XENIA CITY COUNCIL
MEETING AGENDA
APRIL 9, 2026

LOCATION:
City Administration Building
City Council Chambers
107 E. Main Street
Xenia, OH 45385

NOTE: Regular and Special Meetings are open to the public. Executive Sessions are closed to the public. Only Regular Sessions are live streamed on the City's YouTube channel (eXplore Xenia). There is an opportunity for Audience Comments during Regular Sessions only and during Public Hearings. Please see the note under Audience Comments below.

REGULAR MEETING

- **INVOCATION** **(**or a moment of silence)

(1) PLEDGE OF ALLEGIANCE Councilman JD Mackiewicz

(2) CALL TO ORDER 6:00 p.m.

(3) ROLL CALL AND EXCUSAL OF ABSENCES Vice President James Crawford, Councilwoman Faith Sorice, Councilman JD Mackiewicz, Councilwoman Rachel Huffman, Councilman Jesse Rubio, Mayor Ethan Reynolds, and President Wesley Smith

(4) APPROVAL OF MINUTES March 26, 2026 Regular Meeting

(5) SPECIAL PRESENTATION(S) None

(6) AUDIENCE COMMENTS The public may also submit comments and/or questions for Council consideration by emailing the City Clerk's Office at xeniacityclerk@cityofxenia.org by 3 p.m. on 04/09/2026.

(7) OLD BUSINESS

A. ORDINANCE 2025-39
(Tabled on 12/22/2025)
(To Remain Tabled)

AMENDING SECTIONS 881.01, 881.03(a), 881.04(a)(1), 881.06(a)(3), AND 881.26(b)(2) OF THE CITY'S INCOME TAX CODE TO PROVIDE FOR THE INCREASE OF THE CITY'S MUNICIPAL INCOME TAX RATE BY TWENTY-FOUR HUNDREDTHS OF ONE PERCENT (0.24%) FOR A PERIOD OF TEN (10) YEARS, COMMENCING JANUARY 1, 2027, FOR THE PURPOSE OF PROVIDING FUNDS FOR STREET REPAIRS AND MAINTENANCE, *introduced by (former) Mayor Urschel on 12/22/2025*

B. ORDINANCE 2026-13
(Public Hearing)

ENACTING SECTION 251.01(i), TITLED "FINANCIAL REPORTING," OF THE CITY'S ADMINISTRATIVE CODE, *introduced by Mayor Reynolds on 03/26/2026*

(8) NEW BUSINESS

A. ORDINANCE 2026-14
(Emergency)

AMENDING ORDINANCE 2026-12 TO PROVIDE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2026, AND DECLARING AN EMERGENCY
(Finance Director)

B. RESOLUTION 2026-023 AUTHORIZING THE EXECUTION OF AN LPA AGREEMENT WITH ODOT FOR THE W. 2ND STREET (FROM S. PROGRESS DRIVE TO 1852 W. 2ND STREET) SIDEWALK PROJECT *(City Manager)*

C. RESOLUTION 2026-024 AUTHORIZING THE EXECUTION OF A FUNDING AGREEMENT WITH UNITED WAY OF THE GREATER DAYTON AREA FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE FIRST GRADE FUTURES PROGRAM *(Mayor Reynolds)*

D. RESOLUTION 2026-025 AUTHORIZING THE PURCHASE OF A TRUCK MOUNTED COMBINATION SEWER CLEANER FOR THE PUBLIC SERVICE DEPARTMENT FROM A & H EQUIPMENT COMPANY THROUGH THE SOURCEWELL COOPERATIVE PURCHASING PROGRAM *(City Manager)*

(9) APPOINTED OFFICIALS' REPORTS

(10) COUNCIL COMMENTS & REPORTS

(11) WORK SESSION: Traffic Calming Measures Discussion

(12) EXECUTIVE SESSION

(12) ADJOURNMENT

Published upon approval of the Council President by: Amy E. Brown, City Clerk

XENIA CITY COUNCIL
REGULAR MEETING
MARCH 26, 2026

REGULAR SESSION

President Smith asked everyone to stand; Pastor Albert Reffitt, Victory Life Christian Center, provided the Invocation.

(1) PLEDGE OF ALLEGIANCE: All present remained standing and recited the Pledge of Allegiance led by Vice President James Crawford.

(2) CALL TO ORDER: President Smith called the Regular Session to order at 6:02 p.m. in the City Administration Building, City Council Chambers, 107 E. Main Street, Xenia.

(3) ROLL CALL: Vice President James Crawford, Councilman JD Mackiewicz, Councilman Jesse Rubio, Mayor Ethan Reynolds, and President Wesley Smith. Councilwoman Faith Sorice and Councilwoman Rachel Huffman were absent.

Motion by Mayor Reynolds, seconded by Vice President Crawford, to excuse Councilwoman Sorice and Councilwoman Huffman from tonight's meeting. No discussion followed. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds, Smith
Nays: None motion carried.

Staff Present: City Manager Brent Merriman, Assistant City Manager Eric Henry, Finance Director Ryan Duke, Assistant Finance Director Jason Lake, Law Director Donnette Fisher, Public Service Director Chris Berger, City Planner Brian Forschner, Community Development Coordinator Ryan Baker, Public Relations Coordinator Lydia Henry, Deputy City Clerk Nichole Haulman, City Clerk Amy Brown, Fire and EMS Chief Mike Bogan, and Police Chief Chris Stutes.

(4) EXECUTIVE SESSION: President Smith said an Executive Session was needed this evening to discuss general legal advice per Charter §13.03C(1), and asked for a motion.

Motion by Vice President Crawford, seconded by Councilman Mackiewicz, to go into Executive Session to discuss general legal advice per Charter §13.03C(1) at 6:03 p.m., with the rest of the Regular Meeting to follow. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds, Smith
Nays: None motion carried.

The Council convened in Executive Session with the same members present. At 6:47 p.m., President Smith reconvened the Regular Session.

(5) APPROVAL OF MINUTES: President Smith called for a motion on the minutes of the March 7, 2026 Special Meeting.

Motion by Mayor Reynolds, seconded by Vice President Crawford, to approve the March 7, 2026, minutes of the Special Meeting as written. President Smith entertained comments or questions. None were presented. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds, Smith
Nays: None motion carried.

President Smith called for a motion on the minutes of the March 12, 2026 Regular Meeting.

Motion by Mayor Reynolds, seconded by Councilman Rubio, to approve the March 12, 2026, minutes of the Regular Meeting as written. President Smith entertained comments or questions. None were presented. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds, Smith
Nays: None motion carried.

(6) SPECIAL PRESENTATION(S): None

(7) AUDIENCE COMMENTS: President Smith explained the procedures for Audience Comments and invited those who wished to speak to come forward.

Carolyn Uecker, 945 Dayton-Yellow Springs Road, said she was pleased to be on a committee commemorating America 250 in Greene County called Flag Day 250. 10 years ago, Sheriff Gene Fischer held the first Flag Retirement Ceremony retiring 170 spent American flags. Last year, the Ceremony retired 5,400 flags, and also included the Veteran Services picnic for veteran families. This year, the Ceremony and the picnic would be expanded to include a free family-friendly activity open to everyone at the Greene County Fairgrounds on Flag Day, June 14, 2026. Greene County Sheriff's Office, Greene County Veteran Services, Greene County Parks and Trails, and Greene County Ag Services formed a governing committee and were supported by a multitude of local service, historical, and community organizations. Beginning at 4:00 p.m., activities would include live music; free hot dogs, chips, drinks, and cookies; and a variety of interesting vehicles on display like the Batmobile and a Touch-a-Truck display. Characters in period costume would be mingling with families, providing stories and photo opportunities, and local organizations would have exhibits and displays. Activities for kids included kites, face painting, temporary tattoos, a photo booth, bubbles, corn hole, stickers, pins, and more. The group hoped there would be a visit from one of the seven Freedom 250 Mobile Museum trucks, and the annual Flag Retirement Ceremony would start at 6:00 p.m. Several organizations had already stepped up to help support this event: The DAR, the Sons of the Revolution, Miami Valley Military History Museum, the Xenia VFW Post 2402, and the Xenia Eagles. They were looking for more organizations to offer free snacks like popcorn and pretzels, and their committee could help defray the costs if somebody could bring their popcorn machine. They also needed more people to dress in costumes that represented historical figures, like Uncle Sam, George Washington, or Betsy Ross. She also asked for tax-deductible donations to help defray the costs to help keep this event free, and those donations could be made through Greene Giving. If Council or members of the public wanted more information, they could contact her at 937-974-7917 or Greene County Parks and Trails. She thanked the Council for their time.

President Smith thanked everyone for their patience and apologized for the Executive Session.

(8) OLD BUSINESS:

A. ORDINANCE 2025-39 AMENDING SECTIONS 881.01, 881.03(a), 881.04(a)(1), 881.06(a)(3), AND 881.26(b)(2) OF THE CITY'S INCOME TAX CODE TO PROVIDE FOR THE INCREASE OF THE CITY'S MUNICIPAL INCOME TAX RATE BY TWENTY-FOUR HUNDREDTHS OF ONE PERCENT (0.24%) FOR A PERIOD OF TEN (10) YEARS, COMMENCING JANUARY 1, 2027, FOR THE PURPOSE OF PROVIDING FUNDS FOR STREET REPAIRS AND MAINTENANCE, introduced by previous Mayor Will Urschel on December 22, 2025, and tabled on December 22, 2025. President Smith said this item would remain tabled until after the May election.

(9) NEW BUSINESS:

A. ORDINANCE 2026-13 ENACTING SUBSECTION (i) OF SECTION 251.01, TITLED "ESTABLISHMENT OF CITY FUNDS," OF THE CITY'S ADMINISTRATIVE CODE. President Smith asked Mr. Duke for a brief summary of this item. Mr. Duke said the number of funds that the City maintained from a financial standpoint had continued to grow as they pursued additional programs and initiatives. Examples included tax increment financing funds, funds related to the Municipal Court, and some fees that had been implemented for clerk computerization, court computerization, etc. There were a variety of funds, and the number of special revenue funds had grown over time, making it a little more difficult on the City's financial report to have all of those funds represented in a single page on the statements. He and Assistant Finance Director Jason Lake started talking about how to effectively report on those funds to make it easier to read and create a better product overall. They talked to the independent audit firm who audited the City on behalf of the Auditor of State, and they had also reached out to the Ohio Auditor of State. The local government services branch as well as the audit branch approved the intent to consolidate funds. Specifically, the City was looking at consolidation of some core funds with this next round of reporting. The indigent driver treatment fund would be consolidated with some other court funds under one court fund umbrella, which helped streamline reporting. The auditors asked that the City add something in the code to make it clear that the City had the ability to consolidate funds on a reporting basis. Tonight's request was to add a Section to 251, the Funds Chapter, to make it clear funds were allowed to be consolidated for a reporting basis. These funds would still be kept separate and maintained in the financial system, and everything would adhere to any legal requirements that those dollars had to be kept separate. It was simply for reporting that the City was requesting to be able to consolidate some of those funds into one reporting entity on the face of the financials. Staff thought this change would make the financials easier to read and to navigate, and this had been cleared through the Auditor of State and the City's independent audit firm. Staff requested the introduction of the ordinance tonight to enact changes to Xenia City Code 251.01.

President Smith entertained comments or questions. Hearing none, President Smith called for the introduction of Ordinance 2026-013.

Mayor Reynolds introduced ORDINANCE 2026-013 ENACTING SUBSECTION (i) OF SECTION 251.01, TITLED "ESTABLISHMENT OF CITY FUNDS," OF THE CITY'S ADMINISTRATIVE CODE.

President Smith apologized, but due to another commitment, he had to leave the Regular Meeting. He did clear his absence with the Vice President, Mayor, and City Manager. President Smith exited the meeting at 6:57 p.m., and Vice President Crawford conducted the remainder of the meeting.

B. RESOLUTION 2026-018 AWARDING THE BID AND AUTHORIZING THE EXECUTION OF A CONTRACT WITH J & M SERVICES OF MIAMI VALLEY, LLC. FOR THE 2026 CDBG E. MAIN STREET SIDEWALK IMPROVEMENT PROJECT. Vice President Crawford asked Mr. Merriman for a brief summary of this item. Mr. Merriman said as part of the biennial allocation of Community Development Block Grant (CDBG) funding, the City had resources available in fiscal year 2026 to invest in pedestrian-oriented infrastructure in the downtown, including replacement of sidewalks. This year's CDBG East Main Street Sidewalk Improvement Project focused on enhancing the area along the north side of East Main Street from Greene Street to Whiteman Street. That included replacement of deteriorated curbs, ADA ramps, and the landscaping beds currently there today. This would expand on the phase work started by the City a couple of years ago to replace sidewalks strategically, as well as curbing in the historic parts of the community, which staff believed would positively impact safety conditions and the aesthetics of downtown. The engineer's estimate for the project was $202,548.50. On March 11th, the City received bids from two qualifying contractors, with the low bid submitted by J & M Services of Miami Valley, LLC, which was for $133,783.66. As J & M Services was a relatively new contractor and had not completed work for the City previously, the engineering staff verified their references, which included projects completed in Dayton and Clayton, and those references provided positive feedback. Notably, the contractor completed work in Clayton that was comparable to this project in downtown Xenia. J & M Services was recommended by staff as the lowest and best bidder, and the project completion date was July 31, 2026. Staff recommended approval of the resolution this evening to authorize a contract for these services.

Vice President Crawford entertained comments or questions. Hearing none, he called for a motion to pass Resolution 2026-018.

Motion by Mayor Reynolds, seconded by Councilman Mackiewicz, to pass Resolution 2026-018 as presented. No comments followed. The Roll on this was the following:

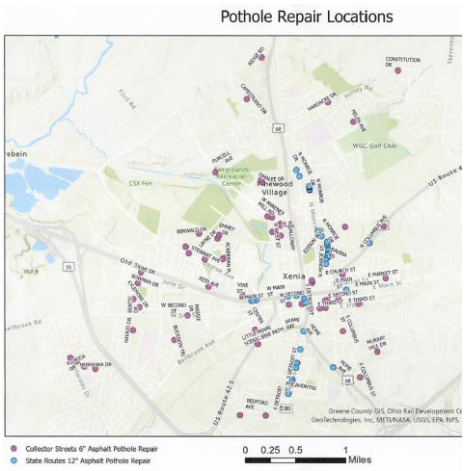
Ayes: Crawford, Mackiewicz, Rubio, Reynolds
Nays: None motion carried.

C. RESOLUTION 2026-019 AWARDING THE BID AND AUTHORIZING THE EXECUTION OF A CONTRACT WITH JOHN R. JURGENSEN CO. FOR THE 2026 STREET PAVING PROGRAM. Vice President Crawford asked Mr. Merriman for a brief summary of this item. Mr. Merriman said it was going to take longer to introduce this because there were two aspects. There was the award of the bid staff was recommending, and he needed direction from Council on how they would like to allocate additional funds. As directed by City Council, staff had prepared a multi-year street rehabilitation and investment plan. This year's program was an aggressive one, which included, in addition to asphalt repair, the rehabilitation of curbs and gutters, catch basins, and ADA ramps as required where needed. The prepared 2026 program would include rehabilitation of nine streets within the Sterling Green Subdivision:

- Commonwealth Drive from Nebraska to the cul-de-sac.
- Jenny Marie Drive from Sterling Green Commons Boulevard to Arkansas Drive.

- Berkshire Drive from Jenny Marie Drive to Bellbrook Avenue.
- Sterling Green Commons from Jenny Marie Drive to Lower Bellbrook Road.
- Glen Kegley Drive from Tennessee Drive to Jenny Marie Drive.
- Shannon Lane from Greystoke Drive to the end of the street.
- Greystoke Drive from the subdivision line at Edenbridge to the cul-de-sac.
- Dundee Drive from New Mexico Drive to Commonwealth Drive.
- Arkansas Drive from Dundee Drive to Tennessee Drive.

The engineer's estimate for the project was $2,143,819. On March 11th, the City received three qualified bids, and the low bid was submitted by John R. Jurgensen, Co. at $1,817,038.30. This was lower than the City Engineer's estimate, as well as lower than what was available in the budget. John R. Jurgensen, Co. had extensive experience working on similar projects for the City. They had done good work and provided a good product, and staff had no hesitation in recommending them as the lowest and best bidder. As the low bid was substantially under the available budget funds, totaling about $400,000, staff was asking for guidance on how Council would like to spend those remaining funds. Mr. Merriman stated he sent Council an e-mail yesterday to offer a couple of recommendations. He wanted to discuss those recommendations for the record, and then get Council's concurrence on what they wanted to do. The first recommendation was that the City use approximately $50,000 to repave a one-block section of S. King Street. This was due to a new water service line stub that had to be installed because of a historic issue. The City had negotiated with the affected property owner and arrived at a positive outcome to help to restore service, but an open cut had to be done on S. King Street. The street was already in bad shape, and staff estimated that cost to be about $50,000, which would be money well spent. Second, Xenia had a rough winter this year as there were numerous snow events, as well as a significant multi-day snow event. With Council's blessing, the City was aggressive this year with plowing and salt application. Unfortunately, plowing was hard on streets, and at a lot of locations across the City where hot fill had been done to fill potholes, there had been a lot of disruption of those potholes. Staff, as well as Councilmembers, had been getting a lot of calls, and there had been discussions with the Public Service Director and engineering staff. The concern with the potholes was the City simply did not have the crews to go out to get all of the main, thoroughfare, and neighborhood streets covered, nor did they have the expertise or equipment to do a more permanent job. Staff talked with John R. Jurgensen Co. representatives about what a pothole filling program would look like.



Mr. Merriman provided Councilmembers with a map of locations where this work could be done. The map indicated locations as part of a $137,000 estimated cost that could come from the remaining $400,000. The purple dots would be a six-inch depth repair for potholes, and the blue dots would be a 12-inch depth repair. A crew from John R. Jurgensen Co. would go out with equipment, they would saw cut the area, go down the full depth, repair it, backfill it, seal it, and then move on to the next one. This could be accomplished as a better fix in a far faster time than the City crews could do. If Council approved this piece, staff would contract that, and the thoroughfares would be done fairly quickly. Simultaneously, City street crews would go out and

put hot fill in the neighborhood areas because those roads would not require quite as extensive of a fix. Staff's recommendation was to look to add this feature, which would have positive benefits for residents who used the streets every day. Councilman Mackiewicz asked if they would only be filling the blue dots on the map provided. Mr. Merriman said they would do the blue and purple, and the City would do some additional work, but that was not marked. The estimate was $137,000 to do the dots that were on thoroughfares, marked routes, and main streets. Mr. Merriman was convinced Council needed to be aggressive this year because a lot of the streets were not going to be repaved in the near future. Where problems existed in high-traffic areas, it would be prudent to do a longer-term fix.

Mr. Merriman said the third element concerned a Council directive that the City complete a comprehensive utility and roadway rehabilitation on N. King Street. It was in the budget this year to carry out comprehensive water line replacement, storm water repair, and some sanitary. There were ADA ramps that were required to be fixed in order to get State and federal funding for transportation. To complete the project of fixing the water line on King Street, the whole main would have to be replaced, and that repair work would extend north of Ankeney Mill Road to a portion of N. King Street, Harbine Avenue, and then Catherine Street. That existing water line went from an eight-inch line to a four-inch line to a two-inch line, which was not how it should have been designed. There was a two-inch line running down Catherine Street, and even though it was a short street, that line was substantially insufficient for the demand. There was also no fire hydrant on Catherine Street, which was a safety issue for the people in that neighborhood, and in order to put in a proper hydrant, a larger size line was needed. The project already slated was to extend that six-inch line all the way up Harbine Avenue and down Catherine Street. In doing this work, there would be a disruption of curb and sidewalk which would be created that the City would not have funds in the budget to correct. There would be sections of curb and sidewalk that had to come out in order to get the water line installed. Mr. Merriman provided Councilmembers with pictures he had taken of the area that day, and he reviewed those images with them, showing collapsing sidewalks and an old fire hydrant that needed replaced. The plan had been to have these roads paved next year along with King Street as part of the 2027 Street Paving Program. Staff estimated there was about a $200,000 cost to fix that area correctly, $137,000 to complete the pothole repair, and $50,000 for the King Street repair. This would give Council a small margin in case some of those estimates went over.

Mr. Merriman said the other alternative, in lieu of doing any or part of these items, Council could look at adding additional roadway resurfacing. Staff recommended Council go back to the plan they had staff put together and look at the roads scheduled to be done in 2027. In lieu of doing concrete work, for example, Council could choose to do one of these: Moccasin Trail, Arapaho Drive, or Seminole Drive. Alternatively, Cheyenne Drive and Seneca Drive could be done together, but those streets were already scheduled to be done in 2027. The concrete work that needed to be done on King Street because of the water main replacement would still have to be done. Staff recommended getting that area done on King Street, especially where there were trip hazards and safety concerns where the concrete had to be removed to install the water main. This would allow the City to finish the utility portion this year and repave those roads, similar to what had been done on Second Street. Mr. Merriman reiterated there was no wrong answer, but he thought some answers were more right than others. This Council was investing millions in

infrastructure restoration this year. That was a good thing and a good problem to have to be able to spend more money there.

Vice President Crawford entertained comments or questions.

Mayor Reynolds said he felt like the first recommendation was fine. For him personally, instead of doing Catherine Street and the sidewalk restoration, he would like to focus on another neighborhood street like Seneca Drive and Cheyenne Drive, or one of the other streets that Mr. Merriman listed. He had heard consistently from citizens that Seneca Drive was one of the worst roads in Xenia. Mr. Merriman said if Council chose to do Seneca Drive and Cheyenne Drive together, they could afford it, or they could pick one of the other three – Arapaho Drive, Moccasin Trail, or Seminole Drive, and that total would be less than $200,000. Mr. Merriman cautioned if one of those roads were picked, that was fine, but there would be unfinished concrete work on King Street, and it would be the City's obligation to finish it. If Council added to this year's already scheduled concrete work on the rest of N. King Street, they would probably get a better value because of the quantity of scale. Staff was just looking at how to finish that project comprehensively, noting those other roads were still slated for next year. Councilman Mackiewicz said one of his biggest complaints in the 19 years he had lived in Xenia was that the City did not finish projects. He would like to see the sidewalks finished completely before moving on.

Vice President Crawford asked how many lane miles Seneca Drive and Cheyenne Drive were. Mr. Merriman said Cheyenne Drive was a short road, which was part of the reason Seneca and Cheyenne could be done together, and it was probably one to one and a half lane miles. Mayor Reynolds pointed out that Ottawa Drive butts to Cheyenne Drive, and around to Seneca Drive. He asked where Pueblo Drive was in the program. Mr. Merriman said Pueblo Drive would be next year. Mayor Reynolds acknowledged that would finish the neighborhood. Mr. Merriman agreed Pueblo Drive was a good option, but the City did not have enough funding available to do that this year. Most of those roads were all bad, and it would even be reasonable to look at additional roads in Arrowhead, but more of those road would be done next year. If Council elected not to do the additional sidewalk, curb restoration, etc. on N. King Street, that work would have to be added in the next couple of years, but it would remain in its current condition until then.

Vice President Crawford asked if there was anything else the City could do from the curb and gutter fund for Seneca Drive and Cheyenne Drive. Mr. Merriman said there was not. The City had done a good job of stretching resources, and part of the reason so much work could be done on King Street this year was because curb and gutter money was going toward the concrete restoration. The City was not doing all of the concrete restoration on the southern portion of N. King Street; they were doing just enough to be compliant in the areas that were really bad. Councilman Mackiewicz wondered if the City could spend stormwater or curb and gutter fees from next year on Catherine Street. Mr. Duke said that money could not be spent on sidewalks. The City could use curb and gutter fees for driveway aprons, but sidewalk expenses had to be paid out of the General Capital fund.

Vice President Crawford said regarding patching the potholes, he asked how much time the City would be buying. Mr. Merriman said it would be substantial. City workers repaired those by taking hot fill and tamping it in. The contract with John R. Jurgensen Co. would allow them to completely cut it out in order to have good seams for it to be crack sealed later. It should be years before

maintenance would need done because they were doing a full-depth restoration. Again, this would not repave these roads; but where there were problems that presented safety concerns or hazards to vehicles, this would help to buy substantial time. He asked if there was general agreement of Councilmembers that S. King Street should be in the mix. Councilman Mackiewicz said he drove on S. King Street, and it was basically gravel. Mr. Merriman concurred. Councilman Mackiewicz said the City would potentially be building out that way, and it would be great to have the neighborhood, and those streets looking well there.

Vice President Crawford asked if this item could be tabled. Mr. Merriman said the issue for this item was that Council needed to approve the resolution authorizing the award of the bid so the City could get John. R. Jurgensen Co. under contract for the annual street paving. Even though this additional amount would be more than 10%, a change order could be done because it was already budgeted. Mr. Merriman said he did not want to make that decision; Council should make that decision. He asked for a procedural motion specifying what Council's preference was for direction. Councilman Mackiewicz said if the City did not pay for the sidewalks on King Street, he asked if there was enough money in the project to replace the sidewalks and have a cutout. Mr. Merriman clarified anything that was not currently budgeted in terms of sidewalk restoration, there was no other identified funding source for anything not currently scheduled to be replaced. Councilman Mackiewicz explained he did not want to replace King Street, but have gaps in the sidewalk. Mr. Merriman acknowledged that would happen north of Ankeney Mill Road unless they did what was on the table before Council tonight.

Councilman Rubio stated he would rather have the streets redone versus the sidewalks. He thought that was faster work than laying out new streets. He asked if Mr. Merriman could explain why these streets were getting redone versus other streets. Mr. Merriman said that the list was based on decisions the Council made last year. Council wanted to publish a multi-year plan to be transparent about what its goals were over the next couple of years. The approach Council instructed staff to take was to develop a plan that would allow the City, where roads had not completely failed, to do a mill and fill, which shaved off the top couple inches of road, fixed any base problems, and installed a new surface. For the roads that were listed, it would be more cost effective for the City to resurface and repave those and to sustain their viability much longer, even though there were roads in far worse condition. As Council looked at the out-years, more and more roads were going to require a higher degree of attention, which was why the list got shorter and shorter. This would allow Council to get more pavement done and more lane miles completed earlier in the process. Moving forward, it would be more intensive work that would take a much greater investment.

Mr. Merriman noted that Council had invested a lot in roads and infrastructure over the last couple of years, way more than in prior decades because there was revenue coming in. The City implemented the curb and gutter fee that allowed for stretching asphalt dollars farther because concrete for curb and gutter was expensive. He wanted to be clear that this was Council's prerogative and what they wanted to do. If Council elected not to do that concrete work this year, it still had to be done and it would sit undone for an indefinite period of time because it was not programmed into the Capital Improvement Plan (CIP) right now. Ms. Fisher suggested having Council vote on the resolution before they did a procedural motion. Councilman Rubio asked for clarification that the City would handle anything that was shown on the map. Mr. Merriman said if Council did not authorize the additional money, the City would not do that work. The only thing

the City had to do were the segments where a fire hydrant would need replacement and the sidewalk taken completely out, but there would need to be additional resources to do that. There were other sections where the curb and sidewalk would be adversely impacted by the water line installation. If it was not completely removed, the City would just leave it disturbed, and not restore it. The City did not have enough money in the budget outside of what had been talked about tonight to do any of the other work on King Street extending to Harbine Avenue, or Catherine Street.

Vice President Crawford recognized King Street was the closest to the Market District, and that was where there was a struggle. Mayor Reynolds countered this would be on the far side, and people in the Market District would not see that. He said instead of going round and round, he wanted the majority to speak for those who were not in attendance. Councilman Mackiewicz said he was for the sidewalk plan. Vice President Crawford, Mayor Reynolds, and Councilman Rubio were in favor of the road repairs. Mr. Merriman asked for clarification on which road. Mayor Reynolds suggested Cheyenne Drive and Seneca Drive. Councilman Mackiewicz asked if they could do Pueblo Drive. Mr. Merriman said that was more than double the budget they had. Mayor Reynolds asked for consensus from the Council on Seneca Drive and Cheyenne Drive. All but Councilman Mackiewicz agreed. Mr. Merriman reiterated that there would be unfinished work on North King Street, Harbine Avenue, and Catherine Street, and Council could receive complaints about that. A resolution was needed this evening to authorize the contract with John R. Jurgensen Co., and based on available funds, staff would do a change order to incorporate in the contract.

Hearing nothing further, Vice President Crawford called for a motion to pass Resolution 2026-019.

Motion by Mayor Reynolds, seconded by Councilman Rubio, to pass Resolution 2026-019 as presented. No comments followed. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds
Nays: None motion carried.

D. RESOLUTION 2026-020 AUTHORIZINIG THE EXECUTION OF A CONTRACT WITH HENSCHEN & ASSOCIATES, INC. FOR PURCHASE OF A NEW CASE MANAGEMENT SYSTEM FOR THE XENIA MUNICIPAL COURT. Vice President Crawford asked Mr. Merriman for a brief summary of this item. Mr. Merriman said Xenia Municipal Court had been planning a project to replace its obsolete Case Management System. The court did a request for proposals in October of 2025. They received one proposal, and Court Administrator/Magistrate Mike Mayer was present for this discussion. The court conducted this process in conjunction with the Information Technology (IT) Department, and they endorsed the recommended vendor. From the City Manager's perspective, this was a needed project because it would help protect the City's network.

Mr. Mayer noted the current Court Management System was over 20 years old, and it was not compliant with some of the Supreme Court regulations. There were certain things they needed to be able to do, like e-filing because electronic filing was a new requirement that all courts were required to do so parties could file cases and motions remotely. Fortunately, they had budgeted for a new system for the last three years, and they also applied for an Ohio Supreme Court Technology Grant. They were awarded $150,000 in grant funds, only one of four municipal courts in the State

of Ohio to be awarded the full $150,000. They budgeted a half million and went through the formal RFP procedure and got six proposals, which ranged from $116,000 to $1.1 million. Municipal Court staff was grateful to the IT Department for their help in going through the technical proposals, and he gave kudos to Chief Technology Officer Keith Pagett and his team. After reviewing the options, they selected Henschen & Associates as the best proposal. Henschen & Associates were a proven commodity, and they were in about 80 municipal courts in the State of Ohio, including Oakwood, Lebanon, and Fairborn. This system would permit electronic filing and public access to records, as well as text notification alerts to everyone involved in a case, which should help improve attendance. It would also allow certain Supreme Court records to be electronically filed, instead of handwriting them and faxing or e-mailing them to the court, which was inconvenient. He requested Council's support for this item.

Mr. Duke clarified that this was being paid for out of the court's Special Projects Fund, not Key Operating Fund dollars. If there were a need for further funding from a balance standpoint, there was a loan budgeted to the courts, and they could pay it back over time. Mr. Mayer concurred that they had instituted additional costs to help support future maintenance, and it should not have any effect on the City's budget.

Vice President Crawford entertained comments or questions. Hearing none, he called for a motion to pass Resolution 2026-020.

Motion by Mayor Reynolds, seconded by Councilman Mackiewicz, to pass Resolution 2026-020 as presented. No comments followed. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds
Nays: None motion carried.

E. RESOLUTION 2026-021 ADOPTING A STATEMENT OF THE MUNICIPAL SERVICES TO BE PROVIDED TO A 121.558-ACRE PARCEL (MANNARINO PROPERTY) ON US ROUTE 42 EAST, WHICH IS PROPOSED FOR ANNEXATION FROM XENIA TOWNSHIP TO THE CITY OF XENIA, OHIO. Vice President Crawford asked Mr. Merriman for a brief summary of this item. Mr. Merriman said Ohio Revised Code, Section 709.023(C) required that the City Council must adopt, within 20 days of the filing of an annexation petition with the County, a Statement of Services the City would provide to a territory upon annexation, including an approximate date by which such services would be provided. The statement must specify the services the City would provide if the annexation was approved by the County and ultimately accepted by the City Council. It could stipulate no municipal services would be provided, all available municipal services would be provided, or only some municipal services would be provided. The resolution could also state services would be provided, but only under certain conditions. The passage of this resolution did not obligate City Council to accept the annexation if it was approved by the Greene County Board of Commissioners. Council would have an opportunity at a later date to do that. As had been suggested to Council on March 10th, the owners of the property filed an annexation with the Greene County Board of Commissioners pursuant to ORC 709.032, which was for an expedited Type II Annexation Procedure. The subject property was 121.558 acres, located on the south side of US Route 42, east of 997 N. Columbus Street, and the parcel ID was included in Council's agenda report. The petition sought annexation for the purpose of developing a subdivision of single family homes. Staff recommended that the

services provided to this proposed annexation be the same as services provided to any other incorporated residential area but with some conditions, including the developer of the site would be responsible for all extensions of utility mains to and from the property, as well as any booster and lift stations to provide for those utilities on site, along with other appurtenances necessary to achieve adequate water pressure and sanitary sewer service. Because it was on the opposite side of US Route 42, the opposite side of it was in the township, and therefore Route 42 would remain in the township. This was a nice project for the community, and it would add a lot of value and additional residential options. Staff was excited about this, and they recommended Council approve the resolution this evening.

Nathan Painter, 5029 Cemetery Road, Hilliard, Ohio, spoke on behalf of the petitioner. This was just a service resolution, which was the first step in the process. If Council passed this, t would allow the process to continue, and once the certified copy was sent to the Board of Commissioners for their approval, it would come back to Council. As the City Manager said, it did not obligate the City to take the property. This was a very nice project, and the developer would be responsible for some of the extension of utilities, a lift station, etc. The next resolution coming up on tonight's agenda would provide that if and when a development came in. If there was residential on one side and industrial on the other, there would be sufficient buffering put in place to make sure those properties were separated.

Councilman Mackiewicz asked if there was a map of this area. Mr. Merriman said there was one included with the packet two weeks ago. Vice President Crawford wondered if the plan was still to benefit Lexington Park to some degree, and Mr. Painter said yes.

Vice President Crawford entertained further comments or questions. Hearing none, he called for a motion to pass Resolution 2026-021.

Motion by Mayor Reynolds, seconded by Councilman Rubio, to pass Resolution 2026-021 as presented. No comments followed. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds
Nays: None motion carried.

E. RESOLUTION 2026-022 ADOPTING A STATEMENT REGARDING ZONING BUFFERS FOR A 121.558-ACRE PROPERTY ON US ROUTE 42 EAST, WHICH IS PROPOSED FOR ANNEXATION FROM XENIA TOWNSHIP TO THE CITY OF XENIA, OHIO. Vice President Crawford asked Mr. Merriman for a brief summary of this item. Mr. Merriman said this was pertaining to the exact same property they just discussed, but this was a second necessary statutory step. In this case, again under ORC 709.023(C), the Council must adopt, again within 20 days of the petition for annexation with the County, a statement regarding possible incompatible land uses and zoning buffers. If there were found to be any incompatibilities, the City would have a policy for establishment of zoning buffers as detailed in Council's agenda report. Staff did not see any incompatibilities, but that would be addressed if needed. As indicated, passage of this would not obligate Council to the annexation, which would come back to Council at a later date, if and when it was approved by the County. This was establishing the statutory requirement on zoning and buffering should there be any conflicts. Staff recommended approval of Resolution 2026-22.

Vice President Crawford entertained comments or questions. Hearing none, he called for a motion to pass Resolution 2026-021.

Motion by Mayor Reynolds, seconded by Councilman Mackiewicz, to pass Resolution 2026-021 as presented. No comments followed. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds
Nays: None motion carried.

(10) APPOINTED OFFICIALS' REPORTS

Vice President Crawford asked the Finance Director for his comments. Mr. Duke said he had nothing at this time.

Vice President Crawford asked the Law Director for her comments. Ms. Fisher said she had one item to discuss on behalf of the Mayor. Representatives from the United Way were present to discuss a potential 529 College Savings Account Program partnership with the City. There were other cities in the State of Ohio that did this, Cincinnati being one. Staff wanted to have some discussion with Council tonight about establishing one here in Xenia, and it would be called the First Grade Futures Program. Ms. Fisher turned the conversation over to Mayor Reynolds, and the Mayor turned it over to Tom Kelley from the United Way of Greater Dayton.

Mr. Kelley thanked Council for the invitation to be at tonight's meeting. He was from Wilberforce, Ohio, and with him was Rebecca Cantrell, the Greene County United Way Director. He noted that she handled all activities for the United Way in Greene County. Mr. Kelley's role as President/CEO was to manage the entire operation of the United Way, which was Montgomery, Greene, and Preble counties. Ms. Cantrell would be the local point person to help manage this program. For this First Grade Futures Program, it would be a 529 Program available to all first graders in the Xenia City area who would be eligible and available to receive a $100 deposit into a fund managed as a college fund for the future. As Ms. Fisher indicated, there was a program like this in Cincinnati. The vision for this program would be the United Way would be Xenia's community partner. The United Way would be available to help oversee the program, check for eligibility, do community outreach and engagement, work with parents, provide education, work with the schools, and be a liaison in the community. This would be done through specific events, including coordination with other United Way events already running in the community. They provided very specific enhancements and tools that made it easy to engage in this program. There would be plenty of opportunity for City Council, City staff, and anyone else who would like to be engaged in those activities to help promote the program.

Mayor Reynolds clarified that this program was not only for college. Ohio 529 also went for career tech as well, and anyone who hoped to partner with the school could sign up their children and get the initial deposit of $100. He spoke with Xenia Community School Board Member Josh Day and the school's superintendent, and they both said if it was something Council could do, they would also be interested. He had also spoken to other community partners interested in potentially partnering with the City if Council passed this. This would be great program, and if parents signed up their child when they got to first grade, there would be $100 from the City, hopefully $100 from the school district, and if the parents contributed $20 a month, the fund would pay for an entire

Associate's Degree or career tech certification. This was investing seeds today for tomorrow, and he had been very passionate about this program for the last two and a half years. He asked for Council's thoughts and if they would be supportive of resolution that could be presented at the next meeting. The cost would be $41,500 a year for the whole program, with a maximum of 250 students, and included $9,000 for engagement to make sure people received information about the program, as well a program staffing and a website with instructional videos.

Ms. Fisher stated if Council wanted to present a resolution at the next meeting, she could draft the contract in a way that the program could run for a year, and they could revisit it after a year. If it was successful, Council could always add more as far as funding for grants for students. Vice President Crawford asked Mr. Kelley what happened if a parent signed their student up for this program, then relocated and were no longer in the district. Mr. Kelley stated that once the fund was established, the fund was there. It was not a refund-based program, and it fell under State authority for how the money would be invested. Vice President Crawford asked who was overseeing the program. Mr. Kelley said Ohio 529. United Way's role was to help with engagement, outreach, and getting students connected to the program. With their United Way programming, they were already connected to other things happening in the community. So they could use their resources to talk to other non-profit agencies and other business partners to give thought to donating to the program. There could be other ways to grow the program beyond simply parents investing in the program. It would really bring together a different kind of partnership and more of a unique opportunity to partner resources around those children and their families.

Vice President Crawford noted if someone on Council or a citizen wanted to sponsor a child, he asked how that engagement would happen. Mr. Kelley said there would be an opportunity to do that. Vice President Crawford asked if those could be non-disclosed donations. Mr. Kelley confirmed they would accept anonymous donations to the program. Ms. Fisher clarified these would not be City accounts; they were State 529 college savings accounts. Vice President Crawford thought this was an opportunity for Council to think future-present, and to do something different. He thanked Mayor Reynolds for his advocacy on this. Mayor Reynolds thanked Council for supporting the program because he believed everyone should be allowed to live up to their God-given potential. Mr. Duke said if there was support for this, it was not currently programmed in the budget. At the next meeting, if a resolution was brought to authorize the program, they would also need to bring an appropriation ordinance to set aside the dollars for this purpose. Ms. Fisher said unless there were any objections, staff would bring a resolution approving a contract with United Way for the program as well as supplemental appropriations at Council's next meeting on April 9, 2026.

Councilman Mackiewicz said he believed there was a new law that if the money in a 529 account was not used for college or trade schools, it could be rolled over to a retirement account. He could not remember if it was Roth or Traditional IRA. Ms. Fisher also believed that was correct. Councilman Mackiewicz thanked the Mayor for working on this and asked if it was just for students of Xenia Community Schools. Mayor Reynolds said it was for public, private, or Christian academies. Anyone in the first grade who resided directly in the City limits, but only within the City limits. Mr. Kelley said part of their discussion was identifying students that fit into that five- to seven-year range because it was difficult to predict when a child would enter first grade. It would be dependent on the child's birthday and when their parents made a decision on the program.

Councilman Rubio said whether they started early or started late, what was important was that they started.

Vice President Crawford asked the City Manager for his comments. Mr. Merriman said he was watching the weather to keep Council advised, but that he had no further items this evening.

(11) COUNCIL COMMENTS & REPORTS:

Councilman Rubio had no comments.

Mayor Reynolds said they had the Xenia X-REC meeting to plan out the Red, White, and Blue Block Party. More importantly, April 4th was the Easter Egg Hunt. He had a challenge for all members of Council, because they needed Easter baskets for the Easter Egg Hunt. He requested each member of Council donate five Easter baskets, which would give an additional 35 baskets to the Easter Egg Hunt. They were short on baskets, so he encouraged any member of Council and any member of the public to donate, and they could drop off the Easter baskets at the City Building. He requested that the Easter baskets were bought pre-filled with gifts so they could just hand them out to the kids. Ohio River Road Runners were coming to Xenia this weekend for the marathon and half marathon on Sunday, and he reminded everyone to be ready to change up their driving habits this weekend. Also, the Governor came to Xenia to talk about broadband two weeks ago. He also attended the Greene County Mayor's Luncheon with several other Mayors to talk about upcoming events for each of their communities.

Councilman Mackiewicz had no comments.

Vice President Crawford had no comments.

(13) ADJOURNMENT: Motion by Mayor Reynolds, seconded by Councilman Mackiewicz, to adjourn the Regular Meeting at 7:52 p.m. No discussion followed. The Roll on this was the following:

Ayes: Crawford, Mackiewicz, Rubio, Reynolds
Nays: None motion carried.

Amy E. Brown
City Clerk

James Crawford
Vice President, Xenia City Council

XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO

Procedural History & Timeline:

Introduction:	March 26, 2026, by Mayor Ethan Reynolds
Public Hearing & Vote:	April 9, 2026
Effective Date:	May 9, 2026

Agenda Item: **ORDINANCE 2026 – 13**
ENACTING SECTION 251.01(i), TITLED "FINANCIAL REPORTING," OF THE CITY'S ADMINISTRATIVE CODE

Submitted & Presented by: Ryan Duke, Finance Director

Summary: The number of City funds for new initiatives and programs, such as Tax Increment Financing Funds (TIFS) and Energy Special Improvement Districts (ESIDs) continues to grow. In addition, other special revenue funds which are required under the Ohio Uniform Tax Levy Law, such as the One Ohio Fund (for proceeds from the opioid lawsuit settlements), Urban Renewal Debt Retirement Funds (for projects like the Market District), and Court Funds established under Ohio Revised Code Chapter 1901, have also increased. Although these separate funds are needed for accurate tracking and accounting, individually reporting each fund is inefficient. While Xenia City Code Chapter 251 currently allows some consolidation of some funds for reporting purposes, Finance Department staff proposes expanding consolidation for greater efficiency in reporting.

All funds would still be tracked individually on the City accounting system but reporting would be consolidated in accordance with Governmental Accounting Board Standards (GASB). The enactment of a new subsection to § 251.01 of the City's Administrative Code would allow and specifically authorize the consolidation of funds for reporting purposes, while still requiring that funds be kept separate for account purchasing and to remain in compliance with Ohio law. Any consolidation of funds will be done in consultation and collaboration with the audit team assigned by the Ohio Auditor of State.

Cover Memo Attachments: None.

Budgetary Impact: N/A

Vote Required for Adoption: The affirmative vote of a majority of the members of City Council present at the meeting, per City Charter § 5.02(E).

Recommendation: Adopt Ordinance 2026-13 to enact subsection (i) of Xenia City Code § 251.01.

CITY OF XENIA, OHIO
ORDINANCE 2026 – 13

ENACTING SECTION 251.01(i), TITLED "FINANCIAL REPORTING," OF THE CITY'S ADMINISTRATIVE CODE

WHEREAS, the City currently maintains numerous funds, the number of which continues to grow as new initiatives and programs are pursued and new special revenues are allocated;

WHEREAS, § 251.01, titled "Establishment of Funds," of the City's Administrative Code sets forth the various City funds and the processes for establishment, use, and maintenance of the various City funds;

WHEREAS, the Finance Director has recommended the addition of a new subsection to § 251.01 to allow for greater consolidation in the reporting of City funds, which will eliminate undue complexity and provide for the efficient financial administration of funds per the Governmental Accounting, Auditing, and Financial Reporting 2024 Blue Book;

WHEREAS, this Council finds that the enactment of § 251.01(i) proposed by the Finance Director will facilitate improved financial reporting of the various City funds,

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, a majority of the members of the City Council present concurring, that:

Section 1. Subsection 251.01(i), titled "Financial Reporting," to be added to § 251.01, titled "Establishment of Funds," of Chapter 251. of the City's Administrative Code, as contained in Part Two – City Government of the Xenia City Code, is hereby enacted to read as follows:

> (i) Financial Reporting. Funds that are required to be kept separate for accounting purposes may be consolidated into a single fund for financial reporting purposes in the City's Annual Comprehensive Financial Report when such consolidation is in accordance with Governmental Accounting Standards Board (GASB) Principles. Funds must still be kept separate in City accounting systems as required by City Ordinance or the Ohio Revised Code.

Section 2. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

Section 3. This Ordinance shall take effect on May 9, 2026.

Introduced: March 26, 2026
Adopted: April 9, 2026

Wesley Smith
Xenia City Council President

Attest:

Amy Brown
City Clerk

XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO

Procedural History & Timeline:
Presented as an Emergency: April 9, 2026
Effective Date: April 9, 2026

Agenda Item: **ORDINANCE 2026– 14**
AMENDING ORDINANCE 2026-12 TO PROVIDE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2026, AND DECLARING AN EMERGENCY

Submitted & Presented By: Ryan Duke, Finance Director

Summary: Per Xenia City Charter § 5.04, any amendments to yearly appropriations shall be made by emergency ordinance. Staff is requesting that Council amend the 2026 Annual Appropriation Ordinance for the following reasons:

- To appropriate money needed for the ODOT W. 2nd Street (from S. Progress Drive to 1852 W. 2nd Street) Sidewalk Project ("Project"). As detailed in the legislative cover memo for Resolution 2026-023, the City was awarded a Systemic Safety Grant from ODOT to fund ninety percent (90%) of the Project, which will extend the current sidewalk on the north side of W. 2nd Street. Although the Project is slated for construction in 2029, an appropriation is needed now to cover design and right-of-way acquisition costs, ninety percent (90%) of which will be reimbursed. Thus, of the $149,000 appropriation requested, the cost to the City will be $14,900 after reimbursement of $134,100.

- Replacement of one of the Public Service Department's vac trucks is scheduled and budgeted for 2026. The amount budgeted for the equipment is $450,000. Unfortunately, the lowest bid for the vehicle that Public Service could find, through the Sourcewell Cooperative Purchasing Program, is $514,415.71. Thus, a $70,000 increase in appropriations to cover the cost difference and to cover accessory items that might be needed for the equipment is needed, as detailed in the cover memo for Resolution 2026-025. Sanitary Sewer Funds are being used for this purchase. This fund is in a very healthy position and is adequately resourced to cover this cost increase.

- At the last City Council meeting, at Mayor Reynolds' request, the United Way of the Greater Dayton Area provided a proposal for the First Grade Futures Program. As detailed in the cover memo for Resolution 2026-24, this is a pilot program promoted by the Mayor that would encourage Xenia parents to start an Ohio 529 college savings plan by providing a $100 dollar seed deposit for first grade students who live in Xenia. The cost of deposits and administration of the Program are estimated to be $41,500 for 2026. As City Council proposed to proceed with the Program, an appropriation is needed to cover Program costs for 2026.

- Recently, the City was awarded a grant for the East End Sidewalk Repair Project. Engineering design for the project is necessary in 2026. At the same time bids have come back for the Downtown sidewalk project at less than what was budgeted. Staff recommends moving $40,000 budgeted for construction of the

downtown sidewalks to cover the design work necessary for the East End Sidewalk project.

Cover Memo Attachments: None.

Budgetary Impact:

361-6407-53290-111171	$149,000
665-1332-55401-011413	$70,000
101-1001-59199	$41,500
361-1441-55599-000798	($40,000)
361-1441-53290-300035	$40,000

Vote Required for Adoption: Per § 5.04 of the City Charter, the affirmative vote of at least four (4) members of City Council is required for adoption.

Recommendation: Adopt Ordinance 2026-14, as an emergency, to make amendments to appropriations for the 2026 fiscal year for the reasons stated above.

CITY OF XENIA, OHIO
ORDINANCE 2026 – 14

AMENDING ORDINANCE 2026-12 TO PROVIDE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2026, AND DECLARING AN EMERGENCY

WHEREAS, this Council finds it necessary, upon the recommendation of the City Manager and the Finance Director, to make certain amendments to the appropriations made by Ordinance 2026-12, passed by this Council on March 7, 2026, which provides appropriations for the fiscal year ending December 31, 2026; and

WHEREAS, City Charter §§ 5.04 and 9.05(D) of the City's Charter provide for such emergency appropriations, when such appropriations are made pursuant to an emergency ordinance,

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, at least four (4) members of the City Council concurring, that:

Section 1. This Ordinance is an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City of Xenia, Ohio. The reason for such necessity arises from the need to amend the appropriations for current expenses and other expenditures, for the fiscal year ending December 31, 2026, to ensure the continued, usual, daily operation of the City government.

Section 2. To provide for current expenses and other expenditures of the City of Xenia, Ohio, for the fiscal year ending December 31, 2026, the following sums in Exhibit A are hereby appropriated, with the following sums to show the following amendments:

General Fund (101)	
City Council (1002)	
Operating	Increase $41,500
Capital Permanent Improvement Fund (361)	
Operating	Increase $189,000
Capital	Decrease $40,000
Sanitary Sewer Fund (665)	
Capital	Increase $70,000

Section 3. The Finance Director is hereby authorized to make payments from any of the appropriations herein made, upon receiving proper claims, certificates and/or vouchers approved by the appropriate official or department head, or their respective designees, authorized by law, City Charter or this Ordinance to approve the same, or upon an ordinance or resolution of Council approving specific expenditures; provided, however, that no payments for salaries or wages shall be made except to persons employed in accordance with the ordinances of the City of Xenia and/or laws of the State of Ohio.

Section 4. In accordance with City Charter § 9.07, no warrant for payment of any claim shall be issued by the Finance Director unless there is an available appropriation sufficient to cover the payment and the Finance Director is satisfied that the same is in proper form, correctly computed, and that the claim is legally due and payable. No warrant for payment of any contract for goods or services shall be issued by the Finance Director unless the contract has been executed by the City Manager and endorsed by the Law Director; provided, however that contracts for the employment

of special counsel shall be executed by the Law Director. No warrant for payment of legal services of special counsel shall be issued by the Finance Director unless such special counsel has been employed by the Law Director, who is hereby authorized to employ special counsel to handle particular legal matters for the City within the limits of the appropriation for such services made by this Council.

Section 5. The Finance Director is hereby authorized, in accordance with City Charter § 9.05(G), to adjust appropriations within any fund or department, so long as the adjustments made do not exceed the total appropriations authorized within any fund or department and such adjustment is not in violation of City Charter, City ordinance or state law. In addition, the Finance Director is hereby authorized to establish additional cost centers within any Fund as may from time to time be required to ensure proper accounting or by the State of Ohio.

Section 6. The Finance Director shall maintain an updated Annual Appropriation Ordinance, showing any and all supplements and amendments thereto made by Council in one document, which shall be available to the public upon request.

Section 7. Existing Ordinance 2026-12 is hereby repealed.

Section 8. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were conducted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC § 121.22.

Section 9. This Ordinance shall take effect upon its adoption and shall not be automatically repealed, as provided in City Charter § 5.04.

Adopted: April 9, 2026

Wesley E. Smith
Xenia City Council President

Attest:

Amy E. Brown
City Clerk

Ordinance 2026-14
Exhibit A

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
GENERAL FUND (101, 198, 199, 203)			
COST CENTER 101			
1001 - GEN GOVT/LEG AFF			
PERSONNEL	$42,111.57		
OPERATING	$226,040.63	$268,152.20	
1002 - MUNICIPAL COURT			
PERSONNEL	$1,591,112.44		
OPERATING	$555,309.99	$2,146,422.43	
1003 - LAW DIRECTOR			
PERSONNEL	$186,852.67		
OPERATING	$314,183.70	$501,036.37	
1004 - CITY MANAGER			
PERSONNEL	$183,943.66		
OPERATING	$79,776.79	$263,720.45	
1005 - HUMAN RESOURCES			
PERSONNEL	$31,520.21		
OPERATING	$35,401.74	$66,921.95	
1006 - FINANCE OFFICE			
PERSONNEL	$116,412.07		
OPERATING	$166,736.49	$283,148.56	
1007 - INCOME TAX			
PERSONNEL	$7,735.74		
OPERATING	$292,379.44	$300,115.18	
1009 - MUNICIPAL BLDG & GENERAL SERVICES			
OPERATING	$239,862.24	$239,862.24	
1010 - MANAGEMENT INFORMATION SERVICES			
PERSONNEL SERVICES	$193,988.45		
OPERATING	$192.87	$194,181.32	
1011 - CITY CLERK			
PERSONNEL	$68,809.97		
OPERATING	$49,831.89	$118,641.86	
1013 - PUBLIC AFFAIRS AND CATV ADMIN			
PERSONNEL	$0.00		
OPERATING	$61,882.90	$61,882.90	

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
1017 - SUPPORT SERVICES DIVISION			
PERSONNEL	$0.00		
OPERATING	$0.00	$0.00	
1018 - MUNICIPAL ADMINISTRATIVE BUILDING			
PERSONNEL	$27,330.51		
OPERATING	$116,566.10	$143,896.61	
1020 - OTHER FACILITIES/PROPERTIES			
OPERATING	$124,335.84	$124,335.84	
1050 - CEMETERY			
OPERATING	$31,500.00	$31,500.00	
1228 - STREET LTS			
OPERATING	$325,885.95	$325,885.95	
1229 - HOMELAND SECURITY/RISK MGT.			
OPERATING	$62,257.88	$62,257.88	
1442 - GEN PARK MAINT			
PERSONNEL	$197,811.24		
OPERATING	$203,600.62	$401,411.86	
1550 - ECONOMIC DEVELOPMENT			
PERSONNEL	$120,872.86		
OPERATING	$60,264.95	$181,137.81	
1551 - NEIGHBORHOOD SERVICES			
PERSONNEL	$91,371.93		
OPERATING	$226,503.15	$317,875.08	
1552 - PLANNING			
PERSONNEL	$142,399.33		
OPERATING	$116,785.31	$259,184.64	
1553 - PROPERTY MAINT.			
PERSONNEL	$61,813.09		
OPERATING	$200,585.79	$262,398.88	
1555 - ENGINEERING			
PERSONNEL	$80,631.37		
OPERATING	$90,614.74	$171,246.11	
1556 - CONSTRUCTION INSPECTION			
PERSONNEL	$41,753.40		
OPERATING	$12,715.71	$54,469.11	
1557 - XENIA STATION			
OPERATING	$49,324.08	$49,324.08	
7001 - INTERFUND LOANS			
INTERFUND LOANS	$400,000.00	$400,000.00	
9001 - TRANSFERS	$10,855,000.00	$10,855,000.00	

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
COST CENTER 198			
1227 - BUILDING INSPECTION			
PERSONNEL	$142,453.77		
OPERATING	$545,795.85	$688,249.62	
COST CENTER 199			
1224 - DARE			
OPERATING	$6,577.10	$6,577.10	
COST CENTER 203			
1661 - RECREATION PROGRAMMING			
OPERATING	$22,052.42	$22,052.42	
1671 - SHAWNEE EVENTS			
OPERATING	$9,062.66	$9,062.66	
1673 - DOWNTOWN EVENTS			
OPERATING	$84,399.00	$84,399.00	
1674 - HOMETOWN CHRISTMAS			
OPERATING	$9,525.31	$9,525.31	
COST CENTER 999			
0000 - IMPREST CASH			
OPERATING	$0.00	$0.00	
TOTAL GENERAL FUND			$18,903,875.42
Less Encumbrances - 12/31/2025			($614,903.64)
2026 APPROPRIATION			$18,288,971.78

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
II. SPECIAL REVENUE FUNDS			
INDIGENT DRIVERS INTERLOCK & ALCOHOL MONITORING FUND (211)			
OPERATING	$14,844.50		
TOTAL INDIGENT DRIVERS INTERLOCK & ALCOHOL MONITORING FUND			$14,844.50
Less Encumbrances - 12/31/2025			($4,844.50)
2026 APPROPRIATION			$10,000.00
INDIGENT DRIVERS ALCOHOL TREATMENT FUND (212)			
OPERATING	$39,584.90		
TOTAL INDIGENT DRIVERS ALCOHOL TREATMENT FUND			$39,584.90
Less Encumbrances - 12/31/2025			($25,084.90)
2026 APPROPRIATION			$14,500.00
ALCOHOL ENFORCEMENT & EDUCATION FUND (213)			
OPERATING	$3,000.00		
TOTAL ALCOHOL ENFORCEMENT & EDUCATION FUND			$3,000.00
Less Encumbrances - 12/31/2025			$0.00
2026 APPROPRIATION			$3,000.00
MUNICIPAL COURT PROBATION SERVICES FUND (214)			
PERSONNEL	$478,623.03		
OPERATING	$117,567.90		
CAPITAL	$0.00		
TOTAL MUNICIPAL COURT PROBATION SERVICES FUND			$596,190.93
Less Encumbrances - 12/31/2025			($34,466.90)
2026 APPROPRIATION			$561,724.03
STREET FUND (221,228,229)			
PERSONNEL	$1,140,570.56		
OPERATING	$779,843.25		
CAPITAL	$669,779.11		
INTERFUND LOAN	$0.00		
REFUND	$0.00		
TOTAL STREET FUND			$2,590,192.92
Less Encumbrances - 12/31/2025			($194,594.59)
2026 APPROPRIATION			$2,395,598.33
STATE ROUTE REPAIR FUND (222)			
PERSONNEL	$90,740.12		
OPERATING	$91,765.45		
TOTAL STATE ROUTE REPAIR FUND			$182,505.57
Less Encumbrances - 12/31/2025			($16,729.45)
2026 APPROPRIATION			$165,776.12

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
PROPERTY IMPROVEMENTS FUND (233, 236)			
PERSONNEL	$23,340.00		
OPERATING	$307,181.63		
CAPITAL	$0.00		
TRANSFERS	$0.00		
TOTAL PROPERTY IMPROVEMENTS FUND			$330,521.63
Less Encumbrances - 12/31/2025			($101,250.63)
2026 APPROPRIATION			$229,271.00
911 FUND (250)			
PERSONNEL	$51,427.73		
OPERATING	$85,421.75		
CAPITAL	$500,000.00		
DEBT SERVICE	$0.00		
TOTAL 911 FUND			$636,849.48
Less Encumbrances - 12/31/2025	$0.00		($13,266.75)
2026 APPROPRIATION	$0.00		$623,582.73
LAW ENFORCEMENT TRUST FUND (251)			
OPERATING	$92,663.63		
CAPITAL	$0.00		
TOTAL LAW ENFORCEMENT TRUST FUND			$92,663.63
Less Encumbrances - 12/31/2025			($1,764.48)
2026 APPROPRIATION			$90,899.15
DRUG LAW ENFORCEMENT FUND (252)			
OPERATING	$4,500.00		
TOTAL DRUG LAW ENFORCEMENT FUND			$4,500.00
Less Encumbrances - 12/31/2025			$0.00
2026 APPROPRIATION			$4,500.00
MUNICIPAL COURT VICTIM ADVOCATE FUND (253)			
PERSONNEL	$302,039.09		
OPERATING	$39,341.10		
TOTAL MUNICIPAL COURT VICTIM ADVOCATE FUND			$341,380.19
Less Encumbrances - 12/31/2025			($6,872.57)
2026 APPROPRIATION			$334,507.62
ONE OHIO FUND (254)			
PERSONNEL	$8,785.61		
OPERATING	$36,689.54		
CAPITAL	$10,000.00		
TOTAL ONE OHIO FUND			$55,475.15
Less Encumbrances - 12/31/2025			($11,189.54)
2026 APPROPRIATION			$44,285.61

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
PUBLIC SAFETY FUND (270)			
PERSONNEL	$17,814,300.29		
OPERATING	$4,042,766.25		
CAPITAL	$44,860.00		
TOTAL PUBLIC SAFETY FUND			$21,901,926.54
Less Encumbrances - 12/31/2025			($461,608.14)
2026 APPROPRIATION			$21,440,318.40
COURT SPECIAL PROJECTS FUND (363)			
PERSONNEL	$62,027.45		
OPERATING	$743,538.09		
CAPITAL	$0.00		
TOTAL COURT SPECIAL PROJECTS FUND			$805,565.54
Less Encumbrances - 12/31/2025			($2.15)
2026 APPROPRIATION			$805,563.39
PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND (500, 501, 502, 503)			
OPERATING	$0.00		
CAPITAL	$0.00		
TOTAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND			$0.00
Less Encumbrances - 12/31/2025			$0.00
2026 APPROPRIATION			$0.00
COMMUNITY DEVELOPMENT GRANTS FUND (601, 603)			
PERSONNEL	$0.00		
OPERATING	$31,630.67		
CAPITAL	$170,000.00		
INTERFUND LOAN	$1,700.00		
TOTAL COMMUNITY DEVELOPMENT GRANTS FUND			$203,330.67
Less Encumbrances - 12/31/2025			($28,933.67)
2026 APPROPRIATION			$174,397.00
ECONOMIC DEVELOPMENT LOAN PROGRAMS FUND (602)			
OPERATING	$200,000.00		
TOTAL ECONOMIC DEVELOPMENT LOAN PROGRAMS FUND			$200,000.00
Less Encumbrances - 12/31/2025			$0.00
2026 APPROPRIATION			$200,000.00
GRAND TOTAL SPECIAL REVENUE FUNDS			$27,097,923.38

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
III. CAPITAL PROJECTS FUNDS			
CAPITAL PERMANENT IMPROVEMENTS FUND (361, 362, 364)			
OPERATING	$1,973,801.49		
CAPITAL	$12,003,701.70		
DEBT SERVICE	$812,530.67		
INTERFUND LOAN	$0.00		
TRANSFERS	$531,922.00		
TOTAL CAPITAL PERMANENT IMPROVEMENTS FUND			$15,321,955.86
Less Encumbrances - 12/31/2025			($5,465,039.85)
2026 APPROPRIATION			$9,856,916.01
GRAND TOTAL CAPITAL PROJECTS FUNDS			$9,856,916.01
IV. DEBT SERVICE FUNDS			
BOND RETIREMENT FUND (472, 473, 474)			
OPERATING	$0.00		
DEBT SERVICE	$1,211,155.00		
BOND RETIREMENT FUND			$1,211,155.00
Less Encumbrances - 12/31/2025			$0.00
2026 APPROPRIATION			$1,211,155.00
GRAND TOTAL DEBT SERVICE FUNDS			$1,211,155.00

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
V. ENTERPRISE FUNDS			
WATER FUND (611, 664)			
PERSONNEL	$2,686,585.45		
OPERATING	$2,476,703.58		
DEBT SERVICE	$466,646.00		
CAPITAL	$3,018,098.89		
TRANSFERS	$3,310,283.00		
TOTAL WATER FUND			$11,958,316.92
Less Encumbrances - 12/31/2025			($710,689.60)
2026 APPROPRIATION			$11,247,627.32
SEWER FUND (612, 665)			
PERSONNEL	$2,907,152.72		
OPERATING	$3,224,407.44		
DEBT SERVICE	$449,958.00		
CAPITAL	$2,327,384.59		
TRANSFERS	$1,067,088.00		
TOTAL SEWER FUND			$9,975,990.75
Less Encumbrances - 12/31/2025			($811,484.30)
2026 APPROPRIATION			$9,164,506.45
SANITATION SERVICES FUND (613, 666)			
PERSONNEL	$766,074.68		
OPERATING	$3,201,296.46		
DEBT SERVICE	$0.00		
CAPITAL	$430,695.98		
TRANSFERS	$472,363.00		
TOTAL SANITATION SERVICES FUND			$4,870,430.12
Less Encumbrances - 12/31/2025			($391,686.25)
2026 APPROPRIATION			$4,478,743.87
STORMWATER FUND (614, 667, 668)			
PERSONNEL	$654,913.62		
OPERATING	$418,902.72		
DEBT SERVICE	$141,459.81		
CAPITAL	$1,833,675.34		
TRANSFERS	$600,000.00		
TOTAL STORMWATER FUND			$3,648,951.49
Less Encumbrances - 12/31/2025			($421,472.16)
2026 APPROPRIATION			$3,227,479.33
PARKING REVENUE FUND (615)			
PERSONNEL	$52,688.54		
OPERATING	$31,191.62		
INTERFUND LOAN	$0.00		
TOTAL PARKING REVENUE FUND			$83,880.16
Less Encumbrances - 12/31/2025			($2,430.16)
2026 APPROPRIATION			$81,450.00
GRAND TOTAL ENTERPRISE FUNDS			$28,199,806.97

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL
VI. INTERNAL SERVICE FUNDS			
UTILITY BILLING INTERNAL SERVICE FUND (708)			
OPERATING	$421,599.80		
TOTAL UTILITY BILLING INTERNAL SERVICE FUND			$421,599.80
Less Encumbrances - 12/31/2025			($34,686.75)
2026 APPROPRIATION			$386,913.05
CITY GARAGE REVENUE FUND (709)			
PERSONNEL	$238,329.07		
OPERATING	$1,059,900.37		
CAPITAL	$0.00		
TOTAL CITY GARAGE REVENUE FUND			$1,298,229.44
Less Encumbrances - 12/31/2025			($150,293.90)
2026 APPROPRIATION			$1,147,935.54
INFORMATION TECHNOLOGY FUND (710)			
OPERATING	$2,241,514.52		
CAPITAL	$955,486.62		
DEBT SERVICE	$0.00		
TOTAL INFORMATION TECHNOLOGY FUND			$3,197,001.14
Less Encumbrances - 12/31/2025			($603,912.07)
2026 APPROPRIATION			$2,593,089.07
INSURANCE FUND (711)			
OPERATING	$3,050,558.00		
INTERFUND LOAN	$0.00		
TOTAL INSURANCE FUND			$3,050,558.00
Less Encumbrances - 12/31/2025			($16,558.00)
2026 APPROPRIATION			$3,034,000.00
GRAND TOTAL INTERNAL SERVICE FUNDS			$7,161,937.66
VII. TRUST FUNDS			
INSURANCE RESERVE FUND (901)			
OPERATING	$40,000.00		
REFUNDS	$40,000.00		
TOTAL INSURANCE RESERVE FUND			$80,000.00
Less Encumbrances - 12/31/2025			$0.00
2026 APPROPRIATION			$80,000.00
UNCLAIMED FUNDS (902)			
OPERATING	$0.00		
REFUNDS	$40,000.00		
TOTAL UNCLAIMED FUNDS			$40,000.00
Less Encumbrances - 12/31/2025			$0.00
2026 APPROPRIATION			$40,000.00
GRAND TOTAL TRUST FUNDS			$120,000.00

GRAND TOTAL ALL FUNDS	$91,936,710.80
Less Encumbrances - 12/31/2025	
2026 APPROPRIATION	

XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO

Procedural History & Timeline:
Presentation & Vote: April 9, 2026
Effective Date: April 9, 2026

Agenda Item: **RESOLUTION 2026 – 023**
AUTHORIZING THE EXECUTION OF AN LPA AGREEMENT WITH ODOT FOR THE W. 2nd STREET (FROM S. PROGRESS DRIVE TO 1852 W. 2nd STREET) SIDEWALK PROJECT

Submitted by: Brian Forschner, City Planner
Presented by: Brent Merriman, City Manager

Summary: The neXtPlan, the City's 2024 Comprehensive Plan, recommends completion of a sidewalk on W. 2nd Street from the end of the current sidewalk near Ottawa Drive to South Progress Drive, improving pedestrian safety and filling a gap in the City's sidewalk network. This long-needed sidewalk would connect much of the Laynewood and "Old" Arrowhead neighborhoods to the REACH Center and other Progress/Hospitality Drive destinations. It would also shorten the walk-to-school route for Warner Middle School and Arrowood Elementary School students living in the northwestern portion of Old Arrowhead. The new sidewalk would be constructed on the north side of W. 2nd Street from South Progress Drive to 1852 W. 2nd Street, and will include a new pedestrian crossing across W. 2nd Street at its intersection with Ottawa Drive (see red line on map below).



In 2025, staff successfully applied for an $827,963.10 Systemic Safety Grant from ODOT to fund 90% of the construction cost of this roughly quarter-mile sidewalk. Therefore, the City's required contribution to this Project amounts to only $91,997. Design and right-of-way funds will be available in 2026 (with the adoption of Ordinance 2026-14) and through 2027 and 2028. Construction funds will become available in 2029. The City will manage both the bid letting process and the oversight of Project construction. ODOT requires formal legislative approval from City Council to authorize the execution of a standard Local Public Authority (LPA) Agreement and prompt return of the Agreement to maintain the projected Project timeline.

Cover Memo Attachments: Draft ODOT LPA Agreement.

Budgetary Impact:

Account	Funds	2026	2027	2028	2029
361-6407-53290-111171	Grant	$134,100			
	Capital	$14,900			
361-6407-55101-111171	Grant		$82,555		
	Capital		$9,173		
361-6407-55599-111171	Grant				$611,307
	Capital				$67,924

Vote Required for Passage: The affirmative vote of a majority of the members of Council present at the meeting, per Charter § 5.05(A).

Recommendation: Pass Resolution 2026-023 to authorize the execution of an LPA Agreement with ODOT for the W. Second Street (from S. Progress Drive to 1852 W. Second Street) Sidewalk Project.

CITY OF XENIA, OHIO
RESOLUTION 2026 – 023

AUTHORIZING THE EXECUTION OF AN LPA AGREEMENT WITH ODOT FOR THE W. 2nd STREET (FROM S. PROGRESS DRIVE TO 1852 W. 2nd STREET) SIDEWALK PROJECT

WHEREAS, the Ohio Department of Transportation's (ODOT) Systemic Safety Grant Program provides federal grant funding for projects that improve roadway and pedestrian safety;

WHEREAS, the neXtPlan, the City's adopted Comprehensive Plan, recommends that resources be used to fill gaps in the City's sidewalk system, including a gap located on W. 2nd Street between S. Progress Drive and 1852 W. 2nd Street;

WHEREAS, the City applied for and received Systemic Safety Grant Program funds for the W. 2nd Street (from S. Progress Drive to 1852 W. 2nd Street) Sidewalk Project ("the Project"); and

WHEREAS, this Council must, by legislative action, authorize the execution of an LPA Agreement with ODOT for said Project,

NOW, THEREFORE, THE CITY OF XENIA HEREBY RESOLVES, a majority of the members of City Council present concurring, that:

Section 1. The City Manager is hereby authorized to execute, on behalf of the City, an LPA Agreement with ODOT for the W. 2nd Street (from S. Progress Drive to 1852 W. 2nd Street) Sidewalk Project and is further authorized to sign all documents necessary to complete the City's portion of the Project.

Section 2. It is hereby found that all formal actions of this Council concerning and relating to the passage of this Resolution were conducted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC § 121.22.

Section 3. This Resolution shall become effective immediately upon its passage.

Passed: April 9, 2026

Wesley E. Smith
Xenia City Council President

Attest:

Amy E. Brown
City Clerk

Agreement Number: 43937

PID Number: 125628

County-Route-Section: GRE CR 86 7.46 W Second St

SAM Unique Entity ID: DML4NNAQUYT3

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, (ODOT), 1980 West Broad Street, Columbus, Ohio 43223 and City of Xenia (LPA), 107 East Main Street, Xenia, OH 45385-3203.

1. PURPOSE

1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (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** (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 **Install sidewalk on a portion of W Second St in the City of Xenia** (PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.

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

2. LEGAL REFERENCES AND COMPLIANCE

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

A. FEDERAL

- 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 23 CFR 1.33 – Conflicts of Interest
- 23 CFR Part 172 – Procurement, Management and "Administration of Engineering and Design Related Service"
- 23 CFR 630.106 – Authorization to Proceed
- 23 CFR 636.116 – What Organizational Conflict of Interest Requirements Apply to Design-Build Projects?
- 23 CFR Part 645 –Utilities
- 48 CFR Part 31 – Contract Cost Principles and Procedures
- 49 CFR Part 26 –Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

- 23 USC § 112 – Letting of Contracts
- 40 USC §§ 1101-1104 – "Selection of Architects and Engineers"
- Federal Funding Accountability and Transparency Act (FFATA)

B. STATE

- ORC 102.03
- ORC 153.65 -153.71
- ORC 5501.03(D)
- ORC 2921.42 and 2921.43
- Ohio Administrative Code 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
- ODOT's Construction and Material Specifications Manual
- ODOT's Construction Administration Manual of Procedures
- ODOT's Local-let 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.

2.3 The LPA shall have on file a completed and approved Local-let Participation Requirement Review Form (FORM) before the first required submission of the Project's Stage Plan Set. Failure to comply will result in the delay of the Federal Authorization for Construction, until the FORM has been completed and approved. Failure to submit a completed FORM will result in the PROJECT reverting to ODOT-let and the LPA will be prohibited from participating in the Local-let Program until the Form is completed and approved by ODOT.

3. FUNDING

3.1 The total cost for the PROJECT associated with Federal funds is estimated to be $987,882.10.

ODOT shall provide to the LPA 90 percent of the eligible costs, utilizing Spending Authority Code (SAC) 4HJ7 SAFETY HSIP (Assistance Listing Number: 20.272 Highway Safety Improvement Program,) up to a maximum of $827,963.10 in Federal funds in All phase(s)/subphase(s). The funding does not include Toll Revenue Credit or Credit Bridge. This maximum amount reflects the funding limit for the PROJECT set by the applicable SAC Program Manager.

3.2 If after execution of this Agreement, FHWA notifies ODOT that the ALN for the PROJECT is different than the ALN listed in 3.1 above, ODOT shall change the ALN to comply with the requirements of 2 CFR 200.332 and provide notice in writing or by email of the new ALN pursuant to 14.1 of this Agreement.

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

3.4 The LPA is administering the Federally funded All phase(s)/subphase(s) of the PROJECT and is therefore considered a subrecipient of Federal funds and is responsible for reporting the applicable Federal expenditures (including any Toll Revenue Credit or Credit Bridge) on their Schedule of Expenditures of Federal Award.

4. PROJECT DEVELOPMENT AND DESIGN

4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.

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

4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The recognized set of written design standards may be either the LPA's formally written local design standards that have been **reviewed and accepted** by ODOT **or** ODOT's Design Manuals and the appropriate AASHTO publication. Notwithstanding the foregoing, for projects that contain a high crash rate or areas of crash concentrations, ODOT may require the LPA to use a design based on ODOT's L&D Manual. The LPA shall be responsible for ensuring that any standards used for the PROJECT are current and/or updated. The LPA shall be responsible for informing the District LPA Manager of any changes.

4.4 The LPA shall designate a Project Design Engineer, who is a registered professional engineer to serve as the LPA's principal representative for attending to project responsibilities. If the Project Design Engineer is not an employee of the LPA, the LPA must engage the services of a pre-qualified ODOT consultant, who has been chosen using a Qualification-Based Selection (QBS) process, as required pursuant to ORC 153.65 through 153.71. The pre-qualified list is available on the ODOT website at: www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT .

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

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

5. ENVIRONMENTAL RESPONSIBILITIES

5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act (NEPA) and related regulations, including but not limited to the requirements of the National Historic Preservation Act, and for securing all necessary permits.

5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-Qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at ODOT's Office of Contracts. If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

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

5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the PROJECT.

5.5 The LPA shall require its consultant(s), selected to prepare a final environmental document pursuant to the requirements of NEPA, to execute a copy of a disclosure statement specifying that the consultant(s) has no financial or other interest in the outcome of the PROJECT.

5.6 The LPA shall submit a Notice of Intent to the Ohio EPA to obtain coverage under the National Pollution Discharge Elimination System (NPDES) Construction General Permit for all projects where the combined Contractor and Project Earth Disturbing Activity (EDA) are one (1) acre or more. If the LPA chooses not to use ODOT's L&D Vol. 2 on Local-let LPA projects, they may use an alternative post-construction Best Management Practice(BMP)criterion with Ohio EPA approval.

6. RIGHT-OF-WAY(R/W)/ UTILITIES/ RAILROAD COORDINATION

6.1 All R/W 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 (Uniform Act), any related Federal regulations issued by the FHWA, and any rules, policies, and procedures issued by ODOT.

6.2 If existing and newly acquired R/W is required for this PROJECT, the LPA shall certify that all R/W 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 R/W 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.

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 procedures.

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 any rules, policies, and procedures 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 LPA Certification of Right of Way Control Letter, certifying that all R/W property rights necessary for the PROJECT are under the LPA's control, that all R/W 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 Certification of Right of Way Control Letter, 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 Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.

6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a Utility Relocation Agreement with each utility prior to the letting of construction.

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. Consistent with Sections 6.1 and 6.4 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 6.1 and 6.4 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.

6.8 Unless by prior written agreement, the LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.

6.9 No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.

7. ADVERTISING, SALE, AND AWARD

7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.

7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Manager as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.

7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of 21 calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and letting the contracts.

7.4 The LPA must incorporate ODOT's LPA Bid Template in its entirety in project bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.

7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.

7.6 Only ODOT pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement, unless otherwise directed by the LPA in the bidding documents. In accordance with FHWA Form 1273, Section VII and 23 CFR 635.116, the prime contractor must

perform no less than 30%of the total original contract price. The 30%-prime contractor requirement does not apply to design-build contracts.

7.7 In accordance with ORC 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100% of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond. If the LPA has 100%locally funded work product within this Agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100% locally funded work product.

7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC 9.24, that the contractor has taken the appropriate remedial steps required under ORC 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at https://ohioauditor.gov/findings.html . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.

7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.

7.10 Per ORC 9.75(B), the LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.

7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information, if applicable.

8. CONSTRUCTION CONTRACT ADMINISTRATION

8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections, and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this Agreement.

8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the PROJECT. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and Disadvantaged Business Enterprise (DBE)/Small Business Enterprise (SBE), if applicable. The LPA is responsible for ensuring all materials incorporated into the PROJECT comply with ODOT's Construction and Material Specifications and meet the requirements of the LPA Materials Management Process in the Local-let Manual.

8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.

8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA is requesting reimbursement, it must provide documentation of payment for the project costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed daily as the items of work are completed and accepted.

8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, the Direct Payment to Contractor form shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio (STATE). ODOT shall pay the Contractor or reimburse the LPA within 30 days of receipt of the approved Contractor's invoice from the LPA.

8.6 The LPA shall not withhold retainage on projects with **federal** funding received as a subrecipient through ODOT. However, a prime contractor will still be permitted to hold retainage on sub-contractors who do not provide a performance bond. Should a prime contractor exercise its option to retain funds, it must be done in strict accordance with sections 153.12 and 153.14 of the Ohio Revised Code, and pursuant to 49 CFR 26.29(b)(3), and LPAs shall monitor the prompt release in accordance with these ORC and CFR requirements. Additionally, no subcontract provision shall permit the contractor to delay subcontractor's retainage payments until the project's final payment.

8.7 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of the mechanic's lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of ORC Chapter 1311 may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the mechanic's lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the mechanic's lien is resolved.

8.8 Payment or reimbursement to the LPA shall be submitted to:

Dominic Miller, City Engineer
City of Xenia
107 E. Main St
Xenia, Ohio 45385

8.9 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all Federal funding commitments.

8.10 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and, if necessary, unilaterally modify any other term of this Agreement in order to preserve its Federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

8.11 Any LPA right, claim, interest, and/or right of action, whether contingent or vested, arising out of, or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the Claim(s)), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in/to the Claim(s) and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim(s). The LPA further authorizes ODOT to sue, compromise, or settle any such Claim(s). It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim(s) including requests for information and/or documents and/or to testify.

8.12 After completion of the PROJECT, and in accordance with 23 USC 116 and applicable provisions of the ORC, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies, and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any federally funded programs.

8.13 The LPA must provide the final invoices, and final report (Appendix P located in the Construction Chapter of the LPA Manual) along with all necessary closeout documentation within six (6) months of the physical completion date of the PROJECT. All costs must be submitted within six (6) months of the established completion date. Failure to submit final invoices along with the necessary closeout documentation within the six (6)-month period may result in closeout of the PROJECT and loss of eligibility of any remaining Federal and or State funds.

8.14 The LPA shall be responsible for verifying that a C92 GoFormz has been completed by the prime contractor for each subcontractor and material supplier working on the PROJECT, prior to starting work. This requirement will be routinely monitored by the District Construction Monitor to ensure compliance.

8.15 The LPA shall be responsible for monitoring all DBE/SBE Subcontractors on the project to ensure they are performing a Commercially Useful Function (CUF) as directed in the Local-let Manual.

8.16 The LPA shall be responsible for monitoring payments made by prime contractors and Subcontractors to ensure compliance with the Prompt Payment requirements outlined in Construction and Materials Specifications (C&MS) 107.21.

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 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the PROJECT, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

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

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

10.3 The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement and in the fulfillment of DBE-related requirements set forth by ODOT. The LPA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. ODOT's DBE Program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation ("U.S. DOT"), is incorporated by reference in this agreement. The fulfillment of DBE-related requirements by the LPA is a legal obligation and failure to do so shall be treated as a violation of this Agreement.

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

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

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

(b) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited

English proficiency in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(c) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency.

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

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

(1) withholding of payments to the LPA under the contract until the LPA complies, and/or
(2) cancellation, termination, or suspension of the contract, in whole or in part.

(f) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs 10.4 (a) through (e) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices, or other intellectual properties specifically devised for the PROJECT by its consultant(s) and/or contractor(s) 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 consultant(s) and/or contractor(s) 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 consultant(s) and/or contractor(s) 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(s) and/or contractor(s) has provided for such use by suitable legal agreement with the owner of such copyright, patent, or similar protection. Consultant(s) and/or contractor(s) 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 neglect or failure 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 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 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 and ODOT determines that the default can be remedied, the LPA shall have 30 days from the date of such notification to remedy the default or, if the remedy will take in excess of 30 days to complete, the LPA shall have 30 days from the date of notification to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the 30 days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

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

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

12.5 This Agreement and the obligation of the parties herein may be terminated by either party with 30 days written notice to the other party. Upon receipt of any notice of termination, the LPA shall immediately cease all work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.

12.6 In the event of termination by either party for convenience, the LPA shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the LPA shall not exceed the total amount of consideration stated in this Agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the LPA shall be returned to ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

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

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

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:	If to ODOT:
Brent W Merriman, City Manager	Doug Gruver, PE, District Deputy Director
City of Xenia	Ohio Department of Transportation, D8
107 E Main St	505 S SR 741
Xenia, Ohio 45385	Lebanon, Ohio 45036
bmerrima@cityofxenia.org	doug.gruver@dot.ohio.gov

15. GENERAL PROVISIONS

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

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

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

(A) The LPA ***does not*** currently maintain an ODOT approved Federally compliant time-tracking system[1], ***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 15% De Minimis Indirect Cost Rate. [2]**

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved Federally compliant time-tracking system, ***and***

(B) The LPA ***does not*** currently have, and ***does not*** intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

☐ **3. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 15% De Minimis Indirect Cost Rate. [3]**

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved Federally compliant time-tracking system, ***and***

(B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

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

[2] [Also be sure to read footnote # 1] The De Minimis Indirect Cost Rate is 15 %of modified total direct costs (MTDC) per 2 CFR 200.414. The definition of MTDC is provided in the regulation at 2 CFR 200.68. Regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 15% 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 15% 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 Local Programs . A non-Federal entity that elects to charge the de minimis rate must meet the requirements in 2 CFR 200 Appendix VII Section D, Part 1, paragraph b.

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

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

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved Federally compliant time-tracking system, ***and***

(B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT, ***and***

(C) Instead of using the Federal 15% 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 Local-let Manual.

15.2 If the LPA decides to change its indirect cost recovery option, the change shall not become effective until this Agreement is amended pursuant to section 15.12 below to reflect the indirect cost recovery option utilized by the LPA on the PROJECT.

15.3 *Financial Reporting and Audit Requirements*: One or more phases of this Agreement include a sub award of Federal funds to the LPA. Accordingly, the LPA must comply with the financial reporting and audit requirements of 2 CFR Part 200.

All non-Federal entities, including ODOT's LPA sub-recipients, that have aggregate Federal awards expenditures from all sources of $1,000,000 or more in the non-Federal entity's fiscal year must have a Single Audit, or program-specific audit, conducted for that year in accordance with the provisions of 2 CFR Part 200.

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

The LPA must separately identify each ODOT PID and/or Project and the corresponding expenditures on its SEFA. LPAs are responsible for ensuring expenditures related to this PROJECT are reported when the activity related to the Federal award occurs. Further, the LPA may make this determination consistent with 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

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

correct fiscal year. An ODOT request for the restatement of a previously published SEFA will be coordinated with the Ohio Auditor of State.

15.4 *Record Retention*: The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three (3) 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 Agreement.

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

15.5 *Ethics and Conflict of Interest Laws*: LPA agrees that they are currently in compliance and will continue to adhere to the requirements of Ohio and Federal Ethics and Conflict of Interest laws as provided by ORC Sections 102.03, 102.04, 2921.42 and 2921.43 and 23 CFR 1.33.

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

15.7 *Trade:* Pursuant to the federal Export Administration Act and ORC 9.76(B), the LPA and any contractor(s) or sub-contractor(s) shall warrant that they are not boycotting any jurisdiction with whom the United States and the STATE can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

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

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

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

15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC 153.02 or 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.

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

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

15.12 *Merger and Modification*: This Agreement constitutes the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.

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

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

15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile or electronic 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:	**STATE OF OHIO** **OHIO DEPARTMENT OF TRANSPORTATION**
By:	By:
Title:	Pamela Boratyn Director
Date:	Date:

XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO

Procedural History & Timeline:
Presentation & Vote: April 9, 2026
Effective Date: April 9, 2026

Agenda Item: **RESOLUTION 2026 – 024**
AUTHORIZING THE EXECUTION OF A FUNDING AGREEMENT WITH UNITED WAY OF THE GREATER DAYTON AREA FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE FIRST GRADE FUTURES PROGRAM

Submitted by: Donnette A. Fisher, Law Director
Presented by: Mayor Ethan Reynolds

Summary: This resolution authorizes the execution of a contract with the United Way of the Greater Dayton Area for the establishment and administration of the First Grade Futures Program ("the Program"). The Program will be a collaborative initiative designed to kickstart post-secondary education saving for first graders who are residents of the City of Xenia at the time of enrollment. By providing a $100 seed deposit into an Ohio 529 CollegeAdvantage Plan, the City's goal is to foster a culture that prepares students for both college and career technical certification pathways, while reducing financial barriers for families in our community. The United Way will serve as the administrative and outreach lead for the Program, with a focus on marketing the Program, enrollment verification, assisting families with establishment of a 529 CollegeAdvantage account, and facilitating the transfer of the seed deposit from the City to the established account.

Although the goal is to establish at least a four-year Program, the contract is initially for a one-year period. This will give Council the opportunity to evaluate the Program after a year to gauge enrollment success rates. Of the $41,500 contract amount, $25,000 is set aside for seed deposits of up to 250 resident first graders for the first year of the Program. The remaining $16,500 is the cost of services for the United Way to establish and administer the Program. These services will include marketing and outreach to Xenia families, Program staffing, and creating the digital infrastructure for the Program. If Council determines to continue the Program after the first year, the cost of marketing and digital infrastructure created in the first year will reduce costs in subsequent years.

Cover Memo Attachments: Draft contract

Budgetary Impact: Fund No. 101-1001-59199 $41,500

Vote Required for Adoption: The affirmative vote of a majority of the members of Council present at the meeting (Charter § 5.05 A.).

Recommendation: Pass Resolution 2026-024 to authorize the execution of a contract with the United Way of the Greater Dayton Area to establish and administer the First Grade Futures Program for a one-year pilot period.

CITY OF XENIA, OHIO
RESOLUTION 2026 – 024

AUTHORIZING THE EXECUTION OF A FUNDING AGREEMENT WITH UNITED WAY OF THE GREATER DAYTON AREA FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE FIRST GRADE FUTURES PROGRAM

WHEREAS, in a 2013 study paper published by Elsevier in Children and Youth Services Review, it is reported that children from low- and moderate-income households (less than $50,000 of annual income) who have $1 - $499 in post-secondary savings are three times (3x) more likely to enroll and four times more likely to graduate from post-secondary degree or certificate programs than children with no account;

WHEREAS, parents who have opened post-secondary savings accounts for their children are three times (3x) more likely to expect their children to attend college or achieve career technical certification, increasing to thirteen times (13x) more likely for parents with no college education;

WHEREAS, Ohio has created the Ohio 529 CollegeAdvantage Plan, which is a state-sponsored, tax-advantaged savings program designed to help families save for education expenses after high school;

WHEREAS, this Council desires to provide funding for a pilot program Children's College Savings Account initiative, to be called the “First Grade Futures Program” (the "Program") in Xenia to create opportunities for low- and moderate-income families who reside within the geographic boundaries of the City to establish Ohio Tuition Trust Authority College Advantage 529 Savings Plans for their children, promoting long-term educational and financial security; and

WHEREAS, the City and the United Way of the Greater Dayton Area desire to collaborate on the Program, and the United Way has agreed to serve as the lead entity in the establishment and administration of the Program, which will include administering the funds for the Program and coordinating efforts with the other core partners in furtherance of the goal to scale and transition to a sustainable public-private partnership model for the Program,

NOW, THEREFORE, THE CITY OF XENIA HEREBY RESOLVES, a majority of the members of City Council present concurring, that:

Section 1. The City Manager is hereby authorized to execute, on behalf of the City, a funding agreement with the United Way of the Greater Dayton Area for the establishment and administration of the First Grade Futures Program, upon such terms and conditions as are approved by the Law Director.

Section 2. It is hereby found that all formal actions of this Council concerning and relating to the passage of this Resolution were conducted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC § 121.22.

Section 3. This Resolution shall become effective immediately upon its passage.

Passed: April 9, 2026

Wesley E. Smith
Xenia City Council President

Attest:

Amy E. Brown
City Clerk

FUNDING AGREEMENT
Between United Way of the Greater Dayton Area and the City of Xenia
For 529 Children's Savings Accounts

This Funding Agreement ("Agreement") is made by and between the CITY OF XENIA, OHIO, an Ohio municipal corporation, 107 E. Main Street, Xenia, Ohio 45385 ("City") and UNITED WAY OF THE GREATER DAYTON AREA, an Ohio non-profit corporation, 409 E. Monument Avenue, Suite 405, Dayton, Ohio 45402 ("Recipient"), the City and Recipient collectively referred to herein as "the Parties."

RECITALS

I. In a 2013 study paper published by Elsevier in Children and Youth Services Review, it is reported that children from low- and moderate-income households (less than $50,000 of annual income) who have $1 - $499 in post-secondary savings are three times (3x) more likely to enroll and four times more likely to graduate from post-secondary degree or certificate programs than children with no account.

II. Parents who have opened post-secondary savings accounts for their children are three times (3x) more likely to expect their children to attend college or achieve career technical certification, increasing to thirteen times (13x) more likely for parents with no college education.

III. The State of Ohio has created the Ohio 529 CollegeAdvantage Plan, which is a state-sponsored, tax-advantaged savings program designed to help families save for education expenses after high school.

IV. The City desires to provide funding for a pilot program Children's College Savings Account ("CCSA") initiative, to be called the "First Grade Futures Program" (the "Program") in Xenia to create opportunities for low- and moderate-income families who reside within the geographic boundaries of the City to establish Ohio Tuition Trust Authority ("OTTA") College Advantage 529 Savings Plans ("529 Accounts") for their children, promoting long-term educational and financial security.

V. Recipient will serve as the lead entity in the implementation of the Program, providing the Program administration services set forth in Exhibit A: Program Services (the "Services"), with the goal of administering the funds for the Program and coordinating efforts with the other core partners in furtherance of the goal to scale and transition to a sustainable public-private partnership model for the Program.

VI. The City and Recipient desire to enter into this Agreement to memorialize the terms and conditions with respect to the Services and the utilization of the City funding.

VII. Funding for this Agreement was authorized by Ordinance No. 2026-14, passed by City Council on April 9, 2026, for the purpose of funding 529 Accounts for first grade children who reside within the City of Xenia.

FOR AND IN CONSIDERATION OF the promises, covenants and agreements herein contained, the parties mutually agree as follows:

1. **FUNDED SERVICES.** Subject to the terms of this Agreement, Recipient shall, in a satisfactory and proper manner as determined by the City Manager of the City, utilize the Funds (as defined in Section 3 herein) in furtherance of the Services more fully described in Exhibit A. Recipient does hereby acknowledge and agree that the Services to be performed under this Agreement, and the corresponding

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funding provided by the City to affect the same, shall be provided and expended only within the corporate boundaries of the City of Xenia. Recipient shall use its best efforts to ensure that the Services are provided only to residents of the City of Xenia, and that to the extent personal information is collected by the Recipient regarding specific beneficiaries of the Services provided hereunder, and such information reveals the beneficiary to not be a resident of the City of Xenia, the City reserves the right to refuse payment to or demand repayment from the Recipient under the terms of this Agreement for the provision of such Services. To the extent that the terms of Exhibit A may contradict the foregoing in any manner, the provisions of this section shall be controlling.

2. TERM. This term of this Agreement shall commence on May 1, 2026 ("Effective Date") and shall terminate on April 30, 2027 (the "Term"), unless this Agreement is sooner terminated as herein provided. Thereafter, this Agreement may be renewed for one-year terms ("Renewal Terms") upon the written agreement of the Parties. Recipient and the City acknowledge that Recipient has certain reporting requirements as documented on Exhibit A and Sections 8, 12, and 13 that extend past the Term and any Renewal Terms, and Recipient shall perform those obligations after the Term and any Renewal Terms.

3. FUNDS. Subject to the terms and conditions of this Agreement, the City shall pay to the Recipient funding for provision of the Services for the Term an amount not to exceed the sum of Forty-One Thousand Five Hundred Dollars [$41,500] (the "Funds") and to be utilized in accordance with the itemized amounts set forth on Exhibit B (Budget) attached hereto. The City shall disburse the Funds to Recipient in accordance with Section 4, and Recipient agrees to accept such amounts for the provision of the Services. Recipient shall use the Funds solely for expenses itemized in Exhibit B and for no other purpose.

4. METHOD AND CONDITIONS OF PAYMENT.

(a) Method of Payment. The City shall pay the Funds to Recipient for the Services for which vouchers and similar documentation to support payment are maintained by Recipient under procedures approved by the City.

(b) As Authorized Under Program Services and Budget. Funds shall be disbursed by Recipient only as authorized under the provisions of Exhibit A and Exhibit B hereto.

(c) Conditions of Disbursement. The City shall make a single advance disbursement of $41,500 as soon as is practicable after the Effective Date; provided that, Recipient is not in default of this Agreement. The City shall make this disbursement only when Recipient meets all the following conditions:

(1) Submission of an invoice or request for payment to the City, which is accompanied by an original affidavit certifying the intended usage of the Funds.

(2) Recipient shall establish an accounting system including reporting, vouchering and invoicing, with adequate internal controls, to ensure proper accounting of receipts and disbursements by Recipient. A copy of Recipient's accounting system procedures or financial audit shall be kept on file with the City's Finance Department.

(3) Recipient shall provide the City's Finance Department with documentation or other proof of nonprofit or tax-exempt status, including IRS Sec. 501(c)(3) determination letters or other documentation acceptable to the City.

(4) Recipient shall furnish the City with a statement from Recipient's Executive Director, President, or Chief Financial Officer, or its insurer, certifying that all persons handling funds related to this Agreement are covered by fidelity insurance in an amount not less than ten percent (10%) of the maximum amount payable to Recipient hereunder. Recipient further shall provide a copy of the declarations page of such insurance to the City evidencing such coverage.

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If such insurance or bond is cancelled or reduced, Recipient shall notify the City's Finance Director immediately and shall be ineligible for further funding until such coverage has been obtained.

(d) Conditions Subsequent to Disbursement. Recipient's entitlement to Funds made available to Recipient by advance disbursement is subject to the following requirements:
   (1) Recipient shall deposit all Funds received directly into a single commercial checking account which shall be used for the receipt and disbursement of Funds received from the City or other sources for the purposes set forth in this Agreement.
   (2) Disbursements made by Recipient shall be by numbered checks drawn on Recipient's commercial checking account or may be by ACH transactions provided that Recipient's transaction records clearly indicate the person or entity to which payment was made and the transaction easily can be associated with a particular invoice, receipt, awarded grant, payroll record, contract, or similar record establishing the purpose of the payment.
   (3) Compensation for employees hired under this Agreement, including wages, salaries and supplementary benefits, shall not exceed compensation paid for similar work by City employees or similar work performed in the labor market. Compensation shall be subject to adjustment by the City if, in the sole judgment of the City, these levels are exceeded.
   (4) No payment shall be made for items designated as ineligible costs.
   (5) Recipient shall be responsible for returning to City at the expiration or other termination of this Agreement, any funds advanced to but not yet earned by Recipient for its services and any Funds not yet expended for 529 Account Seed Deposits.
   (6) Recipient's monthly and final reports to the City shall be accompanied by documentation satisfactory to the City indicating expenses incurred and payments made, such as grants awarded, payroll records, invoices, time sheets indicating hours worked, contracts, receipts, canceled checks, carbons of checks or check registers and corresponding bank statements or reasonable facsimiles thereof, and such other information and supporting documentation as the City may require.

5. PROHIBITION AGAINST PAYING FOR ANY SERVICE RENDERED OR EXPENSE INCURRED PRIOR TO EFFECTIVE DATE. The compensation provided for by this Agreement may only be disbursed for Services rendered or expenses incurred on or after May 1, 2025. No Funds shall be spent for any service rendered or expense incurred prior to that date.

6. INDEPENDENT CONTRACTOR. Recipient shall perform all Services described herein as an independent contractor and not as an officer, agent, servant, or employee of the City. Recipient shall have exclusive control of and the exclusive right to control the details of the Services and work performed hereunder and all persons performing the same and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be construed as creating a partnership or joint venture between the City and Recipient. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant or employee of the City, nor shall any such person be entitled to any benefits available or granted to employees of the City.

7. DIRECT PROVISION OF SERVICES, SUCCESSORS, AND ASSIGNS.

(a) Direct Provision Of Services. Recipient agrees that it shall directly provide the Services and shall not engage another person, entity, or organization ("Person") to provide the Services without the prior written approval of the City. To the extent the City permits Recipient to engage another Person to provide any portion of the Services, Recipient shall engage such Person by written contract or agreement that specifies that portion of the Services to be provided by such Person and further specifies said agreement shall be subject to each provision of this Agreement. In the event

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Recipient engages a Person to perform any portion of the Services without first securing the City's written approval, the City shall have the right to withhold any of the Funds due to Recipient until such Person is approved by the City. The City also may require Recipient to repay any portion of Funds advanced by City as determined by the City in its sole discretion.

(b) Assignment. Recipient shall not assign or transfer its interest in this Agreement without the prior written consent of the City.

8. DATA REPORTING METRICS. Recipient shall track and record data to provide the data reporting ("Data Reporting Metrics") required in Exhibit A. Recipient shall maintain the underlying data summarized in the Reporting Metrics for the period provided in Section 12 herein and shall provide the underlying data to the City upon request.

9. AUTHORIZATIONS. All notices, approvals, authorizations, waivers, instructions, or determinations by the City shall be effective only when written and signed by the individual identified to receive notice for the City in Section 17, or his or her designee.

10. RECIPIENT'S INSURANCE AND INDEMNIFICATION.

(a) Workers' Compensation. Recipient shall secure and maintain such insurance as will protect Recipient from claims under the Workers' Compensation Laws.

(b) General Liability Insurance. Recipient shall secure and maintain such commercial general liability insurance as will protect Recipient from claims for bodily injury, death or property damage which may arise from the performance of Recipient's services under this Agreement, with a combined single limit for bodily injury and property damage liability of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate. Recipient's insurance policy shall name the City as an additional named insured and shall contain a provision prohibiting the insurer from canceling the policy without notifying the City in writing at least ninety (90) days prior to cancellation. Within ten (10) days following execution of this Agreement, Recipient shall send proof of all such insurance to the City at the address specified above or such other address as may be specified by the City in writing from time to time.

(c) Indemnification of the City. Recipient shall indemnify, defend, and save City, its agents, and employees harmless from and against any and all losses, damages, claims, causes of action, settlements, costs, charges, professional fees, and liability of every kind and character arising out of or relating to the actions or inactions by Recipient, its officers, employees, agents, contractors, and subcontractors in connection with this Agreement. Further, Recipient shall protect and save the City harmless from any and all obligations to reimburse any government entity for disallowed costs paid by the City to Recipient.

11. COMPLIANCE WITH LAWS, REGULATIONS, AND PROGRAMS.

(a) Generally. Recipient in the performance of the Services shall obtain all necessary permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the Services, including any and all applicable rules, orders, guidelines, laws, regulations, and binding directives issued by the federal government, the State of Ohio, and/or the City.

(b) Compliance with Ohio Revised Code Section 149.431. If Recipient is a non-profit corporation, it shall comply with Section 149.431 of the Ohio Revised Code, which provides: "Any non-profit corporation or association that enters into a contract with a political subdivision shall keep accurate and complete financial records of any money expended in relation to the performance of the

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services pursuant to such contract. Such contract and financial records are deemed to be public records."

(c) Minimum Wage. This Agreement is subject to the provisions of Ohio Revised Code Section 4111.02 relating to minimum wage.

(d) Conflict of Interest. Recipient agrees to report to the City any potential conflicts of interest under any applicable laws before entering into this Agreement and agrees to report to the City any potential conflicts of interest that Recipient discovers at any time during the Term.

(e) Employee or Agent of City. Recipient agrees that no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, nor any immediate family member, close business associate, or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in Recipient or in this Agreement, and Recipient shall take appropriate steps to assure compliance.

(f) Subcontractors. Recipient shall not contract with any subcontractors in which it has any personal financial interest, direct or indirect. Recipient covenants that in the performance of this Agreement no person having any conflicting interest shall be employed.

12. REPORTS, INFORMATION, AND AUDITS.

(a) Submission of Reports. In such form as the City may require, Recipient shall collect, maintain, and furnish to the City data, information, and reports as may be requested that pertain to the Services performed under this Agreement, the costs and obligations incurred or to be incurred in connection therewith, financial or operational controls, and/or any other matters covered by this Agreement, including without limitation, such accounting, financial, administrative, and operational statements and reports as may be required for compliance with programs and projects funded by the City, the State of Ohio, or any federal agency. If requested by the City, financial statements furnished by Recipient shall be audited.

(b) Record Retention. Recipient shall, throughout the Term of this Agreement and for a minimum of three (3) years after the expiration or termination of this Agreement, keep and retain all accounting, financial, administrative, and operational statements and records, including the underlying data for any summary reports and Reporting Metrics, pertaining to all matters covered by this Agreement.

(c) Access/Right to Inspect and Audit. Upon request during the Term of this Agreement and for a period of three (3) years after the expiration or termination of this Agreement, Recipient shall permit the City or any designee or auditor to have access to and to inspect and audit all such accounting, financial, administrative and operational books, records, and statements of Recipient that relate or pertain to this Agreement or as necessary for the City to ensure that federal awards and funds are used for authorized purposes in compliance with laws, regulations, and the provision of contracts or grant agreements and that performance expectations and goals are achieved.

13. SPECIAL REPORTING REQUIREMENTS.

(a) Monthly Expense Reports. Within fifteen (15) days following the end of each calendar month during the Term, Recipient shall provide the City with a monthly report describing the Services performed, expenses incurred, and payments made during the month that just ended and containing such other information and supporting documentation as the City may require.

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(b) Participation in Status Meetings. Recipient shall participate in meetings providing updates to the City related to Recipient's performance of this Agreement as reasonably requested by the City.

(c) Final Report. Within thirty (30) days following the end of the Term, Recipient shall provide the City with a final report describing the Services performed, expenses incurred, and payments made during the Term and containing such other information and supporting documentation as the City may require. If the actual expenses incurred by the Recipient during the Term are less than the amount of the Funds, Recipient's final report shall be accompanied by a payment in an amount equal to the unused Funds.

14. CERTIFICATION AS TO NONDEBARMENT. Recipient certifies that neither Recipient nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation from the transaction covered by this Agreement. Recipient acknowledges and agrees that if it or its principals are presently debarred, it shall not be entitled to payment under this Agreement and it shall promptly return to the City any and all funds received pursuant to this Agreement. In such event, any and all materials received by the City pursuant to this Agreement shall be retained by the City.

15. NONPERFORMANCE AND TERMINATION.

(a) Breach by Recipient. If, through any cause, Recipient shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Recipient shall violate any of the covenants or agreements of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to Recipient specifying the effective date of the termination, which shall be at least ten (10) days before such effective date (the "Notice Period"). If Recipient cures the breach during the Notice Period to the satisfaction of the City in its sole discretion, then this Agreement shall not terminate under the notice. If the breach is not cured to the satisfaction of the City during the Notice Period, the Agreement shall automatically terminate on the effective date specified in the original written notice. In the event of termination, all finished or unfinished documents, data, studies, reports and/or information prepared by Recipient under this Agreement shall, at the option of the City, become the City's property. If the City terminates this Agreement, Recipient shall be entitled to receive equitable compensation for any work satisfactorily completed at the date of termination but shall return to the City and Funds in Recipient's possession for 529 Account Seed Deposits which have not yet been expended and any Funds for Services not yet performed.

(b) Breach by City. Recipient shall have the right to terminate this Agreement in the event of a breach by the City by giving written notice to City specifying the date of termination, which shall be at least ten (10) days before such effective date (the "Notice Period"). If City cures the breach during the Notice Period, then this Agreement shall not terminate under the notice. If the breach is not cured during the Notice Period, the Agreement shall automatically terminate on the effective date specified in the original written notice. If Recipient terminates this Agreement, Recipient shall be entitled to receive equitable compensation for any work satisfactorily completed at the date of termination but shall return to the City and Funds in Recipient's possession for 529 Account Seed Deposits which have not yet been expended and any Funds for Services not yet performed.

16. OWNERSHIP OF PROPERTY. Upon the expiration or termination of this Agreement, any and all memoranda, maps, drawings, working papers, reports, and other similar documents produced in connection with this Agreement shall become the property of the City and Recipient shall promptly deliver such items to the City. Recipient may retain copies for Recipient's records.

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17. **NOTICES.** All notices shall be personally delivered or sent by U.S. mail addressed to the Parties as follows, with an electronic copy emailed to the email address listed below or addressed in such other way in respect to either Party as that Party may from time to time designate. Recipient shall promptly notify the City of any change of address.

To the City:	To Recipient:
City of Xenia, Ohio	United Way of the Greater Dayton Area
107 E. Main Street	409 E. Monument Avenue, Suite 405
Xenia, OH 45385	Dayton, OH 45402
Attention: Finance Director	Attention: President & CEO
rduke@cityofxenia.org	tomk@dayton-unitedway.org

18. **OUTSIDE CONTRACTS.** Recipient may contract with other public and private organizations and secure donations to provide services, except that Funds shall be used solely for the Services. Recipient shall notify the City within seven (7) business days after the execution of any such agreement. Recipient shall keep records of the receipts and expenditures that result from such outside funds. Said records shall be in the same form as for the Funds provided hereunder. The City shall have the right to inspect said records at any time during reasonable business hours.

19. **NONEXCLUSIVE AGREEMENT.** This is a nonexclusive Agreement. The City may procure the same or other similar Services from other Recipients at any time during the Term of this Agreement.

20. **CITY IDENTIFICATION IN MARKETING ACTIVITIES.** Recipient shall identify the City as a sponsor of Services undertaken pursuant to the terms of this Agreement on any and all stationery, informational releases, pamphlets, and brochures; and publicity, including that appearing on television or cable television, on the radio or in the press.

21. **GOVERNING LAW.** This Agreement is entered into and is to be performed in the State of Ohio. The City and Recipient agree that the laws of the State of Ohio and City of Xenia shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement. All actions regarding this Agreement shall be brought in the Greene County Court of Common Pleas, and Recipient agrees that venue in such court is proper. The parties hereby waive trial by jury with respect to all disputes arising under the Agreement.

22. **WAIVER.** This Agreement shall be construed in a manner that a waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

23. **ENTIRETY.** This Agreement and the exhibits and attachments, if any, hereto constitute the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

24. **SEVERABILITY.** This Agreement shall be severable, and if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

25. **AMENDMENT.** This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

DRAFT

26. REVERSION OF ASSETS. Upon the expiration or termination of this Agreement, Recipient shall transfer to the City any and all unused Funds previously received from the City and any and all accounts receivable attributable to the use of Funds received from the City.

27. ELECTRONIC SIGNATURES. This Agreement shall be signed with the use of digital or electronic signatures, which shall be considered valid and binding on the Parties, in accordance with ORC 1306.06.

28. EXHIBITS. The following attachments are hereby incorporated into and made a part of this Agreement:

Exhibit A - *Program Services*
Exhibit B – *Budget*

RECIPIENT:
United Way of the Greater Dayton Area

By: _____
Tom Kelley, President & CEO

Date: _____

CITY:
City of Xenia, Ohio

By: _____
Brent W Merriman, City Manager

Date: _____

CERTIFICATE OF FISCAL OFFICER

It is hereby certified that the amount of $41,500.00 required to meet the obligations under this contract has been lawfully appropriated, authorized, or directed for such purpose and is in the City Treasury or is in the process of collection to the credit of Fund No. 101-1001-59199 free from any previous encumbrances.

Date: _____

_____
Ryan Duke
Xenia Finance Director

Approved as to form:

_____
Donnette A. Fisher
Xenia Law Director

DRAFT

EXHIBIT A
PROGRAM SERVICES

Program Overview.

The First Grade Futures Program is a collaborative pilot initiative designed to kickstart post-secondary savings for every first grader who is a resident of the City of Xenia. By providing a $100 seed deposit into an Ohio 529 College Savings Plan, the City of Xenia and United Way of the Greater Dayton Area aim to foster a culture that prepares students for both college and career technical certification pathways and reduce financial barriers for local Xenia families. The Program, through its partners, shall, among other things, create opportunities for low- and moderate-income families who reside in the City of Xenia to establish OTTA College Advantage 529 Savings Plans for their children, expose those households and their children to financial literacy, and motivate academic and social preparation for post-secondary education by setting up an expectation for post-secondary education from a young age. First graders who are not residents of Xenia shall not be eligible for the Program.

Scope of Services.

1. Partner Coordination. Recipient shall administer the Funds and coordinate the efforts of the core partners in furtherance of the Program goals as set forth herein, acting as the central organizer for partnerships, outreach efforts, and progress tracking while maintaining regular communication with the City.

2. Administrative Functions. United Way of the Greater Dayton Area will serve as the administrative and outreach lead for the Program, focusing on:
   - Enrollment Verification: Managing the verification of student eligibility across public and private schools.
   - Community Engagement: Executing a "boots on the ground" marketing strategy to drive parent participation.
   - Technical Assistance: Providing one-on-one "Office Hours" and workshops to help parents navigate the Ohio 529 portal.
   - Account Coordination: Facilitating the transfer of city-provided funds into individual state-held accounts.

3. Outreach Strategy.
   - The "Back-to-School" Splash: A high-visibility launch in August during "Meet the Teacher" nights and community festivals, integrated with UWGDA Back-to-School Backpack & Hygiene Drive.
   - Digital Hub: Development of a secure, parent-friendly landing page featuring "How-to" videos and direct enrollment links.
   - Quarterly Workshops: "Coffee & College Savings" events held at the local library during peak enrollment months (October and January) to provide hands-on support.
   - Direct Outreach: Coordination with Xenia Schools to utilize "take-home folders" and local downtown festivals for enrollment booths.

4. Evaluation and Monitoring. Recipient will prioritize the collection and analysis of project data to measure impact and identify areas for improvement. Metrics will include conversion rates, investment participation levels, and educational outcomes. Relationships with educational providers will be strengthened to incorporate evaluation markers such as state testing results and academic milestones, providing a robust assessment framework. Metrics information and progress toward deliverables for the period ending December 31, 2026, shall be included in a written report delivered to the City not later than April 1, 2027. The report shall include:
   - Number of children enrolled in 529 plans as of December 31, 2026.
   - Where the child attends first grade.
   - Number and % of families making additional contributions to accounts.

EXHIBIT B
BUDGET

-

Proposed Pilot Budget (Year 1)
Based on updated enrollment data showing a ceiling of approximately 400 students, we suggest a start-up number of 250 is likely in the pilot year.

Category	Description	Estimated Cost
529 Seed Deposits	$100 per student (250 students)	$25,000
Marketing & Outreach	Grassroots engagement, branded "swag" (piggy banks, stationery), and print materials.	$9,000
Program Staffing	Enrollment verification, data management, and 1-on-1 parent "Office Hours."	$6,000
Digital Infrastructure	Professional, secure landing page & instructional video hosting.	$1,500
TOTAL REQUEST		$41,500

Marketing Spend Breakdown
August Launch: $3,000 (Peak visibility)
Quarterly Pushes: $1,500 each (October/January/March)
Maintenance Months: $200–$500/mo. (social media/flyers)

Implementation Recommendations
Data Sharing Agreement: We recommend the City facilitate a formal agreement with local schools to allow for real-time tracking of all students / children enrolled in the program at any time to meet the eventual full population currently estimated at 400.

Council Involvement: We welcome the participation of City Council members at our quarterly "Sign-up Days" to emphasize the city's commitment to its youngest residents.

Scalability: While presented as a Year 1 pilot, the infrastructure (Digital Hub/Marketing assets) created in this phase will reduce per-student costs in subsequent years of the 4-year program.

XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO

Procedural History & Timeline:

Introduction:	April 9, 2026
Effective Date:	April 9, 2026

Agenda Item: **RESOLUTION 2026 – 025**
AUTHORIZING THE PURCHASE OF A TRUCK MOUNTED COMBINATION SEWER CLEANER FOR THE PUBLIC SERVICE DEPARTMENT FROM A & H EQUIPMENT COMPANY THROUGH THE SOURCEWELL COOPERATIVE PURCHASING PROGRAM

Submitted By: Chris Berger, Public Service Director
Presented By: Brent Merriman, City Manager

Summary: While Public Service Department staff has remained diligent in extending the life of Department equipment whenever possible, the Department's combination sewer cleaner ("vac truck") has reached a point where further investment in its maintenance is no longer justifiable. The current vac truck is a 2010 model that has well exceeded its intended life span. There is extensive corrosion throughout the unit, including the water tanks, vacuum mechanism, and boom. Significant internal corrosion within the tanks is progressing outward, further compromising the unit's integrity. Additionally, the blower requires replacement – a costly repair that renders the unit unreliable for continued service.

Knowing this unit would need to be replaced, $450,000 was allocated in the 2026 Sewer CIP for this purchase. Consistent with previous equipment acquisitions, staff proposes purchasing the new vac truck through the Sourcewell Cooperative Purchasing Program (Contract #101221) at a total price of $514,415.71 (inclusive of the trade-in value for the existing unit), which includes a limited parts warranty. To complete the purchase, an additional appropriation of $64,415.71 from the Sewer Fund is necessary (Ordinance 2026-14). Staff is requesting an actual appropriation of $70,000 instead to provide for any unforeseen expenses associated with the current unit, especially considering delivery of the new unit may require 12–18 months.

Cover Memo Attachment(s): Cost Proposal from A&H Equipment Company dated March 16, 2026.

Budgetary Impact: Account #665-1332-55401-011113 $514,415.71

Vote Required for Passage: The affirmative vote of a majority of the members of Council present at the meeting, per Charter § 5.05(A).

Recommendation: It is the recommendation of staff that Council pass Resolution 2026-025 to authorize the purchase of a truck mounted combination sewer cleaner (vac truck) for the Public Service Department through the Sourcewell Cooperative Purchasing Program.

CITY OF XENIA, OHIO
RESOLUTION 2026 – 025

AUTHORIZING THE PURCHASE OF A TRUCK MOUNTED COMBINATION SEWER CLEANER FOR THE PUBLIC SERVICE DEPARTMENT FROM A & H EQUIPMENT COMPANY THROUGH THE SOURCEWELL COOPERATIVE PURCHASING PROGRAM

WHEREAS, this Council finds it necessary, upon the recommendation of the City Manager and the Public Service Director, to replace the combination sewer cleaner for the Public Service Department's Maintenance Division;

WHEREAS, pursuant to Xenia City Charter § 9.08 (B)(3), competitive bidding is not required for purchases made through a Council approved cooperative purchasing program where the cost has already been set by bid;

WHEREAS, this Council, by Resolution 2022-VVV, passed on December 28, 2022, approved the City's participation in the Sourcewell Cooperative Purchasing Program;

WHEREAS, Xenia City Code § 214.06(g) authorizes the trade-in of existing equipment that needs to be replaced with other equipment of the same type to be made simultaneously with the purchase of the new equipment; and

WHEREAS, pursuant to Section 214.01 of the Xenia City Code § 214.01, even where competitive bidding is not required, Council approval is still required for any purchase of $79,568 or more,

NOW, THEREFORE, THE CITY OF XENIA HEREBY RESOLVES, a majority of the members of Council present concurring, that:

Section 1. The City Manager is hereby authorized to execute, on behalf of the City, a contract with A&H Equipment Company, 1045 Taylor Road, Gahanna, Ohio 43230 for the purchase of a truck mounted sewer cleaner, in the total amount of Five Hundred Fourteen Thousand Four Hundred Fifteen Dollars and Seventy-One Cents ($514,415.71), pursuant to the Sourcewell Cooperative Purchasing Program, Contract #101221. Such purchase shall include the trade-in of the City's existing vac truck, as authorized by Xenia City Code § 214.06(g).

Section 2. It is hereby found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC § 121.22.

Section 3. This Resolution shall become effective immediately upon its passage.

Passed: April 9, 2026

Attest:

Wesley E. Smith
Xenia City Council President

Amy E. Brown
City Clerk

A&H EQUIPMENT

Regional Leadership – World Class Quality

3/16/2026

City of Xenia, OH

ATTN: Mr. John Collins

We are pleased to submit a quotation for the equipment listed below:

Vactor Supplied Chassis - Single Axle -2027 Freightliner 114SD SBA - 370 HP - Auto -46 -000 GVWR - EPA24

Per the Sourcewell Contract #101221

Total Sale Price $545,502.00

Less Sourcewell Discount ..... ($12,586.29)

Freight, PDI, & Training $6,500.00

Less Trade-In Navistar VIN #1HTWKAZR1BJ366559 / Vactor Date Manufacturing 07-2010..... ($25,000)

Total Net Sale Price $514,415.71

This quotation becomes a contract for payment and delivery of the merchandise listed above only when signed by the customer or one of its officers.

Customer: _____

By: _____

Date: _____

Rob Stineman

Rob Stineman
A. & H. Equipment Company

Regional Leadership – World Class Quality

3/9/2026

City of Xenia, OH

ATTN: Mr. John Collins

We are pleased to submit a quotation for the equipment listed below:

Vactor Supplied Chassis - Single Axle -2027 Freightliner 114SD SBA - 370 HP - Auto -46 -000 GVWR - EPA24

Per the Sourcewell Contract #101221

Total Sale Price $545,502.00

Less Sourcewell Discount ..... ($12,586.29)

Freight, PDI, & Training $6,500.00

Total Net Sale Price $539,415.71

This quotation becomes a contract for payment and delivery of the merchandise listed above only when signed by the customer or one of its officers.

Customer: _____

By: _____

Date: _____

Rob Stineman

Rob Stineman
A. & H. Equipment Company

VACTOR

A & H Equipment Presents a

Proposal Summary

2100i

Truck Mounted Single Engine
Combination Sewer Cleaner

For: City of Xenia, OH
ATTN: Mr. John Collins



VACTOR

BASIC

MODEL

Vacuum System	Roots 824-18 Blower	**Debris Body Capacity (cu.yd.)**	10.00
Model Type	Combo	**Water Capacity**	1000
Water Flow	80.00	**Water Pressure**	2500
Chassis Source	Vactor	**Water Tank Material**	Aluminum
Controls		**Blower High Temp Shutdown**	true

CHASSIS

PAFS370A-2027-CH	Vactor Supplied Chassis - Single Axle -2027 Freightliner 114SD SBA - 370 HP - Auto -46 -000 GVWR - EPA24	$125,559.00

STANDARD FEATURES

002iSTD	JetRight Technology	$0.00
010iSTD	Operator Station Curbside Toolbox	$0.00
011iSTD	Aluminum Fenders	$0.00
012iSTD	Mud Flaps	$0.00
016iSTD	Color Coded Sealed Electrical System	$0.00
019iASTD	Intuitouch Electronic Package	$0.00
020iSTD	Double Acting Hoist Cylinder	$0.00
025iASTD	Handgun Assembly	$0.00
026iSTD	Ex-Ten Steel Cylindrical Debris Tank	$0.00
030iSTD	Flexible Hose Guide	$0.00
032iSTD	(3) Nozzles with Carbide Inserts w/Rack	$0.00
045iSTD	Suction Tube Storage	$0.00
046iSTD	1" Nozzle Pipe	$0.00
048iSTD	10' Leader Hose	$0.00
1001iSTD	Flat Rear Door w/Hydraulic Locks	$0.00
1005iSTD	Dual Stainless Steel Float Shut Off System	$0.00
1009iBSTD	Internal Body Screen - Included	$0.00
1011iSTD	Microstrainer Prior to Blower	$0.00
1023iSTD	Lube Manifold, with Lube Chart	$0.00
1024iSTD	Debris Body Vacuum Relief System	$0.00

VACTOR

1031iSTD	Debris Deflector Plate	$0.00
1032iSTD	48" Dump Height	$0.00
1041iSTD	Debris Body-Up Message and Alarm	$0.00
2001iSTD	Low Water Indicator On Screen w/Alarm and Water Pump Flow Indicator	$0.00
2011iSTD	3" Y -Strainer at Passenger Side Fill with 25' Fill Hose	$0.00
2014iSTD	1000 Gallons STD	$0.00
2022iSTD	Additional Water Tank Sight Gauge	$0.00
2023iSTD	Liquid Float Level Indicator	$0.00
3019iSTD	Digital Water Pressure Gauge	$0.00
4006iSTD	Front Joystick Boom Control	$0.00
4010iSTD	Boom Hose Storage	$0.00
4017iSTD	Boom Out of Position Message and Alarm	$0.00
5010iSTD	Rodder System Accumulator - Jack Hammer on/off Control w/ manual valve	$0.00
5011iSTD	3"Y -Strainer @ Water Pump	$0.00
5015iSTD	Midship Handgun Coupling	$0.00
5019iSTD	Chassis Engine Cooling Package	$0.00
5022iSTD	Side Mounted Water Pump	$0.00
6005iDSTD	Digital Hose Footage Counter	$0.00
6007iSTD	Hose Reel Manual Hyd Extend/Retract	$0.00
6009iSTD	Hose Reel Chain Cover	$0.00
6017iSTD	Hydraulic Tank Shutoff Valves	$0.00
6019iSTD	Rodder Pump Drain Valves	$0.00
6020iBSTD	Hydraulic Extending 15" - Rotating Hose Reel - 1" x800' Capacity	$0.00
7001iSTD	Tachometer/Chassis Engine w/Hourmeter	$0.00
7003iSTD	Water Pump Hour Meter	$0.00
7004iSTD	PTO Hour Meter	$0.00
7005iSTD	Hydraulic Oil Temp Alarm	$0.00
7007iSTD	Tachometer & Hourmeter/Blower	$0.00
8000iSTD	Circuit Breakers	$0.00
8025iSTD	LED Lights- Clearance- Back-up- Stop- Tail & Turn	$0.00

VACTOR

9002iSTD	Tow Hooks- Front and Rear	$0.00
9003iSTD	Electronic Back-Up Alarm	$0.00
9021iSTD	Camera System- Rear Only	$0.00
i110STD	Module Paint- DuPont Imron Elite - Wet on Wet	$0.00
S390ASTD	8" Vacuum Pipe Package	$0.00
S560STD	Emergency Flare Kit	$0.00
S590STD	Fire Extinguisher 5 Lbs.	$0.00

BOOM

4011iB	Bellypack Wireless Controls with hose reel controls- 2-way communications- and LCD Display	$4,227.00
4013i	Rotatable Boom Inlet Hose	$771.00
4015i	180 deg. 10ft Telescoping Boom	$20,765.00
4022iD	Telescopic Boom Elbow- Nickel Plated	$529.00

DEBRIS BODY

1015iBFSTD	Fixed Rear Door Pipe Rack -8" Pipe	$0.00
1003i	Debris Body Flushout	$2,054.00
1012i	6" Decant System w/ Air Actuated Knive Valve - Curbside	$3,077.00
1014i	Centrifugal Separators (Cyclones)	$7,174.00
1015i	Folding Pipe Rack - Curbside -8" Pipe	$1,426.00
1015iA	Folding Pipe Rack - Streetside -8" Pipe	$1,426.00
1022i	Rear Door Splash Shield	$2,091.00
3021i	Digital Debris Body Level Indicator Tied to Vacuum Relief	$1,227.00
5029i	Cyclone Washout System	$660.00

VACUUM OPTIONS

3015i	Front Blower Controls	$1,986.00
3017i	Blower High Temp Safety Shutdown	$708.00

VACTOR

6019iA	Final Filter and Silencer Ball Valve Drains	$600.00

REAR DOOR

1007i	6" Rear Door Butterfly Valve - 3:00 position	$1,094.00
1008iB	6" Rear Door Drain Port -6:00 position	$771.00

HOSE REEL

6002iB	600' x 1" Piranha Sewer Hose2500 PSI in lieu of STD	$1,233.00
6004iD	Rodder Hose Pinch Roller	$1,891.00
6014i	High Pressure Hose Reel	$1,985.00
6025iB	Hose Wind Guide (Dual Roller)- Auto-Indexing	$5,103.00

WATER TANKS

2004i	Continuous Water Tank Fill	$2,339.00
3020i	Digital Water Level Indicator	$914.00
5015i	Handgun Couplers- Front and Rear	$822.00

MISCELLANEOUS

8024i	Amber Lights for Flashing Light Package	$0.00
9023iA	Safety Cone Storage Rack - Post Style	$220.00
CM-PAFS370A-2027-01	Chassis Modifications - 2027 Freightliner PAFS370A	$400.00

LIGHTING

8001iL	Rear Directional Control- LED Split Arrowboard	$2,921.00
8002iA	Wireless- Waterproof- Rechargable- Handheld- LED Spot Light w/12V Charger	$484.00
8020iE	Lighting Package- 6 Federal Signal Strobe Lights	$2,102.00
8028iA	Worklights (2), Self-Leveling Boom LED	$1,073.00
8029iA	Worklight- LED- Operators Station	$797.00

VACTOR

8029iB	Worklight- LED- Hose Reel Manhole	$797.00

PAINT

Cab Paint Color	White	$0.00
Cab Paint Color Code		$0.00
Module Paint Color		$0.00
Module Paint Code		$0.00
i124STD	Vactor 2100i Body Decal- Standard	$0.00
V-LOGO-APPL.	Vactor Logos - Applied	$0.00

TOOLBOX

6031i	Front Hose Reel Tool Storage	$401.00
9070iA	Toolbox- Front Bumper Mounted- 16 x 12 x 18 w/(2) LED Side Markers	$2,651.00
9070iB	Long Handle Tool Storage	$469.00
9071iF	Toolbox- Behind Cab - 14w x 36h x 96d	$4,262.00
9074iA	Toolbox- Driver Side Subframe- 18w x 24h x 24d	$1,771.00

WATER ACCESSORIES

2006i	Air Purge	$1,759.00
5008iB	Cold Weather Recirculator- PTO Driven- 25 GPM	$2,333.00
5021iC	Hydro Excavation Kit - Includes Lances w/ Shield- Nozzles- Storage Tray- and Vacuum Tube	$3,535.00

WATER SYSTEM

5002iA	80 GPM/2500 PSI Jet Rodder pump	$0.00

VACTOR



VACTOR

Chassis Notes :-

Configured Price	$545,502.00
Freight, PDI, & Training	$6500.00
Sourcewell Discount	($12,586.29)
Total	$539,415.71

Please remember Price indicated does not include unapproved Special Requests
Price valid for 30 Days from date of 03-09-2026

Product Model: 2100i
Proposal Date: 03-09-2026
Quote Number: 2026-87915
Price List Date: 03-09-2026
QTY: 1

Customer Initials: ___ _____

VACTOR

PROPOSAL NOTES:

1. Multiple unit orders will be identical to signed proposal. Changes or deviations to any unit of a multiple unit order will require a new signed proposal.
2. Chassis specifications and data codes for customer supplied chassis must be submitted to and approved by Vactor prior to submittal of customer purchase order
3. All prices quoted are in US Dollars unless otherwise noted.
4. This proposal incorporates, and is subject to, Vactor's standard terms and conditions attached hereto and made a part hereof.

Signed By: _____ **Date:** _____

VACTOR

LIMITED WARRANTY

Limited Warranty. Each machine manufactured by VACTOR MANUFACTURING (or, "the Company") is warranted against defects in material and workmanship for a period of 12 months, provided the machine is used in a normal and reasonable manner and in accordance with all operating, maintenance and safety instructions. In addition, certain machines and components of certain machines have extended warranties as set forth below. If sold to an end user, the applicable warranty period commences from the date of delivery to the end user. If used for rental purposes, the applicable warranty period commences from the date the machine is first made available for rental by the Company or its representative. This limited warranty may be enforced by any subsequent transferee during the warranty period. This limited warranty is the sole and exclusive warranty given by the Company.

STANDARD EXTENDED WARRANTIES (Total Warranty Duration)

2100 Series, iMPACT and Ramjet	10 years against metal water tank leakage due to corrosion. Nonmetallic water tanks are covered for 5 years against any factory defect in material or workmanship.
2100 Series, iMPACT and Guzzler only	5 years against leakage of debris tank, centrifugal compressor or fan housing due to rust-through.
2100 Series, iMPACT and Ramjet	2 years - Vactor Rodder Pump
ALL Models starting with 21-09X-XXXXX and beyond	2 year- Electrical & Electronics (excludes Chassis components)

Exclusive Remedy. Should any warranted product fail during the warranty period, the Company will cause to be repaired or replaced, as the Company may elect, any part or parts of such machine that the Company's examination discloses to be defective in material or factory workmanship. Repairs or replacements are to be made at the selling Company's authorized dealer's or distributor's location or at other locations approved by the Company. In lieu of repair or replacement, the Company may elect, at its sole discretion, to refund the purchase price of any product deemed defective. The foregoing remedies shall be the sole and exclusive remedies of any party making a valid warranty claim.

This Limited Warranty shall not apply to (and the Company shall not be responsible for):

1. Major components or trade accessories that have a separate warranty from their original manufacturer, such as, but not limited to, trucks and truck chassis, engines, hydraulic pumps and motors, tires and batteries.
2. Normal adjustments and maintenance services.
3. Normal wear parts such as, but not limited to, oils, fluids, vacuum hose, light bulbs, fuses and gaskets.
4. Failures resulting from the machine being operated in a manner or for a purpose not recommended, nor intended, or not in accordance with operating, maintenance or safety instructions provided by the Company.
5. Repairs, modifications or alterations without the express written consent of the Company, which in the Company's sole judgment, have adversely affected the machine's stability, operation or reliability as originally designed and manufactured.
6. Items subject to misuse, negligence, accident or improper maintenance.

"NOTE" The use in the product of any part other than parts approved by the Company may invalidate this warranty. The Company reserves the right to determine, in its sole discretion, if the use of non-approved parts operates to invalidate the warranty. Nothing contained in this warranty shall make the Company liable for loss, injury, or damage of any kind to any person or entity resulting from any defect or failure in the machine.

THIS WARRANTY SHALL BE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND TO THE EXTENT PERMITTED, CONFERRED BY STATUTE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR A WARRANTY AGAINST FAILURE OF ITS ESSENTIAL PURPOSE, ALL OF WHICH ARE DISCLAIMED.

This warranty is in lieu of all other obligations or liabilities, contractual and otherwise, on the part of the Company. For the avoidance of doubt, the Company shall not be liable for any indirect, special, incidental or consequential damages, including, but not limited to, loss of use or lost profits. The Company makes no representation that the machine has the capacity to perform any functions other than as contained in the Company's written literature, catalogs or specifications accompanying delivery of the machine. No person or affiliated company representative is authorized to alter the terms of this warranty, to give any other warranties or to assume any other liability on behalf of the Company in connection with the sale, servicing or repair of any machine manufactured by the Company. Any legal action based hereon must be commenced within eighteen (18) months of the event or facts giving rise to such action.

The Company reserves the right to make design changes or improvements in its products without imposing any obligation upon itself to change or improve previously manufactured products.

GUZZLER

VACTOR MANUFACTURING
1621 S. Illinois Street
Streator, IL 61364

VACTOR

9-1-2021

VACTOR

DomesticSales Terms and Conditions

ORDERS: All orders are subject to acceptance by VactorManufacturing, Inc. or Guzzler Manufacturing, Inc. (hereafter referred to as Vactor). Orders for products not normally carried in stock or requiring special engineering or manufacturing is in every case subject to approval by Vactor's Management.

PRICES: All orders are subject to current prices in effect at the time of order acknowledgement. F.O.B. Point: Unless otherwise stated, all prices listed are F.O.B. factory. Vactor reserves the right to increase the order price set forth in this Proposal Summary at any time before delivery to Buyer to reflect any increase in Vactor's costs to manufacture or deliver the ordered product due to any factor beyond the reasonable control of Vactor. Vactor shall provide Buyer with prompt electronic notice of any such price increase. Buyer shall have five days from receipt of such notice to cancel its order, absent which Buyer shall be deemed to have consented to the price increase.

PAYMENT TERMS: The company's payment terms are due upon receipt, unless otherwise stated. However, until such time as Vactor receives full payment, Vactor shall maintain a purchase money security interest in the product.

CANCELLATION: Orders cannot be cancelled except upon terms that will compensate Vactor for any loss or damage sustained. Such loss will be a minimum of 10% of the purchase price.

SHIPMENT: All proposals are based on continuous and uninterrupted delivery of the order upon completion, unless specifications distinctly state otherwise. In the event that agreement is reached for Vactor to store completed items, they will be immediately invoiced to the customer and become due and payable. Storage shall be at the risk of the customer and Vactor shall be liable only for ordinary care of the property.

STORAGE CHARGES: Vactor shall charge the customer at current rates for handling and storing customer's property (e.g. truck chassis) held for more than thirty (30) days after notification of availability for shipment. All customer's property, or third party's property, that is stored by Vactor is at the customer's or other party's risk. Vactor is not liable for any loss or damage thereto caused by fire, water, corrosion, theft, negligence, or any caused beyond its reasonable control.

PERFORMANCE: Vactor shall not be liable for failure to complete the contract in accordance with its terms if failure is due to wars, strikes, fires, floods, accidents, delays in transportation or other causes beyond its reasonable control.

EXPERIMENTAL WORK: Work performed at customer's request such as sketches, drawings, design, testing, fabrication and materials shall be charged at current rates.

SKETCHES, ENGINEERING DRAWINGS, MODELS and all preparatory work created or furnished by Vactor, shall remain its exclusive property; and no use of same shall be made nor may ideas obtained therefrom be used except with the consent of and on terms acceptable to Vactor.

TAXES: Buyer's final cost shall include all applicable sales and use taxes, including all sales and use taxes attributable to any changes made to Buyer's initial order placed hereunder or to any changes to applicable sales and use tax laws. However, Vactor Manufacturing, Inc. shall be responsible for Federal Excise Tax(F.E.T.) unless it is separately stated on the invoice and added to the selling price. If F.E.T. is not separately stated on the invoice it has not been included in the price and Vactor will pay any F.E.T. due itself and bear the cost of the tax. Any refunds or adjustments to the F.E.T. in such cases belong to Vactor.

VACTOR

PRODUCT IMPROVEMENTS: Vactor reserves the right to change manufacturing specifications and procedure in accordance with its product improvement policy.

MOUNTING PRICES: Mounting prices assume normally factory installation on a truck chassis suitable for the unit purchased. Relocation of batteries, fuel tanks, mufflers, air tanks, etc. will be an additional charge, billed at the standard factory labor rate.

WARRANTY: Vactor warrants its products to be free from defects in material and workmanship for a period of 12 months, subject to the limitations and conditions set forth in its current published warranty. Other than those expressly stated herein. THERE ARE NOT OTHER WARRANTIES OF ANY KIND EXPRESS OR IMPLIED, AND SPECIFICALLY EXCLUDED BUT NOT BY WAY OF LIMITATION, ARE THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MECHANTABILITY.

IT IS UNDERSTOOD AND AGREED THE VACTOR'S LIABILITY WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY IN NEGLIGENCE OROTHERWISE SHALL NOT EXCEED THE RETURN OF THE AMOUNT OF THE PURCHASE PRICE PAID BY THE PURCHASER AND UNDER NO CIRCUMSTANCES SHALL VACTOR BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES. THE PRICES STATED FOR THE EQUIPMENT IS A CONSIDERATION IN LIMITING VACTOR'S LIABILITY. NO ACTION REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTION OF THE AGREEMENT MAY BE BROUGHT BY PURCHASER MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS OCCURRED.

VACTOR'S MAXIMUM LIABILITY SHALL NOT EXCEED AND BUYER'S REMEDY IS LIMITED TO EITHER (I) REPAIR OR REPLACEMENT OF THE DEFECTIVE PART OF PRODUCT, OR AT VACTOR'S OPTION (II) RETURN OF THE PRODUCT AND REFUND OF THE PURCHASE PRICE AND SUCH REMEDY SHALL BE BUYER'S ENTIRE ANDEXCLUSIVE REMEDY.

CHOICE OF LAW: These Terms and Conditions shall be construed according to the laws of the State of Illinois. Failure at any time by Vactor to exercise any of its rights under this agreement shall not constitute a waiver-thereof nor prejudice Vactor's right to enforce it thereafter.

COMPLETE AGREEMENT: These terms and conditions, contain the complete and final agreement between the parties hereto and no other agreement in any way modifying any of these terms and conditions will be binding on Vactor unless in writing and agreed to by an authorized representative of Vactor. All proposed terms included in Buyer's purchase order or other standard contracting documents are expressly rejected.

I agree with the above terms and conditions:

_____

VACTOR

Date: _ _____