a building located at 950 Lake Rd.

Allfasteners USA, LLC will have an estimated investment of \$4,405,000.00 in this project.

Allfasteners, Inc. has committed to creating 15 new full-time positions with new payroll of \$675,000 to the City of Medina at the following schedule:

- Year 2023 – 4 new FT positions
- Year 2024 - 5 new FT positions
- Year 2025 - 6 new FT positions

The agreement will provide Allfasteners USA, LLC with a grant up to 40% of new payroll taxes to the City of Medina for three years.

The Business Development Committee met with the company on April 17, 2023 to review and discuss the project. They did approve the project at the meeting.

We respectfully request approval of the Job Creation Grant agreement with Allfasteners USA, LLC subject to Law Director's approval. (Draft Agreement attached)

As a reminder, job creation grants are funded from non-income tax generated revenues.

Suggested Funding: \$12,656.25

- Sufficient funds in Account No.
- Transfer needed from Account No. _____ to Account No. _____
- NEW APPROPRIATION needed in Account No. 001-0748-56613

Emergency Clause Requested: NO

Reason:

COUNCIL USE ONLY:

Committee Action/Recommendation:

Council Action Taken:

**Ord./Res.
Date:**

PLEASE REVIEW THE EMPLOYMENT AND PAYROLL NUMBERS FOR CONSISTENCY WITH YOUR APPLICATION FORM. THESE NUMBERS WILL BECOME YOUR COMPANY'S COMMITMENT TO THE CITY OF MEDINA.

EXHIBIT A

GRANT# JCG25-Allfasteners USA LLC
(Administrative Only)

JOB CREATION GRANT AGREEMENT

This Agreement made and entered into by and between the CITY OF MEDINA, OHIO, a municipal corporation, with its main offices located at 132 North Elmwood Avenue, Medina, Ohio 44256 (hereinafter referred to as "Medina") and Allfasteners USA, LLC with its main offices located at 959 Lake Rd, Medina, OH 44256 (hereinafter referred to as "Company"), and is dated as of _____.

WITNESSETH:

WHEREAS, Medina has encouraged the creation and retention of new job opportunities throughout the City of Medina; and

WHEREAS, Allfasteners USA LLC is desirous to acquire a building and complete renovations to increase their warehousing capacity in the City of Medina located at 950 Lake Rd, Medina, Ohio to create 15 new full-time employment opportunities (hereinafter sometimes referred to as the "PROJECT") within the boundaries of the City of Medina, provided that the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the Council of the City of Medina, Ohio by Ordinance No. 154-07 adopted September 25, 2007 created the Job Creation Grant Program pursuant to Article XVIII, Section 3 and Article VIII, Section 13 of the Ohio Constitution; and

WHEREAS, the City of Medina, having the appropriate authority for the stated type of program, is desirous of providing Allfasteners USA LLC with incentives available for the development of the PROJECT; and

WHEREAS, Allfasteners USA LLC has submitted a proposed Agreement application (herein attached as Exhibit A1) to the City of Medina (said application hereinafter referred to as "Application"); and

WHEREAS, Allfasteners USA LLC has remitted the required application fee of \$ 500.00 made payable to the City of Medina; and

WHEREAS, the Business Development Committee of the City of Medina has investigated the application of Allfasteners USA LLC and has recommended the same to Medina City Council on the basis that Allfasteners USA LLC is qualified by financial responsibility and business experience to create employment opportunities in the City of Medina and improve the economic climate of Medina; and

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Description of the Project.

- A. **Allfasteners USA LLC** shall purchase and remodel a building at 950 Lake Rd, Medina, Ohio

2. Project Investment.

- A. The PROJECT will involve a total investment, plus or minus 10%, by the Property Owner of **\$4,405,000** (dollars) the PROJECT.
- B. The PROJECT will involve a total investment, plus or minus 10%, by **Expert Crane, Inc.** as follows:

1. Land	\$ <u>845,250.00</u>
2. Acquisition of Buildings	\$ <u>2,829,750.00</u>
3. Improvements to Existing Buildings	\$ <u>250,000.00</u>
4. Furniture & Equipment	\$ <u>30,000.00</u>
5. Inventory	\$ <u>450,000.00</u>
TOTAL	\$ <u>4,405,000.00</u>

- C. Improvements to facility will begin approximately **May 1, 2023** and will be completed approximately **May 1, 2026**.

3. Job Creation and Retention.

- A. **Allfasteners USA LLC** shall create in the City of Medina within a time period not exceeding **36** months after the occupation of the aforesaid facility, the equivalent of **15** new full-time permanent job opportunities in the City of Medina.

- 1) **Allfasteners USA LLC** schedule for hiring permanent full-time employees is as follows:

<u>Year</u>	<u>Number of Jobs New to Medina</u>
1	4 (2023)
2	5 (2024)
3	6 (2025)

- B. The job creation period begins approximately May, 2023 and all jobs will be in place by May, 2026.
- C. The Company currently has 62 employees in the City of Medina. In total, the Company has 62 full-time permanent employees in the State of Ohio.
- D. The increase in the number of employees new to the City of Medina will result in approximately \$675,000.00 of additional annual payroll in the City of Medina when the projected maximum employment level is achieved.

4. Issuance of Grant.

- A. The City of Medina hereby grants a Job Creation Grant based upon the creation of new payroll and jobs in the City of Medina, and the implementation of the PROJECT, according to the schedules contained herein in Section 4(C).

<u>Years</u>	<u>Amount of Grant as a Percentage Payroll Taxes New to Medina</u>
3	40%

Funding for the grant issued herein shall only be from the following non-tax revenue sources: interest income, permit fees, activity fees, service charges, and tax incentive application and monitoring fees.

- B. For purposes of calculating the amount of the grant, the new payroll upon which the grant is based may not exceed 25% above the maximum payroll projected in Section 3(D) above. The grant amount shall be based on the current 1.25% income tax rate. The maximum grant amount in any year shall be **\$4,218.75 (maximum NEW PAYROLL projection x 125% X 1.25% x 40% of grant)**
- C. To receive a grant in any given year, Allfasteners USA LLC must retain full time permanent jobs existing in Medina prior to the Agreement.

- (1) If **Allfasteners USA LLC** does not achieve at least 90% of new payroll and employment projections, **Allfasteners USA LLC** shall receive reduced incentives according to the schedule below:

<u>% of New Payroll Projection Achieved</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
90-100%	full grant
85-89%	reduce grant by 5% (Ex.: 40% grant reduced to 35%)
80-84%	reduce grant by 10% (Ex.: 40% grant reduced to 30%)
75-79%	reduce grant by 15%
Less than 75%	no grant for that year; and

- (2) If **Allfasteners USA LLC** fails to meet 75% of new payroll and new employment projections in any given year, the grant shall not be awarded for that year.
- (3) New payroll is defined as that amount in excess of the amount in Section 3(E) above.

5. Grant Payments.

A. Initial Grant Payment.

- (1) Year 3 projections must be met by December 31, 2025. The initial grant payment shall be made by approximately July 1, 2026 (following year), or Tax Incentive payments will commence upon the fulfillment of job creation and payroll obligations provided that **Allfasteners USA LLC** files its Reconciliation of City Income Tax Withheld Form S-W3 by February 28, 2026, at the latest or February 28, 2024 at the earliest. Reconciliation is confirmed by the City of Medina Finance Department.
- (2) If the project start date or occupancy of the project facility is delayed, Year 1 may be extended to the following year and the Year 1 projections deadline adjusted accordingly, upon written request by **Allfasteners USA LLC** to the Economic Development Director, provided that the extension is approved by the Economic Development Director with notice to the Business Development Committee.
- (3) If the project or occupancy of a project facility begins in the third or fourth quarter of the year and **Allfasteners USA LLC** is not able to meet its Year 1 projections by December 31st of that year, Year 1 will be considered the first full year of occupancy, and the first grant payment will occur in the year following the first full year of the project or occupancy of the project facility.

- B. Timing of Annual Grant Payments. Annual grant payments shall be made by June 30th of the following year, provided that **Allfasteners USA LLC** files its Reconciliation of City Income Tax Withheld Form S-W3 by February 28th and reconciliation is confirmed by the City of Medina Finance Department. If **Allfasteners USA LLC** requests an extension for filing of its S-W3 form, the City of Medina shall make the grant payment within three months of the extended filing date. It is the responsibility of **Allfasteners USA LLC** to advise the Economic Development Director of the filing extension.
- C. Use of Grant Payments. Grants shall be allocated by **Allfasteners USA LLC** for land acquisition, building acquisition, purchase of machinery/equipment, purchase of furniture/fixtures, and/or other non-construction related and non-installation related costs of the project.
6. Payment of Taxes and Filing Reports and Returns. **Allfasteners USA LLC** shall pay all taxes and shall file all tax reports and returns as required by law. If **Allfasteners USA LLC** fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are terminated beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.
7. Information for Annual Review. **Allfasteners USA LLC** shall timely provide to the City of Medina any information reasonably required by the City of Medina to evaluate **Allfasteners USA LLC** compliance with the Agreement.
8. Maintenance of Grant.
- A. Medina shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain incentives granted under this Agreement including, without limitation, joining in the execution of all documentation and providing necessary information to maintain the incentives granted hereunder.
- B. If for any reason the Job Creation Grant Program is discontinued, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless **Allfasteners USA LLC** materially fails to fulfill its obligations under this Agreement and Medina terminates or modifies the incentives granted under this Agreement.
9. Certification as to Payment of Taxes. **Allfasteners USA LLC** certifies that at the time this Agreement is executed, **Allfasteners USA LLC** does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which **Allfasteners USA LLC** is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, **Allfasteners USA LLC** currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against **Allfasteners USA LLC** For the purposes

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

10. Non-Discrimination Hiring. Medina has developed a policy to ensure recipients of Job Creation Grants practice non-discriminatory hiring in its operations. By executing this Agreement, **Allfasteners USA LLC** is committing to following non-discriminatory hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

11. Transfer and Assignment. This Agreement is not transferable or assignable without the express, written approval of City of Medina. The City of Medina acknowledges that it would be unreasonable to withhold such consent in the event of a proposed transfer or assignment to any parent, subsidiary or affiliate of **Allfasteners USA LLC** or to any third party so long as with respect to all or any of such proposed transfers or assignments, the proposed transferee or assignee adequately and sufficiently demonstrates to the City of Medina, to the City of Medina's reasonable satisfaction, its financial ability, business experience and intentions to continue its operations of the Facility and Project in a manner similar to that of **Allfasteners USA LLC** in all pertinent respects.

12. Termination or Modification of Incentives.
 - A. If **Allfasteners USA LLC** fails to meet 75% of new payroll or new employment projections in any given year, the grant shall not be awarded for that year.
 - B. If **Allfasteners USA LLC** fails to meet 75% of new payroll or new employment projections for three consecutive years, this Agreement shall be terminated by the City of Medina.
 - C. If the project does not proceed as specified in Section 5(A)(1) of the Agreement or within the approved one-year extension period, the City of Medina may terminate the Agreement upon recommendation of the Business Development Committee.
 - D. If **Allfasteners USA LLC** fails to submit required information and/or reports as set forth in Section 7 above, the City of Medina may terminate or modify this Agreement and deny or modify future grants heretofore granted from the date of **Allfasteners USA LLC's** breach or default.

In the case as provided in this Subsection D, the City of Medina's termination or modification of this Agreement may be instituted only if **Allfasteners USA LLC** fails to cure any breach of any term of this Agreement as determined by the City of Medina within ten (10) days of receiving written notice of such failure from the City of Medina or, if cure of the breach cannot be completed

within ten (10) days, if Allfasteners USA LLC has not made a good faith start of the cure, and/or not diligently pursued same.

- E. Nothing contained in Sections 12(A), 12(B), 12(C), or 12(D) shall permit the City of Medina to recapture or otherwise deny Allfasteners USA LLC the benefit of a grant in respect of any period prior to the date of such termination or modification by the City of Medina.
- F. The City of Medina may terminate or modify this Agreement and may also require the repayment of the full amount of grant payments awarded under this Agreement, upon the occurrence of any of the following:
- 1) the City of Medina determines that the certification as to delinquent taxes required by this Agreement is fraudulent, or
 - 2) In the event that Allfasteners USA LLC vacates the Facility and/or moves the Project out of the City of Medina or terminates its operations at the Facility altogether during a 10 (numeral) year period beginning on the effective date of this Agreement.

The City of Medina may, absent any legislative action, resolution or court ordered mandate to the contrary, collect any and all grant payments awarded under this Agreement, and Allfasteners USA LLC shall pay directly to the City of Medina or its authorized agent any and all grant payments awarded under this Agreement due on the date Allfasteners USA LLC moves the Project out of the City of Medina or terminates its operations at the Facility altogether during the 10 year period beginning on the effective date of this Agreement; or within ten (10) days from the date Allfasteners USA LLC is notified by the City of Medina that any tax certification is fraudulent.

- G. Allfasteners USA LLC or successor entity shall promptly notify the City of Medina if any of the following events occur:
- (i) If control of Allfasteners USA LLC or substantially all of its assets located at the Project site is obtained by another entity or shareholders or
 - (ii) If Allfasteners USA LLC merges with another entity or
 - (iii) If Allfasteners USA LLC substantially restructures itself through an acquisition or divestiture or otherwise

and if any of these events affects the ability of Allfasteners USA LLC or its successor entity to perform substantially the obligations of Allfasteners USA LLC under this Agreement and to meet the employment and payroll projections anticipated herein. "Control of Allfasteners USA LLC" for the purposes of this subsection means that persons and/or entities owning the majority of Company's outstanding voting stock at the date of this Agreement

cease to own such or cease to have the unconditional right to elect a majority of Allfasteners USA LLC's board of directors.

H. Each provision for modification or termination hereunder shall not affect Allfasteners USA LLC's obligations or the City of Medina's rights under any other provision of this Agreement.

13. Fees. Allfasteners USA LLC shall pay an annual fee of \$ 500 (five hundred dollars) in each year that Allfasteners USA LLC has a grant agreement in effect upon notification that such payment is due. The proceeds will be used to defray costs of program administration and to help fund the program.

14. Any notices, statements, acknowledgements, consent approvals, certificates, or requests required to be given on behalf of either party shall be made in writing addressed as follows:

If to the City to: Dennis Hanwell, Mayor
Medina City Hall
132 N. Elmwood Avenue
Medina, Ohio 44256

With a copy to: Director of Law– City of Medina
Gregory Huber
Medina City Hall
132 N. Elmwood Avenue
Medina, Ohio 44256

If to _____ to:

Allfasteners USA LLC

Mick Strange, CEO
959 Lake Rd
Medina, OH 44256

or such other address as may be noticed.

15. Condition Precedent. **Allfasteners USA LLC's** and Medina acknowledge that this Agreement must be approved by formal action of the legislative authority of the City of Medina as a condition for the Agreement to take effect.

IN WITNESS WHEREOF, the City of Medina, Ohio, by Dennis Hanwell, its Mayor, and pursuant to Ordinance No. 154-07 and **Allfasteners USA LLC's**, by **Mick Strange, CEO**, have caused this instrument to be executed on the _____ day of _____, 2023.

WITNESSED BY:

CITY OF MEDINA

By: _____

Title: Mayor

WITNESSED BY:

By: _____

Title: _____

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

DIRECTOR OF LAW— CITY OF MEDINA

By: _____

Date: _____



CITY OF MEDINA
JOB CREATION GRANT APPLICATION

The following is an application to the City of Medina located in the County of Medina by Allfasteners USA, hereinafter referred to as the company, for Job Creation Grant Incentives.
(company name) LLC

I. General Information

Applicant Company Name Allfasteners USA LLC

Home or Main Office Street Address 959 Lake Road

City Medina State OH Zip code 44256

Local Project Site Street Address 950 Lake Road

City Medina State OH Zip code 44256

Contact Person Name Ashley Rundell

Telephone (440) 232-6060 Fax (440) 232-6062

Email Ashley.rundell@allfasteners.com

Nature of business (manufacturing, distribution, wholesale, retail, residential or other) Custom steel fabricator & fastener distributor

Standard Industrial Codes that apply to the products produced by the enterprise.

SIC Code # _____ NAICS Code # 444130

SIC Code # _____ NAICS Code # _____

Form of business (corporation, partnership, proprietorship, or other).

Partnership - LLC



CITY OF MEDINA
JOB CREATION GRANT APPLICATION

Name of principal owner(s) or officers of the company (attach list if necessary).

Mick Strange - CEO

Does the company owe:

A. Any delinquent taxes to the State of Ohio or any County, City or Township within the State of Ohio?

Yes _____ No (please check)

B. Any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State?

Yes _____ No (please check)

C. Any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not?

Yes _____ No (please check)

D. If yes to any of the above, please provide details of each instance including but not limited to the location, amounts and/or case identification numbers (attach additional sheets if needed).



II. Financial Information & Project Information

Estimate the amount to be invested by the company to establish, expand, renovate or occupy a facility:

	Total Amount
A Land	\$ 845,250.
B Acquisition of Buildings	\$ 2,829,750.
C Additions/New Construction	\$
D Improvements to Existing Buildings	\$ 250,000.
E Machinery & Equipment	\$
F Furniture & Equipment	\$ 30,000.
G Inventory	\$ 450,000.
Total New Project Investment	\$

Project will begin May 1, 2023 and be completed May 1, 2026.

Project Description: Raptor Radome Project.

In lieu of the company growth, we are acquiring a building at 950 Lake Road & investing in renovations to increase warehouse capacity. This will allow for additional materials & equipment, as well as the need for additional staff members. (see bottom of page for more detail)

Business's reasons for requesting tax incentives (be quantitatively specific as possible)

An attempt to grow revenue 15%, we are hoping for grant funding to help with human capital resources of 10 people. Additionally, we are looking to increase inventory by 5%, thus increasing payroll.

Allfasteners is expanding into the stealth/concealment industry and have developed a patent pending radome shielding canister door design that is unique in the cell phone industry for concealment. This new product/technology requires a large amount of extra warehouse and sub-assembly space to take it from the trial/concept phase it is currently in, to full turn key production and delivery.



III. Employment & Payroll Information

A. State the company's current employment level in the City of Medina (for all locations) and the total of any other Ohio locations as well as annual payroll for those jobs:

Current F/T Permanent Employees in Medina	62	Current Annual Payroll for F/T Permanent Employees in Medina	\$ 3,972,230
Current F/T Employees In Ohio at locations outside of City of Medina	0	Current Annual Payroll for F/T Employees in Ohio at locations outside City of Medina	\$ 0

B. List proposed schedule for new hiring as a result of this project:

	Year 1	Year 2	Year 3	Total
New F/T or F/T equivalent Permanent employees	4	5	6	15

C. Estimate the amount of Payroll such NEW employees will add as a result of this project:

	Year 1	Year 2	Year 3	Total
New F/T or F/T equivalent Permanent employees	\$ 180K	\$ 225K	\$ 270K	\$ 675K



IV. Certifications

Submission of the application expressly authorizes The City of Medina
(Name of Local Jurisdiction)

to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item #5 and to review applicable confidential records. As part of this application, the property owner may also be required to directly request from the Ohio Department of Taxation, or complete a waiver form allowing the Department of Taxation to release specific tax records to the local jurisdiction considering the request. The applicant agrees to supply additional information upon request.

The applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C)(1) and 2921.13(D)(1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefits as well as a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

Allfasteners USA LLC
Name of Property/Business Owner
[Signature]
Signature

4/03/2023
Date
Mick Strange - CEO
Typed Name and Title

Application Fee:

- A non-refundable fee of \$500.00 is to be submitted with this application. A copy of the application will be attached to the final Job / Payroll Creation Grant Program Agreement, which must be submitted to City Council for approval.

RCA 23-101-5/8

Finance
Only

City of Medina
Board of Control/Finance Committee Approval
Administrative Code: 141

- Department Heads can authorize expenditures up to \$1,500.00 (requisition)
- Board of Control authorizes expenditures from \$1,500.01 to \$15,000.00 (BOC form).
- Finance Committee authorizes expenditures from \$15,000.01 to \$25,000.00 (BOC form).
- Council authorizes expenditures/bids over \$25,000.00 (RCA form). Board of Control awards all bids, unless otherwise specified in authorizing ordinance. (Ord. 101-05)

Date: 5/1/2023 Department: Community Development

Amount: \$22,500.00 B.O.C. Approval Date: _____
(Finance Use Only)

Account Number: 001-0410-52215 (Initially) then Assigned Grant Account

Vendor: Kleinfelder, Inc.

Department Head/Authorized Signature: _____

Item/Description:

The City advertised an RFP/RFQ for assistance in submitting applications and providing administrative services for Community Development Block Grant (CDBG) programs and Community Housing Impact and Preservation Program (CHIP). The City entered into a contract with Kleinfelder, Inc. for the application and administration of the PY22 CHIP and was awarded the PY22 CHIP by the State of Ohio.

This is a request to authorize and direct the Mayor to enter into an agreement with Kleinfelder, Inc. for assistance in submitting an application and providing administrative services for the PY23 CDBG. A copy of the Contract is marked Exhibit A, and is attached and subject to approval by the City of Medina Law Director. The funds to cover Kleinfelder's services (\$22,500) are available from the CDBG grant funds, if awarded. Prior to the awarding of the grant, payments may be made out of Planning & Zoning Contract Services.

FINANCE COMMITTEE APPROVAL: (expenditures from \$15,000.01 to \$25,000.00)

Date Approved/Denied by Finance Committee: _____

Clerk of council Date to Finance: _____

- Please have all BOC items for the agenda to the Mayor's Office before 5 p.m. on Friday before the scheduled BOC meeting.
 - Please have all Finance Committee items for the agenda to the Clerk of Council's Office before 5 p.m. on Tuesday before the scheduled Finance Committee meeting.
- Thank you.

**CLIENT PROFESSIONAL SERVICES AGREEMENT
PY2023 COMMUNITY DEVELOPMENT CLOCK GRANT (CDBG) ALLOCATION PROGRAM
ADMINISTRATIVE CONTRACT
CITY OF MEDINA, OHIO
PROPOSAL NO. M2400139.001P**

This Agreement is made on: May 2, 2023

Between City of Medina with offices at 132 North Elmwood Avenue, Medina, OH 44256 (**Client**)

And Kleinfelder, Inc. with offices at 1168 North Main Street, Bowling Green, OH 43402
(**Kleinfelder**).

Recitals

- A. Client wishes to appoint Kleinfelder to provide certain services (the **Services**, as defined below) required by Client or Client's agreement with the Owner on the terms and conditions contained in this Agreement.
- B. Kleinfelder has agreed to perform the Services on the terms and conditions contained in this Agreement.

Now it is agreed as follows:

1. CONTENTS OF AGREEMENT

- 1.1 The parties agree that the documents listed in 1.1(a) through (c) constitute the "**Contract Documents**" of this Agreement. To establish obligations and resolve ambiguities among the Contract Documents, the following order of precedence will prevail:
 - (a) first, amendments and Change Orders issued in accordance with this Agreement;
 - (b) second, Kleinfelder's Proposal/Email, dated 05/01/2023, which Client acknowledges receipt and confirms understanding of, and agreement with the contents thereof, in full (Appendix A);
 - (c) third, this Agreement; and
- 1.2 To the extent of any inconsistency between this Agreement and any Prime Agreement, the provisions of this Agreement will always prevail.
- 1.3 Any pre-printed terms and conditions on forms used by either party in the administration of this Agreement are void and do not supplement or replace the terms and conditions of the Contract Documents of this Agreement.

2. APPOINTMENT AND SCOPE OF SERVICES

- 2.1 Kleinfelder shall perform the services set forth in its Proposal attached hereto as Appendix A, and such additional services as Kleinfelder and Client jointly agree in writing (collectively, Services). The Proposal also shall specify Client's project for which the Services will be performed (Project), the location of Client's Project for providing the Services (Site), the time period for performance, the agreed fees and additional provisions, if any, applicable to such Services. The Services, including any additions and modifications, shall be performed in accordance with this Agreement.

3. STANDARD OF CARE

- 3.1 Kleinfelder will perform its Services in a manner consistent with that level of care and skill ordinarily exercised by other members of Kleinfelder's profession practicing in the same locality, under similar conditions and at the date the Services are provided.
- 3.2 Kleinfelder makes no representation, guarantee or warranty, express or implied, regarding the Services, or any communication (oral or written), certification, report, opinion, or Instrument of Service provided pursuant to this Agreement.
- 3.3 Kleinfelder will not be responsible for constant or exhaustive inspection of the work, for the means, methods, techniques sequences or procedures of construction, or for the safety procedures employed by any party other than its own employees, subconsultants and subcontractors.
- 3.4 No level of assessment can conclusively determine whether a property or its structures are completely free of geotechnical hazards or hazardous substances (including but not limited to mold). Client represents that it has carefully reviewed the limitations described in the Proposal.
- 3.5 Even with diligent observation, some defects, deficiencies, or omissions may occur. Before exercising any other remedy for any alleged breach by Kleinfelder of this Agreement, Client will direct Kleinfelder in writing to re-perform any defective Services within twelve (12) months after completion of the Services.
- 3.6 Kleinfelder will only sign certifications relating to the Services if Kleinfelder agreed in writing prior to the commencement of the Services to provide such certifications. Such certifications are statements of professional opinion only.

4. KLEINFELDER'S RESPONSIBILITIES

- 4.1 Kleinfelder will perform the Services as an independent contractor and not as an agent or employee of Client. Nothing in this Agreement creates any special relationship or fiduciary duty.
- 4.2 Kleinfelder will, as reasonably directed by Client or its authorized agent:
- (a) provide qualified staff to perform the Services;
 - (b) maintain records of Project activities and costs for no more than three years from its completion of the Services;
 - (c) coordinate to the extent reasonably possible with Client's employees, contractors, consultants so as not to impede the progress of the Project; and
 - (d) require its personnel to maintain a safe, clean and orderly work environment.

5. TERM AND TERMINATION

- 5.1 This Agreement will commence on the date of its execution, except as to any Services authorized by Client and performed by Kleinfelder beforehand. All Services shall be fully completed no later than October 31, 2026, unless earlier terminated by either party or extended by the parties' mutual written agreement.
- 5.2 Either party may terminate this Agreement at any time by providing ten (10) days' written notice to the other.
- 5.3 Within fifteen (15) days from termination Client will pay Kleinfelder on demand for all Services rendered and costs incurred through to the date of any termination and for all reasonable costs and expenses incurred by Kleinfelder in effecting the termination, including, without limitation, non-cancellable commitments, fixed cost components and other demobilization costs.

6. COMPENSATION

- 6.1 Kleinfelder will perform the Services in exchange for the following compensation:
 - Client will pay on a **time and material** basis. Kleinfelder will invoice according to its fee schedule attached to the Proposal or attached hereto at Appendix A.
 - Client will pay a **lump sum** of \$. Kleinfelder will invoice monthly on a percentage completed basis.
 - Client will pay on a **time and material basis not to exceed** the sum of **\$22,500**. Kleinfelder will invoice according to its fee schedule attached to the Proposal or attached hereto at Appendix A up to the stated limit. Upon reaching the stated limit, Kleinfelder will stop performing unless Client authorizes further work and funding in writing.
- 6.2 Client agrees to provide any special invoicing requirements to Kleinfelder in advance of signing this Agreement, to which additional charges may apply.
- 6.3 The proposed fees set forth in this Agreement shall be open for acceptance for ninety (90) days from the above date. If the Agreement is signed after that date, the proposed fees may be adjusted prior to commencement of Services. The hourly rates charged for Kleinfelder's Services are adjusted annually in January of each year to reflect changes in the various elements that comprise such hourly rates. All adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by Kleinfelder and consistent with Kleinfelder's overall compensation practices and procedures. Kleinfelder reserves the right to periodically adjust its fee schedule.
- 6.4 Kleinfelder will generally submit its invoices to Client on a monthly basis. Client must pay all invoices within thirty (30) days from the date of invoice, with interest at the rate of one and one-half percent (1 1/2 %) per month payable on all outstanding payments. Interest on all outstanding payments will be charged from the initial date of invoice.
- 6.5 Kleinfelder may suspend performance of Services under this Agreement until it has been paid in full for all outstanding payments, including interest charges.
- 6.6 Kleinfelder will be entitled to recover from Client on demand all expenses incurred (including all legal costs and expenses) in recovering any outstanding payments from Client.
- 6.7 All travel will be invoiced at cost and reimbursed by Client. All travel required under this Agreement is subject to the terms, conditions and applicable rates set forth in the U.S. Federal Travel Regulations.

7. INSURANCE

- 7.1 Kleinfelder will maintain during the term of this Agreement worker's compensation, commercial general liability, automobile liability and professional indemnity insurance coverage.
- 7.2 Client will maintain during the term of this Agreement adequate insurance coverage and will require and verify any contractors or parties it hires to have adequate insurance coverage. Client agrees that failure to comply with this clause will invalidate any indemnity provided by Kleinfelder under clause 12.1.

8. CHANGES TO SCOPE OF SERVICES

- 8.1 Client or Kleinfelder may request to modify the scope of Services, whereon both parties agree to negotiate in good faith and execute a written Change Order. A **Change Order** is an amendment to this Agreement that modifies the Services and specifies the following:
- (a) a change in the terms and conditions of Services;
 - (b) an adjustment in the schedule for performance; and
 - (c) the amount of adjustment in Kleinfelder's compensation.
- 8.2 Kleinfelder will treat as a Change Order any written or oral Client order (including directions, instructions, interpretations, or determinations) which request changes in the Services. Kleinfelder will give Client written notice within a reasonable time of any resulting adjustment in the schedule and compensation. Unless Client objects in writing within 5 business days, the proposed terms of the Change Order with the adjustment in the schedule and price shall become a part of this Agreement.
- 8.3 If Client and Kleinfelder cannot agree upon an equitable adjustment in the schedule and compensation, and Kleinfelder does not sign the Change Order, the disagreement shall be treated as a Dispute under clause 18.

9. FORCE MAJEURE

- 9.1 Kleinfelder will not be liable for delay or failure to perform its Services caused directly or indirectly by circumstances beyond its control, including but not limited to, acts of God, fire, flood, war, sabotage, accident, labor dispute, shortage, government action or inaction, changed conditions, delays resulting from actions or inactions of Client or third parties, Site inaccessibility or inability of others to obtain material, labor, equipment, or transportation.
- 9.2 Should any of the preceding circumstances occur, then the date for completion or any other milestone date shall be adjusted for the delay in accordance with clause 8, provided Kleinfelder reports the delay to Client within a reasonable time of discovery.

10. INSTRUMENTS OF SERVICE

- 10.1 All data, reports, drawings, plans, or other documents (or copies) provided to Kleinfelder by Client for the purposes of this Agreement will, at Client's written request, be returned upon completion of the Services and payment in full for all Services rendered. Client agrees that Kleinfelder may retain one copy of all such documents.
- 10.2 Client agrees:
- (a) all reports, drawings, plans, documents, software, source code, object code, boring logs, field data, field notes, calculations, estimates, laboratory test data and other similar data, documents and work

products (or copies thereof) in any form prepared by Kleinfelder pursuant to this Agreement are instruments of service (**Instruments of Service**), not products;

- (b) Kleinfelder will retain exclusive ownership, copyright and title to all Instruments of Service, and Client has no rights to incomplete or partial data;
- (c) all opinions, certifications, communications (oral or written) or Instruments of Service furnished to Client are intended for the benefit of Client for the specific purposes stated herein and therein, are not intended to inform, guide, or otherwise influence any entities or persons other than Client in relation to the Project, and are not intended or represented to be suited for reuse by Client or others, and;
- (d) reuse without the specific prior written consent of Kleinfelder will be at the user's sole risk and without Kleinfelder liability, and Client agrees (i) to remove Kleinfelder's and Kleinfelder's consultants' names and seals therefrom, and (ii) to defend, indemnify and hold harmless Kleinfelder and Kleinfelder's contractors, consultants, affiliates, directors and employees from and against all losses, damages and liabilities (including all legal expenses) in connection with the unauthorized use.

10.3 Any requests by third parties for reliance upon any communication (oral or written), certification, report, opinion, or Instrument of Service provided by Kleinfelder pursuant to this Agreement will be subject to approval at Kleinfelder's sole discretion and to additional fees, terms, and conditions.

11. CLIENT'S RESPONSIBILITIES

- 11.1 Client agrees to provide and discuss with Kleinfelder on an ongoing basis all available material, data, and information pertaining to the Services, including, without limitation, (i) the composition, quantity, toxicity, or potentially hazardous properties of any material known or believed to be present at any Site, (ii) any hazards that may be present, (iii) the nature and location of underground or otherwise not readily apparent utilities, (iv) summaries and assessments of the Site's past and present compliance status, (v) the status of any judicial or administrative action concerning the Site or Project, and (vi) Client records (in electronic format where possible) for such data as benchmarks, plans, maps, and property ownership; and
- 11.2 Client will ensure the cooperation of Client's employees, contractors, and consultants with Kleinfelder.
- 11.3 Client acknowledges and agrees that Kleinfelder is entitled to rely upon the accuracy and completeness of any information given by Client, its employees, contractors, and consultants.
- 11.4 Client will provide reasonable assistance to obtain data and records concerning the Site or Project in the possession, custody, or control of third parties.

12. ALLOCATION OF RISK AND INDEMNITIES

- 12.1 Subject to the limitation of liability provisions of this Agreement, Kleinfelder indemnifies Client against all liabilities, losses or damages caused by the negligence or other fault of Kleinfelder and its employees, agents, representatives, subcontractors, and any other party for whom Kleinfelder is legally responsible (**Kleinfelder Parties**), but only to the extent such liabilities, losses or damages are caused by the negligence or other fault of the Kleinfelder Parties when compared to the negligence or other fault of all other persons and entities. If California law applies to this Agreement, the parties also expressly agree that this indemnity provision does not include, and in no event shall Kleinfelder be required to assume, any obligation or duty to defend any claims, cause of action, demands, or lawsuits in connection with or arising out of this Project or the Services rendered by Kleinfelder. This clause 12.1 is not intended to and will not in any way be limited by any insurance coverage available to Client under any Kleinfelder insurance policy.
- 12.2 Subject to any applicable statutory limitations, the indemnity obligations in this clause 12 shall survive the expiration or termination of this Agreement.

13. LIMITATION OF LIABILITY

- 13.1 The maximum aggregate liability of Kleinfelder arising out of or related to this Agreement, as amended, whether based in contract or tort or otherwise in law or equity, will be limited to the greater of the compensation actually paid to Kleinfelder for the Services or \$50,000, and Client hereby releases Kleinfelder from any liability above such amount. This limitation of liability includes any losses payable to Client under clause 12.1 and will apply to any and all claims.
- 13.2 This limitation of liability has been agreed after Client and Kleinfelder discussed the risks and rewards associated with the Project and the Services as well as the provision of the Services within both the obligations of this Agreement and the associated compensation. Upon written request by Client, the parties may negotiate in good faith and agree, by way of a written Change Order in accordance with clause 8 herein, to increase the amount of this liability limitation or eliminate it in exchange for payment of increased compensation to Kleinfelder.
- 13.3 As used in this clause 13, "Kleinfelder" includes Kleinfelder, its affiliates, subconsultants and subcontractors, and their respective partners, officers, directors, shareholders and employees. The limitation of liability established in this clause 13 shall survive the expiration or termination of this Agreement.

14. WAIVER OF CONSEQUENTIAL DAMAGES

- 14.1 Neither party will be liable to the other party for any special, incidental, indirect, exemplary, punitive, penal or consequential damages however arising incurred by either Kleinfelder or Client or for which either may be liable to a third party.

15. NO CONTROL OF MEANS AND METHODS OF OTHERS

- 15.1 Client agrees:
- (a) Kleinfelder will have no control over or charge of or responsibility for the construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs of Client's employees, or contractors or consultants engaged by Client in connection with the Project;
 - (b) Kleinfelder's performance of the Services does not include any job site safety obligations which may be required by or in connection with the Project or the Services or any applicable code or regulation, other than strictly in respect of its own employees; and
 - (c) Kleinfelder will not have control over or charge of the acts or omissions of any contractor or contractors' agents, employees or subcontractors.

16. SITE ACCESS

- 16.1 Client agrees to:
- (a) provide unimpeded and timely access to the Site, including any third party sites, if required;
 - (b) provide an adequate area for Kleinfelder's Site office facilities, equipment storage, and parking;
 - (c) furnish all construction utilities and utility releases necessary for the performance of the Services; and
 - (d) obtain all permits, licenses or authorizations necessary for the performance of the Services.

17. WARRANTY OF TITLE, WASTE OWNERSHIP

- 17.1 Kleinfelder will not take title to or be liable for any hazardous materials found at any Project Site. Any risk of loss with respect to all materials remains with Client or the Site owner, who will be considered the generator of such materials, execute all manifests as the generator of such materials, and be liable for the arrangement,

transportation, treatment, and/or disposal of all material. All samples remain the property of Client. Client agrees to promptly, at its cost, remove and lawfully dispose of samples, cuttings, and hazardous materials.

18. DISPUTE RESOLUTION

- 18.1 If a dispute arises out of or relates this Agreement (**Dispute**), the parties agree to submit the Dispute to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (**AAA**). The mediator will be an independent person agreed between the parties from a panel suggested by the Institute or, failing agreement, a mediator appointed by AAA. A party shall not call for mediation of any Dispute after such period of time as would bar the initiation of legal proceedings to litigate such Dispute under the laws of the state in which the Project is located.
- 18.2 Client and Kleinfelder agree that in the event of a Dispute, they will not seek recourse against individual officers, employees, directors, or shareholders of the other party.
- 18.3 A party shall not start court proceedings in relation to a Dispute until it has exhausted the procedures in this clause, unless the party seeks injunctive or other interlocutory relief.
- 18.4 If the Dispute cannot be resolved through mediation, either party may file suit in an appropriate court in the state where the Services are performed.
- 18.5 This clause survives termination or expiry of this Agreement.

19. MISCELLANEOUS

- 19.1 This Agreement is governed and construed in accordance with the laws of the state where the Services are performed. The parties hereby submit to the jurisdiction of the courts of the state where the Services are performed and waive any right to object to any proceedings being brought in those courts.
- 19.2 Waiver of any term, condition or breach of this Agreement will not operate as a subsequent waiver of the same term, condition or breach. A waiver is not valid or binding unless made in writing.
- 19.3 If any provision of this Agreement is found by a duly constituted authority to be invalid, void, or unenforceable, all remaining provisions shall continue in force.
- 19.4 This Agreement does not create, nor will it be construed to create, any benefit or right in any third party or any special relationship or fiduciary duty to third parties.
- 19.5 Client and Kleinfelder shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

- 19.6 This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter. It supersedes all earlier conduct, prior agreements and understandings between the parties in connection with its subject matter.
- 19.7 Each party must do anything necessary to give full effect to this Agreement.
- 19.8 All notices, requests or instructions hereunder must be in writing and either hand delivered to the recipient, delivered by registered mail or express mail to the addresses given in this Agreement.
- 19.9 This Agreement cannot be assigned by either party without the prior written approval of the other party. Kleinfelder may subcontract performance of portions of the Services to a qualified subcontractor.
- 19.10 Any amendment or revision to this Agreement must be in writing and signed by both parties. Any oral modification or revision of this Agreement shall not operate to modify this Agreement.
- 19.11 This Agreement may be executed in counterparts, including photo or electronic copies, which taken together shall constitute one original document.

IN WITNESS WHEREOF, Client and Kleinfelder have caused this Agreement to be executed on the date first written above.

CLIENT: CITY OF MEDINA, OHIO

KLEINFELDER:

By: _____

By: Lauren O. Falcone

Printed Name: Dennis Hanwell

Printed Name: Lauren O. Falcone, AICP

Title: Mayor, City of Medina

Title: Principal Professional

Date: _____

ATTACHMENTS: Appendix A, Kleinfelder Proposal (via PZT Email dated 05/01/2023)
Exhibits

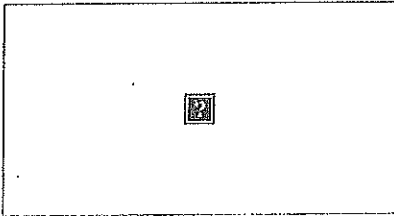
APPENDIX A

From: [Paul Tecpanecatl](#)
To: [Andrew Dutton](#)
Cc: [Gayle Flaczynski](#)
Subject: RE: PY23 City of Medina CDBG Alloc Program
Date: Monday, May 1, 2023 10:40:50 AM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)

Will do, thx.

Paul Z. Tecpanecatl, AICP
Principal Professional

1168 N. Main Street
Bowling Green, Ohio 43402
d| 567.343.5877
o| 419.352.7537
m| 419.367.3211

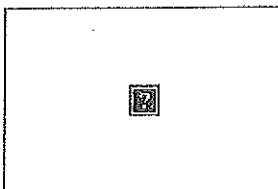


From: Andrew Dutton <adutton@medinaoh.org>
Sent: Monday, May 1, 2023 10:38 AM
To: Paul Tecpanecatl <PTecpanecatl@kleinfelder.com>
Subject: RE: PY23 City of Medina CDBG Alloc Program

External Email

Paul,
Sounds good. If you have a contract you or your team could send over to me, I can get the adoption process started. Thanks

Andrew Dutton
Community Development Director
City of Medina
adutton@medinaoh.org
330-722-9023



From: Paul TecpanecatI <PTecpanecatI@kleinfelder.com>

Sent: Monday, May 1, 2023 10:03 AM

To: Andrew Dutton <adutton@medinaoh.org>

Subject: RE: PY23 City of Medina CDBG Alloc Program

Andrew-

How about \$22,500 which will cover the notices, hearings, application, CDIS, project review, grant agreement review, ERR, status reports and grant close-out. Thx.

Paul

Paul Z. TecpanecatI, AICP

Principal Professional

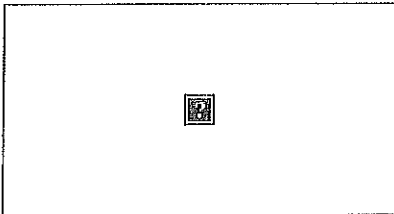
1168 N. Main Street

Bowling Green, Ohio 43402

d| 567.343.5877

o| 419.352.7537

m| 419.367.3211



From: Andrew Dutton <adutton@medinaoh.org>

Sent: Monday, May 1, 2023 9:16 AM

To: Paul TecpanecatI <PTecpanecatI@kleinfelder.com>

Subject: RE: PY23 City of Medina CDBG Alloc Program

External Email

Paul,

We are looking to get a contract together for Kleinfelder CDBG services. Any update on what an acceptable fee may be based on my response? The contract needs to be reviewed by Council and I have to get requests to them by noon tomorrow for the next meeting.

Though we couldn't have a signed contract by then, we have the first public hearing this Friday at 1 pm that we could use assistance on. Would an agreement in principal work to have Kleinfelder's assistance?

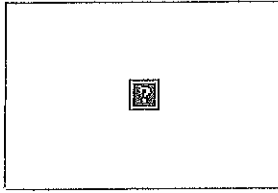
Andrew Dutton

Community Development Director

City of Medina

adutton@medinaoh.org

330-722-9023



From: Andrew Dutton

Sent: Wednesday, April 26, 2023 11:43 AM

To: Paul TecpanecatI <PTecpanecatI@kleinfelder.com>

Subject: RE: PY23 City of Medina CDBG Alloc Program

Paul,

I'll need to check with Medina Co., but it would probably make sense for them to administer the fair housing. We will also need to have some funds for our local City admin Costs. I was thinking more of \$20K for the grant assistance. Let me know if that works for you.

-Andrew

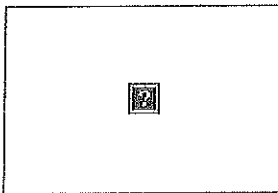
Andrew Dutton

Community Development Director

City of Medina

adutton@medinaoh.org

330-722-9023



From: Paul TecpanecatI <PTecpanecatI@kleinfelder.com>

Sent: Wednesday, April 26, 2023 10:19 AM

To: Andrew Dutton <adutton@medinaoh.org>

Subject: PY23 City of Medina CDBG Alloc Program

Andrew-

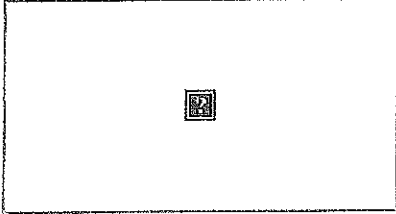
For your upcoming CDBG program, we are obviously interested in helping the city out. Given that your cap for admin and fair housing is \$30K based on your \$150,000 allocation, we're thinking of a \$25K fee for our assistance. Let me know if this is satisfactory with you, thx.

Paul

Paul Z. TecpanecatI, AICP

Principal Professional

1168 N. Main Street
Bowling Green, Ohio 43402
d| 567.343.5877
o| 419.352.7537
m| 419.367.3211



EXHIBITS

**EXHIBIT A
PROPOSAL OF SERVICES**

Basic services provided under this contract per scope delineated in RFQ/RFP will consist of:

- Grant Application / CDIS Planning (Assist with notices/hearings, project review, OCEAN submission)
- Environmental Review Record
- Technical Assistance/Administration (Assist with grant agrmnt review, status and close-out reports)
- Competitive Grants (e.g., Downtown Revitalization; Neighborhood Revitalization; Critical Infrastructure; and any/other CDBG Competitive Grants (such as RPIG, ToO, ED, etc.)) are yet to be determined (TBD); and if grant funding is pursued, additional separate contracts will be required for these competitive grant programs).

**EXHIBIT B
FEE SCHEDULE**

I. Fee: A time and material not to exceed fee in the amount of \$22,500 based on the following estimated distribution of compensation:

1	Grant Application / CDIS Planning (NTE)	\$7,500
2	Environmental Review Record (NTE)	\$5,000
3	Technical Assistance/Administration (NTE)	\$10,000
4	Competitive Grants – To Be Determined (TBD)	TBD
	TOTAL	\$22,500

- These hourly rates shall be adjusted annually each year through the course of the contract.

EXHIBIT C

CERTIFICATE OF OWNER'S ATTORNEY AND AVAILABILITY OF FUNDS

1. CERTIFICATE OF OWNER'S ATTORNEY

I, _____ the undersigned, duly authorized and acting legal representative of the City of Medina, Ohio, do hereby certify as follows:

I have examined the attached contract and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have fully power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Date: _____

Seal:

Signed: _____

Title: _____

2. CERTIFICATION REGARDING THE AVAILABILITY OF FUNDS

Attest: I, _____, Fiscal Officer of the City of Medina, Ohio hereby certify that the money to meet this contract has been lawfully appropriated for the purpose of this contract and is in the treasury of _____, or is in the process of collection to the credit of the appropriate fund, free from prior encumbrance.

Date: _____

Seal:

Signed: _____

Title: _____

OK
D. Hammett
5-2-2023

REQUEST FOR COUNCIL ACTION

No. RCA 23-102-5/8

FROM: Nino Piccoli Service Director
DATE: April 28, 2023
SUBJECT: Expenditure Approval

Finance
Only

SUMMARY AND BACKGROUND:

Respectfully requesting Council approval for a change of vendor with respect to Purchase Order No. 2022-1601. The PO currently assigned to Cattman Co. Inc., upon approval will be reassigned to Rescue Painting and Decorating Inc. Rescue Painting will be able to complete the flooring project surrounding the Rotunda area at City Hall. This is the last phase of the Rotunda renovation project. The scope of work involves the stripping and cleaning the current floor tile surface.

This request qualifies as an ARPA project.

Suggested Funding: \$22,656.00

- Sufficient funds in Account No. 171-0743-53322
- Transfer needed from Account No. _____ to Account No. _____
- NEW APPROPRIATION needed in Account No. _____

Emergency Clause Requested: NO
Reason:

COUNCIL USE ONLY:
Committee Action/Recommendation:

Council Action Taken:

Ord./Res.
Date:



City of Medina
 132 North Elmwood Ave
 P.O. Box 703
 Medina, OH 44258

PURCHASE ORDER

Page: 1
 P.O. Number: **2022001601**
 P.O. Date: 09/12/2022
 Req. Number: 2022-SER-0036

Requested By: Lilly Selva
 Blanket Type:
 Ship Via:
 Terms:

Deliver To SERVICE DIRECTOR
 CITY OF MEDINA
 132 NORTH ELMWOOD AVENUE
 MEDINA, OHIO 44256

Vendor C00814
 CATTMAN CO INC
 509 COVE BEACH
 SHEFFIELD LAKE, OH 44054

TERMS:
 1. City of Medina is exempt from excise or sales tax.
 2. Purchase order number must appear on all invoices, packages, packing slips, shipping papers and all other correspondence.
 3. Delivery must be prepaid to destination shown above or billed to same.
 4. No change may be made in this order without consent of the Director of Finance.
 DO NOT DUPLICATE THIS ORDER

FID# 34-6001856

Line	Description	Account	Qty	Unit	Price/Unit	Amount
FINANCE COMMITTEE APPROVED 9/12/22						
		Accounting				
001	RESURFACE TILE FLOORING-CITY HALL	171-0743-53322				\$22,656.00

Purchase Order Total: \$22,656.00

This amount has been lawfully appropriated for such purpose and is in the treasury or in the process of collection.

Keith A. Dvornik

9/20/2022

Director of Finance

Date

REQUEST FOR COUNCIL ACTION

AD
Jansen
5/2/2023

No. PCA 23-103-6/8

FROM: Andrew Dutton/Jansen Wehrley

Committee: Finance

DATE: 5/2/23

SUBJECT: Use of Remaining ARPA Funds

SUMMARY AND BACKGROUND:

This is a request to discuss the use of remaining ARPA funds for the renovation of the Reagan Park skatepark and/or the construction of a multi-use path. Based on figures from the Finance Department, the City currently has \$307,495.39 of remaining ARPA funds.

Reagan Skatepark

The original skate park was developed and constructed in 2007. This was a collaborative project led by the "Skatepark Committee" and the Parks Department. The City of Medina contributed \$50,000.00 to the project and the remaining \$20,000.00 was donated by area businesses, community members, and a local foundation. The current wooden frame structure has exceeded its lifespan and is becoming a major maintenance concern for the department. Wooden ramp structures are no longer used outdoors.

In 2022, we held a Public Properties meeting and discussed how this amenity is important to our community. The committee agreed that we should have a skatepark and suggested that we look for grants or identify other funding sources. As part of this process, we engaged American Ramp Company to create a community survey and develop designs for replacement. The survey results and designs are attached. This project is estimated to cost approximately \$260,000-\$500,000 (depending on the options) to replace concrete and ramps with a similar design at the current location. This project would be completed utilizing the Sourcewell Cooperative Purchasing Program. Option #1 attached is current until 5/31/23. This could be completed for approximately \$299,360.84. (\$249,360.84 for ramps and features and approximately \$50,000 for new concrete with a separate vendor)

Multi-Use Path

There has been support from the public and area businesses for the creation of multi-use paths. City Council recently approved the use of funds for the creation of a Multi-Use Path Plan for the city and surrounding areas. The focus of the Plan will be to prioritize future multi-use paths, provide cost estimates, and identify funding sources. At this time, the plan is in the information gathering phase of the planning process and specific routes have not been identified.

Based on the aforementioned support and Plan creation approval, assigning a portion of the remaining ARPA funds for the construction of a multi-use path is requested.

Costs for Multi-Use paths are approximately \$1 million per mile, though potential paths that do not require right-of-way acquisition will likely come in under that figure. Grant funding would need to be acquired for a future multi-use path, which has an estimated 20% match. Therefore, the city's portion of one mile of multi-use path would be approximately \$150,000 - \$200,000

Estimated Cost: \$307,495.39

Suggested Funding: ARPA

- sufficient funds in Account No.
- transfer needed from Account No. _____ to Account No. _____
- NEW APPROPRIATION needed in Account No. _____

Emergency Clause Requested: No

Reason:

COUNCIL USE ONLY:

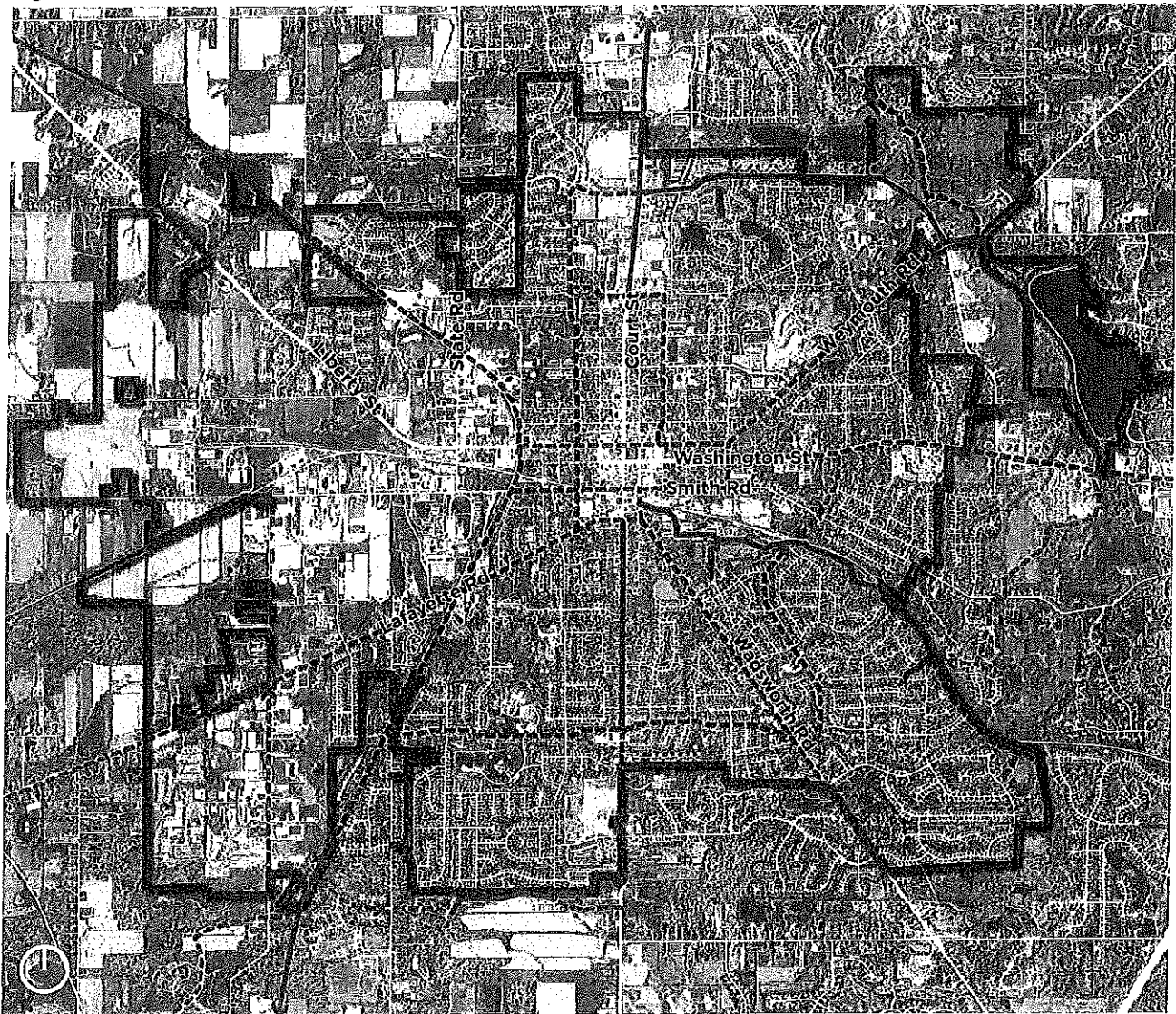
Committee Action/Recommendation:

Council Action Taken:

Ord./Res.

Date:

Figure 4.2 - Future Active Transportation Map



LEGEND

- Existing Route within City
- - Future Route within City
- Existing Route outside City
- - Future Route outside City
- - Future Route - ODOT
- == Mountain Bike Path

ELEMENT THREE: MOBILITY

KEY FINDINGS



Technical Analysis, Previous Plans & Studies

- Previous plans highlighted the importance of protecting and enhancing walkability in the downtown and along active commercial corridors.
- The roadway network includes a number of state routes in a radiating grid pattern which supports a robust local economy, but creates mobility challenges for non-motorized activity, safety, and comfort.
- Existing trails and pathways are present, but not fully connected to create a complete non-motorized system that connects people and destinations.
- Most residents are well connected to parks, within a five minute drive.
- There are a variety of retail and commercial nodes in the city, creating convenient access to shops and services.



Public Engagement

- There is interest in improving the streetscapes on major roads to encourage pedestrian mobility.
- The amount of truck traffic was identified as a key issue by the community.
- The public supports exploring methods to control congestions and truck traffic such as better identifying truck routes, pedestrian enhancements, and alternative modes of travel.
- There is a strong community desire to see an increase in trail connectivity within the city.
- Transit continues to be a key mobility option that is being developed and expanded by the Medina County Public Transit.

City of Medina Comprehensive Plan 2022

Mission Statement: A community that is connected through multiple modes of transportation creating an accessible, attractive, and economically resilient community.



























Objective 3.1: Promote best practices in transportation planning.

Strategy	Responsible Parties	Timeframe
3.1.1 Prepare and adopt an Active Transportation Plan that prioritizes future projects to improve non-motorized transportation, as well as connections to destinations, public spaces, transit, and the regional trail network.		Short
3.1.2 Accommodate bicycle traffic along residential streets using signage, marked bicycle lanes, and sharrows.		Medium
3.1.3 Incorporate standards which promote bike facilities (i.e. racks or shelters) for new commercial, mixed use, and public developments.		Short
3.1.4 Support mixed use development with reduced shared parking requirements.		Continuous
3.1.5 Consider updates to the zoning code to incorporate anticipated changes in parking requirements, curbside management, and drop-off/pick-up zones.		Short
3.1.6 Reduce or provide on-site parking in commercial areas, where shared parking agreements are possible.		Short

Objective 3.2: Implement strategies to reduce congestion and improve the quality of main corridors and intersections.

3.2.1 Manage or reduce access points on major corridors to ensure efficient flow of traffic and access to commercial centers while promoting pedestrian safety.		Continuous
3.2.2 Require traffic impact studies for new development proposals as appropriate.		Continuous
3.2.3 Explore opportunities to route truck traffic away from the Downtown in a manner that supports the industrial community while promoting a safe downtown.		Long
3.2.4 Clearly identify trucking routes in the city for all modal users.		Medium

City of Medina Comprehensive Plan 2022

Strategy	Responsible Parties	Timeframe
3.3.5 Improve the streetscape along primary corridors, specifically West Liberty Street and South Court Street.	  	Medium
3.3.6 Improve crosswalks (e.g. improved signal timing) at key intersections and consider installing pedestrian islands where crossings are 4 or more travel lanes to improve pedestrian safety and convenience.	 	Medium
3.3.7 Coordinate with the Medina City School District to conduct a Safe Routes to School plan to identify improvements to the walking and biking environment for students. (see also Objective 2.1)	  	Medium
3.3.8 Require street and trail connectivity to adjacent developments and networks when new development occurs.	   	Continuous
Objective 3.4: Coordinate regional connectivity with peer organizations.		
3.4.1 Support Medina County Public Transit in their efforts to improve public transit options in the city and beyond.	   	Continuous
3.4.2 Continue to coordinate with the Medina County Park District's efforts to provide new and improved multi-use trails as part of regional trail network activities and developments.	     	Continuous
3.4.3 Coordinate the implementation of bike infrastructure along identified local and regional routes.	   	Medium

2. 22-232-10/11 – Skatepark, Survey & Design – Discussion of Options

Mr. Shields stated they first set up the skate park in Reagan Park in 2007 and within those 15 years, it has had a lot of wear and tear with a lot of use.

Jansen stated that Kurt is in attendance tonight and he was tasked with trying to keep up with the skate park and making sure that we can keep many of the features open because it does get a lot of use. Jansen spoke of the material construction being of wooden substructure with plywood over top of framing and then skate lite that is fastened to the top of it and it was custom built onsite. It continues to deteriorate and there have been a number of incidents including two entrapments where people have fallen through and the fire department had to extract them from the structure. Since 2016, they have spent approximately \$27,000 repairing the skate park, not including any of their staff time. In 2021 alone, their full-time and part-time staff spent 3 weeks repairing soft spots.

In 2022 so far, they have spent over 2 weeks just in repairs to two features. They are now at the point where they need to come up with a plan. The last thing that they want to do as a department is remove the Skate Park.

Jansen engaged the American Ramp Company through the Sourcewell Cooperative Purchasing Program and they put a survey out to the community that was shared through social media channels.

- 40% of the people using the skate park are from the 44256 zip.
- Age group this amenity serves 52% 19- 30 years of age.
- 51% of 207 people use the skate park weekly
- 23% monthly
- 17% everyday
- Busiest traffic time is from 3 p.m. to 7 p.m. with 29% using it later if possible

Jansen stated the most commented topic was replacing the concrete. There is 10,000 sq. ft. of concrete in the recessed area where the skate park is. The gravel is starting to pop up through which makes for an uneven riding surface especially when you are on hard plastic wheels.

There are a few options for consideration that came up when working with American Ramp Company and their designer, but at the same time, Jansen knows they don't exactly have funding for this and tried to keep it all within reason. A way around some of the cost would be to incorporate some concrete elements that are precast into some of the features of the parks. Most of the structure that was quoted is galvanized steel, bolted together in place and has metal ramps surfacing on it and the substructure has a 20-year warranty period. There is some maintenance that has to happen to these. The metal is coated with a rubberized coating (basically a thick paint) and the ramps would need touched up with paint periodically to keep up with them.

After reviewing the plans Jansen came up with two options:

Option #1 – Three different flow/run ways. This project comes in at \$210,8-5.00 excluding concrete.

Option #2 – comes in at \$255,646.00 has one main run, a second side run and then a halfpipe and then some other elements such as concrete boxes, some rails and a precast concrete jersey

October 12, 2022 Public Properties

barrier and has a little bit more flow, has one additional concrete element and some extra rails up top and has a third access point up onto the larger box up top. The design of this one would probably serve us a little bit better because there is more to do but it comes at an additional cost.

Jansen needs some direction on what to do and where to go with these options and figure out a funding source.

Mayor Hanwell suggested rather than replacing all the concrete, is it possible to treat it or apply another layer rather than tearing it all out and starting over. Jansen explained they don't have to tear out the existing concrete, they can pour over top of it. You just have to apply gravel down and then put fresh concrete over that with a broom finish and the budget for that is about \$50,000. So, this \$50,000 is in addition to whatever option we decide on doing if any.

Jim Shields stated he doesn't want to put around \$250,000 into this and not fix the concrete. Jim has a soft spot for this skate park, he loves to see the kids outdoors after school using it.

Dennie asked if there were any grants available that would partially address our needs? Mr. Simpson knows the need is there but funding is going to be the question.

Jim Shields stated if Dennie Simpson and Bill Lamb are interested in moving forward with still having a skate park it would be up to them to talk to council to see if everybody is on board.

Bill stated they have a skate park that needs a great deal of improvement, he also feels 100% that the number of people that use it is way more than the people that responded to the survey. Mr. Lamb feels they need to find the funding to incorporate it into the project.

Regi stated she has had people in her ward express concern about the dangerous condition of the skate park and how their children are utilizing it. She agrees in having an avenue for the youth or young adults to utilize that park. In the past when she was president of two sport associations, one of the mechanisms that they used to raise funds was going out into the community and utilizing the fencing around the softball fields, they had advertising where people and businesses would pay to have their companies/businesses advertised.

Jim asked that before they move this forward to council, maybe they could get a group together that uses the skate park and then get some more information on what the City of Hudson just did for their skate park.

Mayor Hanwell feels there are some opportunities for funding with the American Rescue Plan Act possibly \$70,000, taking a ballpark of about \$300,000 for this skate park and you take that \$70,000 off the top then we have 3 primary foundations that we could start with being Feckley /Stevenson which supported this in the first place, and now the Lincoln foundation, Thomas and Joe Lincoln foundation that Dennis serves on with two other community members and has a larger amount of money that they need to spend in a shorter amount of time because it is not a perpetual foundation. These, along with some of the other ideas that Sherri Patterson mentioned and maybe Century Cycles would want to donate an amount of money to have their name there or even some of the skateboard companies. Mayor Hanwell mentioned the generous Van Epp Family that are avid bikers, not necessarily BMX bikers.

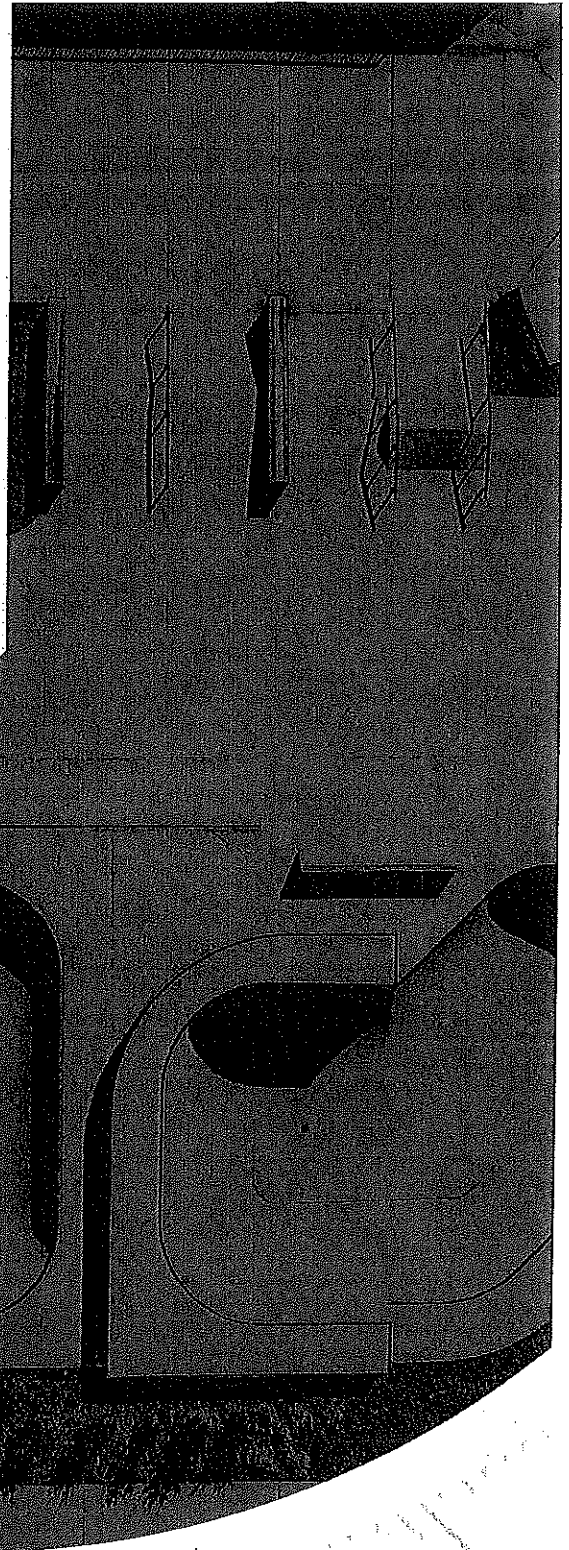
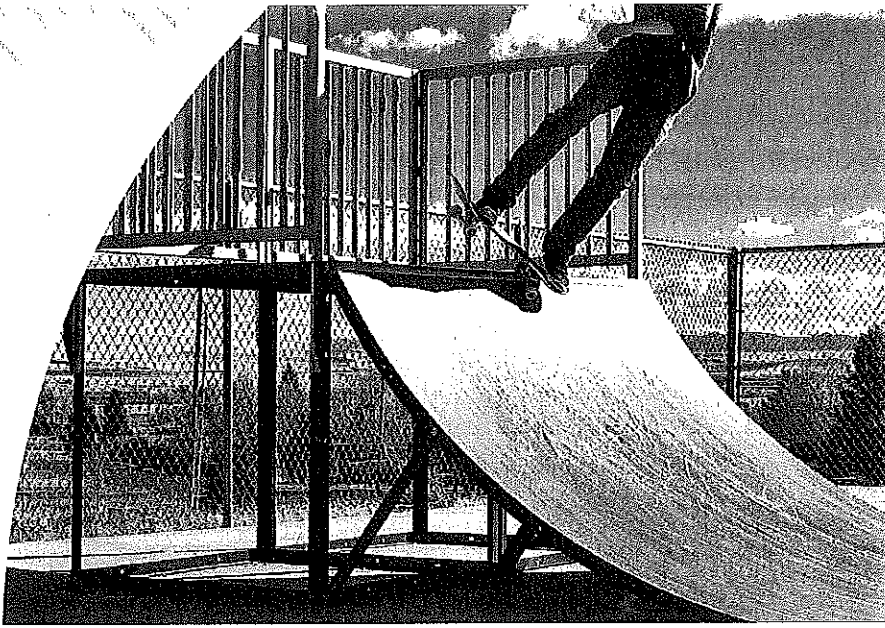
Dennie Simpson moved to pass this through Public Properties and hold from Finance Committee

October 12, 2022 Public Properties

until some of the funding sources can be determined, seconded by Bill Lamb. Motion Passed 3-0.

There being no further business, the meeting adjourned at 6:32 p.m.

Jim Shields, Chairman



**AMERICAN
RAMP
COMPANY**

SKATEPARK SURVEY

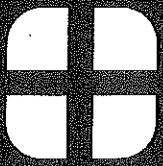
MEDINA, OH

207 PARTICIPANTS

TOP 5 RECURRING ZIP CODES

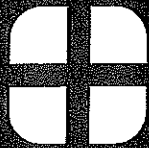
OUT OF 62 TOTAL ZIP CODES

40%



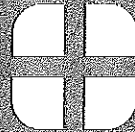
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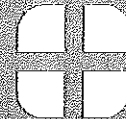
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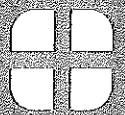
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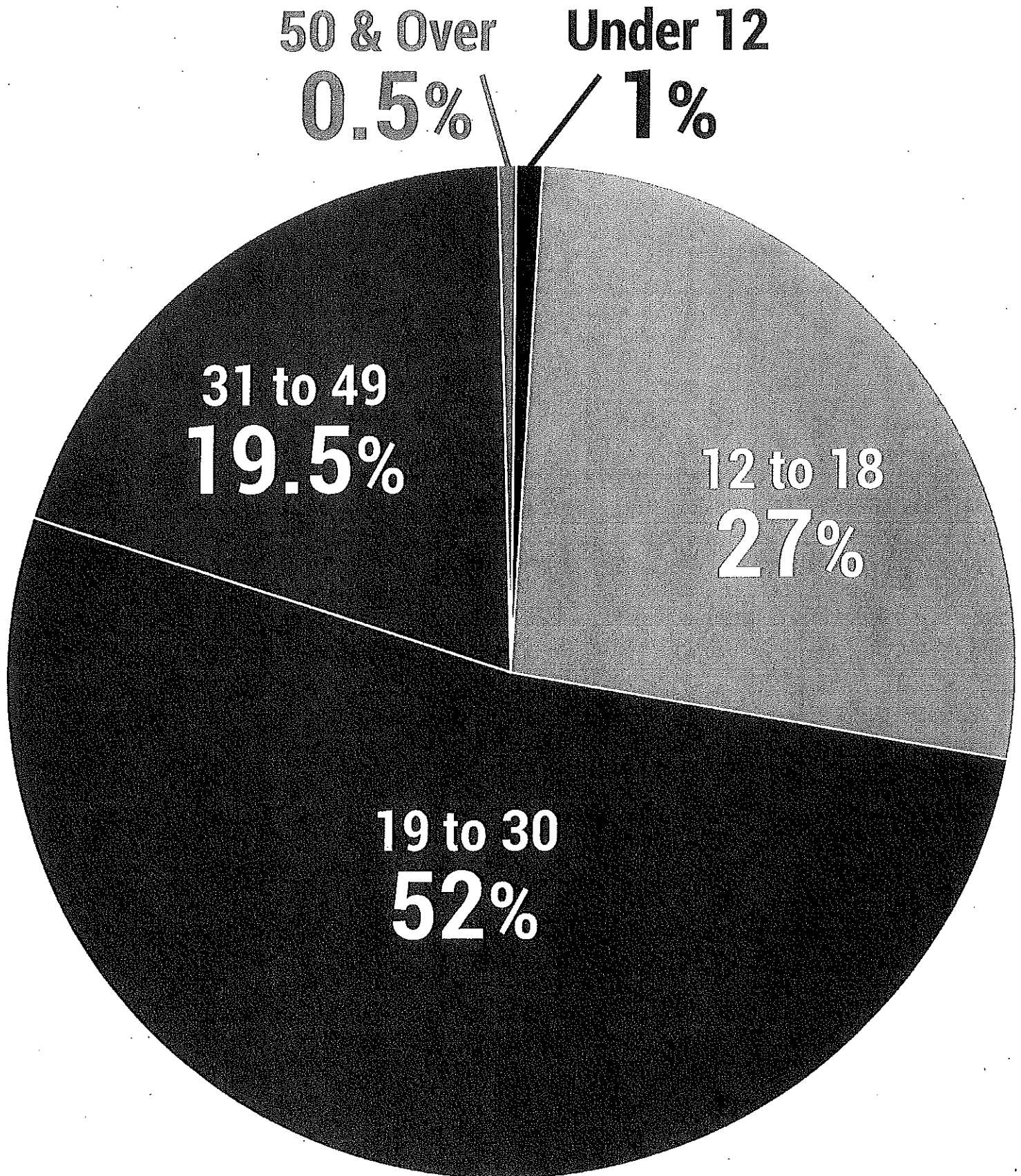
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2%

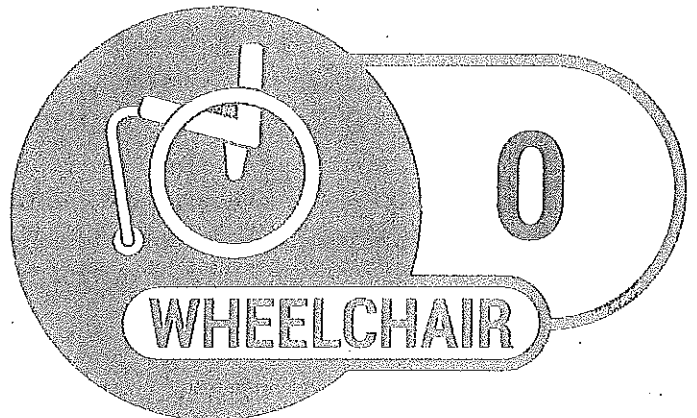
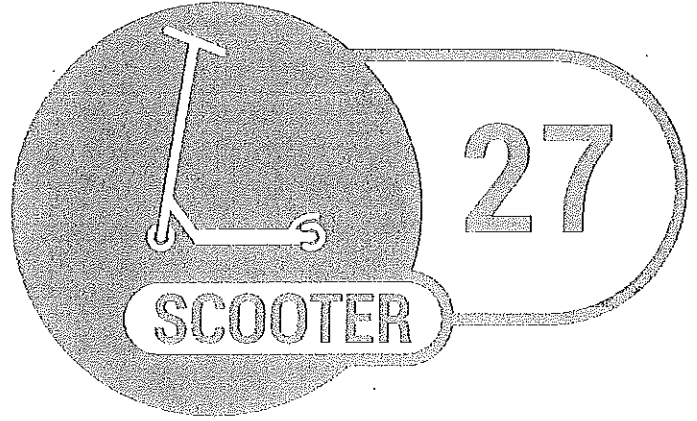
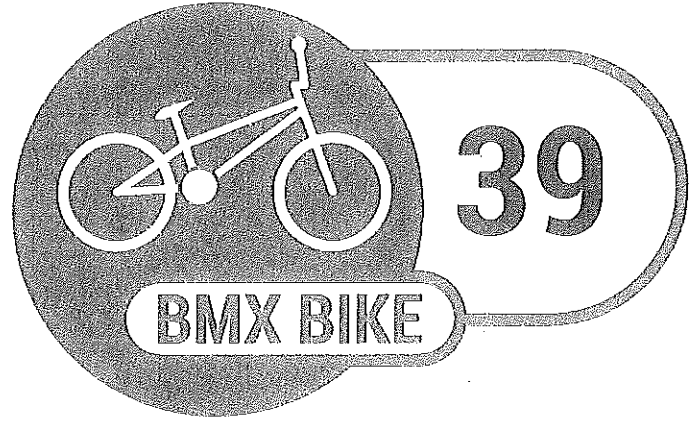


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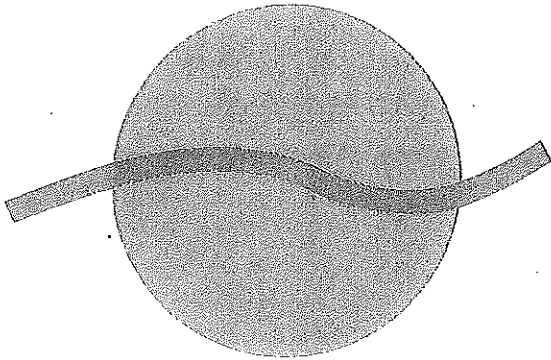
PARTICIPANT AGES



WHAT THEY RIDE

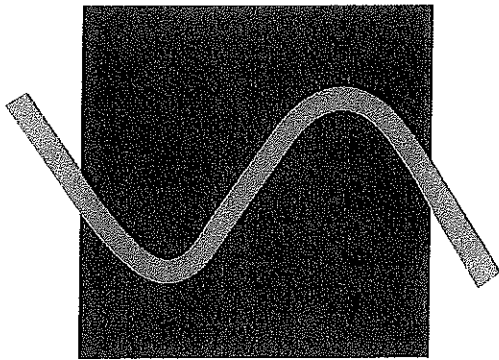


SKILL LEVEL



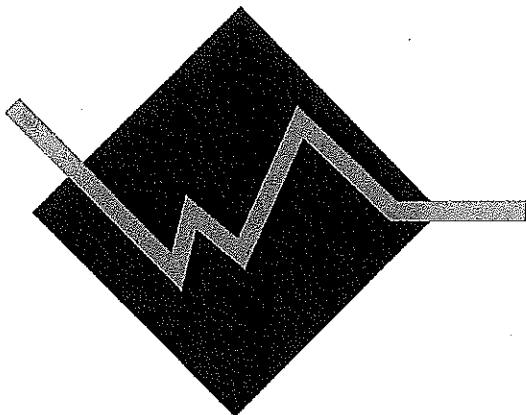
11.5%

BEGINNER



52%

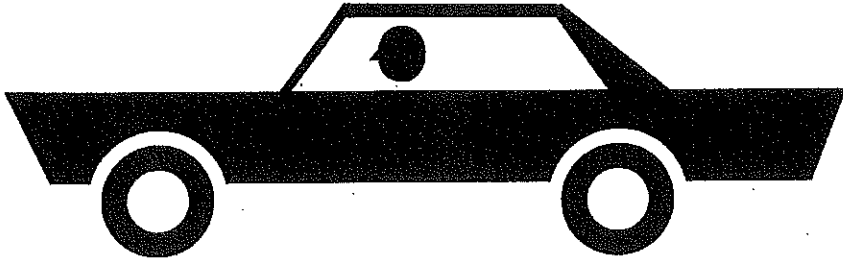
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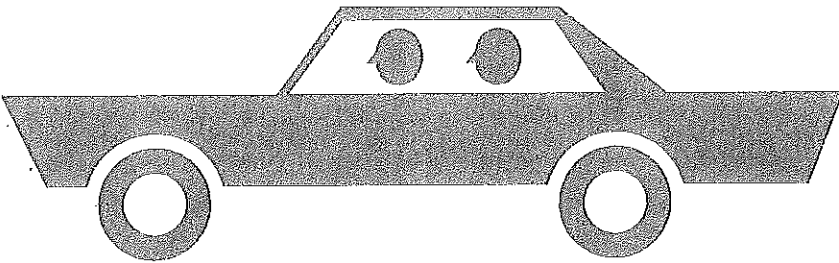
36.5%

ADVANCED

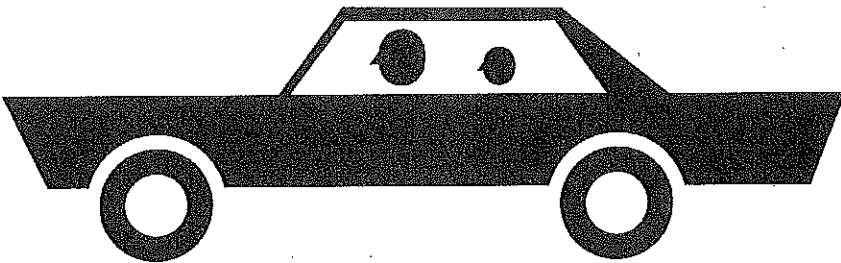
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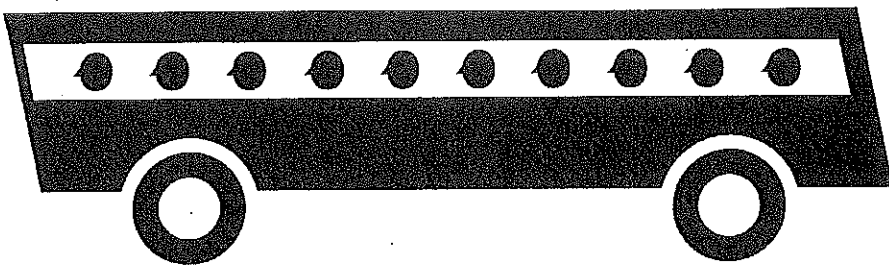
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DRIVE



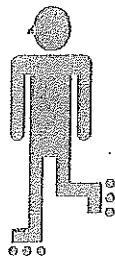
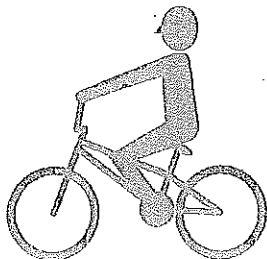
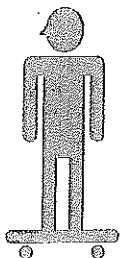
18%
CARPOOL



6.5%
PARENT



1%
PUBLIC



3%
SKATE / RIDE

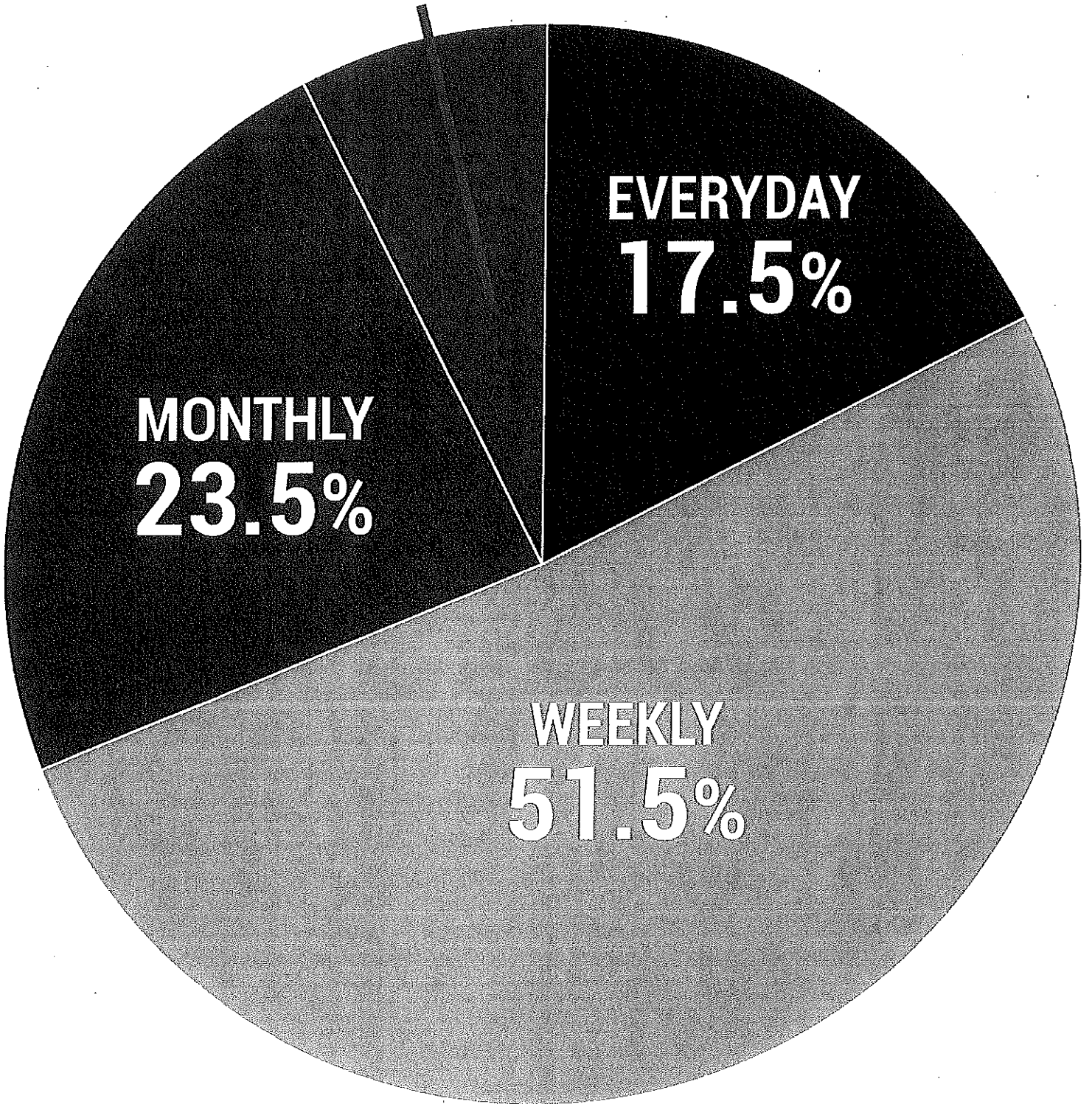
PARK USE

YEARLY
7.5%

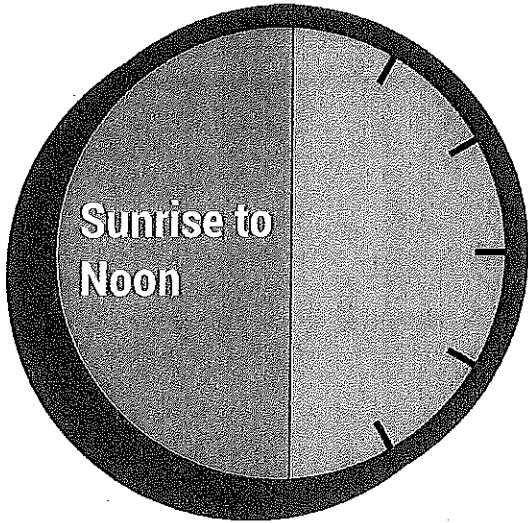
EVERYDAY
17.5%

MONTHLY
23.5%

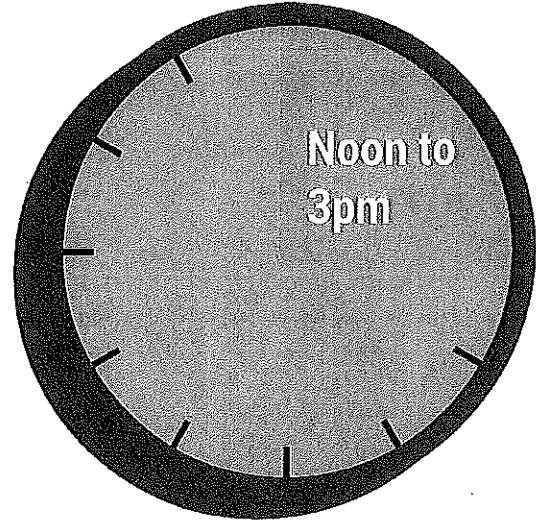
WEEKLY
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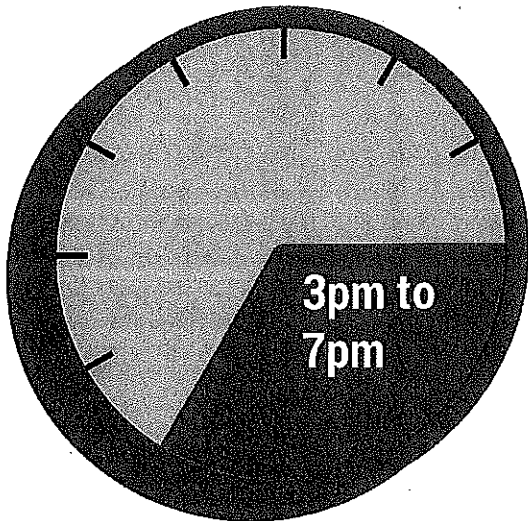
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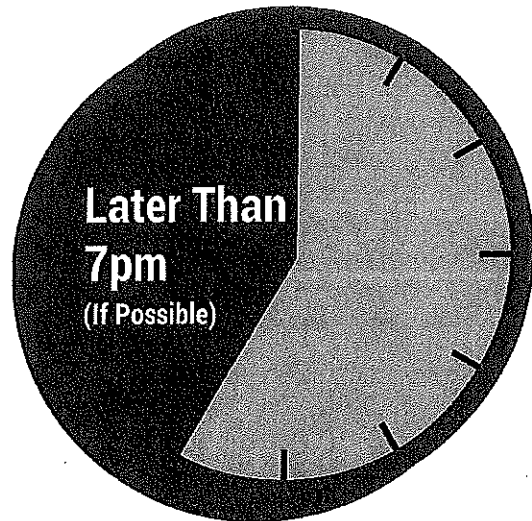
7%



6%



58%



29%

SUGGESTED FEATURES

Ledges

Bowl

Euro Gap

Concrete Features

Box Jump

COMMENTS & QUESTIONS

Make sure to ask all the different type of riders about the park. The park should be not just for skaters. Family friendly and all wheels should be welcome.

About when will this new skate park start construction?

Having nice smooth concrete is important. It's the only reason I go to the current park.

COMMON CONCERN

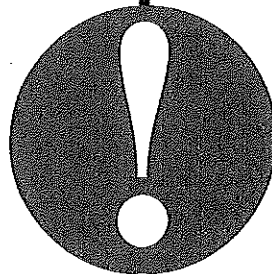
The ground at the park needs resurfaced. The ground is similar to a cheese grater in terms of coarseness.

Any design, plus a fresh layer of concrete would be a huge upgrade. The current flat ground is very rough.

The concrete needs smoothed out at this location. It is so rough that you lose speed and your feet go numb.

Having nice smooth concrete is important. It's the only reason I don't go to the current park.

The concrete surface should also be refinished if not already in the plans. Not very smooth currently. Thank you for all your hard work on this project!!



Option # 1

601 McKinley
 Joplin, MO 64801
 Toll-free 877-RAMP-778
 Local 417-206-6816
 Fax 417-206-6888
 sales@americanrampcompany.com



Quote #	Design #	FOB	Date
Q27231.1	7851	Medina, OH	05/01/2023

Item	Obstacle	Height	Width	Length	X Series
1	Quarter Pipe	2	4.0'	9.0'	\$3,322.77
2	Quarter Pipe	2	4.0'	9.0'	\$2,972.77
3	Quarter Pipe	2	4.0'	9.0'	\$2,972.77
4	Quarter Pipe	2	4.0'	9.0'	\$2,972.77
5	Quarter Pipe	2	4.0'	9.0'	\$3,322.77
6	Extra Deck	2	16.0'	20.0'	\$26,660.00
7	Extra Deck	2	8.0'	6.0'	\$3,999.00
8	Planter (2' wide)	3.5	2.0'	16.5'	\$7,138.75
9	Extra Deck	2	8.0'	12.0'	\$7,998.00
10	Bank Ramp (Wedge)	2	6.0'	8.0'	\$2,773.56
11	Bank Ramp (Wedge)	2	6.0'	8.0'	\$2,953.56
12	Grind Rail (Round)	2	2"	8.5'	\$340.00
13	Stairs	2	6.0'	5.5'	\$2,839.24
14	Skate Bench (Concrete)	1.5	2.0'	6.0'	\$1,928.00
15	Half Pipe	3	4.0'	30.0'	\$10,077.77
16	Half Pipe	3	4.0'	30.0'	\$9,377.77
17	Half Pipe	3	4.0'	30.0'	\$10,437.77
18	Half Pipe	4	4.0'	30.0'	\$9,575.11
19	Half Pipe	4	4.0'	30.0'	\$9,575.11
20	Quarter Pipe	4	4.0'	7.0'	\$1,995.72
21	Quarter Pipe	4	4.0'	11.0'	\$4,028.72
22	Skate Bench (Concrete)	1.5	2.5'	8.0'	\$2,950.00
23	Skate Bench (Concrete)	8"	2.5'	8.0'	\$2,950.00
24	Grind Rail (Square)	1.0'	3"	12.0'	\$480.00
25	Grind Rail, Kinked (Round)	1.5	2"	18.0'	\$720.00
26	Bank Ramp (Wedge)	2	8.0'	8.0'	\$3,878.08
27	Bank Ramp (Wedge)	2	8.0'	8.0'	\$3,878.08
28	Grind Ledge	1.5	6"	18.5'	\$1,110.00
29	Grindable Ledge	2"	13.5'	40.0'	\$600.00
30	Bank Ramp	4.0'	4.0'	13.0'	\$3,996.11
31	Bank Ramp	4.0'	4.0'	13.0'	\$3,646.11
32	Quarter Pipe	3.0'	4.0'	13.0'	\$4,625.41
33	Quarter Pipe	3.0'	4.0'	13.0'	\$4,625.41
34	Bank Ramp	4.0'	4.0'	13.0'	\$3,646.11
35	Bank Ramp	4.0'	4.0'	13.0'	\$3,996.11
36	Jersey Barrier (Replica Series)	3.0'	8.5'	4.5'	\$3,647.54
37	Jersey Barrier (Replica Series)	3.0'	8.5'	4.5'	\$3,647.54
38	Bank Ramp	4.0'	4.0'	13.0'	\$3,996.11
39	Bank Ramp	4.0'	4.0'	13.0'	\$3,996.11

TOTAL \$268,129.94
 Sourcewell Discount -\$18,769.10

*** GRAND TOTAL**

Estimated Monthly Payment, 5 Year Term

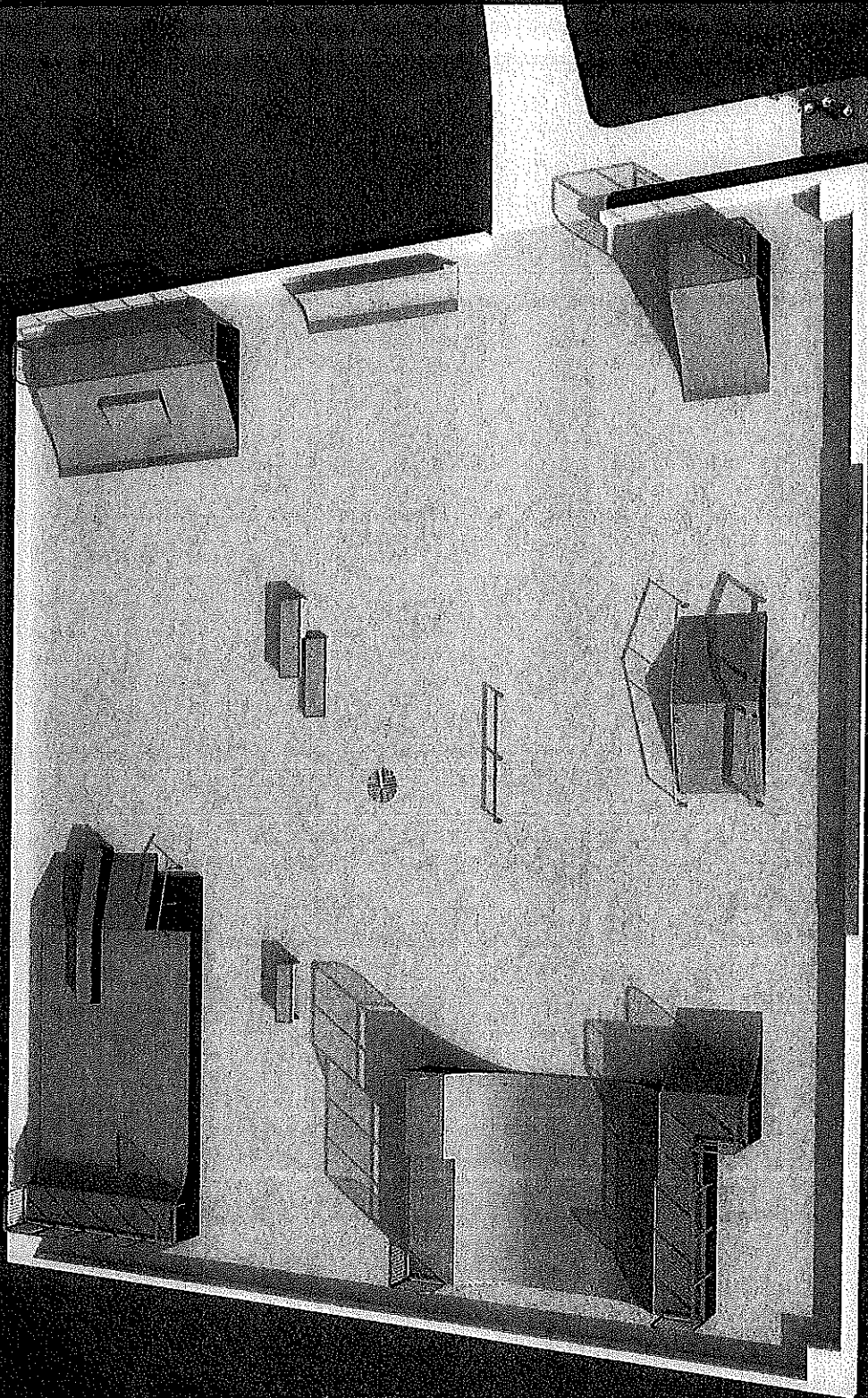
\$249,360.84 + CONCRETE
- 50,000.00
~~\$10,024.31~~
= 299,360.84

Notes:

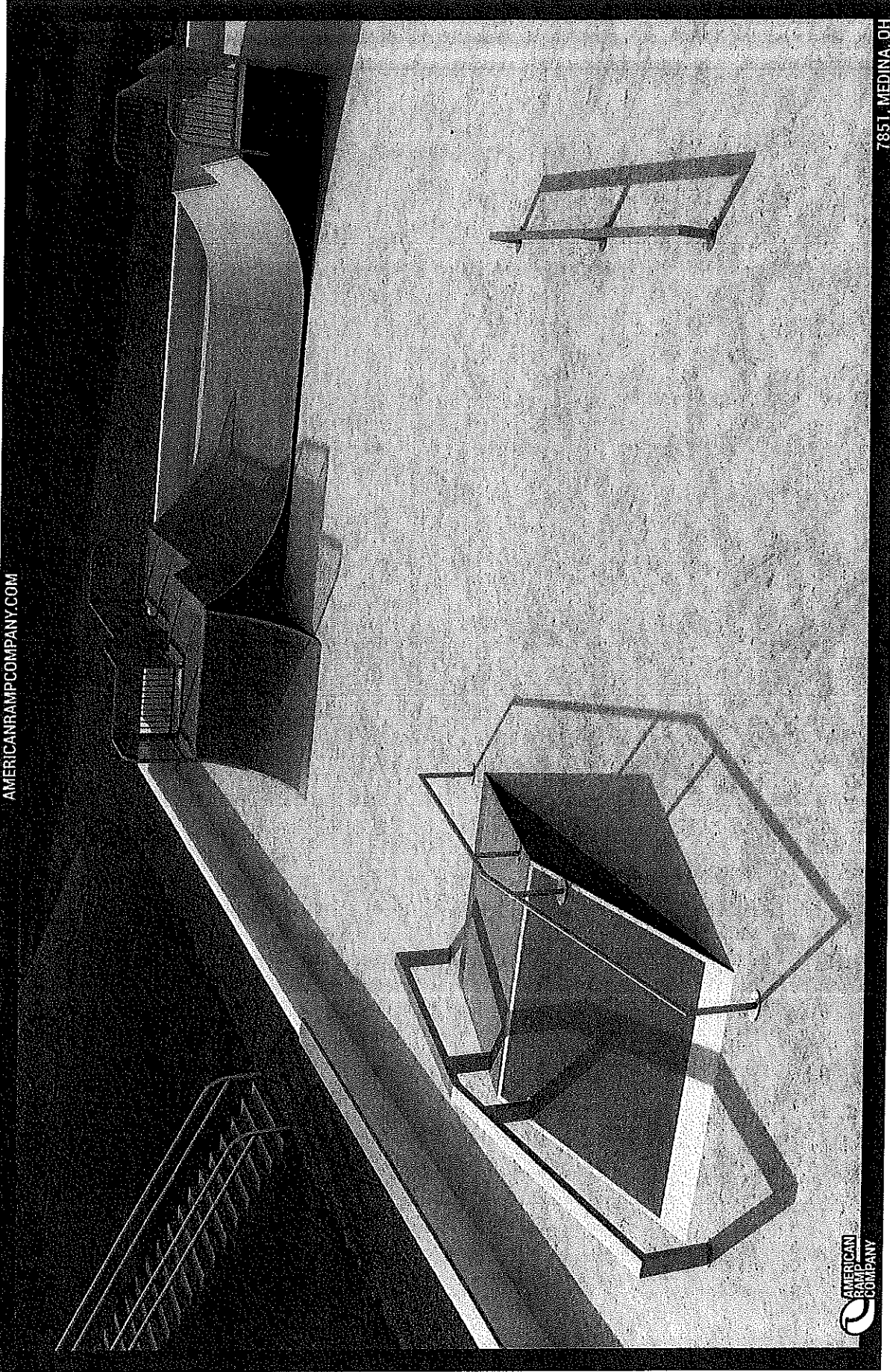
- This turnkey quote includes Equipment, Shipping, and Installation.
- This quote includes a Sourcewell Discount (if procured through Sourcewell Purchasing Co-Op).
- This quote does not include prevailing wage. If applicable, call for revised quote.
- This quote does not include sales tax. If applicable, call for revised quote.
- Quote is good for 30 days.

Purchase through our competitively bid government Sourcewell contract.





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7851, MEDINA, OH

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 Fax: (417) 206-6888
 sales@americanrampcompany.com

DRAWN BY Julia Brueckler
DATE 05/01/2023

REP. AGENCY
 American Ramp Company

REP. NAME
 Cole Beckham

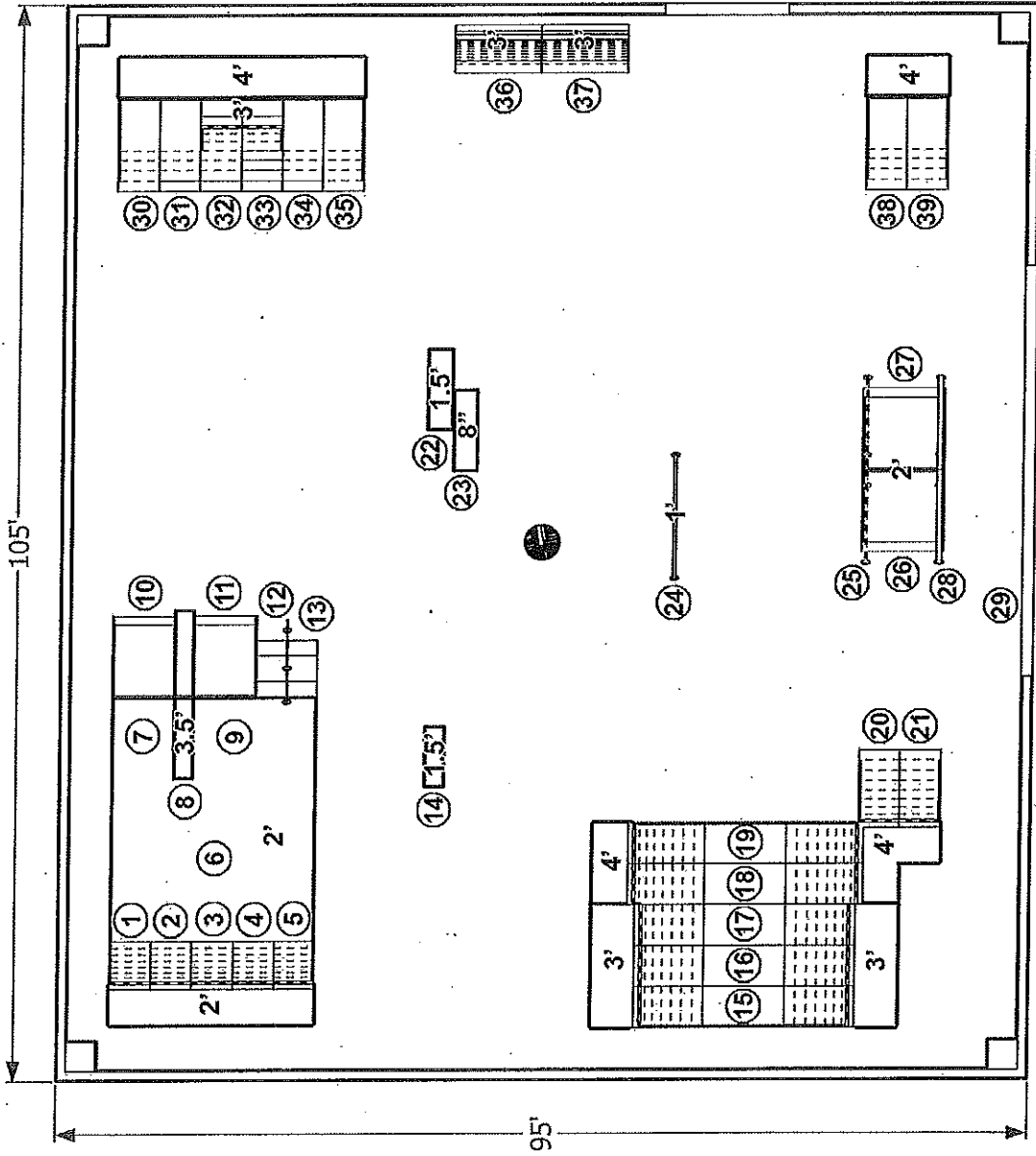
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CUSTOMER APPROVAL _____ **DATE** _____

PROJECT NAME
 Medina, OH

DESIGN NO. 7851



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Option #1 WITH CONCRETE BOWL.

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 Joplin, MO 64801
 Toll-free 877-RAMP-778
 Local 417-206-6816
 Fax 417-206-6888
 sales@americanrampcompany.com



Quote #	Design #	FOB	Date
Q27231.2	8009	Medina, OH	05/01/2023

Item	Obstacle	Height	Width	Length	X Series
1	Quarter Pipe	2	4.0'	9.0'	\$3,322.77
2	Quarter Pipe	2	4.0'	9.0'	\$2,972.77
3	Quarter Pipe	2	4.0'	9.0'	\$2,972.77
4	Quarter Pipe	2	4.0'	9.0'	\$2,972.77
5	Quarter Pipe	2	4.0'	9.0'	\$3,322.77
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38	Bank Ramp	4.0'	4.0'	13.0'	\$3,996.11
39	Bank Ramp	4.0'	4.0'	13.0'	\$3,996.11

TOTAL \$268,129.94
 Sourcewell Discount -\$18,769.10

Engineer's estimate concrete bowl \$200,000.00

~~★~~ GRAND TOTAL

\$449,360.84 + CONCRETE

✓ \$50,000.00

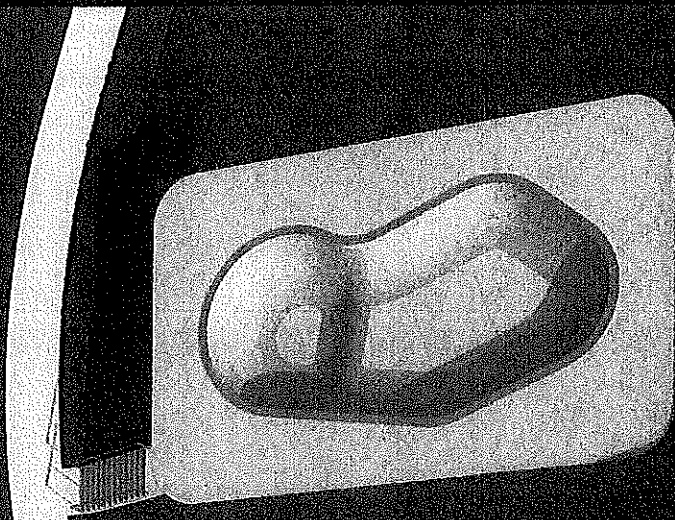
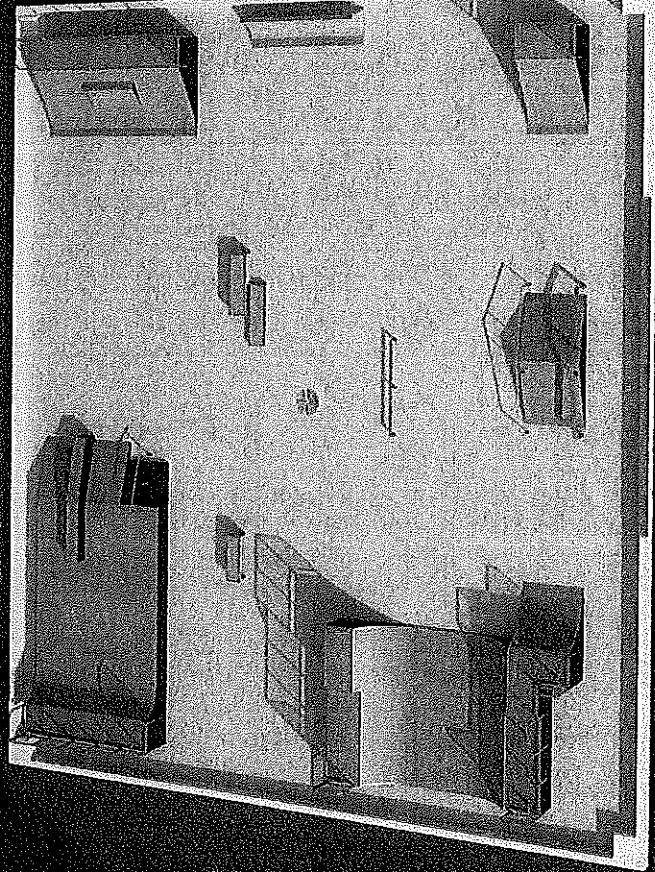
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Notes:

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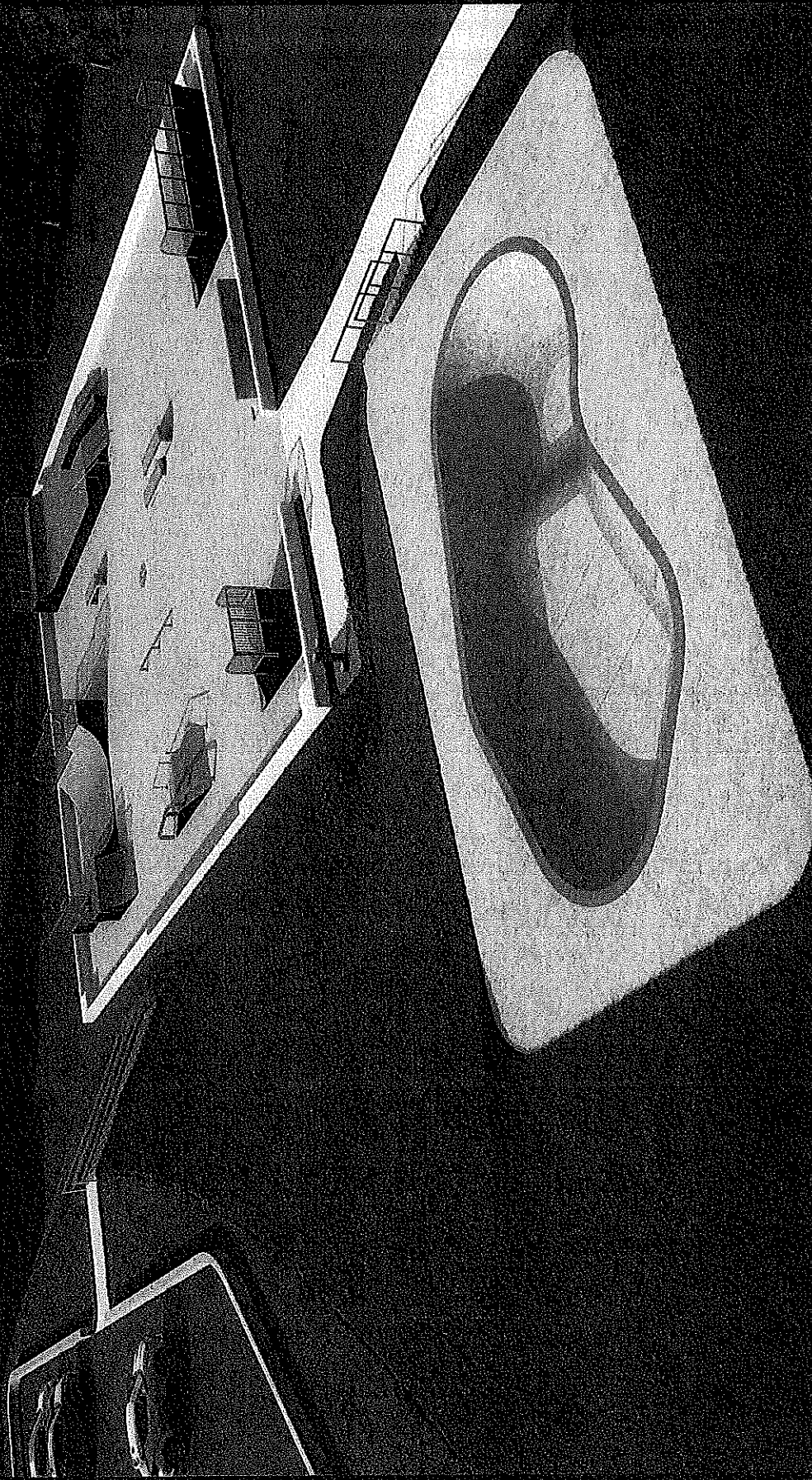
Purchase through our competitively bid government Sourcewell contract.





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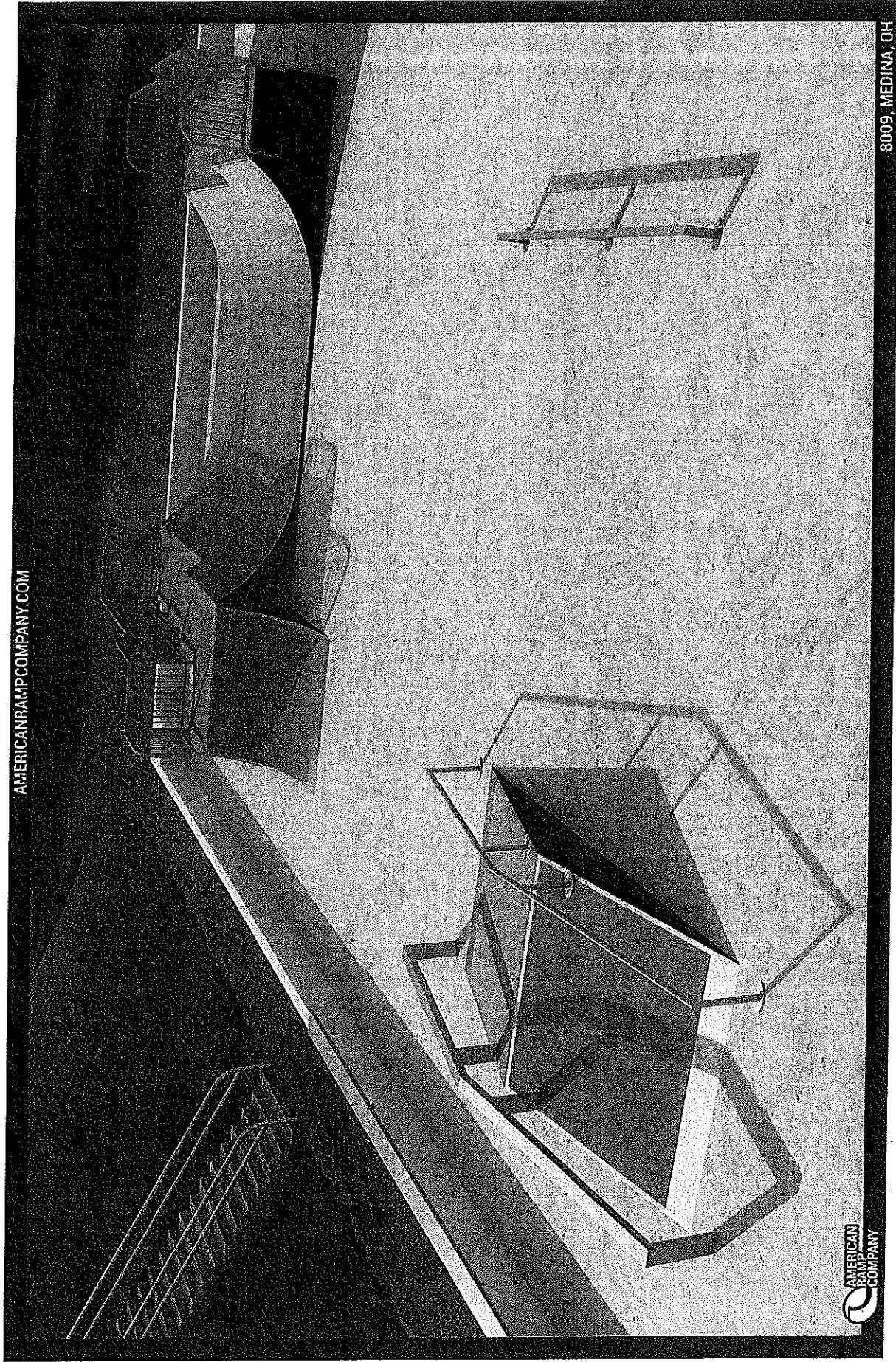
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DRAWN BY Julia Brueckler
DATE 05/01/2023

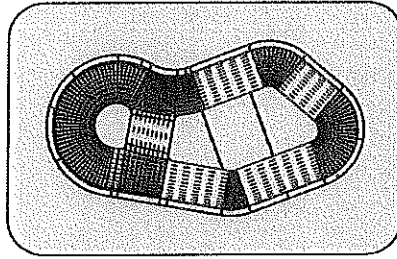
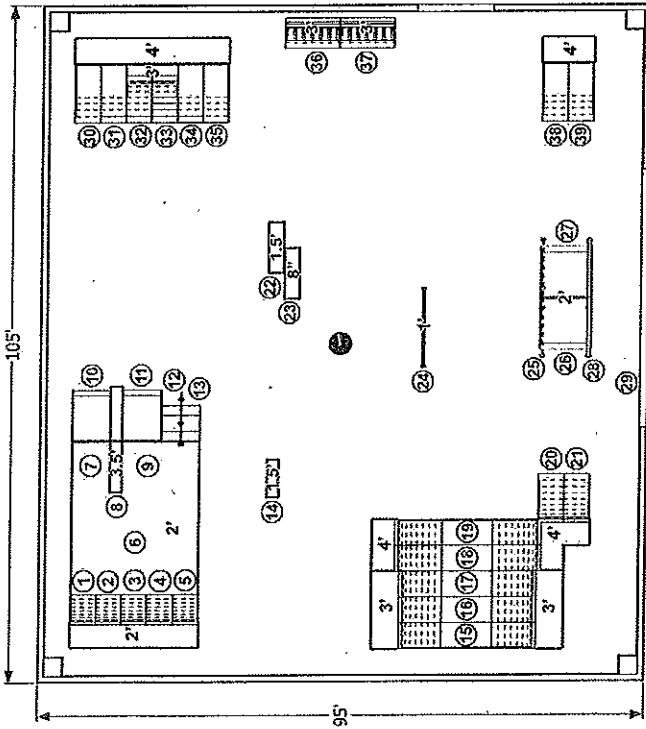
REP. AGENCY
 American Ramp Company
REP. NAME
 Cole Beckham
REP. PHONE
 (800) 949-2024



CUSTOMER APPROVAL _____ **DATE** _____

PROJECT NAME
 Medina, OH

DESIGN NO. 8009



Concrete bowl shown in blue.

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OK Hammer
5-2-2023

REQUEST FOR COUNCIL ACTION

NO. RCA 23-104-5/8

FROM: Patrick Patton



COMMITTEE REFERRAL: Finance

DATE: May 2, 2023

SUBJECT: Renewal – GIS System

This request seeks Council's authorization to enter into an agreement (attached) with lamGIS for Geographic Information Systems (GIS) services for the next 3 years. The City began using lamGIS in 2020 (see Ord #118-20, attached). The request asks Council to authorize the Mayor to sign the agreement on behalf of the City.

The three year term is for \$14,000 per year. We recommend that this approval be subject to Law Director approval as he has recommended modifications to the attached terms and conditions.

Thank you for your consideration.

ESTIMATED COST: \$42,000.

SUGGESTED FUNDING: Street Capital and Water Capital Improvements

Sufficient Funds in Account Number: 108 0610 53321

Transfer Needed from: to:

New Appropriation Account Number:

Emergency Clause Requested: No

Reason:

COUNCIL USE ONLY:

COMMITTEE RECOMMENDATION:

Council Action Taken:

Ord./Res. Number:

Date:



CUSTOMER AGREEMENT

Customer: City of Medina (OH)

Initial Term: Service to begin on: 5/1/2023 (the “Effective Date”), and shall end on: 4/30/2024, unless extended or terminated as provided in this Agreement.

Total Software Fee: \$ 42,000 (Three Years)

Total Software Fee: \$ 14,000

Payment Schedule: By signing this Agreement; Customer agrees to the following terms/conditions:
Failure to pay Net 30 invoice(s) by due date shall result in a 10% late fee and the halting of services.

- Year 1: \$14,000 (invoiced upon Signature)
 - Year 2: \$14,000 (invoiced 5/1/2024)
 - Year 3: \$14,000 (invoiced 5/1/2025)
-

THIS CUSTOMER AGREEMENT ("Agreement") is entered into as of the Effective Date, by and between Customer and *iamGIS Group, LLC* ("Provider"). In consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. **Service.** Provider is a geographic information system (GIS) service provider that provides digital inventories of assets and infrastructure, and maintenance and support thereof (the "Service"). The Service also includes: (a) importing and review of existing Customer shape files; (b) training and off-site support; (c) unlimited access to all tutorial and training videos; (d) creation of custom attributable fields and layer templates; and (e) initial setup of display settings, advance settings, and Authorized User credentials. Provider shall have sole discretion as to the form, content, design, presentation, and user interaction with regard to the Service.

2. **Term and Termination.** The Initial Term is for one (1) year and shall be automatically renewed for additional yearly intervals (each, a "Renewal Term") on the anniversary of the Effective Date, unless Customer provides thirty (30) days' prior written notice to Provider. After the Initial Term, either party may terminate this Agreement, with or without cause, upon thirty (30) days' prior written notice to the other party. If this Agreement is terminated at any time, no refund shall be provided. The Annual Software Fee for any renewal term beyond the Initial Term (the "Renewal Term Fee") shall be due within thirty (30) days after the start of each Renewal Term. The Initial Term and Renewal Term may collectively be referred to herein as the "Term."

3. **Software Support.** During the Term, Customer may contact Provider via (a) web chat accessed on the Website; or (b) email at support@iamgis.net for any support questions related to the Software, Website, or Service. Customer accepts Provider's hours of operation are Monday through Friday from 8:00 A.M. to 4:00 P.M. Eastern Standard Time and, therefore, is not guaranteed to receive support or communication outside those hours of operation.

4. **Website and Intellectual Property.** Provider shall retain all right, title, and interest in and to: (a) that certain collection of computer coding, as modified, updated, and improved from time to time, which comprises and facilitates the Service (the "Software"); (b) Provider's website located at iamGIS.net which hosts the Software and provides a platform for Customer to receive, access, and view the Service (the "Website"); and (c) Provider's trade secrets, trademarks, service marks, trade names, and other intellectual property (collectively, the "Intellectual Property") worldwide, subject to the Limited License, as defined herein and granted hereunder. Provider hereby grants to Customer a non-exclusive, limited license for the use of its Intellectual Property only as expressly provided in this Agreement (the "Limited License"). All such use under the Limited License shall be subject to and in accordance with Provider's reasonable policies regarding the Service and Intellectual Property usage as established from time to time. Upon the termination of this Agreement, Customer shall immediately cease using the Intellectual Property, and Provider shall cease the display of Customer Data on the Website, unless otherwise agreed by the parties in writing.

5. **Customer Data.** Customer shall provide to Provider all necessary data for input or transfer onto the Website via the Software, which shall detail Customer's assets and infrastructure to be displayed in connection with the Service (collectively, the "Customer Data"). Customer represents and warrants to Provider that: (a) Customer has all right, title, and interest in and to any Customer Data provided to Provider; (b) the Customer Data is accurate; and (c) Customer is not violating the intellectual property rights, title, and/or interests of any third parties by providing the Customer Data to Provider. Customer agrees that Provider shall not be liable, and Customer shall hold Provider harmless for, any errors or inaccuracies in the Customer Data in connection with the Service.

6. **Customer Account.** Customer shall have its own, private account on the Website (the "Customer Account"), which will display the Customer Data as part of the Service. The Customer Account may be accessed pursuant to the Limited License, and only by the individual(s) designated by Customer as an "Authorized User." Customer shall not permit any other person or entity to access the Customer Account, other than an Authorized User. Each Authorized User shall have his/her own, unique login credentials for the Customer Account.

7. **Fees.** In consideration of the Service, Customer agrees to pay the Up-front Fees (collectively, the "Total Account Fee") pursuant to Payment Schedule as detailed on page one (1) of this Agreement. Each Renewal Term Fee shall increase by a rate of five percent (5%) annually, and each Renewal Term Fee payment shall be made within thirty (30) days after the start of each renewal term. Failure to make any payment on time shall result in a ten percent (10%) late payment fee and the halting of services until required payment is made.

8. **Website Terms of Service.** In addition to the rights and obligations provided to Customer under this Agreement, Customer agrees to be bound by the Terms of Service, Community Guidelines, and Privacy Policy, if any, as amended from time to time (collectively, the “Terms of Service”), listed on the Provider Website.

9. **Confidentiality.** For the purposes of this Agreement, the term “Confidential Information” shall mean information received from the disclosing party or any of its affiliates or representatives about the disclosing party’s (or its suppliers’) business or activity, which shall include all information, whether written or oral, tangible or intangible, of a confidential or proprietary nature, of or concerning the other party and its business and operations, including, without limitation, all pricing and other financial data and projections, business plans, and strategies, Intellectual Property, patent and trademark technology and applications, computer software and marketing, and sales information, but shall not include any information which (i) was known by the receiving party prior to disclosure by or on behalf of the other party, (ii) becomes available to the receiving party from a source other than the other party, which source is not bound by duty of confidentiality, (iii) becomes generally available or known in the industry; or (iv) the Customer is required to disclose pursuant to law. Each party agrees (a) that it will not disclose to any third party or use any Confidential Information disclosed to it by the other except as expressly permitted in this Agreement, and (b) that it will take all reasonable measures to maintain the confidentiality of the Confidential Information of the other party in its possession or control, which will in no event be less than the measures it uses to maintain the confidentiality of its own information of similar importance. The terms and conditions of this Agreement shall be deemed to be Confidential Information of each party and shall not be disclosed without the written consent of the other party.

10. **Events of Default.** Each of the following shall be considered an “Event of Default” under this Agreement: (a) failure or refusal of Customer to pay any portion of the Total Account Fee (or any successive Renewal Term Fee) when due; (b) failure or refusal of Customer to pay the Asset Digitization Fee (if applicable) when due; (c) failure of Customer to abide by the Terms of Service; and (d) a material breach of Customer’s representations, warranties, and/or obligations under this Agreement. Upon the occurrence of an Event of Default, Provider may, without notice: (i) immediately cease providing the Service, (ii) shut off Customer’s and all Authorized Users’ access to the Customer Account and the Website; and/or (iii) immediately terminate this Agreement.

11. **Indemnification of Provider.** To the extent allowed by law, Customer hereby agrees to indemnify, defend, and hold harmless Provider, its affiliates, members, officers, directors, employees, consultants, successors, and agents (collectively, the “Provider Released Parties”) from any and all claims, cross-actions, third-party actions, and causes of action of every kind that have been or may be asserted in the future against the Provider Released Parties arising from or related to: (a) unauthorized use or access of the Customer Account; (b) Customer’s material breach of this Agreement; (c) any claim that the Customer Data infringes or violates the intellectual property rights, title, and/or interests of any third parties; or (d) any claim for personal injury, property damage, negligence, product liability, breach of warranty, breach of duty, statutory violation, or other claim made with respect to the Customer Data. Without limiting the foregoing, this indemnity and hold harmless provision is specifically intended to include all forms and types of damages, losses, costs, liabilities, taxes, and expenses that may be sought against the Provider Released Parties and the costs of litigation, including, without limitation, reasonable attorney’s fees. Provider shall promptly notify Customer of any claim or demand, specifying the nature of such claim or demand and the amount demanded. Customer shall not settle any claim or demand without the prior written consent of Provider. If it so chooses, Provider shall have the right to control the handling and resolution of any claim or demand which is subject to this indemnity and hold harmless provision, including the right to engage counsel of its choice to handle any negotiations or litigation. Customer agrees to cooperate and participate in the resolution of any claim or demand. The failure of the Provider to give reasonably prompt notice of any claim shall not release, waive, or otherwise affect Customer’s obligations with respect thereto. Additionally, Customer hereby understands and agrees Provider Released Parties are not responsible for damages by a third party or subcontracted entity that is not directly and specifically related to Provider’s GIS Services as described in the opening “Service” paragraph of this Agreement. Customer hereby agrees to indemnify and hold harmless Provider Released Parties for any claim arising from action or inaction by a third party or subcontracted entity related to personal injury, property damage, negligence, product liability, breach of warranty, breach of duty, statutory violation, or other claim that is not directly and specifically related to Provider’s GIS Services as described in the “Service” paragraph of this Agreement.

12. **Indemnification of Customer.** Provider hereby agrees to indemnify, defend, and hold harmless Customer, its affiliates, members, officers, directors, employees, consultants, successors, and agents (collectively, the "Customer Released Parties") from any and all claims, cross-actions, third-party actions, and causes of action of every kind that have been or may be asserted in the future against the Customer Released Parties arising from or related to: (a) Provider's material breach of this Agreement; (b) any claim that the Provider's software infringes or violates the intellectual property rights, title, and/or interests of any third parties; or (c) any claim for personal injury, property damage, negligence, product liability, breach of warranty, breach of duty, statutory violation, or other claim made with respect to Provider's performance of its duties hereunder. Without limiting the foregoing, this indemnity and hold harmless provision is specifically intended to include all forms and types of damages, losses, costs, liabilities, taxes, and expenses that may be sought against the Customer Released Parties and the costs of litigation, including, without limitation, reasonable attorneys' fees. Customer shall promptly notify Provider of any claim or demand, specifying the nature of such claim or demand and the amount demanded. Provider shall not settle any claim or demand without the prior written consent of Customer. If it so chooses, Customer shall have the right to control the handling and resolution of any claim or demand which is subject to this indemnity and hold harmless provision, including the right to engage counsel of its choice to handle any negotiations or litigation. Provider agrees to cooperate and participate in the resolution of any claim or demand. The failure of the Customer to give reasonably prompt notice of any claim shall not release, waive, or otherwise affect Provider's obligations with respect thereto. Provider hereby agrees to indemnify and hold harmless Customer Released Parties for any claim arising from action or inaction by a third party or subcontracted entity related to personal injury, property damage, negligence, product liability, breach of warranty, breach of duty, statutory violation, or other claim that is not directly and specifically related to Customer's services or obligations under this Agreement.

13. **Authority.** Customer represents and warrants that Customer has full approval and authority to enter into this Agreement, and the individuals executing this Agreement on behalf of Customer have been duly authorized.

14. **Amendment and Waiver.** No modification, variation, or amendment of this Agreement shall be effective unless agreed to in writing by both parties. A failure of either party to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way affect the full right to require such performance at any time thereafter. No waiver shall be deemed a waiver of any other breach of the same or any other terms or conditions hereof.

15. **Assignment.** Customer may not assign this Agreement without the prior written consent of Provider.

16. **Attorneys' Fees.** In the event any legal action is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover all costs and expenses including, without limitation, reasonable attorneys' fees.

17. **Notice.** All notices required to be given under this Agreement shall be deemed delivered: (a) immediately upon hand-delivery; or (b) three (3) business days after sending the notice via U.S. Certified Mail, return receipt requested, addressed to the receiving party at the address provided by the receiving party from time to time; or (c) via email.

18. **Miscellaneous.** Nothing in this Agreement shall be deemed or construed by the parties or any other entity to create an employer-employee relationship, agency, partnership, or joint venture between the parties. ~~This Agreement shall be subject to and governed by the laws of the State of Indiana,~~ without consideration of any conflicts of laws principles. The parties agree that the proper venue and jurisdiction for any dispute under this Agreement shall be the state and/or federal courts located in Marion County, Indiana. If any of the provisions of this Agreement are for any reason held by any court or tribunal of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions herein shall remain in full force and effect. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute a single Agreement.

IN WITNESS WHEREOF, this Agreement contains the entire agreement of the parties. Customer agrees that this Agreement includes all terms on all pages/sides hereto. Customer has read, understands, and voluntarily agrees to all terms stated herein. This Agreement supersedes all prior agreements or understandings between Customer and Provider. By executing below, Customer agrees to be bound by all the terms and conditions of this Agreement, and any addendums hereto, as of the Effective Date noted above. This Agreement is not valid unless signed and accepted by Provider below.

“Customer”

“Provider”

City of Medina (OH)

iamGIS Group, LLC

By: _____

By:

Printed: _____

Printed:

Title: _____

Title:

Billing Email
(For invoice): _____

ORDINANCE NO. 118-20

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH GIS GROUP, LLC FOR GIS ASSET MANAGEMENT SOFTWARE AND SERVICES FOR THE CITY OF MEDINA WATER DEPARTMENT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to enter into an agreement with GIS Group, LLC for GIS Asset Management Software and Services for the City of Medina Water Department.
- SEC. 2:** That the funds to cover this expenditure in the estimated amount of \$32,000.00 are available in Account No. 513-0533-52215.
- SEC. 3:** That in accordance with Ohio Revised Code §5705.41(D), at the time that the contract or order was made and at the time of execution of the Finance Director's certificate, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance.
- SEC. 4:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: June 22, 2020

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: June 23, 2020

SIGNED: Dennis Hanwell
Mayor

REQUEST FOR COUNCIL ACTION

From: Dennie Simpson and Paul Rose

No. RCA 23-105-5/8

Date: 01-May-2023

Committee: Finance

Subject: Require a petitioner to be valid elector of the City of Medina to collect signatures on a city only petitions. *Discussion*

Summary and background: The recent ballot petitions for the city have had an "outside the city" influence. Ballot initiatives have gotten on the ballot because non-city residents helped collect signatures for placement on the ballot. Out of respect to the voters of the city of Medina, this action is requested to limit those collecting signatures to only valid electors of the city of Medina when the issue is Medina City only.

Estimated Cost:

Suggested Funding:

Sufficient Funds in Account:

Transfer Needed From:

To:

New Appropriation Needed into Account:

Emergency Clause Requested: Yes ___ No ___

Reason:

COUNCIL USE ONLY:

Committee Recommendation:

Ord./Res.:

SECTION VII-1. Initiative and Referendum.

Ordinances and other measures may be proposed by initiative petition and adopted by election and ordinances and other measures adopted by the Council shall be subject to referendum, to the extent and in the manner now or hereafter provided by the Constitution, the laws of Ohio, or this Charter.

Any initiative petition that proposes zoning regulation or zoning district changes must first be submitted to the Planning Commission and then City Council in the following manner before being certified to the election authorities for placement on the ballot for consideration by the electorate. A petition that proposes zoning regulation or district changes shall be filed with the Director of Finance. If the Director of Finance and the election authorities determine that the petition is sufficient, the Director shall within 10 days certify the sufficiency and validity of the initiative petition and transmit the certification and a certified copy of the proposed ordinance to the Council. At the next regular meeting of Council, the Council shall at once read and refer the same to the Planning Commission. The Planning Commission shall submit its report of the proposed ordinance and its recommendations thereon to Council within 45 days of the Council's referral. Upon receiving the report and recommendation of the Planning Commission, the Council shall hold a public hearing on the proposed ordinance and shall take final action thereon within 45 days from the date of the Planning Commission's report. If Council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition, the committee of the petitioners may require that it be placed on the ballot for consideration by the electorate in its original form by certifying that fact to the Director of Finance within 10 days after the final action on such proposed ordinance by Council. The Director shall forthwith certify the proposed ordinance to the election authorities, and the election authorities shall place the proposed ordinance on the ballot for the approval or rejection of the electorate at the next general election occurring subsequent to 75 days from the date of that certification.

(Amended 3-2-04.)

REQUEST FOR COUNCIL ACTION

No. RCA 23-106-5/8

FROM: Civil Service Commission

Committee: Finance

DATE: 5/3/2023

SUBJECT: Revision of Various Civil Service Rules (V-VIII)

SUMMARY AND BACKGROUND:

The Civil Service Commission respectfully requests City Council to consider and accept the attached revision to Civil Service Rules V-VIII allowing experienced communication operators the opportunity to apply as a lateral transfer applicant and participate in a lateral transfer testing process. This suggestion was presented to the Commission by Chief Kinney to follow the recently approved patrol office lateral transfer application and testing process. The communication operator lateral transfer process is mirroring the patrol officer's procedure. Law Director Huber and Attorney R. Todd Hunt both reviewed and approved the final copy attached for Council to review and consider for approval.

The additional qualifications an applicant would need to be considered as a lateral transfer communication operator candidate are: at least 12 months of experience with an agency that dispatches Police, Fire or EMS and they would need to be able to operate a Law Enforcement Automated Data System terminal and not be disqualified to be L.E.A.D.S. certified.

There would be competitive testing separate from entry level testing and they could complete the testing process and hiring process quicker to help fill vacancies not only sooner but to improve staffing to help prevent current employees from burn-out. It would be a great benefit to have a new hire start and already have experience so training is shortened. A lateral transfer hire would be more likely to stay because they already know the job/responsibilities and understand the hours and the stress involved.

Please find the proposed revisions to Civil Service Rules V-VIII attached with the changes added in ***italic & bold print***.

Thank you in advance for your time to review and consideration.

- transfer needed from Account No. _____ to Account No. _____
- NEW APPROPRIATION needed in Account No. _____

Emergency Clause Requested:

COUNCIL USE ONLY:

Committee Action/Recommendation:

Council Action Taken:

Ord./Res.

Date:

RULE V
APPLICATION FOR EXAMINATION

(A) Notice of Examination

1. Entrance Examination

The Commission shall give reasonable notice of time, place, and general scope of every competitive examination to a position in the civil service. Notice may be given through the local newspapers, bulletin boards, local cable, the City's Internet website, and/or any other means necessary to obtain qualified applicants in a timely manner.

2. Promotional Examination

Notice of competitive promotional examinations to be held shall be given by posting of the announcement of examination in conspicuous places in the departments whose employees may be interested, and may be by individual communications to the employees eligible for such promotion.

3. Lateral Transfer Patrol Officer Examination

Notice of competitive Patrol Officer lateral transfer appointment examinations to be held shall be given by posting of the announcement of examination in conspicuous places in the City Police Department and shall be given through the local newspapers, bulletin boards, local cable television channel, the City's Internet website, and/or any other means necessary to obtain qualified applicants in a timely manner.

4. Lateral Transfer Communication Operators Examination

Notice of competitive Communication Operator lateral transfer appointment examinations to be held shall be given by posting of the announcement of the examination in conspicuous places in the City Police Department and shall be given through the local newspapers, bulletin boards, local cable television channel, the City's internet website, and/or any other means necessary to obtain applicants in a timely manner.

(B) Minimum Qualifications

The Commission shall establish and publish minimum entrance qualifications for each examination, which shall be included in the official announcement of each examination. Minimum entrance qualifications may include, among other things, the following:

1. Applicant's Age

Before publication of announcements of each examination, the Commission shall determine age requirements for entrance to such examination. After the publication of the examination announcement, no change in age requirements shall be made except by the Commission, which shall then publish a new announcement of examination. No modification of the age requirements as set forth in the published notice shall be made in the cases of individual applicants. Age restrictions for appointment shall also be stated in the announcement of examination. Two such restrictions are listed below:

- a. Only persons who have reached the age of twenty-one (21) years shall be eligible to receive an original appointment as Police Patrol Officer.
- b. Only persons who have reached the age of eighteen (18) years shall be eligible to receive an original appointment as a Firefighter in the Fire Department.
- c. Only persons who have reached the age of twenty-one (21) years and less than forty-one (41) years of age shall be eligible to receive an appointment as a lateral transfer Police Patrol Officer.

2. Experience and Education

The Commission may establish experience and educational requirements where they are necessary to performance of a specific job or professional position.

Lateral transfer Patrol Officers must be currently employed with a minimum of one (1) year of full-time peace officer experience, or previously employed within the last twelve (12) months as a full-time peace officer, with an Ohio State Certified Law Enforcement Agency in a jurisdiction in the State of Ohio, including having completed the probationary period at that employment. For purposes of this rule, "peace officer" shall be as defined in Ohio Revised Code 109.71 (A).

Lateral transfer Communication Officers must be currently or previously employed within the last twelve (12) months as a full-time Communication Operator with a minimum of one (1) year of full-time service with an agency that dispatches for Police, Fire or EMS.

3. License or Certification

Wherever a license or certification is required by law to perform the duties of a classification, the applicant shall present such license or certificate or a certified copy at the time of filing application for entrance to an examination for such classification.

Lateral transfer Patrol Officers must be certified by the Ohio Peace Officer Training Academy ("OPOTA") or present to the Commission an OPOTA letter of training equivalency.

Lateral transfer Communication Operators must be able to operate a Law Enforcement Automated Data System terminal and not be disqualified to be L.E.A.D.S. certified.

(C) Applications

Applications for admission to any examination shall be made upon application forms approved by the Commission. All applications shall be legibly printed or written, and applicants shall state under oath or affirmation all pertinent facts on the following subjects:

1. Name, address, and, if requested, date of birth
2. Service in the uniformed services, as defined in Rule VI(K)
3. Skills
4. Previous employment
5. Education, if requested
6. Other information affecting the qualification of the applicant for admission to the examination as required by the Commission

(D) Filing of Application

Unless otherwise permitted, all applications must be filled out at the Civil Service office in Medina, Ohio. Applications will be accepted only if received before the time fixed in the announcement of examination as the last date and time for filing; however, the time for filing may be extended if the Commission determines that there is just and sufficient cause.

(E) Rejection of Applicants

All applications shall be reviewed by an authorized representative of the Commission. Applications may be rejected for any of the following reasons:

1. That the applicant has not met the qualifications specified on the announcement by the date of the examination.
2. That the applicant has intentionally made any false statement on the application.
3. That the applicant is not within the prescribed age limits.
4. That the applicant does not meet the physical requirements of the position.
5. That the applicant has been convicted of a crime or has been guilty of disgraceful conduct or has been dismissed from employment for flagrant delinquency or misconduct.
6. That the applicant was previously in the classified service or the unclassified service and was removed for cause or did not resign in good standing.
7. That the applicant is applying for a classified position in the Division of Police and is not a United States citizen or has not legally declared the intention of becoming a United States citizen. The applicant must, however, be a United States citizen in the event the applicant is appointed to a classified position in the Division of Police.

In addition, applications may be rejected for any just or reasonable cause that is job-related, and not discriminatory, as determined by the Commission.

Upon rejecting any application, the Commission shall promptly notify the applicant of the reason for the rejection by certified mail (return receipt requested) or personal delivery or Fed-Ex (with signature requested) or substantially, similar, commercial mailing system. The applicant may, within seven (7) calendar days after issuance of the notice, file a written complaint against such rejection. The Commission will not hear complaints that contest the qualifications established by the Commission. If a complaint from a rejection is pending at the time an examination is scheduled to be held, the applicant shall be allowed to take the examination pending decision in such inquiry. If the Commission finds the rejection justified, the examination paper shall not be graded.

(F) Accommodation

The examination announcement will advise potential applicants as to the procedures by which a potential applicant may request reasonable accommodation in order to participate in the application process and/or examination process.

RULE VI
EXAMINATIONS

Examinations may be held where the Commission deems advisable and shall be administered under the direction of the Commission or its contracted provider.

(A) Character of Examinations

Examinations shall be practical and impartial and shall relate to those matters that will fairly test the relative capacity of the persons examined to perform the duties of the position.

(B) Types and Methods of Examination

The Commission shall determine and state in the announcement of each examination whether it will be competitive or noncompetitive, entrance or promotional, assembled or unassembled, or any combination.

(C) Parts of Examination

The Commission shall determine for each examination the parts or subjects into which it shall be divided and the weight to be assigned to each part. The parts that shall be recognized may include: written tests, oral tests, performance tests, evaluation of education and experience, evaluation of attendance, performance and conduct, physical examinations, medical examinations, and other such tests as the Commission deems appropriate.

1. Written tests may be either objective or essay type, as appropriate to demonstrate the knowledge, skills, or abilities required in the position and to indicate the applicant's general qualifications.
2. Oral tests shall consist of an interview between the applicant and the designated examiner(s) to measure the applicant's suitability for the position as to such job-related factors as may be examined in that manner.
3. Performance tests and assessment center tests shall include such tests of ability and skill as will determine the applicant's competence to perform the duties of the position.
4. The Commission shall evaluate the applicant's education and experience from the statements contained in the application and from such other sources as may be required.
5. Physical ability tests, drug tests, medical examinations, and psychological evaluations, as appropriate, may be given before admission to the examination, before being placed on the appropriate eligible list, before certification for

appointment, after certification and interview but before appointment, or after conditional appointment subject to successful completion of such test(s). Failure to satisfactorily meet appropriate standards in any such examination shall cause the rejection of an applicant without regard to the grade(s) attained on other parts of the examination. Any such test required shall be done at no expense to the applicant.

A person shall be eligible to receive an original appointment as a Police Patrol Officer or Firefighter or shall be eligible to receive a lateral transfer appointment as a Police Patrol Officer only if the person has passed a medical examination, given by a licensed physician not more than one hundred twenty (120) calendar days before the date of appointment, which shows that the applicant meets the requirements necessary to perform the duties of the position; however, inquiry regarding the results of any such examination shall be conducted at the time and manner permitted by law.

Physical examinations may include tests of bodily condition, muscular strength, ability, and physical fitness to perform the work of the position.

Applicants for lateral transfer appointment will be required to pass the Medina Police Department physical agility test which will be proctored by a team of Medina Police Officers.

(D) Scheduling Examinations

The Commission shall determine the time and place of examinations. The Commission shall cause an examination to be scheduled before an eligible list has expired or has been exhausted, or when a new position has been created for which there is no eligible list.

(E) Admitting Applicants to Examination

No applicant shall be admitted to any assembled examination after the advertised time for beginning such examination, or after any applicant competing in any such examination has completed the examination and left the examination room, except by special permission of the person in charge, who shall have discretion to admit the applicant conditionally, subject to the Commission's final approval or disapproval of such admission.

No applicant in any examination shall be given a longer time on any subject than prescribed by the Commission when examination questions are approved.

(F) Identity of Examinee Concealed

The identity of all persons taking competitive assembled examinations shall be concealed by the use of an identification number, which shall be used on all examination papers. This number shall be used from the beginning of the examination until the papers are rated. Any papers bearing the applicant's name or any other identification mark may be rejected and the candidate so notified.

(G) Frauds in Examinations

Frauds in examinations are prohibited and shall result in automatic disqualification. No person shall:

1. Willfully or corruptly or in cooperation with one or more persons deceive or obstruct any person in respect to the exercise of any right or privilege of examination, appointment, or employment under the civil service law and rules and regulations;
2. Willfully or corruptly falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified under the provisions of the civil service law, or aid in so doing;
3. Willfully or corruptly furnish to any person any special or secret information to either improve or injure the prospects or chances of any person so examined, registered, or certified, or to be appointed, employed, or promoted;
4. Willfully or corruptly make any false representation concerning the results of such examinations or concerning any person examined;
5. Willfully impersonate any other person, or permit or aid in any manner any other person to impersonate the applicant in connection with any examination, registration, appointment, application, or request to be examined, registered, or appointed;
6. Furnish any false information about the applicant, or any other person in connection with any examination, registration, appointment, application, or request to be examined, registered, or appointed;
7. Make known or assist in making known to any applicant for examination any question to be asked on such examination.

No applicant shall assist any other applicant during the taking of an examination; nor shall any applicant personally or through another person solicit favor from any member of the Commission, its staff, or an appointing officer. Any applicant in any examination found to be using any means of information other than that provided in the examination itself, such as memoranda, pamphlets, or books to assist in answering the questions shall have the examination papers taken up and filed with a zero marking when the circumstances justify such action.

Protests regarding the conduct of the examiners, the securing of unlawful assistance by a competitor, or other circumstances in connection with an examination as would call for an investigation by the Civil Service Commission may be submitted to the Commission, the Commission secretary, or any other person designated by the Commission. All

protests must be submitted in writing unless circumstances require that the information submitted be given in confidence; however, the confidentiality of such information cannot be guaranteed.

(H) Visitors at Examination

No visitors shall be admitted to the examination room during any examination except by special permission of the test administrator.

(I) Postponement and Cancellation

The Commission may postpone or cancel any examination because of an inadequate number of applicants or for any other just and sufficient cause. The Commission may alter the qualifications for admission to a postponed examination to secure an adequate number of applicants; however, these alterations shall be adequately publicized. Notice shall be given to all applicants when an examination is postponed or canceled and such additional announcements and publications as needed shall be issued to notify the public.

(J) Method of Grading

The total grade attainable in each examination, except for special credits, shall be one hundred (100). In examinations composed of more than one part, the method of scoring shall be:

1. Each part of the examination shall be separately rated and the proficiency of each competitor determined on the basis of a scale of one hundred (100) for maximum possible attainment.
2. Each part shall be assigned a weight based on the relative value of the part to that of the entire examination.
3. The earned grade of each examinee in each part of the examination shall be multiplied by the weight assigned to the part and the sum of the totals shall be the earned grade for the participant.
4. In addition to the Military ("Uniformed") Service credit provided for in these Rules, the Commission shall have the authority and the discretion with respect to examinations, other than promotional and noncompetitive examinations, to award additional credit points to an applicant's earned passing grade on an examination ("Additional" credit points). The total credit points to be awarded to one applicant, including Military ("Uniformed") Service credit points, shall not exceed ten (10) credit points. Additional credit points, if provided for by the Commission, shall be for educational or work-related experience that the Commission in its sole discretion determines to be related to the position which is the subject of the examination. The criteria for Additional credit points and the procedure for applying for these credit points shall be clearly established by motion of the

Commission and set forth in the publicized examination notice. The required proof of eligibility to be awarded Additional credit points, in the event the applicant achieves a passing grade on the examination, shall be established by a date and time prior to the commencement of the examination.

(K) Credit for Military ("Uniformed") Service

Any person who has completed service in the uniformed services and who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service may file with the Commission a certificate of service or honorable discharge, and, upon this filing, the person shall receive an additional five (5) points credit, to be added to the applicant's earned passing grade resulting from the examination.

Requests for additional credit for uniformed service shall be filed with the Commission, along with the application preferably, but in no event later than the day of the examination. Credit for uniformed service will not be given if the request for such credit is received by the Commission after an eligible list for any examination has been established.

This credit shall not apply to any promotional or noncompetitive examination. When holding a combined open competitive and promotional examination for Chief of Police, no credit for uniformed service will be given to any applicant, either applicants currently in the City service or applicants outside the City service.

As used in these Rules, "service in the uniformed services" and "uniformed services" have the same meaning as the "Uniformed Services Employment and Reemployment Rights Act of 1994,..." 38 U.S.C.A. 4303" which meaning shall be:

The Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or a full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in the time of war or national emergency.

(L) Examination Papers

No grades given in any examination shall be changed after the posting of an eligible list, except that the Commission may correct clerical errors at any time before the expiration of such lists. An applicant, upon request to the Commission, may be permitted to inspect the applicant's own examination papers and the markings thereof at any time within sixty (60) calendar days after such eligible list is posted, except examinations wherein the test developer will not allow the key to be published or retained. No note-taking, video reproduction, recording, or other form of reproduction will be permitted during such inspection.

(M) Method of Filling Promotional Vacancies

Vacancies in authorized positions above the lowest classifications in the classified service shall be filled, as far as practicable, by promotions. (Promotional ranks within the Police Department shall be filled in compliance with Section P of this Rule). The Commission shall determine in each case whether or not it is practicable to fill a vacancy by promotion, and from what classification or classifications such promotion shall be made and the type of examination to be used for the promotion. The type of examination may include written, oral, performance, or assessment center tests.

Eligibility for a promotional examination shall be limited to permanent employees who have satisfactorily completed their probationary period in a lower class.

Whenever there are three or more persons in a proper lower class eligible and willing to compete for a vacancy in a higher position, the Commission may, if it deems a satisfactory appointee can be obtained in this manner, hold a promotional examination open only to persons in that class/classes, in which case the names of the three persons having the highest passing ratings shall be certified to the appointing authority. If a promotional examination is not held and/or there are fewer than three persons eligible and willing to compete, the Commission may:

1. Hold an open competitive examination to fill the vacancy.
2. Hold a combined open competitive and promotional examination to fill the vacancy.
3. Permit the appointing authority to nominate one of such eligible persons for promotion without competition as an exceptional appointment, but in all cases of promotion without competition, the appointing authority shall submit a written statement showing that the duties performed by the person nominated are a natural preparation for the higher position, and that such person is entitled to promotion by reason of length of experience and effective performance.
4. Permit the appointing authority to underfill by provisionally appointing to the position an employee who has less than the minimum qualifications for the position. During the probationary period, which shall be three (3) months, the appointing authority shall designate training for the position. If the employee proves unsatisfactory during the probationary period in the sole discretion of the appointing authority, the employee may be reduced to the former rank.

(N) Grading of Promotional Examinations

Promotional examinations shall be graded in accordance with Section (J) of this Rule. Promotional applicants who receive a passing grade shall be granted additional credit points for seniority, which shall determine the final score. No additional credit shall be given for Efficiency Points or efficiency. The maximum number of additional credit points available shall be ten (10) percent of the maximum examination test score.

Seniority credit shall be given based on continuous service with the City as follows: one point is added for each of the first four years of an applicant's service and six-tenths of a point is added for each year of service for the next ten years of service. No credit is given for any years of service beyond fourteen years. For any half year of service, half of the foregoing credit shall be given. For purposes of the subsection (N), "continuous service" shall mean uninterrupted service with the City of Medina at the time of scoring of the examination, except for interruptions of continuous service caused by mandatory service in the "uniformed services" as defined in Rule VI(K). In promotional examinations for sworn officers of the Medina Police Department, credit for seniority shall be based only on continuous service in the Medina Police Department as a full-time sworn officer. Any applicant taking an examination for the position of Chief of Police shall not be given seniority points.

Efficiency Points or efficiency ratings will not be considered when determining the final scores on examinations for the positions of Chief of Police or Chief of Fire.

When a tie exists after calculation of the final score, including seniority credit, then seniority in the classification from which the promotion is sought shall determine the order of the scores. If a tie still exists, then seniority in the department shall determine the order of the scores. Seniority used to break ties shall be total service in the department, not continuous.

(O) Grading of Combined Open Competitive and Promotional Examinations

When the Commission holds a combined examination, promotional applicants who receive passing grades shall be ranked on the eligible list ahead of the open competitive applicants regardless of final passing grade. Open competitive applicants who have received passing grades shall receive uniformed service credit in addition to the test score in accordance with Section (K) of this Rule. Promotional applicants who have received passing grades shall be granted additional credit points for seniority in accordance with Section (N) of this Rule.

(P) Police Promotions

Vacancies in positions above the rank of Patrol Officer and below the rank of Chief shall be filled by promotion from among persons holding positions in a rank lower than the position to be filled. No person shall be appointed to such position without having first completed a competitive promotional examination and serving at least two years in the

Medina Police Department in the next lower rank (service for the purpose of this section shall mean cumulative, as opposed to continuous, service). If there are fewer than two persons holding positions in the next lower rank than the position to be filled who are eligible and willing to compete, the Commission shall allow persons holding positions in the next lower rank who are eligible and willing to compete to take the promotional examination. Promotional tests may include oral components as well as written. No additional credit shall be given on a promotional examination in the Police Department for Efficiency Points or efficiency.

Pursuant to the Medina Charter, promotional appointments in the Police Department shall be made in accordance with the provisions of Ohio Revised Code Sec. 124.44 except as follows:

1. The Civil Service Commission shall certify to the appointing authority the names of the three persons on the eligible list having the highest passing rating. The appointing authority shall fill such position by appointment of one of the three persons certified.
2. In the case of a vacancy in the position of Chief, the appointing authority may admit two additional candidates to the examination provided those candidates possess the job-related qualifications specified by the Commission.

(Q) Fire Service Promotion

Pursuant to the Medina Charter, promotional appointments in the Fire Department shall be made in accordance with the provisions of Ohio Revised Code Sec. 124.45 except as follows:

1. The Civil Service Commission shall certify to the appointing authority the names of the three persons on the eligible list having the highest passing rating. The appointing authority shall fill such position by appointment of one of the three persons certified.
2. In the case of a vacancy in the position of Chief of the Fire Department, the appointing authority may admit two additional candidates to the examination provided those candidates possess the job-related qualifications specified by the Commission.

No additional credit shall be given on a promotional examination in the Fire Department for Efficiency Points or efficiency.

(R) Police Lateral Transfer Hires

Experienced peace officers from other jurisdictions who have obtained and maintained Basic Ohio Peace Officer Certification may be eligible for lateral transfer appointment as a Patrol Officer. **Patrol Officer** applicants appointed as lateral transfer hires shall only be appointed to the rank of Patrol Officer. **Patrol Officer Police and Communication Operator** lateral transfer candidates shall be entitled to the Credit for Military ("Uniformed") Service to be added to their examination score as provided for in part K of this Rule and any other credits to their examination scores as established by the Commission pursuant to this Rule VI.

RULE VII
ELIGIBLE LISTS

(A) Posting of Lists

From the results of each competitive examination, the Commission shall prepare and keep open to public inspection a list of the persons whose grade in any examination meets or exceeds the established passing grade and who are otherwise eligible. Such persons shall take rank upon the eligible list in the order of their respective grades. An eligible list for a noncompetitive examination will consist of an alphabetical listing of qualified applicants.

The eligible list for lateral transfer *Police* Patrol Officers and *Communication Operators* shall be kept separately from the eligible list for original appointment *Police* Patrol Officers *and Communication Operators*.

(B) Duration of Lists

Eligible lists created by the Commission shall remain in force not longer than one (1) year; however, the Commission may, at its discretion, extend the eligible list for a total period not to exceed two (2) years or may abolish any list that has been in force for more than six (6) months and hold a new examination whenever, in its judgment, the interest of the public service so requires. No name shall remain on a list longer than two (2) years.

The Commission shall have the sole discretion to determine the duration of any eligible list for lateral transfer *Police* Patrol Officer *applicants* and may provide for a continuing eligible list with no expiration date and with eligible candidates being placed on the eligible list according to their test scores and credit points that are established at any time.

All persons whose names appear on an existing list that is to be abolished before the regular expiration date shall be notified and given an opportunity to compete in the new examination process.

Eligible lists resulting from unassembled examinations shall remain in effect for one (1) year from date of examination and, insofar as possible, notification of the expiration date will be sent to those persons being removed from the list.

(C) Breaking Tied Grades

In the event two (2) or more applicants receive the same grade on an open competitive examination, priority in the time of filing the application with the Commission shall determine the order in which their names shall be placed on the eligible list; applicants eligible for uniformed service credit shall receive priority in rank on the eligible list over

non-veterans on the list with a rating equal to that of the veteran. Ties among applicants receiving military service credit shall be decided by which application was filed earlier with the Commission. (See Section (N) of Rule VI for breaking tied grades on promotional examinations.)

(D) Transfer

At the discretion of the Commission, any eligible may at any time, by written request, be transferred to the eligible list for a lower class in the same series requiring qualifications of the same general character, ranked according to the eligible's original grade.

(E) Change of Address

Each person on an eligible list shall file with the Commission a written notice of any change of address, and failure to do so may be considered sufficient reason for not certifying the eligible's name to the appointing authorities for consideration for appointment.

(F) Investigation and Disqualification of Eligibles

Upon the establishment of an eligible list, and except as otherwise prohibited by law, the Commission may conduct or authorize an investigation as to whether the eligibles possess the necessary standards of fitness, physical attributes, mental soundness, or other qualifications required to perform the duties and responsibilities of the position sought. The eligibles may be investigated before certification.

The investigation may include physical fitness examination, medical examination, psychological and/or psychiatric examination, polygraph examination, background investigation, personal interview, drug testing, or any other method necessary to ascertain the applicant's qualifications and abilities, as determined by the Commission.

If an eligible is found during the investigation to be unqualified or unsuitable for the position, the Commission shall remove the person's name from the eligible list. If the Commission removes a name from an eligible list, the person shall be promptly notified by certified mail (return receipt requested) or personal service or Fed-Ex (with signature requested) or substantially, similar, commercial mailing system of the removal and advised that an appeal may be filed within seven (7) calendar days after issuance of the notice; however, no appeal may be made for reinstatement to an eligible list that has expired or been revoked.

The Commission may reinstate the person to the eligible list upon a showing of just cause. The Commission may dismiss the appeal if the person does not appear at the scheduled hearing. If testimony is heard concerning the appeal, the Commission shall have the witnesses placed under oath or affirmation of truthfulness, shall permit cross-examination, and shall announce its conclusions of fact.

Where the Commission is unable for practical or legal reasons to conduct examinations to determine whether applicants have medical or psychiatric conditions that would prevent satisfactory performance of all essential functions of the position, the Commission's certification of an eligible shall not signify that the person meets all requirements for the position relating to physical and psychological abilities.

(G) Revocation of List

An eligible list may be revoked and another examination ordered when the Commission deems revocation to be advisable for reasons of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All eligible applicants in the first examination shall be notified and shall be eligible to participate in the rescheduled examination without filing a separate application; however, if the eligible list has been in place for six (6) months or longer before being revoked, all applicants shall pay the required filing fee. The revocation of any list and the reasons therefore shall be entered in the minutes of the Commission, and any person on the list at the time of revocation shall be so notified by mail.

RULE VIII
APPOINTMENTS

Permanent appointments to all positions in the classified service that are not filled by promotion, transfer, or reduction shall be made from those persons whose names are certified to the appointing authority in accordance with the Civil Service Laws of the City and the Rules of the Commission.

(A) Number of Names to Be Certified; Appointment from Other Appropriate Lists

1. The appointing authority of the department in which the position in the classified service is to be filled shall notify the Commission of the fact, and, except as set forth below, the Commission shall certify to the appointing authority the names and addresses of the five (5) candidates standing highest on the eligible list for the class or grade to which the position is classified. In the event that an eligible list becomes exhausted through inadvertence or otherwise, and until a new list can be created or when no eligible list for such position exists, names may be certified from eligible lists that the Commission determines appropriate for the group or class in which the position to be filled is classified.
2. In cases where there are fewer than five (5) names on an eligible list appropriate for certification to any vacancy, such names shall be certified, and the appointing authority may make selection from such certification or may reject the certification of fewer than five (5) names.
3. The number of names to be certified shall be determined in the following manner:
 - a. For 1 through 4 vacancies, add 4 names to the number of vacancies.
 - b. For 5 through 8 vacancies, add 8 names to the number of vacancies.
 - c. For 9 through 12 vacancies, add 12 names to the number of vacancies.
 - d. For 13 through 16 vacancies, add 16 names to the number of vacancies.
4. ***With certain classifications (Patrol Officers & Communication Operators) permitted to hire lateral transfer candidates***, the appointing authority shall have the option to hire from either the certified eligible list for original appointment ***Patrol Officers candidates*** or the certified eligible list for lateral transfer ***Patrol Officers candidates***. In the event there is no eligible list in effect for original appointment ***for the needed classification Patrol Officer***, the Commission shall not be required to certify an eligible list for lateral transfer ***Patrol Officer candidates*** to the appointing authority unless requested to do so by the appointing authority.
5. Notwithstanding these provisions, the Commission shall certify the names of the highest ten (10) eligible candidates for a position as Patrol Officer. If the Director of Public Safety seeks to fill more than one Patrol Officer position, the Commission shall certify sufficient

names to allow each appointment to be selected from a group of ten (10) eligibles. (For example, for 1 through 4 Patrol Officer vacancies, add nine (9) names to the number of vacancies, for 5 through 8 Patrol Officer vacancies, add eighteen (18) names to the number of vacancies.)

(B) Certification Not More Than Three Times

A person certified from the same eligible list three (3) times to the same appointing authority may be omitted from future certifications unless the appointing authority has specifically requested certification of that person. A person is "certified," for purposes of this section, each time an appointment is made from a certified list containing that

person's name; however, if a person is certified when more than one (1) position is to be filled, that person shall remain eligible through up to five (5) appointments from that particular certified list. If fewer than five (5) appointments are made from that certified list, the person shall be eligible for future certification until the person has been considered for appointment five (5) times.

(C) Names Not to Be Certified for Appointment

The name of any person appearing on an eligible list who:

1. fails to report or arrange within seven (7) calendar days for an interview with the appointing authority;
2. fails to respond to a notice from the Commission within seven (7) calendar days;
3. declines an appointment without reasons satisfactory to the Commission;
- or
4. cannot be located by the postal authorities

shall not thereafter be certified to any appointing authority as eligible for appointment unless a thoroughly satisfactory explanation of the circumstances is made to the Commission. A person removed from eligibility in this manner shall be notified by written notice sent by certified mail (return receipt requested), personal service, or Fed-Ex (with signature requested) or substantially, similar, commercial mailing system to the last address provided by the applicant. Where an eligible person's name appears on more than one (1) list, appointment to a position in one (1) class shall be considered a waiver for appointment from other eligible lists for classes of equal or lower salary.

(D) Objection by Appointing Authority

When an objection is made by an appointing authority that any person certified:

1. is unable to perform the essential functions of the position;
2. is currently a user of drugs of abuse;

3. has been guilty of infamous or notoriously disgraceful conduct;
4. has been convicted of a felony or of a misdemeanor involving moral turpitude or moral delinquency;
5. has been dismissed from a position in the civil service and removed for cause or did not resign in good standing;
6. has made a false statement of any material fact or practiced or attempted to practice any deception or fraud in an application or examination concerning employment by the City or the City Schools;
7. has a record of excessive traffic citations and/or chargeable accidents, and the position the individual is applying for requires driving; or
8. is unable to meet the Commission's qualification standards

the Commission shall, if such objection is shown to be well taken, vote to strike the name of such person from the eligible list and certify another name. Before striking the name of such person from the eligible list and/or certifying another name, the Commission shall notify such person by certified mail (return receipt requested) or by personal service, or by Fed-Ex (with signature required) or other substantially, similar, commercial mailing system. The applicant may appeal such objection to the Commission within seven (7) calendar days after issuance of notification. If the person fails to appear for the hearing, or upon being heard, fails to show just cause why the Commission should reinstate the person's name to the eligible list, removal will stand and another name will be certified.

(E) Appointment from Certified List

Upon receipt from the Commission of a certified list of eligibles for appointment to a position, the appointing authority shall fill such position by appointment of one (1) of the five (5) persons certified. The appointing authority shall promptly report to the Commission the name of the appointee, the title of the position, the duties and responsibilities of the position, the salary or compensation of the position, and such other information as the Commission may require in order to keep its roster.

(F) Waiver of Certification

An eligible may waive certification by written notification to the Commission. A waiver of certification shall remain in effect until withdrawn in writing, at which time the eligible is reinstated to the position originally held on the eligible list. A waiver may not exceed six (6) months, and may not be used more than two (2) times. After two (2) waivers, or after six (6) months have passed on a waiver, the eligible's name shall be removed from the eligible list. Whenever one (1) or more of the eligibles who have been certified waive certification or fail to respond to notice of certification, the Commission shall supplement the certification from the eligible list by an equal number of additional names.

(G) Rejection of Appointment

An eligible who has declined appointment to a permanent position shall be removed from the eligible list and shall not thereafter be certified for the same position from that eligible list, unless a reason for declining the appointment is approved as satisfactory by the Commission.

(H) Promotional Appointments

The appointing authority of the department in which a vacancy is to be filled by promotion shall notify the Commission of the fact. If there is an eligible list for such position, the Commission shall immediately certify to the appointing authority the names of the three (3) persons standing highest on such list. The number to be certified shall be determined in the following manner:

1. For 1 through 4 vacancies, add 2 names to the number of vacancies.
2. For 5 through 8 vacancies, add 4 names to the number of vacancies.
3. For 9 through 12 vacancies, add 6 names to the number of vacancies.

If there is no such list and the position that is vacant is deemed to require a competitive examination, the Commission shall, within sixty (60) calendar days after notification, conduct a competitive promotional examination for the position and shall certify to the appointing authority the names of the persons heading the eligible list established as the result of such examination.

Upon certification to the appointing authority, appointment shall be made within thirty (30) calendar days. If the number of names eligible for certification is less than the number provided for in this Section, the appointing authority shall make the appointment from the number certified.

(I) Temporary Promotional Appointment

If a vacancy occurs in a higher position for which there is no eligible list, a temporary promotion may be made from among the employees in the next lower classification upon the request of the appointing authority and approval by the Commission; however, no such temporary promotion shall become permanent or shall continue beyond the establishment of an appropriate eligible list and an appointment therefrom.

(J) Temporary, Exceptional, and Provisional Appointments

1. Temporary Appointment

An appointing authority may appoint a qualified person for a temporary period of service when the usual procedure of requisition and certification is not suitable and when the need of service is urgent and necessary to prevent the loss of public property, serious inconvenience to the public, or damaging delay to the public service. The temporary appointment shall not exceed nine hundred sixty (960) hours worked in a calendar year and shall not be counted as a part of the probationary service in the event of subsequent appointment to a permanent position.

Temporary appointments made necessary by reason of sickness or disability shall not continue beyond such period of sickness or disability.

2. Exceptional Appointment

In case of a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by a selection of some designated person of high and recognized attainments in such qualities, the Commission may waive the Rules, but no waiver shall be general in its application.

3. Provisional Appointment

a. Procedure for Appointment

Whenever there are urgent reasons to fill a vacancy and the Commission is unable, upon requisition, to certify eligibles from an eligible list, the Commission shall notify the appointing authority, who may then appoint a person to fill the vacancy. The appointing authority shall send notice of such appointment, with complete data for the official roster, to the Commission.

b. Tenure

Regardless of the length of service by a provisional appointee, a provisional appointment shall continue in force only until a permanent appointment can

be made as a result of a certification by the Commission. No provisional appointment is valid once a certification can be made from an appropriate eligible list, regardless of whether the employee holding the provisional appointment may be eligible for permanent employment as hereinafter provided. A provisional employee shall serve a probationary period and may also be removed for cause.

c. Procedure upon Establishment of an Eligible List

The Commission shall remove any provisional appointee who does not take the examination held for the position, or who takes the examination and does not pass, from the position within fifteen (15) working days after the establishment of the eligible list for the position. Immediately upon establishing the eligible list, the Commission shall notify the employee and the appointing authority for the position of the termination of the provisional appointment.

Before establishment of an eligible list by the Commission, it shall certify for appointment as a permanent employee any provisional appointee who satisfactorily completed the probationary period or at least six (6) months of service, whichever is longer, before the examination was held for the position and who passed the examination. The employee shall have all the rights of a permanent employee and shall not be required to complete an additional probationary period.

The Commission shall place on the eligible list and certify for consideration by the appointing authority in the normal manner any provisional appointee who had not completed the probationary period or six (6) months of service, whichever is longer, by the time of examination for the position and who passed the examination. In the event of a tied grade, however, the Commission shall consider the candidate's length of provisional service in the position before considering priority of filing application. Regardless of whether the provisional employee is eligible for inclusion in a certification upon establishment of the eligible list, the Commission shall notify the employee and the appointing authority that the provisional appointment shall be terminated within fifteen (15) working days of establishment of the eligible list and issuance of a certification of eligibles.

4. Substitute Employees

A substitute employee may work in place of a permanent or provisional employee who is ill or on vacation, leave of absence, or personal leave. The name of the permanent or provisional employee for whom the substitute employee is working shall be designated on the payroll. A substitute employee acquires no rights with respect to the position being filled.

5. Police Patrol Officer Lateral Transfer Hires

Seniority for lateral transfer Patrol Officers *and Communication Operators* shall be based on the *most current* date of hire by the City. Seniority for promotion or lay-off purposes for lateral transfer Patrol Officers *and Communication Operators* shall also begin with the *most current* date of appointment as a Patrol Officer *or Communication Operator* with the City Police Department.

(K) Probation

1. Purpose

The probationary period shall be regarded as an integral part of the examination process and shall be used to closely observe the employee's work, to give the employee full opportunity to demonstrate successful performance on the job, and to remove any employee whose performance does not meet required work standards. No appointment or promotion shall be deemed final until the appointee has satisfactorily served the probationary period.

2. Probationary Period

All original appointments, including provisional appointments, shall be for a probationary period, from first work day, of not less than six (6) months (sixty (60) days for City Schools Civil Service employees) except that the following original appointments shall serve a probationary period of one (1) year or period stated in the collective bargaining agreement, in force at time of hire, for any individual stated below who is a member of a union:

1. Appointees to Patrol Officer in the Police Department
2. Appointees to Secretary to the Civil Service Commission
3. Appointees to Police Communication/Records Supervisor
4. Appointees to Police Communications Operator
5. Appointees to Police Records Clerk

Service as a provisional employee in the same or similar class shall be included in the probationary period. Time spent on approved leave, including jury duty, shall not be counted as part of the probationary period.

Lateral transfer Patrol Officers *and lateral transfer Communication Operators* shall serve a probationary period of one (1) year. Following successful completion of the probationary period, employees selected through the lateral transfer process shall be entitled to all other rights attributed to the classified service.

At the request of the appointing authority, the Commission may extend an employee's probationary period, provided that the request is submitted at least one (1) week before the expiration of the probationary period and that the employee agrees in writing to

the extension; however, the Commission shall not extend the probationary period for longer than six (6) months. If a timely request for extension is denied and the probationary period has by that time expired, the time deadline for the appointing authority to act during the probationary period shall be stayed and the appointing authority shall immediately complete the final probationary evaluation.

A provisional appointee's probationary period cannot be extended past the date scheduled for the examination for the appointee's position.

3. Probationary Period for Promotional Appointments

All permanent promotional appointments in the classified service shall serve a probationary period of forty-five (45) calendar days from the date of such promotion (thirty (30) days for City Schools Civil Service employees), except that the following promotional appointment shall serve a probationary period of one (1) year:

1. Appointees to Police Lieutenant
2. Appointees to Police Chief
3. Appointees to Fire Lieutenant
4. Appointees to Fire Captain
5. Appointees to Fire Operations Captain
6. Appointees to Fire Assistant Chief
7. Appointees to Fire Marshall
8. Appointees to Fire Chief
9. Appointees to Secretary to the Civil Service Commission

If, during that period, the service of the employee so appointed is not satisfactory, the employee may be reduced to the position from which the promotion was made.

4. Probation Reports

All classified employees shall be evaluated during the probationary period. On a form furnished by the Commission, the probationary employee will be evaluated at a point halfway through the first half of the probationary period, at the halfway point, and within the last thirty (30) calendar days of the probationary period.

The probationer will receive a copy of each evaluation.

On the final probationary evaluation, the appointing authority shall indicate acceptance or rejection of the employee. This report must be delivered to the Commission by the end of the probationary period, but subject to the probation extension, denial, and exception provisions of paragraph 2 above. If no such report is submitted, the employee's appointment automatically becomes permanent.

OK
D. Hanwell
5-3-2023

REQUEST FOR COUNCIL ACTION

No. RCA 23-107-5/8

FROM: Mayor Dennis Hanwell

Committee: Finance

DATE: May 3, 2023

SUBJECT: Amended County Emergency Management Agency Agreement

SUMMARY AND BACKGROUND:

Respectfully request Council review and approve the Amended Agreement to Establish the Medina County Emergency Management Agency and authorize Mayor Hanwell to sign the Agreement on behalf of the City of Medina. Agreement is attached.

Estimated Cost: N/A

Suggested Funding:

- Sufficient funds in Account No.
- Transfer needed from Account No. _____ to Account No. _____

NEW APPROPRIATION needed in Account No. _____

Emergency Clause Requested: No

Reason:

COUNCIL USE ONLY:

Committee Action/Recommendation:

Council Action Taken:

Ord./Res.

Date:

AMENDED AGREEMENT TO ESTABLISH
THE MEDINA COUNTY EMERGENCY MANAGEMENT AGENCY

WHEREAS, the Medina County Emergency Management Agency was first established through action taken by the Board of Commissioners of Medina County on January 6, 1990, through Resolution No. 90-39, and subsequently approved by a majority of the other political subdivisions in the County by either explicit approval of this Agreement, by resolution or ordinance, or by implicit approval through participation in the countywide emergency planning process and/or by choosing not to establish a separate program for emergency management; and

WHEREAS the Medina County Emergency Management Agency was originally organized under Ohio Revised Code 5915; and

WHEREAS, effective October 29, 1995, Ohio Revised Code Chapter 5915 was amended and re-codified by SB162 placing Emergency Management Agencies under Title 55 "Roads, Highways and Bridges"; and

WHEREAS all political subdivisions in Medina County have participated in the establishment of a countywide all-hazards emergency operations plan, cooperated in the preparation, and conduct of the annual exercise applicable to all political subdivisions in the County and no individual subdivision has submitted an independent all-hazards emergency management plan; and

WHEREAS the coordination of emergency management services for the benefit of Medina County and its residents continues to be of paramount importance to all of the local political subdivisions in the County; and

WHEREAS the undersigned political subdivisions desire to continue the coordination of emergency services through a countywide emergency management agency, in the manner provided by law, and particularly as provided in Ohio Revised Code Chapter 5502, and to exercise any and all powers set forth therein to coordinate and unify the emergency management activities of the participating subdivisions that do not opt to develop a separate and independent emergency operations plan; and

WHEREAS, it is further declared to be the purpose of this agreement and the policy of the participants hereto, that all emergency management functions of the participants be coordinated to the maximum extent with comparable functions of the State of Ohio and of the Federal government, including their various departments and agencies, and other states and localities, and of private agencies of every type, to the end that the most effective preparation and use can be made of the participants' manpower, resources and facilities for dealing with any disaster or emergency situation that may occur; and

WHEREAS it is hereby found and declared to be necessary to create a countywide emergency management agency to be known as the "Medina County Office of Emergency Management and Homeland Security" hereinafter referred to as MCEMA; to confer upon the executive committee and the director of emergency management, certain emergency powers provided herein; and to provide for the rendering of cooperation and mutual aid, if necessary,

to surrounding and contiguous political subdivisions of the State and adjoining states.

NOW, THEREFORE, BE IT AGREED:

1. That an organization to be known as the MCEMA be formed to perform the services of coordinating the emergency management activities within the County of Medina, by and between the political subdivisions herein, in accordance with the provisions hereinafter set forth.
2. That the MCEMA, hereby authorized, is to render the service of coordinating the emergency management activities of the parties hereto and to exercise for and on behalf of each party hereto such power and authority incident thereto as it may lawfully do, consistent with State statutes and such regulations as have been or shall be promulgated by the Governor of the State, the provisions of this resolution/ordinance/agreement as hereinafter set forth, and the power of the parties hereto authorized, in coordinating such emergency management activities with and within Medina County.
3. That a representative from each political subdivision entering into the agreement, selected by the political subdivision's chief executive, shall constitute a countywide advisory group for the purpose of appointing an executive committee under ORC Section 5502.26 through which the countywide agency shall implement emergency management in the county. The group shall meet at a time and place determined by the Board of County Commissioners in January of each year or at the call of the executive committee when a majority of the executive committee members deems it necessary.
4. That the executive committee shall consist of at least the following seven members: one Medina County Commissioner representing the board of county commissioners entering into the agreement; five chief executives representing the municipal corporations and townships entering into the agreement (which shall consist of one chief executive from each of the three largest cities in Medina County representing each of those cities and two township trustees representing the townships in Medina County); and one nonelected representative selected by the countywide advisory group at the annual meeting. Up to six additional members may be appointed to the executive committee, chosen as follows: 1) the Board of Commissioners of Medina County may at its own option appoint an additional person to the executive committee, who may be either a second Medina County Commissioner or a nonelected representative, 2) the chief executives of the villages in Medina County may at their own option, by majority vote, appoint an individual to the executive committee, who may be either an elected or unelected person, to represent the villages in Medina County, 3) the Medina County Sheriff may at the Sheriff's option appoint a law enforcement officer (who may be the Sheriff him/herself or another officer from a law enforcement agency in Medina County) to the executive committee; and 4) the executive committee may at its option appoint up to three additional individuals to the executive committee, who may be either elected or non-elected individuals. The terms of office of all members appointed to the executive committee, whether the statutory appointees or the additional members, shall be one year, unless otherwise stipulated at the time of the appointment. Members shall continue to

serve until a successor is appointed and takes office. The executive committee shall at least annually, and upon any change in the membership of the executive committee, prepare an official roster of all then current members of the executive committee with their terms listed, and communicate a copy of said roster to each political subdivision entering into the agreement.

5. That the executive committee shall appoint a director/coordinator of emergency management whose duties are prescribed herein by Chapter 5502 of the Ohio Revised Code.
6. That the director will have all such powers as is granted under this agreement and under statute.
7. That the director of emergency management shall be responsible for coordinating, organizing, administering, and operating emergency management in accordance with the agency's program established under this Chapter 5502 of the Revised Code, subject to the direction and control of the executive committee. All agencies, boards, and divisions having emergency management functions within each political subdivision within the county shall cooperate in the development of the all-hazards emergency operations plan, shall cooperate in the preparation and conduct of the annual exercise. The director may appoint, from time to time, a deputy director and/or such other assistants as the director deems advisable, who shall hold office during their pleasure. The director and the assistants to the director shall not be compensated for services rendered unless approved by action of the executive committee. The director may, with the prior consent of the executive committee, employ such technical, clerical, stenographic and other personnel as deemed necessary and fix their compensation when they are to be compensated. The salary of the director and the salaries of other paid personnel shall be paid from the MCEMA fund.
8. That the executive committee shall have general direction of the MCEMA, shall be responsible for the carrying out of the provisions of this agreement through the director of emergency management, may adopt such rules and regulations as it deems necessary for its operations, and may delegate authority to the director for expenditures within the budget and monetary limits as the executive committee sees fit. In performing duties pursuant to this agreement, the executive committee is authorized to cooperate with participating subdivisions, non-participating political subdivisions, the State of Ohio, other states, the Federal government through appropriate channels, and with private agencies in all matters pertaining to emergency management activities of Medina County, the State of Ohio and the United States as provided and encouraged under Revised Code Section 5502.35.
9. That the MCEMA, under Revised Code Section 5502.30, while performing emergency management services in this state pursuant to an arrangement, agreement, or compact for mutual aid and assistance, or any agency, member, agent, or representative of any of them, or any individual, partnership, corporation, association, trustee, or receiver, or any of the agents thereof, in good faith carrying out, complying with, or attempting to comply

with any state or federal law or any arrangement, agreement, or compact for mutual aid and assistance, or any order issued by federal or state military authorities relating to emergency management, is not liable for any injury to or death of persons or damage to property as the result thereof during training periods, test periods, practice periods, or other emergency management operations, or false alerts, as well as during any hazard, actual or imminent, and subsequent to the same except in cases of willful misconduct.

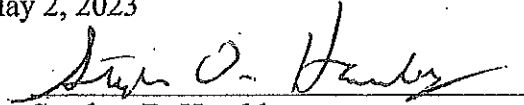
10. That the executive committee shall prepare a budget and annual report of activities for each year, under such rules and regulations as it may prescribe. Said budget and report of activities of the agency shall be presented to the participating political subdivisions at the required annual meeting of the countywide advisory group, as well as made available through electronic media. The funds provided for in said budget and all other funds received from whatever source, or by whatever means, for emergency management by the MCEMA shall be paid to the treasurer of Medina County into a special fund known as the MCEMA Fund.
11. That each participating political subdivision hereto agrees to pay into the MCEMA fund, promptly upon demand and invoice therefore, the amount assessed against it, based upon the annual itemized report on distribution of estimated undivided local government funds required by O.R.C. §5747.51(J) for the undivided local government fund, the County's proportionate share being increased to include the percentage established for the park districts, and to do and perform all and singular, the obligations herein assumed. The participating subdivisions also acknowledge that Medina County bears additional administrative costs that are not reimbursed because Section 5502.26(C) designates a countywide emergency management agency to be considered a county board, statutorily entitled to receive the services of the county auditor, treasurer, and prosecuting attorney in the same manner as other county agencies, boards, or divisions. Medina County also bears additional unreimbursed costs for property insurance, building maintenance, and administrative functions as shown in the regularly adopted Central Services Cost Allocation Plan prepared for Medina County, Ohio.
12. That this agreement may be amended or altered at any time by a majority of the parties hereto.
13. That this agreement shall be in full force and effect when no less than a majority of the political subdivisions within Medina County, including the Board of County Commissioners of Medina County, have subscribed to this agreement and/or submitted their annual cost allocation.
14. That this agreement may be terminated as to the Board of County Commissioners by a majority of its members, as to any township by a majority of the board of trustees, and as to any municipal corporation by a majority of its council, and service of written notice thereof on the director of emergency management within thirty (30) days after the adoption of the budget for the ensuing fiscal year by the agency.
15. A reference to any portion of a statute herein applies to all reenactments or amendments thereof. If statutes are enacted to replace current statutes, the statute latest in date of

enactment prevails.

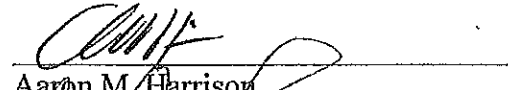
16. This Amended Agreement shall take effect and be in force from and after the date approved by the Board of Commissioners of Medina County by resolution, when approved by a majority of the subdivisions in Medina County that currently participate in Medina County's Countywide Emergency Management Agency, which includes all municipalities and townships within Medina County.

Board of Commissioners of Medina County

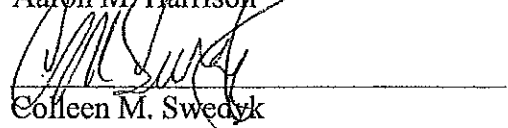
Approved by Resolution No. 23-0354,
on May 2, 2023



Stephen D. Hambley



Aaron M. Harrison



Colleen M. Swedyk

Approved as to form:



Medina County Prosecutor's Office

5/3/2023
Date

Other Subdivision Approvals:

Political Subdivision Name Resolution/Ordinance # Date of approval

Chief Executive Officer Printed Name Signature

Chief Executive Officer Printed Name Signature

Chief Executive Officer Printed Name Signature

Approved as to Form:

Entity Legal Counsel Date

Please attach a certified copy of the adopted legislation to this signed agreement and return both documents to:

**Medina County Board of Commissioners
144 N. Broadway Street, Room 201
Medina, OH 44256**