REGULAR PIQUA CITY COMMISSION MEETING
TUESDAY, MAY 1, 2018
6:00 PM
COMMISSION CHAMBER – 2ND FLOOR
201 WEST WATER STREET - PIQUA, OHIO 45356

CALL TO ORDER

THE PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS

PROCLAMATION - MUNICIPAL CLERKS WEEK

PROCLAMATION - POLICE WEEK

Accepting-Officer Jeremy Weber, Piqua Police Officer of the Year

PROCLAMATION - BIKE MONTH

REGULAR CITY COMMISSION MEETING

CONSENT AGENDA

1. APPROVAL OF MINUTES
   Approval of minutes from the April 17, 2018 Regular City Commission Meeting

2. RES. NO. R-67-18
   A Resolution appointing a member to the Board of Zoning Appeals

NEW BUSINESS

3. RES. NO. R-68-18
   A Resolution retaining the services of the Auditor of State for the 2017 annual audit of the City of Piqua

4. RES. NO. R-69-18
   A Resolution requesting authorization to enter into a contract with Vectren Energy Delivery of Ohio for the installation of gas facilities at 156 Robert M. Davis Parkway for the new Health & Sanitation facility

5. RES. NO. R-70-18
   A Resolution authorizing the City Manager to enter into the LPA Federal ODOT-LET project agreement with the Ohio Department of Transportation (ODOT) for the Great Miami River Trail Bridge project

6. RES. NO. R-71-18
   A Resolution authorizing the City Manager to enter into the LPA Federal ODOT-LET project agreement with the Ohio Department of Transportation (ODOT) for the Ohio-Indiana Trail Bridge project

7. RES. NO. R-72-18
   An Emergency Resolution objecting to the renewal of Liquor Permit #5558350 held by Marlo Investments LLC, DBA Z's Sportsbar, 319 North Wayne Street, Piqua, Ohio

8. RES. NO. R-73-18
   A Resolution authorizing participation in Ohio Department of Transportation (ODOT) Cooperative Purchasing Program
PUBLIC COMMENT
(This is an opportunity for citizens to address the City Commission regarding agenda items, issues, or to provide information. Comments are requested to be limited to five (5) minutes and specific questions should be addressed to the City Manager's office).

CITY MANAGER'S REPORT

COMMISSIONERS COMMENT

ADJOURNMENT
MINUTES
PIQUA CITY COMMISSION
Tuesday, April 17, 2018
6:00 P.M.

Piqua City Commission met at 6:00 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Hinds called the meeting to order. Also present were Commissioners Lee, Martin and Vogt. Commissioner Short was absent. Commissioner Martin moved to excuse Commissioner Short from the meeting and Commissioner Lee seconded that motion; motion carried unanimously and Mayor Hinds declared Commissioner Short excused from the meeting.

REGULAR CITY COMMISSION MEETING

ANNOUNCEMENTS

No one came forward to speak.

PRESENTATION: FRIENDS OF THE PIQUA PARKS

Ruth Koon, Chairman of Friends of the Piqua Parks, and the initiator of a task force committee to study the possibility of renovating the slopes on Route 36 between the railroad overpass and the entrance to the mall and Speedway, came forward to speak. Mrs. Koon believes this project will positively impact the image of Piqua because the area is such a major gateway to the city. The Task Force Committee, consisting of herself, Don Smith, Mark Casto, and Bob Graeber have met for over a year to discuss options to improve and beautify this very visible greenspace. One option was to reduce the height of the slopes, but that was determined to be cost prohibitive because of having to move electricity at the top of one of the slopes on the south side. The option of a retaining stone wall and extensive hardscape additions was also determined to be too expensive. Mr. Casto, who is known for beautiful landscape projects in and around Piqua for over 35 years, came up with an idea that is very pleasing and affordable. Mr. Casto will be the volunteer project coordinator for this plan. The Task Force then met with Friends of the Piqua Parks, consisting of Edna Stieffel, Russ Fashner, Glenn Devers, Don Smith, Cindi Lilliecrap, Jim Vedder, and Commissioner Bill Vogt, and asked them to join forces for this important project, to which they agreed. Friends of the Piqua Parks was organized in 2014 for the purpose of establishing a community support association for the benefit of the public park system located within the City of Piqua. Their mission has been expanded to include this beautification project. Friends of the Piqua Parks has been successful in improving the entrance to Pitsenbarger Sports Complex, as well as raising the funds to erect a life-size bronze statue of William H. Pitsenbarger, Piqua’s Medal of Honor recipient. Friends of the Piqua Parks is also working on a QR for the statue, which is an implant in the statue that you connect to through an app on your mobile device, which will take you to a website that Edison College has helped create. It is an audio recorded by Glenn Devers and it tells you about William H. Pitsenbarger and what he has done for the community and our country. Friends of the Piqua Parks is also a 501(c)(3), which will enable donors to contribute to this upcoming project. City Manager Gary Huff has been extremely helpful in moving this project forward.

Mr. Casto came forward to speak as to the details of the project. Mr. Casto stated the concept of the landscaping plan is to create a beautiful plant lined and tree lined vista as one drives in and out of Piqua, and also to accentuate the linear and encompassing nature of the site on Ash Street. The planned plants and trees have been chosen for their rigorous growth, their reported resistance to disease and insect, their color in the plant and in the bloom that they produce, their texture and performance in hillside planting, which is considerably more stressful for plants than a flat plan. The two opposing hills will be used in concert with each other to create a larger landscape area. Landscape beds will drop down through the lawn area and groupings of different plants will be used. Medium to large shade trees will be used to create a tree line effect. At the
east end, four crabs will be put in and at the west end a grouping of spruce trees to enhance the newly painted bridge. In any landscape plan there are certain requirements and parameters that have to be met, those being that the landscape needs to look good the whole year through, that it has to be as maintenance effective as possible, and that the plants actually perform well in this setting. The committee believes that the plant choices and design will satisfy these requirements. The committee also believes that this concept will enhance and beautify this great City of Piqua and asks for the city’s support and blessing to continue through with this project.

Mrs. Koon came forward to finalize saying the first step in this project will be to engage a landscape architect to prepare the drawings and specifications that are needed in order to have ODOT review and give approval. Fundraising efforts will then begin immediately after approval and informational brochures will be sent out to residents, as well as applying to local and state foundations and visiting local service clubs and informing them of this project. A maintenance plan will be developed in partnership with the City of Piqua in the near future. Friends of the Piqua Parks is a group of citizens interested in making the city the best it can be, including making it beautiful and impressive, and it is the hope that the city will support this beautification project.

Mayor Hinds questioned if there would be flag poles, to which Mrs. Koon responded yes and the plan is that those will be lit up.

City Manager Gary Huff stated he has met with Friends of the Piqua Parks and is very supportive of the project and thinks it’s wonderful that the community comes forward to do these types of projects.

Commissioner Martin questioned how often the project would be maintained. Mr. Casto responded that an acceptable maintenance plan is currently being discussed. City Manager Huff stated the city would continue to mow the area because of the slope and the safety issue that creates.

Mayor Hinds commended the group for their efforts and vision for the City of Piqua, and the group was given a unanimous decision by the city to proceed with the project.

CONSENT AGENDA

APPROVAL OF MINUTES

APPROVAL OF MINUTES FROM THE APRIL 3, 2018 REGULAR CITY COMMISSION MEETING

RESOLUTION NO. R-52-18

A RESOLUTION AUTHORIZING PRELIMINARY CONSENT LEGISLATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR BRIDGE DECK SEALING FOR PRIORITY AND MAJOR BRIDGES THROUGHOUT DISTRICT 7

City Manager Huff stated there are four of these bridges: one over Patrizio Place, one over Garbry Road, one over the railroad and southbound I-75 entrance ramp, and one over County Road 25-A north.

RESOLUTION NO. R-53-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT TO PERMIT THE USAGE OF A PORTION OF FOUNTAIN PARK BY THE MIAMI VALLEY CORVETTE CLUB
RESOLUTION NO. R-54-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT TO PERMIT THE USAGE OF A PORTION OF LOCK NINE PARK AND LINEAR PARK TO MAINSTREET PIQUA AND PIQUA ARTS COUNCIL

RESOLUTION NO. R-55-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT TO PERMIT THE USAGE OF A PORTION OF LOCK NINE PARK AND LINEAR PARK TO MAINSTREET PIQUA

RESOLUTION NO. R-56-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT TO PERMIT THE USAGE OF A PORTION OF FOUNTAIN PARK BY MAINSTREET PIQUA

Motion was made by Commissioner Vogt to approve the Consent Agenda; motion seconded by Commissioner Martin; motion was carried unanimously and Mayor Hinds declared the Consent Agenda approved.

OLD BUSINESS

ORDINANCE NO. 5-18 (Tabled 4-3-18)(First Reading)

AN EMERGENCY ORDINANCE RENUMBERING CHAPTER 55 STORMWATER MANAGEMENT OF THE PIQUA MUNICIPAL CODE

Motion was made by Commissioner Martin to remove Ordinance No. 5-18 from the table; motion seconded by Commissioner Vogt; motion was carried unanimously and Mayor Hinds declared Ordinance No. 5-18 removed from the table.

Law Director Stacy Wall spoke stating this Ordinance was tabled at the last commission meeting because time was needed to make sure it worked in conjunction with the two upcoming Ordinances. This is the renumbering of Chapter 55, the Stormwater Management Code. It only is a renumbering; it doesn't change any of the content or substance of that Chapter. The basis of the renumbering is to put it in order with the right-of-way Ordinances that are already in place in the Ordinances about to be adopted or considered. Law Director Wall further stated there is a time constraint for the next two Ordinances, and in order for those to pass this Ordinance would need renumbered as well, and as such would need to pass as an emergency Ordinance and the three reading rule waived.

Commissioner Martin questioned if the need for the Ordinance is enough to make it pass as an emergency Ordinance, because how it affects the health and welfare of the citizens of Piqua is unclear.

Law Director Wall stated the Code right now would not be numbered correctly. The next Chapter, Ordinance No. 7-18 that is about to be considered, is a brand new Chapter, and it would be numbered Chapter 55, so the harm to the citizens would be there is no clear way to enforce the Code when you have two Chapters that are numbered 55.

Commissioner Martin questioned why 7-18 could not be moved back two meetings and three readings go forward with this Ordinance and then move forward with 7-18 after that.
Law Director Wall stated because 7-18 needs passed tonight as well. The state legislation requires passage 90 days before its effective date, which is July, and if this Ordinance is not passed tonight on three readings, that date will be in jeopardy.

Commissioner Martin questioned how that affects the city.

Law Director Wall stated that the House has passed the legislation in conjunction with all of the governmental entities being represented and meeting with the industry to come up with a statute that everyone can live with. The House has passed it, the Senate has now passed it and it's only waiting for the Governor's signature, which would make it effective, probably, in July. Part of that statute requires that you have a requirement that any small cell structure coming in would be underground, so there would be no ugly boxes or poles above ground in areas designated by the city where it has to be underground. If it's not designated 90 days before that effective date, the city cannot require it, so the city would risk having these structures located above ground by not passing this Ordinance tonight.

Mayor Kazy Hinds spoke stating that this issue is something that the city has really been working on to get this legislation at the State, so it's important to keep those things under the ground and not have those cell towers pop up on any corner.

City Manager Huff spoke stating that this is the legislation that 150 cities jointly sued the state about.

Motion was made by Commissioner Lee to waive the three reading rule; motion seconded by Commissioner Martin; motion was carried unanimously and Mayor Hinds declared the three reading rule waived.

**PUBLIC COMMENT**

No one came forward to speak for or against Ordinance No. 5-18.

Motion was made by Commissioner Vogt to adopt Ordinance No. 5-18 as an emergency Ordinance; motion seconded by Commissioner Martin; motion was carried unanimously and Mayor Hinds declared Ordinance No. 5-18 passed.

**NEW BUSINESS**

**ORDINANCE NO. 7-18 (FIRST READING)**

AN EMERGENCY ORDINANCE ADOPTING AND IMPLEMENTING CHAPTER 55 SMALL CELL FACILITIES & WIRELESS SUPPORT STRUCTURES OF THE PIQUA MUNICIPAL CODE

Law Director Stacy Wall spoke stating that as you can see, this Chapter is numbered 55, which is why the last Ordinance was renumbered. Chapter 54 in the Piqua Code is a right-of-way Ordinance. By making this Chapter 55 a brand new Chapter; it is then in line. You have right-of-way first and then you have your small cells, which are going in your right-of-way, so it is in logical order. This legislation, as indicated, has been passed by the House, passed by the Senate, as amended, and ready for the Governor's signature. It was an initiation after all of the litigation that took place from House Bill 331 to sit down with the parties to see what legislation could be created for all to live with, which was accomplished. It was the urging of the court's indicating that there needed to be a partnership on this. This Ordinance was tabled at the last commission meeting because it wasn't quite ready, which is why it is a new number; it needed some minor tweaks. At that last commission meeting there was a member in the audience representing one of the cellular companies. The city staff has met with him to hear his concerns and it has been reviewed since then and the city is now asking for this Ordinance to be passed by an emergency, waive the three reading rule, and have it in effect before any company starts applying for the legislation and the
city doesn’t have it in place. The Governor would then make that effective, hopefully, sometime in July.

Commissioner Martin questioned if House Bill 478 is now acceptable to everybody.

Law Director Wall stated House Bill 478 was the result of House Bill 331 being challenged in litigation. All of the cell phone companies and the cities and the governments did not agree on House Bill 331. All of the cities challenged that based upon Home Rule Law saying it violated the ability to regulate, as well as, there was a constitutional issue with the House Bill itself. The court agreed with those arguments and as a result the cellular industry and representatives from the governmental entities met to come up with legislation. The House passed the legislation, they sent it to the Senate, the Senate made some tweaks to it and sent it back. As of now, it has been passed and just waiting Governor’s signature. There is no indication there is litigation coming out of this.

Motion was made by Commissioner Martin to waive the three reading rule; motion was seconded by Commissioner Lee; motion was carried unanimously and Mayor Hinds declared the three reading rule waived.

PUBLIC COMMENT

No one came forward to speak for or against Ordinance No. 7-18.

Motion was made by Commissioner Martin to adopt Ordinance No. 7-18 as an emergency Ordinance; motion seconded by Commissioner Vogt; motion was carried unanimously and Mayor Hinds declared Ordinance No. 7-18 passed.

ORDINANCE NO. 8-18 (FIRST READING)

AN EMERGENCY ORDINANCE AMENDING CHAPTER 92 STREETS AND SIDEWALKS OF THE PIQUA MUNICIPAL CODE

Law Directory Stacy Wall spoke stating this Ordinance is an existing chapter in our code 92, which governs our streets and sidewalks. A definition section would be added under 92.19 and then 92.20 amended. This legislation comes out of what was just passed. That statute required that the city create its territory, its areas, where undergrounding would be required. If it’s not indicated in the city’s planning documents, then the city would not be able to enforce it. 92.20 already included some areas. After this legislation came out, the city had an opportunity to go back and look at it, expand the area where it needed to be expanded, and add areas, so now it’s just not your downtown area, but a historic district. Subdivisions have been listed as well where undergrounding has already taken place, but the city wants to make sure any future development is also underground. If this Ordinance doesn’t pass tonight, the city will not be able to enforce it. This Ordinance is the crux of the 90 day issue. This is what is triggering everything else.

Mayor Hinds confirmed that the subdivisions and different things were added into the Ordinance.

Law Director Wall stated originally there were eight sections listed for undergrounding. Those sections have been expanded and then we’ve added different sections in the city, as well as the subdivisions. Again, part of that was looking at the comprehensive plan, what we’re already doing in the city, and in areas where the city already has undergrounding, we need to make sure the city continues that.

Commissioner Martin questioned if this catches everything that could possibly happen, i.e., a cable company or somebody comes out with the new latest and greatest thing; will the city be able to control that?

Law Director Wall stated that part of the discussion had with one of the companies was that company, which is a very large company, didn’t see any issue with this. A couple of years ago it
may have been an issue due to expense, but technology is evolving so quickly they don’t see any
issues whatsoever because everything is so small or already going underground, that they had no
objection whatsoever.

Motion was made by Commissioner Martin to waive the three reading rule; motion seconded by
Commissioner Lee; motion was carried unanimously and Mayor Hinds declared the three reading
rule waived.

PUBLIC COMMENT

No one came forward to speak for or against Ordinance No. 8-18.

Motion was made by Commissioner Vogt to adopt Ordinance No. 8-18 as an emergency
Ordinance; motion seconded by Commissioner Martin; motion was carried unanimously and
Mayor Hinds declared Ordinance No. 8-18 passed.

RESOLUTION NO. R-57-18

A RESOLUTION REQUESTING FINAL LEGISLATION TO ENTER INTO AN AGREEMENT WITH
THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE GARBRY ROAD/ LOONEY ROAD INTERSECTION IMPROVEMENTS PROJECT IN THE CITY OF PIQUA

City Engineer Amy Havenar spoke stating in 2015 legislation to enter into an agreement with
ODOT was brought before the city commission to program this project. Since then the design and
the right-of-way acquisition have been completed. It is now time for bids to be put out and bids
are due May 17th. ODOT is requesting the city put its local percentage, which is approximately
25%, in escrow, so when the bids come in they can go ahead and award the project and the city
can get started on construction. The city’s cost right now is estimated to be approximately
$288,365.00, which is about 25% of the total construction cost; however, an additional 10% is
being requested because bids are not in, and if they come in high, it won’t be necessary to come
back to commission for that 10%; however, if bids come in lower than the estimate, that money will
go back into the city’s funds.

Commissioner Martin questioned what would happen if the bids come in extremely high and the
city would be on the hook for a million dollars.

City Engineer Havenar responded that ODOT has a cap and they would have to go through and
reevaluate the design; look at the contracts. ODOT does have a requirement to prevent that from
happening.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-57-18.

Motion was made by Commissioner Martin to adopt Resolution No. R-57-18; motion seconded by
Commissioner Lee; motion was carried unanimously and Mayor Hinds declared Resolution No. R-
57-18 passed.

RESOLUTION NO. R-58-18

A RESOLUTION AWARDING A CONTRACT FOR THE PURCHASE OF DECORATIVE STREET
LIGHTS FOR THE LOONEY AND GARBRY ROUNDABOUT

Power System Director Ed Krieger spoke stating that the Power System has adopted standards
for decorative lighting and the eight lights that are to be installed at the roundabout are similar to
the lights that are installed on 36 along the area that Ruth Koon discussed earlier, the teardrop
type, large, black, fluted street lights. Power System Director Krieger asks for approval to move
forward with the purchase of the lights. Eight competitive bids have been received and All-Phase Electric provided the lowest bid.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-58-18.

Motion was made by Commissioner Vogt to adopt Resolution No. R-58-18; motion seconded by Commissioner Lee; motion was carried unanimously and Mayor Hinds declared Resolution No. R-58-18 passed.

RESOLUTION NO. R-59-18

A RESOLUTION AWARDING A CONTRACT FOR CONDUIT WORK FOR THE RELOCATION OF POWER AND COMMUNICATION LINES FOR THE LOONEY AND GARBRY ROUNDABOUT

Power System Director Ed Krieger stated that quite a bit of utility relocation needs to be done in this area, which is basically undergrounding the electric. Initially it was considered that the city would take the lead on this project and do a joint used trench. Bids were received and they came back well above the engineer’s estimate. The city’s share of the project alone was going to be in excess of $90,000.00 just for the conduits that are required to relocate the city’s facilities because of the roundabout. At Spectrum’s recommendation, they have contracts in place for directional boring, and the boring technology has really moved forward over the last several years and is a very cost effective approach for installing conduits. Running the numbers for that using one of their contractors, approximately 1/3 of the cost was able to be cut. This approach allows the city to use the joint use agreements with Spectrum. Spectrum is taking the lead on the project; the city is providing basically the conduits for the project.

Commissioner Martin questioned Section 2 of the Ordinance. At the end it says "not exceeding $40,200.00" and in the Background it says the Energy Board approved installation "up to a cost of $100,000.00". Wouldn’t Section 2 need to say $100,000.00 if it possibly went that high?

Power System Director Krieger stated if Commissioner Martin will recall that was actually his recommendation at the Energy Board meeting because there were no bids yet and Commissioner Martin felt like it would be above $25,000.00 and need City Commission approval, but the cap was unsure. It was hoped it would be below the $90,000.00 it would cost for open trench. Bids were then received and the estimates were in the low 30s, so a contingency was added to that estimate and it is believed that the city will be able to get the work done at that price.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-59-18.

Motion was made by Commissioner Lee to adopt Resolution No. R-59-18; motion seconded by Commissioner Martin; motion was carried unanimously and Mayor Hinds declared Resolution No. R-59-18 passed.

RESOLUTION NO. R-60-18

A RESOLUTION AWARDING A CONTRACT FOR MAINTENANCE OF PIQUA’S #9 GAS TURBINE

Power System Director Ed Krieger stated this item relates to planned maintenance activities on one of the city’s two large gas turbines. This issue has been to commission a number of times over the past few years as improvements have been made to these units. They’re a very important part of the city’s power supply portfolio. By having these units, the city has been able to save in excess of a million dollars; in the past 12 months 2 million dollars of the city’s customer’s electric bills. By using these units, the city has been able to peak shave on the hottest days of the
year. One of the items that came to commission earlier this year was for replacement of the diesel starting engine on the #9 Gas Turbine. That diesel engine is on order and due to be delivered in a few weeks. Also, there are repairs on a torque converter that are taking place right now. Those two items will have to be reinstalled on the unit before peak season starts. In January, there were some issues with the units and it was found that those issues were combustion components that Sulzer had redone for the city a few years ago. That equipment is still under warranty and that works to the city’s advantage because Sulzer will be on site in May to make those repairs and they will be able to do the diesel engine and torque converter at the same time, and that way the city will not have to pay for mobilization and demobilization and the city will just be paying Sulzer under their time and material sheets that they have in place for this year. Sulzer has worked for the city in the past and have very skilled personnel. There aren’t a lot of companies that can work on these turbines and Power System Director Krieger feels very confident they will do a good job for the city as they have done in the past. $100,000.00 was budgeted for this work and a little bit more than half of that amount is being asked for due to some of the cost effectiveness. This work is scheduled to be completed by June 1st.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-60-18.

Motion was made by Commissioner Martin to adopt Resolution No. R-60-18; motion seconded by Commissioner Lee; motion was carried unanimously and Mayor Hinds declared Resolution No. R-60-18 passed.

RESOLUTION NO. R-61-18

A RESOLUTION AWARDING A CONTRACT FOR ROOF REPAIRS TO PIQUA’S POWER PLANT

Power System Director Ed Krieger stated over the past five years the city has been making repairs to the city’s Power Plant. In 2012, consideration was made to demolish the Plant and remove it. Not long after that consideration, the city was able to secure a grant for the Waterfront Redevelopment Project and during that work it was realized the building was in excellent shape with the exception of the roof. There is quite a bit of asbestos in the building so it’s important that the building be in a water tight condition. The work is being done on a section by section piece starting with the oldest part of the roof, which is on the north end working to the south. The contract with WRI completes the work on the Plant; it makes the Plant water tight. There are future plans that hopefully materialize in the next five to ten years where the city may possibly bring some more generation back within that building itself. This is a key project in terms of restoration of the facility and will allow the city to move forward with some future development when the time is right.

Commissioner Martin questioned how well this will handle being walked on once it has been applied.

Power System Director Krieger responded the strength is amazing. Originally, the north end of the Plant, the oldest end of the Plant, there was a section of the roof that deteriorated so badly it couldn’t be walked on. With this foam-type system that’s described in the literature in the commission packets, just a few inches of this foam will develop an amazing amount of strength. Where that section was in the old part of the roof, basically plywood was put down, foam applied over the top of it, and you’re free to walk on it. There is a 20 year warranty on it.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-61-18.
Motion was made by Commissioner Vogt to adopt Resolution No. R-61-18; motion seconded by Commissioner Martin; motion was carried unanimously and Mayor Hinds declared Resolution No. R-61-18 passed.

RESOLUTION NO. R-62-18

A RESOLUTION AWARDING A CONTRACT FOR THE PURCHASE OF HIGH-VOLTAGE BREAKERS FOR THE POWER SYSTEM

Power System Director Ed Krieger stated this item is to get approval for an engineering contract to help evaluate options and alternatives for replacement of the city's high-voltage breakers, which basically control the flow of power in and out of the city. At the city's three main substations there are 69,000 volt circuit breakers, which are oil filled. They're 40-50 years old, depending on the substation. The circuit breakers are one of the most critical devices the city has in its system. There was an issue back in 2012 where all feeds were lost into the city. If there was a possibility to close back in, the city could have maintained the flow of power back in and avoided a three hour power outage. These breakers are identified as a key reliability improvement project. The City of Piqua is one of the few municipal utilities that still maintain this older technology. The newer technology that's replacing the older oil equipment uses SF6 gas or vacuum to extinguish the arc. Bids were solicited and four were received from SF6 manufacturers: GE, Siemens, ABB, Mitsubishi and then also a bid from Hitachi to provide a vacuum breaker technology where you don't have to deal with the environmental issues with SF6 gas. It was expected bids would be received from the two opposing technologies, SF6 being cheaper, but vacuum has some distinctive advantages. One thing noticed when bids were received was all four of the SF6 breaker manufacturers rejected the city's terms and conditions and weren't willing to negotiate. Whereas Hitachi, even though they offer a superior product, more expensive, they offered a two year additional warranty and were willing to work with the city on the terms and conditions. Law Director Stacy Wall has reviewed those and doesn't have any concerns. Replacement of the 12 high-voltage breakers is needed in our three substations and will happen over a period of three years starting this year with Substation No. 5 on 25-A with the first three breakers.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-62-18.

Motion was made by Commissioner Lee to adopt Resolution No. R-62-18; motion seconded by Commissioner Martin; motion was carried unanimously and Mayor Hinds declared Resolution No. 62-18 passed.

RESOLUTION NO. R-63-18

A RESOLUTION TO CONTINUE PARTICIPATION IN A MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN IN CONJUNCTION WITH THE MIAMI COUNTY EMERGENCY MANAGEMENT AGENCY

City Engineer Amy Havenar spoke stating the city has been working with the Miami County EMA for the past few years on the update to the Hazard Mitigation Plan. The last Plan was brought before commission in 2011 for a 2012 adoption. Every five years the Miami County EMA is required to update that Plan. The City of Piqua is a participant along with every other city in Miami County, along with the townships and some of the villages, as well as the Miami Conservancy District. The goal of this Plan, which is twofold, is to put projects in the Plan that will help reduce long term loss of property, life eventually, and it basically protects us from hazard should something happen in Piqua, but also if we're in this Plan and there is some type of natural disaster, then it makes us eligible for grant funding to make the repairs needed. For instance, the continued maintenance of all of our class one dams. If grant money does become available, the Miami County EMA, or any of the other communities, if they become aware of it, would then have access to those grant funds. It's a great tool, the city hopes to never have to use anything in
there, but if a natural disaster should happen, then this is just making the city closer to being prepared.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-63-18.

Motion was made by Commissioner Martin to adopt Resolution No. R-63-18; motion seconded by Commissioner Vogt; motion was carried unanimously and Mayor Hinds declared Resolution No. R-63-18 passed.

RESOLUTION NO. R-64-18

A RESOLUTION TO RESCIND A PROTECTIVE COVENANT RESTRICTING THE RETAIL USE OF PETERS SUBDIVISION SECTION 3 INLOT 5873

City Planner Chris Schmiesing spoke stating this item, if approved, will clear the way to hopefully put an idle retail property back into a productive use. The property being referred to here is the retail strip that’s just north of the Ohio/Indiana Trail, the bike path, along Sunset Drive on the east side of the street. It is part of the Peters Subdivision section that’s referenced in the Resolution and the reason it’s being brought to the city is there’s interest in the property by a prospective buyer. However, they’ve discovered that there’s a peculiarity with the restrictive covenant that’s included with the subdivision plat and that is that it limits the retail use activity of the structure. For those of that have been in the community for any time, it’s recognized that that limitation has not actively been enforced or acknowledged by most. It is an oddity in that it’s a restrictive covenant in a subdivision plat that granted the city the authorization to enforce the restrictive covenant. The city is not typically in the business of enforcing restrictive covenants, but relies on the underlying zoning designation of a property, and that’s how the city determines what uses are permissible and appropriate for a property. In this case, this location is zoned B, general business, so any of those type of items that would ordinarily be permitted in the general business zoning district are what the city would deem appropriate and issue permits for at this location. By approving this item the peculiarity will be removed from the subdivision plat and honoring the request from the applicant to remove this obstacle for him to be able to potentially redevelop the property. The item has been presented to the Planning Commission for their consideration. They held a public hearing at which no one was present to speak against the item. Two individuals, one being the applicant and one being a resident from the subdivision, were present to speak in favor of the request. There is a petition document in the commission packet that the applicant circulated to all the individual property owners within this subdivision section to acknowledge or ask them to acknowledge their support of this request. Having that information and considering the testimony presented, the Planning Commission has requested that the City Commission approve this request to the applicant.

PUBLIC COMMENT

Tom Baker, representative for ATM Investments, came forward to state he is one of the individuals interested in purchasing the building and would be happy to answer any questions anybody may have.

Commissioner Martin asked if they knew what they were going to do with the building. Mr. Baker stated they are not sure at this point what they are going to do with it. They also purchased the Rick James building and reedid that, they purchased the building on High Street next to Piqua Manor and reedid that, so it’s just a continuation of taking buildings and refurbishing them and bringing them up to a more attractive building versus a 1960 building, and then see what can be done with it.

Motion made by Commissioner Martin to adopt Resolution No. R-64-18; motion seconded by Commissioner Lee; motion was carried unanimously and Mayor Hinds declared Resolution No. R-64-18 passed.
RESOLUTION NO. R-65-18

A RESOLUTION AUTHORIZING AN R-PUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT) CONCEPT PLAN FOR LOTS 8195, 8196 AND 8197

City Planner Chris Schmiesing spoke stating this item comes to the city at the request of HCF Management, who are the operators of the Garbry Ridge Assisted Living Facility on Garbry Road. The nature of the request is that they have two items they are interested in. First, they would like to expand their existing facility to add a memory care unit, so it would essentially be an addition to the existing improvements found at the location. Second, they own the acreage that is just to the west of the existing building towards town. Their intent is to add a housing product that would provide independent living units, or cottages, for folks that aren’t quite ready for their facilities, but are looking for those kinds of living opportunities. This is exciting because it adds to the city’s housing stock and provides a product type that’s not necessarily available in our community at the current moment. This item was received with great enthusiasm by the Planning Commission. The item was discussed at a public hearing before the Planning Commission. The applicant was present to speak on behalf of the item and explain in greater detail, answer questions and such. In the commission packet there is a color rendering of their proposed site plan. You can see where the existing building footprint is located and the proposed addition would be located, along with the 15 structures that would each accommodate two dwelling units, so a total of 30 dwelling units that would eventually be built out. The initial phase would include just the first three structures nearest to the roadway, so six living units initially. The applicant is eager to move forward with the project and understands the process in terms of this being a planned unit development, so they provided the submittal for the concept plan. The Planning Commission has recommended approval of this item. If the commission so chooses, that would allow them to move forward with the development plan document that would ultimately permit them to be able to construct these improvements.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-65-18.

Motion made by Commissioner Lee to adopt Resolution No. R-65-18; motion seconded by Commissioner Martin; motion carried unanimously and Mayor Hinds declared Resolution No. R-65-18 passed.

RESOLUTION NO. R-66-18

A RESOLUTION AUTHORIZING AN AMENDMENT TO ZONING MAP TO CHANGE THE ZONING DESIGNATION OF LOTS 8195, 8196 AND 8197 FROM R-3 (RESIDENTIAL MULTI-FAMILY) AND OS (OPEN SPACE) TO R-PUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT)

City Planner Chris Schmiesing spoke stating this item is the companion item to the previous item. Currently the tracts of land hold different zoning designations as referenced in the comments from the Clerk. What would happen here is it would rezone the entire tract to be the residential planned unit development designation that the applicant seeks, which references the concept plan that’s been submitted and the process that they’re working through. The Planning Commission has held a public hearing to consider this request, there were no objections presented and the applicant spoke in favor of it. The Planning Commission asks that commission approve this item.

Mayor Hinds questioned if they actually own all of the property that is going to be future developed as well.

City Planner Schmiesing confirmed.

Mayor Hinds questioned if they own the whole piece.
City Planner Schmiesing stated they own where their building is sited now and then the acreage to the west and south back up the bike trail.

PUBLIC COMMENT

No one came forward to speak for or against Resolution No. R-66-18.

Motion made by Commissioner Martin to adopt Resolution No. R-66-18; motion seconded by Commissioner Lee; motion carried unanimously and Mayor Hinds declared Resolution No. R-66-18 passed.

CITY MANAGER'S REPORT

City Manager Gary Huff shared that the Fox Drive Water Tower is now online and working, so that is a great addition to that part of the city. Beginning tomorrow the water tower at the end of Spring Street will begin being taken down and then on Thursday the water tower at the Power Plant. Sections of the bike trail will be closed on those two days. Both are expected to be one day jobs.

 Vectren is now working in the city again for their Pipeline Modernization Program. They will be spending approximately $900,000.00 on that this year. The city has requested that they do the last street that they haven’t done in Shawnee, which is East Main Street, and is being done now, so that the paving of that entire neighborhood can be done this year.

On April 21st, the Piqua Tourism Council will be having a tour of the architecture of J.W. Yost, who also did the Fort Piqua Plaza, and that takes place at 10:30 meeting in front of the library.

Also on April 21st, the Shawnee neighborhood is having a clean-up day.

On April 28th, the Piqua Key Club will be having a bike rodeo, which will take place in the lot behind Town and Country Furniture.

Also, April 28th is the Piqua community clean-up day from 8:30 A.M. to noon.

COMMISSIONERS’ COMMENTS

Commissioner Vogt would like the public to get behind the project on East Ash Street coming into town. It’s a worthy project and if you just want to donate $5.00 they will take it. It’s a project that is being worked hard on and it is not money coming out of the city’s pocket, it is all donated money. Get behind the Friends of the Piqua Parks project!

Mayor Hinds stated the filming of the Piqua music video had to be rescheduled due to the weather, but will be rescheduled in the next few weeks.

Also, a reminder from Mayor Hinds that Code Piqua is going on and it is a wonderful way for citizens to get involved to share thoughts about ideas about transportation plans and Code plans. The session from Monday evening was wonderful. If you are a citizen, please come out and have your voice heard and help create the city’s new transportation plans and Codes for the city. There is more information on the Code Piqua website, CodePiqua.com, that has the full set of times that are available for you to come by and share your ideas.
ADJOURNMENT TO EXECUTIVE SESSION

Motion made by Commissioner Lee to adjourn to Executive Session at 7:05 P.M. to consider pending or imminent litigation; motion seconded by Commissioner Martin; motion carried unanimously and Mayor Hinds adjourned to executive session.

Motion made by Commissioner Vogt to adjourn from Executive Session at 7:54 P.M.; motion seconded by Commissioner Martin; motion carried unanimously.

ADJOURNMENT

Motion made by Commissioner Vogt to adjourn the Regular Commission Meeting at 7:55 P.M.; motion seconded by Commissioner Lee; motion was carried unanimously.

KATHRYN B. HINDS, MAYOR

PASSED: __________________________

ATTEST: __________________________
          KIMBERLY J. HEBB
          ACTING CLERK OF COMMISSION
RESOLUTION NO. R-67-18

A RESOLUTION APPOINTING A MEMBER TO THE
BOARD OF ZONING APPEALS

BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: Nathaniel Funderburg is hereby appointed as a member of the Board of Zoning Appeals for a five-year term to expire on March 1, 2023 or until his successor is confirmed and qualified;

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

KATHRYN B. HINDS, MAYOR

PASSED: _______________________

ATTEST: _______________________
REBECCA J. COOL
CLERK OF COMMISSION

The motion to adopt the foregoing Resolution was offered by ____________________
seconded by ____________________ and on roll call the following vote ensued:

Mayor Kathryn B. Hinds
Commissioner William Vogt
Commissioner Kris Lee
Commissioner John Martin
Commissioner Dave Short
RESOLUTION NO. R-68-18

A RESOLUTION RETAINING THE SERVICES OF THE AUDITOR OF STATE
FOR THE 2017 ANNUAL AUDIT OF THE CITY OF PIQUA

WHEREAS, pursuant to Section 117.11 of the Revised Code, the City of Piqua is required
to have an annual audit for the fiscal period January 1, 2017 through December 31, 2017; and

WHEREAS, the Auditor of State will provide audit services for this period as outlined in the
letter of arrangement (Exhibit A).

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami
County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The Auditor of State is hereby retained by the City of Piqua to complete the
annual audit for the period January 1, 2017 through December 31, 2017.

SEC. 2: For such audit services, the Auditor of State shall be paid an amount not to
exceed $43,050;

SEC. 3: The Finance Director certifies funds are available and is hereby authorized
to draw her warrant on the appropriate accounts of the city treasury in payment for said services
rendered;

SEC. 4: It is found and determined that all formal actions of this Commission
concerning and relating to the adoption of this resolution were adopted in an open meeting of this
Commission, and that all deliberations of this Board and of any of its committees that resulted in
such formal action, were in meetings open to the public, in compliance with all legal requirements;

SEC. 5: This Resolution shall take effect and be in force from and after the earliest
period allowed by law.

KATHRYN B. HINDS, MAYOR

PASSED: _______________________

ATTEST: _______________________
REBECCA J. COOL
CLERK OF COMMISSION

The Motion to adopt the foregoing Resolution was offered by ______________________
seconded by ______________________ and on roll call the following vote ensued:

Mayor Kathryn B. Hinds
Commissioner John Martin
Commissioner William Vogt
Commissioner Kris Lee
Commissioner Dave Short
### Meeting Date
April 17, 2018

### Report Title
A resolution retaining the services of the Auditor of State for the 2017 annual audit of the City of Piqua

### Submitted By
Name & Title: Cynthia A. Holtzapple, Assistant City Manager & Finance Director
Department: Finance

### Agenda Classification
- [ ] Consent
- [ ] Ordinance
- [x] Resolution
- [ ] Regular

### Approvals/Reviews
- [x] City Manager
- [x] Asst. City Manager/Finance
- [ ] Asst. City Manager/Development
- [ ] Law Director
- [ ] Department Director;
- [ ] Other:

### Background
Annually the City of Piqua undergoes an audit of our financial statements. For the fiscal period of January 1, 2017 through December 31, 2017 the Auditor of State will be doing the audit.

The summary of services they will provide is outlined in the attached letter of arrangement. The audit will start shortly and be completed on or before June 30, 2018 at a cost not to exceed $43,050.

### Budgeting and Financial Impact
- Budgeted $: $50,000
- Expenditure $: $43,050
- Source of Funds: Various Funds

**Narrative:**
The 2018 Budget includes funds for our annual audit.

### Options
1. Approve Resolution No. R-68-18 authorizing the City of Piqua to retain services of the Auditor of State to provide auditing services for the 2017 audit.

2. Do not approve Resolution No. R-68-18 and provide staff with further direction.

### Project Timeline
The 2017 audit will begin shortly and continue thru June.

### Staff Recommendation
Approve Resolution No. R-68-18 authorizing the City of Piqua to retain the services of the Auditor of State to provide audit services for the year 2017.

### Attachments
Letter of Arrangement
April 16, 2018

Cynthia Holtzapple, Finance Director
City of Piqua
201 West Water Street
Piqua, Ohio 45356

This letter of arrangement between the City of Piqua (the City) and the Auditor of State describes the objective and scope of the services we will provide, the City’s required involvement and assistance in support of our services, the related fee arrangements, and other terms and conditions designed to ensure that our professional services satisfy the City’s audit requirements.

Summary of Services
We will audit the City’s basic financial statements as of and for the year ended December 31, 2017. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. The objective of an audit is to express our opinion concerning whether the basic financial statements and related notes present fairly, in all material respects, the City’s financial position, changes in financial position, and cash flows (where applicable), in conformity with U.S. generally accepted accounting principles.

We expect to deliver our report on or about June 22, 2018.

We will audit to form an opinion on the basic financial statements. We will also opine on whether supplementary information is fairly presented, in all material respects, in relation to the basic financial statements taken as a whole.

We will apply certain limited procedures to required supplementary information. However, we will not opinie or provide any assurance on this information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any other assurance.

We also will read the other information included in the introductory and statistical sections of the Comprehensive Annual Financial Report (CAFR) and consider whether this information, including the manner of its presentation, is materially consistent with information appearing in the financial section. However, we will not express an opinion or any other assurance on the introductory or statistical sections of the CAFR.

Engagement Team
The engagement will be led by:

* Donna Waldron, Chief Auditor, and Scott Bowser, Assistant Chief Auditor, who will be responsible for assuring the overall quality, value, and timeliness of our services to you;

* Matt Clum, Senior Audit Manager, who will be responsible for managing the delivery of our services to you; and

* Daniel Barhorst, Audit Manager, who will be responsible for on-site administration of our services to you.
The Auditing Process

Our Responsibilities:
The Summary of Services above describes our responsibilities for the City’s basic statements and other financial information.

We will conduct our audit in accordance with U.S. generally accepted auditing standards (GAAS) and the Comptroller General of the United States’ standards for financial audits included in Government Auditing Standards, the Single Audit Act Amendments of 1996, and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Those standards require that we plan and perform the audit to reasonably assure that the financial statements are free of material misstatement.

Because of inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatement may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS.

We may limit certain procedures to selective testing of data. Therefore we might not detect material error and fraud if it exists. It is not cost-efficient to design procedures to detect immaterial error or immaterial fraud. Also, because of the characteristics of fraud, including attempts at concealment through collusion and forgery, a properly designed and executed audit may not detect a material fraud.

We will communicate all instances where we believe fraud may exist to you. These would include instances where we:

- Have persuasive evidence that fraud occurred.
- Determined fraud risks exist and were unable to obtain convincing evidence to determine that fraud was unlikely.

Similarly, noncompliance may have occurred. However, our audit provides no assurance that noncompliance generally will be detected and only reasonable assurance that we will detect noncompliance directly and materially affecting the determination of financial statement amounts. We will inform you regarding material error or noncompliance that come to our attention.

If we find indications of abuse, we will expand our tests to determine its financial statement effect. Government Auditing Standards defines abuse as behavior which while not necessarily a legal violation, is behavior a prudent person would deem improper or deficient. Because this determination is subjective, Government Auditing Standards does not expect auditors to provide reasonable assurance of detecting abuse.

If for any reason we are unable to complete the audit or are unable to form an opinion, we may disclaim an opinion on your financial statements. In this unlikely event, we will communicate the reason for disclaiming an opinion to you, and to those charged with governance, in writing.

Your Responsibilities and Identification of the Applicable Reporting Framework:
We will audit assuming that management and those charged with governance acknowledge and understand they are responsible for:

1. Preparing the financial statements and other financial information, including related disclosures and selecting and applying accounting principles in accordance with accounting principles generally accepted in the United States of America.
2. Providing us with:
   a. Access to all information of which management is aware that is relevant to preparing and fairly presenting the financial statements such as records, documentation, and other matters;
   b. Additional information that we may request from management for the audit; and
   c. Unrestricted access to persons within the City from whom we determine it necessary to obtain audit evidence.

3. Informing us of events occurring or facts discovered subsequent to the date of the financial statements, of which management may become aware, that may affect the financial statements.

4. Preparing supplementary information (including the Schedule of Expenditures of Federal Awards) in accordance with the applicable criteria.
   a. Include our report on the supplementary information in any document that includes the supplementary information and that indicates that the auditor has reported on this supplementary information.
   b. Present the supplementary information with the audited financial statements or, if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by the City of the supplementary information and the auditor’s report thereon.

5. Reporting fraud and noncompliance of which you are aware to us.

6. Making available to the auditor draft financial statements and any accompanying other information in time to allow the auditor to complete the audit in accordance with the proposed timeline.

7. Reviewing drafts of the audited financial statements, footnotes, any supplemental information, auditor’s reports and any findings; and informing us of any edits you believe may be necessary.

8. Designing and implementing programs and controls to prevent and detect fraud.

You should not rely on our audit as your primary means of detecting fraud.

Compliance with Laws and Regulations
Our Responsibilities
As part of reasonably assuring whether the financial statements are free of material misstatement, we will test the City's compliance with certain provisions of laws, regulations, contracts, and grants if noncompliance might reasonably directly and materially affect the financial statements. However, except for major federal financial assistance programs, our objective is not to opine on overall compliance with these provisions.

Your Responsibilities:
Management and those charged with governance are responsible for:
1. Being knowledgeable of, and complying with, laws, regulations, contracts, and grants applicable to the City.

2. Identifying for us other financial audits, attestation engagements, performance audits, internal audits, reports from regulators or other studies related to the City (if any), and the corrective actions taken to address these audits' significant findings and recommendations.

3. Tracking the status of prior audit findings.

4. Taking timely and appropriate steps to remedy fraud, noncompliance, violations of provisions of laws, regulations, contracts or grant agreements, or abuse we may report.

5. Providing your views and planned corrective action on audit findings we may report.

Internal Control

Our Responsibilities:
As a part of our audit, we will obtain an understanding of your City and its environment, including its internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses.

In assessing risk, we consider internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of opining on the effectiveness of the City's internal control. However, we will communicate to you in writing any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

Your Responsibilities:
Design, implement and maintain internal control relevant to compliance and the preparing and fairly presenting financial statements that are free from material misstatement, whether due to fraud or error. Appropriate supervisory reviews are necessary to reasonably assure that adopted policies and prescribed procedures are followed.

Your Responsibility for Service Organizations:
Service organizations are other governmental entities, organizations, or companies that provide services to you, as the user City, relevant to your internal controls over financial reporting. Service organizations process transactions reflected in your City's financial statements, and therefore fall within the scope of our audit. While service organizations are responsible for establishing and maintaining their internal control, you are responsible for being aware of the service organizations your City uses, and for establishing controls to monitor the service organization's performance. Because the complexity of service organization transaction processing can vary considerably, your monitoring activities can vary accordingly.
When transaction processing is complex and the volume of transactions is relatively high, obtaining and reviewing a service organization auditor's Independent Service Auditor's Report on Management's Description of a Service Organization's System and the Suitability of the Design and Operating Effectiveness of Controls Report (Type 2 Service Organization Control Report (SOC 1)) may be the most effective method of meeting your responsibility to monitor a service organization, and may also be the only efficient method by which we can obtain sufficient evidence regarding their internal controls. AT Section 801, Reporting on Controls at a Service Organization for service organization reports dated prior to May 1, 2017 and AT-C Section 320, Reporting on an Examination of Controls at a Service Organization Relevant to User Entities' Internal Control Over Financial Reporting for service organization reports dated on or after May 1, 2017 discuss the aforementioned report. (In some circumstances, we can accept a suitably-designed agreed-upon procedures report (AUP) in lieu of a SOC 1 report.)

You are responsible for informing our staff of the service organizations your City uses, and for monitoring these service organizations' performance.

Service organizations of which we are aware are:
- Miami County, which assesses, bills, collects, and remits your City's property taxes.
- McKesson (formerly Med 3000), which processes your City's emergency medical service billings.

Please confirm to us that, to the best of your knowledge, the above listing is complete.

We believe the complexity of processing and volume of transactions warrant a SOC 1 (or AUP) report for the above listed service organizations.

Without an acceptable SOC 1 or AUP report for the above-listed organizations, generally accepted auditing standards may require us to qualify our opinion on your City’s financial statements due to an insufficiency of audit evidence regarding service organization transactions included in your City’s financial statements. You are responsible for communicating the need for a SOC 1 or AUP report to these service organizations, and also for communicating the deadline for which we need the report to meet your reporting deadline. We will require the reports by approximately May 31, 2018 to meet your reporting deadline of June 30, 2018.

Because the Auditor of State contracts for the audit engagement for Miami County, you need not contact us regarding your deadline. However, you should read the most recent Miami County report as part of your monitoring activities.

Additional Responsibilities and Reporting Under the Uniform Guidance

Our Responsibilities:

For grant funding subject to the Uniform Guidance, as the Guidance requires, we will test controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to opine on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.
Additionally, the Uniform Guidance requires that we also plan and perform the audit to reasonably assure whether the auditee has complied with applicable federal statutes, regulations, and terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB Compliance Supplement for the types of compliance requirements that could directly and materially affect each of your major programs.

In accordance with the Uniform Guidance, we will prepare the following report:

_Independent Auditor’s Report on Compliance with Requirements Applicable to the Major Federal Program and on Internal Control Over Compliance Required by the Uniform Guidance_

Our report on compliance will include our opinion on compliance with major federal financial assistance programs and also describe instances of noncompliance with Federal requirements we detect that require reporting per the Uniform Guidance. This report will also describe any significant deficiencies and/or material weaknesses we identify relating to controls used to administer Federal award programs. However, this report will not opine on internal control used to administer Federal award programs.

We are also responsible for completing certain parts of OMB Form SF-SAC (the Data Collection Form).

**Your Responsibilities:**
You are responsible for identifying federal statutes, regulations and the terms and conditions relating to Federal award programs, and for complying with them. You are responsible for compiling the Schedule of Expenditures of Federal Awards and accompanying notes.

For grant funding subject to the Uniform Guidance, you are required to establish and maintain effective internal controls to reasonably assure compliance with federal statutes, regulations and terms and conditions of federal awards and controls relating to preparing the Schedule of Expenditures of Federal Awards. Additionally, you are responsible for evaluating and monitoring noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; taking prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly following up and taking corrective action on reported audit findings; and for preparing a summary of schedule of prior audit findings and a separate corrective action plan.

You are responsible for informing us of significant subrecipient relationships and contractor relationships (previously known as vendor relationships), when the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are responsible for completing your City’s Data Collection Form and assuring the reporting package (including the Data Collection Form) is filed in accordance with the electronic submission requirements.

You are responsible for providing electronic files that are unlocked, unencrypted and in an 85% text searchable PDF format for your City’s single audit submission of the reporting package to the Federal Audit Clearinghouse.

**Representations from Management**

**Your Responsibilities**

Upon concluding our engagement, management and, when appropriate, those charged with governance will provide to us written representations about the audit that, among other things, will confirm, to the best of their knowledge and belief:
Management's responsibility for preparing the financial statements in conformity with generally accepted accounting principles, and the Schedule of Expenditures of Federal Awards in accordance with the Uniform Guidance

- The availability of original financial records and related data, the completeness and availability of all minutes of the legislative or other bodies and committee meetings;
- Management's responsibility for the City's compliance with laws and regulations;
- The identification and disclosure to the auditor of all laws, regulations, and provisions of contracts and grant agreements directly and materially affecting the determination of financial statement amounts and;
- The absence of fraud involving management or employees with significant roles in internal control.

Additionally, we will request representations, as applicable, regarding:

- The inclusion of all components, and the disclosure of all joint ventures and other related organizations;
- The proper classification of funds, net position and fund balances;
- The proper approval of reserves of fund equity;
- Compliance with laws, regulations, and provisions of contracts and grant agreements, including budget laws or ordinances; compliance with any tax or debt limits, and any debt covenants;
- Representations relative to GASB-required supplementary information;
- The identification of all federal assistance programs, and compliance with grant requirements.
- Events occurring subsequent to the fiscal year end requiring adjustment to or disclosure in the financial statements or Schedule of Expenditures of Federal Awards.

Management is responsible for adjusting the financial statements to correct misstatements we may detect during our audit and for affirming to us in the representation letter that the effects of any uncorrected misstatements we aggregate during our engagement and pertaining to the latest period the statements present are immaterial, both individually and in the aggregate, to the opinion units. (Financial statements include the related footnotes and required and other supplemental information).

Communication
Our Responsibilities

As part of this engagement the Auditor of State will communicate certain additional matters (if applicable) to the appropriate members of management and to those charged with governance. These matters include:

- The initial selection of and changes in significant accounting policies and their application;
- The process management uses to formulate particularly sensitive accounting estimates and the basis for their conclusions regarding the reasonableness of those estimates;
- Audit adjustments, whether posted or waived;
- Any disagreements with management, whether or not satisfactorily resolved, about matters that individually or in the aggregate could be significant to the financial statements or our opinion;
- Our views about matters that were the subject of management's consultation with other accountants about auditing and accounting matters;
- Major issues that were discussed with management related to retaining our services, including, among other matters, any discussions regarding the application of accounting principles and auditing standards; and
- Serious difficulties we encountered in dealing with management during the audit.
We will present those charged with governance our Summary of Identified Misstatements (if any) at the conclusion of our audit.

**Terms and Conditions Supporting Fee**
As a result of our planning process, the City and the Auditor of State have agreed to an approach designed to meet the City’s objectives for an agreed-upon fee, subject to the following conditions.

**Our Responsibilities:**
In providing our services, we will consult with the City regarding matters of accounting, financial reporting or other significant business issues. Accordingly, our fee includes estimated time necessary for this consultation. Circumstances may require the Auditor of State to confirm balances with your financial institution resulting in additional nominal charges which will not require an amendment to this agreement. However, should a matter require research, consultation or audit work beyond this estimate, the Auditor of State and the City will agree to an appropriate revision in services and fee. These revisions will also be set forth in the form of the attached Amendment to Letter of Arrangement.

**Your Responsibilities:**
The City will provide in a timely manner all financial records and related information to us, an initial list of which has been furnished to you, including timely communication of all significant accounting and financial reporting matters, as well as working space and clerical assistance as mutually agreed upon and as is normal and reasonable in the circumstances. When and if for any reason the City is unable to provide these schedules, information and assistance, the Auditor of State and the City will mutually revise the fee to reflect additional services, if any, we require to achieve these objectives. These revisions will be set forth in the form of the attached Amendment to Letter of Arrangement.

**Confidential Information:**
You should make every attempt to minimize or eliminate the transmission of personal information to the Auditor of State (AOS). All documents you provide to the AOS in connection with our services including financial records and reports, payroll records, employee rosters, health and medical records, tax records, etc. should be redacted of any personal information. Personal information includes social security numbers, date of birth, drivers’ license numbers or financial institution account numbers associated with an individual. The public office should redact all personal information from electronic records before they are transmitted to the AOS. This information should be fully blacked out in all paper documents prior to sending to the AOS. If personal information cannot be redacted from any records or documents; the public office must identify these records to the AOS.

If redacting this personal information compromises the audit or the ability to prepare financial statements, the public office and the AOS will consider these exceptions on a case-by-case basis. Additionally, If redacting this information creates a hardship on the public office in terms of resources, recordkeeping or other issues, the public office and the AOS may collaborate on alternative methods of providing the public office’s data to the AOS without compromising the personal information of individuals served by the public office. The AOS is willing to work with the public office and it is our intent to greatly reduce the amount of personal information submitted to the AOS for audit or financial statement preparation purposes. It is important that the public office review internal policies to find ways to eliminate as much personal information from financial records as possible by substituting non-personal information (i.e., change social security numbers to employee identification numbers).

**Fee**
Except for any changes in fees and expenses which may result from the circumstances described above, we expect our fees and expenses for our audit services will not exceed $43,050.
Pursuant to Ohio Rev. Code Section 117.13, you may charge all of this audit's cost to the general fund or you may allocate the cost among the general fund and other eligible funds.

**Reporting**

We will issue a written report upon completing our audit of your financial statements. We will address our report to those charged with governance. We cannot assure you that we will issue an unmodified opinion. Circumstances may arise in which it is necessary for us to modify our opinion, add an other matters or emphasis-of-matter paragraph or withdraw from the engagement.

Upon completing our audit, we will also issue a written report in accordance with Government Auditing Standards on internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters.

**Access to Our Reports and Working Papers**

AU-C 905—Alert That Restricts the Use of the Auditor’s Written Communication requires our reports to disclose the following:

*Independent Auditor’s Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Required by Government Auditing Standards:*

This report only describes the scope of our internal control and compliance testing and our testing results, and does not opine on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed under Government Auditing Standards in considering the City's internal control and compliance. Accordingly, this report is not suitable for any other purpose.

*Independent Auditor’s Report on Compliance for the Major Federal Program and on Internal Control Over Compliance Required by the Uniform Guidance:*

This report only describes the scope of our internal control compliance tests and the results of this testing based on Uniform Guidance requirements. Accordingly, this report is not suitable for any other purpose.

AU-C 905 requires us to include this restrictive language in our reports due to concerns that other readers may not fully understand the purpose of the report, the nature of the procedures applied in its preparation, the basis or assumptions used in its preparation, the extent to which the procedures performed are generally known or understood, and the potential for the report to be misunderstood, when taken out of the context for which it was intended.

However, under Revised Code Section 117.26, an audit report becomes a public record under Section 149.43, Revised Code, when we file copies of the report with the public officers enumerated in the Revised Code. When we file the reports, our working papers become available to the public upon request, subject to information protected for criminal investigations, by attorney-client privilege or by local, state or federal law. AU-C 905 does not affect public access to our reports or working papers.

Under generally accepted auditing standards, we must retain working papers for five years after the release date of our opinion. However, AOS policy requires we retain working papers for seven years or longer, as needed.
Peer Review Report
As required by Government Auditing Standards, we have made our most recent external quality control review report (Peer Review) publicly available, at https://www.ohioauditor.gov/Publications/Peer_Opinion_2018.pdf. Audit organizations can receive a rating of pass, pass with deficiency(ies), or fail. The Auditor of State received a peer review rating of pass.

Please sign and return this letter to indicate your acknowledgement of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities. If you have any questions, please call Matt Clum, Senior Audit Manager, at (937) 285-6036.

Very truly yours,

Dave Yost
Auditor of State of Ohio

[Signature]

Donna K. Waldron, CPA, CFE
Chief Auditor

Attachment

Cc: City Commissioners
    Mayor
    City Manager

ACCEPTED BY ____________________________________________

DATE ____________________________________________

TITLE ____________________________________________
### 2CFR Part 200 REPORTING PACKAGE

<table>
<thead>
<tr>
<th>2CFR Part 200 Ref.</th>
<th>Item</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>.508(b); .510(a)</td>
<td>Financial Statements</td>
<td>✓</td>
</tr>
<tr>
<td>.515(a)</td>
<td>Report (opinion) on financial statements</td>
<td></td>
</tr>
<tr>
<td>508(b); .510(b)</td>
<td>Schedule of Expenditures of Federal Awards</td>
<td>✓</td>
</tr>
<tr>
<td>.515(a)</td>
<td>Report (&quot;in-relation-to&quot; opinion) on Schedule of Expenditures of Federal Awards</td>
<td></td>
</tr>
<tr>
<td>.515(b)</td>
<td>Report on Compliance and Internal Controls - Financial Statements</td>
<td>✓</td>
</tr>
<tr>
<td>.515(c)</td>
<td>Report on Compliance and Internal Controls - (Major) Federal Awards</td>
<td>✓</td>
</tr>
<tr>
<td>.515(d)</td>
<td>Schedule of Findings and Questioned Costs</td>
<td>✓</td>
</tr>
<tr>
<td>.508(c); .511(a); .511(b)</td>
<td>Schedule of Prior Audit Finding</td>
<td>✓</td>
</tr>
<tr>
<td>.512(a), (b)</td>
<td>Data Collection Form</td>
<td>✓  ✓</td>
</tr>
<tr>
<td>.511(c)</td>
<td>Corrective Action Plan</td>
<td>✓</td>
</tr>
</tbody>
</table>
SAMPLE
AMENDMENT #____ TO LETTER OF ARRANGEMENT

[Date]

[ENGAGEMENT LETTER ADDRESSEE]

Dear _____:

The letter of arrangement dated ________ between the Auditor of State and the City is hereby amended to reflect the following:

<table>
<thead>
<tr>
<th>Description of / Causes for Amendment</th>
<th>Estimated Fee Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Total this amendment</td>
<td>$0.00</td>
</tr>
<tr>
<td>Previous fee estimate</td>
<td></td>
</tr>
<tr>
<td>Revised fee estimate</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Please sign the copy of this letter in the space provided and return it to us. If you should have any questions, please call ______ at ______.

Very truly yours,

Dave Yost
Auditor of State of Ohio

(Name), Chief Auditor

cc: [Engagement Letter cc's]

___________________________  _________________________
ACCEPTED BY                  DATE

___________________________
TITLE
RESOLUTION NO. R-69-18

A RESOLUTION REQUESTING AUTHORIZATION
TO ENTER INTO A CONTRACT WITH VECTREN
ENERGY DELIVERY OF OHIO FOR THE
INSTALLATION OF GAS FACILITIES AT 156
ROBERT M. DAVIS PARKWAY FOR THE NEW
HEALTH & SANITATION FACILITY

WHEREAS, the City of Piqua will be constructing a new Health &
Sanitation Facility at 156 Robert M. Davis Parkway; and

WHEREAS, it is the desire of the City to service this new facility with
natural gas; and

WHEREAS, natural gas is not currently available on Robert M. Davis
Parkway, but will need to be extended from Commerce Drive by Vectren Energy
Delivery of Ohio.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of
Piqua, Miami County, Ohio, the majority of all members elected thereto
concurring, that

SEC. 1: A contract is hereby approved with Vectren Energy Delivery
of Ohio for the construction of the gas main extension as identified in the
attached Exhibit A

SEC. 2: The Finance Director certifies that funds are available and is
hereby authorized to draw her warrant from time to time on the appropriate
account of the city treasury in payment according to contract terms, not
exceeding a total of $61,250.

SEC. 3: This Resolution shall take effect and be in force from and
after the earliest period allowed by law.

KATHRYN B. HINDS, MAYOR

PASSED: ___________________

ATTEST: ___________________

REBECCA J. COOL
CLERK OF COMMISSION

The Motion to adopt the foregoing Resolution was offered by______________
seconded by______________ and on roll call the following vote ensued:

Mayor Kathryn B. Hinds ________ Commissioner John Martin ________
Commissioner William Vogt ________ Commissioner Dave Short ________
Commissioner Kris Lee ________
# Commission Agenda

## Staff Report

<table>
<thead>
<tr>
<th>MEETING DATE</th>
<th>May 1, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>REPORT TITLE</td>
<td>A Resolution requesting authorization to enter into a Contract with Vectren Energy Delivery of Ohio for the installation of gas facilities at 156 Robert M. Davis Parkway for the New Health &amp; Sanitation Facility.</td>
</tr>
<tr>
<td>SUBMITTED BY</td>
<td>Name &amp; Title: Amy L. Havenar, City Engineer</td>
</tr>
<tr>
<td></td>
<td>Department: Engineering</td>
</tr>
<tr>
<td>AGENDA CLASSIFICATION</td>
<td>☑ Consent ☐ Ordinance ☑ Resolution ☐ Regular</td>
</tr>
<tr>
<td>APPROVALS/REVIEWS</td>
<td>☑ City Manager ☐ Asst. City Manager/Finance</td>
</tr>
<tr>
<td></td>
<td>☐ Asst. City Manager/Development ☐ Law Director</td>
</tr>
<tr>
<td></td>
<td>☐ Department Director ☐ Other:</td>
</tr>
<tr>
<td>BACKGROUND</td>
<td>During the design process of the new Health &amp; Sanitation Facility, it became apparent that there was no natural gas service located along Robert M. Davis Parkway. As such, we would like to enter into a Contract with Vectren Energy Delivery of Ohio (Vectren) to have them run a new gas main from Commerce Drive to the proposed Health &amp; Sanitation Facility site. As stated in the Contract, should any other businesses located along Robert M. Davis Parkway decide to connect into the gas service within the next five and one-half years, the City will receive a refund from Vectren for this connection.</td>
</tr>
<tr>
<td></td>
<td>In our discussions with the existing businesses along Robert M. Davis Parkway, they have expressed a definite interest in connecting into the natural gas service. This will also be an economic development tool that we can use to assist us in marketing the remaining lots located along the Robert M. Davis corridor.</td>
</tr>
<tr>
<td>BUDGETING AND FINANCIAL IMPACT</td>
<td>Budgeted $: $65,000</td>
</tr>
<tr>
<td></td>
<td>Expenditure $: $61,250 (Includes a 10% Contingency)</td>
</tr>
<tr>
<td></td>
<td>Source of Funds: Sanitation Fund</td>
</tr>
<tr>
<td></td>
<td>Narrative: This money was budgeted for in the 2018 Health &amp; Sanitation Budget. A 10% contingency was added into this amount for anything unforeseen that Vectren may run into with the gas main installation. The refund policy is stated in Section 1(c) of the Contract for any businesses that choose to connect into the new gas main.</td>
</tr>
<tr>
<td>OPTIONS</td>
<td>1. Approve the Resolution to allow for the City to enter into a Contract with Vectren to begin the gas main installation.</td>
</tr>
</tbody>
</table>
2. **Do not approve the resolution and provide guidance to Staff**.

<table>
<thead>
<tr>
<th><strong>PROJECT TIMELINE</strong></th>
<th>Vectren anticipates beginning their work within 4-6 weeks of receiving the signed Contract.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STAFF RECOMMENDATION</strong></td>
<td>Approve the Resolution to allow for the City to enter into a Contract with Vectren to begin the gas main installation.</td>
</tr>
<tr>
<td><strong>REASON FOR SELECTING CONSULTANT/COMPANY</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>ATTACHMENTS</strong></td>
<td>Exhibit A - Contract</td>
</tr>
</tbody>
</table>
CONTRACT FOR GAS MAIN EXTENSIONS

AN AGREEMENT, made this ______ day of ______, 20__, between Vectren Energy Delivery of Ohio, hereinafter referred to as COMPANY, and CITY OF PIQUA HEALTH DEPARTMENT (201 W WATER ST., PIQUA, OH 45356) hereinafter referred to as CUSTOMER, WITNESSETH:

That, for valuable consideration:

SECTION 1, THE COMPANY agrees:

(a) To install gas facilities at 156 ROBERT M DAVIS PKWY, PIQUA, OH 45356, as shown in the attached "Exhibit A".

(b) To do the gas work as provided for in paragraph (a) above for the sum of:

1. $67,674.92 less

2. $12,007.00 advance credit. The advance credit is equal to five and one half times the estimated annual non-gas cost revenue for gas service to be received from existing facilities, or facilities under construction as described below, plus $1,590 per meter for each of the small commercial premises. The non-gas cost revenue shall be calculated by adding the customer charge to the distribution charge. No further refund will be made for such facilities, located as follows:

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>LOT NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CITY OF PIQUA</td>
<td>156 ROBERT M DAVIS PKWY PIQUA, OH 45356</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(c) For each premise, other than those listed in SECTION 1 (b) above, served from the gas main extension as described in SECTION 1 (a) within a period of five and one-half (5.5) years from the date hereof, the COMPANY will refund to the CUSTOMER, without interest, an amount equal to: (1) $1,590 per meter for each residential or small commercial premise connecting to the extension within five and one-half (5.5) years; or (2) five and one half times the estimated annual non-gas cost revenue for gas service to be received from each such premise connecting to the extension and taking service pursuant to Rate Schedules 345 or 360 within five and one-half (5.5) years; provided, however, there shall be deducted from said refund the full cost of providing a gas service to said premise. The maximum amount of payment for the gas work subject to refund pursuant to this section is $55,667.92.

SECTION 2, THE CUSTOMER agrees:

(a) To pay to COMPANY the cost of the work specified in SECTION 1 (b)(1) minus any advance credits earned under SECTION 1 (b)(2), which sum totals $55,667.92, no later than two (2) weeks prior to the scheduled start of construction. The CUSTOMER understands and agrees that construction will not be commenced by COMPANY until CUSTOMER has deposited the sum specified in this paragraph with the COMPANY.

(b) To provide easements for all gas mains. If the grade is altered by or at the request of CUSTOMER, for any reason, after the installation of COMPANY’s system and COMPANY must adjust its facilities, the CUSTOMER agrees to reimburse COMPANY for any alterations or repairs made by COMPANY to its facilities, including the cost of lowering facilities to re-establish the installed depth of cover. CUSTOMER agrees to provide a clear path at least 10 feet in width, free of any above ground obstructions, for installation by COMPANY of its facilities. COMPANY shall backfill trenches upon installation of its facilities. The CUSTOMER shall repair further settling.
To provide a copy of the recorded final plat and a set of "as built" prints showing other underground facilities before COMPANY commences its work. CUSTOMER shall locate and identify all property corners, future permanent structures and CUSTOMER owned facilities. These facilities shall be clearly marked prior to the installation of COMPANY facilities. In the event the CUSTOMER fails to mark these facilities or if the facilities are not properly marked, COMPANY will not be liable for damage to these facilities, and CUSTOMER shall indemnify COMPANY for claims and losses resulting from such failure.

To acquire all necessary permits and inspections. COMPANY shall provide conduits to be installed by the CUSTOMER if CUSTOMER wishes to pave the streets before COMPANY commences its work. CUSTOMER shall install the conduits with a pull rope and mark the ends of the conduits to identify the location. CUSTOMER shall consult a COMPANY representative to properly size and place conduits where gas facilities cross sidewalks, patios and driveways.

To pay for all gas supplied herein in accordance with and subject to all of the terms and conditions of the COMPANY’s applicable rate schedule or schedules and rules and regulations on file with the Public Utilities Commission of Ohio, and such other rate schedule or schedules or effective superseding rate schedule or schedules as may during the term hereof be filed by the COMPANY with and approved by the Public Utilities Commission of Ohio or any other appropriate regulatory authority.

SECTION 3, IT IS MUTUALLY agreed:

That this contract shall be effective from the date first above written and shall continue in effect for a period of five and one-half (5.5) years from the date COMPANY completes the work specified in SECTION 1 (a).

The COMPANY reserves the right to build extensions from the above described gas main extensions and shall not be required to make any refund on account of business secured on said additional extensions, except as provided for in Section 1(c) above.

That in the event the COMPANY is prevented from installing the service lines and furnishing the gas service as hereinabove described due to causes beyond its control and without its fault or negligence, including but not restricted to acts of God, acts of Government, laws or regulations of any governing body, strikes, embargoes, fires, floods, quarantine restrictions, shortages of materials, or right-of-way delays, the COMPANY shall not be liable for any delay or failure to perform occasioned thereby and such delay or failure shall not be deemed to constitute a breach of this Agreement by the COMPANY.

That there shall be no refunds after the five and one-half (5.5) year period following the completion of the main extension and in no event shall the amount of refund by the COMPANY exceed the amount specified in SECTIONS 1 (c) as being subject to refund.

That this Agreement shall not be binding upon the COMPANY until approved by one of its executive officers.

The terms and provisions of this Agreement are subject to rules and regulations issued, or filed with and approved, by the Public Utilities Commission of Ohio, and all such rules and regulations, as amended from time to time, shall be deemed a part of this Agreement.

IN WITNESS WHEREOF, this Agreement is executed by the parties as of the day and date first above written.

Vectren Energy Delivery of Ohio

Cindy L. Anslinger 
Manager, Industrial Sales

Customer Signature

[Signature]

Gas Main Extension Completion Date: ________________

Name & Title (Printed or Typed)

[Title]

Work Order# 15325322
RESOLUTION NO. R-70-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO THE LPA FEDERAL ODOT-LET PROJECT AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE GREAT MIAMI RIVER TRAIL BRIDGE PROJECT

WHEREAS, the National Transportation Act has made available certain Federal funding for use by local public agencies; and

WHEREAS, the MIA-Great Miami River Trail Bridge project is a transportation activity eligible to receive Federal funding; and

WHEREAS, the Federal Highway Administration (FHWA) designated ODOT as the agency in Ohio to administer FHWA’s Federal funding programs; and

WHEREAS, the City of Piqua and ODOT desire to enter into an ODOT Let Project Agreement regarding the MIA-Great Miami River Trail Bridge, PID 108160 Project; substantially in the form of Exhibit A attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The City Manager is hereby authorized to execute the MIA-Great Miami River Trail Bridge LPA Federal ODOT-Let Project Agreement substantially in the form attached hereto as Exhibit A and all documents, instruments and agreements contemplated thereby and to execute such amendments to the MIA- Great Miami River Trail Bridge LPA Federal ODOT-Let Project Agreement from time to time as contemplated by such Agreement.

SEC 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

______________________________
KATHRYN B. HINDS, MAYOR

PASSED: _______________________

ATTEST: _______________________
REBECCA J. COOL
CLERK OF COMMISSION

The Motion to adopt the foregoing Resolution was offered by ______________________
seconded by ______________________ and on roll call the following vote ensued:

Mayor Kathryn B. Hinds ________ Commissioner John Martin ________
Commissioner William Vogt ________ Commissioner Dave Short ________
Commissioner Kris Lee _________
# Commission Agenda
## Staff Report

<table>
<thead>
<tr>
<th>MEETING DATE</th>
<th>May 1, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>REPORT TITLE</td>
<td>A resolution authorizing the City Manager to enter into the LPA Federal ODOT-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the Great Miami River Trail Bridge Project.</td>
</tr>
<tr>
<td>SUBMITTED BY</td>
<td>Name &amp; Title: Amy L. Havenar, P.E., City Engineer</td>
</tr>
<tr>
<td>Department:</td>
<td>Engineering</td>
</tr>
<tr>
<td>AGENDA CLASSIFICATION</td>
<td></td>
</tr>
<tr>
<td>Consent</td>
<td></td>
</tr>
<tr>
<td>Ordinance</td>
<td></td>
</tr>
<tr>
<td>☑️ Resolution</td>
<td></td>
</tr>
<tr>
<td>☐ Regular</td>
<td></td>
</tr>
<tr>
<td>APPROVALS/REVIEWS</td>
<td></td>
</tr>
<tr>
<td>☑️ City Manager</td>
<td>☐ Asst. City Manager/Finance</td>
</tr>
<tr>
<td>☐ Asst. City Manager/Development</td>
<td>☐ Law Director</td>
</tr>
<tr>
<td>☐ Department Director</td>
<td>☐ Other:</td>
</tr>
<tr>
<td>BACKGROUND</td>
<td>In March of this year, the City was notified of our award for funding under the Surface Transportation Program (STP) through the Miami Valley Regional Planning Commission for the construction of the Great Miami River Trail Bridge. Due to the complexity of this project, it project is being programmed as an ODOT-Let project which means that ODOT will oversee the plan review, will handle the project bidding and the construction inspection. The project will consist of the replacement of the existing, inadequate pedestrian bikeway bridge with a new, ADA accessible bike path bridge over the Great Miami River adjacent to Goodrich Giles Park. The project will also include the construction of a multi-use path from the existing bridge to the newly constructed bridge.</td>
</tr>
<tr>
<td>BUDGETING AND FINANCIAL IMPACT</td>
<td>Budgeted $: N/A for this Legislation</td>
</tr>
<tr>
<td>Expenditure $:</td>
<td>N/A for this Legislation</td>
</tr>
<tr>
<td>Source of Funds:</td>
<td></td>
</tr>
<tr>
<td>Narrative</td>
<td>The total cost for the project is estimated to be $1,328,000. ODOT will provide to the City 75% of the eligible costs, up to a maximum of $995,760 in Federal funds for the construction and the construction administration. The City will also be receiving $300,000 from the State Capital Budget for this project.</td>
</tr>
<tr>
<td>1.</td>
<td>Approve the resolution to enter into an agreement with ODOT.</td>
</tr>
<tr>
<td>OPTIONS</td>
<td>2. Deny the resolution and do not proceed with the bridge project and return the grant money back to MVRPC.</td>
</tr>
<tr>
<td>------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>PROJECT TIMELINE</td>
<td>The design is already underway for this project. The environmental portion of the project will begin later this year. The construction is scheduled for 2023.</td>
</tr>
<tr>
<td>STAFF RECOMMENDATION</td>
<td>Approve the resolution to allow for the City to enter into an agreement with ODOT for the Great Miami River Trail Bridge Project.</td>
</tr>
<tr>
<td>REASON FOR SELECTING CONSULTANT/COMPANY</td>
<td>N/A</td>
</tr>
<tr>
<td>ATTACHMENTS</td>
<td>LPA Federal ODOT-Let Project Agreement (Exhibit A)</td>
</tr>
</tbody>
</table>
LPA FEDERAL ODOT-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the City of Piqua, hereinafter referred to as the LPA, 201 West Water Street, Piqua, Ohio.

1. PURPOSE

1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA’s Federal funding programs.

1.2 Section 5501.03 (D) of the Ohio Revised Code (hereinafter referred to as CRC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.

1.3 The MIA-Great Miami River Trail Bridge (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.

1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities of ODOT and the LPA for administration of the PROJECT.

2. LEGAL REFERENCES

2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:

A. FEDERAL
   • 2 CFR Part 200
   • 23 CFR 172 "Administration of Engineering and Design Related Design Related Service Contracts"
   • 23 CFR 630.106 Authorization to Proceed
   • 23 CFR 636.116 - Organizational Conflict of Interest Requirements for Design-Build Projects
   • 23 CFR 645 - Utilities
   • 48 CFR Part 31 – Federal Acquisition Regulations
   • 49 CFR PART 26 - Participation by Disadvantaged Business Enterprises “DBE” in Department of Transportation Financial Assistance Programs
   • 23 USC 112 "Letting of Contracts"
   • 40 USC Subtitle I, Chapter 11, Sections 1101-1104, the "Brooks Act." – “Selection of Architects and Engineers”
   • Federal Funding Accountability and Transparency Act (FFATA)

Revision Date 2/14/18
B. STATE
   - ORC 153.65 through 153.71
   - ORC 5501.03(D)
   - OAC 4733-35-05

C. ODOT
   - ODOT's Manual for Administration of Contracts for Professional Services
   - ODOT's Specifications for Consulting Services – 2016 Edition
   - ODOT's Consultant Prequalification Requirements and Procedures
   - State of Ohio Department of Transportation Construction and Material Specifications Manual
   - State of Ohio Department of Transportation Construction Administration Manual of Procedures

2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING

3.1 The total cost for the PROJECT is estimated to be $1,600,680, as set forth in Attachment 1. ODOT shall provide to the LPA 75 percent of the eligible costs, up to a maximum of $995,760 in Federal MPO-STP (4TA7) funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with development of the project.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, and all cost overruns and contractor claims in excess of the maximum(s) indicated in 3.1 above..

4. PROJECT DEVELOPMENT

4.1 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

4.2 Project Development shall follow ODOT's Project Development Process and all ODOT standards for environmental evaluations, design, plan preparation, right of way acquisition, utility relocation and other processes as set out in the Department's Design Reference Resource Center, available on ODOT's website (www.dot.state.oh.us/drrc/Pages/default.aspx). Responsibilities for development of the project shall be as follows and further described herein:

<table>
<thead>
<tr>
<th>LPA ODOT Let Project Responsibility Assignments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PDP Phase</strong></td>
</tr>
<tr>
<td>Planning</td>
</tr>
</tbody>
</table>

Revision Date 2/14/18
| Environmental Engineering | All | X | ODOT to:  
|  |  |  | 1) Provide coordination as needed  
|  |  |  | 2) Review all plans and documents and provide comments  
|  | Stage 1 Plans | X | ODOT to review all plans and documents and provide comments.  
|  | Stage 2 Plans | X | ODOT to review all plans and documents and provide comments.  
| Value Engineering | X | ODOT will coordinate Value Engineering if required. Refer to Section 4.8.  
| Cost Estimates | X | LPA/Consultant shall prepare in Estimator format.  
| NEPA | X | ODOT will coordinate NEPA approval. Refer to Section 4.7 for Environmental Responsibilities.  
| Permits | X | ODOT will obtain permits needed to construct the project.  
| R/W Plans | X | ODOT to review all plans and documents and provide comments.  
| Public/Stakeholder Involvement | X | ODOT to review all PI plans and materials and provide comments.  
| Final Engineering & R/W | R/W Acquisition & Relocation | X | Refer to Section 6 for detailed requirements.  
|  | Utility Relocation | X | Refer to Section 6.6 for additional details.  
|  | Railroad Coordination and Agreements | X | Refer to Section 6.8 for additional details.  
|  | Stage 3 Plans | X | ODOT to review all plans and documents and provide comments.  
|  | Cost Estimates | X | LPA shall prepare in Estimator format.  
|  | Final Plan Package | X | ODOT to review all plans and documents and provide comments.  
|  | Mitigation | X | ODOT will coordinate any required mitigation efforts.  

Revision Date 2/14/18
<table>
<thead>
<tr>
<th>Construction</th>
<th>Public/Stakeholder Involvement</th>
<th>X</th>
<th>ODOT to review all PI plans and materials and provide comments.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Advertise</td>
<td>X</td>
<td>LPA and consultants to assist in responding to bidder questions and preparation of any addenda.</td>
</tr>
<tr>
<td></td>
<td>Award</td>
<td>X</td>
<td>ODOT Awards Committee</td>
</tr>
<tr>
<td></td>
<td>Administer Construction Contract</td>
<td>X</td>
<td>ODOT will administer the construction contract. The LPA and LPA’s consultants shall respond promptly to requests for information or other construction issues.</td>
</tr>
<tr>
<td></td>
<td>Public/Stakeholder Involvement</td>
<td>X</td>
<td>ODOT to coordinate in cooperation with the LPA.</td>
</tr>
</tbody>
</table>

| All Phases   | Federal Authorizations          | X | ODOT will coordinate and obtain all needed FHWA Authorizations and notify the LPA upon approval. |

| All Phases   | Encumbrance of Funds           | X | ODOT will encumber funds in accordance with this agreement. |

4.3 The LPA shall designate an LPA employee to act as the LPA Project Manager and act as the point of contact for all communications with ODOT.

4.4 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the “Authorization” notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

4.5 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

4.6 Environmental Responsibilities

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

B. If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire a consultant in accordance with Section 5.

C. ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.

Revision Date 2/14/18
D. Whichever party obtains the Project's environmental clearance or permits shall be responsible for assuring compliance with all commitments made as part of such clearance or permit requirements during the construction of the project.

E. The LPA shall require its consultant to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act.

F. The LPA shall require its consultant to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.

G. The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

4.7 Use of ODOT Consultant Agreements

A. ODOT may provide services through ODOT held consultant agreements at its discretion subject to funding participation by the LPA. Agreements that may be available for use include the following:

1. If the LPA chooses to utilize the CEAO task order contract for environmental services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.

2. If the LPA chooses to utilize the CEAO task order contract for right-of-way acquisition services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.

3. Value Engineering. If Value Engineering is required, the Department may elect to use an ODOT held agreement to assist in administering the Value Engineering process. If Value Engineering is required, the LPA shall require its consultants to participate as needed.

5. CONSULTANT SELECTION AND ADMINISTRATION

5.1 General Requirements

A. The LPA must select a consultant/consultant team that is prequalified by ODOT for all
services to be performed by the consultant and subconsultants.


C. The LPA must require, as a scope of services clause, that project development follow ODOT's Project Development Process, and that all documents and plans prepared by the consultant must conform to ODOT's current standards, including the electronic deliverable requirements of ODOT's CADD Engineering Standards Manual, and Location and Design Manual Volume 3, Section 1500.

D. The LPA consultant agreement must provide for ongoing consultant involvement during the construction phase of the Project.

E. The LPA consultant agreement must include a completion schedule acceptable to ODOT.

F. The LPA must assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

G. The LPA must cooperate with ODOT in directing additional or corrective work, and to recover damages due to errors or omissions.

H. If Federal Funds are used to pay the cost of any contract for professional services, the LPA must comply with 23 CFR 172, Sections 153.65 through 153.71 of the Ohio Revised Code and Section 5.2 below in the selection of consultants, and administer consultant agreements in accordance with ODOT's Manual for Administration of Contracts for Professional Services. Professional services, as defined in Sections 5526.01 and 153.65(C) of the Ohio Revised Code, include the practice of engineering (including inspection of construction), the practice of surveying, the practice of architecture including landscape architecture, evaluation of environmental impacts, right-of-way acquisition services and administration of construction contract claims.

5.2 Procedures for LPA Selection of Consultants for Agreements that Include Federal Funds in Preliminary Engineering

A. Policies in Selection of Consultants

1. Restrictions Concerning LPA Preferences

   The LPA shall not offer direction to consultants concerning preferences (or informal sanctions) for certain subconsultants or team arrangements. These arrangements are business decisions that must be made by consultants without direction from the LPA. The LPA must make selection decisions on the basis of proposed teams without advance "steering" of teams.

2. Communications Restrictions

   Please note the following policy concerning communication between Consultants and the LPA during the announcement and selection process:

   During the time period between advertisement and the announcement of final consultant selections for the Programmatic Selection Process, communication with consultants (or their agents) shall be limited as follows:

Revision Date 2/14/18
a. Communications which are strictly prohibited:

(1) Communication with the LPA: Any marketing or similar discussions of the specific project if the consultant has submitted or plans to submit a letter of interest, or is included as a subconsultant on a submittal by another firm.

b. Allowable communications include:

(1) Project administration activities for authorized agreements, scope and negotiation activities for projects selected but not under contract.

(2) Technical or scope of services questions specific to projects posted with a programmatic group.

c. When completed selections must be publicly announced.

3. Advertisement

For selection procedures that require public notification, Requests for Letters of Interest “RFLoi” must be advertised on the Consultant Services page of ODOT’s website.

4. Disclosure of Selection Information

All selection information including consultant letters of interest shall be available for public disclosure upon completion of the selection.

Information that is not subject to public disclosure at any time includes financial statements and other confidential financial information submitted by a consultant.

5. Supporting Documentation

Documentation supporting the solicitation, proposal, evaluation, and selection of the consultant shall be retained.

6. Prohibited Selection Factors

a. Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

b. In-State or local preference shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement for the minimum qualifications and competence of a consultant to perform the solicited services.

Refer to Section 5.2.C.1.n. below for additional guidance concerning the use of local presence as a nominal evaluation factor where appropriate.

B. Consultant Selection Processes

Revision Date 2/14/18
The LPA may use any one of five consultant selection processes permitted by 23 CFR 172 and ORC 153.65 – 153.71, the use of which depends on the complexity of the project, estimated total fee, the number of available qualified consultants and whether an emergency exists. The Programmatic and Technical Proposal selection processes are competitive qualifications based selection processes governed by 23 CFR 172.7(a)(1) and ORC 153.65 – 153.71. These selection processes require solicitation, evaluation, ranking, selection, and negotiation in accordance with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101-1104, commonly referred to as the Brooks Act or Selection of Architects and Engineers.

The Small Purchase selection process is a non-competitive selection process governed by 23 CFR 172.7(a)(2) and ORC 153.71(A). Agreements with total fees less than $50,000 are eligible for this selection process.

The Emergency and Special Expertise selection processes are non-competitive selection processes governed by 23 CFR 172.7(a)(3) and ORC 153.71.

1. Programmatic Selection Process

The Programmatic Selection Process is a one-step selection process intended to shorten the selection/authorization process for non-complex projects while reducing paperwork and administrative costs for both consultants and the State. In this process consultants are selected based on standard letter of interest content, and a standard Selection Rating Form. The "Programmatic" selection process should be used for most projects that do not meet the criteria for the more elaborate Technical Proposal Selection Process.

2. Technical Proposal Selection Process

The technical proposal selection process is a two-step process intended for use on larger, more complex projects for which a more informed selection decision can be made based on additional information received through the submittal of a (more elaborate) Technical Proposal, and/or presentations/interviews. The Technical Proposal Selection Process is appropriate to use under the following circumstances:

a. Complex projects involving multiple PDP steps and multiple disciplines including planning, environmental and design services.

b. Projects that include complex project management challenges in which the role of the consultant project manager will be crucial to project success, and may require extensive public involvement activities.

c. Specialized services for which the LPA has limited experience and performance records for past projects.

d. Generally any project for which a single submittal does not provide sufficient information to make a well informed selection decision.

The technical proposal selection process includes the initial submittal of a letter of interest similar to the Programmatic Selection Process, and then "shortlisting" to at least three of the most highly qualified firms. The standard letter of interest content may be revised to include increased page limits and project specific content. The shortlisted firms are then required to submit additional written information (technical proposal) and/or participate in additional discussions or presentation/interview. The

Revision Date 2/14/18
content of the technical proposal and the format of interviews can be tailored to fit the requirements of specific projects.

Discussions, if required by the RFLoI, may be written, by telephone, video conference, or by oral presentation/interview and shall be with at least three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFLoI.

The process for shortlisting at least three consultants is identical to that of the Programmatic Selection Process. The final selection of a single consultant also follows the same process but considers the written technical proposal and/or presentation/interview along with the initial letter of interest.

3. Emergency Selection Process

The LPA may directly select a consultants for a project determined by the Director of Transportation to be an emergency which will not permit the time necessary to conduct a competitive selection process. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

4. Small Purchase Selection Process

The LPA may directly select consultants without solicitation for projects with an estimated total fee of less than $50,000. The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of fee exempt procedures. The following requirements apply:

a. The qualifications of a minimum of three consultants must be reviewed prior to selection. The consultants considered for selection and the reasons for selecting the most qualified consultant shall be documented.

   In instances where two or fewer consultants are considered qualified, the LPA may proceed with evaluation and selection if it is determined that the project requirements did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

b. The full amount of any contract modification that would cause the total contract amount to exceed $50,000 is ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if Federal funds are used in modifying an agreement above the $50,000 simplified acquisition threshold.

c. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

5. Special Expertise Selection Process

The LPA may directly select consultants for projects for which the service is available only from a single source. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

C. Selection Procedures – Programmatic Selection Process

1. Letter of Interest Content

Revision Date 2/14/18
Requests for Letters of Interest (RFLOI) shall include the following:

a. Project name from Ellis (County-Route-Section);

b. A description of the project including the location.

c. A description of the selection process to be used, including the number of steps (direct selection based on the information provided, or a two-step process with a short list and technical proposal and/or interviews, etc.), and the selection rating criteria to be used. The standard selection rating form included herein should be used for most projects.

d. Any restrictions on communicating with government officials during the selection process.

e. Any restrictions concerning suspended or debarred firms.

f. Date that the letter of interest is due. The minimum response time shall be two weeks from the initial posting date.

g. The approximate construction cost if available.

h. Any special provisions or contract requirements associated with the services.

i. The following notification:

The [LPA] in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all bidders including disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency in consideration for an award.

j. The DBE Goal requirements and related selection procedures.

k. Major work elements involved.

l. A detailed scope of services for the agreement.

m. The ODOT prequalification(s) required to provide the services;

n. Subfactors - Any important aspects of a project, if any, that will play a large role in the consultant selection process.

In-State or local preference shall not be used as a selection factor or subfactor, however a local presence may be used as a nominal evaluation factor where appropriate. This criteria shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant from outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local
project office, that commitment shall be considered to have satisfied the local presence criteria.

o. The contract type and payment method(s) anticipated to contract for the solicited services. Refer to Chapter 4 of ODOT's Consultant Contract Administration for detailed explanations of contract types and payment methods.

p. Estimated date of authorization.

q. Time period in which the work must be completed.

r. Instructions for submitting a letter of interest including content and required format. The information requested should be consistent with the rating criteria.

s. Required content of the letter of interest (RFLoI) including;
   (1) The firm's general qualifications.
   (2) Proposed key staff including key subconsultant staff and project approach.
   (3) A listing of subconsultants including project responsibility.
   (4) Whether resumes of key staff members must be submitted.
   (5) Other information needed to make an informed selection decision.

2. Evaluation Process

a. Initially evaluate all firms for compliance with the following requirements, advise Districts of the firms that must be eliminated from further consideration and the reason for elimination:
   (1) Compliance with general LoI requirements, current negligence issues, and ongoing performance issues identified through CES, overall low CES rating, insufficient staff, excessive workload, or any other significant issues relative to a firm's performance.
   (2) Inclusion on the list of firms suspended or debarred by the Federal Government.
   (3) For projects noted as having DBE Goals, ODOT will determine whether the consultant made a good faith effort to meet the goal in accordance with 49 CFR 26.53 and Appendix A to Part 26. The letter of interest must show that the consultant has made good faith efforts to meet the goal. Good faith efforts may include: (1) Documentation that the consultant has obtained enough DBE or EDGE (Encouraging Diversity, Growth and Equity) participation to meet the goal; or (2) Documentation that it made adequate good faith efforts, as defined in 49 CFR 26.53, to meet the goal, even though it did not succeed in obtaining enough DBE/EDGE participation to do so. Consultants that do not show good faith efforts to meet the Goal will not be eligible for selection.

b. Compliance with prequalification requirements.

c. Reduce the number of firms to 3-6 for each project through a process of elimination, based on the selection rating factors included in the Consultant Selection Rating Form. Firms may be eliminated due to fatal flaws, overall weakness of team relative to other
firms, weak project approach, etc. Provide written documentation concerning the reasons for eliminating a firm from consideration.

In instances where two or fewer consultants respond to the RFLoI, or two or fewer consultants are considered qualified to be shortlisted, the LPA may proceed with evaluation and selection if it is determined that the solicitation did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

d. For each project, rate each shortlisted firm using the selection rating form. Supplement the numerical ratings with written comments that explain the differential scoring. The highest rated firm shall be selected.

3. Selection Rating Procedures

a. ODOT's standard consultant selection rating form is shown below. The LPA may use a modified selection rating form that meets the requirements of 23 CFR 172 and ORC 153.65 – 153.71.

b. Selection evaluations should be based on collaborative discussions of the selection committee members concerning the overall strengths and weaknesses of the teams, including the relative importance of the various selection rating factors relative to the specific requirements of the project. Numerical weights are a guide as to what is important but the selection should not be a mathematical exercise consisting of the addition of scores determined by individual team members. The selection team members should work to reach consensus in determining a single selection rating including written comments that document the reasons for the numerical scores.

c. For each selection rating factor, each short listed firm shall be ranked, with the highest ranked firm receiving the maximum number of points, and lower ranked firms receiving commensurately lower scores. If firms are considered to be equally qualified, the firms may receive the same score for that selection rating factor. The rankings and scores should be based on each firm's specific proposal and project approach, including the named project manager, staff and subconsultants. Experience on similar projects, past performance for the LPA and other agencies should be considered. The selection committee may contact other ODOT Districts and outside agencies if necessary. Any subfactors identified in the RFLoI should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of a selection factor in the success of a given project. The project manager's role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differential scores assigned to projects that require a larger role for the project manager. Similar consideration should be given to all selection factors.

4. ODOT's Consultant Selection Rating Form and Selection Rating Notes

<table>
<thead>
<tr>
<th>Category</th>
<th>Total Value</th>
<th>Scoring Criteria</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management &amp; Team</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project Manager</td>
<td>10</td>
<td>See Note a. below</td>
<td></td>
</tr>
</tbody>
</table>

Revision Date 2/14/18
| Strength/Experience of Assigned Staff including Subconsultants | 25 | See Note b. below |
| Firm’s Current Workload/ Availability of Personnel | 10 | See Note c. below |
| Consultant’s Past Performance | 30 | See Note d. below |
| Project Approach | 25 | See Note e. below |
| **Total** | **100** | |

The following discussion addresses each selection rating factor including scoring methodology, appropriate sources of information and factors that may not be considered.

a. **Project Manager**

The proposed project manager for each consultant shall be ranked, with the highest ranked project manager receiving the greatest number of points, and lower ranked project managers receiving commensurately lower scores. The rankings and scores should be based on each project manager’s experience on similar projects and past performance for the LPA. The selection committee may contact ODOT and outside agencies if necessary. Any subfactors identified should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of the project manager’s role in the success of a given project. The project manager’s role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differentials assigned to projects that require a larger role for the project manager.

b. **Strength/Experience of Assigned Staff including Subconsultants**

The experience and strength of the assigned staff, including subconsultant staff, should be ranked and scored as noted for Number 1 above, with higher differential scores assigned on more difficult projects. Any subfactors identified in the project notification should be weighed heavily in the differential scoring.

As above, ODOT and other agencies may be contacted.

c. **Firm’s Current Workload/ Availability of Personnel** *(Considered at statewide meeting)*

In instances when consultant’s current workload may impact their ability to complete the work as proposed, the firm’s current workload and availability of qualified personnel shall be considered.

d. **Consultant’s Past Performance**

The consultants’ past performance on similar projects, including subconsultant performance, shall be ranked and scored on a relative, differential scoring type basis, with the highest ranked consultant receiving a commensurately greater number of
points. The selection team should consider ODOT CES performance ratings if available, and consult other ODOT Districts, ODOT Central Offices, and other agencies as appropriate. The use of CES ratings shall place emphasis on the specific type of services requested.

The differential scoring should consider the complexity of the project and any subfactors identified in the project notification.

e. Project Approach

Evaluation of the firm’s project approach shall consider:

(1) The firm’s technical approach and understanding of the project.

(2) The firm’s qualifications for the project including knowledge and experience concerning relevant ODOT standards, procedures and guidance documents.

(3) Any innovative ideas.

When considering this factor in rating firms, the type of project and the relevance of this factor to the project must be considered. For task order and construction inspection projects, and small uncomplicated design projects, the possibility for innovation may be very limited. Larger more complex projects will generally offer more opportunities for innovation. Consultants that identify truly innovative ideas should receive credit in the selection rating, but this factor can be disregarded when projects offer little opportunity for innovation.

(4) The firm’s project specific plan for ensuring increased quality, reduced project delivery time and reduced project costs.

These factors will be relatively more important and relevant to a complex PDP project, and much less important for a construction inspection or task order contract. Please remember that Federal rules prohibit consideration of overhead rates, wage rates or any other cost data submitted voluntarily by the consultant.

D. Negotiation of Consultant Agreements

Agreements shall be negotiated in accordance with ODOT’s Manual for Administration of Contracts for Professional Services, Volume 1 Consultant Contract Administration, Section 3.9.

E. Agreements

ODOT will prepare the LPA/Consultant Agreement between the Consultant and LPA. The agreement will be transmitted to the LPA by the ODOT District Office. A copy of the executed LPA/Consultant Agreement shall be returned to the District Office.

F. Documentation of Consultant Selections

The LPA shall maintain a consultant selection file that includes the following information, and provide copies of all documents to the District for their files.

1. A copy of the Request for Proposal and the date posted on ODOT’s website;
2. A listing of firms that submitted Letters of Interest;

Revision Date 2/14/18
3. Letters of Interest from all firms that submitted;
4. Selection rating forms and any supporting notes and documentation, including membership of the selection committee;
5. A listing of firms selected to submit technical proposals (if applicable), copies of the technical proposals, and related correspondence;
6. Selected consultant’s Price Proposal;
7. Negotiation records; and
8. A copy of the Agreement, Scope of Services, authorization letter, Invoice and Project Schedule, and any other documents relevant to the agreement.

6. **RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION**

6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. Refer to Sections 4.2 and 4.4 concerning Federal authorization.

6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT’s Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.

6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant’s activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA’s control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA’s Right of Way Certification, as well as evaluate the LPA’s and/or consultant’s performance of the PROJECT real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.

6.6 ODOT will coordinate with utilities, complete RE-75 forms, establish encumbrances towards each utility if needed, prepare an invoice to the LPA for the local share, and pay the State share as needed. In the administration of this PROJECT, the LPA agrees to follow all procedures described

Revision Date 2/14/18
in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. In the event that a utility is delaying the relocation of its facilities, the LPA shall take any action necessary to order and cause the removal and relocation of such utility. No reimbursable costs shall be incurred prior to the receipt of Federal Authorization for Right of Way from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.

6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.

6.8 ODOT shall be responsible for any necessary railroad coordination and agreements in accordance with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.

6.9 Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that, if any property acquired for this project is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this project that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

7. ADVERTISING, SALE AND AWARD

7.1 ODOT will prepare the State’s estimate and manage the advertising, sale and award process. The LPA and its consultant shall assist in responding to bidder questions, preparation of any addenda and other coordination as needed. ODOT’s Awards Committee shall determine award of the contract.

8. CONSTRUCTION CONTRACT ADMINISTRATION

8.1 ODOT will administer the construction contract in accordance with ODOT’s Construction Administration Manual of Procedures. The LPA and LPA’s consultants shall respond promptly to requests for information or other construction issues. The LPA shall review and approve all change orders. The LPA and LPA’s consultant shall assist in defending ODOT against any contractor claims.

9. CERTIFICATION AND RECAPTURE OF FUNDS

9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the project, any funds recovered from contractor performance and payment bond(s) and consultant insurance shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

Revision Date 2/14/18
10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.

10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. For a PROJECT upon which a DBE goal is assigned, the LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

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

Pursuant to 49 CFR 26.13(b), the LPA agrees not to discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The LPA agrees to carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. The LPA understands that failure to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as ODOT deems appropriate.

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

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

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").
(2) Nondiscrimination: The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(3) Solicitations for Professional Services: In all solicitations for professional services made by the LPA for work to be performed under a contract or subcontract, each potential consultant will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

(4) Information and Reports: The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the LPA under the contract until the LPA complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The LPA will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.

11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device
or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.

11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA’s control. If a default has occurred, ODOT may terminate this agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.

12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS
13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA’s obligations made or agreed to herein.

14. NOTICEx

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

Amy Havenar, P.E.
City of Piqua
201 West Water Street
Piqua, Ohio 45356

If to ODOT:

Scott C. Boyer, P.E., LPA Coordinator
Ohio Department of Transportation
1001 St. Marys Ave.
Sidney, Ohio 45365

15. GENERAL PROVISIONS

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

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

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

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

2. Direct labor plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate. ¹

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

¹ The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200-414. Regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before an LPA is eligible to invoice ODOT for and recover the 10% de minimis indirect cost rate on any project, the LPA’s time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits.
3. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.  
   (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this project, an ODOT approved federally compliant time-tracking system, and  
   (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this project.

4. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the LPA's ODOT approved Indirect Cost Rate.  
   (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this project, an ODOT approved federally compliant time-tracking system, and  
   (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this project, and  
   (C) Instead of using the Federal 10% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this project.

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

15.2 Financial Reporting and Audit Requirements: If one or more phases of this AGREEMENT include a subaward of federal funds to the LPA, the LPA shall comply with the financial reporting and audit requirements of 2 CFR Part 200. If not, the financial reporting and audit requirements remain with ODOT.

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

LPAs that expend Federal and State funds in the Preliminary Engineering and/or Right of Way phases of the Project must track these payments throughout the life of the project in order to ensure an accurate Schedule of Expenditures of Federal Award (hereinafter referred to as SEFA) is prepared annually for all Applicable Federal Funds. Applicable Federal Funds are those that are identified with the various project phases of this agreement as a subaward. Applicable Federal Funds include not only those LPA project expenditures that ODOT subsequently reimburses with

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5 The fringe benefits rate billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the ODOT Office of External Audits. The fiscal period when the LPA’s direct labor costs are paid will be matched with the ODOT approved rate for that fiscal year to determine which rate is applicable. Accordingly, the fringe benefits rate applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rate.

6 The fringe benefits and indirect cost rates billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the Office of External Audits. The fiscal period when the LPA’s direct labor costs are paid will be matched with the ODOT approved rates for that fiscal year to determine which rates are applicable. Accordingly, the rates applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rates.
Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

The LPA must separately identify each ODOT PID and/or Project and the corresponding expenditures on its SEFA. LPAs are responsible for ensuring funds related to this PROJECT are reported when the activity related to the Federal award occurs.\(^4\) Further, the LPA may make this determination consistent with 2 CFR §200.502 and its established accounting method to determine expenditures including accrual, modified accrual or cash basis.

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

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

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

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

15.4 **Ohio Ethics Laws:** LPA agrees they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.

15.5 **State Property Drug-Free Workplace Compliance:** In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.

15.6 **Governing Law:** This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

15.7 **Assignment:** Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.

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\(^4\) Per 2 CFR §200.502
15.8 **Merger and Modification:** This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.

15.9 **Severability:** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.

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

15.11 **Facsimile Signatures:** Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

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

**LPA:** CITY OF PIQUA  
**STATE OF OHIO**  
**OHIO DEPARTMENT OF TRANSPORTATION**

By: ___________________________  
By: Jerry Wray  
Director

Title: ___________________________  
Date: ___________________________  
Date: ___________________________
### PROJECT BUDGET – SOURCES AND USES OF FUNDS

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<tr>
<th>USES</th>
<th>SOURCES</th>
<th>LPA FUNDS</th>
<th>FHWA FUNDS</th>
<th>STATE FUNDS</th>
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<td>$604,920</td>
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<td>$1,500,680</td>
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Attachment 2

DIRECT PAYMENT OF CONSULTANT

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

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

We __________ (INSERT NAME OF LPA) __________ request that all payments for the Federal/State share of the consultant costs of this agreement performed by __________ (CONSULTANT’S NAME) __________ be paid directly to __________ (CONSULTANT’S NAME) __________.

Consultant Name:
Oaks Vendor ID:
Mailing Address:

LPA signature

LPA Name:
Oaks Vendor ID:
Mailing Address:

Approved, ODOT signature
RESOLUTION NO. R-71-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO THE LPA FEDERAL ODOT-LET PROJECT AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE OHIO-INDIANA TRAIL BRIDGE PROJECT

WHEREAS, the National Transportation Act has made available certain Federal funding for use by local public agencies; and

WHEREAS, the MIA-Ohio-Indiana Trail Bridge project is a transportation activity eligible to receive Federal funding; and

WHEREAS, the Federal Highway Administration (FHWA) designated ODOT as the agency in Ohio to administer FHWA’s Federal funding programs; and

WHEREAS, the City of Piqua and ODOT desire to enter into an ODOT Let Project Agreement regarding the MIA-Ohio-Indiana Trail Bridge, PID 108159 Project; substantially in the form of Exhibit A attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The City Manager is hereby authorized to execute the MIA-Ohio-Indiana Trail Bridge LPA Federal ODOT-Let Project Agreement substantially in the form attached hereto as Exhibit A and all documents, instruments and agreements contemplated thereby and to execute such amendments to the MIA-Ohio-Indiana Trail Bridge LPA Federal ODOT-Let Project Agreement from time to time as contemplated by such Agreement.

SEC 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

KATHRYN B. HINDS, MAYOR

PASSED: _______________________

ATTEST: _______________________

REBECCA J. COOL
CLERK OF COMMISSION

The Motion to adopt the foregoing Resolution was offered by ______________________ seconded by ______________________ and on roll call the following vote ensued:

Mayor Kathryn B. Hinds ________ Commissioner John Martin ________
Commissioner William Vogt ________ Commissioner Dave Short ________
Commissioner Kris Lee ________
<table>
<thead>
<tr>
<th>MEETING DATE</th>
<th>May 1, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>REPORT TITLE</td>
<td>A resolution authorizing the City Manager to enter into the LPA Federal ODOT-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the Ohio-Indiana Trail Bridge Project.</td>
</tr>
<tr>
<td>SUBMITTED BY</td>
<td>Name &amp; Title: Amy L. Havenar, P.E., City Engineer  Department: Engineering</td>
</tr>
<tr>
<td>AGENDA CLASSIFICATION</td>
<td>☑Consent ☐Ordinance ☑Resolution ☐Regular</td>
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<tr>
<td>APPROVALS/REVIEWS</td>
<td>☑City Manager ☐Asst. City Manager/Finance  ☐Asst. City Manager/Development ☐Law Director  ☑Department Director ☐Other:</td>
</tr>
<tr>
<td>BACKGROUND</td>
<td>In March of this year, the City was notified of our award for funding under the Transportation Alternatives (TA) Program through the Miami Valley Regional Planning Commission for the construction of the Ohio-Indiana Trail Bridge. Due to the complexity of this project, it project is being programmed as an ODOT-Let project which means that ODOT will oversee the plan review, will handle the project bidding and the construction inspection. The project will consist of the replacement of the existing wooden bridge decking with concrete and the construction of an ADA compliant ramp on the west side of the bridge.</td>
</tr>
<tr>
<td>BUDGETING AND FINANCIAL IMPACT</td>
<td>Budgeted $: N/A for this Legislation  Expenditure $: N/A for this Legislation  Source of Funds:</td>
</tr>
<tr>
<td>Narrative</td>
<td>The total cost for the project is estimated to be $1,498,000. ODOT will provide to the City 25% of the eligible construction costs, up to a maximum of $350,000 in Federal funds for the construction of the project.</td>
</tr>
<tr>
<td>OPTIONS</td>
<td>1. Approve the resolution to enter into an agreement with ODOT.  2. Deny the resolution and do not proceed with the bridge project and return the grant money back to MVRPC.</td>
</tr>
<tr>
<td>PROJECT TIMELINE</td>
<td>The construction is scheduled for 2022. The design will begin the end of this year or in early 2019.</td>
</tr>
<tr>
<td>STAFF RECOMMENDATION</td>
<td>Approve the resolution to allow for the City to enter into an agreement with ODOT for the Ohio-Indiana Trail Bridge Project.</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>REASON FOR SELECTING CONSULTANT/COMPANY</td>
<td>N/A</td>
</tr>
<tr>
<td>ATTACHMENTS</td>
<td>LPA Federal ODOT-Let Project Agreement (Exhibit A)</td>
</tr>
</tbody>
</table>
EXHIBIT A

LPA FEDERAL ODOT-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the City of Piqua, hereinafter referred to as the LPA, 201 West Water Street, Piqua, Ohio.

1. PURPOSE

1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA’s Federal funding programs.

1.2 Section 5501.03 (D) of the Ohio Revised Code (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.

1.3 The MIA-Ohio-Indiana Trail Bridge (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.

1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities of ODOT and the LPA for administration of the PROJECT.

2. LEGAL REFERENCES

2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:

A. FEDERAL

- 2 CFR Part 200
- 23 CFR 172 “Administration of Engineering and Design Related Design Related Service Contracts”
- 23 CFR 630.106 Authorization to Proceed
- 23 CFR 636.116 - Organizational Conflict of Interest Requirements for Design-Build Projects
- 23 CFR 645 - Utilities
- 48 CFR Part 31 – Federal Acquisition Regulations
- 49 CFR PART 26 - Participation by Disadvantaged Business Enterprises “DBE” in Department of Transportation Financial Assistance Programs
- 23 USC 112 “Letting of Contracts”
- 40 USC Subtitle I, Chapter 11, Sections 1101-1104, the “Brooks Act.” – “Selection of Architects and Engineers”
- Federal Funding Accountability and Transparency Act (FFATA)

Revision Date 2/14/18
B. STATE
   • ORC 153.65 through 153.71
   • ORC 5501.03(D)
   • OAC 4733-35-05

C. ODOT
   • ODOT’s Manual for Administration of Contracts for Professional Services
   • ODOT’s Specifications for Consulting Services – 2016 Edition
   • ODOT’s Consultant Prequalification Requirements and Procedures
   • State of Ohio Department of Transportation Construction and Material Specifications Manual
   • State of Ohio Department of Transportation Construction Administration Manual of Procedures

2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING

3.1 The total cost for the PROJECT is estimated to be $1,600,680, as set forth in Attachment 1. ODOT shall provide to the LPA 75 percent of the eligible costs, up to a maximum of $995,760 in Federal MPO-STP (4TA7) funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with development of the project.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, and all cost overruns and contractor claims in excess of the maximum(s) indicated in 3.1 above.

4. PROJECT DEVELOPMENT

4.1 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

4.2 Project Development shall follow ODOT’s Project Development Process and all ODOT standards for environmental evaluations, design, plan preparation, right of way acquisition, utility relocation and other processes as set out in the Department’s Design Reference Resource Center, available on ODOT’s website (www.dot.state.oh.us/drrc/Pages/default.aspx). Responsibilities for development of the project shall be as follows and further described herein:

<table>
<thead>
<tr>
<th>PDP Phase</th>
<th>Activity</th>
<th>Responsibility</th>
<th>Commentary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning</td>
<td>All</td>
<td>X</td>
<td>ODOT to provide coordination as needed</td>
</tr>
<tr>
<td>Preliminary Engineering</td>
<td>All</td>
<td>X</td>
<td>ODOT to:</td>
</tr>
</tbody>
</table>

Revision Date 2/14/18
| Stage 1 Plans | X | ODOT to review all plans and documents and provide comments. |
| Stage 2 Plans | X | ODOT to review all plans and documents and provide comments. |
| Value Engineering | X | ODOT will coordinate Value Engineering if required. Refer to Section 4.8. |
| Cost Estimates | X | LPA/Consultant shall prepare in Estimator format. |
| NEPA | X | ODOT will coordinate NEPA approval. Refer to Section 4.7 for Environmental Responsibilities. |
| Permits | X | ODOT will obtain permits needed to construct the project. |
| R/W Plans | X | ODOT to review all plans and documents and provide comments. |
| Public/Stakeholder Involvement | X | ODOT to review all PI plans and materials and provide comments. |
| R/W Acquisition & Relocation | X | Refer to Section 6 for detailed requirements. |
| Utility Relocation | X | Refer to Section 6.6 for additional details. |
| Railroad Coordination and Agreements | X | Refer to Section 6.8 for additional details. |
| Stage 3 Plans | X | ODOT to review all plans and documents and provide comments. |
| Cost Estimates | X | LPA shall prepare in Estimator format. |
| Final Plan Package | X | ODOT to review all plans and documents and provide comments. |
| Mitigation | X | ODOT will coordinate any required mitigation efforts. |
| Public/Stakeholder Involvement | X | ODOT to review all PI plans and materials and provide comments. |

Revision Date 2/14/18
<table>
<thead>
<tr>
<th>Construction</th>
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<tbody>
<tr>
<td>Advertise</td>
</tr>
<tr>
<td>Award</td>
</tr>
<tr>
<td>Administer Construction Contract</td>
</tr>
<tr>
<td>Public/Stakeholder Involvement</td>
</tr>
<tr>
<td>All Phases</td>
</tr>
<tr>
<td>Federal Authorizations</td>
</tr>
<tr>
<td>All Phases</td>
</tr>
<tr>
<td>Encumbrance of Funds</td>
</tr>
</tbody>
</table>

4.3 The LPA shall designate an LPA employee to act as the LPA Project Manager and act as the point of contact for all communications with ODOT.

4.4 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the “Authorization” notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

4.5 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

4.6 Environmental Responsibilities

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

B. If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire a consultant in accordance with Section 5.

C. ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.

D. Whichever party obtains the Project’s environmental clearance or permits shall be responsible for assuring compliance with all commitments made as part of such clearance or permit requirements during the construction of the project.

Revision Date 2/14/18
E. The LPA shall require its consultant to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act.

F. The LPA shall require its consultant to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.

G. The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

4.7 Use of ODOT Consultant Agreements

A. ODOT may provide services through ODOT held consultant agreements at its discretion subject to funding participation by the LPA. Agreements that may be available for use include the following:

1. If the LPA chooses to utilize the CEAO task order contract for environmental services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.

2. If the LPA chooses to utilize the CEAO task order contract for right-of-way acquisition services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.

3. Value Engineering. If Value Engineering is required, the Department may elect to use an ODOT held agreement to assist in administering the Value Engineering process. If Value Engineering is required, the LPA shall require its consultants to participate as needed.

5. CONSULTANT SELECTION AND ADMINISTRATION

5.1 General Requirements

A. The LPA must select a consultant/consultant team that is prequalified by ODOT for all services to be performed by the consultant and subconsultants.


Revision Date 2/14/18
C. The LPA must require, as a scope of services clause, that project development follow ODOT’s Project Development Process, and that all documents and plans prepared by the consultant must conform to ODOT’s current standards, including the electronic deliverable requirements of ODOT’s CADD Engineering Standards Manual, and Location and Design Manual Volume 3, Section 1500.

D. The LPA consultant agreement must provide for ongoing consultant involvement during the construction phase of the Project.

E. The LPA consultant agreement must include a completion schedule acceptable to ODOT.

F. The LPA must assist ODOT in rating the consultant’s performance through ODOT’s Consultant Evaluation System.

G. The LPA must cooperate with ODOT in directing additional or corrective work, and to recover damages due to errors or omissions.

H. If Federal Funds are used to pay the cost of any contract for professional services, the LPA must comply with 23 CFR 172, Sections 153.65 through 153.71 of the Ohio Revised Code and Section 5.2 below in the selection of consultants, and administer consultant agreements in accordance with ODOT’s Manual for Administration of Contracts for Professional Services. Professional services, as defined in Sections 5526.01 and 153.65(C) of the Ohio Revised Code, include the practice of engineering (including inspection of construction), the practice of surveying, the practice of architecture including landscape architecture, evaluation of environmental impacts, right-of-way acquisition services and administration of construction contract claims.

5.2 Procedures for LPA Selection of Consultants for Agreements that Include Federal Funds in Preliminary Engineering

A. Policies in Selection of Consultants

1. Restrictions Concerning LPA Preferences

   The LPA shall not offer direction to consultants concerning preferences (or informal sanctions) for certain subconsultants or team arrangements. These arrangements are business decisions that must be made by consultants without direction from the LPA. The LPA must make selection decisions on the basis of proposed teams without advance "steering" of teams.

2. Communications Restrictions

   Please note the following policy concerning communication between Consultants and the LPA during the announcement and selection process:

   During the time period between advertisement and the announcement of final consultant selections for the Programmatic Selection Process, communication with consultants (or their agents) shall be limited as follows:

   a. Communications which are strictly prohibited:

Revision Date 2/14/18
(1) Communication with the LPA: Any marketing or similar discussions of the specific project if the consultant has submitted or plans to submit a letter of interest, or is included as a subconsultant on a submittal by another firm.

b. Allowable communications include:

(1) Project administration activities for authorized agreements, scope and negotiation activities for projects selected but not under contract.

(2) Technical or scope of services questions specific to projects posted with a programmatic group.

c. When completed selections must be publicly announced.

3. Advertisement

For selection procedures that require public notification, Requests for Letters of Interest “RFLoI” must be advertised on the Consultant Services page of ODOT’s website.

4. Disclosure of Selection Information

All selection information including consultant letters of interest shall be available for public disclosure upon completion of the selection.

Information that is not subject to public disclosure at any time includes financial statements and other confidential financial information submitted by a consultant.

5. Supporting Documentation

Documentation supporting the solicitation, proposal, evaluation, and selection of the consultant shall be retained.

6. Prohibited Selection Factors

a. Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

b. In-State or local preference shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement for the minimum qualifications and competence of a consultant to perform the solicited services.

Refer to Section 5.2.C.1.n. below for additional guidance concerning the use of local presence as a nominal evaluation factor where appropriate.

B. Consultant Selection Processes

The LPA may use any one of five consultant selection processes permitted by 23 CFR 172 and ORC 153.65 – 153.71, the use of which depends on the complexity of the project, estimated total fee, the number of available qualified consultants and whether an emergency

Revision Date 2/14/18
exists. The Programmatic and Technical Proposal selection processes are competitive qualifications based selection processes governed by 23 CFR 172.7(a)(1) and ORC 153.65 – 153.71. These selection processes require solicitation, evaluation, ranking, selection, and negotiation in accordance with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101-1104, commonly referred to as the Brooks Act or Selection of Architects and Engineers.

The Small Purchase selection process is a non-competitive selection process governed by 23 CFR 172.7(a)(2) and ORC 153.71(A). Agreements with total fees less than $50,000 are eligible for this selection process.

The Emergency and Special Expertise selection processes are non-competitive selection processes governed by 23 CFR 172.7(a)(3) and ORC 153.71.

1. Programmatic Selection Process

The Programmatic Selection Process is a one-step selection process intended to shorten the selection/authorization process for non-complex projects while reducing paperwork and administrative costs for both consultants and the State. In this process consultants are selected based on standard letter of interest content, and a standard Selection Rating Form. The “Programmatic” selection process should be used for most projects that do not meet the criteria for the more elaborate Technical Proposal Selection Process.

2. Technical Proposal Selection Process

The technical proposal selection process is a two-step process intended for use on larger, more complex projects for which a more informed selection decision can be made based on additional information received through the submittal of a (more elaborate) Technical Proposal, and/or presentations/interviews. The Technical Proposal Selection Process is appropriate to use under the following circumstances:

a. Complex projects involving multiple PDP steps and multiple disciplines including planning, environmental and design services.

b. Projects that include complex project management challenges in which the role of the consultant project manager will be crucial to project success, and may require extensive public involvement activities.

c. Specialized services for which the LPA has limited experience and performance records for past projects.

d. Generally any project for which a single submittal does not provide sufficient information to make a well informed selection decision.

The technical proposal selection process includes the initial submittal of a letter of interest similar to the Programmatic Selection Process, and then “shortlisting” to at least three of the most highly qualified firms. The standard letter of interest content may be revised to include increased page limits and project specific content. The shortlisted firms are then required to submit additional written information (technical proposal) and/or participate in additional discussions or presentation/interview. The content of the technical proposal and the format of interviews can be tailored to fit the requirements of specific projects.

Revision Date 2/14/18
Discussions, if required by the RFLol, may be written, by telephone, video conference, or by oral presentation/interview and shall be with at least three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFLol.

The process for shortlisting at least three consultants is identical to that of the Programmatic Selection Process. The final selection of a single consultant also follows the same process but considers the written technical proposal and/or presentation/interview along with the initial letter of interest.

3. Emergency Selection Process

The LPA may directly select a consultant for a project determined by the Director of Transportation to be an emergency which will not permit the time necessary to conduct a competitive selection process. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

4. Small Purchase Selection Process

The LPA may directly select consultants without solicitation for projects with an estimated total fee of less than $50,000. The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of fee exempt procedures. The following requirements apply:

a. The qualifications of a minimum of three consultants must be reviewed prior to selection. The consultants considered for selection and the reasons for selecting the most qualified consultant shall be documented.

In instances where two or fewer consultants are considered qualified, the LPA may proceed with evaluation and selection if it is determined that the project requirements did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

b. The full amount of any contract modification that would cause the total contract amount to exceed $50,000 is ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if Federal funds are used in modifying an agreement above the $50,000 simplified acquisition threshold.

c. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

5. Special Expertise Selection Process

The LPA may directly select consultants for projects for which the service is available only from a single source. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT’s Consultant Contract Administration.

C. Selection Procedures – Programmatic Selection Process

1. Letter of Interest Content

Requests for Letters of Interest (RFLol) shall include the following:

a. Project name from Ellis (County-Route-Section);

Revision Date 2/14/18
b. A description of the project including the location.

c. A description of the selection process to be used, including the number of steps (direct selection based on the information provided, or a two-step process with a short list and technical proposal and/or interviews, etc.), and the selection rating criteria to be used. The standard selection rating form included herein should be used for most projects.

d. Any restrictions on communicating with government officials during the selection process.

e. Any restrictions concerning suspended or debarred firms.

f. Date that the letter of interest is due. The minimum response time shall be two weeks from the initial posting date.

g. The approximate construction cost if available.

h. Any special provisions or contract requirements associated with the services.

i. The following notification:

The [LPA] in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all bidders including disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency in consideration for an award.

j. The DBE Goal requirements and related selection procedures.

k. Major work elements involved.

l. A detailed scope of services for the agreement.

m. The ODOT prequalification(s) required to provide the services;

n. Subfactors - Any important aspects of a project, if any, that will play a large role in the consultant selection process.

In-State or local preference shall not be used as a selection factor or subfactor, however a local presence may be used as a nominal evaluation factor where appropriate. This criteria shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant from outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.

Revision Date 2/14/18
11

o. The contract type and payment method(s) anticipated to contract for the solicited services. Refer to Chapter 4 of ODOT's Consultant Contract Administration for detailed explanations of contract types and payment methods.

p. Estimated date of authorization.

q. Time period in which the work must be completed.

r. Instructions for submitting a letter of interest including content and required format. The information requested should be consistent with the rating criteria.

s. Required content of the letter of interest (RLoI) including;

(1) The firm's general qualifications.

(2) Proposed key staff including key subconsultant staff and project approach.

(3) A listing of subconsultants including project responsibility.

(4) Whether resumes of key staff members must be submitted.

(5) Other information needed to make an informed selection decision.

2. Evaluation Process

a. Initially evaluate all firms for compliance with the following requirements, advise Districts of the firms that must be eliminated from further consideration and the reason for elimination:

(1) Compliance with general LoI requirements, current negligence issues, and ongoing performance issues identified through CES, overall low CES rating, insufficient staff, excessive workload, or any other significant issues relative to a firm's performance.

(2) Inclusion on the list of firms suspended or debarred by the Federal Government.

(3) For projects noted as having DBE Goals, ODOT will determine whether the consultant made a good faith effort to meet the goal in accordance with 49 CFR 26.53 and Appendix A to Part 26. The letter of interest must show that the consultant has made good faith efforts to meet the goal. Good faith efforts may include: (1) Documentation that the consultant has obtained enough DBE or EDGE (Encouraging Diversity, Growth and Equity) participation to meet the goal; or (2) Documentation that it made adequate good faith efforts, as defined in 49 CFR 26.53, to meet the goal, even though it did not succeed in obtaining enough DBE/EDGE participation to do so. Consultants that do not show good faith efforts to meet the Goal will not be eligible for selection.

b. Compliance with prequalification requirements.

c. Reduce the number of firms to 3-6 for each project through a process of elimination, based on the selection rating factors included in the Consultant Selection Rating Form. Firms may be eliminated due to fatal flaws, overall weakness of team relative to other firms, weak project approach, etc. Provide written documentation concerning the reasons for eliminating a firm from consideration.

Revision Date 2/14/18
In instances where two or fewer consultants respond to the RFLoI, or two or fewer consultants are considered qualified to be shortlisted, the LPA may proceed with evaluation and selection if it is determined that the solicitation did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

d. For each project, rate each shortlisted firm using the selection rating form. Supplement the numerical ratings with written comments that explain the differential scoring. The highest rated firm shall be selected.

3. Selection Rating Procedures

a. ODOT’s standard consultant selection rating form is shown below. The LPA may use a modified selection rating form that meets the requirements of 23 CFR 172 and ORC 153.65 – 153.71.

b. Selection evaluations should be based on collaborative discussions of the selection committee members concerning the overall strengths and weaknesses of the teams, including the relative importance of the various selection rating factors relative to the specific requirements of the project. Numerical weights are a guide as to what is important but the selection should not be a mathematical exercise consisting of the addition of scores determined by individual team members. The selection team members should work to reach consensus in determining a single selection rating including written comments that document the reasons for the numerical scores.

c. For each selection rating factor, each short listed firm shall be ranked, with the highest ranked firm receiving the maximum number of points, and lower ranked firms receiving commensurately lower scores. If firms are considered to be equally qualified, the firms may receive the same score for that selection rating factor. The rankings and scores should be based on each firm’s specific proposal and project approach, including the named project manager, staff and subconsultants. Experience on similar projects, past performance for the LPA and other agencies should be considered. The selection committee may contact other ODOT Districts and outside agencies if necessary. Any subfactors identified in the RFLoI should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of a selection factor in the success of a given project. The project manager’s role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differential scores assigned to projects that require a larger role for the project manager. Similar consideration should be given to all selection factors.

4. ODOT’s Consultant Selection Rating Form and Selection Rating Notes

<table>
<thead>
<tr>
<th>Category</th>
<th>Total Value</th>
<th>Scoring Criteria</th>
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</thead>
<tbody>
<tr>
<td>Management &amp; Team</td>
<td></td>
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</tr>
<tr>
<td>Project Manager</td>
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<td>See Note a. below</td>
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</tr>
<tr>
<td>Strength/Experience of Assigned Staff, including Subconsultants</td>
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<td>See Note b. below</td>
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Revision Date 2/14/18
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<td>See Note d. below</td>
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<tr>
<td>Project Approach</td>
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<td>See Note e. below</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td></td>
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</table>

The following discussion addresses each selection rating factor including scoring methodology, appropriate sources of information and factors that may not be considered.

a. Project Manager

The proposed project manager for each consultant shall be ranked, with the highest ranked project manager receiving the greatest number of points, and lower ranked project managers receiving commensurately lower scores. The rankings and scores should be based on each project manager's experience on similar projects and past performance for the LPA. The selection committee may contact ODOT and outside agencies if necessary. Any subfactors identified should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of the project manager's role in the success of a given project. The project manager's role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differentials assigned to projects that require a larger role for the project manager.

b. Strength/Experience of Assigned Staff including Subconsultants

The experience and strength of the assigned staff, including subconsultant staff, should be ranked and scored as noted for Number 1 above, with higher differential scores assigned on more difficult projects. Any subfactors identified in the project notification should be weighed heavily in the differential scoring.

As above, ODOT and other agencies may be contacted.

c. Firm's Current Workload/ Availability of Personnel (Considered at statewide meeting)

In instances when consultant’s current workload may impact their ability to complete the work as proposed, the firm’s current workload and availability of qualified personnel shall be considered.

d. Consultant’s Past Performance

The consultants' past performance on similar projects, including subconsultant performance, shall be ranked and scored on a relative, differential scoring type basis, with the highest ranked consultant receiving a commensurately greater number of points. The selection team should consider ODOT CES performance ratings if available, and consult other ODOT Districts, ODOT Central Offices, and other
agencies as appropriate. The use of CES ratings shall place emphasis on the specific type of services requested.

The differential scoring should consider the complexity of the project and any subfactors identified in the project notification.

e. Project Approach

Evaluation of the firm’s project approach shall consider:

(1) The firm’s technical approach and understanding of the project.

(2) The firm’s qualifications for the project including knowledge and experience concerning relevant ODOT standards, procedures and guidance documents.

(3) Any innovative ideas.

When considering this factor in rating firms, the type of project and the relevance of this factor to the project must be considered. For task order and construction inspection projects, and small uncomplicated design projects, the possibility for innovation may be very limited. Larger more complex projects will generally offer more opportunities for innovation. Consultants that identify truly innovative ideas should receive credit in the selection rating, but this factor can be disregarded when projects offer little opportunity for innovation.

(4) The firm’s project specific plan for ensuring increased quality, reduced project delivery time and reduced project costs.

These factors will be relatively more important and relevant to a complex PDP project, and much less important for a construction inspection or task order contract. Please remember that Federal rules prohibit consideration of overhead rates, wage rates or any other cost data submitted voluntarily by the consultant.

D. Negotiation of Consultant Agreements

Agreements shall be negotiated in accordance with ODOT’s Manual for Administration of Contracts for Professional Services, Volume 1 Consultant Contract Administration, Section 3.9.

E. Agreements

ODOT will prepare the LPA/Consultant Agreement between the Consultant and LPA. The agreement will be transmitted to the LPA by the ODOT District Office. A copy of the executed LPA/Consultant Agreement shall be returned to the District Office.

F. Documentation of Consultant Selections

The LPA shall maintain a consultant selection file that includes the following information, and provide copies of all documents to the District for their files.

1. A copy of the Request for Proposal and the date posted on ODOT’s website;
2. A listing of firms that submitted Letters of Interest;
3. Letters of Interest from all firms that submitted;

Revision Date 2/14/18
4. Selection rating forms and any supporting notes and documentation, including membership of the selection committee;
5. A listing of firms selected to submit technical proposals (if applicable), copies of the technical proposals, and related correspondence;
6. Selected consultant's Price Proposal;
7. Negotiation records; and
8. A copy of the Agreement, Scope of Services, authorization letter, Invoice and Project Schedule, and any other documents relevant to the agreement.

6. **RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION**

6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. Refer to Sections 4.2 and 4.4 concerning Federal authorization.

6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT’s Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.

6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant’s activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA’s control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA’s Right of Way Certification, as well as evaluate the LPA’s and/or consultant’s performance of the PROJECT real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.

6.6 ODOT will coordinate with utilities, complete RE-75 forms, establish encumbrances towards each utility if needed, prepare an invoice to the LPA for the local share, and pay the State share as needed. In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a

Revision Date 2/14/18
utility relocation agreement with each utility prior to the letting of construction. In the event that a utility is delaying the relocation of its facilities, the LPA shall take any action necessary to order and cause the removal and relocation of such utility. No reimbursable costs shall be incurred prior to the receipt of Federal Authorization for Right of Way from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.

6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.

6.8 ODOT shall be responsible for any necessary railroad coordination and agreements in accordance with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.

6.9 Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that, if any property acquired for this project is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this project that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

7. ADVERTISING, SALE AND AWARD

7.1 ODOT will prepare the State’s estimate and manage the advertising, sale and award process. The LPA and its consultant shall assist in responding to bidder questions, preparation of any addenda and other coordination as needed. ODOT’s Awards Committee shall determine award of the contract.

8. CONSTRUCTION CONTRACT ADMINISTRATION

8.1 ODOT will administer the construction contract in accordance with ODOT’s Construction Administration Manual of Procedures. The LPA and LPA’s consultants shall respond promptly to requests for information or other construction issues. The LPA shall review and approve all change orders. The LPA and LPA’s consultant shall assist in defending ODOT against any contractor claims.

9. CERTIFICATION AND RECAPTURE OF FUNDS

9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the project, any funds recovered from contractor performance and payment bond(s) and consultant insurance shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

Revision Date 2/14/18
10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.

10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. For a PROJECT upon which a DBE goal is assigned, the LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

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

Pursuant to 49 CFR 26.13(b), the LPA agrees not to discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The LPA agrees to carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. The LPA understands that failure to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as ODOT deems appropriate.

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

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

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").
(2) Nondiscrimination: The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(3) Solicitations for Professional Services: In all solicitations for professional services made by the LPA for work to be performed under a contract or subcontract, each potential consultant will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

(4) Information and Reports: The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the LPA under the contract until the LPA complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The LPA will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.

11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device
or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.

11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA’s control. If a default has occurred, ODOT may terminate this agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.

12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS
13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA’s obligations made or agreed to herein.

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

   If to the LPA:
   Amy Havenar, P.E.
   City of Piqua
   201 West Water Street
   Piqua, Ohio 45356

   If to ODOT:
   Scott C. Boyer, P.E., LPA Coordinator
   Ohio Department of Transportation
   1001 St. Marys Ave.
   Sidney, Ohio 45365

15. GENERAL PROVISIONS

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

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

   1. No cost recovery of LPA’s project direct labor, fringe benefits, or overhead costs.
      (A) The LPA does not currently maintain an ODOT approved federally compliant time-tracking system, and
      (B) The LPA does not intend to have a federally compliant time-tracking system developed, implemented, and approved by ODOT prior to the period of performance of this project, and/or
      (C) The LPA does not intend to pursue recovery of these project direct labor, fringe benefits, or overhead costs during the period of performance of this project agreement.

   2. Direct labor plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate. ¹
      (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this project, an ODOT approved federally compliant time-tracking system, and
      (B) The LPA does not currently have, and does not intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this project.

¹ The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. Regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before an LPA is eligible to invoice ODOT for and recover the 10% de minimis indirect cost rate on any project, the LPA’s time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits.
3. Direct labor, plus fringe benefits costs calculated using the LPA’s ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.  
   (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this project, an ODOT approved federally compliant time-tracking system, and  
   (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this project.

4. Direct labor, plus fringe benefits costs calculated using the LPA’s ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the LPA’s ODOT approved Indirect Cost Rate.  
   (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this project, an ODOT approved federally compliant time-tracking system, and  
   (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this project, and  
   (C) Instead of using the Federal 10% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this project.

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

15.2 Financial Reporting and Audit Requirements: If one or more phases of this AGREEMENT include a sub-award of federal funds to the LPA, the LPA shall comply with the financial reporting and audit requirements of 2 CFR Part 200. If not, the financial reporting and audit requirements remain with ODOT.

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

LPAs that expend Federal and State funds in the Preliminary Engineering and/or Right of Way phases of the Project must track these payments throughout the life of the project in order to ensure an accurate Schedule of Expenditures of Federal Award (hereinafter referred to as SEFA) is prepared annually for all Applicable Federal Funds. Applicable Federal Funds are those that are identified with the various project phases of this agreement as a subaward. Applicable Federal Funds include not only those LPA project expenditures that ODOT subsequently reimburses with

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2 The fringe benefits rate billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the ODOT Office of External Audits. The fiscal period when the LPA’s direct labor costs are paid will be matched with the ODOT approved rate for that fiscal year to determine which rate is applicable. Accordingly, the fringe benefits rate applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rate.

3 The fringe benefits and indirect cost rates billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the Office of External Audits. The fiscal period when the LPA’s direct labor costs are paid will be matched with the ODOT approved rates for that fiscal year to determine which rates are applicable. Accordingly, the rates applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rates.
Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

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

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

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

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

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

15.4 Ohio Ethics Laws: LPA agrees they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.

15.5 State Property Drug-Free Workplace Compliance: In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.

15.6 Governing Law: This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

15.7 Assignment: Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.

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4 Per 2 CFR §200.502
15.8 **Merger and Modification:** This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.

15.9 **Severability:** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.

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

15.11 **Facsimile Signatures:** Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

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

**LPA:** CITY OF PIQUA  
**STATE OF OHIO**  
**OHIO DEPARTMENT OF TRANSPORTATION**

By: ___________________________
Title: __________________________
Date: __________________________

By: Jerry Wray
Title: Director
Date: __________________________
### PROJECT BUDGET – SOURCES AND USES OF FUNDS

<table>
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<tr>
<th>USES</th>
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**TOTALS**

- **LPA FUNDS:** $ 604,920
- **FHWA FUNDS:** $ 995,760
- **STATE FUNDS:**
- **TOTAL:** $ 1,600,680
Attachment 2

DIRECT PAYMENT OF CONSULTANT

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

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

We_____(INSERT NAME OF LPA)____ request that all payments for the Federal/State share of the consultant costs of this agreement performed by_____(CONSULTANT'S NAME)____ be paid directly to ______(CONSULTANT'S NAME)_____.

Consultant Name:
Oaks Vendor ID:
Mailing Address:

LPA signature

LPA Name:
Oaks Vendor ID:
Mailing Address:

Approved, ODOT signature
RESOLUTION NO. R-72-18

AN EMERGENCY RESOLUTION OBJECTING TO THE RENEWAL OF LIQUOR PERMIT #5558350 HELD BY MARLO INVESTMENTS LLC, DBA Z’S SPORTSBAR, 319 NORTH WAYNE STREET, PIQUA, OHIO

WHEREAS, Section 4303.271 of the Revised Code of Ohio authorizes the legislative authority of a municipal corporation to object to the renewal of liquor permits issued under Sections 4303.11 to 4303.183 of the Revised Code of Ohio, within the limits of such municipal corporation and request a hearing thereon; and

WHEREAS, the City of Piqua Police Department has had significant contact with Z’s Sportsbar resulting in multiple court cases and a drain on City resources that affect the community as a whole; and

WHEREAS, it appears from such investigation that the applicant, and/or partner, and/or member, and/or officer, and/or director, and/or manager, and/or shareholder, owning five percent or more of the capital stock of the holder of Liquor Permit #5558350, has operated the liquor permit business in a manner that demonstrates a disregard for the laws, regulations or local ordinances of this state or any other state, and that the place for which the permit is sought is so located with respect to the neighborhood that substantial interference with public decency, sobriety, peace or good order would result from the renewal of the permit and operation thereunder by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The City Commission of the City of Piqua objects to the renewal of Liquor Permit #5558350, held by Marlo Investments LLC, 319 North Wayne Street, Piqua, Ohio, for the statutory reasons provided in Section 4303.292(A), specifically, (1)(b) [t]hat the applicant, or any partner, member, officer, director, or manager of the applicant, or, if the applicant is a corporation or limited liability company, any shareholder owning five per cent or more of the applicant's capital stock in the corporation or any member owning five per cent or more of either the voting interests or membership interests in the limited liability company has operated a liquor permit business in a manner that demonstrates a disregard for the laws, regulations, or local ordinances of this state or any other state, as well as for the reasons stated in the preamble, and that the said City Commission requests the Department of Liquor Control also reject the application for renewal for good cause and requests a hearing;

SEC. 2: Two (2) certified copies of this resolution, together with a request that a hearing be held in the County of Miami, county in which said permit premises are located, must be sent to the Director of the Ohio Department of Liquor Control no later than May 2, 2018.

SEC. 3: This Resolution is declared an emergency for the immediate preservation of the public peace, health or safety in the City of Piqua and so that the City of Piqua may satisfy the requirements of the Department of Commerce and submit this Resolution by May 2, 2018 for a valid objection.
PASSED: __________________________

ATTEST: __________________________

REBECCA J. COOL
CLERK OF COMMISSION

The Motion to adopt the foregoing Resolution was offered by __________________________
seconded by __________________________ and on roll call the following vote ensued:

Mayor Kathryn B. Hinds  __________  Commissioner John Martin  __________
Commissioner William Vogt  __________  Commissioner Dave Short  __________
Commissioner Kris Lee  __________

STATEMENT OF THE CHIEF LEGAL OFFICER

The undersigned, Stacy M. Wall, Law Director for the City of Piqua, Ohio, hereby states
that she has reviewed the reports of the Piqua Police Department, respecting the advisability of
renewing Liquor Permit #5558350, held by Marlo Investments LLC, 319 North Wayne Street,
Piqua, Ohio, and that the facts alleged in such reports, if true, constitute, in her opinion,
substantial legal grounds, within the meaning and intent of division (A) Section 4303.292 of the
Revised Code of Ohio, for denying the renewal of said permit.

Stacy M. Wall
Law Director
RESOLUTION NO. R-73-18

A RESOLUTION AUTHORIZING PARTICIPATION IN OHIO DEPARTMENT
OF TRANSPORTATION (ODOT) COOPERATIVE PURCHASING PROGRAM

WHEREAS, Section 5513.01 (B) provides the opportunity for Counties,
Townships, Municipal Corporations, Conservancy Districts, Township Park Districts
created under Chapter 1545 of the Revised Code, Port Authorities, Regional Transit
Authorities, Regional Airport Authorities, Regional Water and Sewer Districts, County
Transit Boards, State Universities or Colleges to participate in contracts of the Ohio
Department of Transportation for the purchase of machinery, material, supplies or other
articles; and

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua,
Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: That the City Manager hereby requests authority in the name of
The City of Piqua to participate in the Ohio Department of Transportation contracts for
the purchase of machinery, materials, supplies or other articles which the Department
has entered into pursuant to Ohio Revised Code Section 5513.01 (B);

SEC. 2: That the City Manager is hereby authorized to agree in the name of
The City of Piqua to be bound by all terms and conditions as the Director of
Transportation prescribes;

SEC. 3: That the City Manager is hereby authorized to agree in the name of
The City of Piqua to directly pay vendors, under each contract of the Ohio Department
of Transportation in which The City of Piqua participates, for items it receives pursuant
to the contract;

SEC. 4: That The City of Piqua agrees to be responsible for resolving all
claims or disputes arising out of its participation in the cooperative purchasing program
under Section 5513.01 (B) of the Ohio Revised Code. The City of Piqua agrees to
waive any claims, actions, expenses, or other damages arising out of its participation in
the cooperative purchasing program which The City of Piqua may have or claim to have
against ODOT or its employees, unless such liability is the result of negligence on the
part of ODOT or its employees;

SEC. 5: The Clerk of Commission is hereby directed to send a certified copy
of this Resolution to the ODOT Purchasing Coordinator;
SEC. 6: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

KATHRYN B. HINDS, MAYOR

PASSED: _______________________

ATTEST: _______________________

REBECCA J. COOL
CLERK OF COMMISSION

The Motion to adopt the foregoing Resolution was offered by _______________________
seconded by ______________________ and on roll call the following vote ensued:

Mayor Kathryn B. Hinds  Commissioner Kris Lee
Commissioner John Martin  Commissioner Dave Short
Commissioner William Vogt
<table>
<thead>
<tr>
<th>MEETING DATE</th>
<th>May 1, 2018</th>
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<tbody>
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<td>REPORT TITLE</td>
<td>A RESOLUTION AUTHORIZING PARTICIPATION IN OHIO DEPARTMENT OF TRANSPORTATION (ODOT) COOPERATIVE PURCHASING PROGRAM</td>
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| SUBMITTED BY      | Name & Title: Doug Harter, Public Works Director  
                  Department: Public Works Department |
| AGENDA CLASSIFICATION | □ Consent  
                         □ Ordinance  
                         □ Resolution  
                         □ Regular |
| APPROVALS/REVIEWS | ☑ City Manager  
                     ☑ Asst. City Manager/Finance  
                     □ Asst. City Manager/Development  
                     □ Law Director  
                     □ Department Director  
                     □ Other: |
| BACKGROUND        | In order to use an ODOT cooperative bid, we must pass this Resolution and submit it to the ODOT Administrator in Office of Contracts for approval. Once approved, it will remain effective for two years for use by any City Department. |
| BUDGETING AND FINANCIAL IMPACT | Budgeted $: zero  
                                  Expenditure $: zero |
| OPTIONS           | 1. Approve Resolution R-73-18 as presented.  
                    2. Deny Resolution R-73-18 and provide direction on how you would like staff to proceed. |
| PROJECT TIMELINE  | Good for two years on any ODOT cooperative contract. |
| STAFF RECOMMENDATION | We recommend approval of this Resolution as proposed. |
| ATTACHMENTS       | Exhibit “A” – shows the ODOT requirements and sample resolution. |
The Director of Transportation may permit any political subdivision to participate in contracts into which the Director has entered for the purchase of machinery, materials, supplies or other articles. Any Political Subdivision desiring to participate in such purchase contracts will file with the Co-op Purchasing Coordinator a certified copy of the ordinance or resolution of the Legislative Authority, Board of Trustees or Governing Board of the Political Subdivision requesting authority to participate in such contracts and agreeing that it will be bound by such terms and conditions as the Director prescribes. Purchases made by Political Subdivisions under this division are exempt from any competitive bidding required by law for the purchase of machinery, materials, supplies or other articles.

Defined in Section 5513.01 (B) of the Ohio Revised Code and as used in this section, "Political Subdivision" means any County, Township, Municipal Corporation, Conservancy District, Township Park District, Park Districts created under Chapter 1545 of the Revised Code, Port Authority, Regional Transit Authority, Regional Airport Authority, Regional Water and Sewer District, County Transit Board and State University or College as in Division (A)(1) of Section 3345.32 of the Revised Code.

Thomas P. Pannett, Esq.
Administrator
Office of Contracts
Co-op Purchasing Coordinators
Office of Contracts
Purchasing Services
1980 W. Broad St., 1st Floor
Columbus, Ohio 43223
800-459-3778 or Fax 614-728-2078

December 10, 2009
I. Authority

Ohio Revised Code, Section 5513.01 (B)

II. Description

Section 5513.01 (B) allows political subdivisions to purchase machinery, materials, supplies or other articles from the Ohio Department of Transportation (ODOT) purchasing contracts (Exception: ODOT contracts for services). It is the intent of ODOT to establish and operate the ODOT Cooperative Purchasing Program for that purpose. A similar but separate program has been implemented by the Ohio Department of Administrative Services, Office of State Purchasing. Contact the DAS Cooperative Purchasing Coordinator at (614) 466-6530.

ODOT purchasing contracts are of the following two types:

A. **ONE TIME**

One Time Bid Contracts are competitively bid purchases of supplies, materials or services that are bought infrequently throughout the year. A One Time Bid must set forth a known quantity and establish a specified delivery time and location. The contract expires when delivery, acceptance and payment have been completed. Single purchase contracts are available for cooperative participants use for twelve (12) months from date of award.

B. **TERM CONTRACTS**

Term Contracts are competitively bid purchases of supplies, materials or services that are bought frequently throughout the year by numerous districts and/or offices. Quantities for purchases on Term Contracts cannot usually be established but the vendor is provided with estimated quantities to assist them in determining their pricing. Generally, Term Contracts are in effect for a minimum of one year, with many covering two years. Some contracts may specify quantities while others are considered requirement contracts for which the Department does not guarantee the purchase of a specific quantity.

Vendors will be given notice within the bidding document of their rights and responsibilities under the terms of the contract and that they may be contacted directly by political subdivisions regarding contract items. Vendor participation is required for all ODOT contracts. Note, refer to section IV for the Department's salt contract procedure.

December 10, 2009
III: Procedures for Political Subdivision Participation

Step 1: Contracts Available for Use

A contract listing and or information on specific One Time and Term Contracts are available through this program and can be obtained from the following address, telephone numbers or website:

Ohio Department of Transportation
Co-op Purchasing Coordinator
800-459-3778 or 614-644-7870
Office of Contracts, Purchasing Services
1980 W. Broad St., 1st Floor
Columbus, Ohio 43223
Website: [http://www.dot.state.oh.us](http://www.dot.state.oh.us) NOTE: Please refresh each page visited

Step 2: Adopt and Submit Resolution (Attachment A contains a sample resolution)

The political subdivision shall pass a resolution or ordinance requesting that it be authorized to participate in contracts awarded by the Ohio Department of Transportation.

The resolution or ordinance shall designate an agent and shall authorize that agent to agree to and be bound by all Ohio Department of Transportation contract terms and conditions and to assume all responsibility for placing orders and vendor payments.

A certified copy of the resolution shall be filed with the Ohio Department of Transportation every two years, (Ordinances need not be renewed if they are considered, by the political subdivision, to be permanent legislation.)

Step 3: Submit Specific Request to Purchase

A written request must be submitted by the authorized agent to the Office of Contracts, Purchasing Services in order to participate in any specific contract (reference step 1 for address).

Upon receipt of a written request, the Director of Transportation will review the file for a current resolution/ordinance and give written authorization to purchase from ODOT’S contract. A copy of the authorization letter will also be sent to the awarded vendor.

Once permission to participate in a specific contract is granted, ODOT will have no further involvement in the purchasing process of the political subdivision.

December 10, 2009
Step 4: Place Orders Directly with Vendor

All purchase orders shall be placed directly with the vendor by the authorized agent for the political subdivision. Political subdivisions are to be invoiced directly by the vendor.

IV: Procedure for Participation in the Department's Salt Contract

Political Subdivisions may participate in the Department's annual term contract for Sodium Chloride (rock salt). However, the procedure for participation is different for this contract. Political Subdivisions which have decided to participate in this contract shall file binding agreements with the Ohio Department of Transportation, Office of Contracts, Purchasing Services section (see Attachment B for sample language). The agreement shall indicate the Political Subdivision's salt requirements which will be included in the Department's bidding document. This agreement must be received by the Department prior to the mailing of the Invitation to bid so that your requirements can be included in the Department's bidding document for that winter season.