

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2024-6**

**AN ORDINANCE AMENDING SECTION 32.21 OF THE DAYTON
CODE OF ORDINANCES TO CHANGE THE DATES OF CITY
COUNCIL MEETINGS.**

WHEREAS, Dayton City Council previously scheduled its regular meetings on the first and third Tuesdays of the month;

WHEREAS, these meeting dates are inconvenient for end-of-the-month reports from department directors and sometimes conflict with federal holidays;

WHEREAS, the Dayton City Council now wishes to change the dates of its meetings to the second and fourth Tuesdays of the month, which should become effective in July 2024 after two readings of this ordinance; and

WHEREAS, KRS Chapter 83A requires cities to fix the times and places of the city's regular meetings by ordinance.

NOW, THEREFORE, THE DAYTON CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Chapter 32 of the City of Dayton Code of Ordinances, titled "City Council," is hereby amended as follows, with words being deleted being ~~lined through~~ and words being added underlined:

**ARTICLE III: ADMINISTRATION
CHAPTER 32: CITY COUNCIL
SECTION 32.21 MEETINGS**

CHAPTER 110: CITY COUNCIL

* * *

§ 32.21 MEETINGS.

(A) Regular meetings of the Council shall be held on the ~~first~~ second and ~~third~~ fourth Tuesdays of each and every month, with the time of commencement of the meetings to be at 7:00 p.m., prevailing local time. If the regularly scheduled meeting should occur on a holiday, then the meeting shall be held on the next succeeding workday at the time stated herein. Meetings shall be held at the Dayton Community and Meeting Center, 625 Second Avenue, Dayton, Kentucky. The Council may, from time to time and for reasons of emergency, access or for any other reason, designate by order, resolution or motion, a change of venue with adequate notice to the public.

(B) Special meetings of the Council may be called by the Mayor or upon written request of a majority of the Council. In the call, the Mayor or Council shall designate the purpose, time, and

place of the special meeting with sufficient notice for the attendance of Council members and for compliance with KRS Chapter 61.

(C) At a special meeting, no business may be considered other than that set forth in the designation of purpose.

(D) The minutes of every meeting shall be signed by the City Clerk/Treasurer and by the officer presiding at the meeting.

CITY OF DAYTON, KENTUCKY,
a Kentucky City of the Home Rule Class

By: _____
Ben Baker, Mayor

1st Reading - _____, 2024
2nd Reading - _____, 2024

Ayes: _____, Nays: _____, Abstain: _____

Published: _____, 2024

ATTEST:

Tristan Klein, City Clerk/Treasurer

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2024#7**

AN ORDINANCE ADOPTING THE CITY OF DAYTON, KENTUCKY'S ANNUAL BUDGET FOR THE FISCAL YEAR RUNNING FROM JULY 1, 2024, THROUGH JUNE 30, 2025, AND ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE CITY TO THE FULL EXTENT AUTHORIZED BY KRS 82.082 AND INTERPRETATIVE CASE LAW.

WHEREAS, a proposed annual operating budget has been prepared and delivered to the City Council of the City of Dayton, Kentucky; and,

WHEREAS, the City Council, having reviewed and discussed the proposed budget, desires to adopt it for Fiscal Year 2024.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:

1. The Annual Operating Budget for the Fiscal Year beginning July 1, 2024, and ending June 30, 2025, including all sources of estimated revenues and appropriations for all City funds as set forth in Exhibit 1, which is attached and made by reference a part hereof, is hereby adopted.
2. All encumbrances outstanding on June 30, 2024, for goods not yet provided or services not yet rendered are hereby reappropriated to conform with generally accepted accounting principles for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025.
3. The balance of all capital construction, renovation, improvement projects and grants currently approved and/or nearing completion are hereby approved for reappropriation and carry over for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025.
4. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase, or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.
5. All prior Municipal Order/Resolutions and/or or Ordinances or parts of any thereof that are in conflict with this Ordinance are hereby repealed.
6. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on May 21, 2024, and given final reading on June 4, 2024, and this Ordinance shall be in full force and effect upon signature, recordation, and publication in summary pursuant to KRS Chapter 424.

Adopted by City Council of the City of Dayton, Campbell County, Kentucky assembled in regular session.

CITY OF DAYTON, KENTUCKY,
a Kentucky City of the Home Rule Class

By: _____
Ben Baker, Mayor

1st Reading - _____, 2024

2nd Reading - _____, 2024

Ayes: _____, Nays: _____, Abstain: _____

Published: _____, 2024

ATTEST:

Tristan Klein, City Clerk/Treasurer

CITY OF DAYTON, KENTUCKY
ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 33.01 AND 33.02 OF THE DAYTON CODE OF ORDINANCES TO REFLECT THAT FIRE AND EMS SERVICES ARE PROVIDED IN THE CITY OF DAYTON BY THE FIRE DEPARTMENT OF BELLEVUE-DAYTON, L.L.C., UNDER THE TERMS AND CONDITIONS SET FORTH IN AN INTERLOCAL AGREEMENT ENTERED BETWEEN THE CITIES OF DAYTON AND BELLEVUE, KENTUCKY, AND APPROVED BY THE COMMONWEALTH OF KENTUCKY.

WHEREAS, the City of Dayton, Ky. (“City”), and the City of Bellevue, Ky., jointly operate a fire department that provides Fire/EMS services in both jurisdictions through the Bellevue/Dayton Fire Department, L.L.C. (“the Company”), which was approved by an Interlocal Agreement between these cities on September 30, 2001

WHEREAS, the City wishes to clarify this arrangement by amending Section 33.01 and Section 33.02 of the Dayton, Kentucky, Code of Ordinances (“Code”).

NOW, THEREFORE, THE DAYTON CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Chapter 33 of the City of Dayton Code of Ordinances, titled “City Council,” is hereby amended as follows, with words being deleted being ~~lined through~~ and words being added underlined:

ARTICLE III: ADMINISTRATION
CHAPTER 33: POLICE AND FIRE DEPARTMENTS
FIRE DEPARTMENT

§ 33.01 ESTABLISHMENT; INTERLOCAL AGREEMENT TO CREATE AND OPERATE THE FIRE DEPARTMENT OF BELLEVUE-DAYTON, L.L.C.

~~—(A)—There is hereby created in and for the city, a Fire Department composed of a Fire Chief, an Assistant Fire Chief, and firefighters whose employment shall be subject the provisions of and whose compensation is fixed by the current job classification ordinance.~~

~~—(B)—The Fire Department and the members thereof shall perform such duties and be regulated by the current personnel regulations of the city and by the appropriate sections of KRS Chapter 95; however, KRS 95.761 through 95.785 shall have no application hereto.
(Ord. 310.3, passed 1-15-74)~~

§ 33.02 FIRE CHIEF; ASSISTANT CHIEF.

~~—(A)—The city hereby establishes the office of Fire Chief. The Fire Chief shall be appointed by the Mayor with approval of City Council and may be removed by the Mayor at will.~~

~~—(1)—The duties of the Fire Chief shall be those set forth in the current job classification system adopted by the city.~~

~~—(2)—Compensation shall be in the amount as established by the City Council by ordinance.~~

(3) The Fire Chief shall have all powers of a citation officer as described in KRS 83A.087.

(4) No person shall be appointed or act as the Fire Chief unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond, if required, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

(B) The city hereby establishes the office of Assistant Fire Chief, who shall be appointed by the Mayor with approval of City Council and who may be removed by the Mayor at will.

(1) The duties of the Assistant Fire Chief shall be those set forth in the current job classification system adopted by the city.

(2) Compensation shall be in the amount as established by the City Council by ordinance.

(A) On September 30, 2001, the cities of Dayton and Bellevue, Kentucky ("the Cities"), entered into an Interlocal Agreement titled "Operating Agreement of Fire Department of Bellevue-Dayton, L.L.C." ("Interlocal Agreement"), which was approved by the Commonwealth of Kentucky on December 18, 2001, pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300.

(B) The Interlocal Agreement sets forth the terms and conditions for providing Fire/EMS Services and other services in the Cities, including but not limited to Company Management; Contributions to Capital; Allocations and Distributions; Dissolution of the Company; Company Board, Chair, and Company Manager; and Terms of Existence.

(C) The City of Dayton has operated and shall continue to operate the Company in accordance with the terms and conditions of this Interlocal Agreement, a copy of which is attached hereto and made by reference a part hereof as Exhibit "A".

CITY OF DAYTON, KENTUCKY,
a Kentucky City of the Home Rule Class

By: _____ Ben
Baker, Mayor

1st Reading - _____, 2024 2nd
Reading - _____, 2024

Ayes: _____, Nays: _____, Abstain: _____

Published: _____, 2024

ATTEST:

Tristan Klein, City Clerk/Treasurer

EXHIBIT "A"

**OPERATING AGREEMENT
OF
FIRE DEPARTMENT OF BELLEVUE-DAYTON, L.L.C.**

This Operating Agreement dated September 30, 2001, is by and between the CITIES OF BELLEVUE AND DAYTON in Campbell County, Kentucky, as members of the Bellevue/Dayton Fire Department, L.L.C., a Kentucky Limited Liability Company (hereinafter identified and referred to as the “**Company**”); and is pursuant to the authority of the Interlocal Cooperation Act at KRS 65.210 to 65.300.

Article 1.0 – Formation

- 1.1 Organization** – The parties hereto hereby organize this limited liability Company pursuant to the provisions of the Kentucky Limited Liability Company Act at KRS Chapter 275 (hereinafter identified and referred to as the “**Act**”).
- 1.2 Intent** – It is the intent of the parties to this Operating Agreement that the company shall always be operated in a manner consistent with the authority of the Interlocal Cooperation Act at KRS 65.210 to 65.300 and all other applicable local, state and federal laws.
- 1.3 Agreement** – For and in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties executing this Agreement hereby agree to the terms and conditions of this Operating Agreement, as it may from time to time be amended according to its terms.
- 1.4 Name of Company** – The name of the Company is the Fire Department of Bellevue-Dayton, L.L.C., and all business of the Company shall be conducted in that name. The Company shall be dissolved, and its affairs concluded, in accordance with the Act and this Operating Agreement on July 1, 2021, unless the period of the Company existence shall be extended by amendment to this Operating Agreement and the Articles of Organization, or unless the Company is dissolved and its affairs concluded in accordance with the Act or this Operating Agreement.

- 1.5 Principal Executive Office** – The principal executive office of the Company shall be at 514 Sixth Avenue, Dayton, Kentucky 41074.
- 1.6 Registered Agent and Office** – The registered agent for service of process and the registered office of the Company shall be the Fire Chief. The Members of the Company may, from time to time, change the registered agent or office of the Company through appropriate filings with the Secretary of State of the Commonwealth of Kentucky.
- 1.7 Company Business** – The object and purpose of the Company and general nature of the business it proposes to transact shall be limited to providing Fire/EMS Services and other services deemed necessary by the partner members of the company for the Cities of Bellevue and Dayton, as the agent of the Cities of Bellevue and Dayton therefore. The Company may provide mutual aid with other communities and jointly cooperate on regional issues.
- 1.8 Company Members** – The names and addresses of each of the members of this Company are as follows:

<u>Name</u>	<u>Address</u>
City of Bellevue	616 Poplar Avenue, Bellevue, KY 41073
City of Dayton	514 Sixth Avenue, Dayton, KY 41074

Article 2.0 – Company Management

- 2.1 Management of the Company** - is hereby vested in the Fire Chief, who needs not be a member of the Company or a natural person, and is hereinafter identified and referred to as the “Fire Chief”.
- 2.2 Fire Department of Bellevue-Dayton Company Board** – The Mayor of each member of the Company shall appoint from the city councils and residents in their respective cities an equal number of members to the Board. The Board shall be composed of six (6) members, four of whom shall be elected officials, two of whom shall be citizen volunteers. The Board will serve a one-year term beginning January 1 of each year, with no term limitations. The City Administrators of the member Cities will serve in an advisory capacity to the Board.
- 2.3 Chair of Board** – The Chair of the Board must be an elected official from the company members. The Chair will serve a one-year term, beginning January 1

of each year, with no term limitations. The Board will determine the selection of the Chair. The Chair will have all rights as regular Board members. The Chair will call, organize, and conduct all regular and special meetings. The Chair will work in conjunction with the company manager to implement the policies and procedures adopted by the Board. The Chair will be responsible for overseeing and reporting the financial status of the company to the Board and company members.

2.4 Manager Appointment – The Fire Chief, and all contracts for the services thereof, shall be agreed upon by the Mayor of each member of the Company and a majority of the Board.

2.5 Manager's Authority – The Fire Chief, shall be responsible for the ordinary daily operations and decisions of the Company, and the Fire Chief shall have all of the authority necessary therefore, subject to the following limitations:

- A. No funds of the Company shall be disbursed otherwise than in conformity with an annual budget for the Company, which is developed and presented to the Board by the Manager and approved by a majority of the Board. No funds shall be disbursed until the members of the company approve their annual contributions.
- B. Without the approval of the Board the Company shall not enter into any written agreements and no property of the Company shall be conveyed, transferred or delivered to anybody else. Contracts exceeding the value of \$10,000 shall have additional approval of the Mayors of the Company members.
- C. The Board will develop and approve all operating policies and procedures for the company.
- D. The Board will develop and approve a positions classification plan to include, but not limited to, positions available for hire, current approved salary for position and salary range for position.

2.6 Removal of Manager – The removal of the Fire Chief of the Company shall always be subject to the approval of a majority of the Board in accordance with the policies and procedures of the Company.

2.7 Limitation of Liability – The liability of each member of the Company for debts and obligations for the Company shall be limited according to the provisions of KRS 275 150 and other applicable law. The Board is required to

maintain proper liability insurance coverage on the Board, Employees, Equipment and the Company.

- 2.8 Priority and Return of Capital** – No member shall have priority over the other member with respect to the return of capital contributions or to profits, losses, or distributions, all of which shall be equally divided among the members.
- 2.9 Special Meetings** – Either member of the Company may schedule a special meeting of the members thereof, by causing a written notice thereof to be mailed to the other member by Certified Mail, Return Receipt Requested.

Article 3.0 – Contributions to Capital

Each member shall and hereby agrees to contribute all current equipment used in the delivery of Fire/EMS services in their respective cities and an initial sum of \$535,000 as a cash contribution to the Company for operating cost of the Fire Department of Bellevue-Dayton, L.L.C. Each fiscal year the members agree to contribute a cash amount agreed upon by the members for operating purposes of the Company. The Fire Department of Bellevue-Dayton, L.L.C. budget cycle will be a fiscal year budget of July 1 – June 30. The Board will approve an annual budget and present the budget and funding request to each member City Council by February 1 of each year. The Company members must notify the Company Board Chair by June 1 of their intent of funding. Funding will be due in quarterly payments on the first day of the months of July, October, January and April. If the members do not approve the proposed annual contribution by July 1 of the fiscal year the previous fiscal years contribution will be the legal contribution until the member City Councils approve a new yearly contribution.

The Board is required to have an annual audit completed by a Certified Public Accountant and reported to the members City Council by January 1 of each year.

Article 4.0 – Allocations and Distributions

- 4.1** All expenditures, excess revenues and losses of the Company shall be equally divided between the members of the Company.

- 4.2 The company may maintain reserves up to, but not exceeding, 25% of the annual operating budget.

Article 5.0 – Dissolution of the Company

- 5.1 **Events of Dissolution** – The Company shall be dissolved and its affairs concluded upon the first occurrence of any of the following events:
- A. The expiration of the term of the Company indicated in the Articles of Organization thereof; or
 - B. The entry of a Decree of Judicial Dissolution pursuant to KRS 275.290; or
 - C. The filing of a Certificate of Dissolution by the Secretary of State pursuant to KRS 275.295; or
 - D. The approval thereof by municipal order of either legislative body of each of the members of the Company. A minimum of six (6) months notice to the other Company member must be given in writing by Certified Mail, Return Receipt Requested, as to their intent to dissolve the Company or remove themselves as a member of the Company.
 - E. Once notified of any of the above events of dissolution the company will continue to operate and provide service to all company members until the company is completely dissolved and the process of Winding Up is complete.
- 5.2 **Continued Existence for Purposes of Winding Up** – If any subsection of Section 5.1 of this Article is enacted the Company can continue solely for the purpose of winding up its affairs in accordance with the Act.
- 5.3 **Procedure Upon Liquidation** – Upon the dissolution of the Company, the members shall liquidate the assets of the Company and apply the proceeds of liquidation in the order of priority provided in Section 5.4 hereof.
- A reasonable time shall be allowed for the orderly liquidation of the assets of the Company and the discharge of its liabilities to minimize losses that might otherwise occur in connection with the liquidation. Upon completion of the liquidation of the Company and distribution of the proceeds, the Members shall file articles of dissolution with the Secretary of State's Office in and for the Commonwealth of Kentucky.

Article 5.1 – Fire Department of Bellevue-Dayton Company Board and Chair

The Mayor of each member of the Company shall appoint from the city councils and residents in their respective cities an equal number of members of a Board. The Board shall be composed of six (6) members, four of whom shall be elected officials, two of whom shall be citizen volunteers. The Board will serve a one-year term beginning January 1 of each year, with no term limitations. The Board will be responsible for developing and approving the policies and procedures and approving the budget of the Company. The City Administrators of the member Cities will serve in an advisory capacity to the Board.

Article 5.2 - Chair of Board

The Chair of the Board must be an elected official from the company members. The Chair will serve a one-year term, beginning January 1 of each year, with no term limitations. The Board will determine the selection of the Chair. The Chair will have all rights as regular Board members. The Chair will call, organize, and conduct all regular and special meetings. The Chair will work in conjunction with the company manager to implement the policies and procedures adopted by the Board. The Chair will be responsible for overseeing and reporting the financial status of the company to the Board and company members.

Article 5.3 – Company Manager

The company Manager shall be the Fire Chief. The appointment, duties and removal of the manager shall be in accordance with the company members Interlocal Agreement forming the Company.

Article 6.0 – Terms of Existence

The company shall be dissolved, and its affairs concluded, in accordance with the Act and this Operating Agreement on June 30, 2021, unless the period of the company existence shall be extended by amendment to this Operating Agreement and the Articles of Organization, or unless the company is dissolved and its affairs concluded in accordance with the Act or this Operating Agreement.

5.4 Process of Liquidation – The proceeds from the liquidation of the assets of the Company, the proceeds from the collection of the receivable of the Company, and the assets distributed in kind shall all be distributed in the following order of priority.

- A. First, to payment of debts and liabilities of the Company which are properly due and owing;
- B. Second, to the settling up of reserves to disburse the reserves in payment of contingent liabilities or obligations of the Company, and, at the expiration of the reserve period, the balance of the reserves, if any, shall be distributed as liquidating proceeds received at the end of the reserve period; and
- C. Third, equally to the Members of the Company in respect to General Accepted Accounting Procedures.
- D. Notwithstanding the above, it is expressly understood that any and all real estate owned, prior to the effective date of this agreement, by a member city shall be returned and transferred back to that member city. The value of the real estate being returned to the member city will not be used in the calculation of determining equal asset distribution.

5.5 Winding Up and Certification of Dissolution – The winding up of the Company shall be completed when all debts, liabilities and obligations of the Company have been paid and discharged or reasonably adequate provision therefore has been made, and all of the remaining property and assets of the Company have been distributed to the members. Upon the completion of winding up of the Company, a certificate of dissolution shall be delivered to the Secretary of State for the Commonwealth of Kentucky for filing. The certificate of dissolution shall set forth the information required by KRS 275.315.

Article 6.0 – Additional Provisions

6.1 Complete Agreement – This Operating Agreement and the Articles of Organization of the Company constitute the complete and exclusive statement of agreement among the Members with respect to the subject matter hereof. This Operating Agreement and the Articles of Organization supersede all prior

written and oral statements or agreements and no representation, statement or condition or warranty not contained in this Operating Agreement or the Articles of Organization shall be binding on the Members or have any force or effect whatsoever.

- 6.2 Governing Law** – This Agreement and the rights of the parties hereunder will be governed by, interpreted, and enforced in accordance with the laws of the Commonwealth of Kentucky.
- 6.3 Terms** – Common nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identify of the person or persons, firm, or corporation may in the context require. Any reference to the Code or other statutes or laws will include all provisions concerned.
- 6.4 Headings** – All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Operating Agreement.
- 6.5 Severability** – Every provision of this Operating Agreement is intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this Operating Agreement.
- 6.6 Amendments** – This Agreement shall be amended or modified from time to time only by a written instrument adopted; approved and executed by both of the members of the Company.
- 6.7 Heirs, Successors and Assigns** – Each and all of the covenants, terms, provisions, and agreements herein shall be binding upon and inure to the benefit of the parties hereto and, the extent permitted by this Agreement, their legal representatives, successors, and assigns.
- 6.8 Execution of Additional Instruments** – Each member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules, or regulations.
- 6.9 Waiver** – The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Operating Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of any original violation.


6.10 Mediation – If any claim, dispute or other matter arises regarding the relations or transactions between company members they agree to submit the issues to mediation. The mediation fee, if any, shall be shared equally.

6.11 Rights and Remedies Cumulative – The rights and remedies provided by this Operating Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any of the rights the parties may have by law, state, ordinance, to otherwise.

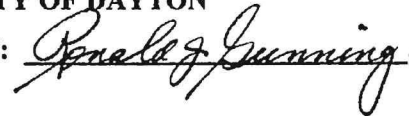
6.12 Creditors – None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditors of the Company.

IN WITNESS WHEREOF, this Operating Agreement has been signed on behalf of the Cities of Bellevue and Dayton, by their respective Mayors, pursuant to the authorization of their respective legislative bodies.

CITY OF BELLEVUE

BY: , MAYOR

CITY OF DAYTON

BY: , MAYOR

Pursuant to the requirements of KRS 65.270, this Agreement between the Cities of Bellevue and Dayton, in Campbell County, Kentucky, is hereby approved.

**KENTUCKY DEPARTMENT OF LOCAL
GOVERNMENT**

BY: 
JODY A. LASSITER, Commissioner

**ARTICLES OF ORGANIZATION
OF
THE FIRE DEPARTMENT OF BELLEVUE-DAYTON, L.L.C.**

The undersigned, John Meyer, as Mayor of the City of Bellevue, and Ronald Gunning, as Mayor of the City of Dayton, hereby form and organize a Not-for-Profit Limited Liability Company pursuant to the Kentucky Limited Liability Act at KRS Chapter 275, and they adopt the following Articles of Organization therefore:

Article 1.0 – Name

The Limited Liability Company organized and formed is hereby named “The Fire Department of Bellevue-Dayton, LLC”.

Article 2.0 – Initial Registered Office and Agent

The initial registered office of the Fire Department of Bellevue-Dayton, LLC, and the name of its initial registered agent at that office is The Fire Department of Bellevue-Dayton Fire Chief.

Article 3.0 – Initial Principal Office

The mailing address of the initial principal office of The Fire Department of Bellevue-Dayton, LLC, is 514 Sixth Avenue, Dayton, Kentucky 41074.

Article 4.0 – Business

The business of The Fire Department of Bellevue-Dayton, LLC, shall be limited to the joint implementation of Fire/EMS Services in the Cities of Bellevue and Dayton, Kentucky. The Company may provide mutual aid with other communities and jointly cooperate on regional issues.

Article 5.0 – Management

Management of the company is hereby vested in the Company Board.

IN WITNESS WHEREOF, the undersigned have subscribed their signatures to these Articles of Organization on the 3 day of DEC 2001.

John Meyer, MAYOR
CITY OF BELLEVUE

Ronald J. Gunning, MAYOR
CITY OF DAYTON

**COMMONWEALTH OF KENTUCKY
COUNTY OF CAMPBELL**

SUBSCRIBED AND SWORN to before me by John Meyer, as Mayor of the City of Bellevue, this 3 day of Dec 2001.

Ricky A. Sears
NOTARY PUBLIC

Kentucky, State at Large

Commission Expires: 2-24-03

**COMMONWEALTH OF KENTUCKY
COUNTY OF CAMPBELL**

SUBSCRIBED AND SWORN to before me by Ronald J. Gunning, as Mayor of the City of Dayton, this 3rd day of December, 2001

Donna Legu
NOTARY PUBLIC

Kentucky, State at Large

Commission Expires: 3/12/05

Pursuant to the requirements of KS 65.270, this Agreement between the Cities of Bellevue and Dayton, in Campbell County, Kentucky, is hereby approved.

KENTUCKY DEPARTMENT FOR
LOCAL GOVERNMENT

BY: [Signature]



Office of the Governor

Jody A. Lassiter, Commissioner

Facsimile Transmittal

To: Hon. Daryl Dunagan Fax: 564-2124
Kentucky Finance Cabinet Telephone:

From: ^{Rich} Richard J. Ornstein, Attorney Date: May 1, 2002

Re: Bellevue-Dayton Agreement Pages: 13, including coversheet

CC:

- Urgent For Review Please Comment Please Reply Please Recycle

Notes: Attached, please find the Bellevue-Dayton Fire Department Operating Interlocal Cooperation Agreement. This may be the agreement already in your possession. If you have any further questions, or if I may be of additional assistance, please do not hesitate to contact me at 573-2382.

Office of the General Counsel
1024 Capital Center Drive, Suite 340
Frankfort, Kentucky 40601
Toll Free Telephone: (800) 346-5606
Fax: (502) 573-2939
Website: www.kylocalgov.com





NORTHERN KENTUCKY AREA DEVELOPMENT DISTRICT
22 SPIRAL DRIVE / FLORENCE, KENTUCKY 41042
PHONE (859) 283-1885 / FAX (859) 283-8178 / TDD (859) 282-2707
www.nkadd.org

John Mays, Executive Director

December 10, 2001

Department For Local Government
Richard Ornstein
1024 Capital Center Drive, Suite 340
Frankfort, Kentucky 40601

Mr. Ornstein:

Enclosed is the Interlocal Agreement between the Cities of Bellevue and Dayton located in Campbell County Kentucky. This agreement relates to the merger of their two fire departments, forming a Limited Liability Corporation to provide fire protection for the two above-mentioned cities. We are seeking approval of the Interlocal Agreement. If you have any questions, or need additional information, please do not hesitate to contact me at (859) 283-1885. Thank you for your time and efforts in regards to this agreement.

Respectfully

Brian Dehner
Public Administration Specialist



PAUL E. PATTON
GOVERNOR

COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR
DEPARTMENT FOR LOCAL GOVERNMENT
1024 CAPITAL CENTER DRIVE, SUITE 340
FRANKFORT, KENTUCKY 40601-8204
(502) 573-2382



JODY A. LASSITER
COMMISSIONER

December 18, 2001

Mr. Brian Dehner
Public Administration Specialist
Northern Kentucky Area Development District
22 Spiral Drive
Florence, Kentucky 41042

RE: Bellevue/Dayton Interlocal Cooperation Agreement

Dear Mr. Dehner:

Enclosed, please find the original of the above-executed agreement. The Department has retained a copy of the agreement. This agreement must be filed with the Campbell County Clerk and the Secretary of State to have force of law, as per KRS §65.290. If you have any questions or comments, please contact me at (800) 346-5606.

Sincerely,

Richard J. Ornstein
Attorney

Enclosure

01-061ICA Bellevue-Dayton ICA Corr.

TDD (800) 247-2510
TOLL FREE (800) 346-5606



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

FAX: (502) 573-2512
WEB SITE: <http://www.kylocalgov.com>

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2024-9**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON,
KENTUCKY, VACATING A PORTION OF KENTON STREET RIGHT OF WAY
PURSUANT TO KRS 82.405 (THE “ORDINANCE”).**

WHEREAS, KRS 82.405(1) provides a method for a municipality to vacate and close a public right-of-way or portion thereof; and

WHEREAS, at the request of MBCC Property Management (“MBCC”) and in furtherance of the City of Dayton Kentucky’s (the “City”) authorized economic development purposes, including the elimination of blight and the development of residential housing within the City, this City Council has determined that the public right-of-way comprising a portion of Kenton Street as further depicted and described on attached Exhibits A-1 and A-2 (the “Right-of-Way to be Vacated”) should be vacated and closed; and

WHEREAS, MBCC by virtue of its ownership of the real property located at 1023 7th Ave., Dayton, Kentucky 41074 and the City of Dayton (“City”) by virtue of its ownership as the owner of the portion of Kenton Street that is not being vacated have been identified as the only property owners in or abutting the Right-of-Way to be Vacated; and

WHEREAS, the written notice required under KRS 82.405(2)(b) of the proposed closing of the Right-of-Way to be Vacated was delivered to each of MBCC and the City as the only property owners in or abutting the Right-of-Way to be Vacated; and

WHEREAS, each of MBCC and the City have agreed to the closing of said Right-of-Way to be Vacated; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

That the City Council hereby makes the following findings of fact with respect to the Right-of-Way to be Vacated in accordance with KRS 82.405(2):

- (a) The City and MBCC have been identified as the only property owners in or abutting the Right-of-Way to be Vacated;
- (b) The written notice required under KRS 82.405(2)(b) was delivered to the City and MBCC as the only property owners in or abutting the Right-of-Way to be Vacated;
- (c) MBCC and the City as the only property owners in or abutting the portion of the Right-of-Way to be Vacated have given their written notarized consent to the closing (together, the “Consents”), attached hereto and incorporated by reference herein as Exhibits B-1 and B-2; and

- (d) That the vacation of the Right-of-Way to be Vacated and conveyance to the Developer will be in furtherance of the City's authorized economic development purposes, including the elimination of blight and the development of residential housing within the City.

SECTION II

That having made the above-referenced findings, the City Council hereby vacates the Right-of-Way to be Vacated and such Right-of-Way to be Vacated is deemed closed and vacated without further action pursuant to KRS 82.405(2). Also, pursuant to KRS 82.405(2), the City's Special Counsel is directed and authorized to record a copy of this Ordinance together with all of its attachments, including the Consents, map/plat, and legal description, with the Campbell County Clerk's office.

SECTION III

That once this Ordinance closing and vacating the Right-of-Way to be Vacated is recorded, the City shall convey the Right-of-Way to be Vacated to Developer, as required by law, so that the Right-of-Way to be Vacated may be developed in accordance with that certain Development Agreement entered between the Developer and City.

SECTION IV

That once this Ordinance closing and vacating this right-of-way is recorded, all plats and maps of the City of Dayton, Kentucky, including the official zoning map and all maps of the comprehensive plan of the City shall be considered amended to reflect the vacation.

SECTION V

The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect, so long as they remain valid in the absence of those provisions determined to be invalid.

SECTION VI

Subject to Section III of this Ordinance, this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer, and take effect and be in full force when passed, published, and recorded according to law. This Ordinance may be published in abbreviated form.

[Balance of page left intentionally blank; signatures follow below]

CITY OF DAYTON, KENTUCKY,
a Kentucky City of the Home Rule Class

By: _____
Ben Baker, Mayor

1st Reading - _____, 2024

2nd Reading - _____, 2024

Ayes: _____, Nays: _____, Abstain: _____

Published: _____, 2024

ATTEST:

Tristan Klein, City Clerk/Treasurer

EXHIBIT A-1

DEPICTION OF RIGHT-OF-WAY TO BE CLOSED

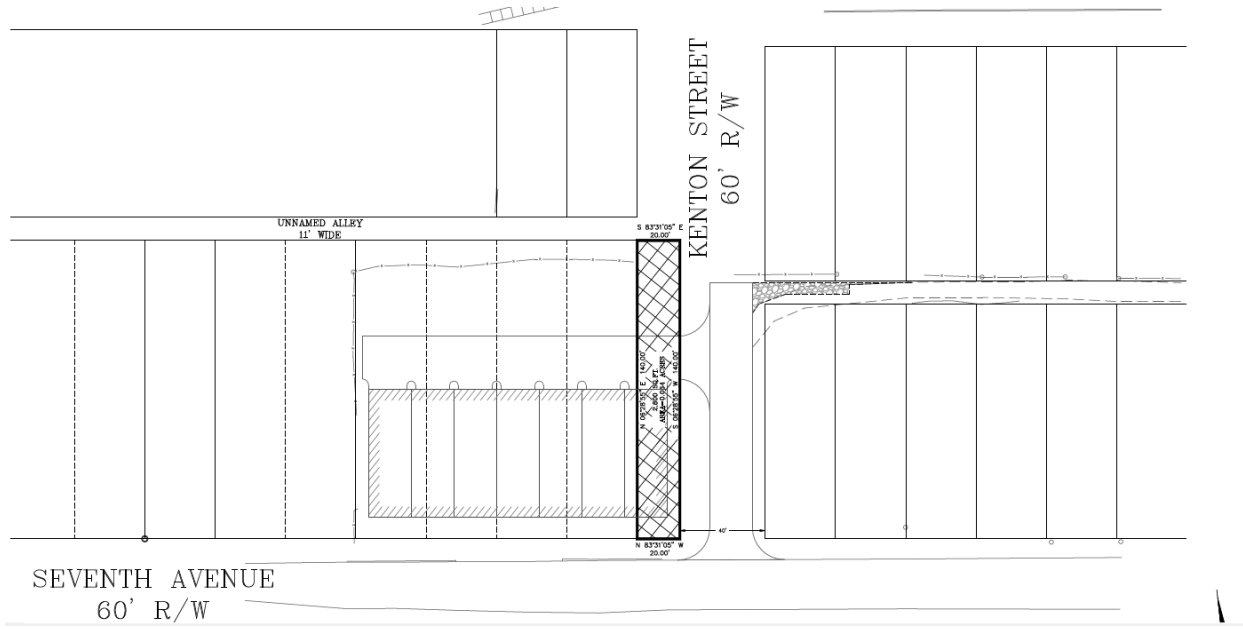


EXHIBIT A-2

LEGAL DESCRIPTION OF RIGHT-OF-WAY TO BE CLOSED

Right-of-Way - 0.064 Acres
Group
Kenton Street, Dayton, Kentucky

Situated in Campbell County, Kentucky, being part of Kenton Street as designated on the recorded plat of Jamestown, now part of the City of Dayton and being more particularly described as follows:

COMMENCING at a point being the northwest corner of Seventh Avenue and Kenton Street and the southeast corner of Lot Number One (1) in Block Thirty-Seven (37) as designated on the recorded plat of Jamestown, now the City of Dayton, Campbell County, Kentucky and conveyed by deed to MBCC Property Management, LLC as recorded in Deed Book D827, Page 167 in the Office of the Clerk of Campbell County;

Thence with the easterly line of said Lot Number One (1) and said MBCC Property Management, LLC North 06°28'55" East, a distance of 140.00 feet to the northeast corner of said Lot.

Thence leaving said northeast corner for the next Three (3) courses and distances:

- South 83°31'05" East, a distance of 20.00 feet to a point;
- South 06°28'55" West, a distance of 140.00 feet to a point;
- North 83°31'05" West, a distance of 20.00 feet to the POINT OF BEGINNING.

Said herein description contains 0.064 acres.

Being part of Block Thirty-Seven (37) as designated on the recorded plat of Jamestown, now the City of Dayton, Campbell County, Kentucky. Said herein description being the result of a field survey by Cardinal Engineering Corporation. Bearings based on Kentucky State Plane coordinate system, North Zone, NAD83 (2011).

EXHIBIT B

CONSENT OF CITY AND MBCC

[To be attached prior to adoption]

**CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2024#8R**

AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, AUTHORIZING THE MAYOR TO ENTER INTO AN ENVIRONMENTAL RESTORATION AND PRESERVATION CONTRACT WITH THE NORTHERN KENTUCKY STREAM AND WETLAND RESTORATION PROGRAM AND A CONSERVATION EASEMENT WITH THE U.S. ARMY CORPS OF ENGINEERS IN CONNECTION WITH A STREAMBANK RESTORATION AND PRESERVATION PROJECT IN SARGEANT PARK.

WHEREAS, in partnership with the NKU Research Foundation, the Center for Environmental Restoration (“CER”) at Northern Kentucky University, through a contract with the U.S. Army Corps of Engineers (“USACE”), operates the Northern Kentucky Stream and Wetland Restoration Program (“NKSWRP”), which provides an in-lieu fee compensatory mitigation service to public and private entities with impacted aquatic ecosystems; and

WHEREAS, the CER uses fees paid by these entities into a mitigation bank to implement stream and wetland restoration and preservation projects within a nine-county service area in Northern Kentucky; and

WHEREAS, these mitigation projects replace aquatic ecosystem functions and services lost to development, such as stream, wetland, and riparian habitat; water-quality protection; pollutant removal; floodwater and energy dissipation; and natural area aesthetics and recreation opportunities; and

WHEREAS, after investigating Sargeant Park and the Covert Run stream ecosystem located within it (“Sargeant Park”), NKSWRP has determined that Sargeant Park would be a good mitigation project under its program and has agreed to complete a Conservation Area restoration design plan for this site and to seek final project approval of this project from Louisville District office of the USACE; and

WHEREAS, this restoration project will be paid for solely from NKSWRP mitigation fees and that the City of Dayton, Kentucky, will not be responsible for costs associated with this project.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF DAYTON, KENTUCKY, AS FOLLOWS:

Section I

The City Council of the City of Dayton, Kentucky (“City Council”) hereby authorizes the Mayor to enter into an Environmental Restoration and Preservation Contract with NKSWRP, which is attached as Exhibit A, and enter into a Conservation Easement for Sargeant Park, which is attached as Exhibit B.

Section II

That this Order/Resolution shall be maintained and indexed in the Official Order Book by the City Clerk/Treasurer.

MAYOR BEN BAKER

ATTEST:

TRISTAN KLEIN
CITY CLERK/TREASURER
June 4, 2024

EXHIBIT A

Environmental Restoration and Preservation Contract

(See attached)

EXHIBIT B

Conservation Easement

(See attached)

Environmental Restoration and Preservation Contract

This contract is entered into this ____ day of _____, 2024 by and between the Property Owner (**City of Dayton, Kentucky**) and the **Northern Kentucky Stream and Wetland Restoration Program (NKSWRP)**.

1. Purpose

The purpose of this contract is to implement an environmental restoration and preservation project on the Property Owner's property known as Sargeant Park located on Covert Run Road in Campbell County, KY.

2. Proposed Project

The project will address a protected Conservation Area encompassing the entire property (including across Covert Run Road) excluding the entrance, parking lot, and shelter and surrounding mowed lawns. Project activities will include:

- Natural area enhancement and restoration within the Conservation Area will include:
 - Stream channel restoration including re-alignment, widening, and bank stabilization
 - Removal of refuse, fill, culverts, and storm pipes and restoration of a culvertized channel
 - Soil generated from channel restoration will be placed on site and the area re-vegetated.
 - Bridge replacement to accommodate mower and pedestrian access to shelter area
 - Removal of selected non-native invasive vegetation such as honeysuckle
 - Planting of native vegetation
 - Construction of small wetland
 - Other mutually agreed project elements
- Execute a conservation easement to permanently protect the Conservation Area described above.
- Conservation Area boundary posting by NKSWRP.

3. Responsibilities of the Parties

NKSWRP will complete Conservation Area restoration design and seek final project approval from the U.S. Army Corps of Engineers – Louisville District (Corps). Actual project implementation will be contingent upon receiving final Corps approval. NKSWRP will utilize its funds to pay for all design and implementation of project activities (if approved by the Corps), including five years of monitoring and maintenance of natural areas restoration features. Maintenance or repair of constructed improvements such as a bridge, if any, will be the responsibility of the Property Owner.

Within 30 days of Corps' approval of the project, Property Owner will execute a Conservation Easement that permanently protects the Conservation Area. A Conservation Easement template is attached, including general restrictions and reserved rights. Property-specific restrictions or reserved rights that generally protect, and are compatible with, conservation values may be included by mutual consent of the parties, subject to approval by the Corps. Property Owner agrees not to sell any portion of the property, or further encumber the property, for example with a mortgage, prior to execution of the conservation easement.

Property Owner represents that they hold title to the land, and that there are no liens or mortgages on the property.

Note that the project cannot be implemented until Conservation Easement has been executed by the Property Owner, and any liens or mortgages are subordinate to the Conservation Easement, or the NKSWRP has other assurances that the land is permanently protected.

4. Property-Specific Conditions

5. Insurance

NKSWRP and its subcontractors will be responsible for the health and safety of their respective employees. Additionally, NKSWRP and its subcontractors will maintain a One Million Dollar (\$1,000,000.00) liability insurance policy to cover any on-site activities.

6. Attorney's Fees and Costs

If any litigation is instituted with respect to enforcement of the terms of this Contract, the prevailing party shall be entitled to recover all costs incurred, including, but not limited to, reasonable attorney's fees and court costs.

7. Authorization

This Agreement shall become effective and binding (including Property Owner's heirs, successors and assigns) when signed by all of the parties. This agreement will become void if the Corps fails to approve final project funding.

City of Dayton, Kentucky Authorized Representative

Date

Scott Fennell

Date

Program Director - Northern Kentucky Stream and Wetland Restoration Program

CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2024#9R

AN ORDER/RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF DAYTON, KENTUCKY TO EXECUTE AND DELIVER AN APPLICATION TO THE CITY OF DAYTON, KENTUCKY PLANNING COMMISSION TO FACILITATE SITE PLAN REVIEW OF THE HIGHPOINT TOWNHOME DEVELOPMENT, SUBJECT TO (I) THE CITY'S RECEIPT OF ALL OUTSTANDING PAYMENTS IN LIEU OF TAXES TOGETHER WITH PENALTIES THEREON FROM MANHATTAN DEVELOPMENT CO., LLC AND AFFILIATES, AND (II) THE EXECUTION AND DELIVERY BY SSWM DEVELOPMENT, LLC OF A DECLARATION OF EASEMENTS ENCUMBERING CERTAIN CITY-OWNED REAL PROPERTY UPON WHICH THE HIGHPOINT TOWNHOME DEVELOPMENT IS PROPOSED TO BE LOCATED FOR THE PURPOSE OF ADVANCING THE CITY'S RIVERFRONT COMMONS TRAIL PROJECT THROUGH THE DEVELOPMENT OF A TRAIL ACCESS PATH; AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER SUCH DECLARATION OF EASEMENTS; AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER OF SUCH OTHER INSTRUMENTS AND AGREEMENTS AS MAY BE REQUIRED TO FACILITATE THE INSTALLATION, CONSTRUCTION, AND EQUIPPING OF THE REAL PROPERTY WITH THE TRAIL ACCESS PATH.

WHEREAS, the City of Dayton and DCI Properties-DKY, LLC, a Kentucky limited liability company ("DCI") entered into that certain Amended and Restated Development Agreement dated June 1, 2009 (as amended, the "Development Agreement"), and by virtue of an assignment from its affiliate S & S High Point, LLC, SSWM Development LLC ("SSWM") now holds the development rights pertaining to that certain real property commonly referred to as "Parcel H" of the Manhattan Harbour Subdivision, which real property is further described on attached Exhibit A ("Parcel H");

WHEREAS, pursuant to the terms of the Development Agreement, SSWM may request the transfer of the Parcel H to facilitate the redevelopment of Parcel H in accordance with the Development Agreement and approved development plans;

WHEREAS, SSWM has developed plans for the installation, construction and equipping of Parcel H with a townhome development and is seeking the City's approval and support to advance such development;

WHEREAS, because Parcel H is City-owned property, the advancement of the Dayton Planning Commission's site plan review of SSWM's townhome development requires the City to execute and deliver an application to the Dayton Planning Commission; and

WHEREAS, the City has established two conditions precedent pertaining to its execution and delivery of the aforementioned site plan review application to the Dayton Planning Commission, including (i) the requirement that the City receive all outstanding payments in lieu of taxes and interest and penalties thereon from Manhattan Development Co. and affiliates, and (ii) the

requirement that SSWM executes and delivers a joinder to the hereinafter described Declaration of Easements;

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF DAYTON, KENTUCKY, AS FOLLOWS:

Section 1. Subject to (i) the City's receipt of all outstanding payments in lieu of taxes together with penalties and interest thereon from Manhattan Development Co. and affiliates, and (ii) the execution and delivery by SSWM of a joinder to the Declaration of Easements, the City Administrator is hereby authorized and empowered to execute and deliver an application for site plan review of the Highpoint townhome project to the Dayton Planning Commission.

Section 2. The Mayor is hereby authorized to execute and deliver the Declaration of Easements substantially in the form currently on file with the City Clerk/Treasurer and attached here to as Exhibit B. In furtherance of such Declaration of Easements and the installation and construction of the trail access path, the Mayor is further authorized to execute and deliver such other commercially reasonable instruments and agreements as may be required.

Section 3. It is hereby found and determined that all formal actions of the City Council concerning and relating to the passage of this Order/Resolution were taken in an open meeting of the City Council, and that all deliberations of this City Council and of any of its committees, if any, that resulted in such formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements of the Kentucky Revised Statutes.

NOW THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, on this _____ day of _____, 2024.

That this Order/Resolution shall be signed by the Mayor, attested to by the City Clerk/Treasurer, recorded and be effective upon adoption.

[Signatures below]

ADOPTED: _____, 2024

By: _____
Ben Baker
Mayor

Attest:

By: _____
Tristan Klein
City Clerk/Treasurer

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk/Treasurer of the City Council of Dayton, Kentucky, (the "City"), and as such I further certify that the foregoing (with the attached Exhibit "A" and Exhibit "B"), is a true, correct and complete copy of an Order/Resolution duly adopted by the City Council of the City at a regular meeting properly held on _____, 2024 signed by the Mayor and is now in full force and effect, all as appears from the official records of the City in my possession and under my control.

IN WITNESS WHEREOF, I have hereunder set my hand this _____ day of _____ 2024.

Tristan Klein
City Clerk/Treasurer

EXHIBIT A

LEGAL DESCRIPTION OF PARCEL H

PARCEL H PIDN: 999-99-33-462.69

Group No: 30596/H1

That parcel of land lying and being in the City of Dayton, County of Campbell, Kentucky, being known as "Parcel H" with reference to that certain plat of survey entitled "MANHATTAN HARBOUR SECTION 8" dated September 2022, certified by Daniel K. York, P.L.S. 3581, as shown on the plats recorded in Plat Slides E-714A, E-714B, E-715A, and E-715B in the real estate records of Campbell County, Kentucky, located at Newport, Kentucky (the "Plat"), which said plat is incorporated herein by reference, being a portion of the real property conveyed to the City of Dayton, Kentucky by Urban Renewal and Community Development Agency on July 25, 1978, via deed recorded in Deed Book 451, Page 412.

EXHIBIT B

FORM OF DECLARATION OF EASEMENTS

DECLARATION OF EASEMENTS

THIS DECLARATION OF EASEMENTS (this “Declaration”) is made as of _____, 2024 by the **CITY OF DAYTON, KENTUCKY**, a Kentucky City of the Home Rule Class, 514 Sixth Avenue, Dayton, Kentucky 41074, on behalf of itself and all future owners of the Property (“Declarant” and “Owner”) and joined by SSWM Development, LLC, a Kentucky limited liability company (“SSWM”).

RECITALS:

A. Declarant is the Owner of certain real property located in Campbell County, Kentucky identified by Campbell County PIDN 999-99-33-462.69, commonly referred to as “Parcel H” of the Manhattan Harbour Subdivision and more particularly described on Exhibit A attached hereto and made a part hereof (the “Property”).

B. Declarant intends to undertake the design, installation and construction of an access trail that will traverse over, upon and through the Property.

C. By virtue of an assignment of rights to develop the Property pursuant to that certain Amended and Restated Development Agreement dated June 1, 2009 (as amended, the “Development Agreement”) entered into by and between DCI Properties-DKY, LLC, a Kentucky limited liability company and Declarant, SSWM holds the right to request that Declarant convey the Property to SSWM.

D. In order to ensure that the general public has access to that certain riverfront bike and walk path that will be constructed on the northern border of the Property (the “Riverfront Path”), prior to conveying the Property to any third-party, the Declarant desires to establish a construction easement providing for the Declarant’s installation, construction, and equipping of a public access path over the Property and an access easement to allow the general public a path to access the Riverfront Path, all as more fully set forth in this Declaration.

E. SSWM has agreed to join this Declaration to consent to the establishment of such easements.

NOW, THEREFORE, Declarant, as the Owner of the Property, does hereby declare and set forth this Declaration to run with the land described herein to be binding upon all parties and persons claiming an interest in any of the Property described herein.

WITNESSETH:

1. Declaration of Easements.

(a) Temporary Construction Easement.

Declarant hereby declares and establishes a temporary nonexclusive easement and right-of-way (the “Temporary Construction Easement”), for the benefit of the Declarant and its contractors, employees and agents, over and across the entirety of the Property for the purpose of installing, constructing, and equipping the crosshatched portion of the Property, as shown on the Plat attached hereto as Exhibit B, with the Trail Access Path (defined herein) to connect to the Riverfront Path. The Temporary Construction Easement includes, but is not limited to, the right and privilege by Declarant (and its contractors, employees and agents) to go onto and to access the Property with vehicles, heavy equipment and machinery in order to conduct construction, grading, clearing and dirt moving work as may be necessary in connection with the construction of the Trail Access Path (defined herein). The Temporary Construction Easement shall expire and terminate, without the requirement of any further documentation, upon the completion of installation of the Trail Access Path.

(b) Access Easement.

Declarant hereby declares and establishes a permanent nonexclusive easement and right-of-way (the “Trail Access Path”), for the benefit of the Declarant and the general public over and across that the crosshatched portion of the Property, as shown on the Plat attached hereto as Exhibit B (the “Access Easement Area”), for the purpose of ingress and egress, over, through and across the Property to access the Riverfront Path. Notwithstanding the foregoing, there shall be no access to the Riverfront Path via the Access Easement Area until such time that construction of the Trail Access Path is complete and safe for public use. The Access Easement Area shall be open to the public at all times after the Trail Access Path is declared safe for use by the Declarant. The Declarant reserves the right to place informational and interpretive and directional “wayfinding signs” signs within the Access Easement Area, as necessary in its reasonable discretion. Declarant shall further have the right to landscape the Access Easement Area with native trees, plants, or similar landscaping and to remove any non-native or invasive trees, plants, or landscaping. Nothing herein shall be construed to grant to the general public, or to any persons, the right to enter upon any part of the Property other than that portion designated as the Access Easement Area.

The Access Easement Area as initially depicted in attached Exhibit B is a preliminary approximation of the location of the Trail Access Path. It being understood that the final location of the Trail Access Path and the Access Easement Area may need to be determined and reestablished based upon the final plans and specifications for the Trail Access Path to be prepared by the Declarant’s civil engineer. Accordingly, the Declarant hereby reserves the right to relocate, redefine, or modify the Access Easement Area based upon the final plans and specifications for the Trail Access Path. Any modification to the Access Easement Area, including any metes and bound description, will be memorialized in a supplement to this

Declaration, and Declarant on behalf of itself as Owner and all future Owners hereby covenants and agrees to execute such supplement to further define the Access Easement Area once the final plans and specifications for the Trail Access Path are finalized and such supplement has been prepared and to further cause any mortgagee to consent to such supplement. Notwithstanding anything to the contrary contained herein, nothing herein shall be construed to require the Declarant to redefine and supplement this Declaration with an updated description of the Access Easement Area and in the event no such updated description of the Access Easement Area is developed, the Access Easement Area shall be deemed to be the area depicted in attached Exhibit B.

2. SSWM Covenants, Warrants, Acknowledgements, and Consents.

SSWM represents and warrants that it holds the rights under the Development Agreement to develop the Property. SSWM acknowledges and agrees that this Declaration will constitute an “easement [or] restriction of record agreed to by Developer,” as contemplated under Section VI (A) of the Development Agreement and hereby waives and disclaims any objection to this Declaration that it may have otherwise been entitled to under the Development Agreement prior to acceptance of the Property from the City.

3. Covenant Running With Land.

The Temporary Construction Easement and the Access Easement (collectively, the “Easements”) created by this Declaration shall be deemed to be covenants running with the land and shall be binding upon any future Owner of the Property, and any persons or entities who may from time to time succeed to the interest of the same. Further, in the event of any legal subdivision(s) of the Property into multiple parcels, the Easements made in this Declaration shall be deemed to continue in full force and effect. By acceptance of any deed, or execution of any lease or contract, or undertaking occupancy of the Property, each Owner and all other persons acknowledge the rights and powers of Declarant with respect to the easements granted herein, and also for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant and the Owners and subsequent Owners of the Property to keep, observe, comply with and accept the obligations under this Declaration.

4. Governing Law.

This Declaration shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky and, although drafted by Declarant, such drafting was as a matter of convenience only and shall not be construed for or against either Declarant or SSWM on that account.

5. Notices.

Any request, notice, approval or communication authorized or required by this Declaration shall be effective if such request, notice, approval or communication is in writing,

and is delivered personally and a receipt therefore is obtained, or is sent by certified mail, return receipt requested, and postage prepaid, addressed to the other party as follows:

If to Declarant: City of Dayton, Kentucky
514 Sixth Avenue
Dayton, Kentucky 41074
Attention: City Administrator

If to Developer: SSWM Development, LLC,
284 Manhattan Blvd Apt 102
Dayton, KY 41074

6. Counterparts.

This Declaration and Joinder to Declaration of Easements may be executed in any number of copies and counterparts, each of which will be deemed an original and all of which counterparts together will constitute one agreement with the same effect as if the parties had signed the same signature page.

[Balance of page left intentionally blank; signatures below]

IN WITNESS WHEREOF, this Declaration has been executed as of the date first set forth above.

DECLARANT AND OWNER:

CITY OF DAYTON, KENTUCKY, a Kentucky City of the Home Rule Class

By: _____
Ben Baker, Mayor

STATE OF KENTUCKY)
)SS
COUNTY OF _____)

The foregoing Declaration was acknowledged and sworn to before me on _____, 2024, by Ben Baker, Mayor of the City of Dayton, Kentucky, a Kentucky city of the Home Rule Class, on behalf of said city.

Notary Public

My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

PARCEL H PIDN: 999-99-33-462.69

Group No: 30596/H1

That parcel of land lying and being in the City of Dayton, County of Campbell, Kentucky, being known as "Parcel H" with reference to that certain plat of survey entitled "MANHATTAN HARBOUR SECTION 8" dated September 2022, certified by Daniel K. York, P.L.S. 3581, as shown on the plats recorded in Plat Slides E-714A, E-714B, E-715A, and E-715B in the real estate records of Campbell County, Kentucky, located at Newport, Kentucky (the "Plat"), which said plat is incorporated herein by reference, being a portion of the real property conveyed to the City of Dayton, Kentucky by Urban Renewal and Community Development Agency on July 25, 1978, via deed recorded in Deed Book 451, Page 412.

EXHIBIT B

DEPICTION OF ACCESS EASEMENT

(To be attached prior to execution)