CITY OF DAYTON

PUBLIC HEARING FOR MUNICIPAL AID

PUBLIC HEARING 2020/2021 TAX RATE

October 8, 2020

Mayor Baker opened the hearing with a silent prayer, and led the Pledge of Allegiance.

ROLL CALL:

Mayor Baker Aye Member Burns Aye

Member Volter Aye Member Lynn Aye

Member Neary Aye City Adm. Giffen Aye

Member Beseler Aye City Att. Edge Aye

Member Cornett Aye

A public hearing was held to hear comments regarding the spending of municipal aid funds for fiscal 2020/2021. City Adm. Giffen reported that additional work was needed on the Ervin Terrace project. The additional amount is $4,680.00. Mayor Baker asked if anyone including the audience had any comments. Hearing closed at 7:06 p.m.

A public hearing was held to hear comments regarding the 2020/2021 tax rate. Mayor Baker asked for comments from the audience. Ms. Gordon asked what the changes are, if any from the previous year. The proposed rate is $4.34 per thousand in valuation. This is down from last year. Last year’s rate was $4.56 per thousand in valuation. Hearing closed at 7:08 p.m.

CITY OF DAYTON

SPECIAL COUNCIL MEETING

October 8, 2020

A special meeting of Dayton City Council was held on Thursday, October 8, 2020 in the board meeting room of the Dayton Independent Schools Administration Building, Third & Clay Street. Dayton, KY.

Mayor’s Report:

Phil Liles, Code Director, retired the 1st. of September. Mr. Liles was a fantastic employee. Mr. Liles position has been filled by Cassie Patterson. Cassie started on Monday. Cassie comes to us from Newport and has experience in Code Enforcement. We’re very excited to have her on our team.

The City Building is now open to the public. Mask and social distancing are required.

Trick or Treat will be held on Halloween, October 31, from 6:00 p.m. – 8:00 p.m. The Main Street will sponsor a trunk or treat in the parking lot across from the city building.

Mayor Baker recognized Mr. Mark Stark. Mr. Stark is involved in the Manhattan Boulevard Development, and is here to talk about the Berry Street Ramp. Mr. Stark said he would like to open this up to questions from council. Member Volter asked if Mr. Stark has an anticipated date of completion for the Berry Street Ramp. Mr. Stark responded that he does not have an answer. If you would have ask me last year, I would of said it would be done by now. The problem is I cannot get the dirt needed. The country is in a pandemic. They shut our jobs down. It’s a disaster. Once we get the dirt the time frame will be about three months. The dirt is the project. Most of the dirt in the past has come from somewhere in Cincinnati. I have to have consistent dirt so they can test it regularly or I’d never get the project approved. Member Cornett noted this is hurting the city and our central business district. Mr. Stark said he can’t build the road faster than we can sell it or build it. It takes a lot of money to build these roads. I have to have the dirt and I have to have the money coming or going to support the road. There never was an actual deadline of any kind for completion of the road. City Adm. Giffen said Mr. Stark is the controlling partner on the master development agreement of Manhattan Harbour with the City of Dayton. The developers that have done work there for the last few years are sub-developers. One of the obligations of the developer is to complete a connection to Berry Street. Everything that is listed in the development agreement about Berry Street has been met to date. Mr. Stark said the drawings for the project have been approved by the Planning Commission. The issue is there is no time table on when the Berry Street connector is to be completed. City Adm. Giffen noted this has become a safety issue and an economic development issue. We now have people living east of that connection point. This is what is driving the urgency of city council and city administration. Mr. Stark noted businesses is slow. People are not going out, we’re in a pandemic. Member Burns asked about opening up the road all the way through the project, instead of turning down the road by the Marina. If we had that done, it would have helped with some of the problems. Do you have any time frame on this project? Mr. Stark said there is about 400 ft. and about 350 ft. on the ramp/slope. We can do both projects at the same time, but we need dirt.

Member Neary asked Mr. Stark if all of the permits from the Corp of Engineers and Campbell County Planning & Zoning are completed. Mr. Stark said he thinks everything is done except actually applying/paying for the permits. The Corp of Engineers are fine with everything, per Mr. Stark. The drawings have been revised. Mr. Stark is watching for dirt but does not want contaminated dirt. Dirt has not been moving for about six months.

Member Cornett said it’s her understanding that construction hasn’t stopped during this pandemic. I’d like to see this completed before the pandemic is over. This is an important issue for the city. Mr. Stark said this should have been one of the things council wanted done first. It’s been over ten years, said Member Cornett. Mr. Stark would like to see the project completed also. He needs dirt. Member Neary said this is vital to our businesses and development. Glad to hear the permits, etc., are taken care of. Member Volter would like to have a timeline for the project. What about Oct. 1, 2022 on or before that date? Mr. Stark said he can work with that deadline. Member Beseler asked if Mr. Stark would agree to 2021. Mr. Stark said no, I agree with two years. Member Neary would also like to see Dec. 31, 2021. Member Burns noted he cannot get the dirt. Mr. Stark agreed it’s just the dirt. City Adm. Giffen will work with Mr. Stark and Paul Darpel to make changes to the agreement.

Due to Election Day, Nov. 3, 2020 the November council meeting will be held on Nov. 17, 2020.

Motion by Member Volter, seconded by Member Cornett to approve the minutes from the September 1, 2020 meeting. Motion carried-so ordered.

2020#12 second reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2020-#12**

**AN ORDINANCE PROVIDING FOR THE IMPOSITION, LEVY, COLLECTION AND APPORTIONMENT OF TAXES FOR THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021.**

**WHEREAS,** KRS 83 A.130 to 83A.150 and KRS 92.280 and KRS 92.330 require that the legislative body of each city levy an ad valorem tax for city purposes, that this be done by ordinance to provide for sufficient revenue to operate city government, and

**WHEREAS,** KRS Chapter 132 requires that this be calculated in accordance with the provisions of that chapter, and KRS 134.800 and KRS 134.810 require that ad valorem taxes on motor vehicles and motorboats be collected by the City Clerk and that such taxes shall become due and delinquent as set forth in KRS 134.810 and that such taxes not paid when due shall be subject to the penalty and interest as specified therein,

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

**SECTION 1.  Real Property – General Tax.**

An ad valorem tax rate of .434 cents on each $100.00 (one hundred dollars) of assessed valuation of real property subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

**SECTION 2.  Real Property – Park Tax.**

An ad valorem tax rate of .050 cents on each $100.00 (one hundred dollars) of assessed valuation of real property subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

**SECTION 3. Other Personal (Tangible) Property.**

An ad valorem tax rate of 0.750 cents on each $100.00 (one hundred dollars) of assessed valuation of personal property (other than motor vehicles and motorboats) subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

**SECTION 4. Motor Vehicles and Motorboats.**

An ad valorem tax rate of $.5009 cents on each $100.00 (one hundred dollars) of assessed valuation of motor vehicles and motorboats subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

**SECTION 5. Bank Deposits.**

There shall be imposed and collected for said City, as permitted under KRS Chapter 136 on the taxable fair cash value of bank deposits within the city as assessed, corrected, altered, certified and returned by the Revenue Cabinet or as assessed by the Mayor and Council, if for any reason said deposits have not been listed in any manner for taxation, sum equal to twenty-five thousandths of one percent (.025%) of those deposits. The levy called for in this Section shall be imposed, levied, collected and apportioned for payment of incidental expenses of the City. Those banks upon which the above tax is imposed may pay the sum due less 2% if paid by December 31, 2020 or the full amount by January 31, 2021. Thereafter the penalty and interest herein shall be imposed.

**SECTION 6. Due Date, Payment, Discount and Penalty.**

The taxes mentioned in this Ordinance Sections 1, 2 and 3 shall be due and payable at the Office of the City Clerk by November 30, 2020 and shall become delinquent the day immediately following if not paid.  Taxes paid during the first three days after they become delinquent will be a assessed a 1% penalty.  Any taxes not paid more than three days after they become delinquent shall be subject to a penalty of 10% and shall accrue interest at a rate of twelve percent (12%) per annum until paid.  The delinquent taxpayer shall also pay all costs, attorney’s fees, and other expenses incidental to any action taken by the city for collection of the delinquent tax bill.

**SECTION 7. Effective Date and Use Thereof.**

This Ordinance shall be effective immediately upon publication and applies to the 2020 calendar year tax assessment and all receipts shall be used for city purposes and accounted in the 2020-2021 fiscal year and subsequent fiscal years in reference to delinquent collections.

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

First Reading: September 1, 2020

Second Reading:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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MAYOR BEN BAKER

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Neary, seconded by Member Lynn to approve 2020#12 as read. Comments: Member Volter noted the tax rate has dropped. City Att. Edge mentioned the city has added a three day grace period with a lower penalty. Member Burns commended the administration for the lower rate, but said he is afraid of how the money will be spent. Since July 2020 when we passed the budget, we’re already in need of amending the budget. I’m concerned. For this reason Member Burns will be voting no and that’s the only reason. Member Volter responded he feels this council tries to be fiscally responsible at all times. This has not been a normal year. We’ve had a lot of problems also. Holding a balanced budget will be tough over the next 2-4 years. We need to find new revenue streams, cut expenses, while still keeping employees and maintaining service. I don’t think we’re not wisely spending our money. Member Neary said this is the first time since 2008 the tax rate has gone down. We’re not doing this because we want to, it’s because we have to by law. By law we can only take the compensating rate plus 4%, this is the maximum we can take without putting it on the ballot. We can do this because our property values went up a huge amount. We will only bring in 4% more than last year on property tax. Hopefully more next year.

ROLL CALL:

Member Volter Aye Member Cornett Aye

Member Neary Aye Member Burns Nay

Member Beseler Aye Member Lynn Aye

Motion carried—so ordered.

First Reading:

**CITY OF DAYTON, KENTUCKY ORDINANCE NO. 2020-#13**

**AN ORDINANCE AMENDING, UPDATING, AND ADOPTING THE CITY OF DAYTON COMPREHENSIVE PLAN.**

 **WHEREAS,** the City of Dayton has previously adopted a Comprehensive Plan for the City; and,

 **WHEREAS,** the City of Dayton Planning & Zoning Commission has been requested to review and act upon an application by same said commission to adopt the amended and updated Comprehensive Plan; and,

 **WHEREAS,** the City of Dayton Planning & Zoning Commission held a public hearing to review said application, pursuant to due legal notice in accordance with KRS Chapter 100 and 424; and,

 **WHEREAS,** after said public hearing and after due consideration of the evidence and testimony presented, the City of Dayton Planning & Zoning Commission voted to approve and adopt the amended and updated comprehensive plan at a regularly scheduled meeting; and,

 **WHEREAS,** the Dayton City Council having reviewed the proposed amended and updated comprehensive plan, hereby concurs in the recommendation, reasoning and findings of fact of the City of Dayton Planning & Zoning Commission.

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

Section I

That the amended and updated Comprehensive Plan be adopted based on the reasoning and findings of fact of the City of Dayton Planning & Zoning Commission as attached herein.

Section II

That this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer, recorded and published. Same shall be in effect at the earliest time provided by law.

**PASSED** by City Council of the City of Dayton, Campbell County, Kentucky assembled in regular session. First Reading: Oct. 8, 2020

Second Reading:

MAYOR BEN BAKER

ATTEST:

DONNA LEGER

CITY CLERK/TREASURER

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2020-#14**

**AN ORDINANCE AMENDING ORDINANCE 2020-#8 SETTING FORTH COMPENSATION AND NUMBER OF AUTHORIZED POSITIONS FOR EMPLOYEES UNDER THE DAYTON JOB CLASSIFICATION SYSTEM.**

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

**SECTION ONE:** Compensation ranges for employees and number of authorized positions under the Dayton Job Classification System shall be as follows:

 Position (No. Authorized) Pay Range

City Administrative Officer (1) 50,000.00 - 90,000.00

Assistant City Administrator (0) 22,000.00 - 36,000.00

City Clerk/Treasurer (1) 35,000.00 – 70,000.00

Ass't City Clerk/Treasurer (2) 25,000.00 - 39,000.00

Administrative Secretary (0) 24,000.00 - 35,000.00

Chief of Police (1) 45,000.00 – 85,000.00

Police Captain (0) 39,000.00 – 70,000.00

Police Lieutenant (1) 39,000.00 – [~~65,000.00~~] 72,000

Police Sergeant (2) 39,000.00 – 60,000.00

Police Corporal (1) 34,700.00 - 55,000.00

Police Officer (10) 31,000.00 –53,000

Police Recruit (0) 30,000.00 - 33,500.00

Part-time Patrol Officer (2) 15.00 - 17.00 per hour

Police Clerk (1) 8.00 – 19.00 per hour

Superintendent, Public Works (1) 35,000.00 – 60,000.00

Crew Leader (1) 25,000.00 – 45,000.00

Laborer (3) 10.00 - 19.00 per hour

Laborer (23 hrs/week) (0) 7.00 - 12.00 per hour

Seasonal Laborer (4/1-10/31) (2) 7.00 – 13.00 per hour

City Codes Director (1) 22,000.00 – 50,000.00

City Inspector (0)

Blight Inspector (20 hrs/week) (0) 14.90 - 18.00 per hour

Janitor (10 hrs/week) (0) 7.00 - 11.00 per hour

Recreation Director (0)

Economic Development Director (1) 30,000.00 - 50,000
[~~Neighborhood Project Coordinator (1) 18.00 – 21.00 per hour~~]

**SECTION TWO:** Unless otherwise stated, the compensation stated in Section One shall be a yearly amount based upon the normal number of hours required for each position under the Job Classification System and does not include overtime pay as authorized under the Employee Personnel Policy.

**SECTION THREE:** City Council may, by resolution, authorize the payment of a yearend bonus to any or all employees in an amount not to exceed One Hundred Dollars ($100.00)

**SECTION FOUR:** Any and all ordinances including or portions thereof in conflict herewith are hereby repealed.

**SECTION FIVE:** This ordinance shall be signed by the Mayor, attested by the City Clerk, recorded, published, and shall be in effect at the earliest time provided by law.

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

First Reading: Oct. 8, 2020

Second Reading:

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MAYOR BEN BAKER

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

Mr. Parson, Bond Council, addressed council concerning the two bond ordinances that will be read tonight, 2020#10R and 2020#11R. Industrial Revenue Bonds are issued by the city, but they are not the city’s debt. They are the debt of the private developer. The City and Dayton Independent Schools agreed on a pilot agreement. The city gets 100% pilot payment and the county gets 100% pilot payment. The school get a 65% pilot payment. That’s where the incentives come in. There are also some lump sum payments. We have two condo projects, The Lookout and Waterfront. This is still the Manhattan Developer agreement, but you may have different entity names, different lenders, and different parties.

Lookout Project – 6 condominium projects valued around $10,000,000.

Waterfront – 72 condo units for sale at market rate.

Both projects have been approved and the county has signed off on these.

Mr. Parsons said the Tapestry is rental units only. You’ll get a value of about $23,000,000 this fiscal year and the full value will appear on the roll next year. The occupancy rate is really good right now. Tapestry is market rate rental, they do not do condos. Member Volter noted our schools are getting 65% of the pilot, and that is a really good rate. Mr. Parsons agreed. This is a great option for the school.

ORDER 2020#10R

**AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, AUTHORIZING THE ISSUANCE OF UP TO $8,500,000 MAXIMUM AGGREGATE PRINCI­PAL AMOUNT TAXABLE INDUSTRIAL BUILDING REVENUE BONDS, SERIES 2020A AND UP TO $2,500,000 MAXIMUM AGGREGATE PRINCI­PAL AMOUNT TAXABLE INDUSTRIAL BUILDING REVENUE BONDS, SERIES 2020B, IN ORDER TO ASSIST MANHATTAN DEVELOPMENT GROUP, LLC, OR ITS ASSIGNS, TO FINANCE THE ACQUISITION, CON­STRUC­TION AND EQUIPPING OF AN INDUSTRIAL BUILDING FACILITY LOCATED WITHIN THE CITY OF DAYTON, KENTUCKY AND TO IMPROVE SAID FACILITY; AUTHORIZING THE ISSUANCE OF ADDITIONAL BONDS; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SAID BONDS; AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF DAYTON, KENTUCKY AND MANHATTAN DEVELOPMENT GROUP, LLC, OR ASSIGNS, WITH RESPECT TO THE FACILITY (THE “AGREE­MENT”); AUTHORIZING A TRUST INDENTURE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND FURTHER TO SECURE THE PAYMENT OF SAID BONDS; AUTHORIZ­ING A BOND PURCHASE AGREEMENT; AUTHORIZ­ING A HOME OFFICE PAYMENT AGREEMENT; AUTHORIZING THE EXECU­TION OF AN OPEN-END LEASEHOLD MORTGAGE AND SECURITY AGREEMENT, WITH A JOINDER BY THE CITY; AND AUTHORIZING A PILOT MORTGAGE TO SECURE THE PAYMENT OBLIGATIONS IN THE PILOT AGREEMENT, WHICH ARE PLEDGED IN-PART TO THE PAYMENT OF THE SERIES 2020B BONDS**

WHEREAS, the City of Dayton, Kentucky (the “Issuer”) is by virtue of the laws of the Commonwealth of Kentucky, including Chapter 103 of the Kentucky Revised Statutes, and other authorities mentioned therein, authorized and empowered, among other things, (a) to assist in the financing of costs of industrial building facilities located within the boundaries of the Issuer, (b) to enter into an agreement with the lessee of such facilities providing for revenues sufficient to pay the principal of and interest and any premium on such revenue bonds, including the issuance of refunding bonds (c) to secure such revenue bonds by a trust agreement or indenture between the Issuer and a corporate trustee, and by a pledge and assignment of such revenues, as provided for herein, and (d) to enact the Bond Legislation and enter into the Indenture and the Agreement, as hereinafter identified, upon the terms and conditions provided therein; and,

WHEREAS, by the terms of a Resolution No. 13-R the Issuer agreed to provide certain incentives to encourage Manhattan Development Group, LLC, a Kentucky limited liability company, (the “Company”) to undertake a residential condominium project in the City referred to as The Lookout Project (the “Project”), including agreeing to issue Project Bonds pursuant to KRS Chapter 103 to pay for the cost of acquisition and construction of the Project; and

 WHEREAS, it is hereby determined by this Legislative Authority that the acquisition, construction and equipping of the Project, and improvement to said Project will require the issuance, sale and delivery of the Project Bonds in separate series with up to $8,500,000 maximum aggregate principal amount taxable industrial building revenues bonds Series 2020A (the “Series 2020A Bonds”), and up to $2,500,000 maximum aggregate principal amount taxable industrial building revenues bonds Series 2020B (the “Series 2020B Bonds), for a not to exceed amount for the combined Series 2020A Bonds and the Series 2020B Bonds being $11,000,000 (collectively “The Lookout Project”, with the Series 2020A Bonds and the Series 2020B Bonds being referred to herein as the “Bonds or the ”Project Bonds”), and hereafter may, with the prior written consent of the Issuer, involve the Issuer’s issuance, sale and delivery of Additional Bonds on a parity therewith, all of which Project Bonds and Additional Bonds shall be equally and ratably payable and secured as provided herein and in the Indenture authorized herein;

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF DAYTON, KENTUCKY, as follows:

That the provisions hereof shall be, as follows:

# Definitions. All defined terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Trust Indenture with respect to the Project Bonds (the “Indenture”) between the Issuer and The Huntington National Bank and its successors in trust, as trustee (the “Trustee”).

Any reference herein to the Issuer, to the Legislative Authority, or to any officers thereof, shall include any person or entity which succeeds to its or their duties or responsibilities pursuant to or by operation of law. Any reference to a section or provision of the Kentucky Constitution or the Act or to a section, provision or chapter of the Kentucky Revised Statutes shall include such section or provision or chapter as from time to time amended, modified, revised, supplemented or superseded; provided, however, that no such change in the Constitution or laws (a) shall alter the obligation to pay the Bond service charges in the amounts and manner, at the times and from the sources provided in this Bond Legislation and the Indenture, except as otherwise herein permitted or (b) shall be deemed applicable by reason of this provision if such change would in any way constitute an impairment of the rights of the Issuer, the Trustee or the Company under the Agreement or the Indenture.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms “hereof”, “hereby”, “hereto”, “hereunder”, and similar terms, mean this Bond Legislation.

# Determinations of Legislative Authority. The Legislative Authority hereby determines that the Project is an “industrial building” as that term is defined in Section 103.200 of the Kentucky Revised Statutes, and will benefit the people of the Issuer by creating or preserving jobs and employment opportunities and promoting the commercial and economic development of the Issuer and the State.

# Authorization and Terms of Project Bonds.

## Authorization. It is hereby determined to be necessary to, and the Issuer shall issue, sell and deliver, as provided and authorized herein and pursuant to the authority of the Act, up to $11,000,000 maximum aggregate principal amount of Project Bonds for the purpose of providing funds to be used to finance the Project and to finance improvements to said Project and to pay costs of issuance of said Project Bonds. The Project is and shall be owned by Issuer and leased to the Company. Said Project Bonds shall be issued in two series and shall be designated “Taxable Industrial Building Revenue Bonds, Series 2020A “The Lookout Project” and “Taxable Industrial Building Revenue Bonds, Series 2020B “The Lookout Project”. The Issuer may also issue, sell and deliver Additional Bonds on a parity with the Project Bonds for the purposes and in the manner provided in the Indenture. The proceeds of the Project Bonds shall be applied (i) to provide funds to finance the acquisition, construction and installation of the Project and (ii) to pay reasonable and customary closing costs associated with the issuance of the Project Bonds.

## Terms. The Project Bonds shall be issued in the forms and denominations, shall be numbered, dated and payable as provided in the Indenture. The Project Bonds shall mature as provided in the Indenture, and have such terms, bear such interest, and be subject to mandatory and optional redemption as provided in the Indenture. This Legislative Authority hereby fixes and establishes the interest rate in effect from time to time on the Project Bonds in the manner and pursuant to the provisions of the Indenture.

The form of the Project Bonds attached to the Indenture, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated hereby and by the Indenture, in a principal amount of up to $11,000,000, shall represent the approved form of the Project Bonds of the Issuer.

## Place of Payment. Bond service charges on Project Bonds shall be payable, without deduction for services of the Paying Agent, in the manner provided in the Project Bonds.

## Execution. The Project Bonds shall be executed by the Mayor and City Clerk of the Issuer, provided that either or both of such signatures may be facsimiles.

## Maximum Rate. The per annum interest rate applicable to the Project Bonds shall at no time exceed the maximum rate allowable by the laws of the Commonwealth of Kentucky.

## Required Other Approvals. The issuance of the Project Bonds has been approved as required by KRS 103.2010 by order of the Commonwealth of Kentucky State Local Debt Officer dated December 4, 2019.

## Pilot Agreement. The issuance of the Projects Bonds by the Issuer shall be conditioned upon compliance by the Company to pay certain payments in lieu of taxes as set forth in an Agreement In Lieu of Taxes by and among the Issuer, the Dayton Independent School District and the Company dated March 26, 2020 (the “Pilot Agreement”).

# Terms of all Project Bonds and Additional Bonds. All Project Bonds and Additional Bonds shall bear such designation as may be necessary to distinguish them from Bonds of any other series. Bond service charges on all Project Bonds and Additional Bonds shall be payable in lawful money of the United States of America. Bonds shall be issued as fully registered bonds. All Project Bonds and Additional Bonds shall be negotiable instruments within the meaning of Chapter 103 of the Kentucky Revised Statutes, subject to applicable provisions for registration, and shall express on their faces the purpose for which they are issued and such other statements or legends as may be required by law.

All Project Bonds and Additional Bonds shall be executed in the manner provided in the Bond Legislation authorizing their issuance or in the manner provided by the applicable law in effect at the time of their issuance. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the issuance, authentication or delivery of such Project Bonds and Additional Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until that time.

Any notice of call for redemption of all Project Bonds shall be given in the manner provided in the Indenture. If Project Bonds and Additional Bonds or portions of fully registered Project Bonds and Additional Bonds are duly called for redemption and if on such redemption date moneys for the redemption of all the Project Bonds and Additional Bonds to be redeemed, together with accrued interest to the redemption date, shall be held by the Trustee or Paying Agents so as to be available therefor, then from and after such redemption date such Project Bonds and Additional Bonds or portions of fully registered Bonds shall cease to bear interest.

# Security Pledged for Project Bonds. The Project Bonds shall be payable solely from the Revenues and secured by, among other things, a pledge of and lien on moneys deposited in the Construction Fund and the Bond Fund, and a pledge and assignment of other moneys constituting Revenues, and further secured by the Indenture, with the Series 2020B Bonds being secured by the Pilot Agreement, and anything in this Bond Legislation, the Project Bonds, the Agreement, and Indenture to the contrary notwithstanding, neither this Bond Legislation, the Project Bonds, the Agreement, nor the Indenture shall constitute a debt or a pledge of the faith and credit of the Issuer or of the State or any political subdivision thereof and the holders or owners of the Bonds shall have no right to have taxes levied by the General Assembly of the State or the taxing authority of the Issuer or of any other political subdivision of the State for the payment of the principal of, premium, if any, or interest on the Project Bonds, but such Bonds are payable solely from the Revenues and the Bonds shall contain on the face thereof a statement to that effect.

# Sale of Project Bonds; Allocation of Purchase Price. The Legislative Authority is hereby authorized and directed to offer for sale the Project Bonds to Manhattan Development Group, LLC, a Kentucky limited liability company (in its role as purchaser of the Project Bonds, the “Purchaser”), for purchase by the Purchaser at the price or prices set forth in the Bond Purchase Agreement, plus accrued interest, if any, in accordance with the terms and provisions of this Bond Legislation, and to make the necessary arrangements on behalf of the Issuer with the Purchaser to establish the date, location, procedure and conditions for the delivery of the Project Bonds to the Purchaser. The Mayor and City Clerk are further hereby authorized and directed to take all steps necessary to effect due authentication, delivery and security of the Project Bonds under the terms of this Bond Legislation, Bond Purchase Agreement and the Indenture, and it is hereby determined that the aforesaid purchase price and the interest rate for the Project Bonds and the manner of sale, as provided in this Bond Legislation, are in compliance with all legal requirements. The City Clerk shall furnish to the Purchaser a true and certified transcript of proceedings with reference to the issuance of the Project Bonds, along with such information from his or her records as is necessary to determine the regularity and validity of the issuance of said Project Bonds.

There is hereby created by the Issuer and ordered maintained as a separate deposit account (except when invested as hereinafter provided) in the custody of the Trustee a trust fund to be designated “City of Dayton, Kentucky-The Lookout Project Construction Fund” (herein also sometimes called the “Construction Fund”). After payment of the costs of issuance related to the Bonds, the Project Bond proceeds shall be used to fund the Construction Fund. Moneys in the Construction Fund shall be disbursed by the Trustee in accordance with the provisions of the Agreement, and the Trustee is hereby authorized and directed to issue its check, transfer funds via wire transfer or credit accounts for each disbursement required by the provisions of the Agreement. The Issuer covenants and agrees promptly to take whatever action, if any, is necessary in approving and ordering all such disbursements.

The moneys to the credit of the Construction Fund shall, pending application thereof as above set forth, be subject to a lien and charge in favor of the holders of the Project Bonds, but only to the extent of their interest therein.

# Source of Payment - Bond Fund. As provided in the Agreement, moneys sufficient in time and amount to pay the Bond service charges with respect to the Project Bonds as they come due are to be paid by the Company directly to the Trustee, including Lease Payments for the account of the Issuer and deposited in an appropriate account in the Bond Fund.

There is hereby created by the issuer and ordered maintained, as a separate deposit account (except when invested as hereinafter provided) in the custody of the Trustee, a trust fund to be designated “City of Dayton, Kentucky-The Lookout Project Revenue Bond Fund” (herein called the “Bond Fund”). The Bond Fund (and accounts therein provided for in the Indenture or in the Agreement) and the moneys and investments therein are hereby pledged to and shall be used for the payment of Bond service charges, all as provided herein and in the Indenture and the Agreement, provided that no part thereof (except as may otherwise be provided for herein and in the Indenture or the Agreement) shall be used to redeem or purchase, prior to maturity, any Project Bonds. The Trustee is authorized and directed to create and maintain appropriate accounts in the Bond Fund with respect to each series of Project Bonds and Additional Bonds consistent with their respective payment and security (priority) provisions.

On or before each date when Bond service charges are due and payable, the Trustee shall transmit from moneys in the Bond Fund applicable thereto to any other Paying Agents, as appropriate, amounts sufficient to meet payments to be made by them of Bond service charges then to be due and payable; provided that to the extent the amount needed by any other Paying Agent is not sufficiently predictable, the Trustee may, but shall not be required to, make such credit arrangements with such Paying Agent as to permit meeting such payments.

There shall be deposited into the Bond Fund (and credited, if required by the Indenture or the Agreement, to appropriate accounts therein), as and when received, (a) all Lease Payments, to the extent not required to pay Base Rent due under the Agreement which has not been paid and (b) all other Revenues, except those amounts required by the Indenture or the Agreement to be deposited in any other separate insurance or condemnation proceeds account.

The Issuer hereby covenants and agrees that so long as any of the Project Bonds are outstanding it will deposit or cause to be deposited in the Bond Fund, amounts sufficient in time and amount to pay the Bond service charges as the same become due and payable, and to this end the Issuer covenants and agrees that, so long as any Project Bonds are outstanding, it will diligently and promptly proceed in good faith and use its best efforts to enforce the Agreement, and that, should there be an event of default under the Agreement, the Issuer shall fully cooperate with the Trustee and with the Bondholders to protect fully the rights and security of the Bondholders hereunder. Nothing herein shall be construed as requiring the Issuer to use or apply to the payment of Bond service charges any funds or revenues from any source other than revenues or to expend any of its own funds to enforce the Agreement.

Notwithstanding anything herein to the contrary, the Issuer, Company, Purchaser and Trustee may enter into agreements that vary the method of payment of bond service charges, to the extent authorized by the Indenture.

# Covenants of Issuer. In addition to other covenants of the Issuer contained in this Bond Legislation and the Indenture, the Issuer further covenants and agrees as follows:

## Payment of Bond Service Charges. The Issuer will, solely from Revenues pay or cause to be paid the Bond service charges on each and all Project Bonds on the dates, at the places and in the manner provided herein, in the applicable Bond Legislation and in the Bonds.

## Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in the Bond Legislation, the Agreement, the Indenture, the Bond Purchase Agreement and in any and every Project Bond executed, authenticated and delivered under the Indenture, and in all proceedings of the Issuer pertaining to the Project Bonds, the Indenture, the Bond Purchase Agreement or the Agreement. The Issuer warrants and covenants that it is, and upon delivery of the Project Bonds will be, duly authorized by the Constitution and laws of the State, including particularly and without limitation the Act, to issue the Project Bonds and to execute the Indenture, the Bond Purchase Agreement and the Agreement to provide the security for payment of the Bond service charges in the manner and to the extent herein and in the Indenture set forth; that all actions on its part for the issuance of the Project Bonds and execution and delivery of the Indenture, the Agreement and the Bond Purchase Agreement have been or will be duly and effectively taken; and that the Project Bonds in the hands of the holders thereof will be valid and enforceable special obligations of the Issuer according to the terms thereof. Each provision of the Bond Legislation, the Indenture, the Agreement, the Bond Purchase Agreement and the Bonds is binding upon each such officer of the Issuer as may from time to time have the authority under law to take such actions as may be necessary to perform all or any pad of the duties required by such provision; and each duty of the Issuer and of its officers undertaken pursuant to such proceedings for the issuance of the Project Bonds is established as a duty of the Issuer and of each such officer having authority to perform such duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of the Kentucky Revised Statutes, providing for enforcement by writ of mandamus.

## Revenues. Except as otherwise provided in the Bond Legislation, the Indenture and the Agreement, the Issuer will not create or suffer to be created any debt, lien or charge thereon, or make any pledge or assignment of or create any debt, lien or charge thereon, or make any pledge or assignment of or create any lien or encumbrance upon the Revenues, including the moneys in the Bond Fund and the Construction Fund other than the pledge and assignment thereof under this Bond Legislation, the Indenture and the Agreement.

## Recordings and Filings. The Issuer will, at the expense of the Company, cause (to the extent required by the laws of the State to perfect such instruments and/or the lien created thereby) all necessary financing statements, amendments thereto, continuation statements and instruments of similar character relating to the pledges and assignments made by it to secure the Project Bonds, to be recorded and filed in such manner and in such places and to the extent required by law in order to fully preserve and protect the security of the holders of the Project Bonds and the rights of the Trustee under the Indenture.

## Inspection of Project Books. All books and documents in the Issuer’s possession relating to the Project or the Revenues shall at all times be open to inspection by such accountants or other agents of the Trustee or the Purchaser as the Trustee or the Purchaser may from time to time designate.

## Rights under Agreement. The Trustee, in its name or in the name of the Issuer, may, for and on behalf of the Bondholders, enforce all rights of the Issuer and all obligations of the Company under and pursuant to the Agreement, whether or not the Issuer is in default of the pursuit or enforcement of such rights and obligations.

## Maintenance of Agreement. The Issuer shall do all things and take all actions on its part necessary to comply with the obligations, duties and responsibilities on the part of the Issuer under the Agreement, and will take all actions within its authority to maintain the Agreement in effect in accordance with the terms thereof and to enforce and protect the rights of the Issuer thereunder, including actions at law and in equity, as may be appropriate. The Issuer shall not be required to expend its own funds for this purpose.

# Investment of Bond Fund and Construction Fund. Except as otherwise provided in the Indenture, moneys in the Bond Fund, and the Construction Fund shall be invested and reinvested by the Trustee in Eligible Investments, in accordance with and subject to the orders (if verbal, to be confirmed in writing) of the Authorized Tenant Representative with respect thereto, provided that investments of moneys in the Bond Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide moneys hereunder to pay Bond service charges as they fall due at stated maturity or by redemption or pursuant to any Mandatory Sinking Fund Requirements, and provided that each investment of moneys in the Construction Fund shall in any event mature or be redeemable at the option of the Trustee at such time as may be necessary to make timely payments from said Bond Fund. Any such investments may be purchased from the Trustee or its affiliates. In the absence of written direction from the Company with respect to investment of moneys held in the Funds, the Trustee is hereby directed to invest funds in money market mutual funds of the Trustee or its affiliates that qualify as Eligible Investments under the Indenture. The Trustee shall sell or redeem investments standing to the credit of the Bond Fund to produce sufficient moneys hereunder at the times required for the purpose of paying Bond service charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any such order. For purposes of the Indenture and this Bond Legislation, such investments shall be valued at face amount or market value, whichever is less.

# Indenture, Agreement, Home Office Payment Agreement, Bond Pur­chase Agreement and Pilot Mortgage. In order better to secure the payment of the Bond service charges as the same shall become due and payable, the Mayor and City Clerk are hereby authorized and directed, on behalf of the Issuer, to execute and deliver the Indenture, the Agreement, the Home Office Payment Agreement, the Bond Purchase Agreement and a Pilot Mortgage to secure the payment obligations in the Pilot Agreement, in substantially the forms submitted to the Issuer, which instruments are hereby approved, with such changes therein not inconsistent with this Bond Legislation and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officers executing the same. The approval of such changes by said officers, and that such are not substantially adverse to the Issuer, shall be conclusively evidenced by the execution of the Indenture, the Agreement, the Home Office Payment Agreement, the Bond Purchase Agreement and the Pilot Mortgage, respectively by such officers.

This Bond Legislation shall constitute a part of the Indenture as therein provided and for all purposes of said Indenture.

# Other Documents. The Mayor and City Clerk are hereby further author­ized and directed to execute financing statements, other assignments and any other agreements, documents and instruments as are, in the opinion of bond counsel to the Issuer, necessary or desirable to perfect the pledges set forth in the Indenture and to consummate the transactions provided for in the Indenture, the Agreement and the Bond Purchase Agreement. This authorization to the Mayor and City Clerk to execute other related documents necessary to close 8,000the transaction include, but are not limited to, certain documents that may be required of Stock Yards Bank & Trust Co., the Lender to the Purchaser, including a Leasehold Mortgage and Security Agreement (Ground Lessor Joinder), and other related documents.

# Compliance with Kentucky Revised Statutes. It is hereby found and determined that all formal actions of this Legislative Authority concerning and relating to the passage of this Bond Legislation were taken in an open meeting of this Legislative Authority, and that all deliberations of this Legislative Authority 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.

# No Personal Liability. No recourse under or upon any obligation, cove­nant, acceptance or agreement contained in this Resolution, or in any Project Bonds, or in the Agreement, the Indenture, or the Bond Purchase Agreement, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of any Project Bonds, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of the Project Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to the owner or any holder of any Project Bonds, or otherwise, of any sum that may remain due and unpaid upon any Project Bonds, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Agreement, Indenture, and the Bond Purchase Agreement and the issuance of the Project Bonds.

# Downtown Business District. The City hereby finds and affirms that the Project, as proposed by the Company, is located within a city-designated downtown business district, per KRS 103.200(n).

# Bond Counsel. The City hereby approves and designates Keating Muething & Klekamp, Cincinnati, Ohio, as bond counsel for the issuance of the Project Bonds.

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

ADOPTED: October 8, 2020

 BEN BAKER, MAYOR

ATTEST:

DONNA LEGER, CITY CLERK

Motion by Member Burns, seconded by Member Volter to approve 2020#10R as read.

ROLL CALL:

Member Neary Aye Member Burns Aye

Member Beseler Aye Member Lynn Aye

Member Cornett Aye Member Volter Aye

Motion carried—so ordered.

ORDER 2020#11R\_\_\_\_\_

**AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, AUTHORIZING THE ISSUANCE OF UP TO $6,000,000 MAXIMUM AGGREGATE PRINCI­PAL AMOUNT TAXABLE INDUSTRIAL BUILDING REVENUE BONDS, SERIES 2020A AND UP TO $2,000,000 MAXIMUM AGGREGATE PRINCI­PAL AMOUNT TAXABLE INDUSTRIAL BUILDING REVENUE BONDS, SERIES 2020B, IN ORDER TO ASSIST SSCC DEVELOPMENT, LLC, OR ITS ASSIGNS, TO FINANCE THE ACQUISITION, CON­STRUC­TION AND EQUIPPING OF AN INDUSTRIAL BUILDING FACILITY LOCATED WITHIN THE CITY OF DAYTON, KENTUCKY AND TO IMPROVE SAID FACILITY; AUTHORIZING THE ISSUANCE OF ADDITIONAL BONDS; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SAID BONDS; AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF DAYTON, KENTUCKY AND SSCC DEVELOPMENT, LLC, OR ASSIGNS, WITH RESPECT TO THE FACILITY (THE “AGREE­MENT”); AUTHORIZING A TRUST INDENTURE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND FURTHER TO SECURE THE PAYMENT OF SAID BONDS; AUTHORIZ­ING A BOND PURCHASE AGREEMENT; AUTHORIZ­ING A HOME OFFICE PAYMENT AGREEMENT; AUTHORIZING THE EXECU­TION OF AN OPEN-END LEASEHOLD MORTGAGE AND SECURITY AGREEMENT, WITH A JOINDER BY THE CITY; AND AUTHORIZING A PILOT MORTGAGE TO SECURE THE PAYMENT OBLIGATIONS IN THE PILOT AGREEMENT, WHICH ARE PLEDGED IN-PART TO THE PAYMENT OF THE SERIES 2020B BONDS**

WHEREAS, the City of Dayton, Kentucky (the “Issuer”) is by virtue of the laws of the Commonwealth of Kentucky, including Chapter 103 of the Kentucky Revised Statutes, and other authorities mentioned therein, authorized and empowered, among other things, (a) to assist in the financing of costs of industrial building facilities located within the boundaries of the Issuer, (b) to enter into an agreement with the lessee of such facilities providing for revenues sufficient to pay the principal of and interest and any premium on such revenue bonds, including the issuance of refunding bonds (c) to secure such revenue bonds by a trust agreement or indenture between the Issuer and a corporate trustee, and by a pledge and assignment of such revenues, as provided for herein, and (d) to enact the Bond Legislation and enter into the Indenture and the Agreement, as hereinafter identified, upon the terms and conditions provided therein; and,

WHEREAS, by the terms of a Resolution No. 13-R the Issuer agreed to provide certain incentives to encourage SSCC Development, LLC, a Kentucky limited liability company, (the “Company”) to undertake a residential condominium project in the City referred to as The Waterfront Project (the “Project”), including agreeing to issue Project Bonds pursuant to KRS Chapter 103 to pay for the cost of acquisition and construction of the Project; and

 WHEREAS, it is hereby determined by this Legislative Authority that the acquisition, construction and equipping of the Project, and improvement to said Project will require the issuance, sale and delivery of the Project Bonds in separate series with up to $6,000,000 maximum aggregate principal amount taxable industrial building revenues bonds Series 2020A (the “Series 2020A Bonds”), and up to $2,000,000 maximum aggregate principal amount taxable industrial building revenues bonds Series 2020B (the “Series 2020B Bonds), for a not to exceed amount for the combined Series 2020A Bonds and the Series 2020B Bonds being $8,000,000 (collectively “The Waterfront Project”, with the Series 2020A Bonds and the Series 2020B Bonds being referred to herein as the “Bonds or the ”Project Bonds”), and hereafter may, with the prior written consent of the Issuer, involve the Issuer’s issuance, sale and delivery of Additional Bonds on a parity therewith, all of which Project Bonds and Additional Bonds shall be equally and ratably payable and secured as provided herein and in the Indenture authorized herein;

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF DAYTON, KENTUCKY, as follows:

That the provisions hereof shall be, as follows:

# Definitions. All defined terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Trust Indenture with respect to the Project Bonds (the “Indenture”) between the Issuer and The Huntington National Bank and its successors in trust, as trustee (the “Trustee”).

Any reference herein to the Issuer, to the Legislative Authority, or to any officers thereof, shall include any person or entity which succeeds to its or their duties or responsibilities pursuant to or by operation of law. Any reference to a section or provision of the Kentucky Constitution or the Act or to a section, provision or chapter of the Kentucky Revised Statutes shall include such section or provision or chapter as from time to time amended, modified, revised, supplemented or superseded; provided, however, that no such change in the Constitution or laws (a) shall alter the obligation to pay the Bond service charges in the amounts and manner, at the times and from the sources provided in this Bond Legislation and the Indenture, except as otherwise herein permitted or (b) shall be deemed applicable by reason of this provision if such change would in any way constitute an impairment of the rights of the Issuer, the Trustee or the Company under the Agreement or the Indenture.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms “hereof”, “hereby”, “hereto”, “hereunder”, and similar terms, mean this Bond Legislation.

# Determinations of Legislative Authority. The Legislative Authority hereby determines that the Project is an “industrial building” as that term is defined in Section 103.200 of the Kentucky Revised Statutes, and will benefit the people of the Issuer by creating or preserving jobs and employment opportunities and promoting the commercial and economic development of the Issuer and the State.

# Authorization and Terms of Project Bonds.

## Authorization. It is hereby determined to be necessary to, and the Issuer shall issue, sell and deliver, as provided and authorized herein and pursuant to the authority of the Act, up to $8,000,000 maximum aggregate principal amount of Project Bonds for the purpose of providing funds to be used to finance the Project and to finance improvements to said Project and to pay costs of issuance of said Project Bonds. The Project is and shall be owned by Issuer and leased to the Company. Said Project Bonds shall be issued in two series and shall be designated “Taxable Industrial Building Revenue Bonds, Series 2020A “The Waterfront Project” and “Taxable Industrial Building Revenue Bonds, Series 2020B “The Waterfront Project”. The Issuer may also issue, sell and deliver Additional Bonds on a parity with the Project Bonds for the purposes and in the manner provided in the Indenture. The proceeds of the Project Bonds shall be applied (i) to provide funds to finance the acquisition, construction and installation of the Project and (ii) to pay reasonable and customary closing costs associated with the issuance of the Project Bonds.

## Terms. The Project Bonds shall be issued in the forms and denominations, shall be numbered, dated and payable as provided in the Indenture. The Project Bonds shall mature as provided in the Indenture, and have such terms, bear such interest, and be subject to mandatory and optional redemption as provided in the Indenture. This Legislative Authority hereby fixes and establishes the interest rate in effect from time to time on the Project Bonds in the manner and pursuant to the provisions of the Indenture.

The form of the Project Bonds attached to the Indenture, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated hereby and by the Indenture, in a principal amount of up to $8,000,000, shall represent the approved form of the Project Bonds of the Issuer.

## Place of Payment. Bond service charges on Project Bonds shall be payable, without deduction for services of the Paying Agent, in the manner provided in the Project Bonds.

## Execution. The Project Bonds shall be executed by the Mayor and City Clerk of the Issuer, provided that either or both of such signatures may be facsimiles.

## Maximum Rate. The per annum interest rate applicable to the Project Bonds shall at no time exceed the maximum rate allowable by the laws of the Commonwealth of Kentucky.

## Required Other Approvals. The issuance of the Project Bonds has been approved as required by KRS 103.2010 by order of the Commonwealth of Kentucky State Local Debt Officer dated December 4, 2019.

## Pilot Agreement. The issuance of the Projects Bonds by the Issuer shall be conditioned upon compliance by the Company to pay certain payments in lieu of taxes as set forth in an Agreement In Lieu of Taxes by and among the Issuer, the Dayton Independent School District and the Company dated March 26, 2020 (the “Pilot Agreement”).

# Terms of all Project Bonds and Additional Bonds. All Project Bonds and Additional Bonds shall bear such designation as may be necessary to distinguish them from Bonds of any other series. Bond service charges on all Project Bonds and Additional Bonds shall be payable in lawful money of the United States of America. Bonds shall be issued as fully registered bonds. All Project Bonds and Additional Bonds shall be negotiable instruments within the meaning of Chapter 103 of the Kentucky Revised Statutes, subject to applicable provisions for registration, and shall express on their faces the purpose for which they are issued and such other statements or legends as may be required by law.

All Project Bonds and Additional Bonds shall be executed in the manner provided in the Bond Legislation authorizing their issuance or in the manner provided by the applicable law in effect at the time of their issuance. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the issuance, authentication or delivery of such Project Bonds and Additional Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until that time.

Any notice of call for redemption of all Project Bonds shall be given in the manner provided in the Indenture. If Project Bonds and Additional Bonds or portions of fully registered Project Bonds and Additional Bonds are duly called for redemption and if on such redemption date moneys for the redemption of all the Project Bonds and Additional Bonds to be redeemed, together with accrued interest to the redemption date, shall be held by the Trustee or Paying Agents so as to be available therefor, then from and after such redemption date such Project Bonds and Additional Bonds or portions of fully registered Bonds shall cease to bear interest.

# Security Pledged for Project Bonds. The Project Bonds shall be payable solely from the Revenues and secured by, among other things, a pledge of and lien on moneys deposited in the Construction Fund and the Bond Fund, and a pledge and assignment of other moneys constituting Revenues, and further secured by the Indenture, with the Series 2020B Bonds being secured by the Pilot Agreement, and anything in this Bond Legislation, the Project Bonds, the Agreement, and Indenture to the contrary notwithstanding, neither this Bond Legislation, the Project Bonds, the Agreement, nor the Indenture shall constitute a debt or a pledge of the faith and credit of the Issuer or of the State or any political subdivision thereof and the holders or owners of the Bonds shall have no right to have taxes levied by the General Assembly of the State or the taxing authority of the Issuer or of any other political subdivision of the State for the payment of the principal of, premium, if any, or interest on the Project Bonds, but such Bonds are payable solely from the Revenues and the Bonds shall contain on the face thereof a statement to that effect.

# Sale of Project Bonds; Allocation of Purchase Price. The Legislative Authority is hereby authorized and directed to offer for sale the Project Bonds to SSCC Development, LLC, a Kentucky limited liability company (in its role as purchaser of the Project Bonds, the “Purchaser”), for purchase by the Purchaser at the price or prices set forth in the Bond Purchase Agreement, plus accrued interest, if any, in accordance with the terms and provisions of this Bond Legislation, and to make the necessary arrangements on behalf of the Issuer with the Purchaser to establish the date, location, procedure and conditions for the delivery of the Project Bonds to the Purchaser. The Mayor and City Clerk are further hereby authorized and directed to take all steps necessary to effect due authentication, delivery and security of the Project Bonds under the terms of this Bond Legislation, Bond Purchase Agreement and the Indenture, and it is hereby determined that the aforesaid purchase price and the interest rate for the Project Bonds and the manner of sale, as provided in this Bond Legislation, are in compliance with all legal requirements. The City Clerk shall furnish to the Purchaser a true and certified transcript of proceedings with reference to the issuance of the Project Bonds, along with such information from his or her records as is necessary to determine the regularity and validity of the issuance of said Project Bonds.

There is hereby created by the Issuer and ordered maintained as a separate deposit account (except when invested as hereinafter provided) in the custody of the Trustee a trust fund to be designated “City of Dayton, Kentucky-The Waterfront Project Construction Fund” (herein also sometimes called the “Construction Fund”). After payment of the costs of issuance related to the Bonds, the Project Bond proceeds shall be used to fund the Construction Fund. Moneys in the Construction Fund shall be disbursed by the Trustee in accordance with the provisions of the Agreement, and the Trustee is hereby authorized and directed to issue its check, transfer funds via wire transfer or credit accounts for each disbursement required by the provisions of the Agreement. The Issuer covenants and agrees promptly to take whatever action, if any, is necessary in approving and ordering all such disbursements.

The moneys to the credit of the Construction Fund shall, pending application thereof as above set forth, be subject to a lien and charge in favor of the holders of the Project Bonds, but only to the extent of their interest therein.

# Source of Payment - Bond Fund. As provided in the Agreement, moneys sufficient in time and amount to pay the Bond service charges with respect to the Project Bonds as they come due are to be paid by the Company directly to the Trustee, including Lease Payments for the account of the Issuer and deposited in an appropriate account in the Bond Fund.

There is hereby created by the issuer and ordered maintained, as a separate deposit account (except when invested as hereinafter provided) in the custody of the Trustee, a trust fund to be designated “City of Dayton, Kentucky-The Waterfront Project Revenue Bond Fund” (herein called the “Bond Fund”). The Bond Fund (and accounts therein provided for in the Indenture or in the Agreement) and the moneys and investments therein are hereby pledged to and shall be used for the payment of Bond service charges, all as provided herein and in the Indenture and the Agreement, provided that no part thereof (except as may otherwise be provided for herein and in the Indenture or the Agreement) shall be used to redeem or purchase, prior to maturity, any Project Bonds. The Trustee is authorized and directed to create and maintain appropriate accounts in the Bond Fund with respect to each series of Project Bonds and Additional Bonds consistent with their respective payment and security (priority) provisions.

On or before each date when Bond service charges are due and payable, the Trustee shall transmit from moneys in the Bond Fund applicable thereto to any other Paying Agents, as appropriate, amounts sufficient to meet payments to be made by them of Bond service charges then to be due and payable; provided that to the extent the amount needed by any other Paying Agent is not sufficiently predictable, the Trustee may, but shall not be required to, make such credit arrangements with such Paying Agent as to permit meeting such payments.

There shall be deposited into the Bond Fund (and credited, if required by the Indenture or the Agreement, to appropriate accounts therein), as and when received, (a) all Lease Payments, to the extent not required to pay Base Rent due under the Agreement which has not been paid and (b) all other Revenues, except those amounts required by the Indenture or the Agreement to be deposited in any other separate insurance or condemnation proceeds account.

The Issuer hereby covenants and agrees that so long as any of the Project Bonds are outstanding it will deposit or cause to be deposited in the Bond Fund, amounts sufficient in time and amount to pay the Bond service charges as the same become due and payable, and to this end the Issuer covenants and agrees that, so long as any Project Bonds are outstanding, it will diligently and promptly proceed in good faith and use its best efforts to enforce the Agreement, and that, should there be an event of default under the Agreement, the Issuer shall fully cooperate with the Trustee and with the Bondholders to protect fully the rights and security of the Bondholders hereunder. Nothing herein shall be construed as requiring the Issuer to use or apply to the payment of Bond service charges any funds or revenues from any source other than revenues or to expend any of its own funds to enforce the Agreement.

Notwithstanding anything herein to the contrary, the Issuer, Company, Purchaser and Trustee may enter into agreements that vary the method of payment of bond service charges, to the extent authorized by the Indenture.

# Covenants of Issuer. In addition to other covenants of the Issuer contained in this Bond Legislation and the Indenture, the Issuer further covenants and agrees as follows:

## Payment of Bond Service Charges. The Issuer will, solely from Revenues pay or cause to be paid the Bond service charges on each and all Project Bonds on the dates, at the places and in the manner provided herein, in the applicable Bond Legislation and in the Bonds.

## Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in the Bond Legislation, the Agreement, the Indenture, the Bond Purchase Agreement and in any and every Project Bond executed, authenticated and delivered under the Indenture, and in all proceedings of the Issuer pertaining to the Project Bonds, the Indenture, the Bond Purchase Agreement or the Agreement. The Issuer warrants and covenants that it is, and upon delivery of the Project Bonds will be, duly authorized by the Constitution and laws of the State, including particularly and without limitation the Act, to issue the Project Bonds and to execute the Indenture, the Bond Purchase Agreement and the Agreement to provide the security for payment of the Bond service charges in the manner and to the extent herein and in the Indenture set forth; that all actions on its part for the issuance of the Project Bonds and execution and delivery of the Indenture, the Agreement and the Bond Purchase Agreement have been or will be duly and effectively taken; and that the Project Bonds in the hands of the holders thereof will be valid and enforceable special obligations of the Issuer according to the terms thereof. Each provision of the Bond Legislation, the Indenture, the Agreement, the Bond Purchase Agreement and the Bonds is binding upon each such officer of the Issuer as may from time to time have the authority under law to take such actions as may be necessary to perform all or any pad of the duties required by such provision; and each duty of the Issuer and of its officers undertaken pursuant to such proceedings for the issuance of the Project Bonds is established as a duty of the Issuer and of each such officer having authority to perform such duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of the Kentucky Revised Statutes, providing for enforcement by writ of mandamus.

## Revenues. Except as otherwise provided in the Bond Legislation, the Indenture and the Agreement, the Issuer will not create or suffer to be created any debt, lien or charge thereon, or make any pledge or assignment of or create any debt, lien or charge thereon, or make any pledge or assignment of or create any lien or encumbrance upon the Revenues, including the moneys in the Bond Fund and the Construction Fund other than the pledge and assignment thereof under this Bond Legislation, the Indenture and the Agreement.

## Recordings and Filings. The Issuer will, at the expense of the Company, cause (to the extent required by the laws of the State to perfect such instruments and/or the lien created thereby) all necessary financing statements, amendments thereto, continuation statements and instruments of similar character relating to the pledges and assignments made by it to secure the Project Bonds, to be recorded and filed in such manner and in such places and to the extent required by law in order to fully preserve and protect the security of the holders of the Project Bonds and the rights of the Trustee under the Indenture.

## Inspection of Project Books. All books and documents in the Issuer’s possession relating to the Project or the Revenues shall at all times be open to inspection by such accountants or other agents of the Trustee or the Purchaser as the Trustee or the Purchaser may from time to time designate.

## Rights under Agreement. The Trustee, in its name or in the name of the Issuer, may, for and on behalf of the Bondholders, enforce all rights of the Issuer and all obligations of the Company under and pursuant to the Agreement, whether or not the Issuer is in default of the pursuit or enforcement of such rights and obligations.

## Maintenance of Agreement. The Issuer shall do all things and take all actions on its part necessary to comply with the obligations, duties and responsibilities on the part of the Issuer under the Agreement, and will take all actions within its authority to maintain the Agreement in effect in accordance with the terms thereof and to enforce and protect the rights of the Issuer thereunder, including actions at law and in equity, as may be appropriate. The Issuer shall not be required to expend its own funds for this purpose.

# Investment of Bond Fund and Construction Fund. Except as otherwise provided in the Indenture, moneys in the Bond Fund, and the Construction Fund shall be invested and reinvested by the Trustee in Eligible Investments, in accordance with and subject to the orders (if verbal, to be confirmed in writing) of the Authorized Tenant Representative with respect thereto, provided that investments of moneys in the Bond Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide moneys hereunder to pay Bond service charges as they fall due at stated maturity or by redemption or pursuant to any Mandatory Sinking Fund Requirements, and provided that each investment of moneys in the Construction Fund shall in any event mature or be redeemable at the option of the Trustee at such time as may be necessary to make timely payments from said Bond Fund. Any such investments may be purchased from the Trustee or its affiliates. In the absence of written direction from the Company with respect to investment of moneys held in the Funds, the Trustee is hereby directed to invest funds in money market mutual funds of the Trustee or its affiliates that qualify as Eligible Investments under the Indenture. The Trustee shall sell or redeem investments standing to the credit of the Bond Fund to produce sufficient moneys hereunder at the times required for the purpose of paying Bond service charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any such order. For purposes of the Indenture and this Bond Legislation, such investments shall be valued at face amount or market value, whichever is less.

# Indenture, Agreement, Home Office Payment Agreement, Bond Pur­chase Agreement and Pilot Mortgage. In order better to secure the payment of the Bond service charges as the same shall become due and payable, the Mayor and City Clerk are hereby authorized and directed, on behalf of the Issuer, to execute and deliver the Indenture, the Agreement, the Home Office Payment Agreement, the Bond Purchase Agreement and a Pilot Mortgage to secure the payment obligations in the Pilot Agreement, in substantially the forms submitted to the Issuer, which instruments are hereby approved, with such changes therein not inconsistent with this Bond Legislation and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officers executing the same. The approval of such changes by said officers, and that such are not substantially adverse to the Issuer, shall be conclusively evidenced by the execution of the Indenture, the Agreement, the Home Office Payment Agreement, the Bond Purchase Agreement and the Pilot Mortgage, respectively by such officers.

This Bond Legislation shall constitute a part of the Indenture as therein provided and for all purposes of said Indenture.

# Other Documents. The Mayor and City Clerk are hereby further author­ized and directed to execute financing statements, other assignments and any other agreements, documents and instruments as are, in the opinion of bond counsel to the Issuer, necessary or desirable to perfect the pledges set forth in the Indenture and to consummate the transactions provided for in the Indenture, the Agreement and the Bond Purchase Agreement. This authorization to the Mayor and City Clerk to execute other related documents necessary to close the transaction include, but are not limited to, certain documents that may be required of General Electric Credit Union, the Lender to the Purchaser, including a Leasehold Mortgage and Security Agreement (Ground Lessor Joinder), and other related documents.

# Compliance with Kentucky Revised Statutes. It is hereby found and determined that all formal actions of this Legislative Authority concerning and relating to the passage of this Bond Legislation were taken in an open meeting of this Legislative Authority, and that all deliberations of this Legislative Authority 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.

# No Personal Liability. No recourse under or upon any obligation, cove­nant, acceptance or agreement contained in this Resolution, or in any Project Bonds, or in the Agreement, the Indenture, or the Bond Purchase Agreement, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of any Project Bonds, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of the Project Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to the owner or any holder of any Project Bonds, or otherwise, of any sum that may remain due and unpaid upon any Project Bonds, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Agreement, Indenture, and the Bond Purchase Agreement and the issuance of the Project Bonds.

# Downtown Business District. The City hereby finds and affirms that the Project, as proposed by the Company, is located within a city-designated downtown business district, per KRS 103.200(n).

# Bond Counsel. The City hereby approves and designates Keating Muething & Klekamp, Cincinnati, Ohio, as bond counsel for the issuance of the Project Bonds.

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

ADOPTED: October 8, 2020

 BEN BAKER, MAYOR

ATTEST:

DONNA LEGER, CITY CLERK

Motion by Member Burns, seconded by Member Neary to approve 2020#11R as read.

ROLL CALL:

Member Beseler Aye Member Lynn Aye

Member Cornett Aye Member Volter Aye

Member Burns Aye Member Neary Aye

Motion carried—so ordered.

CITY ADMINISTRATOR’S REPORT:

The mural is completed and looks great. The original amount approved was $8,500 from the Economic Development Fund. During the process we approved a clear coat which was not part of the original quote and forget to add the cost of the lift. I’d like to ask council to approve an addition $2,141.70 out of the economic development fund to cover this additional cost. Motion by Member Volter, seconded by Member Lynn to approve the additional $2,141.70 from the Economic Development Fund. Comments: Member Burns said when you write up a contract it should include all the cost. I have no problem with the mural. Member Burns voted nay and Member Beseler abstained. Motion carried—so ordered.

Municipal Aid Fund: The budget for the co-op project on Ervin Terrace with the Water Department was approved by council for $50,000. There was an overage of $6,000 which had to do with the road collapsing and unforeseen issues when they were milling and paving. Some of the additional money due was paid through the general fund. What was left is $4,680.00. I’d like to ask for a motion to approve an additional $4,680.00 from the Municipal Road Aid Fund. Motion by Member Lynn, seconded by Member Cornett to approve the additional funds. Comments: Member Neary said Riegler Blacktop has additional work they need to complete before they receive payment. There are areas around the storm drain at the top of Ervin Terrace and closer towards Tenth Avenue where the water is going around the grates. We need this repaired before payment is made. Member Volter suggested SD1 evaluate the situation. City Adm. Giffen will meet with Member Neary and satisfy his concerns before Riegler Blacktop is issues a check. City Att. Edge agreed the money can be held until the job is completed correctly. Riegler will not be paid until all the issues are fixed.

ROLL CALL:

Member Cornett Aye Member Volter Aye

Member Burns Aye Member Neary Aye

Member Lynn Aye Member Beseler Aye

Motion carried—so ordered.

Oct. 31, 2020 will be shred day in the city. Anyone having paper items to be shredded can come to the monument at Sixth & Berry between 10:00 a.m. – 12:00 p.m. This is free to Dayton residents.

City Att. Edge noted the audience can talk about whatever they wish, but city council can only act upon what is on the agenda since this is a special meeting.

Audience:

Kathy Gordon asked how long the lease is with the owner of the Taco Truck, which is in the parking lot on Sixth Avenue. Mayor Baker replied it is a month to month lease. They are paying $50.00 per spot. Hopefully they will be moving into 526 Sixth Avenue next month. In reference to a comment made by Member Burns, Ms. Gordon said she is a fiscal conservative and gets very concerned about money spent after the budget is finalized. The reserve fund has a bottom, and I would like to see it stay. The mural looks great, but I do not understand spending public money on a private building. Mayor Baker said the explanation behind that is location, location, location. The building is right in the CBD. This raises economic development in the neighborhood. Ms. Gordon noted the taxpayers are footing the bills, and council needs to be mindful of the money.

Adjournment:

Motion by Member Volter, seconded by Member Cornett to adjourn. Motion carried—so ordered.

 Respectfully submitted,

 Donna Leger

 Clerk/Treas.

ATTEST:

Ben Baker

Mayor