

Nelsonville City Council will meet in regular session Monday June 28, 2021 at 7 pm. Due to COVID-19 Pandemic the public may not attend the meeting in person. The meeting will be live streamed from the City of Nelsonville Facebook page (City of Nelsonville, Ohio, @nelsonvillecity).

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Opening Prayer
4. Roll Call
5. Minutes from the last regular meeting and special meetings May 24, June 2, and June 7
6. Auditor's/Treasurer's Report
7. Mayor's Court Report and Roll Call
8. Citizen's Comments
9. Business and Organizational Comments
10. Committee Discussion: Recreation, Street, Utility, Finance, Judiciary, Planning & Development, Police & Fire
11. Department Updates
12. Second Reading
13. First Reading

ORDINANCE 43-21. AN ORDINANCE ADOPTING CAMPING REGULATIONS.

ORDINANCE 44-21. AN ORDINANCE AUTHORIZING THE USE OF ATVs ON CITY STREETS.

ORDINANCE 45-21. AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH AEP TO REMOVE THEIR ELECTRICAL LINES ALONG THE FRONT OF THE WASTE WATER TREATMENT PLANT AND DECLARING AN EMERGENCY.

ORDINANCE 46-21. AN ORDINANCE APPROVING CHANGE ORDER #5 FOR PHASE I PUMP STATION AND TRUNK SEWER AND DECLARING AN EMERGENCY.

ORDINANCE 47-21. ENACTING NEW CHAPTER **XX ENTITLED "LODGING EXCISE TAX" OF THE CODIFIED ORDINANCES OF THE CITY OF NELSONVILLE, OHIO.**

ORDINANCE 48-21. AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR THE PAYDHEALTH RX PROGRAM AND DECLARING AN EMERGENCY.

ORDINANCE 49-21. AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS NECESSARY FOR THE PHASE 3 SEWER PROJECT EPA REVIEW FEE AND PLAN SUBMISSION AND DECLARING AN EMERGENCY.

ORDINANCE 50-21. AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT ITECH AND XEROX FINANCIAL SERVICES, LLC AND DECLARING AN EMERGENCY.

ORDINANCE 51-21. AN ORDINANCE AMENDING THE 2021 APPROPRIATIONS ORDINANCE TO APPROPRIATE FROM THE UNAPPROPRIATED BALANCE THE FOLLOWING: ELEVEN THOUSAND TWO HUNDRED FORTY-SIX DOLLARS (\$11,246.00) FROM GENERAL FUND #100 TO LINE ITEM #100-200-40010 (OPERATING SUPPLIES).

ORDINANCE 52-21. AN ORDINANCE AUTHORIZING THE PAYMENT OF PRIOR YEAR BILLS OF THE CITY ATTORNEY.

14. City Manager's Report
15. Good of the Order
16. Executive Session O.R.C. 121.22(g) for Personnel and Legal Matters
17. Adjourn

Nelsonville City Council met in regular session Monday, May 24, 2021 at 7PM. President Dunfee called the meeting to order. All stood to recite the Pledge of Allegiance. Mr. Dunfee offered the opening prayer. **ROLL CALL:** All Council members were present. Mr. Taylor and Mr. Booth attended the meeting via Zoom. Ms. Jones made a motion to approve the minutes of the last regular and the May 13 special meeting as presented. Mr. Dunfee seconded the motion. **ROLL CALL:** All Council members voted yea.

AUDITOR/TREASURER'S REPORT

Treasurer's Report

The Auditor gave the Treasurer's Report for April 2021. Total funds as of April 30, 2021 totaled \$2,824,606.17. Total invested funds were \$1,713,450.29 and year to date interest totaled \$630.78.

Auditor's Report

The Auditor gave the Auditor's Report. Year to date expenses totaled \$1,968,984.20, and year to date revenue totaled \$2,100,139.64 showing that revenue has slightly out-paced expenses. Funds are moving towards healthy balances with the Capital Fund and Water Fund have met the standard. He hopes to have all funds at a healthy balance by the end of next year. The Auditor gave stats for his department since January. Mr. Sappington went over a payroll comparison for April 2020 and April 2021 showing reductions in hours and overtime, and he called out the Police Department showing changes made in staffing and how they impact the City's bottom line. Mr. Sappington has been able to secure discount on liability to the State from \$26,000 to \$50, and a discount from the IRS of \$186,130.74. Savings to the City could be as much as \$415,000.

Mr. Sherman made a motion to approve the Auditor's and Treasurer's reports as presented. Mr. Dunfee seconded the motion. **ROLL CALL:** All Council members voted yea.

MAYOR'S COURT REPORT

Mr. Dunfee gave the Mayor's Court Report. Mr. Sherman made the motion to approve the report as presented. Mr. Dunfee seconded the motion. **ROLL CALL:** All Council members voted yea.

COMMITTEE DISCUSSION

Ms. Jones reported on a **Planning and Development Committee** meeting held last week where they discussed ATV friendly in the City. Jason Reid with Wayne National Forrest attended the meeting and talked about Wayne National Forest ATV trails and expansion. The committee also discussed changes to the lodging tax and having bike lanes on Canal Street. Mr. Frank has looked into having a bike lane on Canal Street and feels it is feasible.

POLICE DEPARTMENT UPDATE

Chief Fitch began with Department stats. He is continually working to find funds for officer's training. In-house training is saving the City a lot of money and time because the officers don't have to travel too far. The Clerk is doing a great job and he is giving her more responsibility. Officer Jones continues with training requirements with K-9, Atilla. Officers Tracey and Tolliver are working on computerizing items in the evidence room. All officers are up to date with their training, and each officer is scheduled for at least one training this year. A significant amount of savings is due to the new schedule. He explained that when officers are more proactive there will tend to be some overtime due to paperwork that has to be done when the shift is over, but it pales in comparison to scheduling overtime as has been done in the past. He has finished the schedule to the end of the year and there is no scheduled overtime and there won't be unless something unforeseen happens.

Mr. Sherman volunteered that the first year of the Vintage Camper show on the Square participants were uneasy because of a lack of police presence, but after a meeting for this year all participants are feeling much better with the changes in our Police Department. Chief Fitch said officers will be patrolling the area and walking through the area.

CODE ENFORCEMENT UPDATE

The Code officer announced because she will be reporting more frequently, she would report on Code at one meeting and Zoning at the next. Ms. Barber reviewed a few reminders about grass and weed height and mowing to the alleyway and keeping trash cans in front of homes all week. Trash cans should be brought to the front the night before trash pick up and returned to the back by the evening of trash pick-up. She feels the department is making strides because she has been issuing rental permits, demo permits and dumpster permits. If people have asked for dumpsters that means they are cleaning. Two parking lots in the City are being paved, one on Chestnut St. and the other at the storage units. The front lot has been paved and the back lot will be paved this summer. Ms. Barber is working hand in hand with the Lank Bank, and they are doing a fabulous job in the City. She thanked them for all they do for us. When Ms. Barber started there was a lot of crime and drugs on west High St., but it is getting better. She is proud of what she has been able to accomplish on that street. She has investigated the house that burned a few weeks ago on Pleasantview and feels it should have been condemned years ago. Trash was up to her waist inside the house. It was a health hazard, and she doesn't understand why neighbors hadn't contacted her. We don't have a rental inspection program. but if we did that house would not have been approved for rental. She worries about the safety of police and fire personnel and other City workers. She doesn't think the property owner will be taking care of it so that is another expense to the City.

Ms. Grant asked who cuts the grass at the Land Band owner properties. Ms. Barber said the City was doing it, but it is not our responsibility, so it is something that needs to be worked out. City crews are focusing on streets this year.

Mr. Sherman asked if there have been any complaints about the new trash company. Ms. Barber said the most complaints have been about trash not being picked up in the alleys, but this was at the start of the new contract. She has explained that all trash must be put in the front of the house except in cases that has been investigated and waived. In her opinion it's that they just didn't know of that change regardless of all notifications. Mr. Smith said he talked to someone who called because their trash was not picked up and were told by the trash hauler they would get it the next week, and if that is the case, it is unacceptable. Ms. Barber said the quickest way to handle that was to call the Utility Department. They are responding to those complaints. Mr. Sappington said AHR has always responded to that type of complaint.

Mr. Dunfee had a Citizens Comment from John Meeks on Walnut St. asking how often our police officers work by themselves given all the overtime savings. Chief Fitch responded since the 12-hour shifts started we have had seven shifts that needed to be covered. He has helped himself as well as the K-9 unit with Officer Jones. Hocking College has been notified in these seven cases and are ready to respond if necessary, so actually there have been no shifts where officers worked along.

SECOND READING

ORDINANCE 39-21. AN ORDINANCE AMENDING THE 2021 APPROPRIATIONS ORDINANCE TO APPROPRIATE FROM THE UNAPPROPRIATED BALANCE THE FOLLOWING: THE SUM OF SEVEN THOUSAND DOLLARS (\$7,000.00) FROM THE GENERAL FUND

#100 TO LINE ITEM # 100-370-21100 (AUDIT FEES); SEVEN THOUSAND DOLLARS (\$7,000.00) FROM THE WATER FUND #700 TO LINE ITEM #700-370-21100 (AUDIT FEES); AND SEVEN THOUSAND DOLLARS (\$7,000.00) FROM THE SEWER FUND #750 TO LINE ITEM #750-370-21100 (AUDIT FEES).

Ms. Jones made the motion to adopt. Mr. Dunfee seconded the motion. Discussion: Mr. Dunfee said he thought these fees were waived. Mr. Sherman said it was talked about at one time and Mr. Edwards was going to help with it. Mr. Dunfee said Council can go ahead and approve it tonight, but a phone call needs to be made.

ROLL CALL: All Council members voted yea.

Ordinance 39-21 adopted on second reading.

Ms. Jones challenged Mr. Smith's remarks regarding City Code section 411 and pool rates not being adopted as an emergency measure. The sections references rates for public utilities and she challenged that the pool is not a public utility and rates can be changed as an emergency measure.

Mr. Smith challenged Ms. Jones saying the pool is a public utility. He looked up the meaning of public utility which is a public service. He suggested we go back to the 2019 rates. Mr. Hunted said Council should adopt these rates tonight and he will look into it and get back with an opinion, which he did the following day.

"The question was presented last night concerning the Aquatic Center Fee ordinance that an emergency was precluded by Section 4.11 of the Charter which reads in part: No ordinance granting a franchise or fixing a rate to be charged by a public utility shall be passed as an emergency measure. Public Utilities are usually considered to be water, sewer, gas and electric. Recreation Departments are not considered a public utility. In my opinion, the Aquatic Center is part of the Recreation Department. The Dictionary definition of public utility is defined as an organization supplying the community with electricity, gas, water or sewerage. I do not believe Nelsonville charter section 4.11 prevents an emergency from being placed on the Aquatic Center Fee ordinance. Garry

FIRST READING

Ms. Jones introduced Ordinance 41-21.

ORDINANCE 41-21. AN ORDINANCE ESTABLISHING FEES FOR THE NELSONVILLE WATER PARK AND DECLARING AN EMERGENCY.

Ms. Jones made a motion to add free admission for veterans and military with an ID. This is only for the military person, not family. Mr. Sherman seconded the motion. There was no further discussion. **ROLL CALL:** All Council members voted yea. **Motion passed.**

Ms. Jones made a motion to suspend the rules. Mr. Dunfee seconded the rules. There was no discussion. **ROLL CALL:** All Council members voted yea except Mr. Smith who voted no.

Ms. Jones made the motion to adopt. Mr. Dunfee seconded the motion. There was no discussion. **ROLL CALL:** All Council members voted yea except Mr. Smith who voted no.

Ordinance 41-21 adopted on first reading under suspension of the rules.

CITY MANAGER'S REPORT

Mr. Frank said a lateral is being fixed on lower Chestnut Street today and tomorrow work will begin on curbs and sidewalks. Once that is complete the paving will be scheduled.

Mr. Frank wanted to let Council know the water project is squared away, and the EPA has approved the project but there is a formality where the EPA has to send our funding request at the end of the month. Michael Betts does not feel this is a problem. The contractors want to start June 1. There was some discussion regarding starting the project without all the funding in place. Mill Street will be first, St. John Street, Kimberly near the old Poston School, and Monroe Street area. He is not sure

if Watkins Street is still on the list. Mr. Sherman asked about replacing the sewer line when the street is torn up for the sewer project. Mr. Frank said there is a sewer running through the storm sewer which is going to be fix but he's not sure which project that is. City crews will be doing some of the work.

The Utility Department is still working on potholes. Mr. Smith asked if we could hire extra people to help with the potholes. Ms. Grant said we can't because of budget restrictions. Mr. Frank said in addition people don't want to work.

Spare parts have been received and the pool pump has been installed. There was a line break on a chemical line which was cleaned up. There will be an inspection on Thursday and the pool will open Friday or Saturday. They are working on repairing a broken pump so that we will have a backup pump.

Trash complaints have come down, and all complaints have been discussed with the hauler.

Rocky donated twelve pairs of shoes to the Police Department. Ms. Jones made a motion to accept the donation from Rocky and thank them. Mr. Dunfee seconded the motion. **ROLL CALL:** All Council members voted yea. **Motion passed.**

Mr. Smith made a motion to have a resolution to thank Rocky for the donation at the next meeting. Ms. Jones seconded the motion. There was no discussion. **ROLL CALL:** All Council members voted yea. **Motion passed.**

Ms. Grant asked if anything has been heard anything about the census. Mr. Sappington said we have not. Federal and State information has been released and possibly some county information but nothing for cities.

GOOD OF THE ORDER

Ms. Grant hopes everyone will continue to support local business and volunteer whenever you can.

Mr. Booth was attending Senior Awards Night at N-Y High School and he congratulated all the graduates. The future looks bright.

Ms. Jones congratulated the 2021 graduates and thanked all the community organizations that award scholarships so graduates can continue their education.

Mr. Smith addressed a problem from a special meeting held regarding Ordinance 10-21 and 11-21. Mr. Hunter will look into it.

Mr. Taylor also attended Senior Awards Night and congratulated the graduates and is excited about their futures. He said the awards ceremony was fantastic and a lot of scholarships were awarded.

Mr. Sherman congratulated our 2021 graduates. The Vintage Camper Show will be held on the Public Square on June 5. Proceeds will go to send Nelsonville youth, ages 7-13 to summer camp.

Mr. Dunfee thanked the Police Department and Code Enforcement Department for their efforts s making the City better. The mayor's Court fund is astounding, and the Utility Department is doing a great job. He also added a shout out to his son who graduated this year and will be going into the US Air Force.

Ms. Jones made a motion to adjourn. Mr. Dunfee seconded the motion. **ROLL CALL:** All council members voted yea.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

The City of Nelsonville City Council met in a special session Monday, May 24, 2021 at 6:30 pm. Due to COVID-19 Pandemic the public may not attend the meeting in person. The meeting will be live streamed from the City of Nelsonville Facebook page (City of Nelsonville, Ohio, @nelsonvillecity).

The purpose of the meeting was to review a resolution appointing the attorneys of Reminger Co., L.P.A., as special prosecutor for the pending removal proceedings of Gregory Smith.

Mr. Dunfee called the meeting to order. All present stood and recited the Pledge of Allegiance. Mr. Taylor offered the opening prayer.

ROLL CALL: All Councilmembers were present. Mr. Scott Frank, City Manager, was also present.

Ms. Jones introduced Resolution 2243.

RESOLUTION 2243. A RESOLUTION APPOINTING THE ATTORNEYS OF REMINGER CO. L.P.A. AS SPECIAL PROSECUTOR TO PROSECUTE THE PENDING REMOVAL PROCEEDINGS, AS WELL AS ANY FUTURE REVIEWS THEREOF, OF COUNCILMEMBER GREGORY SMITH.

Ms. Jones made the motion to adopt. Mr. Sherman seconded the motion. There was no discussion. **ROLL CALL:** All Council members voted yea.

Resolution 2243 adopted on first reading.

Ms. Jones made a motion to adjourn. Mr. Dunfee seconded the motion. **ROLL CALL:** All Council members voted yea.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

The City of Nelsonville City Council met in a special session Wednesday, June 24, 2021, at 6:30 pm. Due to COVID-19 Pandemic the public may not attend the meeting in person. The meeting will be live streamed from the City of Nelsonville Facebook page (City of Nelsonville, Ohio, @nelsonvillecity).

Mr. Dunfee called the meeting to order. All present stood and recited the Pledge of Allegiance. Mr. Taylor offered the opening prayer.

ROLL CALL: All Council members were present except Ms. Grant. Also present were Tom Spyker of Reminger Co., L.P.A., Attorney for the City of Nelsonville during these proceedings, Councilman Greg Smith and his attorney Daniel Klos. The purpose of the meeting is to hold removal proceedings for Councilmember Gregory Smith.

Mr. Spyker gave opening remarks to explain the process of tonight's meeting. The City will present their evidence, and Mr. Smith and Mr. Klos will have the opportunity to present their evidence. There will then be a vote as it relates to residency requirements under the Nelsonville City Charter. The Charter requires Council members to maintain continuous residency within the City of Nelsonville. Mr. Sherman and the Council have provided probable cause that Mr. Smith has not maintained continual residence in the City of Nelsonville.

Mr. Sherman was the sworn as the charging official. He stated his name, Daniel L. Sherman and he has served on Council for about four years and has served as both President and Vice President of Council during that time. Mr. Klos had several motions he present including the fact he does not believe Mr. Spyker was properly appointed by Council vote. There was a discussion of the Resolution appointing Mr. Spyker. He said he was appointed special prosecutor, and the City would move forward with their evidence.

Mr. Sherman as the charging official presented six exhibits.

Exhibit #1 Notice to Mr. Smith informing he was subject to removal proceedings under the Nelsonville City Charter, May 24 special meeting and a special meeting notice for a June 2, 2021, for removal proceedings.

Mr. Sherman said the first page shows him as the charging official meaning he had probable cause to charge Mr. Smith with a Charter violation of not maintaining continuous residency in the City of Nelsonville per Charter section 4.02. Mr. Sherman explained there has always been speculation that Mr. Smith lives in Belpre with his girlfriend and he looked into it. Mr. Sherman stated he has driven by 238 Adams Street at all hours of the day and night and had never seen Mr. Smith's car there. Nelsonville residents began coming forward with statements about Mr. Smith's residency. There were searches on Google, and Mr. Smith was mentioned in the obituary of Beth Tyson's father where he was referred to as her friend.

Exhibit #2 Statement from Tiege Fisk concerning Mr. Smith's residency. Mr. Sherman read the statement into the record.

Exhibit #3 Statement from Nathan and Brittany Tyson (Beth Tyson's daughter and son-in-law)

It was stated when Ms. Tyson left her husband, Mr. Smith moved in with her and her daughter and son-in-law. They gave dates and other addresses where they all lived. Mr. Sherman said when he read this it was further evidence that Mr. Smith was living with Ms. Tyson and not maintaining a continuous residence in Nelsonville.

Exhibit #4 Google searches

Mr. Sherman read the Google search information containing potential addresses and names of the residents of 608 Elm Street in Belpre, OH., showing three occupants, Greg Smith, Charlotte Mathison, and Beth Tyson. Page two showed the same information with phone numbers.

During Mr. Klos cross examination of Mr. Sherman, he asked about the one phone number on the white pages document. Mr. Sherman said at the time he checked Mr. Smith's cell phone number and it was the same, but he has since lost some of his contacts. Mr. Klos questioned Mr. Sherman on the information in the white page document, i.e., the phone numbers, if Mr. Smith has a middle initial "A", and do we know if the name, Gregory A. Smith, and Greg Smith are the same person.

Exhibit #5 Obituary of Carl Harold Tyson

It lists family members with Beth Tyson and friend, Greg Smith among them .

Mr. Sherman said all this evidence together made him believe Mr. Smith is not maintaining a continuous residence in the City of Nelsonville and in violation of the Nelsonville City Charter.

Exhibit #6 Affidavit of Cpt. Brian Rhodes of the Washington County Sheriff's Office

Cpt. Rhodes, a 20-year veteran of the Washington County Sheriff's Office was asked to serve a probable cause notice to Mr. Smith at 1690 Clark Hill Rd, Waterford, OH., by Nelsonville Police Chief, Scott Fitch. Cpt. Rhodes knocked at the door of the residence and when Mr. Smith came to the door, he refused to take the paper and closed the door. Cpt. Rhodes left the notice on the railing at the side door of the residence.

Mr. Spyker said the evidence presented conclusive proof that Mr. Smith is not maintaining a continuous residence in the City of Nelsonville per Nelsonville City Charter requirements and, at the very least, lives part-time and more than likely full-time in Belpre, OH., or the Waterford Township, OH address. The evidence presented is conclusive of this fact and asked that Council vote in the affirmative to remove him from City Council because he has failed to maintain continuous residency in the City of Nelsonville.

During Mr. Klos' cross examination of Mr. Sherman, he asked where this statement was taken. He answered no. Mr. Spyker asked how this was relevant. Mr. Klos said you have to identify the county in which the affidavit was taken. There were more questions concerning Cpt. Rhodes. This evidence did not form the basis of the probable cause statement. Mr. Klos asked if Mr. Sherman agreed that Cpt Rhodes offered no facts that Mr. Gregory Smith was a resident of 1690 Clark Hill Rd. Mr. Sherman said he did not question an officer of the law. There were more questions.

Mr. Smith's attorney, Daniel Klos presented 21 exhibits and began with questions to Mr. Sherman, the charging officer.

Exhibit #1 Agenda of May 24, 2021, special meeting

Exhibit #1A Minutes of May 24, 2021, special meeting

Exhibit #2 5/22/21 Fwd Special meeting agenda for special meeting May 24, 2021

Mr. Klos moved to Exhibit #2, which is a forward from the Clerk of Council of the agenda for the May 24 meeting. Mr. Klos then went to Exhibit 1 showing Resolution 2243 being passed and said it looked like the Resolution 2243 was adopted prior to the May 24 meeting. Mr. Sherman said it must have been a clerical error. Mr. Spyker objected to the line of questioning as it has no bearing on

Mr. Smith's residency, which is the purpose of the meeting. Mr. Dunfee sustained the objection.

Exhibit #3 Removal Notice of Greg Smith

Mr. Klos said this is an undated document signed by Mr. Dunfee and Mr. Sherman and on City of Nelsonville letterhead. The document charges that Mr. Smith has not maintained continuous residency in the City of Nelsonville under City Charter 4.02. He argued that how could Mr. Smith be a qualified elector but not a resident. Mr. Sherman said the charge is that he is not a continuous resident.

Mr. Klos challenged the Jurisdiction of the prosecutor to prosecute this action. Mr. Spyker objected to the challenge and preserve it for the record. Mr. Klos objected to Mr. Spyker's appointment, but it had nothing to do with jurisdiction. They discussed 11.08 of the Charter. Mr. Klos returned to Resolution 2243 and said it was passed with only one reading. Mr. Spyker again objected as the question has nothing to do with Mr. Smith's residency. Mr. Dunfee sustained the objection.

Mr. Klos asked Mr. Sherman if the charging party's documents have been in his possession since May 12, 2021. Mr. Sherman answered some of the documents were not received until the morning of the May 24 special meeting. There was extensive questioning regarding the dates the charging party's exhibits were received. Mr. Klos also questioned why several of the statements were on Nelsonville Police Department forms. Mr. Sherman said it was probably statement paper. Mr. Klos had extensive of questions of Tiege Fisk's statement of to determine if she was biased.

During Mr. Klos cross examination of Mr. Sherman, he noted that the statement was on Nelsonville Police Department Voluntary Statement form. In answer to a question Mr. Sherman said it was not taken by a Policeman, but by another Council member. When it was asked if it was under oath Mr. Sherman replied there was a video attached to it. Mr. Klos said he was trying to determine the credibility of the statement and the witnesses.

Exhibit #4 Affidavit of Melanie R. Smith

This regards the residency of Greg Smith.

Exhibit #5 Email from Angela Bach 2/15/21

This regards the residency of Greg Smith.

Exhibit #6 Greg & Melanie Smith auto insurance sheet at 238 Adams St.

Policies are subject to Ohio law, truthfulness and accuracy of information and subject to penalties for falsification.

Exhibit #7 Athens County Tax 2020 Record, 238 Adams Street, Nelsonville
Greg and Melanie R. Smith

This goes to residency.

Exhibit #8 Athens County Voter Registration Gregory Smith to 11/3/2020

This was compiled by the Board of Elections of Athens County indicating 238 Adams St. as being the continuous residence of Gregory Smith from November 3, 2020, back to May 6, 2003, continuously.

- Exhibit #9** Greg & Melanie R. Smith United Bank Statement, Nelsonville branch
Joint account
- Exhibit #10** Gregory Smith Columbia Gas Bill 1/27/21
Residency
- Exhibit #11** Brittany Tyson Criminal Plea and Statute
This goes to the credibility of Brittany Tyson. She has a criminal history. Mr. Klos feels this is potentially a falsification
- Exhibit #12** Nathan Tyson criminal history sheet and current indictments
This goes to the credibility of Nathan Tyson. He has a criminal record. Mr. Spyker said Mr. Sherman has no personal knowledge of either Brittany or Nathan Tyson.
- Exhibit #13** Request for Subpoena by Charged Party Council
Mr. Klos asked Mr. Sherman if as the charging party, does he have the authority to request subpoenas, which he can. He asked if Mr. Sherman received his email of May 19 and May 28 with his request for subpoena, to which Mr. Sherman said he did not. Mr. Klos said he did not because the address on the website was incorrect. Mr. Sherman said he missed the one on May 28, he did not recall seeing it.
- Exhibit #14** Hunter opinion on qualified elector definition for enforcement of section 4.01 Nelsonville Charter
Mr. Klos asked Mr. Sherman if he had seen this document prior to today, and it is a document from Mr. Hunter with a decision on Mr. Sherman's eligibility for Council. When asked what it means to him, Mr. Sherman replied it means he was a qualified elector. Mr. Klos argued how could Mr. Smith be a qualified elector without being a continuous resident. There was a discussion of what a qualified elector and continuous resident is. Mr. Sherman said he based his claim of not being a continuous resident on the exhibits he presented. Mr. Spyker objected, and Mr. Dunfee sustained the objection. Mr. Klos continued to ask what his definition of continuous residence is. Mr. Sherman answered when other statements come in saying Mr. Smith is living somewhere else, that is not continuous.
Mr. Klos asked what the lookback time for a Charter 4.02 violation. Mr. Dunfee said he wanted to move the proceedings along, and he wanted Mr. Klos to present his evidence from his exhibits. Mr. Klos asked when Mr. Smith was last elected to office, which was 2019. He asked if anyone at that time challenged Mr. Smith being a qualified elector or question any action to the Board of Election with regard to his residency. Mr. Sherman said no. Mr. Spyker objected. Mr. Sherman said there was always speculation about his residency, but he did not look into it until our previous hearing.
- Exhibit #15** Page 1 Decision of Council 2/22/21
Mr. Klos discussed paragraph four of the document. Mr. Sherman said Council voted that Mr. Smith was not a continuous resident of the City of Nelsonville. Mr. Klos continued to question Mr. Sherman and asked the President of Council to instruct Mr. Sherman to answer yes or no and stop engaging in prolonged narratives, which he did. Mr. Sherman said Council did vote yes on the document. Mr. Klos referred to Exhibit 14 and continued to discuss

qualified elector. Mr. Spyker objected and was sustained. Mr. Sherman said it sounded like double talk. Mr. Dunfee asked what this has to do with residency.

Mr. Klos asked Mr. Sherman if there is anyone who believes he/she was intimidated by Mr. Smith who refused to testify since February 19, 2020. Mr. Spyker objected and was sustained but Mr. Sherman said he did not know of any. Mr. Klos asked Mr. Smith if anyone has contacted him that gave favorable information regarding Mr. Smith's residency. Mr. Sherman replied no. Mr. Klos verified that the notice of the hearing was received by the public at 5:57 pm the night before.

Exhibit #16 Affidavit of Beth A. Tyson

Mr. Klos asked this affidavit be accepted into the record regarding Mr. Smith's residency in Nelsonville. Mr. Sherman said he did not contact Ms. Tyson, but a witness that testified in the February hearing said Ms. Tyson was introduced to him by Mr. Smith as his girlfriend. Mr. Klos asked if Mr. Sherman had any evidence tonight that Mr. Smith has engaged in any threatening or intimidating behavior since the last hearing or was he aware of a statement in the Athens Messenger regarding Mr. Smith's reign of terror. Mr. Sherman said no.

Exhibit #17 ORC 3503.02 and ORC 3503.24

Evidence as to the authority for the Board of Elections and State Law.

Exhibit #18 Letterhead, business card and mailing envelope for Greg Smith, Ohio Rural Letter Carriers Association at 238 Adams St.

Mr. Klos presented this exhibit to the Clerk.

Exhibit #19 Request for Public Hearing email from Greg Smith

Mr. Klos asked Mr. Sherman if he was aware that Mr. Smith asked for a Public Hearing on this matter. Mr. Sherman said no. Mr. Klos said there is a requirement in section 11.08 that notice of a hearing be given one week in advance of a hearing. Mr. Klos said notice was given one day prior to the hearing.

Mr. Dunfee interrupted saying we are moving on. From now on he wants only evidence that Mr. Smith lives in Nelsonville.

Exhibit #20 Ohio Revised Code 3501.11 Board Duties

Mr. Klos moved for a dismissal on the basis that the charging party has failed to provide reliable, probative, and substantial evidence that Mr. Smith does not reside anywhere else besides 238 Adams Street. He also moved to dismiss on the basis of failure to publish the meeting notice at least one week prior to the meeting. Mr. Smith is entitled to that. Mr. Taylor challenged that. The City attorneys were not provided that information and our special council had already been voted on and should have already been appointed. Mr. Klos asked to rebut. He asked Mr. Taylor if he voted on Resolution 2243, which he did. Mr. Klos then asked if he voted to suspend the rules. Mr. Taylor did not recall, but after Mr. Klos presented Exhibit 1A Mr. Taylor said he assumes the minutes are correct. Ms. Jones volunteered the Charter specifically addresses enactment of Ordinances and Resolutions. Resolutions do not require suspension of the rules, Ordinances do per Charter 410. Ms. Jones said Council conferred at the meeting and decided they did not need a suspension of the rules because it was a Resolution. Mr. Klos then asked Mr. Dunfee to put Ms. Jones under oath as she was an unsolicited witness so he could continue to question her. Mr. Spyker said this is outside the bounds of the notice

and Mr. Dunfee denied the request. Mr. Klos motioned to strike her testimony, which as done.

Mr. Klos asked to question the witnesses provided in his request for subpoena. Mr. Dunfee denied the request. Mr. Spyker objected saying this has gone on for an hour and 45 minutes and Mr. Klos has had ample time to question those witnesses who are present. Mr. Spyker said we are not going to question other witnesses when Mr. Klos' questions continually ignored the sole purpose of the meeting, the residency of Mr. Smith. A heated discussion continued.

Mr. Dunfee called for a discussion of the evidence. Mr. Sherman said he believes the evidence has proved what it needed to prove,

Ms. Jones asked to call the question and made a motion to remove Mr. Smith from Council due to his lack of continuous residency in the City of Nelsonville. Mr. Sherman seconded the motion. There was no further discussion. **ROLL CALL:** All Council members voted yea. **Motion passed.**

Mr. Taylor made a motion to adjourn. Mr. Sherman seconded the motion. **ROLL CALL:** All Council members voted yea.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

Nelsonville City Council will meet in a special session Monday, June 7, 2021 at 6:30 pm. Due to COVID-19 Pandemic the public may not attend the meeting in person. The meeting will be live streamed from the City of Nelsonville Facebook page (City of Nelsonville, Ohio, @nelsonvillecity).

The purpose of the meeting is for the consideration of,

- An ordinance to authorize the signing of a contract with AT&T for the moving of lines so the sewer plant project may begin.
- To rescind the removal of Gregory Smith from the City of Nelsonville City Council.

Mr. Dunfee called the meeting to order. All present stood and recited the Pledge of Allegiance. Mr. Taylor offered the opening prayer. **ROLL CALL:** All Councilmembers were present. Mr. Scott Frank, City Manager, was also present.

Mr. Taylor introduced Ordinance 42-21.

ORDINANCE 42-21. AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH AT&T FOR CONSTRUCTION WORK RELATED TO THE SEWER PLANT CONSTRUCTION AND DECLARING AN EMERGENCY.

Mr. Taylor made a motion to suspend the rules. Ms. Jones seconded the motion. There was no discussion. **ROLL CALL:** All Council members voted yea.

Mr. Taylor made the motion to adopt. Mr. Dunfee seconded the motion. There was no discussion. **ROLL CALL:** All Council members voted yea.

Ordinance 42-21 adopted on first reading under suspension of the rules.

Ms. Grant introduced Resolution 2244.

RESOLUTION 2244. A RESOLUTION RESCINDING THE REMOVAL OF GREGORY SMITH FROM THE CITY OF NELSONVILLE CITY COUNCIL.

Mr. Taylor made the motion to adopt. Mr. Booth seconded the motion. There was no discussion. **ROLL CALL:** All Council members voted yea.

Resolution 2242 adopted on first reading.

Mr. Booth made a motion to adjourn. Ms. Grant seconded the motion. **ROLL CALL:** All Council members voted yea.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

ORDINANCE 43-21

AN ORDINANCE ADOPTING CAMPING REGULATIONS.

WHEREAS, the City of Nelsonville deems it appropriate to adopt camping regulations;

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

1. That the City of Nelsonville hereby adopts camping regulations in accordance with Exhibit A attached hereto and incorporated herein by reference and these regulations shall be placed in the Nelsonville City Code.
2. The foregoing Ordinance was adopted, and all actions and all deliberations of the City of Nelsonville, Ohio were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.
3. This Ordinance shall be in full force and effect at the earliest moment permitted by law.

Duly enacted by Council on second reading on the 28th day of June 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/14/21
Second Reading: 06/28/21

Exhibit A

CAMPIN

G

Sections:

- XX.01 Purpose**
- XX.02 Definitions**
- XX.03 Unlawful Camping**
- XX.04 Storage of personal property on public and private property**
- XX.05 Permit for special events required**
- XX.06 Posting copy of permit**
- XX.07 Power of the City Manager to make rules and regulations**
- XX.08 Current ordinance provisions**
- XX.09 Violations**

XX.01 Purpose

The streets and public areas with the City of Nelsonville need to be readily accessible and available to residents and the general public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use these areas for which they were intended. Such activity can also constitute a public health and safety hazard, which adversely impacts other members of the public and private lands, streets, sidewalks, alleys, ways, creeks, waterways, parks, playgrounds, recreation areas, plazas, open spaces, lots, parcels and other public and private areas within the city in a clean, sanitary and accessible condition and to protect the health, safety and welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping facilities associated with special events can be beneficial to the cultural and educational well-being of city residents.

Nothing in this chapter is intended to interfere with otherwise lawful and ordinary uses of public or private property.

The unauthorized or inappropriate use of outdoor cooking equipment, open flame, fires or stoves of any sort typically associated with camping creates a major fire threat to life, safety and property, including public and private property, open lands, and hillsides. Illegal campsites are typically located in areas where high levels of combustible vegetation are located (e.g., wooded areas) which creates an even higher level of a fire threat.

Camping adjacent to, within, or below the top of banks or creeks or streams poses a health and safety risk from potential flooding, proximity to unstable banks with slippage potential, health risks from human waste entering into creeks, streams, or other waterways and the risk of damage to environmentally sensitive habitat and species known to exist in some portions of the city, such as creeks, streams, waterways, and wetlands;

Unauthorized camping near bicycle paths within the city also increases the

potential for crimes against persons using the bicycle path.

It is not the intent or purpose of this chapter to prohibit overnight, temporary camping on private residentially zoned property when located on the same lot as an existing single-family residence. Temporary camping shall be defined as occasional and not for a period of more than seven (7) consecutive days.

XX.02 Definitions.

Unless the particular provisions or the context otherwise requires, the definition contained in the section shall govern the construction, meaning, and application of words and phrases used in this chapter.

- A. "Camp," "camping," or "occupy camping facilities" means to do any of the following:
 - 1. To sleep at any time between the hours of 11:00 p.m. and 8:30 a.m. in any of the following places:
 - a. Outdoors, with or without bedding, sleeping bag, blanket, mattress, tent, hammock, camping facility, or other similar protection, equipment or device;
 - b. In, on, or under any structure or thing not intended for human occupancy, whether with or without bedding, sleeping bag, blanket, mattress, tent, hammock, camping or other similar protection, equipment or device;
 - 2. To establish or maintain) outdoors or in) on) or under any structure, object or thing not intended for human occupancy, at any time between the hours of 11:00 p.m. and 8:30 a.m. , a temporary or permanent place for sleeping by setting up any bedding, sleeping bag, blanket, mattress, tent, hammock, camping facility, or other sleeping equipment or device *in* such a as to be usable for sleeping purposes.
- B. "Camping facilities" or "camping facilities" include, but are not limited to, tents, huts, lean-tos, tarps, trailers, vehicles, vehicle camping outfits or other forms of temporary shelter.
- C. "Camping paraphernalia" includes, but it is not limited to, bedrolls, blankets, tarpaulins, cots, beds, mattresses, pads, sleeping bags, hammocks, lanterns, stoves or non-city designated cooking facilities and similar equipment.
- D. "City Manager" means the city manager or his/her designee.
- E. "Establish" means setting up or moving equipment, supplies or materials onto public or private property for the purpose of camping or operating or using camping facilities.
- F. "Maintain" means keeping or permitting equipment, supplies or materials to remain on public or private property in order to camp or operate or use camping facilities.

G. "Operate" or "operating" means participating or assisting in establishing or maintaining a camp or camping facility.

H. "Parks" means public and private parks.

I. "Playgrounds" means play lots, playgrounds, and play fields for local youth and adult recreation programs, excluding professional or semi-professional athletic fields or other outdoor commercial recreation.

J. "Private property" means all privately-owned real estate including, but not limited to, privately-owned streets, sidewalks, alleys, ways, creeks, waterways, lots, parcels and other forms of improved or unimproved land or real property.

K. "Public Property" means all publicly-owned property, including, but not limited to, public streets, sidewalks, alleys, ways, creeks, waterways, parks, playgrounds, recreation areas, plazas, open spaces, lots, parcels and other forms of improved or unimproved land or real property.

L. "Sidewalks" are the areas along the frontage of private or public property between the street pavement line and the adjacent property line designated or designed for pedestrian use, including driveways and landscape medians.

M. "Special event" means the meaning set forth in Section 12.32.050 of this code.

N. "Store" means to set aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

O. "Streets" or "public streets" include avenue, highways, lanes, alleys, ways, crossings, or intersections, courts and cul-de-sacs that have been dedicated and accepted according to law, or which have been in common and undisputed use by the public for a period of not less than five years from the effective date of the ordinance enacting this chapter. "Streets" and "public streets" do not include privately-owned streets unless the context clearly provides otherwise.

XX.030 Unlawful Camping

It is unlawful and a public nuisance for any person or group of persons to camp, occupy camping facilities, or use camping paraphernalia in the following areas:

A. Any public property, improved or unimproved, including, but not limited to, public streets and sidewalks, parks, open space, and other property;

B. Except as otherwise permitted under XX.05 (special event permit) of this code and any private property.

XX.04 Storage of personal property on public property.

It is unlawful and a public nuisance for any person to store personal property, including but not limited to camping facilities and camping paraphernalia, in the following areas, except as otherwise specifically

permitted in writing by the city manager upon a finding by the city manager that, under the circumstances, such storage shall not constitute a public nuisance nor be a threat to the public health, safety or welfare:

- A. Any public property, improved or unimproved including, but not limited to, public streets and sidewalks; or
- B. Any private property without the consent of the owner or other lawful user of such property.

XX.05 Permit for special events required.

The city manager may, in his or her discretion, issue a temporary permit for camping in connection with a special event. A "special event" is intended to include, but not be limited to, programs operated by the department of the city, youth or school events, sporting events, scouting activities, and other events that bring special groups to the city that the city manager deems to be in the public interest and shall not constitute a public nuisance nor be a threat to the public health, safety or welfare. In rendering this determination, the city manager may consult with various city departments, the health officer, or members of the public prior to issuing any temporary permit. Each department or person consulted may provide comments to the city manager regarding any health, safety or public welfare concerns and provide recommendations to the city manager pertaining to the issuance, denial or conditioning of the permit. A reasonable fee, to be set by the city council, shall be paid in advance, by the applicant. The fee shall be returned if the application is denied. In exercising his or her discretion to issue a temporary permit, the city manager may consider any facts or evidence bearing on the sanitary health, safety, and welfare conditions on or surrounding the area or tract of land which the proposed temporary camp or camping facility is to be located.

XX.06 Posting copy of permit.

The permit obtained from the city manager in accordance with Section XX.05 of this code shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camping facility is located.

XX.07 Power of the city manager to make rules and regulations.

The city manager is further empowered to ascertain that the operation or maintenance of any camp or camping facility to which a temporary permit has been issued pursuant to Section XX.05 of this code will not jeopardize the public health, safety, or welfare and, for this purpose, may make additional rules and regulations pertaining to their establishment, maintenance, or operation. The city manager may also impose conditions on the establishment, maintenance or operation of the camp or camping facility, including, but not limited to security, sanitation facilities, the number of occupants, posting of bonds or deposits, insurance, quiet hours, duration of the permit, and permitted activities on the premises. When the city manager issues any permit pursuant to Section XX.05 of this code, such permit may be revoked at any time thereafter, by the city manager if the city manager reasonably determines that the maintenance or continuing operation of the camp or camping facility is a public nuisance or poses a threat to or is adverse to the public health, safety or welfare.

XX.08 Current ordinance provisions.

Neither the adoption of this chapter nor its repeal or amendment shall in any manner affect the prosecution for violation of this code or other ordinances, which violations were committed prior to the effective date of such adoption, repeal or amendment, nor be construed as affecting any of the provisions of this code or other city ordinance, regulation or rule relating to the collection of any license, fee or penal sum applicable to any violation thereof, nor affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to this code or other city ordinance, regulation or rule and all rights and obligations thereunder appertaining shall continue in full force and effect.

XX. Violations.

A violation of this chapter is a misdemeanor or an infraction punishable pursuant to Ohio Revised Code Section 2929.21 and 2929.31, as such section may be amended or renumbered from time to time. In addition, the city attorney may, at the council's direction, institute civil actions to abate a public nuisance under this chapter.

ORDINANCE 44 -21

AN ORDINANCE AUTHORIZING THE USE OF ATVs ON CITY STREETS.

WHEREAS, the City desires to make Nelsonville an ATV Friendly community;

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

1. That the City of Nelsonville authorizes the use of ATVs on City streets in accordance with the following regulations:

Streets to be ATV friendly:

Hocking Parkway from Canal Street to 691
Canal Street from 691 to John Lloyd Evans
John Lloyd Evans to Dorr Run Rd
Hocking Parkway from Canal St to SR 691
Riverside Drive from Hocking Parkway to Wolfe Bennett Rd
Burr Oak Blvd to Sylvania to Woodlane Drive

Licensed ATVs per previous City Ordinance will still be allowed on all streets, non-licensed ATVs will be restricted to above listed streets.

Non-licensed ATVs permitted to be on selected roadways from Sunrise – Sundown 7 days per week unless a special event is organized with city approval then hours can be extended.

All traffic laws apply, vehicles must be insured, ridden by licensed drivers 18 and older.

All other Ohio laws will apply.

In addition to the below rules, ATVs must be equipped with 1 rear view mirror.

If vehicle is not equipped with turn signals, ATV operators must use hand signals per ORC 4511.40.

Vehicles must be equipped with a working rear brake light.

ATV exhaust noise must meet the decibel level set forth in 4519.20.

Vehicles must be equipped with working horn.

Vehicles must not create excessive mud/dirt on city streets.

This ordinance will be in effect until December 31, 2021.

Per ORC 4519.20 Equipment rules, these regulations would apply and be enforced by PD:

2. The foregoing Ordinance was adopted, and all actions and all deliberations of the City of Nelsonville, Ohio were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.

3. This Ordinance shall be in full force and effect at the earliest moment permitted by law.

Duly enacted by Council on second reading on the 28th day of June 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/14/21
Second Reading 06/28/21

ORDINANCE 45-21

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH AEP TO REMOVE THEIR ELECTRICAL LINES ALONG THE FRONT OF THE WASTE WATER TREATMENT PLANT AND DECLARING AN EMERGENCY.

WHEREAS, the City needs to have AEP move its electric lines in front of the new Waste Water Treatment Plant for construction of Phase 2 of the project and there are sufficient funds in the project to cover the costs;

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

1. That the City of Nelsonville authorizes the City Manager to execute a contract with AEP to move its electric lines in front of the new waste water treatment plant, a copy of which contract is attached hereto and incorporated herein by reference.
2. The foregoing Ordinance was adopted, and all actions and all deliberations of the City of Nelsonville, Ohio were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.
3. This Ordinance is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Ordinance is necessary so that electric line can be moved as soon as possible, and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted by Council on first reading under suspension of the rules on the 14th day of June 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/14/21 Adopted Under Suspension of the Rules

AEP Ohio

Contribution-In-Aid-Of-Construction Agreement For Electric Distribution Service



CUSTOMER: City of Nelsonville
15814 ELM ROCK RD
NELSONVILLE, OH

CONTRACT #: DWMS00000519408
WORK REQUEST #: 79579087
Date: 5/26/2021

The Customer has requested the installation of electric distribution facilities (hereinafter referred to as "Basic Service") as follows: Install 3 phase underground wire in existing conduit. Install switch cabinet and single phase wire in existing conduit to existing padmount transformer

Additionally, the Customer has requested Premium Service as follows:

AEP Ohio (hereinafter referred to as "Company") agrees to:

Install 3 phase underground wire in existing conduit. Install switch cabinet and single phase wire in existing conduit to existing padmount transformer

Customer agrees to:

Install trench and conduit to spec for AEP wire. Return signed CIAC with payment in full.

In accordance with the Company's terms and conditions as filed with the Public Utilities Commission of Ohio, the Customer agrees to pay Ohio Power Company as follows:

- 1. \$4,509.69 up-front Contribution-In-Aid-Of-Construction for Basic Service, plus**
- 2. \$0.00 up-front Contribution-In-Aid-Of-Construction for Premium Service, for a total of**
- 3. \$4,509.69 as the combined up-front Contribution-In-Aid-Of-Construction for Basic Service and Premium Service.**

All facilities installed by the Company will be and remain property of the Company. The Company expressly retains the right to use said lines and equipment for any purpose which Company deems advisable, including the distribution of electric service to other customers. However, if the electric distribution facilities installed as a result of this contract are subsequently used by the Company within fifty (50) months of installation to serve additional customers, the Customer may be entitled a refund of a portion of the Contribution-In-Aid-Of-Construction paid for Basic Service. It is the Customer's responsibility to initiate a request for refund in such instances and the Customer can contact the Company at any time to investigate their eligibility for a refund as development proceeds in their local area.

It is understood and agreed that the Company will not begin facilities construction until all Contribution-In-Aid-Of-Construction costs for Basic and Premium Services outlined above are received by the Company.

It is understood and agreed that this contract, and particularly the amounts of the Contribution-In-Aid-Of-Construction, are based on the specifics of the Customer's request for distribution electric facilities.

Other parties may have lines and/or equipment that utilize the Company's poles or other facilities. The Company is not responsible for the installation, relocation or removal of lines and/or equipment owned by such parties at this location. Each party is responsible for its own equipment and the time it takes to install, remove or relocate it. Any fees charged, or costs incurred, by other parties are the responsibility of the Customer, not the Company. The Customer is responsible for contacting the other parties, identified by the Company, and making arrangements with those other parties for any work that must be done to facilitate this contract.

If the Customer's request for facilities is altered or the Customer requests a delay or otherwise does not take service within six (6) months of execution of this contract, the Company reserves the right to adjust the amount of the Contribution-In-Aid-Of-Construction and other fees to reflect either the alteration in requested facilities or the delay in service, or both. Other contract terms associated with the Company's line extension policies and 'Plan of Service' may also be revised.

If the Customer does not initiate service within six (6) months of the completion of the Company's work, the Customer will be responsible for paying any portion of the Company's cost which was not covered by the upfront Contribution-In-Aid-Of-Construction.

Nothing herein contained shall be construed as a waiver or relinquishment by Company of any right it has or may hereafter have to discontinue service for or on account of default in the payment of any bill owing or to become owing or for any reason or cause stated in the Company's Tariff.

The quoted price will be valid for ninety (90) days from the date identified above.

By signing and returning this Agreement, Customer agrees to accept the above described terms and conditions.

Customer

By

Signature:

Title:

Date:

Company

By

Signature:

Title:

Date:

Robert E. Matthews

Robert E. Matthews

Tech.

5/26/2021

Send signed document and payment to:

AEP Ohio
Attn: Information Section
301 Cleveland Ave., SW
Canton, OH 44702-1623

Company No: 250
Contract No: DWMS00000519408
Customer No:
Date: 5/26/2021
Amount Due: 4,509.69

Bill To:
City of Nelsonville

Amount Remitted: _____

Contract No: DWMS00000519408

Date: 5/26/2021

PRO FORMA

Customer No:
Purchase Order: 79579087

Description	Quantity	UOM	Init Amt	Net Amount
Install 3 phase underground wire in existing conduit. Install switch cabinet and single phase wire in existing conduit to existing padmount transformer	1.0	EA	4,509.69	4,509.69

Amount Due: _____ 4,509.69

Payment Options:

Credit Card:

Step One:

Contact your AEP Ohio Representative to obtain an invoice number for your project.

Step Two:

Once you have your invoice number please contact Fiserv by phone at 1-866-270-7946 or www.aepmiscreceivables.com and follow the prompts to enter your invoice number and credit card payment.

Minimum payments of \$40 with a maximum of two \$1,500 payments within 30 days per card are accepted.

Wire/ACH Funds To:

Ohio Power Co - Distribution
Citibank, N.A. New York
ABA/Routing #: 021000089
Account #: 30489679

Check or Money Order: Sign and return above CIAC agreement along with a check for the total amount due to
AEP Ohio - Information Section
301 Cleveland Avenue SW
Canton, Ohio 44702-1623

AEP Ohio

Contribution-In-Aid-Of-Construction Agreement For Electric Distribution Service



CUSTOMER: City of Nelsonville
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Customer agrees to:

Install trench and conduit to spec for AEP wire. Return signed CIAC with payment in full.

In accordance with the Company's terms and conditions as filed with the Public Utilities Commission of Ohio, the Customer agrees to pay Ohio Power Company as follows:

- 1. \$4,509.69 up-front Contribution-In-Aid-Of-Construction for Basic Service, plus**
- 2. \$0.00 up-front Contribution-In-Aid-Of-Construction for Premium Service, for a total of**
- 3. \$4,509.69 as the combined up-front Contribution-In-Aid-Of-Construction for Basic Service and Premium Service.**

All facilities installed by the Company will be and remain property of the Company. The Company expressly retains the right to use said lines and equipment for any purpose which Company deems advisable, including the distribution of electric service to other customers. However, if the electric distribution facilities installed as a result of this contract are subsequently used by the Company within fifty (50) months of installation to serve additional customers, the Customer may be entitled a refund of a portion of the Contribution-In-Aid-Of-Construction paid for Basic Service. It is the Customer's responsibility to initiate a request for refund in such instances and the Customer can contact the Company at any time to investigate their eligibility for a refund as development proceeds in their local area.

It is understood and agreed that the Company will not begin facilities construction until all Contribution-In-Aid-Of-Construction costs for Basic and Premium Services outlined above are received by the Company.

It is understood and agreed that this contract, and particularly the amounts of the Contribution-In-Aid-Of-Construction, are based on the specifics of the Customer's request for distribution electric facilities.

Other parties may have lines and/or equipment that utilize the Company's poles or other facilities. The Company is not responsible for the installation, relocation or removal of lines and/or equipment owned by such parties at this location. Each party is responsible for its own equipment and the time it takes to install, remove or relocate it. Any fees charged, or costs incurred, by other parties are the responsibility of the Customer, not the Company. The Customer is responsible for contacting the other parties, identified by the Company, and making arrangements with those other parties for any work that must be done to facilitate this contract.

If the Customer's request for facilities is altered or the Customer requests a delay or otherwise does not take service within six (6) months of execution of this contract, the Company reserves the right to adjust the amount of the Contribution-In-Aid-Of-Construction and other fees to reflect either the alteration in requested facilities or the delay in service, or both. Other contract terms associated with the Company's line extension policies and 'Plan of Service' may also be revised.

If the Customer does not initiate service within six (6) months of the completion of the Company's work, the Customer will be responsible for paying any portion of the Company's cost which was not covered by the upfront Contribution-In-Aid-Of-Construction.

Nothing herein contained shall be construed as a waiver or relinquishment by Company of any right it has or may hereafter have to discontinue service for or on account of default in the payment of any bill owing or to become owing or for any reason or cause stated in the Company's Tariff.

The quoted price will be valid for ninety (90) days from the date identified above.

By signing and returning this Agreement, Customer agrees to accept the above described terms and conditions.

Customer

By

Signature:

Title:

Date:

Company

By

Signature:

Title:

Date:

Robert E. Matthews

Robert E. Matthews

Tech.

5/26/2021

Send signed document and payment to:

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Bill To:
City of Nelsonville

Amount Remitted: _____

Contract No: DWMS00000519408

Date: 5/26/2021

PRO FORMA

Customer No:
Purchase Order: 79579087

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Amount Due: _____ 4,509.69

Payment Options:

Credit Card:

Step One:

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Step Two:

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Minimum payments of \$40 with a maximum of two \$1,500 payments within 30 days per card are accepted.

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Ohio Power Co - Distribution
Citibank, N.A. New York
ABA/Routing #: 021000089
Account #: 30489679

Check or Money Order: Sign and return above CIAC agreement along with a check for the total amount due to
AEP Ohio - Information Section
301 Cleveland Avenue SW
Canton, Ohio 44702-1623

ORDINANCE 46-21

AN ORDINANCE APPROVING CHANGE ORDER #5 FOR PHASE I PUMP STATION AND TRUNK SEWER AND DECLARING AN EMERGENCY.

WHEREAS, the City Engineer is recommending approval of change order #5 for the pump station and trunk sewer project and indicates there is sufficient fund in project to pay for the change order;

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

1. That the City of Nelsonville approves the payment of change order #5 for phase 1 of the pump station and trunk sewer project, a copy of which change order is attached hereto and incorporated herein by reference.
2. The foregoing Ordinance was adopted, and all actions and all deliberations of the City of Nelsonville, Ohio were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.
3. This Ordinance is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Ordinance is necessary so that change order can be paid as soon as possible, and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted by Council on first reading under suspension of the rules on the 14th day of June 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/14/21

Adopted Under Suspension of the Rules

State of Ohio
WATER POLLUTION CONTROL LOAN FUND (WPCLF/SRF)

CONTRACT CHANGE ORDER

RECIPIENT City of Nelsonville

CHANGE ORDER NBR 5

LOAN NUMBER CS390649-0017

CONTRACT Pump Sta. Trunk Sewer

OWDA PROJECT

NBR 8689

DATE June 9, 2021

Description of Change:

1124 and 1150 Chestnut Street. Removal and replacement of concrete driveway, re-grade of existing driveway slope to match new curb and sidewalk to maintain ADA compliance.

RECOMMENDED BY:


(Engineer)

DATE:

6/9/21

APPROVED BY:

(Recipient)

DATE:

ACCEPTED BY:

(Contractor)

DATE:

(Company)

Original Contract Amt	3,610,992.	00
Previous Changes (+ / --)	319,957.	93
This Change (+ / --)	13,133.	00
Adjusted Contract Amt	3,944,082.	93

OWDA APPROVAL

The above proposal is hereby accepted and I recommend that it be approved and made a part of the contract covered by OWDA Project Number _____

Chief Engineer

Date

Executive Director

OHIO EPA ACCEPTANCE

Ohio EPA
ACCEPTANCE

DATE

Project Forms

PROJECT: Pump Station & Trunk Sewer Replacement**CONTRACTOR:** Rock River Construction, LTD**ADDRESS:** 541 Mill Park Drive, Suite C**CITY/STATE/ZIP:** Lancaster, OH 43130**Date** 5/19/2021**Materials:**

Item No.	Item	Unit	Quantity	Unit Price	Extension
	concrete	YDS	25	\$ 160.00	\$ 4,000.00
	Lumber	LS	1	\$ 250.00	\$ 250.00
	concrete cure	LS	1	\$ 100.00	\$ 100.00
	Hourly Trucking	HRS	4	\$ 90.00	\$ 360.00
	#304 Lime Stone	TON	50	\$ 23.00	\$ 1,150.00
					\$ -
Total Materials:					\$ 5,860.00

Labor

Labor Classification	No.	Hrs.	Hrly. Rate	Extra Labor
Operator	1	20	\$62.81	\$ 1,256.20
Operator	1	20	\$62.81	\$ 1,256.20
Laborer	1	20	\$51.44	\$ 1,028.80
Laborer	1	20	\$51.44	\$ 1,028.80
Total Labor:				\$ 4,570.00

Equipment Used

	No.	Hrs.	Hrly. Rate	Ext. Equip.
SANY 50 Min Excavator	1	20	\$49.50	\$ 990.00

Total Equipment: \$ 990.00**Subtotal:** \$ 11,420.00**Profit & Overhead @ 15%:** \$ 1,713.00**Total** \$ 13,133.00**Justification for Requested Change in the Contract Amount and/or Time**

Concrete driveway removal and replacement (two drives). Address is 1124 and 1150. Re-grading of existing driveway slope to match new curb.

ORDINANCE 47-21

ENACTING NEW CHAPTER XX ENTITLED “LODGING EXCISE TAX” OF THE CODIFIED ORDINANCES OF THE CITY OF NELSONVILLE, OHIO.

WHEREAS, Chapter 5739 of the Ohio Revised Code grants municipal corporations the authority to levy lodging excise taxes; and

WHEREAS, the City Council has determined that it would be in the best interest of the City to revise City Ordinance 14-02 and 27-12 and enact a new Chapter XX entitled “Lodging Excise Tax” of the Codified Ordinances of the City of Nelsonville, Ohio.

NOW, THEREFORE, COUNCIL FOR THE CITY OF NELSONVILLE, OHIO HEREBY ORDAINS THAT:

1. A new Chapter XX entitled “Lodging Excise Tax” of the Codified Ordinances of the City of Nelsonville, Ohio be enacted to read as set forth on Exhibit A, which is attached hereto and incorporated herein.
2. The foregoing Ordinance was adopted, and all actions and all deliberations of the City of Nelsonville, Ohio were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.
3. This Ordinance shall take effect and be in full force from and after August 1, 2021.

Duly enacted by Council on second reading this 28th day of June, 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/14/21
Second Reading: 06/28/21

Exhibit A

CHAPTER XXX LODGING EXCISE TAX

xx.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "City Auditor" means the City Auditor of the City of Nelsonville, Ohio.
- (b) "Lodging Establishment" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which one or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures. This includes but is not limited to hotels, motels, bed & breakfasts, cabins, campgrounds, condominiums, vacation homes, rooms in residences being rented to guests for sleeping accommodations, owner-occupied residences, accessory dwelling units, and non-owner occupied residences.
- (c) "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 lodging establishment for dwelling, lodging, or sleeping purposes. The use or possession or 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.
- (d) "Operator" means the person who is the proprietor of the lodging establishment, whether in the capacity of owner, lessee, licensee, mortgagee in possession, or any other capacity. Where the operator performs their 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 the principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be compliance by both.
- (e) "Person" means any natural person, individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, limited liability company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or persons combination acting as a unit.
- (f) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any

kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction there from whatsoever.

(g) "Transient guests" mean persons occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.

(h) "Code Enforcement Officer" means the Code Administrator of the City of Nelsonville, Ohio.

xx.02 APPLICATION OF LODGING TAX.

(a) For the purpose of providing revenue with which to meet the needs of the City, for the use of the economic development fund of the City, there is levied a tax of three percent (3%) on all rents received by a lodging establishment for lodging furnished to transient guests as established in Ordinances 14-02 and 27-12.

(b) The lodging tax applies and is collectible at the time the lodging is furnished, regardless of the time when the charge for the lodging is paid.

(c) The lodging tax shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging. If for any reason the Vendor does not collect the tax from the transient guest, the Vendor is responsible for the taxable amount.

(d) For the purpose of the proper administration of this chapter, it shall be presumed that all transient lodging in the City to transient guests is subject to the lodging tax.

xx.02 EXEMPTIONS.

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

(1) rents not within the taxing power of the City under the Constitution or laws of Ohio or the United States; or

(2) rents paid by the State or any of its political subdivisions.

(b) No exemptions claimed under this Section shall be granted except upon a claim made at the time rent is collected and under penalty of perjury upon a form prescribed by the City Auditor. All claims of exemption shall be made in the manner prescribed by the City Auditor

xx.03 PROHIBITION AGAINST FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full and exact 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.

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 the tax applies.

xx.04 TAX TO BE SEPARATELY STATED AND CHARGED.

When possible, 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 upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and 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 to the City for the collection thereof and for the tax.

No operator of a lodging establishment 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.

xx.05 REGISTRATION.

Within thirty (30) days after the effective date of this chapter or within 30 days after commencing business, whichever is later, each operator of any lodging establishment renting lodging to transient guests shall register said establishment with the City Auditor's Office and obtain a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. Said certificate shall among other things state the following:

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

xx.06 REPORTING AND REMITTING.

(a) Lodging tax is due quarterly on the twentieth (20th) day following the end of the preceding quarter – January 20, April 20, July 20, and October 20. On or before these dates, each operator shall make and file a return for the preceding three months on forms prescribed by the City Auditor. Such returns shall show the receipts from furnishing lodging, the amount of tax due from the operator to the City for the period covered by the return, and such other information as the City Auditor deems necessary for the proper administration of this chapter. The City Auditor may extend the time for making and filing returns. Returns shall

be filed by delivering or mailing the same to the City Auditor together with payment of the full amount of tax shown to be due thereon. To meet this requirement, the tax return and payment must be mailed with a dated postmark. The postmark must be dated on or before the day the return is due. For all other delivery forms, the tax return and payment must be received on or before the last business day before the day the return is due.

(b) All claims for exemptions from tax filed by transient guests with the operator during the reporting period shall be filed with the return.

(c) All returns and payments submitted by each operator shall be treated as confidential by the City Auditor and shall not be released except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio, Athens County, or the City of Nelsonville for official use only.

(d) If, for any reason, the lodging establishment shall cease doing business in the City, all returns and payments are due immediately upon cessation of business.

(e) All taxes collected by operators pursuant to this section shall be held in trust for the account of the City until payment thereof is made to the City Auditor.

(f) The City Auditor, if he or she deems it necessary in order to insure the payment of the tax imposed by this section, may require returns and payments to be made for other than twice- yearly periods. The returns shall be signed by the operator or their authorized agent.

xx.07 PENALTIES AND INTEREST.

(a) Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten percent (10%) of the amount of the tax in addition to the tax.

(b) Continued Delinquency. Any operator who fails to remit any delinquent remittances on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to ten percent (10%) of the amount of the tax and previous penalty in addition to the tax and the ten percent (10%) penalty first imposed. An additional penalty equal to ten percent (10%) of the total tax and penalty of the previous thirty (30) day period shall be added for each successive thirty (30) day period the account remains delinquent.

(c) Fraud. If the City Auditor determines that the non-payment of any remittance due under this chapter is due to fraud, a penalty equal to twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b) of this section.

(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 one and one-half percent (1.5%) or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

xx.08 RECORDS, INSPECTION, DESTRUCTION, AUDITING PROCEDURES.

(a) Each operator shall keep complete and accurate records of lodging furnished and of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the operator furnished 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 shall show the nature of the transaction, if exempted for any other reason. Such records and other documents shall be open during business hours for inspection by the City Auditor, or his or her agents, and shall be preserved for a period of four (4) years, unless the City Auditor, in writing, consents to their destruction within that period, or unless the four (4) year period is extended by any orders requesting that such records be kept for a longer period of time.

(b) The City Auditor or his or her agent shall have the right at all reasonable times during business hours to make such examinations and inspections of books and records of the lodging establishment as may be necessary to determine the correctness of the required reports and the taxes paid. The right of the City Auditor or his or her agent to inspect, audit and make copies of books and records of the lodging establishment shall include, but not be limited to, the following: books of accounts, daily cash receipt records, and lodging establishment registration forms.

(c) The City Auditor shall further have the right to order a special purpose audit of the lodging establishment's books and records upon determining there exists the lesser of a three percent (3%) or one hundred dollars (\$100.00) underpayment of the lodging excise tax. The cost of the special purpose audit shall be assessed and paid for by the operator. Any deficiency in payment shall be deemed a nonpayment and shall be immediately paid by the operator and shall further be subject to penalties as provided in Section 882.08.

xx.09 UNLAWFUL TO PROHIBIT INSPECTION.

It shall be unlawful for any operator to prohibit or hinder the City Auditor or his or her agent from making any examination or audit as authorized by Section 882.09 hereof.

xx.10 FAILURE TO COLLECT AND REPORT TAX, DETERMINATION OF TAX BY CITY AUDITOR.

(a) If any operator shall fail or refuse to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the City Auditor shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due.

(b) As soon as the City Auditor procures such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she 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 City Auditor 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 their last known place of business.

(c) Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the City Auditor 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 City Auditor shall become final and conclusive and immediately due and payable.

(d) If such application is made, the City Auditor shall give not less than five (5) days written notice in the manner prescribed herein to the operator to show cause at a time and place 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 fixed.

(e) After such hearing, the City Auditor 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 fifteen (15) days unless an appeal is taken as provided in Section xx.10 of this chapter.

xx.11 APPEAL.

Any operator aggrieved by any decision of the City Auditor with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Board of Tax Review by filing a notice of appeal with the City Auditor and the Clerk of Council within fifteen (15) days of the serving or mailing of the determination of tax due. The Board of Tax Review shall fix a time and place for hearing such appeal and shall give notice in writing to such operator at their last known place of business. The findings of the Board of Tax Review shall be final and conclusive and shall be served upon 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.

xx.12 ACTIONS TO COLLECT.

Any such tax collected by an operator, which has not been paid to the City, shall be deemed a debt owed by the operator to the City. Any person owing such a debt to the City under the provisions of this chapter which debt has become delinquent, shall be liable to an action brought in the name of the City of Nelsonville for the recovery of such amount.

xx.13 VIOLATIONS.

(a) Any operator who fails to file any return or report required under this chapter shall be subject to the maximum fine of five hundred dollars (\$500.00) per occurrence. A separate offense shall be deemed to occur on the first day of each month the failure to file continues. Any person violating or failing to comply with any other provision of this chapter is guilty of a minor misdemeanor and shall be fined not more than the maximum amount allowed by law.

xx.14 REFUNDS.

(a) Whenever the amount of any tax, interest, or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this section, it may be refunded as provided in subsections (b) and (c) of this section, provided a claim in writing therefore, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the City Auditor within three (3) years of the date of payment. The claim shall be on forms furnished by the City Auditor.

(b) An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the City Auditor that the person from whom the tax has been collected was not a transient guest; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient guest or credited to rent subsequently payable by the transient guest to the operator.

(c) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

xx.15 MONEY RECEIVED, WHERE CREDITED.

The money received under the provisions of this chapter shall be credited to the economic development fund of the City.

xx.16 ADDITIONAL RULES AND REGULATIONS.

The City Auditor is authorized to issue and promulgate additional written rules and regulations to assist in the administration and enforcement of this chapter and operators must comply with the same if they have received written copies thereof at least thirty (30) days prior to the effective date of such rules and regulations.

xx.17 SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof.

ORDINANCE 48-21

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR THE PAYDHEALTH RX PROGRAM AND DECLARING AN EMERGENCY.

WHEREAS, the City desires to sign an agreement for the PaydHealth Rx Program;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio that:

1. The City Manager is authorized to sign a contract with PaydHealth Rx Program.
2. The foregoing Ordinance was adopted, and all actions and all deliberations of the City of Nelsonville, Ohio were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.
3. This Ordinance is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Ordinance is necessary so that contract can be effective July 1, 2021, and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted by Council on second reading on the 28th day of June 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/14/21
Second Reading: 06/28/21



PaydHealth Program:

PaydHealth utilizes drug manufacturer programs to secure medications at a reduced or no cost to the member. PaydHealth has a team that will work to secure funding for medication not covered under the insurance plan (thus the not covered language in the SPD). There are manufacturer programs for many high cost medications (typically drugs that cost over \$1,000.00). The PaydHealth Select Drugs and Products list is an extensive list of drugs that have funding programs available.

The PaydHealth program does receive a 30% fee for their service. The 30% is 30% of the cost avoidance basis (CAB). The cost avoidance basis is average wholesale price (AWP) less 15%.

Ex. If Humira AWP is \$6668.36 – 15% = \$5,668.11(CAB) 30% = \$1,700.43 PaydHealth Fee

Plan savings would be medication cost \$5,668.11 - \$1,700.43 = \$3,967.68 plan savings

PaydHealth submits invoices monthly for their fees. CareFactor will process the invoices on behalf of the group and submit payment to PaydHealth.

How PaydHealth works with a member:

- Once a prescription is submitted to Magellan and it meets the criteria, the prescription will deny.
- A prior authorization will be completed. If medical necessity is met the process will begin.
- The information is sent from Magellan to PaydHealth.
- CareFactor will send a letter and “frequently asked questions” to explain the program to the member.
- We follow up with a phone call to the member to answer any questions or concerns the member may have.
- PaydHealth will contact the member to begin the process.
- PaydHealth will gather information from the member which includes household size and income. The information is needed to apply for the funding programs. The process typically takes them about 30 days.
- Paydhealth will typically use a drug card to cover all or some of the member’s medication cost while PaydHealth works to secure funding. This will ensure there is no disruption in the member obtaining their medication.
- If the member is approved for a free program, they will receive their medication from the manufacturer.
- Typically, when approved for a free program the approval is for 6-12 months. PaydHealth does monitor this and will reapply when needed.
- If a member is approved for partial funding, the prescription will be filled through Magellan. Partial funding will be applied as member responsibility (member does not pay when funding is applied) the rest of the cost will be covered by the client.
- If the member does not qualify for a program the medication will go back through Magellan and be processed under the plan prescription benefit.
- If the member participates with the program, they will get their medication. Often it will be at no or little cost to them.

ORDINANCE 48-21

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR THE PAYDHEALTH RX PROGRAM AND DECLARING AN EMERGENCY.

WHEREAS, the City desires to sign an agreement for the PaydHealth Rx Program;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio that:

1. The City Manager is authorized to sign a contract with PaydHealth Rx Program.
2. The foregoing Ordinance was adopted, and all actions and all deliberations of the City of Nelsonville, Ohio were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.
3. This Ordinance is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Ordinance is necessary so that contract can be effective July 1, 2021, and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted by Council on second reading on the 12th day of July 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/28/21
Second Reading: 07/12/21

ORDINANCE 49-21

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS NECESSARY FOR THE PHASE 3 SEWER PROJECT EPA REVIEW FEE AND PLAN SUBMISSION AND DECLARING AN EMERGENCY.

WHEREAS, the City desires to submit to the EPA it's Phase 3 Sewer Project EPA Review Fee and plan submission;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio that:

1. The City Manager is authorized execute the documents attached hereto and incorporated herein by reference for the Phase 3 Sewer Project EPA Review Fee and plan submission.
2. This Ordinance is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Ordinance is necessary because the documents need to be submitted as soon as possible, and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted by Council on first reading under suspension of the rules on the 28th day of June, 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/28/21

Adopted Under Suspension of the Rules



Permit-to-Install/Plan Approval Application

FOR AGENCY USE ONLY		
Date Received: / /	Application/Revenue ID:	Organization ID:
Document ID:	Place ID:	Check ID:
Check Date: / /	Check Number:	Check Amount:

1. Project Name: City of Nelsonville Regional Wastewater Collection Improvements Project Phase 3

2. Applicant (see note after signature)

Name: City of Nelsonville
Mailing Address: 211 Lake Hope Drive
City: Nelsonville State: Ohio Zip: 45764
Contact Name: Scott Frank
Title: City Manager
Phone: (740) 753-1314 Fax: (740) 753-9620 E-mail : citymanager@cityofnelsonville.com

3. Application/Plans Prepared by:

Name: DLZ
Mailing Address: 30661 Red Rock Court
City: Logan State: Ohio Zip: 43138
Contact Name: Robert A. Fuller, PE
Title: Project Engineer
Phone: (740) 380-2828 Fax: (740) 380-3535 E-mail : bfuller@dlz.com

4. Billing Address (if different than Applicant)

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Contact Name: _____
Title: _____
Phone: () - Fax: () - E-mail : _____

5. Future Owner (if different than Applicant)

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Contact Name: _____
Title: _____
Phone: () - Fax: () - E-mail : _____

6. Project Location

Street Address or Location Description: Within the corporation limits of Nelsonville, Buchtel, and unincorporated Doanville
County: Athens Township: York
Municipality: Nelsonville Latitude: 39.446870 Longitude: -82.217474
Method of Determination: Google Maps

7. Brief Project Description: Installation force main and Collection System Improvements consisting of 2 pump station replacements, 1 pump station upgrade and installation of 2 new pump stations with new gravity collection system at the area of Doanville, Elm Rock Road, Murry Road, and Railroad Street.

8. Will one or more acres be disturbed during construction of this project?☒ Yes ☐ No

If **Yes**, enter the date the NOI for coverage under the construction storm water NPDES permit was submitted: / / and the date coverage was granted: / /

9. Will wetlands be disturbed during construction of this project?☐ Yes ☒ No

If **Yes**, enter the date the 401/404 permit application was submitted: / /

10 a. Is this application part of a combined permit-to-install application? (for example air + water)☐ Yes ☒ No**b. Has an application for a Class V injection well permit been submitted?**☐ Yes ☐ No ☒ N/A

If **Yes**, date submitted: / /

11. Compliance Status**a. Will this project connect to a collection/treatment system that has a NPDES permit?**☒ Yes ☐ No

If **Yes**, list federal and state permit numbers:

OH OPC00006

b. Is this application filed in compliance with findings and orders, a consent decree, and/or NPDES permit schedule?☐ Yes ☒ No

If **Yes**, effective date of the document containing the schedule: / /

12. Compliance with 208 plan

Does the project conform to the 208/201 plan for the area?

☐ Yes ☐ No ☒ N/A

If **Yes**, has the engineer submitted supporting documentation?

☐ Yes ☐ No**13. Designated Ohio, Wild, Scenic, & Recreational Rivers**

Is this project located within 1000 feet of a designated wild, scenic, and recreational river?

☐ Yes ☒ No

See <http://watercraft.ohiodnr.gov/scenicriversmap> for additional information

14. Estimated Project Schedule:

Beginning construction date: 3/1/22 Ending construction date: 3/1/23 Beginning operation date: 3/1/23

15. Project Cost:

*Installation/Construction Cost: \$ 3,971,105 (Mark one): ☐ Actual ☐ Bid ☒ Estimate

Annual Operation/Maintenance Cost (if applicable - this project only): \$ 40,000

Are Water Pollution Control Loan Funds going to be used for this project? ☒ Yes ☐ No

If **No**, Funding Source: Along with OWDA and CDBG Funding

**This is costs of the treatment/dispersal/collection system that will serve the project*

16. Attachments

The following are included in this application package (check appropriate box(es) and indicate how many copies of each are provided):

<input checked="" type="checkbox"/> Detail Plans	4	<input type="checkbox"/> Management Plan	
<input type="checkbox"/> Soil Evaluation Form		<input type="checkbox"/> Engineering Report	
<input type="checkbox"/> Hydrogeologic Site Investigation Report		<input checked="" type="checkbox"/> Engineering Specifications	2
<input type="checkbox"/> Site Evaluation Form		<input type="checkbox"/> Sewer Authority Letter	
<input type="checkbox"/> Other (describe):		<input type="checkbox"/> Antidegradation Addendum	
<input type="checkbox"/> Narrative Plans			

17. Form B / C Submission (check all that apply):

- ☒ Sewer and Pump Station Construction – Form B1
- ☐ Onsite Sewage Treatment Systems – Form B2
- ☐ Wastewater Treatment Plants Less Than 100,000 GPD – Form B3
- ☐ Wastewater Treatment Plants Greater Than or Equal to 100,000 GPD and all Pond Systems – Form B4
- ☐ Industrial Direct Discharge Facility – Form B5
- ☐ Industrial Indirect Discharge Facility – Form B6
- ☐ Underground Storage Tank Remediation – Form B7
- ☐ Holding Tanks – Form B8
- ☐ Industrial Impoundment Ponds – Form B9
- ☐ Land Application Management Plan for Sludge or Waste other than Treated Sewage – Form C1
- ☐ Treated Sewage Land Application Management Plan – Form C2
- ☐ Sewage Holding Tank Management Plan – Form C3

18. Fee Calculations:

Permit-to-Install (maximum total fee \$15,100)

a. Application fee:	\$ 100.00
b. Plan review fee:	\$ 100.00
c. Plan review fee (installation/construction cost x .0065):	\$ 14,900
d. Total Fee (a + b + c):	\$ 15,100

Sludge Management Plan Approval*

a. Application fee:	\$ 100.00
b. Plan review fee:	\$ 100.00
c. Total fee (a + b):	\$ 200.00

** No separate fee is needed for land application*

19. Antidegradation

Is this project subject to the Antidegradation Rule (OAC 3745-1-05)?

☐ Yes ☒ No

If **Yes**, an antidegradation addendum must be submitted (Note: It applies even if an exclusion and/or waiver is met)

If **No**, check all that apply:

- ☒ Application with no direct surface water discharge (Projects that do not meet the applicability section of 3745-1-05 (B)1, i.e., onsite sewage treatment systems, sanitary sewer extensions, indirect discharger to POTW, etc.).
- ☐ Renewal NPDES application or PTI application with no requested increase in loading of currently permitted pollutants.
- ☐ Narrative Plans (Examples: Land Application, General Plans, etc.)

20. Submittals:

To be considered complete, this application must include the following unless otherwise directed by Ohio EPA:

- ☒ Four copies of the detail plans including profile and plan views of all sewers (shown on the same sheet), existing (as applicable) and proposed pump station facilities, incorporating all of the details outlined in Section 20.1, 20.2 and 20.3 of *Recommended Standards for Wastewater Facilities*.
- ☒ Two copies of complete technical specifications.
- ☒ Two copies of the Permit-to-Install Application including Form A, pertinent B & C form(s), and the antidegradation addendum (if applicable)
- ☒ Fee check payable to "Treasurer, State of Ohio."

21. Signature of the Applicant: (see Ohio Administrative Code 3745-42-03)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision and that all the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are substantial penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Typed name: Scott Frank Title: City Manager

Signature: _____ Date: ____ / ____ / ____

NOTE (Who Must Sign):

The person signing as AApplicant@ is not the applicant=s engineer or architect or any other person submitting the Permit-to-Install Application on behalf of the owner. The AApplicant@ should be owner of the facility, business, corporation, company, etc. or the legal responsibly entity. It is not the engineer who prepared the plans.

ORDINANCE 50-21

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT ITECH AND XEROX FINANCIAL SERVICES, LLC AND DECLARING AN EMERGENCY.

WHEREAS, the City desires to enter into a contract with iTech and Xerox Financial Services, LLC for copiers;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio that:

1. The City Manager is authorized execute the contracts attached hereto and incorporated herein by reference with iTech and Xerox Financial Services, LLC for copiers effective July 1, 2021.
2. This Ordinance is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Ordinance is necessary because the contract is effective July 1, 2021, and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted by Council on first reading under suspension of the rules on the 28th day of June, 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/28/21 Adopted Under Suspension of the Rules.



326 5th St
Parkersburg, WV 26101
Phone (304) 485-2222
Fax (304) 485-2225

Sale and Service Agreement

Page 1 of 1

Bill To				Ship To			
Company Name: <u>City of Nelsonville</u>				Company Name:			
Address: <u>211 Lake Hope Dr</u>				Address:			
City: <u>Nelsonville</u>				City:			
State: <u>Oh</u> Zip: <u>45764</u>				State: Zip:			
Supply Contact				Meter Contact			
Name: <u>Scott Frank</u>				Name:			
Phone: <u>740-753-1314</u>				Phone:			
Email:				Fax:			
Order Date:				Tax Exempt Number: <u>0</u>			
Delivery Date:				Purchase Order Number:			
QTY	Model Number/Accessories/Supplies					Unit Price	Total
1	B605/SM x2	Lease	60m	FMV	Monthly	\$200.00	
1	B605/X	fax				included	
1	097S04949 x3	550 Sheet feederx3				included	
1	097S04994 x3	Standx3				included	
	XPPS Supplies and Service					Monthly	\$102.00
	included B&W prints					9000	
	included color prints					0	
	Total Monthly Lease and XPPS					\$302.00	
Maintenance Contract and Supply Information						Subtotal	\$0.00
XPPS:	X	Monthly:	\$102	B & W Rate @	\$0.0100	Installation	inc
FSMA:		Other:		Color Rate @	\$0.0000	Shipping	inc
WRTY:		Email:		B&W Starting Meter:		Tax	7.25% \$0.00
Other:		USPS:		C Starting Meter:			
				Service Base Price:		Amount Due	\$0.00

Signature: _____ Date: _____

Print: _____

iTech Representative: _____ Date: _____

iTech Approval by AGENT: _____ Date: _____

*No salesperson is an authorized signatory of iTech. *No sales order is binding upon iTech until approved by agent.

*Certificate Copy Must Be Attached and approved.

Revised June 7, 2018

1. **TERMS AND RENEWAL.** This non-cancellable agreement is binding as of the date you sign it and/or delivery of the machine, and will continue for the term shown above; automatically renewing for successive terms, unless terminated by either party, with notification no less than sixty (60) days' prior to the expiration date. Upon your request, we will provide you with revised pricing for renewal terms.

2. **CONSUMABLES AND SERVICE.** **Consumables** - we will provide you with all consumables: toner, maintenance kits, staples and parts (except paper) necessary to make prints and operate the equipment. You agree to order all consumables through us and also agree that: (a) you must separately purchase equipment service, parts or supplies due to your negligence, misuse of the equipment, failure to follow the suggested use instructions, or when breaching any warranty or service agreement provided by Xerox; and (b) we are a separate and independent company from Xerox and Xerox is not our agent. You agree to use the consumables provided under this agreement only in the equipment. We reserve the right to provide remanufactured or refurbished cartridges which will work as new. You agree to dispose of used cartridges or other used consumables, per our directions. Any use of consumables in devices other than the equipment constitutes a violation of this agreement. Consumables are the property of iTech until fully consumed by the equipment, and any unused consumables must be returned to us upon expiration or termination of this agreement, or they may be billable to you. You acknowledge that we reserve the right to audit consumables orders, hold, or deny shipments until the requests are validated. Shipping of consumables is included at no additional cost. **Service** - You may request service by submitting a request using the iTech web portal, or calling us at (800) 267-9564. If issue cannot be resolved over the phone or remotely, a service technician will be dispatched during normal business hours, excluding holidays to perform on-site Break Fix Services. Break-Fix Services exclude repairs due to: (a) misuse, neglect, abuse or operation of a Managed Device outside the original equipment manufacturers' ("OEM") specifications, (b) failure of the clients PC to comply with the OEM's published specifications, (c) act of God or other force majeure event, (d) relocation, alterations, or use of options, accessories, service or supplies not provided by Xerox, (e) IT/Networking/Connectivity issues that should be handled by your internal IT Dept. IT deemed issues will be "billable". Technicians are not dispatched for preventative maintenance, cleaning, or for installation of consumables. If available, after hours or weekend services are available for an additional fee.

3. **BASE/PRINT CHARGES.** You promise to pay to us the "Base Monthly Charge(s)" shown above each month, billed in advance, as well as any excess print charges, billed in arrears, and all other amounts stated herein (including all applicable taxes). You agree to pay the Base Monthly Charges each month, even if you do not make the number of prints included with the Base Monthly Charge. You may not carry over a credit from any month during which you make fewer than the minimum number of prints.

4. **CUSTOMER RESPONSIBILITIES.** You agree to: (a) notify us if you wish to relocate a device, (b) distribute consumables within your site and install them in devices, clear paper jams, and resolve any network or customer PC issues, or any device software issues, (c) Replace device consumables. You also agree to: (a) to install meter reading and equipment device information software (XDA), (including any updates, patches, or replacement software) on a server or workstation that is Simple Network Management Protocol ("SNMP") enabled and can route SNMP over the network, allowing meter reads and device information to be retrieved and transmitted via the Internet to us. The XDA cannot be installed on a PC where other SNMP-based applications or other Xerox XDA's are installed. You also agree: (b) to the end-user license agreement for such software, (c) to keep the workstation on which the software is installed powered on and connected to the equipment via your network at all times, except during network outages and routine network maintenance, and (d) not to disable, disassemble, reverse engineer or otherwise interfere with the operation of the software. If iTech fails to receive meter reads or device information on the equipment, we will give you notice that you are in breach of this agreement. If you do not provide us with meter readings within five (5) days of the date of our request, then (a) we may estimate the number of prints used and invoice you accordingly, (b) we will adjust the estimated charge for excess prints upon receipt of actual meter readings. Refusal to provide meter readings may result in a hold on all consumables as well as termination of this agreement and additional fees.

5. **NO WARRANTIES; LIMITATION OF LIABILITY.** neither Xerox or iTech make any other warranties and both disclaim all implied warranties of non-infringement and fitness for a particular purpose. Our liability to you for any cause whatsoever, shall be limited to amounts paid by you to us under this agreement. This limitation shall apply regardless of the form of action, whether contract or tort, including without limitation negligence actions, provided, however, that this limitation shall not apply to damages resulting from personal injury caused by our negligence. In no event shall we be liable to you for any special, indirect, incidental, consequential, exemplary or punitive damages in any way arising out of or relating to this agreement.

6. **LOSS AND DAMAGE.** You shall bear the risk of loss and damage to the equipment and shall continue performing all your obligations to us, even if it becomes damaged or suffers a loss.

7. **ASSIGNMENT.** You shall not sell, assign, or otherwise transfer this agreement without prior written consent of us and Xerox. Although, Xerox is not a party to this agreement, Xerox is a third party beneficiary of this agreement. You acknowledge that we may, without notice to you, transfer this agreement to Xerox or a third party reseller of Xerox products.

8. **TAXES AND OTHER FEES.** You are responsible for all taxes (including, without limitation, sales, use and personal property taxes, and excluding only taxes based on our income), levies, assessments, license and registration fees and other governmental charges relating to this agreement (collectively, "taxes"). We may periodically bill you for, and you agree to promptly pay any taxes. You authorize us to pay any taxes when and as they may become due, and you agree to reimburse us promptly upon demand for the full amount (less any estimated amounts previously paid by you).

9. **DEFAULT.** You will be in default hereunder if you fail to pay any amount within 30 days of the due date as set forth in an invoice from us to you, or if you fail to perform any other obligation under this agreement. If you default, we may do any or all of the following, at our discretion: (a) terminate this agreement, (b) require you to pay to us, on demand, an amount equal to the sum of (i) all amounts then due and past due, (ii) all remaining Base Monthly Charges for the term and (iii) all other amounts that may thereafter become due hereunder, to the extent that we will be obligated to collect and pay such amounts to a third party, and/or (c) exercise any other remedy available to us under law. You also agree to reimburse us on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys' fees and other legal costs).

10. **LATE CHARGES.** You agree to pay all invoices by the due date or may incur a late fee 10% or \$10 whichever is greater.

11. **NOTICES.** Notices must be in writing.

12. **APPLICABLE LAW; VENUE; JURISDICTION.** Any action related to this agreement shall be governed by the laws of the state of WV without regard to choice of law principles, and any litigation hereunder shall take place in the state or federal courts located in Wood County, WV. Each term hereof shall be interpreted to the maximum extent possible so as to be enforceable under applicable law.

13. **MISCELLANEOUS.** This agreement may be executed in counterparts, all of which together shall constitute the same document. You agree that a facsimile or other copy containing the signatures of both parties shall be as enforceable as the original executed agreement. The failure of either party to enforce at any time any provision of this agreement shall not be construed to be a waiver of such provision or the right thereafter to enforce each and every provision hereof. No waiver by either party, either express or implied, or any breach of these terms or conditions shall be construed as a waiver of any other term or condition. The provisions of this agreement that by their nature continue in effect, shall survive the termination or expiration of this agreement. **You hereby represent to us that this agreement is legally binding and enforceable against you in accordance with its terms.**



326 5th St
Parkersburg, WV 26101
Phone (304) 485-2222
Fax (304) 485-2225

Sale and Service Agreement

Page 1 of 1

Bill To				Ship To			
Company Name: <u>City of Nelsonville</u>				Company Name:			
Address: <u>211 Lake Hope Dr</u>				Address:			
City: <u>Nelsonville</u>				City:			
State: <u>Oh</u> Zip: <u>45764</u>				State: Zip:			
Supply Contact				Meter Contact			
Name: <u>Scott Frank</u>				Name:			
Phone: <u>740-753-1314</u>				Phone:			
Email: <u>citymanager@cityofnelsonville.com</u>				Fax:			
Order Date:				Tax Exempt Number: <u>0</u>			
Delivery Date:				Purchase Order Number:			
QTY	Model Number/Accessories/Supplies				Unit Price	Total	
1	C8135 T2	Lease	60m	FMV Monthly	\$135.00		
1	097s04847	Intg Finisher			included		
1	B605/x	0			included		
XPPS Supplies and Service Monthly						\$65.00	
included B&W prints 2500							
included color prints 500							
Total Monthly Lease and XPPS						\$200.00	
Maintenance Contract and Supply Information					Subtotal	\$0.00	
XPPS:	X	Monthly:	\$65	B & W Rate @ \$0.0085	Installation	inc	
FSMA:		Other:		Color Rate @ \$0.0625	Shipping	inc	
WRTY:		Email:		B&W Starting Meter:	Tax 7.25%	\$0.00	
Other:		USPS:		C Starting Meter:			
Service Base Price:					Amount Due	\$0.00	

Signature: _____ Date: _____

Print: _____

iTech Representative: _____ Date: _____

iTech Approval by AGENT: _____ Date: _____

*No salesperson is an authorized signatory of iTech. *No sales order is binding upon iTech until approved by agent.

*Certificate Copy Must Be Attached and approved.

Revised

June 7, 2018

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5. NO WARRANTIES; LIMITATION OF LIABILITY. neither Xerox or iTech make any other warranties and both disclaim all implied warranties of non-infringement and fitness for a particular purpose. Our liability to you for any cause whatsoever, shall be limited to amounts paid by you to us under this agreement. This limitation shall apply regardless of the form of action, whether contract or tort, including without limitation negligence actions, provided, however, that this limitation shall not apply to damages resulting from personal injury caused by our negligence. In no event shall we be liable to you for any special, indirect, incidental, consequential, exemplary or punitive damages in any way arising out of or relating to this agreement.

6. LOSS AND DAMAGE. You shall bear the risk of loss and damage to the equipment and shall continue performing all your obligations to us, even if it becomes damaged or suffers a loss.

7. ASSIGNMENT. You shall not sell, assign, or otherwise transfer this agreement without prior written consent of us and Xerox. Although, Xerox is not a party to this agreement, Xerox is a third party beneficiary of this agreement. You acknowledge that we may, without notice to you, transfer this agreement to Xerox or a third party reseller of Xerox products.

8. TAXES AND OTHER FEES. You are responsible for all taxes (including, without limitation, sales, use and personal property taxes, and excluding only taxes based on our income), levies, assessments, license and registration fees and other governmental charges relating to this agreement (collectively, "taxes"). We may periodically bill you for, and you agree to promptly pay any taxes. You authorize us to pay any taxes when and as they may become due, and you agree to reimburse us promptly upon demand for the full amount (less any estimated amounts previously paid by you).

9. DEFAULT. You will be in default hereunder if you fail to pay any amount within 30 days of the due date as set forth in an invoice from us to you, or if you fail to perform any other obligation under this agreement. If you default, we may do any or all of the following, at our discretion: (a) terminate this agreement, (b) require you to pay to us, on demand, an amount equal to the sum of (i) all amounts then due and past due, (ii) all remaining Base Monthly Charges for the term and (iii) all other amounts that may thereafter become due hereunder, to the extent that we will be obligated to collect and pay such amounts to a third party, and/or (c) exercise any other remedy available to us under law. You also agree to reimburse us on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys' fees and other legal costs).

10. LATE CHARGES. You agree to pay all invoices by the due date or may incur a late fee 10% or \$10 whichever is greater.

11. NOTICES. Notices must be in writing.

12. APPLICABLE LAW; VENUE; JURISDICTION. Any action related to this agreement shall be governed by the laws of the state of WV without regard to choice of law principles, and any litigation hereunder shall take place in the state or federal courts located in Wood County, WV. Each term hereof shall be interpreted to the maximum extent possible so as to be enforceable under applicable law.

13. MISCELLANEOUS. This agreement may be executed in counterparts, all of which together shall constitute the same document. You agree that a facsimile or other copy containing the signatures of both parties shall be as enforceable as the original executed agreement. The failure of either party to enforce at any time any provision of this agreement shall not be construed to be a waiver of such provision or the right thereafter to enforce each and every provision hereof. No waiver by either party, either express or implied, or any breach of these terms or conditions shall be construed as a waiver of any other term or condition. The provisions of this agreement that by their nature continue in effect, shall survive the termination or expiration of this agreement. **You hereby represent to us that this agreement is legally binding and enforceable against you in accordance with its terms.**

Cost Per Image Agreement



Supplier Name-Address: Williams Business Systems-iTec

Owner: XEROX FINANCIAL SERVICES LLC – 201 Merritt 7, Norwalk, CT 06851

Agreement Number:

CUSTOMER INFORMATION

CUSTOMER	Full Legal Name: NELSONVILLE, CITY OF			Phone: 740-753-13141	
	Billing Address: 211 LAKE HOPE DR			Contact Name: Scott Frank	
	City: NELSONVILLE	State: OH	Zip Code: 45764-9778	Contact Email: citymanager@cityofnelsonville.com	

EQUIPMENT	QTY	MODEL and DESCRIPTION	MONTHLY IMAGE ALLOWANCE*		EXCESS IMAGE CHARGE**	
			B&W	COLOR	B&W	COLOR
			2500	500	.0085	.0625
	3	B605	9000		.01	

Meter Billing Frequency (Monthly unless checked): (Other)

* Included in Base Payment

** Plus applicable taxes

TERM	BASE PAYMENT - (Monthly frequency unless otherwise noted)	Equipment Location (if different from Billing Address):
Initial Term: 60 (in months)	Base Payment (plus applicable taxes): \$502.00 Frequency: Monthly	

CUSTOMER ACCEPTANCE

BY YOUR SIGNATURE BELOW, YOU ACKNOWLEDGE THAT YOU ARE ENTERING INTO A NON-CANCELLABLE AGREEMENT AND THAT YOU HAVE READ AND AGREED TO ALL APPLICABLE TERMS AND CONDITIONS SET FORTH ON PAGES 1 AND 2 HEREOF.

Authorized Signer X:	Date:	Federal Tax ID # (Required):
Print Name:	Title:	

OWNER ACCEPTANCE

Accepted By: Xerox Financial Services LLC	Name and Title:	Date:
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TERMS & CONDITIONS

1. Definitions. The words "you" and "your" mean the legal entity identified in "Customer Information" above, and "XFS," "we," "us," "Owner" and "our" mean Xerox Financial Services LLC. "Party" means you or XFS, and "Parties" means both you and XFS. "Supplier" means the entity identified as "Supplier" above. "Acceptance Date" means the date you irrevocably determine Equipment has been delivered, installed and operating satisfactorily. "Agreement" means this Cost Per Image Agreement, including any attached Equipment schedule. "Commencement Date" will be a date after the Acceptance Date, as set forth in our first invoice, for facilitating an orderly transition and to provide a uniform billing cycle. "Discount Rate" means 3% per annum. "Equipment" means the items identified in "Equipment" above and in any attached Equipment schedule, plus any Software (defined in section 3 hereof), attachments, accessories, replacements, replacement parts, substitutions, additions and repairs thereto. "Excess Charges" means the applicable excess image charges. "Interim Period" means the period, if any, between the Acceptance Date and the Commencement Date. "Interim Payment" means one thirtieth of the Base Payment multiplied by the number of days in the Interim Period. "Payment" means the Base Payment specified above, which may include an amount payable to Supplier under the Maintenance Agreement to account for the Monthly Image Allowances listed above, the Excess Charges (unless otherwise agreed by you, Supplier and XFS), Taxes and other charges you, Supplier and XFS agree will be invoiced by XFS. "Maintenance Agreement" means a separate agreement between you and Supplier for maintenance and support purposes. "Origination Fee" means a one-time fee of \$125 billed on your first invoice, which you agree to pay, covering origination, documentation, processing and other initial costs. "Term" means the Interim Period, if any, together with the Initial Term plus any subsequent renewal or extension terms. "UCC" means the Uniform Commercial Code of the State(s) where XFS must file UCC-1 financing statements to perfect its interest in the Equipment.

2. Agreement, Payments and Late Payments. You agree and represent that the Equipment was selected, configured and negotiated by you based on your judgment and supplied by Supplier. At your request, XFS will acquire same from Supplier to lease to you hereunder and you agree to lease same from XFS. The Initial Term commences on the Commencement Date. You agree to pay XFS the first Payment plus any applicable Interim Payment no later than 30 days after the Commencement Date; each subsequent Payment shall be payable on the same date of each month thereafter. You agree to pay us all sums due under each invoice via check, Automated Clearing House debit, Electronic Funds Transfer or direct debit from your bank account by the due date. **If any Payment is not paid in full within 5 days after its due date, you will pay a late charge of 10% of the amount due or \$25, not to exceed the maximum amount permitted by law.** For each dishonored or returned Payment, you will be assessed the applicable fee, not to exceed \$35. Restrictive covenants on any method of payment will be ineffective.

3. Equipment and Software. To the extent that the Equipment includes intangible property or associated services such as software licenses, such intangible property shall be referred to as "Software." You acknowledge and agree that XFS is not the licensor of such Software, and therefore has no right, title or interest in it and you will comply throughout the Term with any license and/or other agreement ("Software License") with the supplier of the Software ("Software Supplier"). You are responsible for determining with the Supplier whether any Software Licenses are required, and entering into them with the Software Supplier(s) no later than 30 days after the Acceptance Date. **YOU AGREE THE EQUIPMENT IS FOR YOUR LAWFUL BUSINESS USE IN THE UNITED STATES, WILL NOT BE USED FOR PERSONAL, HOUSEHOLD OR FAMILY PURPOSES, AND IS NOT BEING ACQUIRED FOR RESALE.** You will not attach the Equipment as a fixture to real estate or make any permanent alterations to it.

4. Non-Cancellable Agreement. THIS AGREEMENT CANNOT BE CANCELLED OR TERMINATED BY YOU PRIOR TO THE END OF THE INITIAL TERM. YOUR OBLIGATION TO MAKE ALL PAYMENTS IS ABSOLUTE AND UNCONDITIONAL AND NOT SUBJECT TO DELAY, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM OR RECOUPMENT FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF THE PERFORMANCE OF THE EQUIPMENT, SUPPLIER, ANY THIRD PARTY, OR XFS. Any pursued claim by you against XFS for alleged breach of our obligations hereunder shall be asserted solely in a separate action; provided, however, that your obligations hereunder shall continue unabated.

5. End of Agreement Options. If you are not in default and if you provide no greater than 150 days and no less than 60 days' prior written notice to XFS, you may, at the end of the Initial Term or any renewal term ("End Date"), either (a) purchase all, but not less than all, of the Equipment by paying its fair market value, as determined by XFS in its sole but reasonable discretion ("Determined FMV"), plus Taxes, or (b) return the Equipment within 30 days of the End Date, at your expense, fully insured, to a continental US location XFS shall specify. You cannot return Equipment more than 30 days prior to the End Date without our consent. If we consent, we may charge you, in addition to all undiscounted amounts due hereunder, an early termination fee. If you have not elected one of the above options, this Agreement shall renew for successive 3-month terms. Either party may terminate the Agreement as of the end of any 3-month renewal term on 30 days' prior written notice and by taking one of the actions identified in (a) or (b) in the preceding sentence of this section. Purchase options shall be exercised with respect to each item of Equipment on the day immediately following the date of expiration of the Term of such item, and by the delivery at such time by you to XFS of payment, in form acceptable to XFS, of the amount of the applicable purchase price. Upon payment of the applicable amount, XFS shall transfer our interest in the Equipment to you on an "AS IS, WHERE IS," "WITH ALL FAULTS" basis, without representation or warranty of any kind.

6. Equipment Return. If the Equipment is returned to XFS, it shall be in the same condition as when delivered to you, except for "ordinary wear and tear" and, if not in such condition, you will be liable for all expenses XFS incurs to return the Equipment to such condition. **IT IS SOLELY YOUR RESPONSIBILITY TO SECURE ANY SENSITIVE DATA AND PERMANENTLY DELETE SUCH DATA FROM THE INTERNAL MEDIA STORAGE PRIOR TO RETURNING THE EQUIPMENT TO XFS. YOU SHALL HOLD XFS HARMLESS FROM YOUR FAILURE TO SECURE AND PERMANENTLY DELETE ALL SUCH CUSTOMER DATA AS OUTLINED IN THIS SECTION.**

7. Equipment Delivery and Maintenance. You should arrange with Supplier to have the Equipment delivered to you at the location(s) specified herein, and you agree to execute a Delivery & Acceptance Certificate at XFS's request (and confirm same via telephone and/or electronically) confirming when you have received, inspected and irrevocably accepted the Equipment, and authorize XFS to fund Supplier for the Equipment. If you fail to accept the Equipment, you shall no longer have any obligations hereunder; however, you remain liable for any Equipment purchase order or other contract issued on your behalf directly with Supplier. Equipment may not be moved to another physical location without XFS's prior written consent, which shall not be unreasonably withheld or delayed. You agree that you will not take the Equipment out of service during the Term. You shall permit XFS or its agent to inspect Equipment and any maintenance records relating thereto during your normal business hours upon reasonable notice. You represent you have entered into a Maintenance Agreement to maintain the Equipment in good working order in accordance with the manufacturer's maintenance guidelines and to provide you with Equipment supplies. **You acknowledge that XFS is acting solely as an administrator for Supplier with respect to the billing and collecting of the charges under any Maintenance Agreement.** XFS IS NOT LIABLE FOR ANY BREACH BY SUPPLIER OF ANY OF ITS OBLIGATIONS TO YOU, NOR WILL ANY OF YOUR OBLIGATIONS HEREUNDER BE MODIFIED, RELEASED OR EXCUSED BY ANY ALLEGED BREACH BY SUPPLIER.

8. Meter Readings and Annual Adjustments. You agree that Meter Reading submittal is covered by the Maintenance Agreement. At any time after 12 months from the Commencement Date and for each successive 12 month period thereafter during the Term, XFS may increase your Base Payment and the Excess Charges by a maximum of fifteen percent (15%) of the then-current Base Payment therefor and you agree to pay such increased amounts.

9. Equipment Ownership, Labeling and UCC Filing. If and to the extent a court deems this Agreement to be a security agreement under the UCC, and otherwise for precautionary purposes only, you grant XFS a first priority security interest in your interest in the Equipment as defined on the first page hereof in order to secure your performance hereunder. XFS is and shall remain the sole owner of the Equipment, except the Software. You authorize XFS to file a UCC financing statement to show, and to do all other acts to protect, our interest in the Equipment. You agree to pay any filing fees and administrative costs for the filing of such financing statements. You agree to keep the Equipment free from any liens or encumbrances and to promptly notify XFS if there is any change in your organization such that a refile or amendment to XFS's financing statement against you becomes necessary.

10. Assignment. YOU MAY NOT ASSIGN, SELL, PLEDGE, TRANSFER, SUBLEASE OR PART WITH POSSESSION OF THE EQUIPMENT, THIS AGREEMENT OR ANY OF YOUR RIGHTS OR OBLIGATIONS UNDER THIS AGREEMENT (COLLECTIVELY "ASSIGNMENT") WITHOUT XFS'S PRIOR WRITTEN CONSENT, WHICH SHALL NOT BE UNREASONABLY WITHHELD, BUT SUBJECT TO THE SOLE EXERCISE OF XFS'S REASONABLE CREDIT DISCRETION AND EXECUTION OF ANY NECESSARY ASSIGNMENT DOCUMENTATION. If XFS agrees to an Assignment, you agree to pay the applicable assignment fee and reimburse XFS for any costs we incur in connection with that Assignment, which in the aggregate shall not exceed \$250. XFS may sell, assign or transfer all or any part of the Equipment, this Agreement and/or any of our rights (but none of our obligations except for invoicing and tax administration) hereunder. XFS's assignee will have the same rights that we have to the extent assigned, YOU AGREE NOT TO ASSERT AGAINST SUCH ASSIGNEE ANY CLAIMS, DEFENSES, COUNTERCLAIMS, RECOUPMENTS, OR SET-OFFS THAT YOU MAY HAVE AGAINST XFS, and you agree to remit Payments to such Assignee if so designated. XFS agrees and acknowledges that any Assignment by us will not materially change your obligations hereunder.

11. Taxes. You will be responsible for, indemnify and hold XFS harmless from, all applicable taxes, fees or charges (including sales, use, personal property and transfer taxes (other than net income taxes), plus interest and penalties) assessed by any governmental entity on you, the Equipment, this Agreement, or the amounts payable hereunder (collectively, "Taxes"), which will be included in XFS's invoices to you unless you timely provide continuing proof of your tax exempt status. Regardless of your tax-exempt status, XFS reserves the right to pass through, and you agree to pay, any such Taxes that are actually assessed by the applicable State on XFS as lessor of the Equipment For jurisdictions where certain taxes are calculated and paid at the time of agreement initiation, you authorize XFS to finance and adjust your Base Payment to include such Taxes over the Term. Unless and until XFS notifies you in writing to the contrary, the following shall apply to personal property taxes and returns. XFS will file all personal property tax returns covering the Equipment, pay the personal property taxes levied or assessed thereon, and collect from your account all such personal property taxes. XFS MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE TAX OR ACCOUNTING TREATMENT OF THIS AGREEMENT.

12. Equipment Warranty Information and Disclaimers. XFS HAS NO INVOLVEMENT IN THE DESIGN, MANUFACTURE, SALE, DELIVERY, INSTALLATION, USE OR MAINTENANCE OF THE EQUIPMENT. THEREFORE, XFS DISCLAIMS, AND YOU WAIVE SOLELY AGAINST XFS, ALL EQUIPMENT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE, AND XFS MAKES NO REPRESENTATIONS WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE EQUIPMENT'S SUITABILITY, FUNCTIONALITY, DURABILITY OR CONDITION. Since you have selected the Equipment and Supplier, you acknowledge that you are aware of the name of the manufacturer of each item of Equipment, Supplier's contact information, and agree that you will contact manufacturer and/or Supplier for a description of any warranty rights you may have under the Equipment supply contract, sales order, or otherwise. Provided you are not in default hereunder, XFS hereby assigns to you any Equipment warranty rights we may have against Supplier or manufacturer thereof. If the Equipment is returned to XFS or you are in default, such rights are deemed reassigned by you to XFS. **IF THE EQUIPMENT IS NOT PROPERLY INSTALLED, DOES NOT OPERATE AS WARRANTED, BECOMES OBSOLETE, OR IS UNSATISFACTORY FOR ANY REASON, YOU SHALL MAKE ALL RELATED CLAIMS SOLELY AGAINST MANUFACTURER OR SUPPLIER AND NOT AGAINST XFS, AND YOU SHALL NEVERTHELESS CONTINUE TO PAY ALL PAYMENTS AND OTHER SUMS PAYABLE UNDER THIS AGREEMENT.**

13. Liability and Indemnification. XFS IS NOT RESPONSIBLE FOR ANY LOSSES, DAMAGES, EXPENSES OR INJURIES OF ANY KIND OR TYPE, INCLUDING, BUT NOT LIMITED TO, ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (COLLECTIVELY, "CLAIMS") TO YOU OR ANY THIRD PARTY CAUSED BY THE EQUIPMENT OR ITS USE. You assume the risk of liability for, and hereby agree to indemnify and hold safe and harmless, and covenant to defend, XFS, its employees, officers and agents from and against: (a) any and all Claims (including legal expenses of every kind and nature) arising out of the acceptance or rejection, ownership, leasing, possession, operation, use, return or other disposition of the Equipment; and (b) any and all loss or damage of or to the Equipment. Neither sentence in this Section shall apply to Claims arising directly and proximately from XFS's gross negligence or willful misconduct.

14. Default and Remedies. You will be in default hereunder if XFS does not receive any Payment within 10 days after its due date, or you breach any other material obligation hereunder or any other agreement with XFS. If you default, and such default continues for 10 days after XFS provides notice to you, XFS may, in addition to other remedies (including disabling or repossessing the Equipment and/or requesting Supplier to cease performing under the Maintenance Agreement), immediately require you to do one or more of the following: (a) as liquidated damages for loss of bargain and not as a penalty, pay the sum of (i) all amounts then past due, plus interest from the due date until paid at the rate of 1.5% per month; (ii) the Payments remaining in the Term (including the fixed maintenance component thereof, if permitted under the Maintenance Agreement), discounted at the Discount Rate to the date of default, (iii) the Equipment's booked residual, and (iv) Taxes; and (b) require you to return the Equipment as provided in Sections 5 and 6 hereof. You agree to pay all reasonable costs, including attorneys' fees and disbursements, incurred by XFS to enforce this Agreement.

15. Risk of Loss and Insurance. You assume and agree to bear the entire risk of loss, theft, destruction or other impairment of the Equipment **upon delivery**. You, at your own expense, (i) shall keep Equipment insured against loss or damage at a minimum of full replacement value thereof, and (ii) shall carry liability insurance against bodily injury, including death, and against property damage in the amount of at least \$2 million (collectively, "Required Insurance"). All such Equipment loss/damage insurance shall be with lender's loss payable to "XFS, its successors and/or assigns, as their interests may appear," and shall be with companies reasonably acceptable to XFS. XFS shall be named as an additional insured on all liability insurance policies. The Required Insurance shall provide for 30 days' prior notice to XFS of cancellation.

YOU MUST PROVIDE XFS OR OUR DESIGNEES WITH SATISFACTORY WRITTEN EVIDENCE OF REQUIRED INSURANCE WITHIN 30 DAYS OF THE ACCEPTANCE DATE AND ANY SUBSEQUENT WRITTEN REQUEST BY XFS OR OUR DESIGNEES. **IF YOU DO NOT DO SO, THEN IN LIEU OF OTHER REMEDIES FOR DEFAULT, XFS IN OUR DISCRETION AND AT OUR SOLE OPTION MAY (BUT IS NOT REQUIRED TO) OBTAIN INSURANCE FROM AN INSURER OF XFS'S CHOOSING, WHICH MAY BE AN XFS AFFILIATE, IN SUCH FORMS AND AMOUNTS AS XFS DEEMS REASONABLE TO PROTECT XFS'S INTERESTS (COLLECTIVELY "EQUIPMENT INSURANCE"). EQUIPMENT INSURANCE WILL COVER THE EQUIPMENT AND XFS; IT WILL NOT NAME YOU AS AN INSURED AND MAY NOT COVER ALL OF YOUR INTEREST IN THE EQUIPMENT AND WILL BE SUBJECT TO CANCELLATION AT ANY TIME. YOU AGREE TO PAY XFS PERIODIC CHARGES FOR EQUIPMENT INSURANCE (COLLECTIVELY "INSURANCE CHARGES") THAT INCLUDE: AN INSURANCE PREMIUM THAT MAY BE HIGHER THAN IF YOU MAINTAINED THE REQUIRED INSURANCE SEPARATELY; A FINANCE CHARGE OF UP TO 1.5% PER MONTH ON ANY ADVANCES MADE BY XFS OR OUR AGENTS; AND COMMISSIONS, BILLING AND PROCESSING FEES; ANY OR ALL OF WHICH MAY GENERATE A PROFIT TO XFS OR OUR AGENTS. XFS MAY ADD INSURANCE CHARGES TO EACH PAYMENT. XFS shall discontinue billing or debiting Insurance Charges for Equipment Insurance upon receipt and review of satisfactory evidence of Required Insurance.**

You must promptly notify XFS of any loss or damage to Equipment which makes any item of Equipment unfit for continued or repairable use. You hereby irrevocably appoint XFS as your attorney-in-fact to execute and endorse all checks or drafts in your name to collect under any such Required Insurance. Insurance proceeds from Required Insurance or Equipment Insurance received shall be applied, at XFS's option, to (x) restore the Equipment so that it is in the same condition as when delivered to you (normal wear and tear excepted), or (y) if the Equipment is not restorable, to replace it with like-kind condition Equipment from the same manufacturer, or (z) pay to XFS the greater of (i) the total unpaid Payments for the entire Term hereof (discounted to present value at the Discount Rate) plus XFS's residual interest in such Equipment (herein agreed to be 20% of the Equipment's original cost to XFS) plus any other amounts due to XFS hereunder, or (ii) the Determined FMV immediately prior to the loss or damage. **NO LOSS OR DAMAGE TO EQUIPMENT, OR XFS'S RECEIPT AND APPLICATION OF INSURANCE PROCEEDS, SHALL RELIEVE YOU OF ANY OF YOUR REMAINING OBLIGATIONS UNDER THIS AGREEMENT.** Notwithstanding procurement of Equipment Insurance or Required Insurance, you remain primarily liable for performance under this Section in the event the applicable insurance carrier fails or refuses to pay any claim. **YOU AGREE (I) AT XFS'S SOLE ELECTION TO ARBITRATE ANY DISPUTE WITH XFS, OUR AGENTS OR ASSIGNS REGARDING THE EQUIPMENT INSURANCE UNDER THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN FAIRFIELD COUNTY, CT, (II) THAT IF XFS MAKES THE FOREGOING ELECTION ARBITRATION (NOT A COURT) SHALL BE THE EXCLUSIVE REMEDY FOR SUCH DISPUTES; AND (III) THAT CLASS ARBITRATION IS NOT PERMITTED.** This arbitration option does not apply to any other provision of this Agreement.

16. Finance Lease and Customer Waivers. The parties agree this Agreement shall be construed as a "finance lease" under UCC Article 2A. Customer waives its rights as a lessee under UCC 2A Sections 508-522.

17. Authorization of Signer and Credit Review. You represent that you may lawfully enter into, and perform, this Agreement, that the individual signing this Agreement on your behalf has all necessary authority to do so, and that all financial information you provide accurately represents your financial condition. You agree to furnish financial information that XFS may request now, including your Federal Tax ID, and you authorize XFS to obtain credit reports on you in the future should you default or fail to make prompt payments hereunder.

18. Original and Sole Controlling Document; No Modifications Unless in Writing. This Agreement constitutes the entire agreement between the Parties as to the subjects addressed herein, and representations or statements not included herein are not part of this Agreement and are not binding on the Parties. You agree that an executed copy of this Agreement that is signed by your authorized representative and by XFS's authorized representative (an original manual signature or such signature reproduced by means of a reliable electronic form, such as electronic transmission of a facsimile or electronic signature) shall be marked "original" by XFS and shall constitute the only original document for all purposes. To the extent this Agreement constitutes UCC chattel paper, no security interest in this Agreement may be created except by the possession or transfer of the copy marked "original" by XFS. IF A PURCHASE ORDER OR OTHER DOCUMENT IS ISSUED BY YOU, NONE OF ITS TERMS AND CONDITIONS SHALL BE BINDING ON XFS, AS THE TERMS AND CONDITIONS OF THIS AGREEMENT EXCLUSIVELY GOVERN THE TRANSACTION DOCUMENTED HEREIN. **SUPPLIER AND ITS REPRESENTATIVES ARE NOT OUR AGENTS AND ARE NOT AUTHORIZED TO MODIFY OR NEGOTIATE THE TERMS OF THIS AGREEMENT. THIS AGREEMENT MAY NOT BE AMENDED OR SUPPLEMENTED EXCEPT IN A WRITTEN AGREEMENT SIGNED BY AUTHORIZED REPRESENTATIVES OF THE PARTIES AND NO PROVISIONS CAN BE WAIVED EXCEPT IN A WRITING SIGNED BY XFS.** You authorize XFS to insert or correct missing information on this Agreement, including but not limited to your proper legal name, agreement numbers, serial numbers and other Equipment information, so long as there is no material impact to your financial obligations.

19. Governing Law, Jurisdiction, Venue and JURY TRIAL WAIVER. THIS AGREEMENT IS GOVERNED BY, AND SHALL BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CONNECTICUT. THE JURISDICTION AND VENUE OF ANY ACTION TO ENFORCE THIS AGREEMENT, OR OTHERWISE RELATING TO THIS AGREEMENT, SHALL BE IN A FEDERAL OR STATE COURT IN FAIRFIELD COUNTY, CONNECTICUT OR, EXCLUSIVELY AT XFS'S OPTION, IN ANY OTHER FEDERAL OR STATE COURT WHERE THE EQUIPMENT IS LOCATED OR WHERE XFS'S OR YOUR PRINCIPAL PLACES OF BUSINESS ARE LOCATED, AND YOU HEREBY WAIVE ANY RIGHT TO TRANSFER VENUE. **THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION RELATED TO OR ARISING OUT OF THIS AGREEMENT.**

20. Miscellaneous. Your obligations under the "Taxes" and "Liability" Sections commence upon execution, and survive the expiration or earlier termination, of this Agreement. Notices hereunder must be in writing. Notices to you will be sent to the "Billing Address" provided on the first page hereof, and notices to XFS shall be sent to our address provided on the first page hereof. Notices will be deemed given 5 days after mailing by first class mail or 2 days after sending by nationally recognized overnight courier. Invoices are not considered notices and are not governed by the notice terms hereof. You authorize XFS to communicate with us by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address you provide to us. If a court finds any term of this Agreement unenforceable, the remaining terms will remain in effect. The failure by either Party to exercise any right or remedy will not constitute a waiver of such right or remedy. If more than one party has signed this Agreement as Customer, each such party agrees that its liability is joint and several. The following four sentences control over every other part of this Agreement: Both Parties will comply with applicable laws. XFS will not charge or collect any amounts in excess of those allowed by applicable law. Any part of this Agreement that would, but for the last four sentences of this Section, be read under any circumstances to allow for a charge higher than that allowed under any applicable legal limit, is modified by this Section to limit the amounts chargeable hereunder to the maximum amount allowed under the legal limit. If, in any circumstances, any amount in excess of that allowed by law is charged or received, any such charge will be deemed limited by the amount legally allowed and any amount received by XFS in excess of that legally allowed will be applied by us to the payment of amounts legally owed hereunder or refunded to you.

ORDINANCE 51-21

AN ORDINANCE AMENDING THE 2021 APPROPRIATIONS ORDINANCE TO APPROPRIATE FROM THE UNAPPROPRIATED BALANCE THE FOLLOWING: ELEVEN THOUSAND TWO HUNDRED FORTY-SIX DOLLARS (\$11,246.00) FROM GENERAL FUND #100 TO LINE ITEM #100-200-40010 (OPERATING SUPPLIES).

WHEREAS, the appropriations Ordinance needs to be amended to appropriate moneys;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO AS FOLLOWS:

1. The 2021 appropriations are amended to appropriate the following sums from the unappropriated balance to the designated line items:

ELEVEN THOUSAND TWO HUNDRED FORTY-SIX DOLLARS (\$11,246.00) FROM GENERAL FUND #100 TO LINE ITEM #100-200-40010 (OPERATING SUPPLIES).

2. The total appropriations are increased by said amount.
3. This Ordinance shall become effective at the earliest date provided by law.

Duly enacted by Council on second reading on the 12th day of July, 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/28/21
Second Reading: 07/12/21

ORDINANCE 52-21

**AN ORDINANCE AUTHORIZING THE PAYMENT OF PRIOR YEAR BILLS
OF THE CITY ATTORNEY.**

WHEREAS, the City desires to authorize the payment of prior year bills of the City Attorney;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio that:

1. The City authorizes the payment of all prior year bills of the City Attorney.
2. This Ordinance shall be in full force and effect at the earliest moment permitted by law.

Duly enacted by Council on second reading on the 12th day of July, 2021.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: 06/28/21
Second Reading: 07/12/21