



The City of Huron, Ohio
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REVISED
Agenda for the regular session of City Council
November 26, 2019 at 6:30p.m.

- I. **Call to Order** Moment of Silence followed by the Pledge of Allegiance to the Flag
- II. **Roll Call of City Council**
- III. **Approval of Minutes** Regular meeting of November 12, 2019
- IV. **Audience Comments** Citizens may address their concerns to City Council. Please state your name and address for the recorded journal. (3-minute time limit)
- V. **Old Business**
- Ordinance 2019-25 An ordinance amending the Huron Codified Ordinances and instituting a lodging tax (second reading).
- VI. **New Business**
- Motion A motion to set the date and time for the Organization Meeting of Huron City Council for Monday December 2, 2019 at 5:30p.m.
- Motion A motion to change the date of the last Huron City Council Meeting from December 24, 2019 to Monday, December 30, 2019 at _____ p.m.
- Motion A motion referring rezoning request submitted by Gary Savage to the Planning Commission.
- Public Hearing: 2020 Proposed Municipal Budget**
- Ordinance 2019-27 An ordinance adopting the 2020 Budget.
- Ordinance 2019-29 An ordinance establishing Fund No. 655 – Community Infrastructure Fee Fund.
- Resolution 2019-71 A resolution authorizing the City Manager to enter into an Agreement with ODOT relating to LPA Federal Local-Let Program Funding for US 6 Phase I Project.

Resolution 2019-72	A resolution authorizing approval of Change Order No. 1 to Part 1 of the 2018 Paving Program.
Resolution 2019-73	A resolution authorizing approval of Change Order No. 2 to Part 1 of the 2018 Paving Program.
Resolution 2019-74	A resolution authorizing approval of Change Order No. 2 to Part 2 of the 2018 Paving Program.
Resolution 2019-75	A resolution authorizing approval of Change Order No. 3 to Part 2 of the 2018 Paving Program.
Ordinance 2019-28	Appropriations ordinance.

VII. City Manager's Discussion

VIII. Mayor's Discussion

IX. For the Good of the Order

X. Adjournment



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Ordinance No. 2019-25
DATE: November 8, 2019

Subject Matter/Background

Ordinance No. 2019-25 amends four sections of Chapter 189-Lodging Tax of the Codified Ordinances. Exhibit A of the ordinance is the Lodging Tax as it currently exists with Exhibit B representing the proposed modifications.

Under current legislation, the lodging tax is applicable to hotels. A hotel by definition has five or more rooms for accommodating guests. Under the proposed legislation, the new category of transient accommodation is created. Transient accommodations contain less than five rooms for accommodating guests and would incorporate short term weekly/weekend rental houses. By definition, a transient accommodation is available for less than thirty days rental. These properties are not currently subject to the 3% lodging tax. Additionally, the legislation will require owner/operators of all transient rental properties to register with the city.

Erie County and Sandusky passed similar legislation in 2018 and the matter has been discussed throughout the year at the Finance Committee and City Council levels and identified as a legislative item for consideration. The Erie County Auditor's office has established an internal mechanism to manage the additional lodging tax collections.

Financial Review

A conservative estimate of \$50,000 in revenue has been included in the 2020 proposed budget to be directed to the Recreation Fund as is currently being done with receipted bed tax revenue.

Legal Review

This matter has been reviewed and is properly before you.

Recommendation

A motion to suspend the three reading rule at the November 12, 2019 Council meeting failed. Ordinance 2019-25 is on its second reading. If Council would like to suspend the three reading rule, a motion to adopt Ordinance 2019-25 would be in order.

ORDINANCE NO. 2019-25

Introduced by John P. Jones

AN ORDINANCE AMENDING SECTIONS 189.02-DEFINITIONS, 189.03-IMPOSITION OF TAX, 189.07-STATEMENT AND CHARGE OF TAX, AND 189.08-REGISTRATION; ALL OF CHAPTER 189 LODGING TAX OF THE CITY OF HURON CODIFIED ORDINANCES.

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

SECTION 1. That Sections 189.02- Definitions, 189.03-Imposition of Tax, 189.07-State and Charge of Tax, and 189.08-Registration all of Chapter 189 – Lodging Tax of the Codified Ordinances of the City of Huron which currently reads as follows: (refer to Exhibit “A” attached), shall be and hereby are amended.

SECTION 2. That Sections 189.02- Definitions, 189.03-Imposition of Tax, 189.07-State and Charge of Tax, and 189.08-Registration all of Chapter 189 – Lodging Tax of the Codified Ordinances of the City of Huron are hereby amended to read as follows: (refer to Exhibit “B” attached).

SECTION 3. That Sections 189.02- Definitions, 189.03-Imposition of Tax, 189.07-State and Charge of Tax, and 189.08-Registration all of Chapter 189 – Lodging Tax of the Codified Ordinances of the City of Huron, as existing prior to the adoption of this Ordinance shall be, and the same hereby are, repealed.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 5. This ordinance will take effect thirty (30) days following adoption.

Trey Hardy, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

CHAPTER 189
Lodging Tax

189.1	Purpose.	189.11	Penalties and interest.
189.2	Definitions.	189.12	Failure to collect; assessments; refunds.
189.3	Imposition of tax.	189.13	Appeals.
189.4	Exemptions.	189.14	Collection.
189.5	False evidence of tax-exempt status.	189.15	Collection of tax after termination of chapter.
189.6	Payment by transient guest.	189.16	Disposition of funds collected.
189.7	Statement and charge of tax.	189.17	Separability.
189.8	Registration.	189.99	Violations; penalty.
189.9	Records.		
189.10	Returns and payment.		

CROSS REFERENCES

State Authority- see Ohio R.C. 5739.08
City Income Tax - see Ch. 185

189.1 PURPOSE.

To provide revenues for the general fund to be used for municipal purposes including but not limited to the promotion of tourism in the City and all matters related thereto, this lodging tax is established.

(Ord. 2005-2. Passed 1-24-05.)

189.2 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the individual designated pursuant to Chapter 185, who is to administer and enforce the provisions of this chapter.
- (b) "Board of Review" means the Board of Review created by and constituted as provided in Section 185.12.
- (c) "City" means the City of Huron, Ohio.
- (d) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures (including but not limited to motels and bed and breakfast establishments).

- (e) "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms or space or portion thereof, in any hotel for dwelling, lodging or sleeping purposes. The use or possession or the right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess, all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.
- (f) "Operator" means any person who is the proprietor of a hotel, whether in the capacity of owner, lessee, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, the managing agent shall be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- (g) "Person" means a "person" as defined in Section 185.02(v).
- (h) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or service of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.
- (i) "State" means the State of Ohio.
- (j) "Transient Guests" means persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.
(Ord. 2005-2. Passed 1-24-05.)

189.3 IMPOSITION OF TAX.

(a) For the purpose of providing revenue for the purpose set forth in Section 189.01, an excise tax is levied on transactions by which lodging by a hotel is or is to be furnished to transient guests.

(b) The tax is 3% on all rents paid or to be paid by transient guests for the lodging. Such tax constitutes a debt owed by the transient guest to the City, which debt is extinguished only by payment to the operator as trustee for the City, or to the City. The tax applies and is collectible at the time the lodging is furnished regardless of the time when the rent is paid.

(c) For the purpose of the proper administration of this Chapter and to prevent the evasion of the tax, it is presumed that all lodging furnished by hotels in the City to transient guests is subject to the tax until the contrary is established.
(Ord. 2005-2. Passed 1-24-05.)

189.4 EXEMPTIONS.

(a) No tax shall be imposed under this chapter on:

- (1) Rents not within the taxing power of the City under the Constitution or laws of the State or the United States of America; or
- (2) Rents paid by the City or any of its political subdivisions.

(b) No exemption claimed under (a) above shall be granted except on a claim therefor made at the time the rent is collected and under penalty of perjury on a form prescribed by the Administrator. All claims of exemption shall be made in the manner prescribed by the Administrator. (Ord. 2005-2. Passed 1-24-05.)

189.5 FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full tax as required by this chapter or present to the operator false evidence indicating that the lodging as furnished is not subject to the tax. (Ord. 2005-2. Passed 1-24-05.)

189.6 PAYMENT BY TRANSIENT GUEST.

(a) The tax imposed by this chapter shall be paid by the transient guest to the operator, and each operator shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies.

(Ord. 2005-2. Passed 1-24-05.)

189.7 STATEMENT AND CHARGE OF TAX.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and on every evidence of occupancy or any bill or statement or charge made for such occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the City and the operator shall be liable for the collection thereof and for the remittance of the tax to the Administrator.

(b) No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

(Ord. 2005-2. Passed 1-24-05.)

189.8 REGISTRATION.

Within 30 days after the effective date of Ordinance 2005-2, passed January 24, 2005 or within 30 days after commencing business, whichever is later, each operator of any hotel renting lodging to transient guests shall register the hotel with the Administrator and obtain from the Administrator a Transient Occupancy Registration Certificate, which Certificate shall be at all times posted in a conspicuous place on the premises. The Certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date upon which the Certificate was issued; and
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Lodging Tax Ordinance by registering with the Administrator of the City of Huron for the purpose of collecting from transient guests the Lodging Tax and remitting that tax to the Administrator of the City of Huron. This Certificate does not constitute a permit."

(Ord. 2005-2. Passed 1-24-05.)

189.9 RECORDS.

Each operator shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and other pertinent documents. If the operator furnishes lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was not exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. The records and other documents shall be opened during business hours to the inspection of the Administrator and shall be preserved for a period of three years, unless the Administrator, in writing, consents to their destruction within that period, or unless the Administrator orders that such records be kept for a longer period of time.

(Ord. 2005-2. Passed 1-24-05.)

189.10 RETURNS AND PAYMENT.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period that may be established by the Administrator, make a return to the Administrator, on forms provided by the Administrator, of the total rents charged and received and the amount of tax collected by transient occupancies. All claims for exemption from tax filed by transient guests with the operator during the reporting period shall be filed with the report. At the time the return is filed, the full amount of the tax collected shall be remitted to the Administrator. The Administrator may establish shorter reporting periods for any Certificate holder if the Administrator deems it necessary in order to insure collection of the tax, and the Administrator may require further information in the return if such information is pertinent to the collection of the tax. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment is made to the Administrator. All returns and payments submitted by each operator shall be treated as confidential by the Administrator and shall not be released by the Administrator except on order of a court of competent jurisdiction or to an officer or agent of the United States of America, the State, the County of Erie or the City for official use only.

(Ord. 2005-2. Passed 1-24-05.)

189.11 PENALTIES AND INTEREST.

(a) Original delinquency. Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty equal to 10% of the amount of the tax, in addition to the tax.

(b) Continued delinquency. Any operator who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance became delinquent shall pay a second delinquency penalty equal to 10% of the amount of the tax and previous penalty in addition to the tax and the 10% penalty first imposed. An additional penalty equal to 10% of the total tax and penalty of the previous 30-day period shall be added for each successive 30-day period that the occupant remains delinquent, but the accumulated penalty shall not exceed 100% of the delinquent remittance.

(c) Fraud. If the Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to 25% of the amount of the tax shall be added thereto, in addition to the penalties stated in (a) and (b) above.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1.0% per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties during pendency of hearing or appeal. No penalty provided under the terms of this Chapter shall be imposed during the pendency of any hearing provided for herein or during the pendency of any appeal to the Board of Review.
(Ord. 2005-2. Passed 1-24-05.)

189.12 FAILURE TO COLLECT; ASSESSMENTS; REFUNDS.

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due and shall have the same investigative powers described in Section 185.09(a) and (b). As soon as the Administrator procures such facts and information as the Administrator is able to obtain on which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect it and to make such report and remittance, the Administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the operator's last known place of business. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing, the Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided by Section 189.13. No assessment shall be made against an operator for any tax, interest or penalty imposed by or pursuant to this Chapter more than four years after the due date for the remittance of the tax imposed by this Chapter or the date the return of such tax is filed, whichever is later. No statute of limitation on assessments exists where (i) the Administrator has substantial evidence of amounts of tax collected by an operator from transient guests that were not returned to the Administrator or (ii) the operator failed to file a return as required by this Chapter. A claim for refund to the Administrator of any tax illegally or erroneously paid, collected and/or remitted shall be made in the manner, and within the time, prescribed by Ohio R.C. 5739.07, including any amendments or successor provisions thereto. (Ord. 2005-2. Passed 1-24-05.)

189.13 APPEALS.

Any operator aggrieved by any decision of the Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Board of Review by filing a notice of appeal with it within ten days of the serving or mailing of the determination of tax due. The Board of Review shall fix a time and place for hearing the appeal, and shall give notice in writing to such operator at the last known place of business of the operator. The findings of the Board of Review shall be final and conclusive and shall be served on the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 2005-2. Passed 1-24-05.)

189.14 COLLECTION.

Any tax required to be paid by a transient guest under the provisions of this Chapter shall be deemed a debt owed by the transient guest to the City. Any tax collected by an operator that has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

(Ord. 2005-2. Passed 1-24-05.)

189.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

This chapter shall continue effective insofar as the levy of the tax is concerned until revoked, and insofar as the collection of the tax levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 189.99.

(Ord. 2005-2. Passed 1-24-05.)

189.16 DISPOSITION OF FUNDS COLLECTED.

By the passage of this chapter, it is the expressed intention of Council to place the funds derived from the imposition of the tax herein imposed in the general fund, such funds to be used as set forth in Section 189.01.

(Ord. 2005-2. Passed 1-24-05.)

189.17 SEPARABILITY.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 2005-2. Passed 1-24-05.)

189.99 VIOLATIONS; PENALTY.

Whoever violates or fails to comply with any of the provisions of Sections 189.01 through 189.17 for which no penalty is otherwise provided is guilty of a minor misdemeanor. Each day the violation continues shall be deemed a separate violation.

(Ord. 2005-2. Passed 1-24-05.)

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CROSS REFERENCES

State Authority- see Ohio R.C. 5739.08
City Income Tax - see Ch. 185

189.01 PURPOSE.

To provide revenues for the general fund to be used for municipal purposes including but not limited to the promotion of tourism in the City and all matters related thereto, this lodging tax is established.

(Ord. 2005-2. Passed 1-24-05.)

189.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the individual designated pursuant to Chapter 185, who is to administer and enforce the provisions of this chapter.
- (b) "Board of Review" means the Board of Review created by and constituted as provided in Section 185.12.
- (c) "City" means the City of Huron, Ohio.
- (d) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures (including but not limited to motels and bed and breakfast establishments).
- (e) "Transient accommodation" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four (4) or less rooms are used for the accommodations of such guests, whether such rooms are in one (1) or several structures.

- (f) "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms or space or portion thereof, in any hotel or transient accommodation for dwelling, lodging or sleeping purposes. The use or possession or the right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess, all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.
- (g) "Operator" means any person who is the proprietor of a hotel or transient accommodation, whether in the capacity of owner, lessee, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, the managing agent shall be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- (h) "Person" means a "person" as defined in Section 185.02(v).
- (i) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or service of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.
- (I) "State" means the State of Ohio.
- (j) "Transient Guests" means persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.
(Ord. 2005-2. Passed 1-24-05.)

189.03 IMPOSITION OF TAX.

(a) For the purpose of providing revenue for the purpose set forth in Section 189.01, an excise tax is levied on transactions by which lodging by a hotel or transient accommodation is or is to be furnished to transient guests.

(b) The tax is 3% on all rents paid or to be paid by transient guests for the lodging. Such tax constitutes a debt owed by the transient guest to the City, which debt is extinguished only by payment to the operator as trustee for the City, or to the City. The tax applies and is collectible at the time the lodging is furnished regardless of the time when the rent is paid.

(c) For the purpose of the proper administration of this Chapter and to prevent the evasion of the tax, it is presumed that all lodging furnished by hotels in the City to transient guests is subject to the tax until the contrary is established.
(Ord. 2005-2. Passed 1-24-05.)

189.04 EXEMPTIONS.

- (a) No tax shall be imposed under this chapter on:
 - (1) Rents not within the taxing power of the City under the Constitution or laws of the State or the United States of America; or
 - (2) Rents paid by the City or any of its political subdivisions.

(b) No exemption claimed under (a) above shall be granted except on a claim therefor made at the time the rent is collected and under penalty of perjury on a form prescribed by the Administrator. All claims of exemption shall be made in the manner prescribed by the Administrator. (Ord. 2005-2. Passed 1-24-05.)

189.05 FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full tax as required by this chapter or present to the operator false evidence indicating that the lodging as furnished is not subject to the tax. (Ord. 2005-2. Passed 1-24-05.)

189.06 PAYMENT BY TRANSIENT GUEST.

(a) The tax imposed by this chapter shall be paid by the transient guest to the operator, and each operator shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies.

(Ord. 2005-2. Passed 1-24-05.)

189.07 STATEMENT AND CHARGE OF TAX.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and on every evidence of occupancy or any bill or statement or charge made for such occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the City and the operator shall be liable for the collection thereof and for the remittance of the tax to the Administrator.

(b) No operator of a hotel or transient accommodation shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

(Ord. 2005-2. Passed 1-24-05.)

189.08 REGISTRATION.

Within 30 days after the effective date of Ordinance 2005-2, passed January 24, 2005 or within 30 days after commencing business, whichever is later, each operator of any hotel renting lodging to transient guests shall register the hotel with the Administrator and obtain from the Administrator a Transient Occupancy Registration Certificate, which Certificate shall be at all times posted in a conspicuous place on the premises. On or before January 1, 2020, or within 30 days after commencing business, whichever is later, each operator of any transient accommodation renting lodging to transient guests shall register the transient accommodation with the Administrator and obtain from the Administrator a Transient Occupancy Registration Certificate, which Certificate shall be at all times posted in a conspicuous place on the premises.

The Certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel or transient accommodation;
- (c) The date upon which the Certificate was issued; and
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Lodging Tax Ordinance by registering with the Administrator of the City of Huron for the purpose of collecting from transient guests the Lodging Tax and remitting that tax to the Administrator of the City of Huron. This Certificate does not constitute a permit."

(Ord. 2005-2. Passed 1-24-05.)

189.09 RECORDS.

Each operator shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and other pertinent documents. If the operator furnishes lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was not exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. The records and other documents shall be opened during business hours to the inspection of the Administrator and shall be preserved for a period of three years, unless the Administrator, in writing, consents to their destruction within that period, or unless the Administrator orders that such records be kept for a longer period of time.

(Ord. 2005-2. Passed 1-24-05.)

189.9 RETURNS AND PAYMENT.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period that may be established by the Administrator, make a return to the Administrator, on forms provided by the Administrator, of the total rents charged and received and the amount of tax collected by transient occupancies. All claims for exemption from tax filed by transient guests with the operator during the reporting period shall be filed with the report. At the time the return is filed, the full amount of the tax collected shall be remitted to the Administrator. The Administrator may establish shorter reporting periods for any Certificate holder if the Administrator deems it necessary in order to insure collection of the tax, and the Administrator may require further information in the return if such information is pertinent to the collection of the tax. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment is made to the Administrator. All returns and payments submitted by each operator shall be treated as confidential by the Administrator and shall not be released by the Administrator except on order of a court of competent jurisdiction or to an officer or agent of the United States of America, the State, the County of Erie or the City for official use only.

(Ord. 2005-2. Passed 1-24-05.)

189.10 PENALTIES AND INTEREST.

(a) Original delinquency. Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty equal to 10% of the amount of the tax, in addition to the tax.

(b) Continued delinquency. Any operator who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance became delinquent shall pay a second delinquency penalty equal to 10% of the amount of the tax and previous penalty in addition to the tax and the 10% penalty first imposed. An additional penalty equal to 10% of the total tax and penalty of the previous 30-day period shall be added for each successive 30-day period that the occupant remains delinquent, but the accumulated penalty shall not exceed 100% of the delinquent remittance.

(c) Fraud. If the Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to 25% of the amount of the tax shall be added thereto, in addition to the penalties stated in (a) and (b) above.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1.0% per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties during pendency of hearing or appeal. No penalty provided under the terms of this Chapter shall be imposed during the pendency of any hearing provided for herein or during the pendency of any appeal to the Board of Review.
(Ord. 2005-2. Passed 1-24-05.)

189.11 FAILURE TO COLLECT; ASSESSMENTS; REFUNDS.

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due and shall have the same investigative powers described in Section 185.09(a) and (b). As soon as the Administrator procures such facts and information as the Administrator is able to obtain on which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect it and to make such report and remittance, the Administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the operator's last known place of business. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing, the Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided by Section 189.13. No assessment shall be made against an operator for any tax, interest or penalty imposed by or pursuant to this Chapter more than four years after the due date for the remittance of the tax imposed by this Chapter or the date the return of such tax is filed, whichever is later. No statute of limitation on assessments exists where (i) the Administrator has substantial evidence of amounts of tax collected by an operator from transient guests that were not returned to the Administrator or (ii) the operator failed to file a return as required by this Chapter. A claim for refund to the Administrator of any tax illegally or erroneously paid, collected and/or remitted shall be made in the manner, and within the time, prescribed by Ohio R.C. 5739.07, including any amendments or successor provisions thereto. (Ord. 2005-2. Passed 1-24-05.)

189.13 APPEALS.

Any operator aggrieved by any decision of the Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Board of Review by filing a notice of appeal with it within ten days of the serving or mailing of the determination of tax due. The Board of Review shall fix a time and place for hearing the appeal, and shall give notice in writing to such operator at the last known place of business of the operator. The findings of the Board of Review shall be final and conclusive and shall be served on the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 2005-2. Passed 1-24-05.)

189.14 COLLECTION.

Any tax required to be paid by a transient guest under the provisions of this Chapter shall be deemed a debt owed by the transient guest to the City. Any tax collected by an operator that has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

(Ord. 2005-2. Passed 1-24-05.)

189.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

This chapter shall continue effective insofar as the levy of the tax is concerned until revoked, and insofar as the collection of the tax levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 189.99.

(Ord. 2005-2. Passed 1-24-05.)

189.16 DISPOSITION OF FUNDS COLLECTED.

By the passage of this chapter, it is the expressed intention of Council to place the funds derived from the imposition of the tax herein imposed in the general fund, such funds to be used as set forth in Section 189.01.

(Ord. 2005-2. Passed 1-24-05.)

189.17 SEPARABILITY.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 2005-2. Passed 1-24-05.)

189.99 VIOLATIONS; PENALTY.

Whoever violates or fails to comply with any of the provisions of Sections 189.01 through 189.17 for which no penalty is otherwise provided is guilty of a minor misdemeanor. Each day the violation continues shall be deemed a separate violation.

(Ord. 2005-2. Passed 1-24-05.)



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Motions to Set Council Organization Meeting and Reschedule Final Council Meeting
DATE: November 22, 2019

Subject Matter/Background

Organizational Meeting

The Huron Charter Sec. 2.09 call for the scheduling of the first organizational meeting of Council on the first day of December of each oddly numbered year, or if that days falls on a Sunday, then on the following day. December 1st falls on a Sunday this year; therefore, the organization meeting must be scheduled for December 2nd. The proposed time for this meeting is 5:30pm.

Final Council Meeting of Calendar Year

The last Council meeting per the City's Charter is scheduled for December 24th, which is a holiday. In order to allow for adoption of the final appropriations ordinance to close out the 2019 budget year as close as possible to the end of the year, staff is requesting rescheduling of the December 24th meeting to December 30th at _____. At least five (5) Council members must be in attendance to waive the three reading rule and to declare an emergency for the adoption of the final appropriations ordinance.

Recommendation

The only necessary actions to take is for two (2) separate motions: one to schedule the organizational meeting of Council for Monday, December 2nd at 5:30pm; and the second to reschedule the final regular meeting of Council for Monday, December 30th at _____.



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Gary Savage Rezoning Application –Referral to the Planning Commission
DATE: November 22, 2019

Subject Matter/Background

The city has received an application and required fee from Gary Savage, owner of the property located at 362 Main St. The existing parcel contains two mixed use multi-tenant units (unit ‘A’ and Unit ‘B’) on the map included in the application, a copy of which is attached hereto as Exhibit “A”. The units currently contain business offices on the lower floor and residential units on the second floor. The owner has some vacancies in the lower level of both units and would like to have the option of filling these vacancies with either commercial or residential uses.

Currently, the parcel is located in a B-2 zone, which is the only business zoning classification in our zoning code that does not allow for residential uses (the current residential uses in the second floor are existing non-conforming uses). The owner would like to rezone the parcel to a B-3 designation which would allow for mixed use.

Per the requirements within the zoning code, any application for amendment of a zoning district or existing PUD must first be referred to the Planning Commission for initial review. The Planning Commission has recommendation power only, and is to certify a recommendation to the Council following a public hearing. The public hearing at the Planning Commission level would be set and advertised for January 22, 2020, which would be the next regularly scheduled Planning Commission meeting following the required notice period for a public hearing.

Upon receipt of the recommendation, the Council must set and hold a public hearing and would have final authority in the approval of any modification.

Recommendation

At this time, the only necessary action to take is for a motion referring the rezoning application to the Planning Commission.

RECEIVED
NOV 13 2019

BY: ema

CITY OF HURON
APPLICATION TO RE-DISTRICT PROPERTY
(Type or Print)

Date Received: _____

Location: 362 Main Street
Huron, Ohio 44839

Legal Description of Subject Property:

Previously submitted

Property Owner: Joanne M. Savage Trust dated 1994

Address: 1225 Marina Drive
Huron, Ohio

Applicant: (Name & Address - if different from the property owner)

Garry N. Savage
1225 Marina Drive
Huron, Ohio 44839

Current Zoning District of Subject Property: R-1 R-2 R-3

B-1 B-2 B-3

I-1 I-2

Other: _____

Proposed Zoning District of Subject Property:

R-1 R-2 R-3 B-1 B-2 B-3

I-1 I-2

Other: _____

**CITY OF HURON
RE-DISTRICT APPLICATION**

Is the applicant represented by legal counsel? Yes No

If Yes, Counsel's Name and Address: _____

Counsel's Contact Number: () - _____

~~Huron Riverview Condo Association~~ 362 Main Street
Property Location

Was a re-zoning request ever submitted for this property? Yes No

If Yes, give date: _____

Owner or Authorized Representative: Garry N Savage _____

The following information must be attached to this application:

1. A map of the subject property. (Maximum size-11" x 17")
2. A map of the subject property in relation to the adjoining properties.
(Maximum size-11" x 17")
3. A complete list of the names and current address of all properties owners within 150' of the exterior boundaries of the subject property.
4. A letter, signed by the owner of the property, requesting the re-zoning, designating the current zoning district and the proposed zoning district.
5. A \$150.00 filing fee drafted to the City of Huron.

DO NOT WRITE BELOW THIS LINE

Date Completed Application Received: 11-13-19

Zoning Department Representative: CMG

Date Submitted to City Council: _____

Date Submitted to Planning Commission: _____

Re-Zoning 362 Main Street

- United States Postal Service
378 Main Street
Huron, Ohio 44839
- Murray Law Offices
358 Main Street
Huron, Ohio 44839
- Huron Yacht Club
350 Huron Street
Huron, Ohio 44839

EXHIBIT C

HURON RIVER VIEW CONDOMINIUM

PARCEL 1

Being a parcel of land located in Lots 131, 132, 133 and 134 in the Addition to Sherleyville, City of Huron, Erie County, Ohio and being more particularly described as follows:

Beginning at a 1/2 iron pin previously set on the southeasterly right of way line of Main Street where the same intersects the northwesterly corner of lands now or formerly owned the United States of America, said point being located North 39° 01' 00" East along the southeasterly right of way line of Main Street, a distance of 155.00 feet from the northerly right of way line of Mills Street;

1. Thence North 39° 01' 00" East continuing along the southeasterly right of way of Main Street and its northeasterly continuation, a distance of 230.71 feet to a 1/2" iron pin previously set;
2. Thence South 50° 59' 00" East, a distance of 244.79 feet to a 1/2" iron pin previously set;
3. Thence South 26° 29' 00" West, a distance of 236.34 feet to a 1/2" iron pin previously set;
4. Thence North 50° 59' 00" West, a distance of 296.07 feet to the principal place of beginning and containing 1.4323 acres of land, but subject to all easements and restrictions of record.

4. General Description of Buildings.

The buildings consist of two structures. One contains four residential units on the second floor, Units 368, 370, 372 and 374, and three commercial units, 362, 364, and 366, on the first floor. The second building consists entirely on one unit, Unit 360, which is for commercial use. The buildings are of wood frame construction over concrete slab with brick exteriors on the lower half, rough sawed cedar siding on the top. The roofs are asphalt shingle. In the seven unit building each unit has separate heat and air conditioning systems, Units 322 and 364 have a common system for which maintenance and operation expenses shall be shared in proportion to the units' common expenses percentages. In Unit 360 there is office space which is heated and air conditioned; the showroom is heated only.

RECEIVED
NOV 12 2019

City of Huron
Planning and Zoning Department
417 Main St. Huron, Ohio 44839
P: 419-433-5000
F: 419-433-5120

BY:



Commercial Site Plan Application

Property Owner

Name: Joanne M. Savage Trust dated April 29, 1994
Address: 1225 Marine Drive Huron, OH 44839
Phone: 419-433-5745
Email: gs tax free@yahoo.com

Applicant

Name: Garry N. Savage
Company/Business Name: Advanced Strategies, Inc
Mailing Address: 362 Main Street Huron OH 44839
Phone: 419-433-5291
Email: gsavage@advancedstrategies.net

Location and Description of Project

Address: 362 Main Street Huron County Parcel #: _____
Existing Use: _____ Acreage/Area of Site: _____
Proposed Use: _____ Lot # (if applicable): _____
Estimated Value of Project: _____

- New Construction
- Demolition
- Addition to Existing Structure
- Other: Re-zoning

Zoning District:	R-1	R-1A	R-2	R-3	B-1	B-2	B-3	I-1	I-2	P-1	M
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Flood Zone:	A	AE	AO	AH	X (shaded)	X	(Definitions 1135.02(14))
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Description of Proposed Project: I am interested in re-zoning this property from B-2 to B-3 to allow for mixed use.

ArcGIS WebMap



Richard H. Jeffrey
ERIE COUNTY AUDITOR | ERIE COUNTY, OHIO

Date: 11/18/2019
1 inch = 94 feet





TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Ordinance 2019-27
DATE: November 22, 2019

Subject Matter/Background

In accordance with the Municipal Charter, FY 2020 City Manager’s Recommended Budget was distributed for your review on Tuesday, November 12, 2019 in advance of the December 1, 2019 requirement. This action follows the Annual Tax Budget submission and public hearing in June, presentation to the County Budget Commission and certification by the County Auditor this fall. As required, a resolution (Resolution 2019-68) was adopted on November 12, 2019 setting a Public Hearing date/time on the 2020 Recommended Budget and subsequent legal notice has been published. The Public Hearing will be held during the meeting of November 26, 2019 as required, in advance of Council consideration of Ordinance 2019-27 which will adopt the 2020 Municipal Budget.

Financial Review

A copy of the 2020 Budget Book for the all funds summary sheet as well as the supporting summarization presented to the Finance Committee as part of the 2020 Budget creation has previously been provided to Council.

Legal Review

The matter has been reviewed, follows normal legislative procedure and is properly before you.

Recommendation

If the Council is in support of the request, a motion to adopt Ordinance 2019-27 as an emergency measure is in order.

ORDINANCE NO. 2019-27

AN ORDINANCE MAKING APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF HURON, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020.

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

SECTION 1. That the municipal budget heretofore prepared and submitted to the City Council by the City Manager, presented in a Public Hearing on November 26, 2019 and is hereby adopted as the appropriation ordinance for the current expenses and other expenditures of the City of Huron during the fiscal year ending December 31, 2020, and there is hereby appropriated to the various funds and accounts the amounts set forth in Exhibit "A" on file in the office of the Clerk of Council, a true and correct copy of which is hereby made a part of this Ordinance as if fully set forth in the body hereof.

SECTION 2. That those sums which are expended from the above appropriations and are repaid by any other department, any firm, person or corporation shall be considered re-appropriated for such original purpose, provided the total appropriation as increased by and such repayment shall not be exceeded.

SECTION 3. The Director of Finance is hereby authorized to draw his warrants as approved by the City Manager for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefor, duly approved; provided, however, no warrants shall be drawn or paid for salaries or wages except for persons employed by authority of, and in accordance with, law or ordinance.

SECTION 4. That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of the Council and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. § 121.22

SECTION 5. That, in accordance with Section 3.06 of the Charter of the City of Huron, Ohio, this Ordinance shall take effect immediately upon its adoption.

Trey Hardy, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

GENERAL FUND

110

Police Department (1010)	Appropriation	
Personnel Services	\$ 1,196,509	
Other Expenses	\$ 128,666	
Department Total:		\$ 1,325,175

Police and Fire Communications (1500)	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 41,000	
Department Total:		\$ 41,000

Building and Inspections (4700)	Appropriation	
Personnel Services	\$ 59,299	
Other Expenses	\$ 79,950	
Department Total:		\$ 139,249

Refuse Collections (5800)	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 808,000	
Department Total:		\$ 808,000

Information Technology (7000)	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 28,150	
Department Total:		\$ 28,150

City Manager (7020)	Appropriation	
Personnel Services	\$ 62,928	
Other Expenses	\$ 4,600	
Department Total:		\$ 67,528

Human Resources (7030)	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 1,100	
Department Total:		\$ 1,100

Finance Department (7060)	Appropriation	
Personnel Services	\$ 99,127	
Other Expenses	\$ 15,700	
Department Total:		\$ 114,827

Income Tax Department (7070)	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 100,000	
Department Total:		\$ 100,000

Law Director (7100)	Appropriation	
Personnel Services	\$	31,021
Other Expenses	\$	80,000
Department Total:		\$ 111,021

City Council (7200)	Appropriation	
Personnel Services	\$	57,476
Other Expenses	\$	-
Department Total:		\$ 57,476

Municipal Court (7250)	Appropriation	
Personnel Services	\$	281,466
Other Expenses	\$	22,850
Department Total:		\$ 304,316

Public Buildings (7550)	Appropriation	
Personnel Services	\$	-
Other Expenses	\$	90,000
Department Total:		\$ 90,000

Administrative Support (7900)	Appropriation	
Personnel Services	\$	-
Other Expenses	\$	481,190
Department Total:		\$ 481,190

Operating Transfers Out (9000)	Appropriation	
Transfers Out	\$	1,505,000
Advances Out	\$	-
Department Total:		\$ 1,505,000

Total GENERAL FUND:		\$ 5,174,031
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SPECIAL WARRANTS 111

	Appropriation	
Personnel Services	\$	-
Other Expenses	\$	-
Transfers Out	\$	-
Total SPECIAL WARRANTS:		\$ -

PARKS FUND 208

	Appropriation	
Personnel Services	\$	207,916
Other Expenses	\$	104,200
Transfers Out	\$	33,250
Total PARKS FUND:		\$ 345,366

RECREATION FUND

209

	Appropriation	
Personnel Services	\$ 169,168	
Other Expenses	\$ 143,700	
Transfers Out	\$ 13,250	
Total RECREATION FUND:		\$ 326,118

BOAT BASIN

210

	Appropriation	
Personnel Services	\$ 74,197	
Other Expenses	\$ 78,250	
Transfers Out	\$ 5,500	
Total BOAT BASIN:		\$ 157,947

HURON PARKS FOUNDATION

211

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 10,000	
Transfers Out	\$ -	
Total HURON PARKS FOUNDATION:		\$ 10,000

STREET MAINTENANCE FUND

212

	Appropriation	
Personnel Services	\$ 347,958	
Other Expenses	\$ 317,050	
Transfers Out	\$ 55,000	
Total STREET MAINTENANCE FUND:		\$ 720,008

STATE HIGHWAY

213

	Appropriation	
Personnel Services	\$ 30,016	
Other Expenses	\$ 20,000	
Transfers Out	\$ 1,000	
Total STATE HIGHWAY:		\$ 51,016

SPECIAL FIRE LEVY

214

	Appropriation	
Personnel Services	\$ 1,648,504	
Other Expenses	\$ 408,777	
Transfers Out	\$ 498,720	
Total SPECIAL FIRE LEVY:		\$ 2,556,000

STREET LIGHTING

215

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 384,820	

Transfers Out	\$ -	
Total STREET LIGHTING:		\$ 384,820

COURT COMPUTER FUND **216**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 20,500	
Transfers Out	\$ -	
Total COURT COMPUTER FUND:		\$ 20,500

COURT CAPITAL PROJECTS **217**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 50,000	
Transfers Out	\$ -	
Total COURT CAPITAL PROJECTS:		\$ 50,000

INDIGENT ALCOHOL TREATMENT **218**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 1,000	
Transfers Out	\$ -	
Total INDIGENT ALCOHOL TREATMENT:		\$ 1,000

ENFORCEMENT/EDUCATION **219**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 1,600	
Transfers Out	\$ -	
Total ENFORCEMENT/EDUCATION:		\$ 1,600

POLICE RESOURCE OFFICER **220**

	Appropriation	
Personnel Services	\$ 58,104	
Other Expenses	\$ -	
Transfers Out	\$ 23,758	
Total POLICE RESOURCE OFFICER:		\$ 81,862

INDIGENT DRIV INTERLOCK & ALCO **222**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 1,000	
Transfers Out	\$ -	
Total INDIGENT DRIV INTERLOCK & ALCO:		\$ 1,000

MARINE PATROL GRANT

225

	Appropriation	
Personnel Services	\$ 23,875	
Other Expenses	\$ 11,200	
Transfers Out	\$ -	
Total MARINE PATROL GRANT:		\$ 35,075

MANDATORY TRUST FINE

270

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 4,692	
Transfers Out	\$ -	
Total MANDATORY TRUST FINE:		\$ 4,692

CONTRABAND FORFEITURE

271

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 9,500	
Transfers Out	\$ -	
Total CONTRABAND FORFEITURE:		\$ 9,500

PROBATION FUND

272

	Appropriation	
Personnel Services	\$ 33,959	
Other Expenses	\$ 500	
Transfers Out	\$ -	
Total PROBATION FUND:		\$ 34,459

SHADE TREE FUND

273

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ -	
Transfers Out	\$ -	
Total SHADE TREE FUND:		\$ -

FIRE PENSION FUND

274

	Appropriation	
Personnel Services	\$ 284,918	
Other Expenses	\$ 800	
Transfers Out	\$ -	
Total FIRE PENSION FUND:		\$ 285,718

POLICE PENSION FUND

275

	Appropriation	
Personnel Services	\$ 197,628	
Other Expenses	\$ 1,150	
Transfers Out	\$ -	
Total POLICE PENSION FUND:		\$ 198,778

ECONOMIC DEVELOPMENT FUND

277

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 110,900	
Transfers Out	\$ -	
Total ECONOMIC DEVELOPMENT FUND:		\$ 110,900

REVOLVING LOANS

290

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ -	
Transfers Out	\$ -	
Total REVOLVING LOANS:		\$ -

EMPLOYEE BENEFIT RESERVE FUND

298

	Appropriation	
Personnel Services	\$ 188,502	
Other Expenses	\$ -	
Transfers Out	\$ -	
Total EMPLOYEE BENEFIT RESERVE FUND:		\$ 188,502

EMPLOYEE BENEFIT RESERVE - WATER

299

	Appropriation	
Personnel Services	\$ 25,581	
Other Expenses	\$ -	
Transfers Out	\$ -	
Total EMPLOYEE BENEFIT RESERVE - WATER:		\$ 25,581

G.O. BOND RETIREMENT

301

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 886,608	
Transfers Out	\$ -	
Total G.O. BOND RETIREMENT:		\$ 886,608

CAPITAL IMPROVEMENT

401

	Appropriation	
Personnel Services	\$ -	

Other Expenses	\$ 3,074,100	
Transfers Out	\$ -	
Total CAPITAL IMPROVEMENT:		\$ 3,074,100

T.I.F **402**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ -	
Transfers Out	\$ 57,085	
Total T.I.F:		\$ 57,085

CAPITAL EQUIPMENT RESERVE & REPLACEMENT **403**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 587,359	
Transfers Out	\$ -	
Total CAPITAL EQUIPMENT RESERVE & REPLACEMENT:		\$ 587,359

WATER BOND RETIREMENT **602**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 165,946	
Transfers Out	\$ -	
Total WATER BOND RETIREMENT:		\$ 165,946

WATER CAPITAL PROJECTS **603**

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 1,791,340	
Transfers Out	\$ -	
Total WATER CAPITAL PROJECTS:		\$ 1,791,340

WATER FUND **604**

	Appropriation	
Personnel Services	\$ 1,220,746	
Other Expenses	\$ 770,581	
Transfers Out	\$ 515,356	
Total WATER FUND:		\$ 2,506,683

STORM WATER FUND **605**

	Appropriation
Personnel Services	\$ 17,732
Other Expenses	\$ 70,320
Transfers Out	\$ -

Total STORM WATER FUND:		\$ 88,052
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ELECTRIC FUND 654

	Appropriation	
Personnel Services	\$ 285,150	
Other Expenses	\$ 2,458,000	
Transfers Out	\$ -	
Total ELECTRIC FUND:		\$ 2,743,150

COMMUNITY INFRASTRUCTURE FEE FUND 655

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 297,265	
Transfers Out	\$ -	
Total COMMUNITY INFRASTRUCTURE FEE FUND:		\$ 297,265

COMPUTER REPAIR & MAINTENANCE 701

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 71,950	
Transfers Out	\$ -	
Total COMPUTER REPAIR & MAINTENANCE:		\$ 71,950

HEALTHCARE 703

	Appropriation	
Personnel Services	\$ 1,063,500	
Other Expenses	\$ 10,000	
Transfers Out	\$ -	
Total HEALTHCARE:		\$ 1,073,500

HURON JOINT RECREATION DISTRICT 860

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 457,984	
Transfers Out	\$ -	
Total HURON JOINT RECREATION DISTRICT:		\$ 457,984

STATE PATROL 863

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 13,000	
Transfers Out	\$ -	
Total STATE PATROL:		\$ 13,000

PUBLIC SAFETY TRECHNOLOGY GRANT

865

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ -	
Transfers Out	\$ -	
Total PUBLIC SAFETY TRECHNOLOGY GRANT:		\$ -

DAMAGED STRUCTURE FUND

870

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ -	
Transfers Out	\$ -	
Total DAMAGED STRUCTURE FUND:		\$ -

HURON RESCUE SQAUD

876

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ 31,500	
Transfers Out	\$ -	
Total HURON RESCUE SQAUD:		\$ 31,500

UNCLAIMED FUNDS

899

	Appropriation	
Personnel Services	\$ -	
Other Expenses	\$ -	
Transfers Out	\$ -	
Total UNCLAIMED FUNDS:		\$ -



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Ordinance 2019-29
DATE: November 22, 2019

Subject Matter/Background

Ordinance 2019-29 authorizes the establishment of Fund 655 – Community Infrastructure Fee Fund. Under advisement of legal counsel, staff is recommending the creation of this new enterprise fund to account for the collection and expenditure of funds collected through the electric Large Customer Infrastructure Charge established via Ordinance 2018-29. The ordinance set a rate of \$0.018 per kWh of electricity used during the peak usage season to fund “non-utility infrastructure projects and development in the City in furtherance of attraction of new Utility customers and retention and/or expansion of existing Utility customers in the City of Huron”. Fund 655 will be used to fund capital projects in accordance with the rate ordinance and opinion provided via the City’s Law Director. The initial rate ordinance directed funds to the General Fund. The rate ordinance will be modified at an upcoming meeting to reference the accounting modification from the General Fund to the newly created Fund 655.

In order to have the matter reviewed by the Auditor of State in 2019, staff is requesting the Ordinance be adopted via emergency measure. This would allow for the City to make deposits and expenditures out of the fund in this fiscal year and make them subject to review under the 2019 Financial Audit. Staff currently plans on paying for the Tiffin Ave culvert project (est. \$21,000) out of this newly established fund.

Financial Review

During presentation of the 2020 budget, Staff discussed the history and forward planning of the Community Infrastructure Fee. The Finance Committee approved the 2020 budget book, which includes creation of Fund 655 and usage of Fund 655 prior to 12/31/2019.

If Fund 655 is approved at this meeting, the Finance Director will request approval to amend 2019 appropriations and estimated resources at the December 10th meeting for Fund 655. Funds cannot be spent out of Fund 655 until Council authorizes appropriations within this fund.

Legal Review

This matter has been reviewed and a legal opinion has been issued and is attached as Exhibit A for Council’s review.

Recommendation

If the Council is in support of the request, a motion to adopt Ordinance 2019-29 as an emergency measure is in order.

LEGAL MEMORANDUM

To: Andy White, City Manager
cc: Cory Swaisgood, Finance Director
Mike Spafford, Assistant City Manager
From: Benjamin G. Chojnacki, Law Director
Alejandro V. Cortes, Esq.
Date: November 22, 2019
RE: City of Huron – Huron Public Power – Large Customer Infrastructure Fee

FACTS

Pursuant to Ordinance No. 2018-29, City Council modified the Huron Public Power (HPP) Electric Rates based, in part, on an Agreement for Electric Services between HPP and MIMI Farms, Incorporated dba Mucci Farms (“Mucci”). The rate modification at issue is the establishment of a General Service - Large Customer Infrastructure Charge. With respect to Mucci, the Large Customer Infrastructure Charge is an additional 1.8 cents per kWh on the current wholesale rate of approximately.

Ordinance No. 2018-29 provides that “the Large Customer Infrastructure Charge shall be the charge collected by the HPP for the credit of the City’s general fund to pay for non-utility infrastructure projects and development in the City in furtherance of attraction of new HPP customers and retention and/or expansion of existing HPP customers in the City.” The fees collected by HPP from Mucci under the Large Customer Infrastructure Charge have been deposited into the City’s electric enterprise fund. To date, the fees have been used by the City to pay for HPP operations and to pay down debt obligations.

This office has been asked whether the City has the authority to impose the Large Customer Infrastructure Charge on its monthly invoice for electric utility consumption, what are the permitted uses of revenues derived from the Large Customer Infrastructure Charge, and whether the City has the authority to create a separate fund within its enterprise fund to deposit such revenue.

ANALYSIS

Pursuant to the self-executing provisions of Section 4, Article XVIII of the Ohio Constitution, municipal corporations are authorized to establish, maintain, and operate municipal lighting, power, and heating plants, for the generation, transmission, and supplying of electricity to the municipal corporation and its inhabitants. *Orr Felt Co. v. City of Piqua*, 2 Ohio St. 3d 166, 170 (1983). When a municipal corporation chooses to operate a public utility pursuant to a constitutional grant of authority, it functions in a proprietary capacity and is entitled to a

“reasonable profit.” *Niles v. Union Ice Corp.*, 133 Ohio St. 169, 181 (1938).¹ The only restraint imposed by law upon a municipality’s proprietary undertaking of providing electrical energy is “that the rates charged be reasonable and that there be no unjust discrimination among the customers served, taking into account their situation and classification.” *Orr Felt Co.*, 2 Ohio St.3d at 171 (citing *State, ex rel. Mt. Sinai Hospital, v. Hickey*, 137 Ohio St. 474, 477 (1940)).

The *City of Niles* case is illustrative here. In that case, the city operated an electric light and power distribution system, purchasing electric current at wholesale, and transforming and distributing it through its own equipment and lines to resident consumers at a monthly charge made in accordance with a graduated schedule. *Id.* at 170. The city accumulated a considerable surplus from the sale and distribution of electricity. *Id.* As a result of the surplus, Council passed an ordinance authorizing the city solicitor to obtain authority for the transfer of \$15,000 from the surplus funds of the light department to the Mahoning Valley Sanitary District of the city in order to pay part of the city’s indebtedness to the district. *Id.*

The petition was approved by the tax commissioner, but rejected by the common pleas court based on the court’s precedent. The trial court’s decision was affirmed by the court of appeals as well. The basis of both lower court decisions was the argument that city did not have the authority to transfer surplus funds from the electric utility. However, the Ohio Supreme Court reversed the court of appeals’ decision finding that electric utility funds are not as restricted under Ohio law as water utility funds.

City of Niles also involved a separate and distinct question concerning the authority of the city to use the surplus funds. The appellants in that case argued that the surplus funds were held by the city in trust for the benefit of the utility’s customers and that the transfer of those funds to another fund for the payment of general municipal obligations constitutes an unconstitutional appropriation of private property. *Id.* at 178-79. The Supreme Court of Ohio rejected that argument and stated:

Whoever purchases electric energy from a municipally-owned electric light and power plant or system, occupies the same position with respect to the price paid as if the purchase were made from a private corporation engaged in the same business. The result to the ratepayer is the same. **The consumer parts with all interest in and control over the purchase price after it is paid, and it becomes the exclusive property of the municipality, with the right to use, transfer, or divert it to any purpose and in any manner authorized by law**

Id. at 180 (emphasis added).

¹ 2015 Ohio Op. Atty. Gen. No. 2015-020, 2015 WL 4077220 casts doubt on the reasoning of *City of Niles* by noting that later decisions of courts have not relied on the governmental/proprietary distinction when evaluating whether a fee charged for municipal public utilities constitutes a tax. Nonetheless, the Supreme Court of Ohio has expressly overruled its decision in *Niles* and remains good law that the City may rely on in this matter.

The Supreme Court of Ohio also rejected the contention that allowing the city to charge a rate in excess of the cost furnishing the service or product would amount to an unconstitutional tax. In rejecting that argument, the Supreme Court stated:

This contention proceeds on the theory that a municipality has no right to charge for its utility service or product a rate in excess of cost, i. e., that it has no right to make a profit. Nevertheless, we are not referred to any statute or constitutional provision denying this right. In the absence of such prohibition, a municipality, no less than a private corporation engaged in the operation of a public utility, is entitled to a fair profit. In the operation of a public utility, a municipality acts, not in a governmental capacity as an arm or agency of the sovereignty of the state, but in a proprietary or business capacity In its proprietary capacity it occupies the same 'posture' as that occupied by a private corporation engaged in business.

Id. at 181 (citations omitted).

As noted above, so long as the rate charged is reasonable, courts cannot prohibit a municipality from making a profit on the operation of its electric light and power system, in the absence of any restriction in the statute which enables it to operate such system. In that regard, the Supreme Court stated that:

A municipality, acting in a proprietary capacity, cannot impose taxes. While thus engaged, it is engaged in business but not in the business of government. A municipality may impose and collect taxes only when acting as an arm or agency of the state, but when engaged in business, it does not so act. A tax is a tribute levied for the support of government A rate charged for a public utility service or product is not a tax, but a price at which and for which the public utility service or product is sold ... and the excess charged over and above cost, as a profit, enters into and becomes a part of the price. Payment of a tax is an obligation imposed. Payment of a price for a utility product or service furnished by a municipality is voluntarily assumed. Payment of the one is involuntary ... payment of the other entirely voluntary. The obligation in the one case arises by operation of law, while in the other it arises out of contract, express or implied. Where, however, the rates charged are excessive, a municipality is amenable to the same laws governing rates as a private corporation would be when engaged in a public utility business. But we need not here dwell on this point, since no complaint is made that the rate or charge is excessive.

Since the rate charged is not a tax in its inception, ultimate use of surplus funds derived therefrom for the support of municipal government will not convert it into taxes or cause it to assume the nature of taxes.

Id. at 182-83 (citations omitted).

We were unable to find any statutory restrictions on the use of surplus electric utility funds. *Cf. City of Cincinnati v Roettinger*, 105 Ohio St. 145, 153-154 (1922); *City of Lakewood*

v. Rees, 132 Ohio St. 399 (1937) (restricting use of surplus funds from municipal waterworks utility). In that regard, both *City of Niles* and *Orr Felt Co.* stand for the proposition that the City has the right to impose the Large Customer Infrastructure Charge, make a reasonable profit on its operation of HPP, and has the right to use the surplus revenues derived from the Large Customer Infrastructure Charge for any purpose and in any manner authorized by law.

As such, it is our opinion that the City may use the revenues derived from the imposition of the Large Customer Infrastructure Charge for any purpose authorized by City Council through an ordinance.

The next question is whether the City has the authority to create a separate fund to deposit the revenues derived from the Large Customer Infrastructure Charge. The answer to that question is yes because as long as the City complies with applicable statutory provisions and any applicable rules of the Auditor of State, it may, in the reasonable exercise of discretion, establish more than one account for monies collected for electrical utility purposes and may designate the purpose of such accounts. *See* 1986 Ohio Op. Atty. Gen. No. 86-056, 1986 WL 237873 (finding that a municipality may establish more than one account for monies collected for waterworks purposes).

It should be noted that funds and accounts are procedural devices for keeping financial records. *Id.* (Citation omitted). Indeed, a fund is conceptualized as a convenient business device which amounts to no more than assigning a name to a segregated portion of an agency's monies. *Id.* Funds are merely bookkeeping devices, but indispensable to government operations. *Id.*

We were also unable to find any statutory restriction regarding the number or types of accounts that a municipality may establish within its electric enterprise fund to hold its electric utility monies. In that regard, the City may exercise its authority to create a separate fund for the Large Customer Infrastructure Charge fund within the electric enterprise fund as there are no statutory restrictions preventing the same and as long as the creation of the fund complies with any applicable rules from the Auditor of State, which has the authority under R.C. 117.43, "may prescribe by rule, requirements for accounting and financial reporting for public offices other than state agencies."

If you have any questions, please feel free to contact us.

ORDINANCE NO. 2019 - 29

AN ORDINANCE ESTABLISHING FUND NO. 655 - COMMUNITY INFRASTRUCTURE FEE FUND AND DECLARING AN EMERGENCY.

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

WHEREAS, the City of Huron (“City”), through Huron Public Power (“HPP”), owns and operates a municipal electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers pursuant to Article XVIII, Section 4 of the Ohio Constitution;

WHEREAS, the City has the authority under Article XVIII, Section 4 of the Ohio Constitution to contract for the supply of electric power and energy for the benefit of its citizens and taxpayers;

WHEREAS, in furtherance of the authority granted by Article XVIII, Section 4 of the Ohio Constitution, the City has established electric rates and terms and conditions for providing electric service to the customers of HPP;

WHEREAS, this Council passed Ordinance No. 2018-29 that modified HPP’s electric rates to reflect the terms of the Agreement for Electric Services between HPP and MIMI Farms, Incorporated d/b/a Mucci Farms in a new rate schedule called “General Service-Large-High Usage Customer;”

WHEREAS, Ordinance No. 2018-29 also established a “Large Customer Infrastructure Charge” in HPP’s electric rates schedule, which imposes a charge of \$0.018 cents per kWh of electricity used during peak usage season on general service customers that use or are projected to use at least 33,333,333 kWh per year and have entered into an electric services agreement with HPP;

WHEREAS, Ordinance No. 2018-29 authorized HPP to collect the Large Customer Infrastructure Charge as credit to City’s general fund to pay for infrastructure projects and development in the City in furtherance of attraction of new HPP customers and retention and/or expansion of existing HPP customers in the City;

WHEREAS, the City Manager has recommended that Council establish a fund to accommodate the revenue and expenses associated with the Large Customer Infrastructure Charge and which will allow the City to properly reconcile its financial operations.

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

SECTION 1. That there is hereby established a “Community Infrastructure Fee Fund” to be numbered Fund No. 655. Revenue deposited into this fund will be generated from the Large Customer Infrastructure Charge established by Ordinance 2018-29 and used for expenses related capital infrastructure and building upgrades and economic and community development projects throughout the City.

SECTION 2. That all ordinances or parts thereof in effect at the time of passage of this ordinance that are in conflict with the foregoing provisions are hereby repealed to the extent of the conflict.

SECTION 3. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including R.C. 121.22.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and general welfare and for the further reasons that it is necessary to make immediate provision for the sound financial operation of the City and to allow the City to make immediate use of the revenues derived from the Large Customer Infrastructure Charge; **wherefore**, this Ordinance shall take effect and be in full force and effect immediately upon its adoption.

Trey Hardy, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Resolution 2019-71
DATE: November 22, 2019

Subject Matter/Background

Resolution 2019-71 authorizes the LPA Project Agreement between the Ohio Department of Transportation (ODOT) and the City of Huron, specific to the ERI-6-17.52 US 6 Paving Phase I, PID 100421 Project. The scope of this project, identified in the agreement (Exhibit "A"), pertains to the US 6 Paving Project Phase I. The purpose of the agreement is to set forth the requirement associated with the Federal funds available for the project and establish the responsibilities for the local administration of the project as required by ODOT.

The estimated construction and inspections costs for the project are expected to total \$1,482,569.00. ODOT shall provide funds in the amount of \$832,086.20 (FHWA \$811,927.20 and State Funds \$20,159.00); the city's portion will be \$650,482.80.

Once adopted, administration will execute the agreement, submit to ODOT, and await the "Authorization to Advertise" notification as referenced in the agreement. The project will be bid in February/March, with construction expected to being in late March/early April 2020.

Financial Review

There is no financial impact to this legislation; it simply allows the project to be bid within the parameters of the agreement. No financial commitment is required until such time as the Council would approve a competitive bid.

Legal Review

The matter has been reviewed, follows normal legislative procedure and is properly before you.

Recommendation

If the Council is in support of the request, a motion to adopt Resolution No. 2019-71 is in order.

RESOLUTION NO. 2019-71

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION (ODOT) RELATING TO LPA FEDERAL LOCAL-LET PROGRAM FUNDING IN AN AMOUNT NOT TO EXCEED EIGHT HUNDRED THIRTY-TWO THOUSAND EIGHTY-SIX AND 20/100 DOLLARS (\$832,086.20) RELATING TO THE U.S. 6 PAVING PROJECT PHASE I (ERI-6-17.52 PID 100421)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That the City Manager is authorized and directed to enter into an agreement with the State of Ohio, Department of Transportation (ODOT) relating to LPA Federal Local-Let Project program funding in an amount not to exceed Eight Hundred Thirty-Two Thousand Eighty-Six and 20/100 Dollars (\$832,086.20) for the U.S.6 Paving Project Phase I (PID 100421) which agreement shall be substantially in the form of Exhibit "A" attached hereto and made a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22.

SECTION 3. That this Resolution shall be in full force and effect from and immediately after its adoption.

Trey Hardy, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

CFDA 20.205

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the CITY OF HURON, 417 MAIN STREET, HURON, OHIO 44839 hereinafter referred to as the LPA.

1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The INTERSECTION MODIFICATION AT US6 AND BERLIN RD. AND URBAN PAVING FROM CENTER ST. TO HURON ECL (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES AND COMPLIANCE

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

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be \$1,482,569.00 as set forth in Attachment 1. ODOT shall provide to the LPA 50 percent of the eligible costs, up to a maximum of \$350,000.00 in Federal funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager (ERPC). Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.

AND

ODOT shall provide to the LPA 80 percent of the eligible costs, up to a maximum of \$398,791.20 in Federal funds for construction only. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager (District Urban Paving).

AND

ODOT shall provide to the LPA 100 percent of the eligible costs, up to a maximum of \$100,795.00 in Federal funds for construction only. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager (District Bridge Funds).

- 3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, cost overruns and contractor claims.

4. PROJECT DEVELOPMENT AND DESIGN

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

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

- 4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The LPA shall make use of ODOT's Location and Design Manual (L&D), or the appropriate AASHTO publication). Even though the LPA may use its own standards, ODOT may require the LPA to use a design based on the L&D Manual for projects that contain a high crash rate or areas of crash concentrations. Where the LPA has adopted ODOT standards for the PROJECT, the LPA shall be responsible for ensuring that any ODOT standards used for the PROJECT are current and/or updated. The LPA shall be responsible for periodically contacting the ODOT District LPA Coordinator or through the following Internet website for any changes or updates: www.dot.state.oh.us/drrc/Pages/default.aspx

- 4.4 The LPA shall either designate an LPA employee, who is a registered professional engineer, to act as the Project Design Engineer and serve as the LPA's principal representative for attending to project responsibilities or engage the services of a pre-qualified ODOT consultant, who has been chosen using a Qualification-Based Selection (QBS) process, as required pursuant to ORC sections 153.65 through 153.71. The pre-qualified list is available on the ODOT website at: www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT

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

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

5. ENVIRONMENTAL RESPONSIBILITIES

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

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

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

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

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

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

6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

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

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

- 6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.
- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with project construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the project real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.
- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that, if any property acquired for this PROJECT is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this PROJECT that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

7. ADVERTISING, SALE AND AWARD

- 7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.

- 7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.
- 7.4 The LPA must incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.
- 7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.
- 7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. In accordance with FHWA Form 1273 Section VII and 23 CFR 635.116, the "prime" contractor must perform no less than 30 percent of the total original contract price. The 30-percent prime requirement does not apply to design-build contracts.
- 7.7 In accordance with ORC Section 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond. If the LPA has 100 percent locally-funded work product within this Agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100 percent locally-funded work product.
- 7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC Section 9.24, that the contractor has taken the appropriate remedial steps required under ORC Section 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at <https://ohioauditor.gov/findings.html> . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.
- 7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 7.10 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.
- 7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this Agreement, if applicable.

8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC sections 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this Agreement.
- 8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the PROJECT. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and DBE, if applicable. The LPA is responsible for ensuring all materials incorporated into the PROJECT comply with ODOT's Construction and Material Specifications and meet the requirements of Appendix J in the LATP Manual of Procedures.
- 8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.
- 8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA requests reimbursement, it must provide documentation of payment for the project costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.
- 8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA.
- 8.6 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the ORC may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.

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

City of Huron
417 Main Street
Huron, Ohio 44839

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

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

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

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

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

9. CERTIFICATION AND RECAPTURE OF FUNDS

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

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

10. NONDISCRIMINATION

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

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

10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

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

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

GOOD FAITH EFFORTS (GFES)

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

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

- (1) All written quotes received from certified DBE firms;
- (2) All written (including email) communications between the Contractor and DBE firms;
- (3) All written solicitations to DBE firms, even if unsuccessful;
- (4) Copies of each non-DBE quote when a non-DBE was selected over a DBE for work on the contract;
- (5) Phone logs of communications with DBE firms.

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

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

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

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

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

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

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

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

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

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

- (a) the magnitude and the type of offense;
- (b) the degree of the Consultant's culpability;
- (c) any steps taken to rectify the situation;

- (d) the Contractor's record of performance on other projects including, but not limited to:
 - (1) annual DBE participation over DBE goals;
 - (2) annual DBE participation on projects without goals;
 - (3) number of complaints ODOT has received from DBEs regarding the Contractor; and,
 - (4) the number of times the Contractor has been previously sanctioned by ODOT; and,
- (e) Whether the Contractor falsified, misrepresented, or withheld information.

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

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

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

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

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

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

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

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

- 12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this Agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.
- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether

payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

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

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

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

14. NOTICE

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

If to the LPA:

If to ODOT:

Andrew D. White, City Manager	Matthew A. Walter, P.E., P.S.
City of Huron	Ohio Department of Transportation
417 Main Street	906 Clark Avenue
Huron, Ohio 44839	Ashland, Ohio 44805
	Matthew.Walter@dot.ohio.gov

15. GENERAL PROVISIONS

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

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

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

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

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

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

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

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



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

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



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

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

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

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

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

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

Federal and State funds expended to or on behalf of a sub recipient must be recorded in the accounting records of the LPA subrecipient. The LPA is responsible for tracking all project

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 [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.

payments throughout the life of the PROJECT in order to ensure an accurate Schedule of Expenditures of Federal Awards (SEFA) is prepared annually for all *Applicable Federal Funds*. *Applicable Federal Funds* are those that are identified with the various project phases of this Agreement as a subaward. *Applicable Federal Funds* include not only those LPA project expenditures that ODOT subsequently reimburses with Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

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

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

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

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

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

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

The State of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The LPA certifies that it, its Contractors, subcontractors, and any agent of the Contractor or its subcontractors, acquire any supplies or services in accordance with all trade control laws, regulations or orders of the United States, including the prohibited source regulations set forth in subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation and any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign

Assets Control. A list of those sanctions by country can be found at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>. These sanctions generally preclude acquiring any supplies or services that originate from sources within, or that were located in or transported from or through Cuba, Iran, Libya, North Korea, Syria, or the Crimea region of Ukraine.

- 15.8 *Lobbying:* Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). LPA agrees that it will not use any funds for Lobbying, 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.
- 15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.
- 15.10 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.11 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.12 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.13 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.14 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
- 15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

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

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

Attachment 1

PROJECT BUDGET – SOURCES AND USES OF FUNDS

USES	LPA FUNDS			FHWA FUNDS			STATE FUNDS			TOTAL
	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT		100	LNTP	N/A			N/A			
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS		100	LNTP	N/A			N/A			
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION		100	LNTP	N/A			N/A			
PROJECT CONSTRUCTION COSTS	\$315,000.00	50	LNTP	\$315,000.00	50	4TA7	N/A			\$630,000.00
PROJECT CONSTRUCTION COSTS	\$99,697.80	20	LNTP	\$398,791.20	80	4PF7	N/A			\$498,489.00
PROJECT CONSTRUCTION COSTS	\$143,935.00	100	LNTP	N/A			N/A			\$143,935.00
PROJECT CONSTRUCTION COSTS	N/A			\$80,636.00	80	4PF7	\$20,159.00	20	4PS7	\$100,795.00
INSPECTION	\$17,500.00	50	LNTP	\$17,500.00	50	4TA7	N/A			\$35,000.00
INSPECTION	\$49,850.00	100	LNTP	N/A			N/A			\$49,850.00
INSPECTION	\$14,400.00	100	LNTP	N/A			N/A			\$14,400.00
INSPECTION	\$10,100.00	100	LNTP	N/A			N/A			\$10,100.00
TOTALS	\$650,482.80			\$811,927.20			\$20,159.00			\$1,482,569.

Attachment 2

ERI – US 0006 – 17.49
COUNTY-ROUTE-SECTION

100421
PID NUMBER

33491
AGREEMENT NUMBER

8314222250000
DUNS NUMBER

DIRECT PAYMENT OF CONTRACTOR

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

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

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

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

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



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Resolution No. 2019-72 and Resolution No. 2019-73
DATE: November 22, 2019

Subject Matter/Background

As you may recall, on August 14, 2018, Resolution 2018-59 was adopted which authorized an agreement with the Ohio Public Works Commission for financial assistance requested for the Rye Beach Neighborhood portion (Part 1) of the 2018 Road Paving Project. The bid award for Part 1 of the 2018 Paving Program to Smith Paving in the amount of \$594,699.25 was adopted by Council on August 14, 2018. Resolutions 2019-72 and 2019-73 request Council’s approval of Change Order No. 1 and Change Order No. 2, respectively:

Resolution 2019-72 would authorize approval of Change Order No. 1, which consists of \$59,392 in additions to the contract price, in conjunction with \$40,005.19 in subtractions to the contract price, resulting in a net increase of \$19,386.81. Exhibit “A” to Resolution 2019-68 itemizes the additions and subtractions.

Resolution 2019-73 would authorize approval of Change Order No. 2 for \$3,67.00 in additions to the contract price. The addition relates to reconstruction of 7 additional manholes to bring them to grade at a cost of \$525.00 each.

A summary of the legislative history of the 2018 Paving Program is included below for your review:

Resolution 2017-78	Engineering Design Part 1 and Part 2	\$ 77,000.00	adopted November 14, 2017
Resolution 2018-30	Bid Award-Part 2	\$ 795,267.75	adopted April 10, 2018
Resolution 2018-39	Inspection Services Part 2	\$ 52,504.00	adopted April 24, 2018
Resolution 2018-52	Change Order No. 1 Expansion of 16 additional streets and extension of the contract period through June 2019 – Part 2	\$1,380,018.64	adopted June 26, 2018
Resolution 2018-53	Inspection Services Expansion of inspection services relative to the additional streets authorized in Resolution 2018-52.	\$ 81,328.00	adopted June 26, 2018
Resolution 2018-59	OPWC Agreement/Funding Rye Beach Neighborhood Paving: Grant \$186,070.00/ Loan \$193,665.00	\$ 379,735.00	adopted July 10, 2018
Resolution 2018-66	Bid Award – Part 1	\$ 594,699.25	adopted August 14, 2018
Resolution 2018-67	Engineering Inspection Services	\$ 41,896.00	adopted August 14, 2018

Financial Review

This change order has been reviewed by the Finance Department. The City's fund balance in the Capital Improvement Fund (Fund 401) is sufficient to pay the change order. Upon approval of this change order, the Finance Director will request approval for appropriation increases to legally budget and pay for this change order.

Legal Review

The matter has been reviewed, follows normal legislative procedure and is properly before you.

Recommendation

If the Council is in support of the request, motions to adopt Resolution No. 2019-72 and Resolution No. 2019-73 would be in order.

RESOLUTION NO. 2019-72

A RESOLUTION AMENDING RESOLUTION 2018-66, ADOPTED AUGUST 14, 2018, AUTHORIZING THE CITY MANAGER TO ACCEPT CHANGE ORDER NO. 1 FROM SMITH PAVING AND EXCAVATING FOR LABOR AND MATERIALS RELATED TO THE EXPANSION OF THE 2018 ROAD PAVING PROGRAM (PART 1) IN AN INCREASED AMOUNT NOT TO EXCEED NINETEEN THOUSAND THREE HUNDRED EIGHTY-SIX AND 81/100 DOLLARS (\$19,386.81).

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. The City Manager shall be, and he hereby is, authorized and directed to accept Change Order No. 1 from Smith Paving to reflect the additional labor and materials related to expansion of the 2018 Road Paving Program (Part 1), in an increased amount not to exceed Nineteen Thousand Three Hundred Eighty-Six and 81/100 (\$19,386.81), Change Order No. 1 shall be in substantially the form of Exhibit "A" attached hereto and make a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22.

SECTION 3. That this Resolution shall go into effect, and be in full force and effect, immediately upon its passage.

Trey Hardy, Mayor

ATTESTED: _____
Clerk of Council

ADOPTED: _____

CHANGE ORDER



Project: City of Huron - 2018 Paving Program, Part #1

Owner: City of Huron
417 Main Street
Huron, OH 44839
(419) 433-5000

Contractor: Smith Paving
4426 Old State Road N
Norwalk, OH 44857
(419) 668-4165

Note:

TO THE CONTRACTOR:

You are hereby directed to comply with the changes to the contract documents. This change order reflects work completed or anticipated.

OHM Advisors
388 S Main Street, Suite 301
Akron, OH 44311
(330) 913-1080

CURRENT PROJECT PLANS AND SPECIFICATIONS WILL BE ADHERED TO UNLESS SPECIFICALLY CHANGED BY THIS CHANGE ORDER DOCUMENT.

THE CONTRACT AMOUNT WILL BE CHANGED BY THE SUM OF:	\$19,386.81
Original Contract Amount:	\$594,699.25
Contract Amount Including Previous Change Orders:	\$594,699.25
Amount of this Change Order:	<u>\$19,386.81</u>

REVISED CONTRACT AMOUNT: \$614,086.06

Approved By

Thomas Tucker, PE, PS, Manager of Akron _____ Date _____

Andrew White - City Manager - City of Huron _____ Date _____

Smith Paving _____ Date _____

Items

Item No.	Description	Previous Authorized Quantity	Quantity Change	New Authorized Quantity	Unit Price	Total Increase
THE FOLLOWING ITEMS AND OR CONTRACT UNIT PRICES SHALL BE ADDED TO THE CONTRACT AMOUNT						
Division: A						
611	CATCH BASIN RECONSTRUCTED TO GRADE	7.00 Ea	5.00	12.00	\$675.00	\$3,375.00
611	MANHOLE RECONSTRUCTED TO GRADE	3.00 Ea	8.00	11.00	\$525.00	\$4,200.00
255	FULL DEPTH PAVEMENT REMOVAL AND RIDGE REPLACEMENT, CLASS QC MS, AS PER PLAN (INCLUDE SAWCUTTING)	6590.00 Syd	486.00	7076.00	\$73.00	\$35,478.00
441	ASPHALT CONCRETE SURFACE COURSE, TYPE 1, (448) PG64-22	102.00 Cyd	49.00	151.00	\$159.00	\$7,791.00
441	ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE 2, (448)	24.00 Cyd	24.00	48.00	\$152.00	\$3,648.00
Additional Items to the Contract:						
	SPECIAL CHIP SEAL STREETS BUTT JOINTS	0.00 Ls	1.00	1.00	\$4,410.00	\$4,410.00
	SPECIAL CB TOPS REPLACED	0.00 Ea	2.00	2.00	\$245.00	\$490.00
SUB-TOTAL INCREASES DIVISION A:						\$59,392.00
THE FOLLOWING ITEMS AND OR CONTRACT UNIT PRICES SHALL BE SUBTRACTED FROM THE CONTRACT AMOUNT						
Division: A						
623	MONUMENT BOX RECONSTRUCTED TO GRADE	4.00 Ea	-1.00	3.00	\$185.00	(\$185.00)
423	CRACK SEALING, TYPE III, AS PER PLAN	1325.00 Ft	-92.60	1232.40	\$0.65	(\$60.19)
614	LAW ENFORCEMENT OFFICER WITH PATROL CAR FOR ASSISTANCE	4.00 Hour	-4.00	0.00	\$65.00	(\$260.00)
609	CURB, MISC.: CURB REMOVED AND REPLACED, IN KIND, FROM JOINT TO JOINT (INCLUDE SAWCUTS)	500.00 Ft	-500.00	0.00	\$29.00	(\$14,500.00)
SPECIAL	CONTINGENCY ALLOWANCE FOR UNFORESEEN PROJECT CONDITIONS	25000.00 Dir	-25000.00	0.00	\$1.00	(\$25,000.00)
SUB-TOTAL DECREASES DIVISION A:						(\$40,005.19)

RESOLUTION NO. 2019-73

A RESOLUTION AMENDING RESOLUTION 2018-66, ADOPTED AUGUST 14, 2018, AUTHORIZING THE CITY MANAGER TO ACCEPT CHANGE ORDER NO. 2 FROM SMITH PAVING AND EXCAVATING FOR LABOR AND MATERIALS RELATED TO THE EXPANSION OF THE 2018 ROAD PAVING PROGRAM (PART 1) IN AN INCREASED AMOUNT NOT TO EXCEED THREE THOUSAND SIX HUNDRED SEVENTY-FIVE AND 00/100 DOLLARS (\$3,675.00).

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. The City Manager shall be, and he hereby is, authorized and directed to accept Change Order No. 2 from Smith Paving to reflect the additional labor and materials related to expansion of the 2018 Road Paving Program (Part 1), in an increased amount not to exceed Three Thousand Six Hundred Seventy-Five and 00/100 (\$3,675.00), Change Order No. 2 shall be in substantially the form of Exhibit “A” attached hereto and make a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22.

SECTION 3. That this Resolution shall go into effect, and be in full force and effect, immediately upon its passage.

Trey Hardy, Mayor

ATTESTED: _____
Clerk of Council

ADOPTED: _____

CHANGE ORDER



Project: City of Huron - 2018 Paving Program, Part #1

Owner: City of Huron
417 Main Street
Huron, OH 44839
(419) 433-5000

Contractor: Smith Paving
4426 Old State Road N
Norwalk, OH 44857
(419) 668-4165

Job Number: 3002-18-0090

Change Order Number: 2

Date: 10/31/2019

Print Date: 11/1/2019

Note:

TO THE CONTRACTOR:

You are hereby directed to comply with the changes to the contract documents. This change order reflects work completed or anticipated.

OHM Advisors
388 S Main Street, Suite 301
Akron, OH 44311
(330) 913-1080

CURRENT PROJECT PLANS AND SPECIFICATIONS WILL BE ADHERED TO UNLESS SPECIFICALLY CHANGED BY THIS CHANGE ORDER DOCUMENT.

THE CONTRACT AMOUNT WILL BE CHANGED BY THE SUM OF:	\$3,675.00
Original Contract Amount:	\$594,699.25
Contract Amount Including Previous Change Orders:	\$614,086.06
Amount of this Change Order:	<u>\$3,675.00</u>
REVISED CONTRACT AMOUNT:	\$617,761.06

Approved By

Thomas Tucker, PE, PS, Manager of Akron _____ Date _____

Andrew White - City Manager - City of Huron _____ Date _____

Smith Paving _____ Date _____

Items

Item No.	Description	Previous Authorized Quantity	Quantity Change	New Authorized Quantity	Unit Price	Total Increase
THE FOLLOWING ITEMS AND OR CONTRACT UNIT PRICES SHALL BE ADDED TO THE CONTRACT AMOUNT						
Division: A						
1202	MANHOLE RECONSTRUCTED TO GRADE	11.00 Ea	7.00	18.00	\$525.00	\$3,675.00
SUB-TOTAL INCREASES DIVISION A:						\$3,675.00



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Resolution 2019-74 and Resolution 2019-75
DATE: November 22, 2019

Subject Matter/Background

Resolutions 2019-74 and 2019-75 are required legislative actions relative to the expansion of the 2018 Road Paving Program Part 2.

Resolution 2019-74

This resolution will authorize Change Order No. 2 with Smith Paving to expand the 2018 Road Paving Project Part 2 to incorporate repairs to an existing failing storm line that was encountered under Beachside Lane at an increased cost of \$15,283.22.

Resolution 2019-75

This resolution will authorize Change Order No. 3 with Smith Paving to expand the 2018 Road Paving Project Part 2 to incorporate the addition of typical end of project balancing of all project bid line item quantities. The majority of the items where we had overages were additional concrete roadway sections that were replaced as cracking/failures became evident between when the project was originally bid and its completion, and we have overages on catch basins and manholes that had to be completely rebuilt once they were uncovered to be adjusted to grade.

Legislative History

Resolution 2018-30	Bid Award-Part 2	\$ 795,267.75	adopted April 10, 2018
Resolution 2018-52	Change Order No.1	\$1,380,018.64	adopted June 26, 2018

Financial Review

This change order has been reviewed by the Finance Department. The City's fund balance in the Capital Improvement Fund (Fund 401) is sufficient to pay the change order. Upon approval of this change order, the Finance Director will request approval for appropriation increases to legally budget and pay for this change order.

Legal Review

The matter has been reviewed, follows normal legislative procedure and is properly before you.

Recommendation

If Council is in support of the request, a motion to adopt Resolution No. 2019-74 and Resolution No. 2019-75 would be in order.

RESOLUTION NO. 2019-74

A RESOLUTION AMENDING RESOLUTION 2018-30, ADOPTED APRIL 10, 2018, AUTHORIZING THE CITY MANAGER TO ACCEPT CHANGE ORDER NO. 2 FROM SMITH PAVING AND EXCAVATING FOR LABOR AND MATERIALS RELATED TO THE EXPANSION OF THE 2018 ROAD PAVING PROGRAM (PART 2) IN AN INCREASED AMOUNT NOT TO EXCEED FIFTEEN THOUSAND TWO HUNDRED EIGHTY-THREE AND 22/100 DOLLARS (\$15,283.22).

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. The City Manager shall be, and he hereby is, authorized and directed to accept Change Order No. 2 from Smith Paving to reflect the additional labor and materials related to expansion of the 2018 Road Paving Program (Part 2), in an increased amount not to exceed Fifteen Thousand Two Hundred Eighty-Three and 22/100 (\$15,283.22), Change Order No. 2 shall be in substantially the form of Exhibit "A" attached hereto and make a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22.

SECTION 3. That this Resolution shall go into effect, and be in full force and effect, immediately upon its passage.

Trey Hardy, Mayor

ATTESTED: _____
Clerk of Council

ADOPTED: _____

CHANGE ORDER



Project: City of Huron - 2018 Paving Program Part #2

Owner: City of Huron
417 Main Street
Huron, OH 44839
(419) 433-5000

Contractor: Smith Paving
4426 Old State Road N
Norwalk, OH 44857
(419) 668-4165

Job Number: 3002-18-0050

Change Order Number: 2

Date: 10/19/2018

Print Date: 7/30/2019

Note:

TO THE CONTRACTOR:

You are hereby directed to comply with the changes to the contract documents. This change order reflects work completed or anticipated.

OHM Advisors
388 S Main Street, Suite 301
Akron, OH 44311
(330) 913-1080

CURRENT PROJECT PLANS AND SPECIFICATIONS WILL BE ADHERED TO UNLESS SPECIFICALLY CHANGED BY THIS CHANGE ORDER DOCUMENT.

THE CONTRACT AMOUNT WILL BE CHANGED BY THE SUM OF:	\$15,283.22
Original Contract Amount:	\$795,267.75
Contract Amount Including Previous Change Orders:	\$2,175,286.39
Amount of this Change Order:	<u>\$15,283.22</u>
REVISED CONTRACT AMOUNT:	\$2,190,569.61

Approved By

Thomas Tucker _____ Date _____

Andrew White - City Manager - City of Huron _____ Date _____

Smith Paving _____ Date _____

Items

Item No.	Description	Previous Authorized Quantity	Quantity Change	New Authorized Quantity	Unit Price	Total Increase
THE FOLLOWING ITEMS AND OR CONTRACT UNIT PRICES SHALL BE ADDED TO THE CONTRACT AMOUNT						
Division: A						
Additional Items to the Contract:						
23309	BEACHSIDE STORM LINE REPAIR	0.00 Ls	1.00	1.00	\$1,667.22	\$1,667.22
23310	CDF UNDER BRIDGE ON HARBORVIEW DR	0.00 Ls	1.00	1.00	\$448.50	\$448.50
SUB-TOTAL INCREASES DIVISION A:						\$2,115.72

Items

Item No.	Description	Previous Authorized Quantity	Quantity Change	New Authorized Quantity	Unit Price	Total Increase
THE FOLLOWING ITEMS AND OR CONTRACT UNIT PRICES SHALL BE ADDED TO THE CONTRACT AMOUNT						
Division: A						
Additional Items to the Contract:						
23311	4" WALK	0.00 Sft	453.00	453.00	\$5.50	\$2,491.50
23312	WALK REMOVED	0.00 Sft	453.00	453.00	\$2.00	\$906.00
23313	CURB DRAINS	0.00 Ea	12.00	12.00	\$100.00	\$1,200.00
23314	WATER VALVE BOXES ADJUST TO GRADE	0.00 Ea	2.00	2.00	\$200.00	\$400.00
23315	GLOUCESTER DRIVEWAY REMOVE/REPLACE	0.00 Sft	365.00	365.00	\$8.00	\$2,920.00
23316	CURB RAMPS	0.00 Ea	15.00	15.00	\$350.00	\$5,250.00
SUB-TOTAL INCREASES DIVISION A:						\$13,167.50

RESOLUTION NO. 2019-75

A RESOLUTION AMENDING RESOLUTION 2018-30, ADOPTED APRIL 10, 2018, AUTHORIZING THE CITY MANAGER TO ACCEPT CHANGE ORDER NO. 3 FROM SMITH PAVING AND EXCAVATING FOR LABOR AND MATERIALS RELATED TO THE EXPANSION OF THE 2018 ROAD PAVING PROGRAM (PART 2) IN AN INCREASED AMOUNT NOT TO EXCEED FORTY-THREE THOUSAND THREE HUNDRED SEVENTY-EIGHT AND 95/100 DOLLARS (\$43,378.95).

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. The City Manager shall be, and he hereby is, authorized and directed to accept Change Order No. 3 from Smith Paving to reflect the additional labor and materials related to expansion of the 2018 Road Paving Program (Part 2), in an increased amount not to exceed Forty-Three Thousand Three Hundred Seventy-Eight and 95/100 (\$43,378.95), Change Order No. 3 shall be in substantially the form of Exhibit "A" attached hereto and make a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22.

SECTION 3. That this Resolution shall go into effect, and be in full force and effect, immediately upon its passage.

Trey Hardy, Mayor

ATTESTED: _____
Clerk of Council

ADOPTED: _____

CHANGE ORDER



Project: City of Huron - 2018 Paving Program Part #2

Owner: City of Huron
417 Main Street
Huron, OH 44839
(419) 433-5000

Contractor: Smith Paving
4426 Old State Road N
Norwalk, OH 44857
(419) 668-4165

Note:

TO THE CONTRACTOR:

You are hereby directed to comply with the changes to the contract documents. This change order reflects work completed or anticipated.

OHM Advisors
388 S Main Street, Suite 301
Akron, OH 44311
(330) 913-1080

CURRENT PROJECT PLANS AND SPECIFICATIONS WILL BE ADHERED TO UNLESS SPECIFICALLY CHANGED BY THIS CHANGE ORDER DOCUMENT.

THE CONTRACT AMOUNT WILL BE CHANGED BY THE SUM OF:	\$43,378.95
Original Contract Amount:	\$795,267.75
Contract Amount Including Previous Change Orders:	\$2,190,569.61
Amount of this Change Order:	<u>\$43,378.95</u>
REVISED CONTRACT AMOUNT:	\$2,233,948.56

Approved By

Thomas Tucker, PE, PS, Manager of Akron _____ Date _____

Andrew White - City Manager - City of Huron _____ Date _____

Smith Paving _____ Date _____

Items

Item No.	Description	Previous Authorized Quantity	Quantity Change	New Authorized Quantity	Unit Price	Total Increase
THE FOLLOWING ITEMS AND OR CONTRACT UNIT PRICES SHALL BE ADDED TO THE CONTRACT AMOUNT						
Division: A						
2003	MONUMENT BOX RECONSTRUCTED TO GRADE	21.00 Ea	7.00	28.00	\$235.00	\$1,645.00
2202	MANHOLE RECONSTRUCTED TO GRADE	1.00 Ea	2.00	3.00	\$685.00	\$1,370.00
2905	CONCRETE TESTING	15000.00 Dir	5000.00	20000.00	\$1.00	\$5,000.00
Additional Items to the Contract:						
23311	4" WALK	453.00 Sft	17.66	470.66	\$5.50	\$97.13
23312	WALK REMOVED	453.00 Sft	470.70	923.70	\$2.00	\$941.40
23314	WATER VALVE BOXES ADJUST TO GRADE	2.00 Ea	2.00	4.00	\$200.00	\$400.00
23316	CURB RAMPS	15.00 Ea	5.00	20.00	\$350.00	\$1,750.00
23319	CONCRETE RELOCATION	0.00 Ls	1.00	1.00	\$7,471.42	\$7,471.42
SUB-TOTAL INCREASES DIVISION A:						\$18,674.95
Division: B						
21301	PAVEMENT PLANING, PORTLAND CEMENT CONCRETE (0" TO 2.25")	3790.00 Syd	287.00	4077.00	\$1.40	\$401.80
SUB-TOTAL INCREASES DIVISION B:						\$401.80
Division: C						
22001	MONUMENT BOX RECONSTRUCTED TO GRADE	2.00 Ea	5.00	7.00	\$235.00	\$1,175.00
22201	CATCH BASIN RECONSTRUCTED TO GRADE	8.00 Ea	29.00	37.00	\$725.00	\$21,025.00
22202	MANHOLE RECONSTRUCTED TO GRADE	5.00 Ea	28.00	33.00	\$685.00	\$19,180.00
22301	PAVEMENT PLANING, PORTLAND CEMENT CONCRETE (0" TO 2.25")	9384.00 Syd	41.00	9425.00	\$4.20	\$172.20
22302	FULL DEPTH PAVEMENT REMOVAL AND RIDGE REPLACEMENT, CLASS QC MS, AS PER PLAN (INCLUDE SAWCUTTING)	1585.00 Syd	11798.40	13383.40	\$74.00	\$873,081.60
22304	TACK COAT, 702.13 (0.08 GAL/SY)	1432.00 Gallon	54.84	1486.84	\$3.15	\$172.75
Additional Items to the Contract:						
23317	SOFT SUBGRADE EXCAVATION	0.00 Cyd	236.40	236.40	\$18.50	\$4,373.40
23318	AGGREGATE BASE ODOT 304	0.00 Cyd	66.90	66.90	\$47.85	\$3,201.17
SUB-TOTAL INCREASES DIVISION C:						\$922,381.11
THE FOLLOWING ITEMS AND OR CONTRACT UNIT PRICES SHALL BE SUBTRACTED FROM THE CONTRACT AMOUNT						
Division: A						
2201	CATCH BASIN RECONSTRUCTED TO GRADE	46.00 Ea	-16.00	30.00	\$725.00	(\$11,600.00)
2301	FULL DEPTH PAVEMENT REMOVAL AND RIDGE REPLACEMENT, CLASS QC MS, AS PER PLAN (INCLUDE SAWCUTTING)	17670.00 Syd	-10412.30	7257.70	\$74.00	(\$770,510.20)
2752	LAW ENFORCEMENT OFFICER WITH PATROL CAR FOR ASSISTANCE	4.00 Hour	-4.00	0.00	\$65.00	(\$260.00)
2902	CONTINGENCY ALLOWANCE FOR UNFORESEEN PROJECT CONDITIONS	79501.59 Dir	-79501.59	0.00	\$1.00	(\$79,501.59)
Subtracted Items from the Contract:						
23308	CURB REMOVED AND REPLACED IN KIND	1348.00 Ft	-283.60	1064.40	\$29.00	(\$8,224.40)
SUB-TOTAL DECREASES DIVISION A:						(\$870,096.19)
Division: B						
21003	MONUMENT BOX RECONSTRUCTED TO GRADE	3.00 Ea	-2.00	1.00	\$235.00	(\$470.00)
21201	CATCH BASIN RECONSTRUCTED TO GRADE	10.00 Ea	-7.00	3.00	\$725.00	(\$5,075.00)
21305	CRACK SEALING, TYPE III, AS PER PLAN	8620.00 Ft	-111.00	8509.00	\$0.70	(\$77.70)
21306	ASPHALT CONCRETE SURFACE COURSE, TYPE 1, (448) PG64-22	345.00 Cyd	-10.00	335.00	\$160.00	(\$1,600.00)
21307	ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE 1, (448)	230.00 Cyd	-2.00	228.00	\$166.50	(\$333.00)
SUB-TOTAL DECREASES DIVISION B:						(\$7,555.70)
Division: C						

City of Huron - 2018 Paving Program Part #2

22303	TACK COAT (0.05 GAL/SY FOR SURFACE COURSE; 0.08 GAL/SY FOR INTERMEDIATE)	899.00	Gallon	-8.00	891.00	\$2.10	(\$16.80)
22305	CRACK SEALING, TYPE III, AS PER PLAN	18954.00	Ft	-350.00	18604.00	\$0.70	(\$245.00)
22306	ASPHALT CONCRETE SURFACE COURSE, TYPE 1, (448) PG64-22 (1.5" THICK)	754.00	Cyd	-73.00	681.00	\$165.00	(\$12,045.00)
22307	ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE 1, (448) (1" THICK)	508.00	Cyd	-3.12	504.88	\$164.00	(\$511.68)

SUB-TOTAL DECREASES DIVISION C: (\$12,818.48)

Division: D

23001	MONUMENT BOX RECONSTRUCTED TO GRADE	4.00	Ea	-4.00	0.00	\$235.00	(\$940.00)
23201	MANHOLE RECONSTRUCTED TO GRADE	6.00	Ea	-6.00	0.00	\$685.00	(\$4,110.00)
23301	PAVEMENT PLANING, ASPHALT CONCRETE	1030.00	Syd	-80.00	950.00	\$3.35	(\$268.00)
23305	CRACK SEALING, TYPE III, AS PER PLAN	1690.00	Ft	-541.00	1149.00	\$0.70	(\$378.70)
23306	ASPHALT CONCRETE SURFACE COURSE, TYPE 1, (448) PG64-22 (1.5")	135.00	Cyd	-11.38	123.62	\$168.00	(\$1,911.84)

SUB-TOTAL DECREASES DIVISION D: (\$7,608.54)



TO: Mayor Hardy and City Council
FROM: Andrew D. White, City Manager
RE: Ordinance 2019-28
DATE: November 22, 2019

Subject Matter/Background

Ordinance 2019-28 requests the Council's authorization for changes to the annual budget appropriations. Please refer to Exhibit "A" of the ordinance for the detailed breakdown and summary.

Legal Review

The matter has been reviewed and is properly before Council for consideration.

Recommendation

The Council should consider a motion to adopt the ordinance as presented in order to maintain budgetary compliance.

ORDINANCE NO. 2019-28

AN ORDINANCE AMENDING ORDINANCE NO. 2018-36, ADOPTED DECEMBER 11, 2018, TO PROVIDE FOR ADDITIONAL APPROPRIATIONS FROM THE GENERAL FUND AND OTHER FUNDING SOURCES AND AN INCREASE IN ESTIMATED RESOURCES AND FURTHER APPROVING CASH TRANSFERS BETWEEN FUNDS, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 2018-36, adopted December 11, 2018, Huron City Council adopted the annual budget for the fiscal year ending December 31, 2019 for the operations of all City departments and offices; and

WHEREAS, Council has established various funds for the financial operation of the City, and through the current fiscal year certain funds have been determined to have insufficient funds and certain Funds have been determined to have excess funds; and

WHEREAS, it is necessary to amend the budget to reflect appropriation transfers, supplemental appropriations and an increase in estimated resources and to also approve a cash transfer between funds to accommodate the operational needs of certain City departments and offices and to assure all funds of the City are in proper balance.

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

SECTION 1. That Exhibit "A" of Ordinance No. 2018-36, adopted on the 11th day of December, 2018; as amended by Ordinance 2019-1 adopted February 12, 2019, as amended by Ordinance 2019-5 adopted March 26, 2019, as amended by Ordinance 2019-8 adopted 5-14-19, as amended by Ordinance 2019-10 adopted June 25, 2019, as amended by Ordinance 2019-16 on July 25, 2019, as amended by Ordinance 2019-17 on August 13, 2019, as amended by Ordinance 2019-19 on August 27, 2019, as amended by Ordinance 2019-20 on September 10, 2019, as amended by Ordinance 2019-23 on October 22, 2019, and as amended by Ordinance 2019-24 on November 12, 2019 is hereby amended to provide for appropriation transfers, supplemental appropriations and an increase in estimated resources as to each fund set forth in Exhibit "A" attached hereto and made a part hereof.

SECTION 2. That the Director of Finance and the City Manager are hereby authorized to expend the funds herein appropriated for the purpose of paying the operating expenses of the City for the fiscal year ending December 31, 2019 and to make the necessary entries on the accounting records of the City to reflect the appropriations and expenditures herein authorized.

SECTION 3. That, to properly balance the various funds of the City, the Finance Director shall be, and he hereby is, authorized and directed to make the cash transfer between and among those certain funds of the City, in the amounts as set forth in Exhibit "A" attached hereto and made a part hereof.

SECTION 4. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open

meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the residents and for the further reason that this Ordinance shall become immediately effective to fund the operations of the City of Huron; additionally, in accordance with Section 3.06 of the Charter of the City of Huron, appropriation ordinances shall take effect immediately; **WHEREFORE** this Ordinance shall take effect immediately upon its adoption.

Trey Hardy, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____.

CITY OF HURON
 BUDGET APPROPRIATION ADJUSTMENTS, ESTIMATED RESOURCES, AND CASH TRANSFERS
 SUMMARY SHEET

DATE: 11/26/2019
 ORDINANCE: 2019-28

Appropriation Measure

Reason for Appropriation Measure

Pending approval of the change orders (Resolutions 2019-72, 73, 74, & 75) before Council at this meeting, an increase in appropriations (budget) is necessary to legally fund and pay Smith Paving for the change orders in the paving program. There is adequate fund balance in Fund 401 to appropriate and pay for the change orders.

ESTIMATED RESOURCES INCREASE/DECREASE

Fund	Fund - Account #	Account Description	Increase/(Decrease) Amount	Total Appropriations After Adjustment
CAPITAL IMPROVEMENT FUND	401-9500-55961	PAVING PROGRAM	\$ 85,000.00	\$ 1,580,659.35