



**AGENDA**  
**POWELL REGULAR COUNCIL MEETING**  
**47 HALL STREET, POWELL, OH 43065**  
**COUNCIL CHAMBERS**  
**TUESDAY, DECEMBER 5, 2023**  
**7:30 PM**

**AMENDED**

**I. CALL TO ORDER/ROLL CALL**

**II. PLEDGE OF ALLEGIANCE presented by Boy Scout Troop 843**

**III. PROCLAMATION AND RECOGNITION**

- a. Proclamation for Councilmember Jon C. Bennehoof  
[Proclamation Jon C. Bennehoof.pdf](#)
- b. Recognition of Mayor Daniel Swartwout

**IV. CITIZEN PARTICIPATION**

**V. APPROVAL OF MINUTES**

- a. Approval of the Minutes from the City Council meeting held on November 21, 2023.  
[11.21.2023 city-council\\_minutes\\_summary .pdf](#)

**VI. RESOLUTIONS**

**a. RESOLUTION NO. 2023-37**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH EASYIT TO PROVIDE IT PROFESSIONAL SERVICES.

- [1. Memo Res. 2023-37\\_.pdf](#)
- [2. Res 2023-37 IT Services.pdf](#)
- [3.Res. 2023-37 Exhibit A.pdf](#)
- [4.Res. 2023-37 Exhibit B.pdf](#)

**b. RESOLUTION NO. 2023-38**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH SHYFT COLLECTIVE. FOR THE PURPOSE OF PERFORMING PROFESSIONAL DESIGN SERVICES FOR THE LECHLER BUILDING RE-DESIGN PROJECT.

- [1. Memo Res 23-38, Lechler Building Re-Design.pdf](#)
- [2. Res 23-38, Lechler Building Design Project.pdf](#)

### [3. PROFESSIONAL SERVICES AGREEMENT for SHYFT.pdf](#)

#### c. **RESOLUTION NO. 2023-39**

A RESOLUTION INDICATING WHAT SERVICES THE CITY OF POWELL WILL PROVIDE 6.357+/-ACRES OF LAND, LOCATED IN LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO, IF SAID PROPERTY IS HEREAFTER ANNEXED TO THE CITY OF POWELL, OHIO AND TO PROVIDE FOR BUFFER REQUIREMENTS.

- [1. Memo Res 2023-39 - Horsepower Farms LLC services resolution .pdf](#)
- [2. Res. 2023-39 - Horsepower Farms Services Resolution.pdf](#)
- [3. Petition Annexation Horsepower Farms.pdf](#)
- [4. Map Horsepower Farms.pdf](#)

#### d. **RESOLUTION NO. 2023-40**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NETWORK ACCESS AGREEMENT WITH THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND DELAWARE COUNTY AUTOMATIC DATA PROCESSING BOARD FOR IT NETWORK ACCESS TO THE CENTRAL TRAFFIC SIGNAL SYSTEM (CTSS).

- [1. Memo 2023-40 Network Access Agreement.pdf](#)
- [2 Res 2023-40 Network Access Agreement.pdf](#)
- [3. Network Access Agreement Final - Centracs.pdf](#)

### **VII. ORDINANCES: SECOND READING(S)**

#### a. **ORDINANCE NO. 2023-32**

AN ORDINANCE AUTHORIZING THE CITY OF POWELL TO ENTER INTO A COMMUNITY REINVESTMENT AREA AGREEMENT WITH CSD POWELL, LLC, AND DECLARING AN EMERGENCY.

- [1. Ord. 2023-32 CRA\\_Memo.pdf](#)
- [2. Ord 2023-32 Downtown CRA - COHatch.pdf](#)
- [3. City of Powell - CRA Agreement - COHatch - 4896-0111-4763.1.pdf](#)

#### b. **ORDINANCE NO. 2023-33**

AN ORDINANCE ADOPTING THE UPDATED PERSONNEL MANUAL FOR EMPLOYEES OF THE CITY OF POWELL.

- [1. Updated Ord. 2023-33 Updated\\_Memo 12.05.2023.pdf](#)
- [2. Ord. 2023-33 Ordinance.pdf](#)
- [3. Updated 12.05.2023 Employee Handbook - 2024.pdf](#)

### **VIII. ORDINANCES: FIRST READING(S)**

#### a. **ORDINANCE NO. 2023-35**

AN ORDINANCE TO AMEND CHAPTER 182 OF THE CITY'S CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

1. [Memo Ord. 2023-35 - Income Tax Code Amendments.pdf](#)
2. [Ord. 2023-35, - HB 33 Tax Code amendments -.pdf](#)
3. [Exhibit A - Ordinance 23-35 re HB 33 Tax Code amendments.pdf](#)
4. [HB 33 - LSC Final Bill Analysis - 4860-7612-7380.1.pdf](#)

b. **ORDINANCE NO. 2023-36**

AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2023 AND DECLARING AN EMERGENCY.

1. [Updated Memo Ord. 2023-36, Ordinance\\_Supplemental.pdf](#)
2. [Ord. 2023-36 Supplemental.pdf](#)
3. [Updated Ord. 2023-36 Supplemental Appropriations.pdf](#)

**IX. COMMITTEE REPORTS**

**Development Committee:** Next Meeting: February 6, 2024 @ 6:30 p.m.

**Finance Committee:** Next Meeting: February 13, 2024 @ 7:00 p.m.

**Operations Committee:** Next Meeting: January 16, 2024 @ 6:30 p.m.

**Community Diversity Advisory Committee:** Next Meeting: January 17, 2024 @ 6:00 p.m.

**Planning & Zoning Commission:** Next Meeting: December 13, 2024 @ 6:30 p.m.

**Powell Development Corporation:** Next Meeting: January 23, 2024 @ 7:00 p.m.

**X. CITY MANAGER'S REPORT/CITY CALENDAR**

[City Calendar December 2023 \(1\).pdf](#)

[City Calendar January 2024.pdf](#)

**XI. OTHER COUNCIL MATTERS**

**XII. EXECUTIVE SESSION**

- \* Ohio Revised Code Section 121.22 (G) (1) To consider the employment or compensation of a public employee.
- \* Ohio Revised Code Section 121.22 (G) 3) pending or imminent court action.
- \* Ohio Revised Code Section 121.22 (G) (8) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance.

**XIII. ADJOURNMENT**



## *Proclamation*

### **HONORING POWELL CITY COUNCILMEMBER JON C. BENNEHOOF FOR HIS YEARS OF SERVICE AND DEDICATION TO THE CITY OF POWELL**

- WHEREAS:** Jon Bennehoof has lived in the City of Powell since 2003; and
- WHEREAS:** Jon Bennehoof was elected to the Powell City Council in 2011, re-elected in 2015, and again in 2019; and
- WHEREAS:** Jon Bennehoof was elected Vice-Mayor in 2016 and Mayor of the City of Powell in January, 2018, for the years of 2018-2019; and
- WHEREAS:** Jon Bennehoof was elected Chairman of the Operations Committee and represented City Council on the City's Development Committee. In addition, he serves as an Advisory Veteran and Veteran Mentor Coordinator on the Delaware County Mission Court; and
- WHEREAS:** Jon Bennehoof is a United States Navy Veteran who served three tours of duty in Vietnam and has actively participated in veteran affairs by co-founding the Delaware County Veterans Treatment Mission Court, serving on the 12th Congressional District Veterans Advisory Council, and volunteering as a Blue and Gold Officer for the US Naval Academy, and;
- WHEREAS:** Jon Bennehoof has had significant involvement in many aspects of Powell's positive transformation over the last decade, including participating in updating the City's Charter, City Comprehensive Plan and Keep Powell Moving; and
- WHEREAS:** Jon Bennehoof stands today as an example of Powell's best, most dedicated and most honorable elected officials serving our residents.
- THEREFORE,** I, Daniel Swartwout, by virtue of the authority vested in me as Mayor of the City of Powell, County of Delaware, Ohio, and on behalf of the Powell City Council, the community and staff, do hereby honor and recognize Jon C. Bennehoof for his dedicated and distinguished service to the City of Powell.

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Daniel Swartwout, Mayor





**CITY COUNCIL  
MEETING MINUTES  
NOVEMBER 21, 2023**

**I. CALL TO ORDER/ROLL CALL**

Mayor Swartwout called the November 21, 2023 regular meeting of City Council to order at 7:31 p.m. Councilmembers present included Council Representative Jon Bennehoof, Council Representative Heather Karr, Council Representative Christina Drummond, Council Representative Ferzan Ahmed, Council Representative David Lester, Vice-Mayor Tom Counts, and Mayor Dan Swartwout. Staff present included Mallory Sribanditmongkol, Strategic Communications Officer; Yazan Ashrawi, City Attorney; Claudia Husak, Planning Manager/Zoning Administrator; Rosa Ocheltree, Finance Director; Aaron Stanford, City Engineer; Grant Crawford, Public Service Director; Ron Sallows, Interim Police Chief; Jason Nahvi, Human Resource Manager; Jeffrey Tyler, Assistant City Manager/Community Development Director; and Andrew White, City Manager.

**II. PLEDGE OF ALLEGIANCE**

**III. CITIZEN PARTICIPATION**

Mayor Swartwout opened citizen participation for comment. The following individual provided public comment:

Tyler Hermann  
2564 Friesian Lane  
Powell, Ohio 43065

Tyler Hermann voiced his excitement to work alongside Council in the new year and thanked them for their service to the community.

**IV. APPROVAL OF MINUTES**

- a. Approval of the Minutes from the City Council meeting held on November 8, 2023.

MOTION: Ferzan Ahmed moved to approve the Minutes from the City Council meeting held on November 8, 2023. David Lester seconded. Motion passed.

VOTE:            Y-5                    N-0                    AB-2 (Abstain: Bennehoof and Drummond)

**V. CONSENT AGENDA**

- a. Monthly Department Reports - October 2023

MOTION: Jon Bennehoof moved to approve the consent agenda. Tom Counts seconded. Motion Passed.

VOTE:            Y-7                    N-0                    AB-0

## VI. RESOLUTIONS

### a. **RESOLUTION NO. 2023-28 (TABLED AT THE NOVEMBER 8, 2023 MEETING)**

A RESOLUTION AUTHORIZING THE POWELL POLICE DEPARTMENT TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH FLOCK GROUP, INC.

MOTION: Jon Bennehoof moved to remove Resolution No. 2023-28 from the table. Heather Karr seconded. Motion Passed.

VOTE:            Y-7                    N-0                    AB-0

Chief Sallows provided an update on the Flock Software Memorandum of Understanding. This product utilized automatic vehicle license plate detection and would allow the department to use the technology that is contracted with neighboring communities/agencies for a demo period until the end of the year. The demo would allow for police staff to determine if this technology system should be considered for future purchase and implementation. This program is also being used by Olentangy Liberty High School. A discussion was held regarding potential policy needed regarding privacy. Chief Sallows did clarify that the technology does not use facial recognition and the video is only stored for 30 days and then purged.

Mayor Swartwout opened Resolution No. 2023-28 for public participation. Hearing none, Mayor Swartwout closed public participation.

MOTION: Jon Bennehoof moved to approve Resolution No. 2023-28. Tom Counts seconded. Motion Passed.

VOTE:            Y-7                    N-0                    AB-0

### b. **RESOLUTION NO. 2023-34**

A RESOLUTION AUTHORIZING THE CITY MANAGER AND POLICE CHIEF TO EXECUTE AN INTERGOVERNMENTAL MUTUAL AID AGREEMENT.

Interim Chief Sallows provided background on the mutual aid agreement, which the City and other Delaware County law enforcement agencies have had existing agreement for many years. This agreement does include the City of Sunbury. It was discussed that on occasion the police department will assist other jurisdictions during emergencies or planned events. The City of Powell has benefited from the agreement and has relied on assistance and resources from other agencies during a crime event or special events that the city has planned. It was clarified that the agreement is only from within Delaware County.

Mayor Swartwout opened Resolution No. 2023-34 for public participation. Hearing none, Mayor Swartwout closed public participation.

MOTION: Tom Counts moved to approve Resolution No. 2023-34. Jon Bennehoof seconded. Motion Passed.

VOTE:        Y-7                N-0                AB-0

c. **RESOLUTION NO. 2023-35**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH AMERICAN STRUCTUREPOINT INC. FOR THE PURPOSE OF PERFORMING PROFESSIONAL ENGINEERING SERVICES FOR THE NORTH DEPOT STREET RECONSTRUCTING PROJECT.

City Manager White discussed the scope of services for the agreement. The agreement establishes the design services for the North Depot Street reconstruction. This will be the segment of roadway from Olentangy Street to Case Avenue. The project will include multiple modes of transportation facilities in alignment with the Complete Street Initiatives and also look at wayfinding and intersection improvements. The consultant will research for potential issues relating to utilities, lighting, sewer issues, and traffic management. A discussion was held on the RFP process and the criteria used to pick American Structurepoint, Inc. It was discussed that they have a strong leadership team with previous experience working with CSX.

Mayor Swartwout opened Resolution No. 2023-35 for public participation. Hearing none, Mayor Swartwout closed public participation.

MOTION: Tom Counts moved to approve Resolution No. 2023-35. Jon Bennehoof seconded. Motion Passed.

VOTE:        Y-7                N-0                AB-0

d. **RESOLUTION NO. 2023-36**

A RESOLUTION TO ADOPT AN AMENDED CITY OF POWELL INVESTMENT POLICY.

Finance Director Ocheltree reviewed the revisions of the Investment Policy that was previously amended in 2017. The amended policy updates the City's current practices according to best practices and aligns the language with the Ohio Revised Code. This policy has been discussed and reviewed by the Finance Committee and was recommended to Council at their November meeting.

Mayor Swartwout opened Resolution No. 2023-36 for public participation. Hearing none, Mayor Swartwout closed public participation.

MOTION: Tom Counts moved to approve Resolution No. 2023-36. Jon Bennehoof seconded. Motion Passed.

VOTE:        Y-7                N-0                AB-0

## VII. ORDINANCES: SECOND READING(S)

### a. ORDINANCE NO. 2023-29

AN ORDINANCE APPROVING AN AMENDMENT TO AN APPROVED DEVELOPMENT PLAN WITH ALL ASSOCIATED SITE IMPROVEMENTS FOR THE MIDDLEBURY CROSSING DEVELOPMENT, SUBAREA C TO REPLACE TOWNHOME BUILDINGS WITH GARDEN APARTMENT BUILDINGS WHILE NOT INCREASING THE OVERALL DENSITY, ZONED PLANNED COMMERCIAL DISTRICT AS SUBMITTED BY TED TINKLER ON BEHALF OF THE CODY COUGHLIN COMPANY AT THE NORTHWEST CORNER OF STEITZ ROAD AND HOME ROAD, PARCEL 31923001003004.

Mayor Swartwout read Ordinance No. 2023-29 into the record for the second time. Claudia Husak reviewed the previous discussion of Council relating to the dumpster location. She discussed that representatives from the library met with the developer and have agreed on a location where the dumpsters will not interfere with library operations. Both parties are currently working a private easement between them. It was clarified that the transition from townhomes to garden apartments will not have a change in density.

#### APPLICANT:

Ted Tinkler  
5505 Aryshire Drive  
Dublin, Ohio 43016

It was discussed that there is a signed agreement with the library regarding the dumpster. Mr. Tinkler discussed that the completed market study supported the change to garden apartments and will reduce construction costs.

Mayor Swartwout opened Ordinance No. 2023-29 for public participation. The following individual provided public comment:

Julie Miller  
Delaware County District Library: Liberty Branch  
7468 Steitz Road  
Powell, Ohio

Julie Miller thanked Council for listening to their concerns at the previous meeting and informed Council that they have reached an agreement with Coughlin Company regarding the dumpster and working on the easement. Hearing no further public comment, Mayor Swartwout closed public comment for Ordinance No. 2023-29.

MOTION: Jon Bennehoof moved to approve Ordinance No. 2023-29. Heather Karr seconded. Motion Passed.

VOTE:        Y-7                N-0                AB-0

### b. ORDINANCE NO. 2023-31

AN ORDINANCE TO ACCEPT THE PROPOSED BUDGET, AND TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2024.

Mayor Swartwout read Ordinance No. 2023-31 into the record for the second time. Finance Director Ocheltree discussed that the budget is a guide and that changes can be made as needed throughout the year. She provided a summary of the budget that was presented to Council. Tom Counts also discussed that the budget is a plan and changes can occur throughout the year. Christina Drummond questioned the roadway maintenance and bringing streets and pathways up to a standard that are not failing. Public Service Director Grant Crawford discussed the CIP and timeline to bring roads to a rating of 70. It was discussed the need to space out repairs to not have the roads fail in the future at the same time. Christina Drummond discussed that pathways need to be on a different schedule than roads as they can provide a public safety and quality of life issue. Grant Crawford discussed the plan to use 2024 to work on a plan to get paths to an acceptable level.

Mayor Swartwout opened Ordinance No. 2023-31 for public participation. The following individual spoke:

Leif Carlson  
178 Beech Ridge Drive  
Powell, Ohio

Leif Carlson discussed that there were many questions from residents during his campaign for City Council relating to road pavement timeline and that he would refer residents to the website and recommended this information be updated. Hearing no further public participation, Mayor Swartwout closed public participation for Ordinance No. 2023-31.

MOTION: Tom Counts moved to approve Ordinance No. 2023-31. Jon Bennehoof seconded. Motion Passed.

VOTE:        Y-7                N-0                AB-0

## VIII. ORDINANCES: FIRST READING(S)

### a. **ORDINANCE NO. 2023-32**

AN ORDINANCE AUTHORIZING THE CITY OF POWELL TO ENTER INTO A COMMUNITY REINVESTMENT AREA AGREEMENT WITH CSD POWELL, LLC, AND DECLARING AN EMERGENCY.

Mayor Swartwout read Ordinance No. 2023-32 into the record for the first time. Jeff Tyler discussed that in March, 2023, City council created the Downtown Community Reinvestment Area with Ordinance No. 2023-10. On August 1, 2023, City Council authorized the economic incentive agreement for the property located at 50 East Olentangy Street with the passing of Ordinance No. 2023-18. This agreement included a model CRA agreement as part of the overall incentive package with COHatch. Ordinance No. 2023-32 represents the final version of the CRA Agreement and there was a slight change in the terms at the request of Olentangy Local School District in that they did not want a third-party agreement.

Mayor Swartwout opened Ordinance No. 2023-32 for public participation. Hearing none, Mayor Swartwout closed public participation. Ordinance No. 2023-32 will be presented for a second reading.

b. **ORDINANCE NO. 2023-33**

AN ORDINANCE ADOPTING THE UPDATED PERSONNEL MANUAL FOR EMPLOYEES OF THE CITY OF POWELL.

Mayor Swartwout read Ordinance N. 2023-33 into the record for the first time. Human Resource Manager Jason Nahvi reviewed that the current Employee Handbook was adopted in June, 2015 and has had several updates throughout the years. It was discussed the importance to keep the employee handbook up to date so the City can ensure it stays in legal compliance and protects the City and Employees. He reviewed the updates to the policy including changes to administrative policies, workplace standards and ethics, workplace safety, hours of work, time off and leave of absences, sick leave donation, bereavement leave, witness duty and voting, resignations and retirements, social media and use of city property. It was also discussed that the handbook was done in house by staff and reviewed by the labor attorney that the City contracts with. Council had a discussion relating to Section 6.9, City Council and Staff Communications. There were concerns voiced on the language and they questioned if it is contradictory to Council Rules which were adopted last year. It was also requested that language be added to acknowledge at-will employees. Other discussion was held related to medical marijuana and that it is not legal for government employees due to marijuana is still illegal on a federal level. Staff to look at making suggested changes to Section 6.9 and present back to Council.

Mayor Swartwout opened Ordinance No. 2023-33 for public participation. Hearing none, Mayor Swartwout closed public participation. Ordinance No. 2023-33 will be presented for a second reading.

c. **ORDINANCE NO. 2023-34**

AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2023 AND DECLARING AN EMERGENCY.

Mayor Swartwout read Ordinance No. 2023-34 into the record for the first time. Finance Director Ocheltree discussed that this is an appropriation of \$28,000 from the account Salaries and Wages for a projected deficit due to a vacation payout and two new hires. An un-appropriation of \$28,000 from the Police Department Salary and Wages was requested due to the projected surplus in the Police Department. There is a \$0 net change to the general fund as funds are beings transferred from one account to another.

Mayor Swartwout opened Ordinance No. 2023-34 for public participation. Hearing none, Mayor Swartwout closed public participation.

MOTION: Tom Counts moved to suspend the rules for Ordinance No. 2023-34. Jon Bennehoof seconded. Motion Passed.

VOTE:        Y-7                N-0                AB-0

MOTION: Tom Counts moved to approve Ordinance No. 2023-34. Jon Bennehoof seconded. Motion Passed.

VOTE:        Y-7                N-0                AB-0

#### IX. COMMITTEE REPORTS

**Development Committee:** Next Meeting: December 5, 2023 @ 6:30 pm

**Finance Committee:** Next Meeting: February 13, 2024 @ 7 pm

**Operations Committee:** Next Meeting: January 16, 2023 @ 6:30 pm

**Community Diversity Advisory Committee:** Next Meeting: January 17, 2023 @ 6 pm

**Planning & Zoning Commission:** Next Meeting: December 13, 2023 @ 6:30 pm

**Powell Development Corporation:** Next Meeting: November 28, 2023 @ 7 pm

#### X. CITY MANAGER'S REPORT/CITY CALENDAR

City Manager White provided the following comments and updates:

- Successful celebration of Veterans Day
- Flagpole Dedication of Liberty Branch Library
- Clarification on the appropriation legislation and that the 2024 budget includes additional resources for additional officers
- He provided an update on recent police activity
- Continues to have informal discussions with Liberty Township
- Future project to present to Council relating to IT Service Provider
- Invitation December 13 Holiday Celebration luncheon for staff
- Thanked Council for support

#### XI. OTHER COUNCIL MATTERS

Christina Drummond discussed the event schedule that was presented at the Operations Committee Meeting. She voiced that Passport to Powell and Citizens Police Academy are not showing on the schedule.

Mayor Swartwout thanked staff and Council for their work and acknowledged the busy agendas to allow for the cancellation of the December 19, 2023 City Council meeting. The final Council meeting for 2023 will be held on December 5, 2023.

#### XII. EXECUTIVE SESSION

- Ohio Revised Code Section 121.22 (G) (1) To consider the employment or compensation of a public employee.
- Ohio Revised Code Section 121.22 (G) (8) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance.

MOTION: Jon Bennehoof moved to enter executive session pursuant to Ohio Revised Code Section 121.22 (G) (1) To consider the employment or compensation of a public official and Section 121.22 (G)(8) To consider confidential information related to the marketing plans, specific business

strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance. Heather Karr seconded. Motion Passed.

VOTE:            Y-7                    N-0                    AB-0

Council entered executive session at 9:23 p.m. Councilmembers present included Council Representative Jon Bennehoof, Council Representative Heather Karr, Council Representative Christina Drummond, Council Representative Ferzan Ahmed, Council Representative David Lester, Vice-Mayor Tom Counts, and Mayor Dan Swartwout. Staff present included Yazan Ashrawi, City Attorney and Andy White, City Manager. Also present for the discussion was Councilmember-elect Tyler Herrmann and Councilmember-elect Leif Carlson.

**MOTION:** Christina Drummond moved to exit executive session and return to open session at 9:52 p.m. Jon Bennehoof seconded. Motion Passed.

**VOTE:**            Y-7                    N-0                    AB-0

### XIII. ADJOURNMENT

**MOTION:** Jon Bennehoof moved to adjourn the City Council meeting. Heather Karr seconded. Motion Passed. The meeting was adjourned at 9:52 p.m.

VOTE:            Y - 7            N - 0            AB-0

**MINUTES APPROVED:** December 5, 2023

Daniel Swartwout, Mayor	Date
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Elaine McCloskey, Clerk	Date
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**From:** Andrew D. White, City Manager

**To:** Members of the City Council

**Initiated By:** Rosa Ocheltree, Finance Director  
Wesley Blake, IT Manager

**Re:** Resolution 2023-37 – A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH EASY IT FOR THE PURPOSE OF PROVIDING PROFESSIONAL IT SERVICES

**Date:** December 5, 2023

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**Summary:**

Resolution 2023-37 is a request to authorize the City Manager to enter into a professional services agreement for IT Services for 2024.

On July 31, 2023, the City of Powell (City) issued a request for proposals (RFP) for Information Technology Services. The City received nineteen (19) proposals by the August 11, 2023, submittal deadline.

The 19 proposals submitted by Easy IT, Star Seven Six, Glover Technology, Pro Team Solutions inc. Sistema Technologies Inc. Wyn House, Kloud9IT Inc, People Driven Technology, Akkodis, DevCare Solutions, Maven, Linear 1 Technologies, Flairsoft, Half Horse Inc, Crown Castle, IP Pathways, Corsica Technologies, Pace Systems, Inc. OSA Technology Partners were reviewed and scored by the selection committee.

After independent scoring, scores were combined, and the top four companies were invited to interview with the selection committee and leadership team members.

The selection committee and staff conducted a panel interview to evaluate the strengths and weaknesses of all finalists. Cultural fit, capabilities, customer service, and alignment with the City's vision were among the items discussed with the finalists. Based on the panel discussion, the selection committee identified EasyIT and DevCare as the top two vendors.

Subsequently, the City provided the finalists with a comprehensive review document of the current infrastructure and refinement of services requested. The finalists were asked to submit a best and final proposal based on this information. By doing so, the finance department was able to provide a more accurate analysis of the pricing structure. Additional points were awarded based on the highest and lowest bid. The final points awarded confirmed the selection of EasyIT as the best provider for the City both from a services and pricing perspective. Exhibit A summarizes the final scores based on the RFP evaluation and the best and final pricing structure.

Easy IT has been providing IT Services in Central Ohio since 1998. With over 25 years of experience, Easy IT houses over 45 staff members specializing in key areas of IT and administration. Their core principles of Secure, Stabilize, Standardize, and Improve align with where the City is looking to take its underlying infrastructure and IT Services to support Powell 2.0.

Approving this resolution is intended to help enhance and modernize the IT Infrastructure and platforms that the City has available to it through the continued investment in IT and will improve the impact of IT on all aspects of modern workplace activities.

**Legal Review:**

The Law Director's office has reviewed and will approve as to form the final professional services agreement.

**Financial Review:**

The 2024 budget includes \$125,000 for IT services, sufficient to cover the annualized cost of the contract.

The 2023 budget will cover the \$7,000 transition and implementation fee.

KGT, our current IT service provider, will be retained on a time block basis to assist throughout the transition process and with knowledge transfer as needed. Sufficient resources are available to reserve the necessary hours to execute a successful transition.

**Recommendation:**

Staff recommends approval of Resolution 2023-37



## RESOLUTION 2023-37

### **A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH EASYIT TO PROVIDE IT PROFESSIONAL SERVICES**

**WHEREAS**, the City seeks a firm to manage certain Information Technology functions and supplement the expertise and capacity of City staff with regard to systems, programs, projects, and IT Operations; and

**WHEREAS**, the City issued a Request for Proposals (RFP) to seek the most qualified service provider; and

**WHEREAS**, the City reviewed the qualified vendors and unanimously agreed EasyIT was the most qualified to perform these services; and

### **NOW THEREFORE BE IT RESOLVED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO, AS FOLLOWS:**

Section 1: That the City Manager is hereby authorized and directed to enter into a professional services agreement with EasyIT, in a form acceptable to the Director of Law and in a contract amount of approximately \$130,000 for services described in Exhibit B.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of Council and that all deliberations of Council and any of the decision-making bodies of the City of Powell, which resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: This Resolution shall be in full force and effect immediately upon adoption.

\_\_\_\_\_  
Daniel Swartwout                      Date  
Mayor

\_\_\_\_\_  
Elaine McCloskey                      Date  
City Clerk

**EFFECTIVE DATE:**     **December 5, 2023**

This legislation has been posted in accordance with  
the City Charter on this date \_\_\_\_\_  
\_\_\_\_\_  
City Clerk

Resolution 2023-37  
Exhibit. A - RFP Scoring Results  
**IT Services RFP Evaluation Summary**

<b>RESPONDENT:</b>		<b>Easy IT</b>	<b>DevCare</b>
<b>Meets all Requirements</b>		<b>Y</b>	<b>Y</b>
<b>TECHNICAL CRITERIA</b>	<b>Score Max</b>		
Experience with technical and organizational environment, Governmental, Municipalities, Law Enforcement	25	9	12
<b>Governmental Experience</b> - No experience: 0 points Limited experience: 4 points Moderate experience: 6 points Extensive experience: 8 points	8	5	6
<b>Municipal Experience</b> - No experience: 0 points Limited experience: 4 points Moderate experience: 6 points Extensive experience: 8 points	8	4	4
<b>Law Enforcement Experience</b> - No experience: 0 points Limited experience: 3 points Moderate experience: 6 points Extensive experience: 9 points	9	1	1
Alignment with the service scope, goals and objectives	35	25	24
Poor alignment: 0 points Partial/Some alignment: 10 points Moderate/ alignment: 20 points Strong alignment: 35 points		25	24
Quality, visual presentation and accuracy of RFP response	15	8	11
Poor quality, presentation, and accuracy: 0 points Below average quality, presentation, and accuracy: 5 points Satisfactory quality, presentation, and accuracy: 10 points Excellent quality, presentation, and accuracy: 15 points		8	11
<b>Cost - To be awarded by Finance (Calculation)</b>	25	23	11
Allocation based on Technical Requirements	100%	42	46
Location: HQ in Central Ohio (3), HQ in Ohio (2), No HQ, but Presence in Ohio (1), No Presence/HQ in Ohio (0)	3	1	1
Fixed Fee (Yes - 6; No 0)	6	6	6
Cost Points: Lowest: 16 points Highest bid: 4 points	16	16	4
<b>TOTAL SCORE</b>	<b>100</b>	<b>65</b>	<b>57</b>



## **Service Areas and Pricing Information**

A	Vendor Name:	EasyIT		
B	Monthly Fee	\$10,250.00		
	Annualized Fee	\$123,000.00		
	SERVICE AREAS	Included in Monthly Fee?	One-Time/Hourly Cost	Notes
C	1. Infrastructure			
	Server maintenance	Yes		
	Network administration	Yes		
	Storage management	Yes		The cost of backup software itself or hardware for storage would not be included in the monthly cost.
	Cloud infrastructure management	Yes		The cost of utilizing the cloud i.e. the cost from Azure is not included in the monthly cost
	Virtualization and containerization	No		
	Local Backup and disaster recovery	Yes		EasyIT will provide the framework for a disaster recovery plan with basic recovery scenarios.
	2. End-user Support			
	Helpdesk and ticketing	Yes		
	Desktop/laptop support	Yes		
	Mobile device management	No		Mobile Device Management is a service EasyIT provides and can be added the monthly cost for \$4/device
	Software installations and updates	Yes		EasyIT will work with product vendors to support major software applications currently installed at Client.
	User account management	Yes		
	Hardware procurement and setup	No	Ranges from \$350-\$500/machine (laptops/desktops)	EasyIT will fix rate new hardware procurement and setup. Please refer the procurement process visual provided during the onsite interview.
	On-Site Support	Yes		
	3. Security			
	Firewall and intrusion detection	Yes		
	Endpoint protection	Yes		
	Vulnerability assessment	Yes		
	Patch management	Yes		
	Security training and awareness	Yes		
	Identity and access management	Yes		EasyIT will deploy conditional access policies
	4. Software Development			
	Application development	No		
	Database administration and development	No		
	Testing and quality assurance	No		
	DevOps and continuous integration/deployment	No		
	Application monitoring and performance tuning	No		

A	Vendor Name:	EasyIT		
5. Business Applications				
	Enterprise Resource Planning (ERP) support	No		EasyIT supports the network that the RFP runs on included in the monthly cost.
	Customer Relationship Management (CRM) support	No		EasyIT supports the network that the CRM runs on included in the monthly cost.
	Document management systems	No		EasyIT supports the network the Document Manage System runs on included in the monthly cost.
	Business intelligence and analytics	No		
6. Communications				
	Email services	Yes		
	Voice over IP (VoIP)	Yes		EasyIT will include adding phone extensions for the phone system included in the monthly cost.
	Video conferencing	Yes		EasyIT will support connectivity and the network for video conferencing.
	Instant messaging and chat	Yes		EasyIT can provide basic trouble shooting for issues with instant messaging and chat included in the monthly cost.
7. Compliance and Audit				
	Assistance with:			

A	Vendor Name:	EasyIT		
	IT policy formulation and management	Yes		If more than an 8 hour project, EasyIT has the ability to begin billing hourly based on our 2023 EasyIT hourly rates. As a client, City of Powell would always receive the discounted bill rate.
	Regulatory compliance checks	Yes		If more than an 8 hour project, EasyIT has the ability to begin billing hourly based on our 2023 EasyIT hourly rates. As a client, City of Powell would always receive the discounted bill rate.
	IT audits	Yes		If more than an 8 hour project, EasyIT has the ability to begin billing hourly based on our 2023 EasyIT hourly rates. As a client, City of Powell would always receive the discounted bill rate.
	Data governance and management	Yes		If more than an 8 hour project, EasyIT has the ability to begin billing hourly based on our 2023 EasyIT hourly rates. As a client, City of Powell would always receive the discounted bill rate.
	8. Transition / Implementation Costs	Yes	\$ 7,000.00	One-time Onboarding Fee
	9. Other Information			
	Business (Systems) Analysis	See Rate Sheet		
	Solution Architecture	See Rate Sheet		
	Functional SMEs	See Rate Sheet		
	UI / UX Analyst or Designer	See Rate Sheet		
	Cost Per User		\$11,250.00	\$150 Per User
	Co-Managed IT Monthly Credit		(\$2,500.00)	
	Advanced Security Suite Items (SIEM, Persistent Vulnerability Scans and Remediation, Enhanced EDR)		\$1,000	



A	Vendor Name:	DevCare Solutions Ltd		
B	Monthly Fee	\$18,310.00		
	Annualized Fee	\$219,720.00		
	SERVICE AREAS	Included in Monthly Fee?	One-Time/Hourly Cost	Notes
C	1. Infrastructure			
	Server maintenance	Yes	\$79	Infrastructure Support will be provided Monday - Friday: 8a - 5p.
	Network administration	Yes	\$79	
	Storage management	Yes	\$79	1 monthly scheduled patching/maintenance activity included upto 8 hours.
	Cloud infrastructure management	Yes	\$79	
	Virtualization and containerization	Yes	\$79	Column D indicates any outside hours support required / additional hours required will be billed at the rate of \$79/hour.
	Local Backup and disaster recovery	Yes	\$79	
	2. End-user Support			
	Helpdesk and ticketing	Yes	\$39	End User Support (L1 and L2) will be provided Monday - Friday: 8a - 5p.
	Desktop/laptop support	Yes	\$39	
	Mobile device management	Yes	\$39	1 monthly scheduled maintenance activity (upgrade of software and device management tools) included upto 8 hours
	Software installations and updates	Yes	\$39	
	User account management	Yes	\$39	Column D indicates any outside hours support required / additional hours required will be billed at the rate of \$39/hour
	Hardware procurement and setup	Yes	\$39	
	On-Site Support	Yes	\$39	
	3. Security			
	Firewall and intrusion detection	Yes	\$79	Support of any infrastructure and network security (L1 and L2) will be provided Monday - Friday: 8a - 5p.
	Endpoint protection	Yes	\$79	
	Vulnerability assessment	Yes	\$79	Column D indicates any outside hours support required / additional hours required will be billed at the rate of \$79/hour
	Patch management	Yes	\$79	
	Security training and awareness	Yes	\$79	
	Identity and access management	Yes	\$79	
	4. Software Development			
	Application development	No	\$75	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	Database administration and development	No	\$75	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	Testing and quality assurance	No	\$55	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	DevOps and continuous integration/deployment	No	\$80	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	Application monitoring and performance tuning	No	\$75	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.

A	Vendor Name:	DevCare Solutions Ltd		
5. Business Applications				
	Enterprise Resource Planning (ERP) support	No	\$80	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.  Our resource will provide support in terms of understanding any functional issues and help the City liaise with the ERP vendor.
	Customer Relationship Management (CRM) support	No	\$85	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	Document management systems	Yes	\$80	We believe this functional area will be critical in some business processes.  Upto 10 hours of OnBase support is be included in the monthly cost. These hours can rollover month-on-month until the end of the City financial year. DevCare can pro-rate the OnBase support monthly cost in the event that the City believes these fixed hours are not required (reduce the monthly cost by \$800).  Any additional hours (beyond 10 hours) will be billed at the rate of <u>\$80/hour, based on the estimates mutually agreed by DevCare and the City</u> .
	Business intelligence and analytics	No	\$78	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
6. Communications				
	Email services	No	\$50	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	Voice over IP (VoIP)	No	\$50	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	Video conferencing	No	\$50	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.
	Instant messaging and chat	No	\$65	DevCare will provide an estimate for any requests in this area and City of Powell will be billed only for the hours utilized & mutually agreed upon, for this service.  Support for MS Teams.
7. Compliance and Audit				
	Assistance with:	Yes		At the start of this engagement, DevCare will setup an IT Governance structure (if one doesnt exist or if it has to be re-evaluated) including IT Service Management, Environments Managemnt, Communication Management and ticketing process to bring all staff members up to speed. This will be at NO additional cost to the City.  <u>Upto 10 hours per month of Strategic Advisory and Consulting included in the monthly pricing</u> , by virtue of participation from our Enterprise Architect or Chief Technology Officer.  Any additional hours requested will be billable at the rate of <u>\$110/hour</u>

A	Vendor Name:	DevCare Solutions Ltd		
	IT policy formulation and management	Yes	\$110	
	Regulatory compliance checks	Yes	\$110	
	IT audits	Yes	\$110	
	Data governance and management	Yes	\$110	
	8. Transition / Implementation Costs	Yes		
	9. Other Information			
	Business (Systems) Analysis	No	\$78	Depending on any existing or new IT projects, DevCare will provide a Business Analyst and an estimate of the hours required for the Business Analyst role in the project. DevCare and the City will mutually agree on the estimate and the position will be billed accordingly.
	Solution Architecture	No	\$110	Depending on any existing or new IT projects, DevCare will provide a Solution Architect and an estimate of the hours required for the Solution Architect role in the project. DevCare and the City will mutually agree on the estimate and the position will be billed accordingly.
	Functional SMEs	No	\$65	Depending on any existing or new IT projects, DevCare will provide a Functional SME and an estimate of the hours required for the Functional SME role in the project. DevCare and the City will mutually agree on the estimate and the position will be billed accordingly.
	UI / UX Analyst or Designer	No	\$70	Depending on any existing or new IT projects, DevCare will provide a UI/UX Analyst and an estimate of the hours required for the UI/UX Analyst role in the project. DevCare and the City will mutually agree on the estimate and the position will be billed accordingly.
	Cost Per User			
	Co-Managed IT Monthly Credit			
	Advanced Security Suite Items (SIEM, Persistent Vulnerability Scans and Remediation, Enhanced EDR)			

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is made and entered into and effective on this \_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date") by and between the City of Powell, Ohio ("Powell"), an Ohio Municipal Corporation, with offices located at located at 47 Hall Street, Powell, Ohio 43065 and Capital City Consulting, LLC (EasyIT) ("Service Provider"), with an office and principal place of business located at \_\_\_\_\_.

### Recitals

WHEREAS, Powell desires to engage Service Provider to perform the services as more fully described in the attached Exhibit A (the "Services"); and

WHEREAS, Service Provider desires to perform the Services and desires to be so engaged.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements herein contained, the parties, intending to be legally bound, agree as follows:

### Provisions

#### **I. Performance of the Services.** Service Provider shall:

- A. Perform the Services as set forth in Exhibit A.
- B. If the Service Provider is an individual, complete, sign and return the Ohio Public Employees Retirement System ("OPERS") Independent Contractor Acknowledgement Form.
- C. Give prompt notice to Powell should the Service Provider observe or otherwise become aware of any fault or deficit in the project or any nonconformance with the Agreement.
- D. Remit to Powell after the termination of this Agreement, all files and documents pertaining to the project that have been obtained or produced including, but not limited to, permits, licenses, applications, codes, drawings, site plans, photographs, and similar materials. Service Provider shall be entitled to retain copies for the Service Provider's files.

#### **II. Obligations of Powell.** Powell shall:

- A. Assist the Service Provider by placing at its disposal all available information pertinent to the Services for the project.
- B. Use its best efforts to secure release of other data applicable to the project held by others.
- C. Make all necessary provisions to enter upon public and private property as required to perform the Services.

- D. Give prompt notice to the Service Provider should Powell observe or otherwise become aware of any fault or deficit in the project or any nonconformance with the Agreement.

**III. Term and Termination.** The Agreement shall commence on the \_\_\_ day of \_\_\_\_\_, 20\_\_, and shall terminate on the \_\_\_ day of \_\_\_\_\_, 20\_\_. Powell may terminate this Agreement at any time by giving Service Provider thirty (30) days advance written notice. In the event this Agreement is terminated by Powell prior to its natural expiration, Service Provider shall be paid the amounts for work actually performed in accordance with this Agreement to the date of this early termination.

**IV. Payment.**

- A. Service Provider shall be compensated for its service consistent with the Exhibit A.
- B. The Service Provider shall invoice Powell monthly for services rendered through the previous month, and Powell agrees to pay within thirty (30) days of receipt of a valid invoice. A valid invoice shall consist of a description of work performed and an itemization of all reimbursable expenses, which must be documented with copies of receipts whenever possible. All invoices must include the contract number and the purchase order number of this contract, which is located in the upper right-hand corner of the first page of this document.

**V. Relationship of the Parties.** The parties acknowledge and agree that Service Provider is an independent contractor and is not an agent or employee of Powell. Nothing in this Agreement shall be construed to create a relationship between Service Provider and Powell of a partnership, association, or joint venture. Further, the parties acknowledge that Service Provider is paid a fee, retainer or other payment as per Section IV of this Agreement; is not eligible for workers' compensation or unemployment compensation; is not eligible for employee fringe benefits such as vacation or sick leave; does not appear on Powell's payroll; is required to provide his/her or her own supplies and equipment; and is not controlled or supervised by Powell personnel as to the manner of work.

**VI. Indemnification.**

- A. Professional Liability. Relative to the extent, losses, damages, liability and cost, the Service Provider agrees to indemnify and save Powell, its officers, officials, and employees harmless from and against any and all suits, actions or claims for property losses, damages or personal injury arising from the negligent acts, errors or omissions by the Service Provider or its employees.
- B. Non-Professional Liability (General Liability). To the fullest extent permitted by law, the Service Provider shall indemnify, defend and hold harmless Powell, its officers, officials, employees or any combination thereof, from and against claims, damages, losses and



expenses, including but not limited to reasonable attorneys' fees, arising out of the acts or omissions of the Service Provider, provided that such claim, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused by the negligent acts or omissions of the Service Provider, any subconsultant(s) of the Service Provider, its agents, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

## **VII. Insurance.**

- A. The Service Provider shall secure and maintain, at his/her/its own expense, errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim/annual aggregate to protect himself from any claim arising out of the performance of professional services and caused by negligent acts, omissions or negligent acts for which the Service Provider may be legally negligent. The Service Provider shall maintain said coverage for the entire contract period and for a minimum of one year after completion of the work under the contract.
- B. In addition to errors and omissions insurance, the Service Provider shall also secure and maintain, at his/her own expense, insurance for protection from claims under Worker's Compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and any other insurance prescribed by laws, rules, regulations, ordinances, codes or orders.
- C. The Service Provider shall secure and maintain, at his/her own expense, General Liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- D. The Service Provider shall secure and maintain, at his/her/its own expense, Property insurance for protection from claims or damages because of damage to or destruction of property including loss of use resulting therefrom in an amount not less than Five Hundred Thousand Dollars (\$500,000.00).
- E. Powell shall be held harmless for any damage to the Service Provider's property and/or equipment during the course of performance under the Contract.
- F. The above referenced insurance shall be maintained in full force and effect during the life of this Contract and for one year beyond, where specified. Certificates showing that the Service Provider is carrying the above referenced insurance in at least the above specified minimum amounts shall be furnished to, and approved by, Powell prior to the start of work on the project and before Powell is obligated to make any payments to the Service Provider for the work performed under the provision of this contract. All such Certificates, with the

exception of those for Worker's Compensation and Errors & Omissions coverage, shall clearly reflect that the City of Powell is an "Additional Insured".

**VIII. Employee Documentation**

- A. Service Provider guarantees that the individuals employed by the Service working on this project are authorized to work in the United States. The Service Provider will upon demand provide Powell with appropriate documentation (Form I-9) for any Service Provider employee performing services for Powell.
- B. The Service Provider agrees to indemnify Powell in accordance with Section VI of the Agreement for any issue arising out of the Service Provider's hiring or retention of any individual who is not authorized to work in the United States.

**IX. Taxes.**

- A. Service Provider has the following identification number for income tax purposes:  
.
- B. Service Provider is subject to and responsible for all applicable federal, state, and local taxes.
- C. Powell represents that it is a tax-exempt entity and evidence of this tax-exempt status shall be provided to Service Provider upon written request. Service Provider hereby further agrees to withhold all municipal income taxes due or payable under the provisions of the Codified Ordinances of Powell, Ohio, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such municipal income taxes due under such chapter for Services performed under this Agreement.
- D. The Service Provider shall receive Internal Revenue Service form 1099 from Powell for income tax reporting purposes.

- X. **Assignment.** Neither party may assign this Agreement without obtaining express, written consent from the other party prior to assignment.

- XI. **Entire Agreement / Amendment.** This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the parties hereto. It is understood and agreed that this Agreement may not be changed, modified, or altered except by an instrument, in writing, signed by both parties in accordance with the laws of the State of Ohio.

**XII. Discrimination.**

- A. No discrimination for reason of race, color, national origin, religion, sex, genetic information, pregnancy, age, ancestry, military status, sexual orientation, gender identity, marital status, veteran's status, or disability shall be permitted or authorized by Powell and/or Service Provider in connection with the Services.

- B. Nothing in this Agreement shall require the commission of any act contrary to any law or any rules or regulations of any union, guild, or similar body having jurisdiction over the Services of Service Provider.

- XIII. Governing Law/Venue.** Any controversy or claim, whether based upon contract, statute, tort, fraud, misrepresentation, or other legal theory, related directly or indirectly to this Agreement, whether between the parties, or of any of the parties' employees, agents, or affiliated businesses, will be resolved under the laws of the State of Ohio, in any court of competent jurisdiction in Delaware County, Ohio.
- XIV. Severability.** If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid, mutually agreeable and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.
- XV. Paragraph Headings.** Paragraph headings are inserted in this Agreement for convenience only and are not to be used in interpreting this Agreement.

[signatures appear on following page]



**BY SIGNING THIS AGREEMENT, YOU HEREBY ACKNOWLEDGE THAT YOU HAVE BEEN INFORMED THAT THE CITY OF POWELL, OHIO HAS CLASSIFIED YOU AS AN INDEPENDENT CONTRACTOR AND THAT YOU HAVE BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON YOUR BEHALF FOR THESE SERVICES.**

**FURTHER, BY SIGNING THIS AGREEMENT, YOU HEREBY ACKNOWLEDGE THAT THE CITY OF POWELL, OHIO HAS IN NO WAY LIMITED OR RESTRICTED YOUR RIGHT TO PROVIDE THE AGREED-TO SERVICES TO THE GENERAL PUBLIC AND THAT YOU REGULARLY PROVIDE SUCH SERVICES TO THE GENERAL PUBLIC.**

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY OF POWELL, OHIO**

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Andrew White, City Manager

**EasyIT**

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Kurt Hoelt, CEO

Approved as to Form:

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Yazan S. Ashrawi, Law Director

**CERTIFICATION OF FUNDS**

I hereby certify that the above amount required to the above has been lawfully appropriated, authorized, or directed for such purposes and is in Treasury or in the process of collection to credit of the above funds free of obligation or certification now outstanding.

BY: \_\_\_\_\_  
Rosa Ocheltree, Director of Finance

Date: \_\_\_\_\_

**EXHIBIT A****Scope of Services**



## Co-Managed IT

Quote #006364 v1

for

City of Powell

Edward A. Mistak  
EMistak@EasyIT.com

614.339.4999  
[www.easyit.com](http://www.easyit.com)



## STATEMENT OF SERVICES

### COMPANY OVERVIEW

EasyIT is an organization of skilled and courteous Information Technology professionals that has serviced Central Ohio since 1998. The core team of certified technicians is directed in an accountable hands-on environment with performance quality as the guiding principle.

EasyIT specializes in a wide range of services, including tailored IT services and solutions for small and medium businesses and their owners in Central Ohio. We are committed to providing each and every one of our clients with high quality service and support. Our unique IT team is incredibly friendly and can help you every step of the way in growing your business. We expertly combine our services in order to provide you with customized help and support, so you only get what you need and what you want. Our innovative approach starts with a thorough investigation of what your company needs to succeed so that we can ensure a perfect fit with you and our services.

EasyIT's clients benefit greatly when they choose to partner with us. Not only will you have more energy and time to focus on your business while we handle your IT needs, but you will experience happier and more productive employees, too. Let us help you open the doors to more technology so you can rest easy that your network will always perform to your standards and that your company will be able to outperform its competitors with ease. Sleep soundly tonight knowing that your electronic assets are optimized, maintained, and protected – because ensuring your business' technology runs smoothly is our top priority.

### SERVICES OBJECTIVE

The City of Powell is looking for an IT partner to supplement their existing internal expertise.



## STATEMENT OF SERVICES

THIS EasyIT MANAGED SERVICES STATEMENT OF SERVICES IS AN ADDENDUM TO MASTER SERVICE AGREEMENT #COP20230809, AND IS A BINDING CONTRACT between Capital City Consulting, LLC., dba EasyIT ("EasyIT"), with its primary place of business at 4150 Tuller Rd., Suite 234, Dublin, OH 43017 and **City of Powell** ("Client") with its primary place of business address as shown on the Master Service Agreement. All references to this "Agreement" shall include this Statement of Services and the Master Services Agreement.

### EASYIT MANAGED SERVICES (EMS) OUTSOURCING STATEMENT OF SERVICES

#### SUPPORT SERVICES

##### Client Support Services

###### Unlimited On-site Support Services:

- Unlimited on-site support is available "24 x 7" for "Emergency" tickets.
- Unlimited on-site support is available 8 AM to 6 PM EST, Monday-Friday, excluding holidays, for non-Emergency tickets.

Above support services are for maintenance of currently existing hardware, servers, desktops, laptops, and networking and communication equipment for your location(s) at:

- 47 Hall Street Powell, Ohio 43065
- Any additional office space in central Ohio

###### Unlimited Remote Support Services:

- Unlimited off-site/remote support is available "24 x 7" for "Emergency" tickets.
- Unlimited off-site/remote support is available 8 AM to 6 PM EST, Monday-Friday, excluding holidays, for non-Emergency tickets.

Above support services are for maintenance of currently existing hardware, servers, desktops, laptops, and networking and communication equipment for your location(s) at:

- 47 Hall Street Powell, Ohio 43065
- Various hybrid/remote employees

###### Help Desk:

- **On-line:** Client puts in their own ticket information into our automated system. The system then routes and tracks tickets and feeds metrics to the EasyIT dashboard. The dashboard provides help desk metrics that are readily available for outstanding issue/project review.
- **Business hours:** Help Desk is staffed from 8 AM to 6 PM, Monday-Friday, excluding holidays; Help Desk personnel will work to resolve technical issues on a per-issue basis via remote access or escalate to on-site support as necessary.
- **Off hours:** Client can leave voice mail message for support requests outside of normal business hours; the voice mail will create a service request and our designated on-call technicians will respond to the request.

###### Service Level Expectations:

- The on-line help desk is the primary mechanism for placing support requests. Should that application not be reachable by the Client, they can directly contact our call center with support issues.
- **Maximum two (2) business hour call-back** for "Emergency" needs.
- **Maximum four (4) business hour on-site** response for "Emergency" needs.

**CONFIDENTIAL:** The information contained in this document is meant for evaluation by Client management only. It is not to be duplicated or shared in part or in whole with any outside party for any reason.





## STATEMENT OF SERVICES

- "Low" and "Medium" (non-emergency) tickets will be assigned within 8 business hours.

### Management Consulting Services

#### **Virtual Chief Technology Officer (CTO) Services:**

- Including periodic status meetings on an as-needed basis.
- Advisory services relating to items such as data restoration services, data protection programs, disaster recovery planning, securing physical access to servers and networking devices.

#### **Vendor Management:**

- EasyIT will represent client as the technical liaison to 3rd party vendors who offer services that relate to, or interface with the client's IT infrastructure or software packages.

#### **Asset management/tracking services:**

- Including tracking and maintaining Client's hardware and software license inventory; and management of end-of-life disposition of obsolete equipment, including erasure/destruction/disposal of hard drives.

### Proactive Support Services

#### **Remote Monitoring and Management (RMM) - "24 X 7" system monitoring of critical systems** (indicated below):

\* Note - Automated alerts (alerts generated through system monitoring) and tickets created through the portal will page technicians/escalate during the hours stated under the Considerations section, item "8. *Automated Alerts*"

- Automatic checks of backups.
- Monitoring of data drives.
- Regular checks of E-mail/anti-virus.
- Monitoring and management of Endpoint Detection and Response (EDR/XDR).
- On-going checks for critical system events.

#### **Monthly Proactive Server Checkups:**

- Check, install server patches.
- Check status of virus program and drive capacities.

#### **Backup Monitoring and Management:**

- Check and review backups daily.
- Perform and report on a test restore of backups monthly.

#### **Monthly Health Report Safety Check:**

- Regular overview and assessment of systems status and network health sent directly to client representative.

### Core Security Suite (INCLUDED)

#### **Endpoint Detection and Response (EDR) Software:**

- Delivers multi-layered AI-powered endpoint protection, with Static AI pre-execution protection for known and unknown file-based malware, and Behavioral AI agent-side behavioral monitoring that covers any attack vector, including unknown exploits and bypass

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attempts of traditional anti-virus.

- The Behavioral AI engine is built to detect and mitigate malicious code and scripts in documents and is capable of detecting fileless attacks and exploits. Lateral Movement uses Behavioral AI to discover attempts coming from another device over the network.
- Offers attack remediation, cleaning all artifacts of a malicious attempt, including registry, scheduled tasks and more, while Rollback Revert returns an endpoint its pre-infected state. Upon detection, immediately stops lateral threat spread cold by disconnecting the infected endpoint from the network while still maintaining the agent's connection to the management console.

### Internet Security, Threat Protection and Web Filtering:

- Cloud-Delivered Network Security for Protection of Any Device, Anywhere.
- Contains advanced attacks and block malware, botnets and phishing
- Predictive intelligence to automate protection against emergent threats
- Comply with up to 60 content filtering categories
- Centralized location-based policies and customizable block lists and pages
- Integrated with Active Directory
- Report on the usage of cloud services, to identify risks and ensure compliance
- Logging for incident response and compliance

### Managed Advanced Persistent Threat (Foothold) Response Service:

- APT service collects and analyzes metadata about every application or script scheduled to automatically execute when a computer boots up or a user logs in.
- Analyzes real time processes utilizing a combination of an endpoint agent, a sophisticated A.I. driven analysis engine, and security experts. This service categorizes all running processes, allowing A.I. and experts to review suspect processes and automatically quarantine machines and report the incident to EasyIT for remediation.
- Provides reporting on active cases.
- Provides access to a world class 24/7 ThreatOps Team with professional threat hunting and remediation experts for the times when you need them the most.

### Security Training:

- Train your employees on security. Have your employees watch online security awareness training and take comprehension quizzes.
- **Portal:** Provide a security portal for your employees to access security information and tools.
- **Phishing Analysis Tool:** Allow employees to submit emails to be instantly scored for potential phishing attack. (*Requires Outlook 2019 or Outlook 365*)
- **Micro Training:** Engaging and interactive micro-training lessons emailed weekly to your employees. The lessons focus on important topics like phishing scams, ransomware, and the physical protection of mobile devices.
- **Newsletters:** A monthly security awareness eNewsletter with tips to keep employees secure both in the office and at home.

### Security Policies:

- Templates for easy-to-understand, written security policies and procedures. The policies address topics such as network security, computer use, bring your own device, physical security, and termination.

### Dark Web Scan:

- Give your employees the ability to know if their work or personal credentials have been compromised and are now on the dark web.

## Software Support Services

### Software application support:

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- EasyIT will work with product vendors to support major software applications currently installed at Client.

### **Special Considerations**

- Credit is provided based upon Client staff retaining fulltime IT staff members and serving as first line of defense for all end user generated tickets and resolving Tier1 tickets. Should Client cease to fulfill this responsibility on consistent basis, this credit could be rescinded.

### **Advanced Security Suite (OPTIONAL, PRICING INCLUDED)**

#### **Enhanced Endpoint Detection and Response:**

- Delivers multi-layered AI-powered endpoint protection, with Static AI pre-execution protection for known and unknown file-based malware, and Behavioral AI agent-side behavioral monitoring that covers any attack vector, including unknown exploits and bypass attempts of traditional anti-virus.
- The Behavioral AI engine is built to detect and mitigate malicious code and scripts in documents and is capable of detecting fileless attacks and exploits. Lateral Movement uses Behavioral AI to discover attempts coming from another device over the network.
- Offers attack remediation, cleaning all artifacts of a malicious attempt, including registry, scheduled tasks and more, while Rollback Revert returns an endpoint its pre-infected state. Upon detection, immediately stops lateral threat spread cold by disconnecting the infected endpoint from the network while still maintaining the agent's connection to the management console.
- Adds advanced capabilities such as threat hunting and Deep Visibility. It provides prevention and detection of attacks across all major vectors, rapid elimination of threats with fully automated, policy-driven response capabilities, and complete visibility into the endpoint environment with full-context, real-time forensics.
- Includes Advanced EDR/Threat Hunting, which provides the ability to search for attack indicators, investigate existing incidents, perform file integrity monitoring and root out hidden threats. It includes an Attack Storyline, a visual diagram representing an execution flow, helping IR teams to quickly evaluate the impact of any threat. Advanced capabilities include Deep Visibility into every event on the agent, including the ability to search for historic data, and visibility into the encrypted network traffic without pushing certificates or the need for expensive SSL appliances/blades.

#### **Managed Security Information and Event Management (SIEM):**

- **Proactive 24/7 Security Operation Center (SOC):** Monitoring around the clock real time analysis, triage and reporting of events detected on your network by our USA based SOC service.
- **Incident Response Team :** The EasyIT Security Response Team is available to provide deep analysis of security incidents and perform remediation activities.
- **Managed Security Information and Event Management (SIEM) Platform:** SIEM is the constant analysis and collection of the logs generated within a network to detect any malicious and unusual activity.
- **Advanced analytics of real-time security events:** Proactive, not reactive, response to security events.
- **Compliance:** Accumulate logs required for HIPAA, PCI-DSS, GLBA, SOX, etc. compliance.

#### **Vulnerability Scanning (Quarterly):**

- Perform comprehensive internal and external vulnerabilities scans and develop appropriate remediation plans if necessary.

#### **Persistent Vulnerability, Compliance Scanning and Remediation:**

- Security Assessment and Vulnerability Management helps safeguard business-critical data from vulnerabilities and exploits. The Vulnerability Manager helps their small and medium business clients stay compliant with regulations and compliance frameworks.
- The vulnerability scanning solution provides compliance, deep asset discovery, risk assessment, and user router assessment. A risk

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## STATEMENT OF SERVICES

management platform meets all requirements that are part of the IDENTIFY in the NIST cybersecurity framework.

- The Security and Vulnerability Manager helps clients stay compliant with user behavior tracking, computer analysis, Active Directory and passwords policies, and integration with Winlogbeat. Manage risk assessment with tools such as missing patches and upgrade report, application vulnerabilities, installed software report, non-approved software report, and per asset and company risk scores.
- Provides user behavior risk assessment with user router assessment. Check end user routers for vulnerabilities to see if routers have easy to use passwords or are hackable. Score the various access points that users connect to from Windows and track if end users connected to VPN are doing so from a secure network. A deep asset discovery helps mitigate risks and shadow IT and includes Windows (WMI, SMB, WinRM), SNMP, UPNP, ZeroConf, and SSH.

### End User Simulated Phishing Campaigns:

- Train your associates in the responsible use of Client technology to reduce the probability of business interruptions and/or possible violations due to 3rd party malicious activity.
- Implemented and managed by a professional Security Operations Center (SOC).
- Receive customized on-going monthly phishing campaigns.
- Portal to view how your employees are progressing against their training and simulated phishing campaigns.

### Dark Web Monitoring:

- Continuous dark web monitoring identifies breached data. Limits your risk of external access to systems and networks, which could expose personally identifiable information (PII) that opens the door to convincing phishing attempts.





## STATEMENT OF SERVICES

### MONTHLY RATES

Monthly Items	Qty	Price	Total/Month
<b>Outsourcing (\$150/User)</b>	1	\$11,250.00	\$11,250.00
A user is a full-time or part-time user in the client's environment. Support includes for the servers, routers, firewalls, workstations, laptops and managed switches in a clients environment.			
Support Services as described above include:			
- Client Support Services			
- Management Consulting Services			
- Proactive Support Services			
- Core Security Suite			
- Outsourcing User	75		
- Internet Security, Threat Protection and Web Filtering	75		
- Managed Advanced Persistent Threats Response	75		
- End User Security Training - Monthly Support and Reporting	75		
<b>Outsourcing Discount</b>	1	(\$2,500.00)	(\$2,500.00)
<b>Co-Managed IT Discount</b>	1		
Credit is provided based upon Client staff retaining fulltime IT staff members and serving as first line of defense for all end user generated tickets and resolving Tier1 tickets. Should Client cease to fulfill this responsibility on consistent basis, this credit could be rescinded.			
<b>Advanced Security Suite</b>	1	\$1,500.00	\$1,500.00
Managed NSOC, EEDR, Persistent Vulnerability Scanning, Quarterly Vulnerability Scanning, End User Simulated Phishing Campaigns, Dark Web Monitoring			
- Managed Enhanced Endpoint Detection and Response	50		
- Persistent Vulnerability, Compliance Scanning and Remediation	50		
- Security Information and Events Management	5		
<b>EasyIT Co-Managed IT Tools</b>	1	\$0.0003	\$0.0003
- Streamline IT	1		
- Remote Management and Monitoring	1		

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## STATEMENT OF SERVICES

Monthly Items	Qty	Price	Total/Month
- Online System Documentation	1		
Total Monthly Cost*:			\$10,250.00

\* Users are calculated as the number of people which may need support. That number is derived from Active Directory and/or supported users as defined in the EasyIT helpdesk system. A detailed list of users will be created at the start of this STATEMENT OF SERVICES and updated monthly. The number of users identified at the end of any one month, will be used as the number of supported users in the next billed months' billing.

\*\* Included antivirus, spam or security products are limited to 120% of the quantity of supported users. Additional license bundles may incur an additional per license charge or approximately \$20/user or endpoint/month.

One Time Items	Qty	Price	Ext. Price
Implementation and Transition Project	1	\$7,000.00	\$7,000.00
<ul style="list-style-type: none"> <li>• Implementation of Remote Monitoring and Management (RMM) tools.</li> <li>• Implementation of the Core Security Suite and selected Advanced Security Suite.</li> <li>• Creating a timeline for implementation of best practices.</li> <li>• Documentation of existing systems, vendors and providers.</li> <li>• Documentation of processes for new hires and terminations.</li> <li>• Implementation of the Help Desk to the client's internal IT team.</li> <li>• Transition of support to EasyIT.</li> </ul>			
Subtotal:			\$7,000.00

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## STATEMENT OF SERVICES

### HOURLY RATES

#### PROJECT AND OUT OF SCOPE SERVICES

IT services and support that are outside of the normal maintenance and support described in the support services section of this statement of services are subject to the current years labor rates. An example of support outside of this contract might be an executive's home machine, or any machine that is not covered under this statement of services. For project-based services, EasyIT will define a Scope of Work and submit a quote defining these charges.

Hourly labor rates are subjected to the following:

- Rates will reflect a discount applied as a result of signing a Support Service contract.
- Travel is billed at a rate that is half the applicable service rate.
- All rates are billed in 15 minute (.25 hour) increments except for coordinator services which are billed in 6 minute (.1 hour) increments.
- There is a one hour minimum charge for on-site services.
- On-site services are billed at 25% above applicable rates.
- There is a fifteen minute minimum charge for services that are provided remotely and for Travel.
- After-hours support (Office hours are defined as 8AM to 5PM Monday through Friday, excluding holidays) is billed at 25% above standard business hour rates
- A detailed list of hours billed and tasks accomplished will be provided with each invoice.

### AUTHORIZED EXPENSES

Client allows EasyIT to purchase and directly expense IT related expenses under \$200 (not to exceed \$200 per incident without prior written approval of Client) that are provided at EasyIT's cost for the convenience of the client and to be used in the Client's environment. Examples of these expenses might be things such as mounting brackets, hard drives, power supplies, keyboard, mouse, CAT6 cables, etc.

### IMPLEMENTATION TIME FRAME

The timeline for onboarding and go-live will be determined within 2 business days following the execution of this Statement of Services.

### IMPLEMENTATION AND TRANSITION PROJECTS INCLUDED IN THIS STATEMENT OF SERVICES

Pre-engagement tasks are items that are defined for the stabilization and standardization of the Client's network and server environment. The completion of these items is necessary to ensure the environment is in a state that it can be supported on a fixed-price basis.

*Pre-engagement tasks, should they be necessary, that are included in the price of this statement of services include:*

- Implementation of Remote Monitoring and Management (RMM) tools.
- Implementation of the Core Security Suite.
- Creating a timeline for implementation of best practices.
- Documentation of existing systems, vendors and providers.
- Documentation of processes for new hires and terminations.
- Implementation of the Help Desk to the client's end users.
- Transition of support to EasyIT.

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## STATEMENT OF SERVICES

### EXCLUSIONS TO STATEMENT OF SERVICES FOR FIXED PRICE SERVICES

The following are not covered under standard support services, unless specified otherwise:

1. Pre-engagement tasks and other work performed prior to transition to EasyIT as the primary support provider for Client, does not fall under this maintenance statement of services and is subject to standard hourly rates.
2. Major software upgrades (new releases, new OS's) and replacement of, or the addition of software. EasyIT will provide configuration support (patches, configuration, troubleshooting and working with product vendors) of the Client systems. For example, upgrades to sub-versions/patches will be performed but significant upgrades (require migrations, conversions or significant pre-implementation testing) to new releases will be bid as projects outside of this statement of services.
3. Programmatic changes to applications. (Programmatic changes can be made to custom-developed or third-party systems by the original vendor or the client may contract with EasyIT to make these changes.)
4. Support of users connecting to the Client's Wi-Fi networks with non-Client owned equipment.
5. Unless stated otherwise, EasyIT is not responsible for any associated hardware and software costs.
6. Phone systems configuration changes (mailbox changes, new extensions, etc.) are outside the scope of the statement of services.
7. The labor associated with the addition of new hardware or new software systems.
8. The labor associated with new server implementation, upgrade or replacement.
9. Printer hardware failures. EasyIT will administer printers working on the network, but is not responsible for printer repair.
10. Installation and repair of structured/low voltage cabling.
11. Support of employee home Internet connectivity is excluded from Support Services, and are always supported on an hourly basis, unless otherwise specified in this statement of services.
12. Support of non-domain machines (such as employee home machines), smart devices, cell phones, tablets and 3rd party peripherals (scanners, local printers, smart phones, etc.) unless specifically included in this statement of services.
13. Physical removal/handling of e-waste (retired machines, monitors, etc.) When feasible, this may be done as a courtesy.
14. Upgrade of IT device firmware is not included in this scope of service and there should be no expectation that all IT devices are being kept on the latest firmware.

### TERMS AND CONDITIONS

1. **Managed Services.** All support services on desktops, servers, and networking equipment and any additional unmanaged services that EasyIT provides to Client, including any related support services or documentation we may provide, are collectively referred to in this Agreement as the "Managed Services" or "Services." EasyIT reserves the right to modify the Managed Services at any time and without advance notice.
2. **Term.** The initial term of this Agreement is 36 months, commencing on the date support transitioned. After the initial 36 months, the term of this Agreement will automatically renew for an additional 12-month term as well as upon the end of each 12-month renewal term, unless EasyIT or Client delivers written notice of cancellation and non-renewal to the other in writing at least 90 days prior to the automatic renewal date of the initial or any renewal term. Written notice of cancellation must be provided by certified or registered mail, return receipt requested. This Agreement will be reviewed at least annually to address necessary adjustments or modifications. At each annual review, the per-node rate, per-user rates and project-based services rates may be adjusted by EasyIT to decrease by any amount, or increase by up to the latest CPI or 5%, whichever is greater.
3. **Termination Without Cause.** Client may terminate this Agreement without cause by giving five days written notice to Company via certified or registered mail, return receipt requested, addressed to 4150 Tuller Rd., Suite 234, Dublin, OH 43017. Upon termination without cause Client shall pay EasyIT as liquidated damages an amount equal to the number of months that remain in the then-current term multiplied by the average monthly billing of the previous three full months, or the monthly recurring amount listed on this Statement of Services, whichever amount is higher. Client acknowledges and agrees that such liquidated damages constitute a

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reasonable estimate of the damages that Company will incur as a result of the premature termination of this Agreement without cause. If Client has the right under this Agreement to reduce the level of service in any manner and Client takes advantage of that right, the reduction of service to a level lower than 90% of the original level of service on a monthly-charge basis shall be deemed a termination of this Agreement without cause subject to liquidated damages utilizing the original monthly contract rate. If Client terminates this Agreement without cause, Client shall, within five business days of such termination, pay EasyIT for all previously unbilled work as well as for all outstanding invoices, remove any software provided by EasyIT and return any hardware provided by EasyIT. EasyIT may terminate this Agreement without cause by giving 90 days written notice.

4. **Termination for Cause by Client.** If EasyIT fails to perform any of the services required by this agreement, Client shall provide EasyIT with written notice of the non-performance within three (3) days of Client's discovery of such failure. The written notice shall be clearly identified as a "NonPerformance Notice," shall clearly and specifically identify the alleged non-performance, and shall be delivered certified or registered mail, return receipt requested, to 4150 Tuller Rd, Suite 234, Dublin, OH 43017. EasyIT shall use its best efforts to reasonably cure such failure within thirty (30) days of receipt of the Non-Performance Notice. If EasyIT is unable to cure the alleged non-performance in a reasonably acceptable manner in accordance with reasonable industry standards, Client's sole remedy shall be termination of this Agreement and the reimbursement of any unearned monies paid to EasyIT related to the non-performance of the specified items.
5. **Termination for Cause by EasyIT.** EasyIT may also terminate this Agreement immediately upon notice to Client, (1) if Client has failed to timely make any payment when it is due, (2) if our relationship with a third party partner who provides software or other technology we use to provide the Service Offerings expires, terminates or requires us to change the way we provide the software or other technology as part of the Managed Services, (3) if we believe providing the Managed Services could create a substantial economic or technical burden or material security risk for us, (4) in order to comply with the law or requests of governmental entities, (5) if we determine our provision of any of the Managed Services to Client has become impractical or unfeasible for any legal or regulatory reason, or (6) Client breaches any of the other terms and conditions in this Agreement.

### CONSIDERATIONS

1. **Expiration.** This Statement of Services expires if not accepted by Client within thirty (30) days from receipt.
2. **Technology Stack.** EasyIT limits the variety of hardware, software, tools and technology it supports (the "Technology Stack"). This limitation has allowed EasyIT to develop deep knowledge with respect to these items, which improves our efficiency and reduces the number of technology conflicts, the time it takes to resolve such conflicts, which then reduces the costs of our services to our clients. Furthermore, by partnering with key vendors, EasyIT is able to get preferred levels of support on behalf of our clients. To this end, EasyIT will recommend and quote best of breed, professional quality, hardware, software and tools from major vendors such as Dell, HP, Lenovo, Cisco, Microsoft, Apple and others. Any products purchased independently by the Client that are outside of EasyIT's Technology Stack will be excluded from any Statement of Services and supported on an hourly basis.
3. **Procurement Services.** Procurement, including building the engineering specification, vetting/testing solutions, sourcing, quoting, receiving, handling, warranty and RMA services are a time intensive, skilled task that is necessary in order to ensure that the Client orders and receives the appropriate business class hardware and software. Procurement services are not charged when purchasing occurs through EasyIT. When purchasing through a source other than EasyIT, the solution may work and will be installed per industry specification, but EasyIT is absolved from the normal responsibility of the success of the solution, the time frame for delivery, and may charge for the quoting and procurement services rendered.
4. **Ticket Prioritization.** The following are examples of how tickets are prioritized:
  - o A ticket can be flagged as an 'Emergency' if it prevents a user from performing his or her job and there is no feasible workaround.
  - o All other tickets are considered 'Non-Emergency'.
5. **Smart devices.** Smart devices will be supported to the degree that they are configured correctly to connect to client assets such as the network or email. Carrier network connectivity issues will be supported by the client carrier.
6. **Software Support.** Support of Line of Business (LOB) applications are limited to the their operation on the network and/or the server they reside on. I.E. EasyIT is not an expert on how best to use your LOB applications.





## STATEMENT OF SERVICES

7. **Hardware Support.** Desktop\laptop computers not under manufactures support will only be repaired (hardware repair) on an hourly basis by EasyIT.
8. **Automated Alerts.** Automated alerts (alerts generated through system monitoring) and tickets created through the portal will not page technicians or escalate between the hours of 11 PM to 6AM EST. Any alerts that occur during that time that have not self-healed will begin to escalate after 6 AM EST unless otherwise agreed upon by client and EasyIT.
9. **Minimum Client Environment Technical Specifications.** EasyIT requires the following to keep the Client environment running with minimal interruption and to minimize support efforts.
  - o Desktop\laptop computers should be no more than 5 years old at the time of service. A desktop\laptop more than 5 years old that has a significant issue may receive a recommendation to replace it, instead of repair. Optionally, significant repairs may be performed on an hourly basis. Any hourly repair will first be approved by a Client representative.
  - o Servers and Network equipment must have appropriate power conditioning, battery protection (UPS) and cooling.
  - o A regularly scheduled backup must exist both on and offsite for servers and critical data and MUST use Imaging Technology allowing for full image restore. The technology to create, maintain and restore backups should be from the EasyIT Technology Stack.
  - o The network must have a business class, active firewall with manufacturer support.
  - o Client must maintain hardware support agreements on critical hardware such as servers and network equipment.
  - o Support services resulting from the Client not meeting Minimum Client Technical Specification as listed above may be billable to remediate at EasyIT's discretion. Failure to follow the above specifications releases EasyIT of any liability or detriment to client business related to these factors. Client agrees to comply with the above Minimum Client Technical Specifications and failure to comply will be addressed in a formal plan to remediate by Client.
10. **Minimum Client Security Stance.** As your support provider, EasyIT must enforce a minimum-security standard at all supported Clients. The Client understands that although EasyIT tries to implement currently known best practices, these safeguards are imperfect. Furthermore, without log monitoring via an active managed security information and event management (SIEM) service, EasyIT can only respond to successful attacks and is unlikely to stop an attack that is currently in progress beyond the capability of the defenses we have put in place.
  - o Client must maintain current, managed virus protection software that is compatible with EasyIT's Technology Stack or utilize managed anti-virus provided by EasyIT.
  - o Client will have multi-factor authentication, on all remote access (VPN, RDP, etc.) to the network or LOB applications (including hosted email).
  - o Machines that are NOT corporate owned and managed are not allowed to connect to the Client production network either directly or via VPN. A bring your own device (BYOD) network and a guest network can be created for providing internet access for non-corporate owned devices.
  - o Unless there is no workaround, no user shall have administrative rights on the credentials they use for their daily work.
  - o All machines on the network must have the entire EasyIT Core Security Suite actively running on them.
  - o All Windows machines on the production network will comply with EasyIT local machine policy best practices. Note, best practices are subject to change to evolve with current threat landscape.
  - o All Windows machines (servers, desktops, laptops, etc.) on the production network will have Multi-Factor Authentication (MFA) implemented for administrative access.
  - o All out of support operating systems will be disconnected from the production network.
  - o Client shall maintain an appropriate cybersecurity policy through their insurance carrier.
  - o Client employees that are granted access to the EasyIT toolset (RMM, AV, and other tools) must abide by EasyIT security standards including but not limited to : 1) Utilize individual credentials that they will not share. 2) Utilize dual factor authentication. 3) Agree to access these tools only from company owned, operated and managed workstations.
11. All Client support calls should be channeled through the EasyIT help desk, unless an alternate protocol has been agreed upon by both EasyIT and Client.
12. Client needs to provide direction/instruction/protocols to EasyIT for proper handling of any service interruption and/or issue detected by automated remote monitoring system.
13. The appropriate location at which support work is performed, on the client site or remotely, is at the sole discretion of EasyIT.
14. Any service requests for 'Non-Emergency' ticket items outside normal business hours may be subject to additional charges.
15. Unless specifically addressed in this document, general IT management (Virtual CTO services) are limited to five (5) hours a month.

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## STATEMENT OF SERVICES

16. Client must maintain current licensing for all installed software. EasyIT is not responsible for Client's failure to maintain current licenses. Client will indemnify and defend EasyIT and its parent company, Capital City Consulting, Inc., and their employees, officers, directors, shareholders, agents, representatives, successors and assigns from any and all claims to the extent arising from Client's infringement of the intellectual property rights of any third party.
17. **This statement of services assumes that all equipment (desktops and servers) are initially in good functioning order (i.e., no viruses, no hardware failures, no spyware, etc.). Efforts to bring Client environment up to good functioning order will be billed outside of this statement of services and subject to standard hourly rates and/or be specifically included in the pre-engagement tasks.**
18. Client must use effective Group Policies on an Active Directory domain and/or effective Configuration and Compliance Policies in Microsoft Endpoint Manager as dictated by industry best practices.
19. EasyIT provides patching services for Microsoft products (operating systems, Office, SQL, etc.) and various 3rd party software (Adobe Reader, Flash, Chrome, Java, etc.). It does not have a mechanism to manage the patching of web content management systems, non-Windows Web servers, Linux, etc. These services are performed outside of this agreement.

### STATEMENT OF SERVICES ACCEPTANCE

This Statement of Services is entered into as of the date printed below. The undersigned represents and warrants that they are duly authorized to bind that entity to this Agreement. There are no intended or implied third-party beneficiaries to this agreement.

A signature on this page by an authorized Client representative indicates your acceptance of this Statement of Services and grants EasyIT the right to begin work under this agreement as of \_\_\_\_\_ and begin monthly billing as of \_\_\_\_\_.

IN WITNESS WHEREOF, authorized representatives of Client and EasyIT have executed this Agreement.

**City of Powell  
(Client)**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Capital City Consulting, LLC.  
(EasyIT)**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_



## 2023 HOURLY RATE SHEET

Service Option	Discounted Bill Rate	Normal Bill Rate
Coordinator	\$115/hour	\$130/hour
Desktop Engineer	\$115/hour	\$130/hour
Systems Engineer	\$145/hour	\$160/hour
Project Manager	\$170/hour	\$190/hour
Senior Systems Engineer	\$195/hour	\$220/hour
Systems Architect	\$245/hour	\$285/hour
Virtual CTO Services/Management Consulting	\$275/hour	\$325/hour

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As of November 3, 2022

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**From:** Andrew D. White, City Manager

**To:** Members of the City Council

**Initiated By:** Jeffrey S. Tyler, RA, Assistant City Manager / Community Development Director

**Re:** Resolution 2023-38 – A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH SHYFT COLLECTIVE FOR THE PURPOSE OF PERFORMING PROFESSIONAL DESIGN SERVICES FOR THE LECHLER BUILDING RE-DESIGN PROJECT

**Date:** December 5, 2023

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**Summary:**

Resolution 2023-38 is a request to authorize the City Manager to enter into a professional services agreement for the design services for the Lechler Building Re-Design Project (Project).

On September 4, 2023, the City of Powell (City) issued a request for qualifications (RFQ) for the design services for the Lechler Building Re-Design Project, as part of a qualifications-based selection process. The City received four (4) proposals by the submittal deadline.

The four (4) proposals submitted by SHYFT Collective., Horne & King Architects, Triad Architects and WSA were then reviewed and scored by the selection committee. Two (2) of the candidates were brought in to conduct in-person interviews; SHYFT Collective and Horne and King Architects. After careful consideration, the committee unanimously determined that SHYFT Collective was the preferred consultant for the Project.

SHYFT Collective has performed design services for similar projects of scope and is well-staffed to complete this project and we would expect that they would provide excellent service to the City. SHYFT Collective has also assembled an impressive team that will look at both the site and building design for the project. Staff re-iterated that this site is an important gateway into the City and therefore must be handled with great sensitivity.

The qualifications-based selection process allowed staff to identify the best qualified firm for the project without basing the selection solely on the cost of service. Staff was able to negotiate a fair price that is well within the budgeted cost as established in the 2024-28 CIP Budget.

Approving this resolution is intended to enhance the quality of life in Powell through the continued investment in maintaining the existing City infrastructure, providing for transportation safety, equity, mobility, accessibility, connectivity, sustainability, resiliency, public health, and economic vitality.

**Legal Review:**

The Law Director's office has reviewed and will approve as to form the final professional services agreement.

**Financial Review:**

The Finance Director has reviewed the resolution and supports the recommendation. Resources appropriated in the Capital Projects (491) Fund are in the process of being encumbered.

**Recommendation:**

Staff recommends approval of Resolution 2023-38



**RESOLUTION 2023-38**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH SHYFT COLLECTIVE. FOR THE PURPOSE OF PERFORMING PROFESSIONAL DESIGN SERVICES FOR THE LECHLER BUILDING RE-DESIGN PROJECT.**

**WHEREAS,** the City of Powell Council hereby determines it is in the best interest of the City to design the site and building improvements for the Lechler Building located at 453 Murphy Parkway; and

**WHEREAS,** Council desires to authorize the City Manager to enter into such an agreement with SHYFT Collective.; and

**NOW THEREFORE BE IT RESOLVED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO AS FOLLOWS:**

Section 1: That the City Manager is hereby authorized and directed to enter into a professional services agreement with SHYFT Collective., in a form acceptable to the Director of Law and in a contract amount of approximately \$146,600.00 for professional design services related to the design of the Lechler Building Re-Design Project.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of Council and that all deliberations of Council and any of the decision-making bodies of the City of Powell, which resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: This Resolution shall be in full force and effect immediately upon adoption.

\_\_\_\_\_  
Daniel Swartwout                      Date  
Mayor

\_\_\_\_\_  
Elaine McCloskey                      Date  
City Clerk

**EFFECTIVE DATE:** December 5, 2023

This legislation has been posted in accordance with  
the City Charter on this date \_\_\_\_\_.  
\_\_\_\_\_ City Clerk

## **PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement ("Agreement") is made and entered into and effective on this \_\_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date") by and between the City of Powell, Ohio ("Powell"), an Ohio Municipal Corporation, with offices located at located at 47 Hall Street, Powell, Ohio 43065 and SHYFT Collective ("Service Provider"), with a mailing address at 15 E. Gay Street, Suite 2A, Columbus, Ohio 43215

### **Recitals**

WHEREAS, Powell desires to engage Service Provider to perform the services as more fully described in the attached Exhibit A (the "Services"); and

WHEREAS, Service Provider desires to perform the Services and desires to be so engaged.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements herein contained, the parties, intending to be legally bound, agree as follows:

### **Provisions**

#### **I. Performance of the Services.** Service Provider shall:

- A. Perform the Services as set forth in the attached Exhibit A, which generally includes on-call, as-needed professional services.
- B. If the Service Provider is an individual, complete, sign and return the Ohio Public Employees Retirement System ("OPERS") Independent Contractor Acknowledgement Form.
- C. Give prompt notice to Powell should the Service Provider observe or otherwise become aware of any fault or deficit in the project or task, or any nonconformance with the Agreement.
- D. Remit to Powell after the termination of this Agreement, all files and documents pertaining to the project that have been obtained or produced including, but not limited to, permits, licenses, applications, codes, drawings, site plans, photographs, and similar materials. Service Provider shall be entitled to retain copies for the Service Provider's files.

#### **II. Obligations of Powell.** Powell shall:

- A. Assist the Service Provider by placing at its disposal all available information pertinent to the Services.
- B. Use its best efforts to secure release of other data applicable to the Services required of the Service Provider which may be held by others.

- C. Make all necessary provisions to enter upon public and private property as required to perform the Services.
- D. Give prompt notice to the Service Provider should Powell observe or otherwise become aware of any fault or deficit in the project or any nonconformance with the Agreement.

**III. Term and Termination.** The Agreement shall commence on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_, and shall terminate on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_. Powell may terminate this Agreement at any time by giving Service Provider thirty (30) days advance written notice. In the event this Agreement is terminated by Powell prior to its natural expiration, Service Provider shall be paid the amounts for work actually performed in accordance with this Agreement to the date of this early termination.

**IV. Payment.**

- A. Service Provider shall be compensated for its Services consistent with the rates identified in Exhibit B. The total compensation for the Services shall not exceed \_\_\_\_\_ without further approval.
- B. The Service Provider shall invoice Powell monthly for services rendered through the previous month and Powell agrees to pay within thirty (30) days of receipt of a valid invoice. A valid invoice shall consist of a description of work performed, as well as an itemization of all reimbursable expenses which must be documented with copies of receipts whenever possible. All invoices must include the contract number and the purchase order number of this contract which is located in the upper right-hand corner of the first page of this document.

**V. Relationship of the Parties.** The parties acknowledge and agree that Service Provider is an independent contractor and is not an agent or employee of Powell. Nothing in this Agreement shall be construed to create a relationship between Service Provider and Powell of a partnership, association, or joint venture. Further, the parties acknowledge that Service Provider is paid a fee, retainer or other payment as per Section IV of this Agreement; is not eligible for workers' compensation or unemployment compensation; is not eligible for employee fringe benefits such as vacation or sick leave; does not appear on Powell's payroll; is required to provide his or her own supplies and equipment; and is not controlled or supervised by Powell personnel as to the manner of work.

**VI. Indemnification.**

- A. Professional Liability. Relative to the extent, losses, damages, liability and cost, the Service Provider agrees to indemnify and save Powell, its officers, officials, and employees harmless from and against any and all suits, actions or claims for



property losses, damages or personal injury arising from the negligent acts, errors or omissions by the Service Provider or its employees.

- B. Non-Professional Liability (General Liability). To the fullest extent permitted by law, the Service Provider shall indemnify, defend and hold harmless Powell, its officers, officials, employees or any combination thereof, from and against claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of the acts or omissions of the Service Provider, provided that such claim, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused by the negligent acts or omissions of the Service Provider, any subconsultant(s) of the Service Provider, its agents, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

## **VII. Insurance.**

- A. The Service Provider shall secure and maintain, at his/her/its own expense, errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim/annual aggregate to protect himself from any claim arising out of the performance of professional services and caused by negligent acts, omissions or negligent acts for which the Service Provider may be legally negligent. The Service Provider shall maintain said coverage for the entire contract period and for a minimum of one year after completion of the work under the contract.
- B. In addition to errors and omissions insurance, the Service Provider shall also secure and maintain, at its own expense, insurance for protection from claims under Worker's Compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and any other insurance prescribed by laws, rules, regulations, ordinances, codes or orders.
- C. The Service Provider shall secure and maintain, at its own expense, General Liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- D. The Service Provider shall secure and maintain, at its own expense, Property insurance for protection from claims or damages because of damage to or destruction of property including loss of use resulting therefrom in an amount not less than Five Hundred Thousand Dollars (\$500,000.00).

- E. Powell shall be held harmless for any damage to the Service Provider's property and/or equipment during the course of performance under the Contract.
- F. The above referenced insurance shall be maintained in full force and effect during the life of this Contract and for one year beyond, where specified. Certificates showing that the Service Provider is carrying the above referenced insurance in at least the above specified minimum amounts shall be furnished to, and approved by, Powell prior to the start of work on the project and before Powell is obligated to make any payments to the Service Provider for the work performed under the provision of this contract. All such Certificates, with the exception of those for Worker's Compensation and Errors & Omissions coverage, shall clearly reflect that the City of Powell is an "Additional Insured".

**VIII. Employee Documentation**

- A. Service Provider guarantees that the individuals employed by the Service working on this project are authorized to work in the United States. The Service Provider will upon demand provide Powell with appropriate documentation (Form I-9) for any Service Provider employee performing services for Powell.
- B. The Service Provider agrees to indemnify Powell in accordance with Section VI of the Agreement for any issue arising out of the Service Provider's hiring or retention of any individual who is not authorized to work in the United States.

**IX. Taxes.**

- A. Service Provider has the following identification number for income tax purposes:  
\_\_\_\_\_.
- B. Service Provider is subject to and responsible for all applicable federal, state, and local taxes.
- C. Powell represents that it is a tax-exempt entity and evidence of this tax-exempt status shall be provided to Service Provider upon written request. Service Provider hereby further agrees to withhold all municipal income taxes due or payable under the provisions of the Codified Ordinances of Powell, Ohio, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such municipal income taxes due under such chapter for Services performed under this Agreement.
- D. The Service Provider shall receive Internal Revenue Service form 1099 from Powell for income tax reporting purposes.

**X. Assignment.** Neither party may assign this Agreement without obtaining express, written consent from the other party prior to assignment.

**XI. Entire Agreement / Amendment.** This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior

negotiations, discussions, undertakings and agreements between the parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the parties hereto. It is understood and agreed that this Agreement may not be changed, modified, or altered except by an instrument, in writing, signed by both parties in accordance with the laws of the State of Ohio. If there is any conflict between this Agreement and any term, condition, or item in the attached Exhibit A, the term in this Agreement shall control.

**XII. Discrimination.**

- A. No discrimination for reason of race, color, national origin, religion, sex, genetic information, pregnancy, age, ancestry, military status, sexual orientation, gender identity, marital status, veteran's status, or disability shall be permitted or authorized by Powell and/or Service Provider in connection with the Services.
- B. Nothing in this Agreement shall require the commission of any act contrary to any law or any rules or regulations of any union, guild, or similar body having jurisdiction over the Services of Service Provider.

**XIII. Governing Law/Venue.** Any controversy or claim, whether based upon contract, statute, tort, fraud, misrepresentation, or other legal theory, related directly or indirectly to this Agreement, whether between the parties, or of any of the parties' employees, agents, or affiliated businesses, will be resolved under the laws of the State of Ohio, in any court of competent jurisdiction in Delaware County, Ohio.

**XIV. Severability.** If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid, mutually agreeable and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.

**XV. Paragraph Headings.** Paragraph headings are inserted in this Agreement for convenience only and are not to be used in interpreting this Agreement.

[signatures appear on following page]

**BY SIGNING THIS AGREEMENT, YOU HEREBY ACKNOWLEDGE THAT YOU HAVE BEEN INFORMED THAT THE CITY OF POWELL, OHIO HAS CLASSIFIED YOU AS AN INDEPENDENT CONTRACTOR AND THAT YOU HAVE BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON YOUR BEHALF FOR THESE SERVICES.**

**FURTHER, BY SIGNING THIS AGREEMENT, YOU HEREBY ACKNOWLEDGE THAT THE CITY OF POWELL, OHIO HAS IN NO WAY LIMITED OR RESTRICTED YOUR RIGHT TO PROVIDE THE AGREED-TO SERVICES TO THE GENERAL PUBLIC AND THAT YOU REGULARLY PROVIDE SUCH SERVICES TO THE GENERAL PUBLIC.**

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF POWELL, OHIO**

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Andrew White, City Manager

**SHYFT COLLECTIVE**

BY: \_\_\_\_\_ Date \_\_\_\_\_

Approved as to Form:

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Yazan S. Ashrawi, Law Director

**CERTIFICATION OF FUNDS**

I hereby certify that the above amount required to the above, has been lawfully appropriated, authorized, or directed for such purposes and is in Treasury or in the process of collection to credit of the above funds free from obligation or certification now outstanding.

BY: \_\_\_\_\_  
Rosa Ocheltree, Director of Finance

Date: \_\_\_\_\_



OFFICE OF THE CITY MANAGER

47 Hall Street | Powell, OH 43065 | 614.885.5380 | [cityofpowell.us](http://cityofpowell.us)

MEMO

**From:** Andy White, City Manager  
**To:** Members of City Council  
**Initiated By:** Yazan S. Ashrawi, Law Director  
**Re:** Resolution 2023-39  
**Date:** December 5, 2023

**Summary:**

Horsepower Farms, LLC own approximately 6.357+/- acres located at 7560 Steitz Road, Powell, Ohio 43065, and desires annexation into the City of Powell. Horsepower Farms submitted its annexation petition with Delaware County on November 15, 2023, which then requires the City to consider and adopt a resolution indicating what services it will provide the property should the property successfully annex into the City. This Resolution does not approve the annexation, nor does it require the City to approve the annexation. The City's approval or rejection of the proposed annexation will come back to Council later. The adoption of this Resolution is a statutory requirement in the annexation process.

**Legal Review:**

The Law Director's office prepared the Resolution, which is required to be adopted by the City.

**Finance Review:**

The Finance Director has reviewed the resolution and supports the recommendation.

**Recommendation:**

Staff recommends approval of Resolution 2023-39.



## RESOLUTION 2023-39

**A RESOLUTION INDICATING WHAT SERVICES THE CITY OF POWELL WILL PROVIDE 6.357+/-ACRES OF LAND, LOCATED IN LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO, IF SAID PROPERTY IS HEREAFTER ANNEXED TO THE CITY OF POWELL, OHIO AND TO PROVIDE FOR BUFFER REQUIREMENTS.**

**WHEREAS**, on November 15, 2023, pursuant to Ohio Revised Code Sections 709.02 through 709.11, Donald T. Plank, as agent for the property owner Horsepower Farms, LLC, filed a Petition with the Delaware County Commissioners seeking annexation of 6.357+/- acres, along West Olentangy Street, contiguous to the City of Powell, a copy of which is attached hereto as Exhibit "A," notice of which will be duly served upon the City of Powell as prescribed by law; and

**WHEREAS**, Ohio Revised Code Section 709.023(C) provides that within twenty (20) days after the date that the petition is filed, the municipal corporation to which annexation is sought shall adopt a resolution stating what services the municipal corporation will provide to the territory seeking annexation and an approximate date by which it will provide those services should the municipal corporation annex the territory; and

**WHEREAS**, Ohio Revised Code Section 709.023(C) also provides that within that same twenty (20) days period, a municipal corporation shall adopt a resolution stating that if the territory is annexed and becomes subject to zoning by the municipal corporation and that if the municipal corporation's zoning permits uses in the annexed territory that the municipal corporation determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining in the township from which the territory was annexed, the municipal corporation shall require, in the zoning ordinance permitting the incompatible uses, the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township.

**NOW THEREFORE BE IT RESOLVED BY THE CITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:**

Section 1: That upon annexation to the City of Powell of the 6.357 acres located along West Olentangy Street owned by Horsepower Farms, LLC, and described and delineated on the attached Exhibit "A" the City will provide the full range of available municipal services consistent with those services available to the existing residents of, and to the property within, the City of Powell, including but not limited to police protection, street maintenance, refuse collections via private contract, planning and zoning, and parks and recreation, all of which can be provided immediately upon the effective date of the annexation as provided by law. Should it be determined that as a result of the annexation, the boundary line between the township and the City divides or segments a street or highway so as to create a road maintenance problem for the Village, as a condition of annexation, the City shall assume the maintenance of that street or highway or otherwise correct the problem.



Section 2: If the Property is annexed and becomes subject to the City of Powell zoning and the City zoning permits uses in the annexed territory that the City determines are clearly incompatible with the uses permitted under applicable county or township zoning regulations in effect at the time of filing of the petition on the land adjacent to the annexed territory remaining in the unincorporated area of the Township, then the City will require the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township.

Section 3: The Clerk of Council is hereby directed to forward and file certified copies of this Resolution with the Delaware County Board of Commissioners immediately upon execution and to furnish a copy to the Agent for Petitioner for the annexation to insure the statutory requirement is met within twenty (20) days following the date that the petition was filed.

Section 4: This Resolution shall be in full force and effect immediately upon adoption.

Daniel Swartwout Mayor	Date
---------------------------	------

Elaine McCloskey  
City Clerk

**EFFECTIVE DATE:** December 5, 2023

This legislation has been posted in accordance with the  
City Charter on this date \_\_\_\_\_ City  
Clerk \_\_\_\_\_

**PETITION FOR ANNEXATION  
OF 6.357 ACRES  
FROM LIBERTY TOWNSHIP IN DELAWARE COUNTY  
TO THE CITY OF POWELL, OHIO  
UTILIZING THE SPECIAL PROCEDURE OF R.C. SECTION 709.023 ET SEQ.**

**TO: THE BOARD OF COUNTY COMMISSIONERS OF  
DELAWARE COUNTY, OHIO**

RECEIVED  
2023 NOV 15 PM 12:07  
DELAWARE COUNTY  
COMMISSIONERS

Now comes the undersigned petitioner, being one hundred percent (100%) of the owners of certain property as hereinafter described, and requests that their property be annexed to the City of Powell, Ohio. The territory proposed for annexation contains 6.357 acres in Liberty Township, Delaware County and is contiguous to the boundary of the City of Powell, Ohio, for five percent (5%) or more of the perimeter of the territory proposed for annexation. The undersigned understands the territory will not be excluded from the township.

An accurate description of the perimeter of the territory sought to be annexed and a map or plat of the above-described territory sought to be annexed is attached hereto and made a part hereof as Exhibit "A" and Exhibit "B".

The annexation will not create an unincorporated area of township that is completely surrounded by the territory proposed for annexation.

There is no annexation agreement between the municipality and the township pursuant to R.C. §709.192 applicable to this annexation or an applicable Cooperative Economic Development Agreement (C.E.D.A.) pursuant to R.C. §701.07.

The number of owners in the territory sought to be annexed is one (1) and the number of owners who signed the petition is one (1).

The owner who signs this petition by their signature expressly waives their right to appeal in law or equity from the board of county commissioners' entry of any resolution passed under R.C. §709.023 and waive any rights they may have to sue on any issue relating to a municipal corporation requiring a buffer as provided in R.C. §709.023 and further waive any rights to seek a variance that would relieve or exempt them from that buffer requirement.

Donald T. Plank, Plank Law Firm, LPA, 411 East Town St., 2<sup>nd</sup> Floor, Columbus, Ohio 43215, (614) 947-8600, is hereby appointed agent for the undersigned petitioner, as required by R.C. §709.02. Amendments to correct any discrepancy or mistake noted by the county engineer or others in their examination of the map, plat or description may be made by the presentation of an amended map or plat and description to the Delaware County Board of County Commissioners on, before or after the date set for hearing of this petition unless otherwise specified by law.

**“WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY FROM THE BOARD OF COUNTY COMMISSIONERS’ ENTRY OF ANY RESOLUTION PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE.”**

NAMEADDRESSDATE

Horsepower Farms, LLC

356 West Olentangy Street  
Powell, Ohio 4306510/27/23

By: \_\_\_\_\_

*[Signature]* member Horsepower Farms, LLC

Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

*Howard R. Vance*

**Proposed Type 2 (O.R.C. 709.023)  
Annexation of 6.357 Acres  
In Liberty Township, Delaware County, Ohio  
To The City of Powell, Ohio**

Situated in the State of Ohio, County of Delaware, Township of Liberty, being located in Farm Lot 13 and Farm Lot 14, Section 2, Township 3, Range 19, United States Military Lands and further being all of that 6.357 acre tract of land as conveyed to Horsepower Farms, LLC by deed of record in Official Record Volume 2012, Page 1384, said 6.357 acre tract being more particularly bounded and described as follows. All references to records are on file in the Recorder's Office, Delaware County, Ohio:

**COMMENCING**, at the intersection of the centerline of Home Road (C.R. 124) having a variable width Right of Way with the centerline of Steitz Road (T.R.125) having a variable width Right of Way;

Thence along the centerline of said Steitz Road, bearing South  $03^{\circ}47'10''$  West, a distance of 540.83 feet to a point thereon, said point also being the Southeast corner of a 1.397 acre tract of land as conveyed to Jefferey W. Reese and Judy A. Reese by deed of record in Deed Book 552, Page 292, and the **TRUE PLACE OF BEGINNING** for said 6.357 acre tract herein to be described;

Thence continuing along the centerline of said Steitz Road, bearing South  $03^{\circ}47'10''$  West, a distance of 60.00 feet to a point thereon, said point also being the Northeast corner of a 1.10 acre tract of land as conveyed to Linda L. Franz by deed of record in Deed Book 538, Page 797 and Official Record Volume 1206, Page 1593;

Thence along the Northern line of said 1.10 acre tract, bearing North  $86^{\circ}12'50''$  West, a distance of 320.40 feet to the Northwest corner thereof;

Thence along the Western line of said 1.10 acre tract, bearing South  $03^{\circ}47'10''$  West, a distance of 150.00 feet to the Southwest corner thereof, the same being a point in the Northern line of that 2.500 acre tract of land as conveyed to Tamera K. Canegali by deed of record in Official Record Volume 1191, Page 506;

Thence along the Northern line of said 2.500 acre tract, bearing North  $86^{\circ}12'50''$  West, a distance of 160.43 feet to the Northwest corner thereof;

Thence along the Western line of said 2.500 acre tract and the Southerly prolongation thereof, bearing South  $03^{\circ}47'10''$  West, a distance of 452.97 feet to a point in the Northern line of that 2.000 acre tract of land as conveyed to Steven Dzikowski and Denise L. Dzikowski by deed of record in Official Record Volume 1133, Page 715;

Thence along the Northern line of said 2.500 acre tract and the Northern line of that 6.008 acre tract of land as conveyed to Brandon D. Cook and Jill C. Cook by deed of record in Official Record Volume 1143, Page 2856, bearing North  $86^{\circ}12'50''$  West, a distance of 466.18 feet to the Northwest corner of said 6.008 acre tract, the same being a point in the Eastern line that Reserve "C" of The Reserve at Scioto Glenn Phase 3 Subdivision of record in Official Record Volume 1477, Page 1443-1444;

Thence along the Eastern line of said Reserve "C" and the Northerly prolongation thereof, bearing North  $03^{\circ}48'39''$  East, a distance of 512.97 feet to the Southwest corner of Horsepower Farms Condominium Phase 1, Amendment 4 of record in Official Record Volume 1982, Pages 282 – 284;

Thence along the Southern line of said Horsepower Farms Condominium Phase 1, Amendment 4 and the Easterly prolongation thereof, bearing South  $86^{\circ}12'50''$  East, a distance of 566.39 feet to the Southeast corner of Horsepower Farms Condominium Phase 1, Amendment 5 of record in Official Record Volume 1982, Pages 1057 – 1061;

Thence along an Easterly line of said Horsepower Farms Condominium Phase 1, Amendment 5, bearing North  $03^{\circ}47'10''$  East, a distance of 150.00 feet to an angle point;

Thence along a Southerly line of said Horsepower Farms Condominium Phase 1, Amendment 5 and the Southern line of said 1.397 acre tract, bearing South  $86^{\circ}12'50''$  East, a distance of 380.40 feet to a point in the centerline of said Steitz Road and the **TRUE PLACE OF BEGINNING**, containing 6.357 acre, more or less.

**Basis of Bearings:** Bearings shown hereon are based on the bearing of South  $03^{\circ}47'10''$  East for the centerline of Steitz Road.

This description is based on information of record and is for Annexation purposes only and is not to be used for transfer of property, it has been prepared by Rolling & Hovevar, Inc. under the direct supervision of Andrew G. Planet, Registered Professional Surveyor Number 7802.

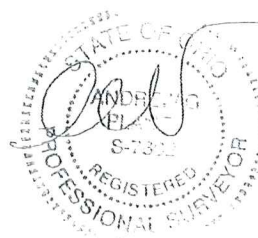
Rolling & Hocevar, Inc.



Andrew G. Planet, P.S.  
Professional Surveyor No. 7802

8-31-2023

Date



- 1289.36 feet of total boundary is contiguous to The City of Powell;
- 3219.74 feet is the perimeter of territory to be annexed;
- 40.05% of the perimeter is contiguous to The City of Powell;
- Total acreage to be annexed is 6.357 acres;
- 60.00 feet of Township Road (Steitz Road) is affected by this annexation;
- 0 feet of County Road is affected by this annexation;

DELAWARE COUNTY ENGINEER  
Map Department

I hereby certify the within to be a true  
copy of the original on file in the Map Department.



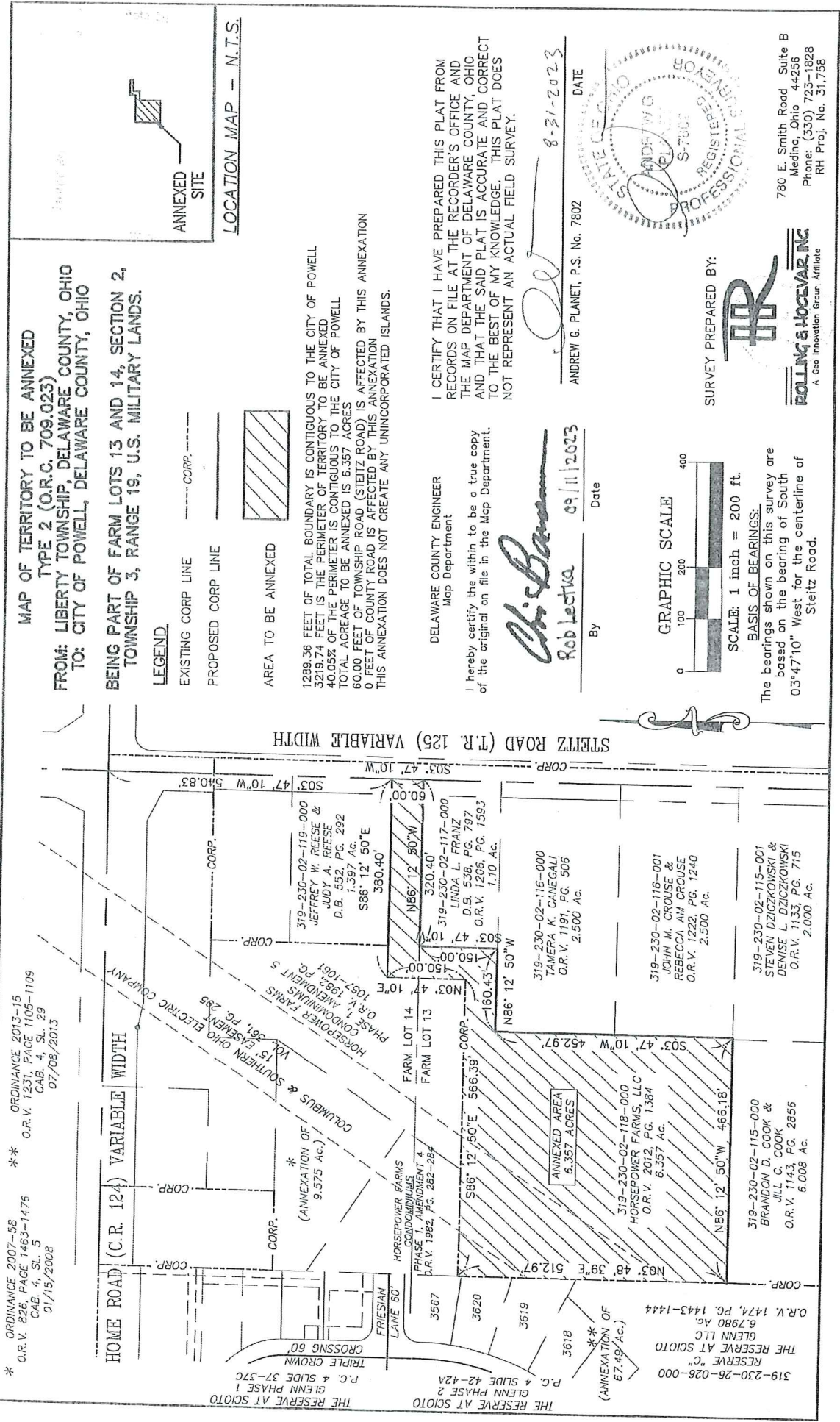
By: Rob Lectka

Date: 09/11/2023



\* ORDINANCE 2007-58  
O.R.V. 826, PAGE 1463-1476  
CAB. 4, SL. 5  
01/15/2008

\*\* ORDINANCE 2013-15  
O.R.V. 1231, PAGE 1105-1109  
CAB. 4, SL. 29  
07/08/2013



MAP OF TERRITORY TO BE ANNEXED  
TYPE 2 (O.R.C. 709.023)  
FROM: LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO  
TO: CITY OF POWELL, DELAWARE COUNTY, OHIO  
BEING PART OF FARM LOTS 13 AND 14, SECTION 2,  
TOWNSHIP 3, RANGE 19, U.S. MILITARY LANDS.

LEGEND  
EXISTING CORP LINE --- CORP.  
PROPOSED CORP LINE ---  
AREA TO BE ANNEXED

1289.36 FEET OF TOTAL BOUNDARY IS CONTIGUOUS TO THE CITY OF POWELL  
3219.74 FEET IS THE PERIMETER OF TERRITORY TO BE ANNEXED  
40.05% OF THE PERIMETER IS CONTIGUOUS TO THE CITY OF POWELL  
TOTAL ACREAGE TO BE ANNEXED IS 6.357 ACRES  
60.00 FEET OF TOWNSHIP ROAD (STEITZ ROAD) IS AFFECTED BY THIS ANNEXATION  
0 FEET OF COUNTY ROAD IS AFFECTED BY THIS ANNEXATION  
THIS ANNEXATION DOES NOT CREATE ANY UNINCORPORATED ISLANDS.

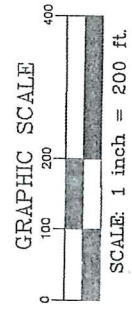
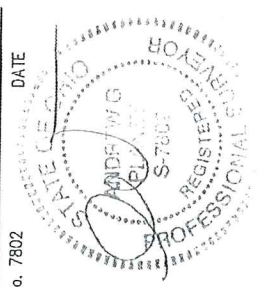
DELAWARE COUNTY ENGINEER  
Map Department

I hereby certify the within to be a true copy  
of the original on file in the Map Department.

By *Rob Lettva* 09/11/2023  
Date

I CERTIFY THAT I HAVE PREPARED THIS PLAT FROM  
RECORDS ON FILE AT THE RECORDER'S OFFICE AND  
THE MAP DEPARTMENT OF DELAWARE COUNTY, OHIO  
AND THAT THE SAID PLAT IS ACCURATE AND CORRECT  
TO THE BEST OF MY KNOWLEDGE. THIS PLAT DOES  
NOT REPRESENT AN ACTUAL FIELD SURVEY.

*Andrew G. Planet*  
ANDREW G. PLANET, P.S. No. 7802  
DATE 8-31-2023



SCALE: 1 inch = 200 ft.  
BASIS OF BEARINGS:  
The bearings shown on this survey are  
based on the bearing of South  
03°47'10" West for the centerline of  
Steitz Road.

SURVEY PREPARED BY:



**ROLLING & HOCKLEY, INC.**  
A Geo Innovation Group Affiliate  
780 E. Smith Road Suite B  
Meding, Ohio 44256  
Phone: (330) 723-1828  
RH Proj. No. 31,758

LOCATION MAP - N.T.S.

ANNEXED  
SITE



Parcel ID #	Owner Name	Owner Tax Mailing Address	Owner Mailing Address	Property Address or Site Address
319-230-02-118-000	Horsepower Farms LLC	356 West Olentangy Street, Powell, Ohio 43065	7560 Steitz Road, Powell, Ohio 43065	7560 Steitz Road, Powell, Ohio 43065
319-230-02-001-528	James L. Beeson	5873 Willow Bend Lane, Westerville, Ohio 43082	4301 Home Road, Powell, Ohio 43065	4301 Home Road, Unit 4A, Powell, Ohio 43065
319-230-02-001-550	6E LLC	Post Office Box 70, Gladwyn, Pennsylvania 19035	4301 Home Road, Powell, Ohio 43065	4301 Home Road, Unit 6E, Powell, Ohio 43065
319-230-02-119-000	Jeffrey W. & Judy Reese	Wells Fargo - N/A (Mortgage)	7540 Steitz Road, Powell, Ohio 43065	7540 Steitz Road, Powell, Ohio 43065
319-240-10-001-000	Golf Village Property Owners Association	3755 Attucks Drive, Powell, Ohio 43065	Hickory Rock Drive, Powell, Ohio 43065	Hickory Rock Drive, Powell, Ohio 43065
319-230-02-117-000	Linda L. Franz	Corelogics - N/A (Mortgage)	7570 Steitz Road, Powell, Ohio 43065	7570 Steitz Road, Powell, Ohio 43065
319-230-02-116-000	Tamera K. Canegali	7620 Steitz Road, Powell, Ohio 43065	7620 Steitz Road, Powell, Ohio 43065	7620 Steitz Road, Powell, Ohio 43065
319-230-02-116-001	John M. & Rebecca AM Crouse	7648 Steitz Road, Powell, Ohio 43065	7648 Steitz Road, Powell, Ohio 43065	7648 Steitz Road, Powell, Ohio 43065
319-230-02-115-001	Steven & Denise L. Dzickowski	7690 Steitz Road, Powell, Ohio 43065	7690 Steitz Road, Powell, Ohio 43065	7690 Steitz Road, Powell, Ohio 43065
319-230-02-115-000	Brandon D. & Jill C. Cook	7700 Steitz Road, Powell, Ohio 43065	7700 Steitz Road, Powell, Ohio 43065	7700 Steitz Road, Powell, Ohio 43065
319-230-26-026-000	The Reserve at Scioto Glenn LLC	3755 Attucks Drive, Powell, Ohio 43065	Bachman Drive, Powell, Ohio 43065	Bachman Drive, Powell, Ohio 43065
319-230-26-003-000	Erik J. & Catherine A. Hohler	Letera - N/A (Mortgage)	2571 Triple Crown Xing, Powell, Ohio 43065	2571 Triple Crown Xing, Powell, Ohio 43065
319-230-26-002-000	James R. & Nancy B. Staack	2587 Triple Crown Xing, Powell, Ohio 43065	2587 Triple Crown Xing, Powell, Ohio 43065	2587 Triple Crown Xing, Powell, Ohio 43065
319-230-26-001-000	Jayur S. & Priya J. Patel	Corelogics - N/A (Mortgage)	2594 Triple Crown Xing, Powell, Ohio 43065	2594 Triple Crown Xing, Powell, Ohio 43065

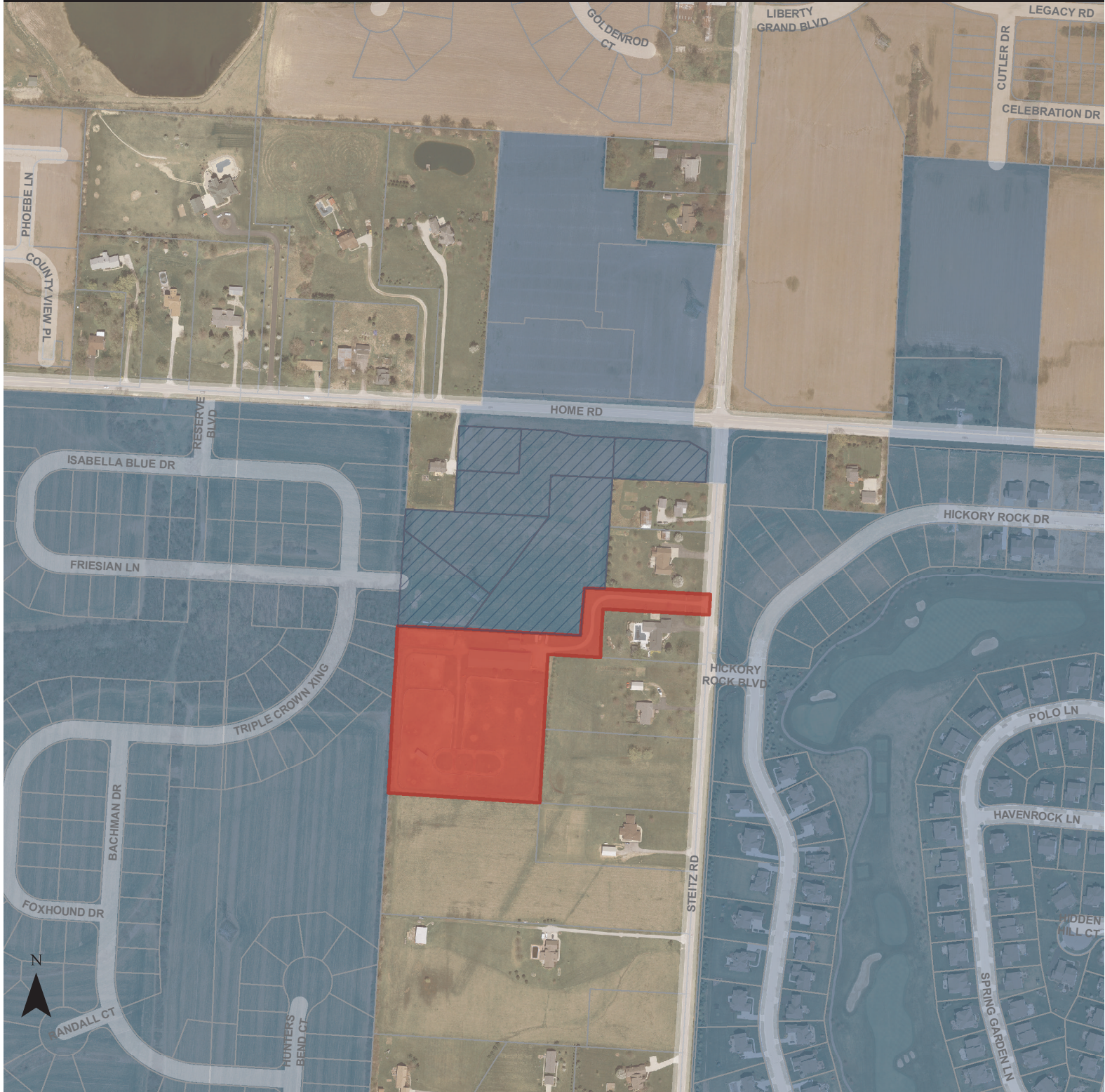








# Horsepower Farms

Community Development Department | 47 Hall St, Powell, Ohio 43065 | [cityofpowell.us](http://cityofpowell.us)

Created 11.30.2023



-  Powell Boundary
-  Parcels
-  Existing Horsepower Farms Parcels
-  Proposed Annexation

0 180 360 720 Feet

#### Sources:

1. City of Powell, Development Department
2. City of Powell Codified Ordinances, Resolutions and Record of Proceeding



OFFICE OF THE CITY MANAGER

47 Hall Street | Powell, OH 43065 | 614.885.5380 | cityofpowell.us

MEMO

**From:** Andy White, City Manager

**To:** Members of City Council

**Initiated By:** D. Grant Crawford, Director of Public Service

**Re:** Resolution 2023-40 Authorizing the City Manager to enter into a Network Access Agreement with the Delaware County Board of Commissioners and Delaware County Automatic Data Processing Board for IT network access to the Central Traffic Signal System (CTSS)

**Date:** December 5, 2023

**Summary:**

The City of Powell entered into an intergovernmental agreement with Delaware County in 2021 (ORD 2021-02) for the inclusion of the City of Powell traffic Signals on Sawmill Parkway into the regionalized traffic signal system (CTSS). The agreement established a cooperative agreement whereby Delaware County would manage the traffic flow of the corridor in the CTSS.

The City of Powell is seeking to access the CTSS to provide oversight and maintenance of our traffic signals. Access to CTSSS will also allow us to manage any other signals the City connects to the CTSSS but is not part of the Sawmill Parkway Regionalized Signal Management.

In order to utilize the CTSS System, Delaware County and the City of Powell need to execute a Network Access Agreement that provides the City of Powell access to the Delaware County IT Network. The Network Access Agreement allows us to fully utilize the services contemplated in the original agreement.

We are respectfully requesting an Ordinance authorizing the City Manager to execute a Network Access Agreement with Delaware County.

**Legal Review:**

The Law Department has reviewed the agreement and approved as to form.

**Finance Review:**

Finance Director has reviewed and there is no financial impact.

**Recommendation:**

Staff recommends approval of resolution 2023-40.





**RESOLUTION 2023- 40**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NETWORK ACCESS AGREEMENT WITH THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND DELAWARE COUNTY AUTOMATIC DATA PROCESSING BOARD FOR IT NETWORK ACCESS TO THE CENTRAL TRAFFIC SIGNAL SYSTEM (CTSS).**

**WHEREAS,** The City of Powell entered into an intergovernmental agreement with Delaware County in 2021 (ORD 2021-02) for the inclusion of the City of Powell traffic Signals on Sawmill Parkway into the regionalized traffic signal system (CTSS).; and

**WHEREAS,** In order to utilize the CTSS System, Delaware County and the City of Powell need to execute a Network Access Agreement that provides the City of Powell access to the Delaware County IT Network. The Network Access Agreement allows us to fully utilize the services contemplated in the original agreement; and

**NOW THEREFORE BE IT RESOLVED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO, AS FOLLOWS:**

Section 1: That the City Manager is hereby authorized and directed to enter into a network access agreement with the Delaware County Board of Commissioners and Delaware County Automatic Data Processing Board for IT network access to the Central Traffic Signal System (CTSS).

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of Council and that all deliberations of Council and any of the decision-making bodies of the City of Powell, which resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: This Resolution shall be in full force and effect immediately upon adoption.

\_\_\_\_\_  
Daniel Swartwout                      Date  
Mayor

\_\_\_\_\_  
Elaine McCloskey                      Date  
City Clerk

**EFFECTIVE DATE:**     **December 5, 2023**

This legislation has been posted in accordance with  
the City Charter on this date \_\_\_\_\_ .  
\_\_\_\_\_  
City Clerk

## **NETWORK ACCESS AGREEMENT**

**THIS NETWORK ACCESS AGREEMENT** (the “**Agreement**”) is made and entered into as of \_\_\_\_\_, by and between the **Delaware County Board of Commissioners**, 91 North Sandusky Street, Delaware, Ohio 43015 and the **Delaware County Automatic Data Processing Board**, 145 North Union Street, Delaware, Ohio 43015 (collectively, the “**County**”), and *Name of Partner Agency*, *Partner Agency Address* (the “**User**”), (hereinafter individually referred to as a “**Party**” and collectively referred to as the “**Parties**”).

### **RECITALS**

**WHEREAS**, the County owns and operates an information technology network system (the “**System**”); and

**WHEREAS**, the User works cooperatively with the County or another Delaware County office to conduct certain governmental functions that involve use of or access to the System; and

**WHEREAS**, subject to the terms and conditions set forth below, the County desires to provide the User with access to the System;

**NOW, THEREFORE**, in consideration of the foregoing, and of the promises and covenants contained in this Agreement, the Parties agree as follows:

1. **System Access.** The County hereby grants to User the right to access the System. The User’s access to the System shall be subject to all procedures and requirements as the County’s Chief Technology Officer may determine.
2. **Term; Termination.** The term of this Agreement shall commence as of the date first written above and shall continue in full force and effect until terminated in accordance with this Agreement. Either Party may, upon providing written notice to the other Party, terminate this Agreement with or without cause.
3. **Consideration.** The Parties mutually acknowledge and agree that the purpose of this Agreement furthers the interests of public safety and general welfare through interagency coordination and cooperation. Therefore, the Parties mutually agree that no monetary compensation shall be paid under this Agreement.
4. **Access Conditions.** The User shall not access the System in violation of this Agreement, any law, rule, regulation or order of any governmental authority having jurisdiction, including, without limitation, the County’s Chief Technology Officer. The User shall, prior to access and throughout the duration of this Agreement, implement and maintain current network security best practices, including up to date endpoint detection security tools with behavior-detection and exploit mitigation capabilities, such as anti-virus and all appropriate security patches. The User shall immediately notify the County Chief Technology Officer upon discovery of any security incident that may threaten or compromise the integrity of the System.
5. **Performance and Maintenance.** The County shall be responsible for all maintenance of the System. The User acknowledges and agrees that the County cannot guarantee the performance of the System, and the User releases the County from any liability arising from a loss of access to the System or any injury or loss incurred as a result of access to the System.
6. **Title.** All rights, title and interest in the System shall at all times remain exclusively with the County, and the User disclaims any rights, title and interest in the System arising from the access granted herein.

**7. Representations and Covenants Regarding Authorizations.**

(a) County hereby represents, warrants and covenants to User as follows:

- (i) County is duly organized and validly existing under the laws of the State of Ohio and has full power and authority to execute, deliver and perform the terms of this Agreement.
- (ii) There is no litigation, proceeding or governmental investigation to which County is a party which could result in any material adverse effect on its ability to perform its obligations under this Agreement.

(b) User hereby represents warrants and covenants to County as follows:

- (i) User is duly organized and validly existing under the laws of the State of Ohio and has full power and authority to execute, deliver and perform the terms of this Agreement.
- (ii) There is no litigation, proceeding or governmental investigation to which User is a party which could result in any material adverse effect on its ability to perform its obligations under this Agreement.

**8. Compliance with Law.** Each Party shall perform its respective rights and obligations hereunder in accordance with all applicable laws, rules and regulations imposed by any governmental authority.

**9. Changes to the System.** The User acknowledges that, from time to time, the County may elect or be required to make changes to the System. The County shall use reasonable efforts to maintain User's access without material interruption, but User acknowledges that access may be denied during such changes.

**10. Confidential Information.** Each Party acknowledges that in the course of the performance of this Agreement, it may have access to and/or may receive from the other Party privileged or confidential information. Each Party agrees to maintain the confidentiality of the information and to use the same degree of care as it uses with regard to its own confidential information to prevent the disclosure, publication or unauthorized use of the confidential information. The County shall not be considered the custodian of any records of User, and each Party shall remain responsible for its own compliance with applicable public records laws.

**11. Assignment.** User shall not assign, in whole or in part, this Agreement or its rights, interests, obligations, or duties stated herein.

**12. Liability; Warranties.** NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, COSTS, OR LIABILITIES, FORESEEABLE OR UNFORESEEABLE, ARISING OUT OF, OR IN CONNECTION WITH, THE PARTY'S PERFORMANCE OF THIS AGREEMENT. THE COUNTY MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SYSTEM OR THE ANCILLARY SERVICES IT PROVIDES HEREUNDER, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

**13. Miscellaneous.**

(a) Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one and the same instrument, and in pleading or proving any provision of this Agreement, it shall not be necessary to produce more than one complete set of such counterparts.

(b) Captions. Article and Section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

(c) Governing Law and Binding Effect. This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by the laws of the State of Ohio. The exclusive venue for all cases or disputes related to or arising out of this Agreement shall be the state courts in Delaware County, Ohio. This Agreement shall bind and inure to the benefit of each of the Parties and their successors.

(d) Waivers and Amendments. This Agreement may not be amended nor shall any waiver, change, modification, consent or discharge be affected, except by an instrument in writing adopted, in the case of an amendment, by each Party and, in the case of a waiver, consent or discharge, by the Party against whom enforcement of such instrument is sought. Any consent by either Party to, or waiver of, a breach by the other Party shall not constitute a waiver or consent to any subsequent or different breach. If either Party shall fail to enforce a breach of this Agreement by the other Party, such failure to enforce shall not be considered consent to or a waiver of said breach or any subsequent breach for any purpose whatsoever.

(e) Relationship Not a Partnership or an Agency. The Relationship between County and User shall not be that of partners or agents for one another and nothing contained in this Agreement shall be deemed to constitute a partnership, joint venture or agency agreement between them.

(f) Notices. All notices, requests, demands, statements, reports and other communications under this Agreement shall be in writing and deemed to be duly delivered, if delivered in person, by overnight courier or by certified or registered mail:

For User:

For County:

Chief Technology Officer  
10 Court Street  
Delaware, OH 43015  
740-833-2060

Either Party hereto may change its mailing address by giving notice to the other pursuant to the provisions of this paragraph.

(g) Disclaimers. There are no agreements, warranties or representations, express or implied either in fact or by operation of law, statutory or otherwise, including warranties of merchantability and fitness for a particular purpose or use, except those expressly set forth herein.

(h) Entire Agreement. This Agreement constitutes the entire agreement between User and County with respect to the subject matter hereof and supersedes all prior agreements and understandings between them as to such subject matter, and there are no restrictions, agreements, arrangements or undertaking, oral or written, between User and County relating to the transactions contemplated hereby which are not fully expressed or referred to herein.



(i) **Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule or law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to either party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the greatest extent possible.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement on the dates indicated below.

**DELAWARE COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Tracie Davies, County Administrator

\_\_\_\_\_  
Date

**DELAWARE COUNTY AUTOMATIC DATA PROCESSING BOARD**

\_\_\_\_\_  
George Kaitsa, Chief Administrator

\_\_\_\_\_  
Date

**USER**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

**From:** Andrew D. White, City Manager

**To:** Members of City Council

**Initiated By:** Jeffrey S. Tyler, RA, ACM / Community Development Director

**Re:** **ORDINANCE NO. 2023-32: AN ORDINANCE AUTHORIZING THE CITY OF POWELL TO ENTER INTO A COMMUNITY REINVESTMENT AREA AGREEMENT WITH CSD POWELL, LLC, AND DECLARING AN EMERGENCY**

**Date:** November 21, 2023

---

**Summary:**

On March 21, 2023, City Council created the Downtown Community Reinvestment Area (“CRA”) by passing Ordinance 2023 – 10. By establishing the CRA, the City allows developers to enter into a community reinvestment area agreement to receive an exemption from taxation for the constructing and equipping the remodeling or new development within the CRA boundaries.

On August 1, 2023, City Council authorized the City Manager to enter into an economic incentive agreement for the property located at 50 E. Olentangy Street with the passing of Ordinance 2023 – 18. As part of the agreement, Staff included a model CRA agreement for City Council review as part of the overall incentive package that was defined in the Economic Incentive Agreement with terms/obligations between COhatch, the City and the Powell Development Corporation (“PDC”).

Ordinance 2023 – 32 represents the final version of the CRA Agreement for the Developer (CSD Powell, LLC) to receive an exemption from taxation for the constructing and equipping of a three-story mixed-use building containing private offices, co-working and meeting and event space (the “Project”).

Ordinance 2023 – 32 would grant a tax exemption for real property improvements consisting of the Project pursuant to ORC Section 3735.67 which exemption shall be in the amount of 75% for a period of 15 years commencing in the first year for which the Project would be first taxable were that property not exempted from taxation.

The Project Site is located within the Olentangy Local School District (the “School District”) and the Delaware Area Career Center (the “JVSD”) and the Boards of Education of each of the School District and the JVSD has been notified of the proposed approval of the CRA Agreement in accordance with Sections 3735.671 and 5709.83 of the Ohio Revised Code.

**Legal Review:**

The agreement was drafted and reviewed extensively by the Law Director and is approved as to form. Please be advised, Council may discuss the terms of the agreement confidentially in executive session prior to any final action.

**Financial Review:**

The Finance Director has reviewed the Ordinance and is in support of the recommended action.

**Recommendation:**

Staff recommends the introduction of Ordinance 2023 – 32 as a first reading during the November 21, 2023 City Council meeting and consideration for final approval at the December 05, 2023 City Council meeting.

**Attachment(s):** CRA Agreement with CSD Powel, LLC.

Building SF:	10,000			
Economic Development Package	Annual	One-Time	Period	Total
COhatch Contribution				
Purchase (CSD Powell LLC will purchase the property)		\$1,150,000		\$ 1,150,000
Start up scholarships**		\$ 25,000	10-Years	\$ 250,000
Non Profit Scholarships**		\$ 25,000	10-Years	\$ 250,000
Est. of Income Tax (100%)	\$ 100,000		10-Years	\$ 1,000,000
Shared-use Parking Agreement				
<b>Total</b>				<b>\$ 2,650,000</b>

COhatch- City to Provide	Annual	One-Time	Period	Total
PDC Development Grant	\$ 188,000		5-Year	\$ 940,000
(3) Parcels - Grant - Values per County Auditor				
44 N Liberty - 31942513065000		\$ 172,600		\$ 172,600
31942513067000		\$ 57,600		\$ 57,600
31942513066000		\$ 40,000		\$ 40,000
PDC/City Rent Payment	\$ 24,000	\$ -	10-Year	\$ 240,000
<b>PDC Total</b>	<b>\$ 212,000</b>	<b>\$ 270,200</b>		<b>\$ 1,450,200</b>
Tax Abatement of Improved Value	\$ -	\$ -	15-Year	\$ -
TIF Funds for Public Infrastructure***		\$ 450,000		\$ 450,000
<b>City Total</b>				<b>\$ 450,000</b>
<b>Total</b>	<b>\$ 212,000</b>	<b>\$ 720,200</b>		<b>\$ 1,900,200</b>

COhatch Property Investment	\$ 4,500,000
Cohatch Incentive Contribution	\$ 2,650,000
Cohath Total Contribution	\$ 7,150,000
City Contribution	\$ 1,900,200
Private to Public Investment	3.7 to 1

\* Same terms as Dublin Agreement

\*\* Community impact (not City)

\*\*\* Not to exceed total cost of public infrastructure.

Unappropriated Downtown TIF Balance = \$980,039

ratio: 3.762761815



## ORDINANCE 2023-32

### AN ORDINANCE AUTHORIZING THE CITY OF POWELL TO ENTER INTO A COMMUNITY REINVESTMENT AREA AGREEMENT WITH CSD POWELL, LLC, AND DECLARING AN EMERGENCY

**WHEREAS,** the City Council of the City of Powell (hereinafter “Council”) desires to pursue all reasonable and legitimate incentive measures to assist and encourage development in areas of the City of Powell that have not enjoyed reinvestment from remodeling or new construction; and

**WHEREAS,** by Ordinance No. 2023-10 effective March 21, 2023, the Council created the Downtown Community Reinvestment Area (the “CRA Ordinance”); and

**WHEREAS,** CSD Powell, LLC, an Ohio limited liability company (the “Developer”), is currently the sole owner of property located at 50 E. Olentangy Street, Powell, Ohio 43065 which real property currently has been assigned tax parcel numbers 319-425-13-055-000 and 319-425-13-056-000 in the Delaware County Auditor’s Office (the “Project Site”); and

**WHEREAS,** the Project Site is within the boundaries of the aforementioned Community Reinvestment Area established by the CRA Ordinance; and

**WHEREAS,** the Developer desires to participate in the Community Reinvestment Area program; and

**WHEREAS,** the Developer wishes to enter into a community reinvestment area agreement (the “CRA Agreement”) to receive an exemption from taxation for the constructing and equipping a two or three-story mixed-use building containing private offices and co-working space and meeting and event space (the “Project”); and

**WHEREAS,** the Project Site is located within the Olentangy Local School District (the “School District”) and the and the Delaware Area Career Center (the “JVSD”) and the Boards of Education of each of the School District and the JVSD has been notified of the proposed approval of the CRA Agreement in accordance with Sections 3735.671 and 5709.83 of the Ohio Revised Code, or has waived such notice, and has been given a copy of the Application and a draft of the CRA Agreement; and

**WHEREAS,** pursuant to R.C. Section 3735.67(A), the Council and the Developer desire to formalize their agreement with respect to matters hereinafter contained; now therefore

### NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

**SECTION 1: Grant of Exemption.** That the Council of the City of Powell hereby grants a tax exemption for real property improvements consisting of the Project pursuant to ORC Section 3735.67 which exemption shall be in the amount of 75% for a period of 15 years commencing in the first year for which the Project would first be taxable were that property not exempted from taxation.

**SECTION 2: CRA Agreement.** That the CRA Agreement in the form presently on file with the City Clerk, providing for, among other things, the provision of the real property tax exemption for the Project, is hereby approved and authorized with changes therein and completions thereto not inconsistent with this ordinance and not substantially adverse to this City and which shall be approved by the Mayor. The Mayor, for and in the name of this City, is hereby authorized to execute and deliver that CRA Agreement and any

amendments thereto that do not increase the percentage or number of years of the tax exemption, provided further that the approval of changes, completions or amendments thereto by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the Mayor's execution thereof.

**SECTION 3. Open Meetings.** This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

**SECTION 4. Further Authorizations.** This Council authorizes the Director of Community Development or his designee to sign those certificates, and instruments; submit or file any documents or materials as necessary or appropriate; make those arrangements; and take any other actions as are necessary or appropriate to carry out the purposes of this Ordinance and the CRA Agreement, and facilitate the tax exemption described herein.

**SECTION 5. Non-Discriminatory Hiring Policy.** In accordance with Section 5709.832 of the Ohio Revised Code, this Council hereby determines that no employer located upon any Parcel shall deny any individual employment based solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

**SECTION 6:** This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this Ordinance must be immediately effective so that the work can begin on the construction and/or remodeling of residential and commercial structures within the Downtown Community Reinvestment Area; WHEREFORE, this Ordinance shall take effect and be in force from and immediately after its adoption.

\_\_\_\_\_  
Daniel Swartwout  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date

**EFFECTIVE DATE: December 5, 2023**

This legislation has been posted in accordance with the City Charter on this date \_\_\_\_\_  
\_\_\_\_\_  
City Clerk

## COMMUNITY REINVESTMENT AREA AGREEMENT

This COMMUNITY REINVESTMENT AREA AGREEMENT (this “Agreement”) made and entered into as of \_\_\_\_\_, 2023 (the “Effective Date”) by and between the CITY OF POWELL (the “City”), a municipal corporation in the State of Ohio (the “State”), through the Powell City Council (the “Council”), and CSD POWELL, LLC, an Ohio limited liability company with offices located at 659 High Street, Worthington, Ohio 43085 (the “Developer”).

### WITNESSETH:

WHEREAS, the City desires to pursue all reasonable and legitimate incentive measures to assist, encourage, and stimulate development in specific areas of the City that have not enjoyed sufficient reinvestment from remodeling or new construction; and

WHEREAS, pursuant to Ohio Revised Code (“R.C.”) Sections 3735.65 through 3735.70 (the “CRA Act”) and by Ordinance No. 2023-10 on March 21, 2023 (the “CRA Ordinance”), the Council created the Downtown Community Reinvestment Area (the “CRA”), as certified by the Ohio Department of Development on May 16, 2023, assigning it Area No. 041-64486-328; and

WHEREAS, the Developer is currently the sole owner of property located at 50 E. Olentangy Street, Powell, Ohio 43065 which real property currently has been assigned tax parcel numbers 319-425-13-055-000 and 319-425-13-056-000 in the Delaware County Auditor’s Office (the “Project Site”); and

WHEREAS, the Developer has submitted to the City an application for a community reinvestment area agreement (the “Application”), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Developer proposes for the Project Site improvements to real property, to include the constructing and equipping a two or three-story mixed-use building containing private offices and co-working space and meeting and event space (the “Project”) (each individual building within the Project, with its related site improvements, may be referred to hereinafter from time to time as a “Building”), provided that the appropriate development incentives are available to support the economic viability of the Project; and

WHEREAS, pursuant to R.C. Section 3735.67(A), the City and the Developer desire to formalize their agreement with respect to matters hereinafter contained; and

WHEREAS, the Project Site is located within the Olentangy Local School District (the “School District”) and the and the Delaware Area Career Center (the “JVSD”) and the Boards of Education of each of the School District and the JVSD has been notified of the proposed approval of the CRA Agreement in accordance with Sections 3735.671 and 5709.83 of the Ohio Revised Code, or has waived such notice, and has been given a copy of the Application and a draft of the CRA Agreement; and

WHEREAS, the Council, by Ordinance No. 2023-\_\_\_\_, adopted on \_\_\_\_\_, 2023 has approved the terms of this Agreement and authorized its execution on behalf of the City;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the receipt and sufficiency of which are hereby acknowledged, the parties herein agree as follows:

**1. Project.** The Developer shall construct the project. The Project will involve a total investment by the Developer of approximately \$4,000,000 of hard costs. Construction of the Project is estimated to begin on or before March 2024. The estimates provided in this Section are good faith estimates and shall not be construed in a manner that would limit the amount or term of the tax exemptions provided in this Agreement.

**2. Employment and Payroll.** The Developer expects to create at the Project, according to the schedule below, the equivalent of 70-150 new full-time permanent job opportunities, 5 new part-time permanent job opportunities, 10 full-time temporary job opportunities and 0 part-time temporary job opportunities within 36 months after the completion of construction of the Project. Developer currently has 0 full-time equivalent permanent employees, 0 part-time equivalent permanent employees, 0 full-time equivalent temporary employees, and 0 part-time equivalent temporary employees in the State. The increase in the number of employees as a result of the Project is expected to result in an increase in permanent payroll of at least \$3.5 million per year. No payroll expected to be retained as a result of this Agreement. The estimates provided in this Section are good faith estimates and shall not be construed in a manner that would limit the amount or term of the tax exemptions provided in this Agreement.

**3. Provision of Information.** Developer shall provide to the proper tax incentive review council (the "TIRC") any information reasonably required by the TIRC to evaluate the compliance of Developer with the Agreement, including returns or annual reports of Developer filed pursuant to R.C. Section 5711.02 (if any) if requested by the TIRC.

**4. Real Property Tax Exemption.** The City hereby grants a fifteen (15) year, 75% real property tax exemption pursuant to R.C. Section 3735.67 for the increase in the assessed value after remodeling of the existing structure at the Project Site. The exemption commences the first year such real property improvement would first be taxable were that property not hereby exempted from taxation. The exemptions set forth in this Section shall apply irrespective of whether the real property is owned by Developer, or any assignee or other successor in interest to Developer.

**5.** [Intentionally Omitted].

**6. Payment of Non-Exempt Taxes.** The Developer and any Owner shall pay such real property taxes as are not exempted under this Agreement and are charged against such property and shall file all tax reports and returns as required by law. If the Developer fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.



**7. Cooperation of the City.** The City shall perform such acts as are reasonably necessary or appropriate to approve, effect, claim, reserve, preserve, and maintain the exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions. The City shall give its fullest cooperation in the development of the Project, including, but not limited to: (i) the timely review, processing, and approval of all building, zoning, or other permits, and (ii) all other activities related to the Project.

**8. Revocation of CRA.** If for any reason the City revokes or purports to revoke the designation of the CRA, entitlements granted under this Agreement shall continue for the number of years specified in this Agreement, unless Developer or an Owner materially fails to fulfill its obligations under this Agreement and such failure is not corrected within thirty (30) days of written notice thereof to Developer or such Owner, and consequently, the City terminates or modifies the exemptions from taxation granted in this Agreement with respect to property of Developer or such Owner from the date of the material failure. Any such termination or modification, as provided in this Section, shall have no effect on exemptions from taxation granted in this Agreement with respect to property of Owners other than such defaulting Owner(s), or property of the Developer if the Developer is in default. Except for any amendment, revocation, modification, suspension or termination otherwise permitted under this Agreement, the City agrees that it will not amend or revoke the CRA designation as to the Project Site, or modify the incentives available under that designation for the Project Site, prior to January 1, 2040.

**9. Certification as to No Delinquent Taxes.** The Developer hereby certifies for itself that at the time this Agreement is executed, (i) it does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State and does not owe delinquent taxes for which it is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Revised Code, or, if such delinquent taxes are owed, it is currently paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, (ii) it has not filed a petition in bankruptcy under 11 U.S.C.A. § 101, *et seq.*, and (iii) no such petition has been filed against it. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

**10. Termination, Suspension or Modification Upon Default.** If Developer or an Owner materially fails to fulfill its obligations under this Agreement and such failure is not corrected within thirty (30) days of written notice thereof to Developer or such Owner (provided, however, that such opportunity to cure such default shall not, under any circumstance, and notwithstanding anything to the contrary in this agreement, toll or otherwise suspend any obligation of Developer, Owner or Commercial Occupant to pay any non-exempt taxes, real property taxes, or municipal income taxes), or if the City determines that the certification as to delinquent taxes required by this Agreement is fraudulent, the City may terminate, suspend or modify the exemptions from taxation granted under this Agreement with respect to property of Developer or the Owner which is in such default or which has made such fraudulent certification, from the date of the material failure. Any such termination, suspension, or modification, as provided in this Section, shall have no effect on exemptions from taxation granted under this Agreement with respect to property of Owners other than such defaulting Owner(s), or Developer if Developer is not in default.

**11. Non-Discrimination.** By executing this Agreement, the Developer commits to following non-discriminatory hiring practices and non-discriminatory housing practices, acknowledging that no individual may be denied employment or housing solely on the basis of race, religion, sex, sexual orientation, disability, color, national origin, ancestry, or familial status.

**12. Assignment.** This Agreement is not transferable or assignable without the express, written approval of the City.

**13. Revocation of Exemptions.** Developer represents that it is not ineligible to enter this Agreement under division (C) of Section 3735.671 of the Ohio Revised Code. Exemptions from taxation granted under this Agreement shall be revoked with respect to Developer or to an Owner if it is determined that such violating Owner, any successor enterprise to such violating Owner, or any related member of such violating Owner (as those terms are defined in division (C) of Section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into the Agreement under Division (C) of Section 3735.671 or Section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections. Any such revocation, as provided in this Section, shall have no effect on exemptions from taxation granted under this Agreement with respect to property of Owners other than such violating Owner(s).

**14. Counterparts.** This Agreement may be signed in one or more counterparts or duplicate signature pages with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument.

**15. Severability; Construction; Headings.** If any provision of this Agreement or the application of any such provision to any such person or any circumstance shall be determined to be invalid or unenforceable, then such determination shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, all of which other provisions shall remain in full force and effect. If any provision of this Agreement is capable of two constructions one of which would render the provision valid, then such provision shall have the meaning which renders it valid. The captions and headings in this Agreement are for convenience only and in no way define, limit, prescribe or modify the meaning, scope or intent of any provisions hereof.

**16. Notices.** Any notices, statements, acknowledgements, consents, approvals, certificates or requests required to be given on behalf of any party to this Agreement shall be made in writing addressed as follows and sent by (i) registered or certified mail, return receipt requested, and shall be deemed delivered when the return receipt is signed, refused or unclaimed, (ii) by nationally recognized overnight delivery courier service and shall be deemed delivered the next business day after acceptance by the courier service with instructions for next-business-day delivery, or (iii) by facsimile transmission and shall be deemed delivered upon receipt of confirmation of transmission:

the City at:                      City of Powell, Ohio  
   47 Hall Street  
   Powell, Ohio 43065  
   Attention: Community Development Director

the Developer at: CSD Powell, LLC  
659 High Street  
Worthington, Ohio 43085  
Attention: Matt Davis

or to any such other addresses as may be specified by any party, from time to time, by prior written notification.

**17. R.C. Section 9.66 Covenants.** Developer affirmatively covenants that it has made no false statements to the State or any local political subdivision in the process of obtaining approval of the CRA tax exemptions; and that it does not owe: (i) any delinquent taxes to the State or a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; and (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not. If any representative of Developer has knowingly made a false statement to the State or any local political subdivision to obtain the CRA tax exemptions, Developer shall be required to immediately return all benefits received by it under this Agreement pursuant to R.C. Section 9.66(C)(2) and Developer shall be ineligible for any future economic development assistance from the State, any State agency, or a political subdivision pursuant to R.C. Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to R.C. Section 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six (6) months.

**18. Estoppel Certificate.** Upon request of Developer, the City shall execute and deliver to the Developer or any proposed purchaser, mortgagee or lessee a certificate stating: (a) that the Agreement is in full force and effect, if the same is true; (b) that Developer is not in default under any of the terms, covenants or conditions of the Agreement, or if Developer is in default, specifying same; and (c) such other matters as Developer reasonably requests.

**19. Entire Agreement.** This Agreement and the Ordinance constitute the entire agreement between the Developer and the City pertaining to the subject matter contained herein and therein and supersede all other prior or contemporaneous agreements or understandings between the Developer and the City in connection with such subject matter.

[Remainder of this Page Intentionally Left Blank.]

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

**CITY OF POWELL, OHIO**

By:\_\_\_\_\_

Printed:\_\_\_\_\_ Andrew White

Title:\_\_\_\_\_ City Manager

Approved as to Form:

By:\_\_\_\_\_

Printed:\_\_\_\_\_ Yazan Ashrawi

Title:\_\_\_\_\_ Director of Law

**CSD POWELL, LLC**

By:\_\_\_\_\_

Printed:\_\_\_\_\_

Title:\_\_\_\_\_

*Note: A copy of this Agreement must be forwarded to the Ohio Department of Development by the City within fifteen (15) days of execution.*

**EXHIBIT A**  
**TO COMMUNITY REINVESTMENT AREA AGREEMENT**

**Application for Community Reinvestment Area Agreement**

(See attached)

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**From:** Andrew D. White, City Manager  
**To:** City Council  
**Initiated By:** Jason Nahvi, Human Resources Manager  
**Re:** Ordinance 2023-33  
**Date:** December 05, 2023

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**Summary:**

The employee handbook is a valuable communication resource for both the City and the employees. Under each section are policies and procedures that provide guidance and information related to the City's values, policies, procedures, and benefits in a written format. It is also a means of protecting the City against discrimination or unfair treatment claims. It is an easily accessible guide to the City's policies and practices as well as an overview of the expectations of leadership.

The current Employee Handbook was adopted by City Council on June 15, 2015, by Ordinance 2015-22. There have been several updates to the Employee Handbook since it was originally adopted. Revisions were approved in the following years:

- January 19, 2016, by Ordinance 2016-04
- September 6, 2016, by Ordinance 2016-40
- January 15, 2019, by Ordinance 2019-03
- February 2, 2021, by Ordinance 2021-03

While revisions have been made the Employee Handbook has not had a complete overview to keep up with changes in laws, regulations, and best practices. By keeping the employee handbook up to date, the City can ensure it stays in legal compliance and protects both the City and its employees.

This new Employee Handbook represents a new look and structure while maintaining the policies and procedures that ensure compliance and maintaining a healthy work environment. Changes in our culture, management structure, and employee benefits are reflected in the updated Employee Handbook. Keeping it updated demonstrates our commitment to maintaining a transparent and supportive work environment, which can enhance employee satisfaction and retention.

The following updates were made to the Employee Handbook after the initial discussion of the changes at the November 21, 2023, City Council meeting:

**Section 1 - Introduction & Administrative Policies, 1.1 Introduction, page 11**

In policy 1.1 the "at-will" statement of employment is mentioned. In the first version of this section, the second to last sentence of the fourth paragraph stated - *Employees are at-will, which means*



*employees may terminate employment at any time, with or without cause or advance notice.*

The word “Unclassified” was added at the beginning of the sentence to clarify the statement. This change should clarify who is an at-will employee.

## 1.1 INTRODUCTION

This Employee Handbook conforms to the policies established by the City Manager and the City Council of the City of Powell. This handbook shall govern policy related matters of the City unless superseded by other specific regulations established in the City Charter or Code.

The purpose of this handbook is to establish various policies, rules and regulations, fringe benefits and services provided to full-time employees, and where applicable, part-time employees. It is the responsibility of all City of Powell employees to read, understand, and adhere to the information contained in the employee handbook.

Clear and efficient employee policies are indispensable and necessary to properly administer the business affairs of the City. Further, the City insists upon a fair, equitable, and uniform system of public employment to attract the excellent caliber of employees our citizens demand and deserve. All City employees, including the City Manager, are responsible for the administration of the policies set forth herein.

The policies contained in this handbook supersede any prior personnel policies and procedures of the City. They are provided to employees for information only and are subject to change at any time without advance notice. Nothing in this handbook constitutes or establishes a contract of employment of any duration or any other legal obligation granting continued employment. Unclassified employees are at-will, which means employees may terminate employment at any time, with or without cause or advance notice. Likewise, at-will means that the City may terminate an unclassified employee’s employment at any time, with or without cause or advance notice, as long as it does not violate federal or state laws.

Employees should contact the Human Resources Department with any questions on the policies and procedures within this Employee Handbook.

## **Section 1 - Introduction & Administrative Policies, 1.4 Classified & Unclassified Employment, page 13**

A sentence was added at the end of the last paragraph to clarify who is considered a classified employee with the City. Only employees in a union are considered classified employees in the City.

## 1.4 CLASSIFIED & UNCLASSIFIED EMPLOYMENT

Classified City employees are defined by Article XIV, Section 14.03 (A) of the City Charter unless the position which they occupy has been exempted from the classified service by a lawful request of the employer, or by operation of law or City Charter. After completion of the original probationary period, or the probationary period following a promotion, classified employees may only be disciplined for cause and by following the procedures set forth in the Civil Service laws of the State of Ohio and the City of Powell.

Employees listed in Article XIV, Section 14.03 of the City Charter serve as unclassified City employees, or occupy positions, which have been exempted from the classified City service. Such employees may be hired at will and may serve at the pleasure of the City without reference to certain provisions of the ordinances within the City of Powell Charter. Classified employees only include Police Department and Public Service Department employees that are covered by their bargaining unit.

**Section 6 – Employee Conduct, Responsibility, 6.9 City Council & Staff Communications**  
**page 76**

This policy was updated to reflect the established Rules of City Council.

Original Language

**6.9 CITY COUNCIL & STAFF COMMUNICATIONS**

A primary function of staff is to execute City Council policies and actions. Staff are to take guidance and direction only from the City Manager or Department Director. City employees should not have direct contact with City Council members without approval from the City Manager.

Employees should use discretion when communicating or sharing information, either in writing or verbally to the Mayor and/or any member of the City Council unless the City Manager is informed of, and approves, the communication. To maintain an effective City Council and City Manager relationship, the City Manager needs to always be informed regarding all information, prior to communicating with City Council. All employees are advised that, except for purposes of inquiries and investigations, City Council Members are required to communicate with employees solely through the City Manager. In addition, City Council Members are not permitted to give any orders, either publicly or privately, to any employee.

Failure to follow this policy may result in corrective action up to and including termination.

Proposed Updated Language

**6.9 CITY COUNCIL & STAFF COMMUNICATIONS**

While any staff member is available to answer questions and requests for information from City Council members, the City Manager should be the primary information liaison between City Council members and City staff.

When a City Council member makes a request for information to a particular staff member, the practice is for staff to inform the City Manager so that he or she is aware of City Council's requests and needs.

City staff and City Council members should refer to the established *Rules of the City Council* amended on April 19, 2022, in Resolution 2022-22.

**Section 10 – Employee Resignations & Retirement, 10.1 Resignations and 10.2 Retirement**  
**page 103**

There were questions with the use of “shall” in requesting employees give a two weeks’ notice when they resign or retire from the City. This was the original sentence - *Employees shall provide at least two weeks’ notice when submitting a letter of resignation to facilitate a smooth transition out of the City.*

The language was changed to “expected” as to not leave it up to interpretation and the second sentence further covers the City on how the employee can resign in “good standing” – *If an employee provides less than the requested two weeks’ notice, the City may deem the employee to be ineligible for rehire depending on the circumstances regarding the notice given.*

The language in the retirement policy mirrors the language in the resignation policy.

**10.1 RESIGNATIONS**

Resigning employees are expected to provide a two weeks’ notice, preferably in writing, to facilitate a smooth transition out of the City. If an employee provides less than the requested two

weeks' notice, the City may deem the employee to be ineligible for rehire depending on the circumstances regarding the notice given.

Resignation effective dates are the last day an employee works and cannot be extended by any accrued leave without the prior written approval of the City Manager and review by the Human Resources Department. Resignation effective dates cannot be on a holiday or weekend unless it is a normally scheduled workday. An employee is not eligible for pay for any holidays occurring after their last actual workday.

Any employees on unpaid leave who submits their resignation, the resignation date will be the last day the employee was in paid status. For employees on paid leave who submit their resignation, the resignation date is that date requested by the employee or the last day the employee is in paid status, whichever is sooner.

All resignations must be confirmed in writing with the effective date and reason for leaving. Notices may be delivered to the Human Resources Department either in-person or by e-mail. Employees will receive a confirmation of resignation notice from Human Resources within 24 hours of submitting their resignation.

The City reserves the right to provide an employee with two weeks' pay in lieu of notice in situations where a job or business needs a warrant. Such a decision should not be perceived as reflecting negatively on the employee, given that it may be due to a variety of reasons not known to the individual or other employees.

A resigning employee is not permitted to perform City work after their resignation date. Should a resigning employee not have completed all their work prior to the resignation date, the employee may request in writing an extension of their resignation date to their Department Director. If the Department Director agrees with the extension, Human Resources will confirm in writing to the employees the revised resignation date.

## 10.2 RETIREMENT

Employees may retire from the City of Powell by submitting the appropriate forms to the Ohio Public Employees Retirement System (OPERS) and providing written notice to Human Resources. Employees are expected to provide as much notice as possible, preferably in writing, when submitting their retirement notice. Forms may be found on the OPERS website: [www.OPERS.org](http://www.OPERS.org) or by contacting Human Resources. Upon receipt, Human Resources will confirm acceptance to the employee in writing within 24 hours of submitting their retirement.

The following are the main title sections for the updated Employee Handbook:

1. Introduction & Administrative Policies
2. Workplace Standards & Ethics
3. Workplace Safety
4. Hours of Work
5. Time Off & Leave of Absence Benefits
6. Employee Conduct, Responsibility
7. Discipline
8. Employee Benefits
9. Use of City Property
10. Employee Resignations & Retirements
11. Employee Acknowledgement

The Introduction and Administrative Policies section sets the tone for the entire Handbook. It gives a welcome message and recognizes current structure and basic policies covering pay and performance reviews.

Updates of Policies in the Current Handbook:

- 1.1 – Introduction
- 1.3 – Employment Classifications
- 1.4 – Classified and Unclassified Employment
- 1.8 – Performance Reviews
- 1.9 – Probationary Periods

New Policies:

1.2 - Management Rights. This policy states the City Manager and the City reserve the right to establish policies, with the approval of City Council. The City also has the right to control operations, manage staff, direct work, determine when an emergency exists, and exercise control over the budget.

1.5 - Pay Determination. The City establishes a system of wages, and the City Manager determines the final pay for new employees. It gives guidelines on when and who is eligible to receive increases and how this is determined.

1.6 – Merit Increases. A policy to determine pay increases for non-union employees. Employees are eligible after being employed for more than one (1) year and cannot have current disciplinary issues.

1.7 - Background Checks. This policy sets procedures on how and when background checks should be conducted for any new employee being hired by the City.

## **Workplace Standards & Ethics**

Updates of Policies in the Current Handbook:

- 2.2 – Equal Employment Opportunity (EEO)
- 2.3 – Anti-Harassment & Anti-Discrimination
- 2.5 – Americans with Disabilities Act (ADA)
- 2.7 – Ethics of Public Employment
- 2.8 – Fraud Reporting and Whistleblower Protection
- 2.9 – Political Activity
- 2.12 – Nepotism
- 2.13 – Outside Employment
- 2.14 – Gifts, Gratuities, and Entertainment
- 2.15 – Personal Appearance

New Policies:

2.1 – Commitment to Diversity & Inclusion. Statement that the City is committed to creating a diverse and inclusive environment for everyone.

2.4 – Accommodations for Religious Beliefs. Any request for accommodation will be submitted in writing to Human Resources for a response.

2.6 – Integrity/Conflict. This policy enforces employees are representatives of the City and must avoid any behavior that can have a negative impact on the City.

2.10 – Solicitation. The City is placing limitations on when and where employees can solicit for non-City related or personal matters such as fundraising and subscription sales of items.

2.11 – Employee Fraternization. The City allows personal relationships but sets guidelines on how employees should behave. Supervisors and direct reports are to disclose romantic relationships to Human Resources.

## **Workplace Safety**

Updates of Policies in the Current Handbook:

3.1 – Drug-Free Workplace. Added information on what controlled substances would be considered illegal. Updated the language on marijuana to now include the use of medical marijuana and CBD oils as prohibited substances. The City also implemented the process of conducting pre-employment drug-screens for all employees prior to starting with the City.

3.3 – Workplace Violence Prevention

3.6 – Reporting of Accidents & Hazards

3.7 – Inclement & Severe Weather

New Policies:

3.2 – Tobacco Policy – Smoke Free Workplace. The use of cigarettes, smokeless tobacco, and electronic cigarettes are prohibited in City offices, vehicles, on equipment, and withing proximity to City-owned facilities.

3.4 – Weapons in the Workplace. The City does not allow weapons in the workplace except for commercial pepper spray. Employees are allowed to store weapons in their privately owned vehicles on city property.

3.5 – Inspection of Work Area. Employees' desks, vehicles, equipment, and computers can be searched without prior notice.

3.8 – Infectious Disease Control. This policy set procedures for any pandemic or illness that may shut down the normal business procedures of the City.

## **Hours of Work**

Updates of Policies in the Current Handbook:

4.1 – Payroll Schedule

4.2 – Hours of Work

4.3 – Overtime Compensation

4.4 – Compensatory Time

4.5 – Attendance

4.7 – Unexcused Absence

4.8 – Tardiness & Early Departures

- 4.10 – Timekeeping
- 4.11 – Call-In Pay
- 4.12 – Break & Lunch (Meal) Periods
- 4.13 – Lactation Breaks

New Policies:

4.9 – Job Abandonment. Any employee that is a no call/no show to work for three (3) or more consecutive days can be disciplined, up to and including termination.

### **Time Off & Leave of Absence Benefits**

Updates of Policies in the Current Handbook:

5.1 – Holidays. Added Veteran’s Day and Juneteenth to the observed holidays where the City is closed.

5.2 – Vacation Leave. The accrual rate for employees’ vacation was increased based on their years of service in the public sector. This matches the increases the Police received with their new contract.

5.3 – Sick Leave. New employees may transfer up to eight hundred (800) hours of accumulated sick leave from a prior public Agency.

- 5.5 – Unpaid Leave of Absence
- 5.6 – Disability Leave & Separation
- 5.8 – Jury Duty
- 5.11 – Family and Medical Leave Act (FMLA)
- 5.12 – Military Leave of Absence

New Policies:

5.4 – Sick Leave Donation. Creates a process where employees can donate sick leave to employees that meet certain criteria. Donation is voluntary.

5.7 – Bereavement Leave. Employees are given three (days) of bereavement leave that is separate from sick or vacation leave for the death of an immediate family member. The policy identifies who qualifies as an immediate family member. Employees may also received one (1) day of bereavement leave for a non-immediate family member defined in the policy. Employees can use annual leave for the death of a person not identified in the policy.

5.9 – Witness Duty. Employees subpoenaed to appear in court will be paid at their regular rate of pay. Any employee subpoenaed to appear as a witness in court for a personal matter must use vacation leave.

5.10 – Voting. Employees will be given the necessary time to vote during work hours.

### **Employee Conduct, Responsibility**

Updates of Policies in the Current Handbook:

- 6.3 – Reference Checks



6.4 – Personnel Files

6.5 – Public Records

6.6 – Statements to the Media

6.7 – Vehicle & Driving Requirements. Language was added requiring employees to wear seatbelts while driving a City vehicle.

#### New Policies:

6.1 – Statement of Confidentiality. Employees are expected to maintain confidentiality when working with City information or a person's personal information. Any unauthorized disclosure should be reported to the Human Resources Department immediately.

6.2 – Teamwork. The City expects employees to work with each other in a respectful manner and follow directions from their supervisor.

6.8 – Driver's License. Certain positions at the City will be required to have a valid driver's license and adequate vehicle insurance. The City will conduct an annual driver's license check for all employees required to have a valid driver's license. Employees must contact the Human Resources Department of any change of status with their driver's license or vehicle insurance.

6.9 – City Council & Staff Communications. Employees are strongly encouraged to inform the City Manager before contacting any City Council member. City Council members should communicate with staff through the City Manager.

### **Discipline**

#### Updates of Policies in the Current Handbook:

7.1 – Discipline. The update gives reasons for disciplinary actions. There are now steps to the disciplinary process that include a verbal warning, written, warning, suspension, and recommendation for termination that were not included in the previous Employee Handbook. The Policy also stresses the importance of documentation when managing disciplinary matters.

#### New Policies:

The additional steps and procedures added to the current language enhanced the current policy and there was not a need to create a new policy.

### **Employee Benefits**

#### Updates of Policies in the Current Handbook:

8.1 – Insurance Benefits Overview. Updated policy explains new employees have 30 days to enroll in the insurance plan. Changes in benefits can only take place during Open Enrollment or if the employee has a life event. The City also has full discretion to make any necessary changes to the benefits coverage.

8.2 – Life Insurance & AD&D Insurance

#### New Policies:

8.3 – Employee Assistance Program (EAP). Policy states that the City has an Employee

Assistance Program for employees and supports the use of the benefit.

8.4 – Retention Incentive. Employees completing consecutive years of service with the City, starting at four (4) years of service, will receive a yearly incentive payment every November. The incentive amounts increase based on years of service.

8.5 – Tuition Reimbursement. The City has a procedure but it was not in the Employee Handbook. Employees can receive \$2,000 per year for undergraduate courses and \$2,500 per year for graduate courses.

8.6 – Continuing Education. This policy creates a process for employees to be approved for classes for seminars and certification classes.

8.7 – Pension Funds. The City contributes to either the Ohio Public Employees Retirement System (OPERS) or the Ohio Police & Fire Pension Fund (OP&F)

8.8 – Unemployment Compensation. The City will follow the guidelines for unemployment set by the Ohio Department of Job and Family Services.

8.9 – Workers' Compensation. Any employee injured on the job is required to complete an accident report and file a claim through the Ohio Workers' Compensation program.

8.10 – Transitional Work. Any employee on leave for an injury or illness by be able to return to work on light duty if approved by the City. Transitional work can last up to 12 weeks and is based on the return-to-work restrictions of a doctor.

8.11 – Employee of the Year. The City has set up a process to recognize employees how have delivered outstanding work performances throughout the year.

### **Use of City Property**

Updates of Policies in the Current Handbook:

9.1 – Accidents & Traffic Citations

9.2 – Computer and Technology Use. Includes an expanded Social Media policy and what is and is not appropriate for employees to post online. This policy also covers appropriate use of e-mail, internet use, and that anything an employee sends, writes, or searches is covered by public records.

New Policies:

There was not a need to create new policies in this section. We did expand on the current language in the handbook to capture changes in technology.

### **Employee Resignations & Retirements**

Updates of Policies in the Current Handbook:

10.4 a – Leave Time Cash-Out

10.5 b – Sick Leave Cash-Out

10.6 – Reduction in Force

#### New Policies:

10.1 - Resignations. Creates procedures and guidelines for when an employee resigns from the City. Employees should give two weeks' notice. Resignation effective date will be actual date employee works and not extended by leave or a holiday. Resignations should be in writing. The City can provide two weeks' pay in lieu of notice. No work can be performed after resignation date.

10.2 - Retirement. Employees should give two weeks' notice and should contact OPERS.

10.3 - Rescission of Resignation. Requests to rescind a resignation can only be authorized by the City Manager.

10.4 - Exit Interview. Establish what procedures will take place with the information gathered from the employee's voluntary exit interview.

10.5 - Re-Hiring Retired OPERS Members. Creates a retirement/rehire process for the City. Final approval is made by the City Manager.

#### **Employee Acknowledgement**

Updates of Policies in the Current Handbook:

The employee acknowledgement form after reading the handbook was updated.

New Policies:

No need for a new policy with this section.

#### **Legal Review:**

Reviewed and approved by the City's Labor Law Attorney.

#### **Financial Review:**

Reviewed and approved by the Finance Department.

#### **Recommendation:**

The Operations Committee reviewed the proposal at their most recent meeting. Staff recommends approval of Ordinance 2023- at the second reading on December 5, 2023.



## ORDINANCE 2023-33

### AN ORDINANCE ADOPTING THE UPDATED PERSONNEL MANUAL FOR EMPLOYEES OF THE CITY OF POWELL.

**WHEREAS,** pursuant to Section 155.01 of the Codified Ordinances, a Personnel Manual is adopted from time to time by City Council to establish policies and procedures for City employees; and

**WHEREAS,** City Council has previously adopted a Personnel Manual for employees of the City of Powell pursuant to the provisions of Ordinance 1989-15; and

**WHEREAS,** the Operations Committee has reviewed the proposed updates to the Personnel Manual and recommends their approval to City Council; and

**WHEREAS,** City Council has determined that it is necessary and desirable to amend and update those policies and procedures and desires to adopt the updated Personnel Manual which is attached hereto as Exhibit "A" and incorporated herein by reference.

### NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO AS FOLLOWS:

Section 1: That the Personnel Manual attached hereto as Exhibit "A" and incorporated herein by reference, setting forth amended personnel policies and procedures for employees of the City of Powell, is hereby adopted.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council and that all deliberations of Council and any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: That this Ordinance shall take effect on the earliest date possible.

\_\_\_\_\_  
Daniel Swartwout  
Mayor

Date

\_\_\_\_\_  
Elaine McCloskey  
City Clerk

Date

**EFFECTIVE DATE:** January 5, 2023

This legislation has been posted in accordance with  
the City Charter on this date \_\_\_\_\_.  
\_\_\_\_\_  
City Clerk

# CITY OF POWELL

AN EQUAL OPPORTUNITY EMPLOYER



## EMPLOYEE HANDBOOK

January 1, 2024

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## 1. INTRODUCTION & ADMINISTRATIVE POLICIES

## **1.1 INTRODUCTION**

This Employee Handbook conforms to the policies established by the City Manager and the City Council of the City of Powell. This handbook shall govern policy related matters of the City unless superseded by other specific regulations established in the City Charter or Code.

The purpose of this handbook is to establish various policies, rules and regulations, fringe benefits and services provided to full-time employees, and where applicable, part-time employees. It is the responsibility of all City of Powell employees to read, understand, and adhere to the information contained in the employee handbook.

Clear and efficient employee policies are indispensable and necessary to properly administer the business affairs of the City. Further, the City insists upon a fair, equitable, and uniform system of public employment to attract the excellent caliber of employees our citizens demand and deserve. All City employees, including the City Manager, are responsible for the administration of the policies set forth herein.

The policies contained in this handbook supersede any prior personnel policies and procedures of the City. They are provided to employees for information only and are subject to change at any time without advance notice. Nothing in this handbook constitutes or establishes a contract of employment of any duration or any other legal obligation granting continued employment. Unclassified employees are at-will, which means employees may terminate employment at any time, with or without cause or advance notice. Likewise, at-will means that the City may terminate an employee's employment at any time, with or without cause or advance notice, as long as it does not violate federal or state laws.

Employees should contact the Human Resources Department with any questions on the policies and procedures within this Employee Handbook.

## **1.2 MANAGEMENT RIGHTS**

The City Manager reserves the right to establish personnel policies and rules, with the concurrence of the City Council, and shall make and confirm appointment to and removal from employment according to the Charter and Ordinances of the City of Powell. Department directors and supervisors are responsible for enforcing the provisions of the City's policies and for cooperating with the City Manager on all related matters pertinent to the City.

Specifically, the City reserves and retains exclusively all its normal and inherent rights with respect to the management of its operations, whether exercised or not, including, but not limited to the following:

- The right to generally manage through the implementation, enforcement, amendment, deletion, or revision of policies, procedures, rules, regulations, and directives.

- The right to control the efficiency of operations through organization of work methods or procedures; layoff or recall of employees due to operational or financial needs; and improvement in work methods, equipment, machinery, and facilities.
- The right to direct the work force through the determination of its size and number; the number of shifts required; the work schedules and hours of employment; the necessity for overtime and the amount, if required; the selection, retention, and assignment of all employees based upon qualifications and departmental functions and duties, and disciplining them as required, including suspension, termination, or reduction in pay or position; and promoting, and transferring employees as needed pursuant to established policy.
- The right to manage their offices effectively, efficiently, and economically and/or departments determining acceptable standards of conduct and performances; the methods, means, equipment, materials, and processes for the accomplishment of work; the department's goals, objectives, programs, services, and work to be performed, and to utilize personnel in a manner to meet these purposes and improve productivity.
- The right to determine when an emergency exists, and implement actions and assignments deemed advisable and necessary to respond to such emergency situations effectively and efficiently.
- The right to exercise complete control and discretion over the budget.

### **1.3 EMPLOYMENT CLASSIFICATIONS**

The City will maintain standard definitions of employment and will classify employees in accordance with the following definitions.

#### **Full-time**

Defined as employees who work at least 30 hours per week on a regularly scheduled basis, per the Affordable Care Act (ACA). Full-time employees are entitled to all benefits provided by the City including health and life insurance, sick leave, vacation, holiday pay, and other benefits.

#### **Part-time**

Defined as employees who work a regular schedule less than 40 hours per week. Part-time employees are entitled to sick leave, vacation leave and holiday pay.

#### **Seasonal**

Defined as employees who work during a recurring portion of the year (e.g., summer, mowing season, etc.) and maybe on a full-time, part-time, or intermittent basis. Seasonal employees are not entitled to any benefits.

### **Temporary & Intermittent**

Defined as employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration of less than one thousand (1000) hours and are ineligible for all benefits.

### **Contract**

Defined as a bona fide employment relationship wherein the compensation, terms, and conditions of employment are spelled out in a written contract with the City. Contract employees are not entitled to any benefit.

### **Exempt**

Some executive, administrative, and professional employees are exempt from the requirements of the Federal Fair Labor Standards Act (FLSA) that provide overtime pay standards. These exemptions are generally based on the responsibility, discretion, independent judgment, and decision-making authority required in the job. Exempt employees are not eligible to receive overtime pay.

### **Non-Exempt**

Employees in non-exempt jobs must be paid overtime generally for hours worked over forty (40) hours per week. This means that non-exempt employees' time worked must be recorded to comply with the FLSA.

## **1.4 CLASSIFIED & UNCLASSIFIED EMPLOYMENT**

Classified City employees are defined by Article XIV, Section 14.03 (A) of the City Charter unless the position which they occupy has been exempted from the classified service by a lawful request of the employer, or by operation of law or City Charter. After completion of the original probationary period, or the probationary period following a promotion, classified employees may only be disciplined for cause and by following the procedures set forth in the Civil Service laws of the State of Ohio and the City of Powell.

Employees listed in Article XIV, Section 14.03 of the City Charter serve as unclassified City employees, or occupy positions, which have been exempted from the classified City service. Such employees may be hired at will and may serve at the pleasure of the City without reference to certain provisions of the ordinances within the City of Powell Charter.

### **1.4 a Classified Appeals & Hearings**

The civil service laws provide for appeals of certain actions including layoffs and certain discipline matters for those employees who are classified and not included in a collective bargaining unit. For those employees who are included in a collective bargaining unit their appeal rights are set forth in the collective bargaining agreement.

The Powell Personnel Review Board of Review (PPRBR) Rules and Regulations guidelines provide procedures for hearings of appeals. The PPRBR rules, and what appeals it may consider are set forth in the PPRBR Rules and Regulations guidelines. PPRBR may not consider appeals or conduct hearings of issues or matters not included in the civil service laws. Classified employees only include Police Department and Public Service Department employees that are covered by their bargaining unit.

## **1.5 PAY DETERMINATION**

The City has established a system of wage review that periodically assesses the pay level for positions according to one or more of the following factors:

- The City's ability to pay.
- Relevant wages in the area.
- Specific job standards.
- Internal equity.
- Other available employee benefits.
- Required knowledge, skill and ability needed to perform the job.

Based on this review, a pay range is established for each position with minimum and maximum rates of pay. Pay upon hire is based on the level of experience, education and training an employee brings to the position. The City Manager determines an offer of pay after consultation with the Human Resources Department.

## **1.6 MERIT INCREASES**

The City has adopted a pay for performance program as part of the overall compensation program. Merit pay is one of the methods the City uses to reward successful job performance. The existence and amount of funds available to be distributed in the form of merit increases shall be determined by approval of the annual budget. If awarded, Merit increases shall be awarded based on employee performance and after completion of the annual performance review process.

The provisions of this section do not apply to Union represented employees. All pay increases for Union represented employees are governed by the terms of the applicable collective bargaining agreement.



### **1.6 a Eligibility**

Non-union employees in regular full-time or part-time positions who have at least one (1) year of continuous service, before the merit award date, are eligible to be considered for a merit increase. Non-union employee increases will be typically awarded after January 1<sup>st</sup> during the second pay period of the new year.

For those eligible non-union employees with less than one (1) year at the time the annual merit increase is awarded, they will receive a prorated increase after the completion of their one (1) year anniversary. Employees will then be eligible for a merit increase based on the regular non-union annual cycle.

No employee that is still on probation, or on a probationary period extension, shall be eligible for a merit increase until after the successful completion of their probationary period.

No employee currently on a performance improvement plan shall be eligible for a merit increase.

- The merit increase is postponed pending further review of the employee's job performance for a period not to exceed six (6) months. The supervisor shall include the reasons for the postponement in any such recommendation with the department director making the final decision. If, during or at the conclusion of the period of postponement, the department director recommends a merit increase, the increase will take effect in the pay period that immediately follows the pay period in which the recommendation is made.

### **1.6 b Determination of Merit Increase**

Merit increases require the recommendation of the employee's supervisor and department director, with the final approval of the City Manager. Employees are to be notified of their merit increase as soon as possible after all employee merit increases for the year have been approved by the City Manager.

## **1.7 BACKGROUND CHECKS**

All offers of employment are contingent upon clear results of a thorough background check. Background checks will be conducted on all final candidates and on employees who are promoted, as deemed necessary.

Background checks may include the following:

- Social Security Verification: validates the applicant's Social Security number, date of birth and former addresses.
- Prior Employment Verification: confirms applicant's employment with the listed companies, including dates of employment, position held and additional information

available pertaining to performance rating, reason for departure and eligibility for rehire. This verification will be run on past employers for the previous ten (10) years.

- Personal and Professional References: calls will be placed to individuals listed as references by the applicant.
- Educational Verification: confirms the applicant's claimed educational institution, including the years attended and the degree/diploma received.
- Criminal History: includes review of criminal convictions and probation. The following factors will be considered for applicants with a criminal history:
  - The nature of the crime and its relationship to the position.
  - The time since the conviction.
  - The number (if more than one) of convictions.
  - Whether hiring, transferring, or promoting the applicant would pose an unreasonable risk to the business, its employees or its customers and vendors.

The following additional background searches will be required if applicable to the position:

- Motor Vehicle Records: provides a report on an individual's driving history in the state requested. This search will be run when driving is an essential requirement of the position.
- Credit History: confirms candidate's credit history. This search will be run for positions that involve management of the City's funds and/or handling of cash or credit cards.

The Human Resources Department will complete the background check upon receipt of the signed release form. In instances where negative or incomplete information is obtained, the City will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired. If a decision not to hire or promote a candidate is made based on the results of a background check, there may be certain additional Fair Credit Reporting Act (FCRA) requirements that will be handled by Human Resources.

Background check information will be maintained in a file separate from employees' personnel file.

## **1.8 PERFORMANCE REVIEWS**

Depending on the employee's position and classification, the City of Powell strives to review performance on an annual basis with monthly check-in by supervisors for all employees. However, a positive performance evaluation does not guarantee an increase in salary, a promotion or continued employment. Compensation increases and the terms and conditions of employment, including job assignments, transfers, promotions, and demotions, are determined by and at the discretion of management.

In addition to these formal performance evaluations, the City encourages employees and supervisors to discuss job performance on a frequent and ongoing basis.

## **1.9 PROBATIONARY PERIODS**

The probationary period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The City uses this period to evaluate employee capabilities, work habits, and overall performance. Successful completion of the probationary period does not alter the at-will status of City employment for unclassified personnel.

Any employee hired or promoted into a non-supervisory position will serve a probationary period lasting a minimum of one hundred and eighty (180) calendar days from their date of hire or promotion.

Any employee hired or promoted into a supervisory position will serve a probationary period lasting a minimum of one hundred and eighty (180) calendar days from their date of hire or promotion.

Employees who are part-time will be required to serve a probationary period of an equivalent length of time.

Any significant absence of three (3) or more days will automatically extend a probationary period by the length of the absence.

An employee may be separated at any time during the original probationary period for unsatisfactory services. Employees serving promotional probationary periods may be reduced to the same or similar classification and salary held prior to the promotion at any time during the promotional probationary period. The City shall review each case individually and evaluate the employee's effectiveness and/or quality of work to determine continuation in the position.

In those instances where the employee needs improvements during the probationary period, the City Manager, or designee, may extend the probationary period up to 180 days.

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## 2. WORKPLACE STANDARDS & ETHICS

## **2.1 COMMITMENT TO DIVERSITY & INCLUSION**

The City of Powell is committed to fostering a diverse and inclusive workforce, which includes building an environment that respects the individual, promotes innovation, and offers opportunities for all employees to develop to their full potential.

A diverse workforce helps the City realize its full potential. The City benefits from creativity and innovation that results when people who have different experiences, perspectives, and cultural backgrounds work together.

## **2.2 EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

The City of Powell is firmly committed to Equal Employment Opportunity as a fundamental policy to be implemented and observed in our daily operation. We will not tolerate discrimination in employment-based race, color, ancestry, national origin, language, religion, citizenship status, sex, gender identification, age, marital status, military/veteran status, disability, genetic information, membership in a collective bargaining unit, political affiliation, or any other characteristic protected by federal, state, and local laws. In addition to its commitment to compliance with State and Federal laws relating to unlawful harassment, the City also strives to create and preserve a work environment free from discomfort or pressure relating to any personal characteristics such as personal appearance.

It is the responsibility of each employee to help ensure that the work environment is free of discrimination and harassment. Anyone who violates the City's Equal Employment Opportunity Policy will be subject to discipline, up to and including termination.

The City strives to create an environment that enables all employees to work free from threats and acts of discrimination and harassment. Should an employee believe that he or she has been discriminated against, sexually harassed, or harassed because of any other protected statute, the employee should bring the matter to the attention of their immediate Supervisor, the Human Resources Department, or the City Manager so that corrective action can be taken. Complaints may be made by any methods discussed in the Anti-Harassment / Anti-Discrimination policy below.

Equal opportunity extends to all aspects of the employment relationship, including but not limited to hiring, transfers, promotions, training, terminations, working conditions, compensation, benefits, and other terms and conditions of employment.

We expect and solicit cooperation from all City employees. The City continues to support the commitment to equal opportunity for its employees and all citizens.

## **2.3 ANTI-HARASSMENT & ANTI-DISCRIMINATION**

Our policy, as well as various laws and regulations, generally prohibit employment decisions from being made on the basis of any personal status protected by law, such as race, color, ancestry, national origin, language, religion, citizenship status, sex, gender identification, age, marital status, military/veteran status, disability, genetic information, membership in a collective bargaining unit, political affiliation, or any other characteristic protected by federal, state, and local laws. In addition to prohibiting unlawful harassment, the City discourages conduct which discriminates or harasses on the basis of personal characteristics not necessarily protected by law, such as physical appearance, or other similar characteristics.

Prohibited harassment may take the form of written, spoken, physical, or visual harassment and may include, but is not limited to epithets, slurs, derogatory comments, jokes, intimidation, negative stereotyping, threats, comments on social media sites, assault, or written or graphic material that denigrates or shows hostility or aversion toward an employee or group because of the characteristics identified herein.

Prohibited conduct includes but is not limited to conduct on City of Powell property, in City vehicles, on City communication systems, during City related events, and in connection with City of Powell business. Any such harassment is against City policy, may violate the law, and will not be tolerated. The City expects cooperation from all employees to prevent harassment in the workplace.

Sexual Harassment/Discrimination means it is unlawful to harass a person because of that person's sex. Harassment can include sexual harassment or unwanted sexual advances, requests for sexual favors, or visual, oral, or physical conduct of a sexual nature when:

- Submission to this conduct is made, either explicitly or implicitly, a term or condition of employment.
- Submission to or rejection of this conduct is used as the basis for employment decisions that affect employees.
- The conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment also may be in the form of nonsexual, offensive conduct that is directed at employees because of their gender, sexual orientation, or gender identity, or gender expression. Sexual harassment is not limited to conduct motivated by sexual attraction. It may occur between members of the opposite sex or members of the same sex. Examples of prohibited sexual harassment include, but are not limited to:

- Written harassment: sexually suggestive or obscene letters, faxes, e-messages, notes, social network postings, or invitations.

- Verbal harassment: sexual comments, advances, propositions, derogatory comments, slurs, and jokes about an employee's body or appearance, including comments made on voicemail or another recording device.
- Physical harassment: assault, sexually suggestive touching, or body contact, or impeding or blocking movement.
- Visual harassment: sexual gestures, leering, inappropriate display of sexually explicit objects, pictures, cartoons, or posters (in hard copy or electronically).

These examples are not inclusive of all behaviors that would be in violation of our policy, and the City reserves the right to make that determination based on the findings of our investigation.

This policy applies to all applicants and employees, and prohibits harassment, discrimination and retaliation whether engaged in by employees, vendors, or a member of the public. The conduct prohibited by this policy is not necessarily limited to the workplace and time.

### **2.3 a Reporting Harassment & Discrimination**

The City has adopted a reporting procedure that assures a prompt, thorough and impartial investigation of all concerns, followed by swift and appropriate corrective action when warranted. Any employee who experiences or observes harassment, discrimination or retaliation should report it using the steps listed below. No employee should assume that the City is aware of a problem. Complaints and concerns must be brought to the attention of the City so the City can take steps to correct any problem.

If you have any concern that the City's EEO and Harassment/Discrimination policy may have been violated by anyone, you must immediately report the matter. Immediately report any harassing or discriminating behavior by any employee, elected official, appointed official and non-employees, including but not limited to citizens, contractors, subcontractors, and vendors. Due to the very serious nature of harassment and discrimination, you must report your concerns to anyone with supervisory responsibility at the City of Powell, including but not limited to, your immediate supervisor, any Department Head, the Human Resources Department, or the City Manager. You should report any actions you believe may violate this policy, no matter how slight the actions may seem.

### **2.3 b Retaliation Prohibited**

No employee who has made any report of unlawful harassment or discrimination shall be allowed to suffer any sanction or retaliatory action because of such report. Retaliation is absolutely prohibited, including threatening an individual or taking any adverse action against an individual for reporting a possible violation of this policy; or participating in an investigation conducted under this policy. Retaliation is a serious violation of this policy and, like harassment or



discrimination itself, will be subject to disciplinary action up to and including termination of employment.

### **2.3 c Investigation & Resolution Procedure**

Any reported allegations of discrimination, harassment, or retaliation will be appropriately investigated. Concerns will be handled as confidentially as possible in keeping with the need to investigate. All employees have an obligation to cooperate fully and truthfully with any investigation. Discussing the investigation with anyone other than an investigator can hinder or taint an investigation and employees are required to maintain the confidentiality of an investigation to protect its integrity. Obstruction, falsification, failure, or refusal to cooperate, breach of confidentiality, or any other effort to hinder an investigation will be considered a policy violation just as is the actual discrimination/harassment or any retaliation against reporting individuals, all of which may result in discipline up to and including termination.

Employees are prohibited from making an allegation the employee knows is not true. If an investigation reveals that an employee knowingly made a false allegation, the employee may be subject to disciplinary action, up to and including termination.

When the investigation leads to the conclusion that a violation occurred, appropriate action will be taken to remedy the violation.

We are serious about enforcing our policy against discrimination, harassment, and retaliation. Individuals who are determined to have violated this policy in any manner are subject to disciplinary action up to and including termination.

## **2.4 ACCOMMODATIONS FOR RELIGIOUS BELIEFS**

Employees who seek a religious accommodation for any situation must submit a written request for the accommodation to Human Resources. The written request should include the type of religious conflict that exists and the requested accommodation. Human Resources will respond to the employees' request within a reasonable time.

## **2.5 AMERICANS WITH DISABILITIES ACT (ADA)**

The City will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in undue hardship. This guideline governs all aspects of employment including selection, job assignment, compensation, discipline, employment, termination and access to benefits and training.

Employees are expected to notify Human Resources or other appropriate City staff if they need an accommodation. Any supervisor receiving a request for accommodation should report it to Human Resources so that an appropriate resolution can be determined. The accommodation request should include medical documentation from the employee's healthcare provider and an interactive ADA conversation with the Human Resources Department.

Medical information obtained by the City regarding applicants or employees is maintained in a separate file and disclosed only in accordance with the ADA and its amendments, as well as applicable federal and Ohio laws. The City may be required to release this information under Ohio Public Records laws or subpoenas.

Normally, the disclosure of a disability or request for accommodation will result in an interactive process between the City and the employee to determine what, if any, reasonable accommodation might best enable the employee to perform the essential functions of his job. What accommodation, if any, will be provided is a fact-consuming question and will be determined on a case-by-case basis. If it is not possible to accommodate an employee in their current position, then we may resort to determining if there are other positions available and to be filled for which the employee can perform the essential functions of the job, with or without accommodation.

## **2.6 INTEGRITY/CONFLICT**

One of the City of Powell's most important assets is the reputation of its employees for honesty and integrity. Preserving your integrity demands continuous commitment. Each employee must avoid any activity or relationship that might reflect unfavorably on the City whether as a result of a possible conflict of interest, the appearance of such a conflict, or any other impropriety. Although no written code can take the place of personal integrity, the following general guidelines should serve as minimum standards of proper conduct. Any violation of existing ordinances, policies, rules or regulations may subject the employee involved to disciplinary action, up to and including termination of employment and/or possible civil or criminal penalties.

## **2.7 ETHICS OF PUBLIC EMPLOYMENT**

The proper operation of government requires that actions of public officials and employees be impartial; that government decision and policies be made within the proper channels of government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. State law establishes, through the Ethics Commission, standards for public officials and employees. The City recognizes the State standards and the goals of responsible government. Recognition of these goals has led to the establishment of a Code of Ethics as follows for all officials and employees of the City.

No employee shall use their official position for personal gain or shall engage in any business or transaction or shall have financial or other interests, direct or indirect, which conflicts with the proper performance of their official duties.

No employee shall, without proper legal authorization, release confidential information concerning the property or government affairs of the City; nor shall employees use such information to advance the financial or other private interest of him or others. No employee shall accept any valuable gift, whether in the form of service, loan, item, or promise from any person, firm or corporation which is interested directly or indirectly in any manner whatsoever in

business dealings with the City; nor shall employees accept any gift, favor or item of value that may tend to influence any decisions of the employee or his supervisor. Any employee offered a gift or favor who is not sure whether its acceptance would be a violation of the Code of Ethics should inform their supervisor. The supervisor will immediately contact the Human Resources Department.

No employee shall accept from any contractor or supplier doing business with the City any gifts, material, or service for the private use of the employee.

No employee shall represent private interests in any action or proceedings against the interest of the City in any matter in which the City is a party.

State law prohibits employees and officials from having financial interests in companies which do business with public agencies, with minor exceptions. Employees who have any doubt concerning possible violations of these statutes are advised to consult their own attorney.

No employee shall engage in or accept private employment or render services for private interests when such employment or service conflicts with the proper performance of his official duties or would tend to impair his independent judgment or action in the performance of his official duties. Any employee having doubt as to the applicability of a provision of this code to a particular situation should consult the Human Resource Department or the Ohio Ethics Commission.

## **2.8 FRAUD REPORTING & WHISTLEBLOWER PROTECTION**

The Ohio Auditor of State's office maintains a system for the reporting of fraud, including misuse of public money by any official or office. The system allows all Ohio citizens, including public employees, the opportunity to make anonymous complaints through a toll-free number, the Auditor of State's website, or through the United States mail.

### **Auditor of State's fraud contact information:**

Telephone: 1-866-FRAUD OH (1-866-372-8364)

US Mail: Ohio Auditor of State's office  
Special Investigations Unit  
88 East Broad Street  
P.O. Box 1140  
Columbus, OH 43215

Web: [www.ohioauditor.gov](http://www.ohioauditor.gov)

Except for situations involving the reporting of false information, no employee shall take any disciplinary action against an employee for making any report or filing a complaint.

If any employee takes any disciplinary or retaliatory action against another employee because of the employee having filed a report or complaint, the City shall take disciplinary action against the employee, up to and including terminations.

## **2.9 POLITICAL ACTIVITY**

Although the City encourages all employees to exercise their constitutional rights to vote, certain political activities are legally prohibited for employees of the City whether in active pay status or on leave of absence. The following activities are examples of conduct permitted by classified and employees:

- Registration and voting.
- Expressing opinions, either orally or in writing.
- Voluntary financial contributions to political candidates or organizations.
- Circulating non-partisan petitions or petitions stating views on legislation.
- Attendance at political rallies.
- Signing nominating petitions in support of individuals.
- Displaying political materials in the employee's home or on the employee's property.
- Wearing political badges or buttons, or the display of political stickers on private vehicles.
- Serving as a precinct official under O.R.C. § 3501.22.

The following activities are examples of conduct prohibited by classified employees:

- Candidacy for public office in a partisan election.
- Candidacy for public office in a non-partisan general election if the nomination to candidacy was obtained in a primary partisan election or through the circulation of a nominating petition identified with a political party.
- Filing of petitions meeting statutory requirements for partisan candidacy to elective office.
- Circulating official nominating petitions for any partisan candidate.
- Holding an elected or appointed office in any partisan political organization. Accepting appointment to any office normally filled by partisan election.

- Campaigning by writing in publications, by distributing political material, or by writing or making speeches on behalf of a candidate for partisan elective office, when such activities are directed toward party success.
- Solicitation, either directly or indirectly, of any assessment, contribution, or subscription, either monetary or in-kind, for any political party or political candidate.
- Solicitation for the sale, or actual sale, of political party tickets.
- Partisan activities at the election polls, such as solicitation of votes for other than nonpartisan candidates and nonpartisan issues.
- Service as a witness or challenger for any party or partisan committee.
- Participation in political caucuses of a partisan nature.
- Participation in a political action committee that supports partisan activity.

Classified employees may serve as a precinct election official for a primary, special, or general election, and the employee may, with the prior approval of their supervisor and use vacation leave, compensatory time off, or unpaid leave so to serve.

Employees in the unclassified service, who serve at the pleasure of the City, are not prohibited from engaging in political activity unless specifically precluded by federal or state constitutional statutory provisions.

## **2.9 a Employee Political Conduct**

As City of Powell employee, it is inappropriate to either participate in political activities or solicit participation of others in political activities, either during normal business hours or at any time when using City assets or representing the City in an official capacity.

Employees, regardless of designation as classified or unclassified, are prohibited from serving in an appointed or elected position when it is physically or professionally impossible for the employee to discharge the duties of both positions, and there would be a conflict of interest with the City.

Any employee who has a question pertaining to whether specific conduct of a political nature is permissible should contact Human Resources prior to engaging in such conduct.

## **2.10 SOLICITATION**

To minimize workplace distractions and disruption of City operations, it is the policy of the City of Powell to place reasonable limitations on solicitation and distribution-related activities by and of its employees.

Direct solicitation for non-City-related matters, including charitable contributions or other fundraising, subscriptions, membership or participation in clubs or organizations, signatures for petitions, the sale of consumer products, or other outside business is restricted via City e-mail, City-owned cellular phones via text message, or other forms of City-owned electronic communication. Literature or other promotional or explanatory materials regarding such matters may be left only in designated areas of City Hall and other City facilities that are restricted to the public. Employees should limit discussing such literature or its contents during working hours.

Employees will not solicit or distribute literature to any visitor/citizen at any time for any non-City business purpose during working hours or under any circumstances which may create the appearance that they are doing so in their capacity as a City employee (e.g., using City e-mail, equipment or supplies, while wearing a City-issued uniform or other clothing or items identifying the individual as a City employee, etc.).

Violations of this policy will be addressed on a case-by-case basis. Disciplinary measures will be determined by the severity of the violation, not the content of the solicitation or literature involved.

## **2.11 EMPLOYEE FRATERNIZATION**

The City of Powell strongly believes that a work environment where employees maintain clear boundaries between employee personal and business interactions is necessary for effective business operations. Although this policy does not prevent the development of friendships or romantic relationships between co-workers, it does establish boundaries as to how relationships are conducted during working hours and within the working environment.

During working hours and in work areas, employees of the City are expected to keep all personal interactions limited and at a professional level to avoid distracting or offending others. Individuals in supervisory or managerial roles and those with authority over others' terms and conditions of employment are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information, and their ability to affect the employment of individuals in subordinate positions.

Employees engaging in personal exchanges should observe an appropriate workplace manner to avoid offending other workers or putting others in an uncomfortable position or interfering with overall productivity.

Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate in the workplace by a reasonable person while anywhere on company premises, whether during working hours or not. Employees who allow personal relationships with co-workers to adversely affect the work environment will be subject to the City's disciplinary policy, including counseling for minor problems. Failure to change behavior and maintain expected work responsibilities is viewed as a serious disciplinary matter.

Any supervisor or employee in a sensitive or influential position with the City must disclose the existence of a romantic or sexual relationship with another co-worker. Disclosure may be made to Human Resources and a review of the circumstances will be conducted to determine whether any conflict of interest exists.

Matters such as hiring, firing, promotions, performance management, compensation decisions and financial transactions are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage. In some cases, other measures may be necessary, such as the transfer of one or both parties to other positions and departments. Failure to cooperate to resolve a conflict or problem caused by a romantic or sexual relationship between co-workers or among supervisors or others in positions of authority in a mutually agreeable fashion may be deemed insubordination and result in disciplinary action up to and including termination.

## **2.12 NEPOTISM**

The members of the immediate family of current City employees, whether full-time or permanent part time, shall be ineligible for employment by the City, including seasonal and temporary employment. For purposes of this policy, "immediate family" shall mean and includes, but is not limited to, these relatives of an employee, regardless of where they live:

- Parents, parents-in-laws, and stepparents.
- Grandparent and grandparents-in-law.
- Spouse.
- Children and stepchildren, whether dependent or not.
- Grandchildren and step-grandchildren.
- Siblings.
- Brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law.
- Legal guardian or any person who stands in the place of a parent.



- Any other individual related to an official or employee by blood or marriage is a "member of the employee's family" if he or she lives in the same household as the employee.

Employees will not use the authority or influence of their position to secure employment or benefit for an immediate family member, including recommending or nominating a family member for hire. This prohibition applies to all City positions, including seasonal and temporary assignments.

If two City employees become immediate family members, the employees must notify Human Resources immediately. Exceptions to this policy may only be granted by the City Manager and must be made in writing with the approval of the City Attorney. Unless an exception is granted by the City Manager, one employee must find other employment, either in another Department or outside the City, within six (6) months. The City has no duty to transfer the employee to another Department. No employee shall have direct supervisory responsibility for an immediate family member.

Violation of the nepotism policy is subject to disciplinary action, which may include termination.

## **2.13 OUTSIDE EMPLOYMENT**

Outside employment is defined as any work or services rendered for an entity other than the City of Powell, in exchange for compensation. Full-time employment with the City shall be considered the employee's primary occupation, taking precedence over all other occupations. No full-time employee of the City may hold outside employment unless it is pre-approved by Human Resources. Employees are required to notify Human Resources of any outside employment with the place of employment, job title, days and hours worked, and a summary of the job duties. Human Resources will respond with a decision in a reasonable amount of time.

Outside employment that interferes with or can be reasonably expected to interfere with the performance of the employee's duties to the City or that creates an actual or potential conflict of interest with the employee's duties to the City is prohibited. Except for sworn personnel performing outside employment authorized by the Chief of Police or his or her designee, use of City systems, equipment, supplies, or premises for the purpose of outside employment is prohibited.

Employees are prohibited from engaging in secondary employment during the hours for which they are normally scheduled to work for the City while on approved sick leave, disability leave, administrative leave or family medical leave. Employees may not engage in secondary employment during any period while on sick leave, disability leave, and FMLA if the employment can be reasonably construed to delay or preclude full recovery and return to work. Employees are strictly prohibited from engaging in or conducting outside private business during scheduled working hours.

If, in the opinion of the City, outside employment is adversely affecting an employee's job performance, they may be asked to refrain from such activities as a condition of continued employment. Refusal to conform to such a request shall be cause for disciplinary action.

## **2.14 GIFTS, GRATUITIES, & ENTERTAINMENT**

No City employee may solicit or accept gifts, gratuities, or entertainment which are given to influence business decisions from anyone who has, or is contemplating, a business relationship with the City. Gifts, gratuities, and entertainment include but are not limited to meals, trips, money, loans, rewards, merchandise, foodstuffs, tickets to sporting or cultural events, entertainment and personal services or work provided by City suppliers or contractors. If in doubt, check with Human Resources.

## **2.15 PERSONAL APPEARANCE**

The City Manager reserves the right to prescribe appropriate attire and grooming and to set standards which are deemed to be in the best interest of the City and ensure an appropriate image for the City.

Certain employees may be required to wear regulation uniforms while on duty and comply with a collective bargaining agreement, where applicable. Employees provided with City uniforms should keep them in neat and clean condition. Employees provided with City uniforms must wear them as instructed when on duty.

“Business casual” attire is the City’s year-round dress code during normal business hours. Appropriate “business casual” attire includes pants, capris, skirts, dresses, slacks or khakis, casual shirts, blouses, and sweaters.

“Casual day” attire is a privilege for non-uniformed employees to wear jeans on a designated day. Jeans should be free of tears, fraying and holes. Rubber flip-flops are not permissible. Tennis shoes will be allowed on casual days. Casual days may be omitted at any time by the discretion of the City Manager.

“Business professional” attire is the appropriate dress when meeting with the public in a professional setting or capacity, including attending City Council meetings or other City meetings. “Business professional” attire includes blazers, suits, sports coats, tailored dress pants, dresses, skirts, blouses, ties, dress shirts, dress shoes, and socks.

Employees must dress in a businesslike manner and avoid extremes in dress. Flashy, skimpy, or revealing clothing is unacceptable. For example, denim of any color or style, shorts (more than 3” above the knee) (except as authorized by the Department Head), miniskirts (more than 3” above the knee), leggings (appropriate with dresses only), sweatpants, sweatshirts, t-shirts, short

tops, halter tops, backless tops, thin-strap tops, tennis shoes (except as authorized by the Department Head), and hats (except as required for sun protection) are not acceptable attire.

The City, in its sole discretion, will determine when clothing does not meet requirements. Good personal hygiene is also important. Accordingly, employees are expected to come to work in a clean and well-groomed condition.

Employees are expected to always observe the Personal Appearance Policy while at work. Employees who report to work in unacceptable attire or appearance may be requested to leave work and return in acceptable attire or appearance. Such time away from work will be without pay for non-exempt employees. Violation of this policy may result in discipline, up to and including termination.

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### 3. WORKPLACE SAFETY

### **3.1 DRUG-FREE WORKPLACE**

In compliance with the Drug-Free Workplace Act of 1988, the City of Powell has a commitment to provide a safe, quality-oriented and productive work environment consistent with the standards of the community in which the City operates. Alcohol and drug abuse poses a threat to the health and safety of the City of Powell's employees and to the security of the City's equipment and facilities. For these reasons, The City of Powell is committed to a workplace free of drug and alcohol use and abuse. Compliance with this Drug Free Workplace Policy is made a condition of employment.

All employees must notify Human Resources of any arrest or conviction for violation of any alcohol or drug statute within twenty-four hours (24 hours) days after such arrest or conviction. Any employee who receives a felony conviction for illegal possession, distribution, trafficking, or dispensing of controlled substances will be dismissed. Any employee who needs to take prescription or over-the-counter medications that have been or may be capable of impairing the senses, coordination, or judgment must notify Human Resources prior to starting work.

Employees are prohibited from the following when reporting for work, while on the job, on City or customer premises or surrounding areas, or in any vehicle used for City business:

- The unlawful use, possession, transportation, manufacture, sale, dispensation, or other distribution of an illegal or controlled substance or drug paraphernalia.
- The unauthorized use, possession, transportation, manufacture, sale, dispensation, or other distribution of alcohol.
- Being under the influence of alcohol or having a detectable amount of an illegal or controlled substance in the blood or urine ("controlled substance" means a drug or other substance as defined in applicable federal laws on drug abuse prevention).
- Other similar conduct deemed a violation of criminal laws.

The City of Powell does not desire to intrude into the private lives of its employees, however, recognizes that employees' off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the City reserves the right to take appropriate disciplinary action for drug use, sale, or distribution while off City premises. An employee who is convicted of, plead guilty to, or is sentenced for a crime involving an illegal drug is required to report the conviction, plea, or sentence to HR within five (5) days. Failure to comply may result in automatic discharge. Cooperation in complying may result in suspension to allow management to review the nature of the charges and the employee's past record with the City.

Drug and alcohol testing will be carried out in compliance with any applicable state and federal laws and regulations.

Disciplinary action will be taken for drug-related crimes, regardless of whether they happened during working hours or in an employee's own time.

It is also understood that employees suffering from alcohol or drug dependence can be treated. We encourage any employee to seek professional care and counseling prior to any violation of this policy.

Employees who are taking medication prescribed to them and work in positions where these medications/drugs may affect or impair their ability to perform their job duties must notify their supervisor and Department Director. The City will consider options for employees taking prescription drugs.

### **3.1 a Controlled Substances**

As used in this policy, controlled substances include any drug that is illegal under federal or state law, or that is legally obtainable but has not been legally obtained. The term includes prescribed drugs which are not being used for the prescribed purpose or in the prescribed manner.

Examples include but are not limited to:

- Marijuana\*.
- Opiates.
- Amphetamines.
- Cocaine.
- Crack, phencyclidine (PCP).
- Narcotics, barbiturates.
- Stimulants, depressants.

*\* Despite Ohio House Bill 523, marijuana for medical use is a Drug Enforcement Administration listed Schedule I controlled substance and therefore is prohibited.*

### **3.1 b Medical Marijuana & Cannabidiol (CBD)**

With respect to medical marijuana and CBD, the possession, distribution, and/or use of marijuana and CBD, including medical marijuana and CBD, is prohibited under federal law. The City of Powell prohibits employees from using, possessing, or being under the influence of marijuana and CBD in any form, including medical marijuana and CBD, while at work or during work time. Any employee who tests positive for marijuana or CBD, regardless of whether the marijuana or CBD

consumed was for medicinal purposes and/or with a prescription, will be considered to have violated this policy, and may be subject to disciplinary action. As such, the City encourages employees to discuss with their provider's alternative treatments to the use of medical marijuana and CBD.

Any employee violating these prohibitions will be subject to disciplinary action up to and including termination.

### **3.1 c Required Testing**

Employees subject to this policy shall be subject to drug and alcohol testing including, but not limited to the following: pre-employment testing; reasonable suspicion testing; and post-accident testing.

### **3.1 d Pre-Employment**

All applicants must pass a pre-employment drug test, that is conducted by a third-party facility designated by the City. Any offer of employment is contingent upon, among other things, satisfactory completion of this screening, and the determination by the City that the applicant can perform the responsibilities of the position that has been offered.

Upon receipt of an offer of employment, candidates must complete the required drug testing within 48 hours. All testing will be conducted by a licensed independent medical laboratory, which will follow testing standards in accordance with state law. Testing will be conducted on a urine sample provided by the candidate to the testing laboratory under procedures established by the laboratory to ensure privacy of the employee, while protecting against tampering/alteration of the test results.

The City of Powell will pay for the cost of the testing. The testing lab will retain samples in accordance with state law, so that a candidate may request a retest of the sample at his or her own expense if he or she disagrees with the initial test result.

Candidates who refuse to submit to a drug test or who fail to show up for a drug test within 48 hours of an offer of employment will no longer be considered for employment, and any offer of employment will be rescinded.

A candidate with a positive test result will not be considered for any position with the City of Powell for a period of one year.

If a candidate's test result is "NEGATIVE-DILUTE" the City will provide the candidate with one opportunity to retake the drug test. The retake test will be scheduled within a 48-hour period. The City's Human Resources Department will notify the applicant of the "NEGATIVE DILUTE" test result by calling one, and only one, telephone number provided by the applicant. If the applicant is unavailable at the time of the call, the Human Resources representative will leave a message

informing the applicant of the date and time of the retake test scheduled at the testing facility. Only the most extraordinary excuse will be considered for not reporting to the testing facility on the scheduled date and time of the retake test. Failure on the candidate's part to arrive on the scheduled date and time will typically result in the candidate's disqualification for employment. The City of Powell will provide a copy of the test results for those who test positive. Candidates may contact the medical laboratory to dispute the results of the positive urine sample within five working days after notification of a positive test result. All records concerning test results will be kept in medical files that are maintained separately from City personnel files.

### **3.1 e Reasonable Suspicion**

Reasonable suspicion testing shall be used when there are objective observable reasons to believe that a controlled substance or alcohol use is adversely affecting an employee's job performance or that the employee has violated this policy. Reasonable suspicion referral for testing shall be made based on documented objective facts and circumstances which are consistent with the effects of substance use. Any employee who witnesses an employee who they feel might be under the influence should report it to their supervisor or the Human Resources Department. The City Manager, along with the Human Resources Department, may reasonably conclude that an employee may be adversely affected or impaired in the employee's work performance due to the use of a controlled substance or alcohol. The observing supervisor or manager, whether the person is the employee's immediate supervisor, is required to document what they observed to the Human Resources Department, concurrently with the observation and consideration to impose reasonable suspicion testing.

Reasonable suspicion testing shall be completed whenever possible within two (2) hours of the observation, but in any case, no later than eight (8) hours after the observation for breath alcohol testing and thirty-two (32) hours for controlled substance testing.

### **3.1 f Post-Accident**

Employees are subject to testing when they cause or contribute to accidents that damage a vehicle, machinery, equipment, or property or result in an injury requiring medical attention.

### **3.1 h Follow-Up**

Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including termination. Depending on the circumstances and the employee's work history/record, the City may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the City. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be subject to immediate termination from employment.



### **3.1 i Consequences**

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture, or dispense an illegal drug in violation of this policy will be disciplined in accordance with the applicable policy. If the employee refuses to be tested, yet the City believes they are impaired, under no circumstances will the employee be allowed to drive home.

Employees who test positive for alcohol or illegal drugs under this policy will be disciplined within existing procedures. In addition to the above policy, employees of the Departments of Public Service and Public Safety have additional policies with testing standards to comply with federal and state laws applicable to certain positions and persons with licenses subject to these laws. Employees of the Department of Public Service and Public Safety should consult the policy for that Department and direct questions to the Department Director. Employees of the Service and Safety Departments are subject to both the Department Policy and the Employee Handbook.

### **3.2 TOBACCO POLICY – SMOKE FREE WORKPLACE**

The purpose of this policy is to protect the health and safety of employees, customers, and visitors of The City of Powell. Smoking is a leading cause of preventable death in the United States. Smoking and secondhand smoke are known causes of lung disease, heart disease, and cancer. The City of Powell recognizes the hazards caused by tobacco use and exposure to secondhand tobacco smoke. This policy covers the smoking of any tobacco product, including smokeless tobacco products and electronic cigarettes (regardless of tobacco content), and it applies to both employees and non-employee visitors of The City of Powell.

No use of tobacco products, including cigarettes, smokeless tobacco, and electronic cigarettes, is permitted on owned or operated property of the City of Powell at any time. “Property” means the organization’s facilities including offices, garages and mowers, City owned vehicles, and employee vehicles parked on owned and leased property. Nicotine is prohibited within direct proximity to locations of ingress and egress to any municipal facility owned and operated by the City. Employees must be at least 20 feet from areas of ingress or egress when smoking.

#### **3.2 a Responsibility for Reporting Violations**

Any employee who witnesses a violation of this policy is requested and encouraged to make a complaint. You may make a complaint directly to the Human Resources Department. No reprisal, retaliation, or other adverse action will be taken against an employee for making a complaint or for assisting in the investigation of any such complaint or report. Any suspected retaliation or intimidation should be reported immediately to the Human Resources Department.

### **3.3 WORKPLACE VIOLENCE PREVENTION**

It is the City’s policy to provide a workplace that is safe and free from all threatening and intimidating conduct. Workplace violence is “any act of aggression, or threat of an act, that threatens the safety, security, or well-being of an individual who is at work on duty.” The City will not tolerate violence or threats of violence of any form in the workplace, at work-related

functions or outside of work if it affects the workplace. This policy applies to City employees, clients, customers, guests, vendors, and people doing business with the City.

It is a violation of this policy for any individual to engage in any conduct, verbal or physical, that intimidates, endangers, or creates the perception of intent to harm persons or property. Examples include but are not limited to:

- Physical assaults or threats of physical assault, whether made in person or by other means (e.g., in writing, by phone, text, through social media, or e-mail).
- Verbal conduct that is intimidating and has the purpose or effect of threatening the health or safety of a co-worker.
- Any other conduct or acts that leadership believes represent an imminent or potential danger to workplace safety or security.

Anyone with questions or complaints about workplace behaviors that fall under this policy may discuss them with a supervisor or the Human Resources Department. The City will promptly and thoroughly investigate any reported occurrences or threats of violence. Violations of this policy will result in disciplinary action, up to and including immediate termination of employees. Where such actions involve non-employees, the City will take action appropriate for the circumstances. Where appropriate and/or necessary, the City will also take whatever legal actions are available and necessary to stop the conduct and protect City employees and property.

All employees are responsible for their conduct during work and work-related matters. Also, employees who witness conduct violating this policy, as well as all other City policies, should report the conduct, incident, or violation.

### **3.4 WEAPONS IN THE WORKPLACE**

The City of Powell is committed to providing its employees with a work environment that is safe and secure. This commitment includes prohibiting employees from possessing or having under their control a weapon or other dangerous weapons while conducting city business or on city time, including possession or control of a weapon other dangerous weapons in an employee's personal vehicle, unless specially authorized by the city. The city's prohibition against such unauthorized weapons or other dangerous weapons applies to all contractors and all employees, including but not limited to permanent city employees, contract workers, seasonal workers, consultants, interns, and anyone else conducting business on city property.

Individuals may store or transport their weapon and/or ammunition in their privately owned motor vehicle on property owned by the City that is primarily used as a parking facility for motor vehicles, unless otherwise prohibited. The weapon and/or ammunition must remain inside the person's privately owned motor vehicle while the person is physically present inside the motor vehicle, or the weapon and/or ammunition must be locked in the trunk, glove box, or other

enclosed compartment or container within or on the person's privately owned motor vehicle while on the above referenced property owned by the City.

### **3.4 a Prohibited Items**

Any weapon or other dangerous weapons including firearms except as provided in this policy; knives (switchblades, gravity knives or any knife with a blade longer than three inches), ballistic knife, metal knuckles, explosives, and explosive devices (dynamite, black powder, pellet powders, blasting caps, fuse igniters and instantaneous fuses), bows and arrows and Tasers. Legal, chemical dispensing devices such as pepper sprays that are sold commercially for personal protection are permissible under this policy.

### **3.4 b Prohibited Conduct**

Employees shall not carry or store a weapon or other dangerous weapons:

- In a facility, building, or portion of a building owned or leased by the city, including parking lots or garages.
- In a motor vehicle owned or leased by the city.
- While conducting city business or on City time, even when employees are off city owned or leased property.

### **3.4 c Effect of Concealed Carry License**

Individuals covered by this policy who have been issued a permit to carry a concealed weapon in the State of Ohio are not exempt from the above provisions. Individuals covered by this policy who carry or possess a weapon must store the weapon in accordance with the law prior to entering an area in which a weapon is prohibited. This section also applies to an active-duty member of the armed forces of the United States who meets the requirements under Revised Code Section 2923.126 (E)(2) to have the same right to carry a concealed weapon as a person issued a concealed carry license.

### **3.4 d Violations**

Violations will be subject to legal action as appropriate. Violation of this policy by a city employee may lead to disciplinary action up to and including termination in accordance with the applicable law, rule, or collective bargaining agreement.

### **3.4 e Exceptions**

In accordance with ORC 2923.12, the following City Personnel are exempt from this policy:

- An officer or authorized agent, or employee of this or any other state or the United States.
- A law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns and is acting within the scope of the officer's, agent's, or employees' duties.

### **3.5 INSPECTION OF WORK AREA**

Offices, cubicles, lockers, desks, cabinets, and vehicles provided by the City are City property and are subject to entry and inspection by the City at any time with or without prior notice. Employees have no expectation of privacy with respect to City property. The City may conduct reasonable searches to the extent allowed by applicable law. Searches will be conducted by supervisory staff and/or the City of Powell Police Department. An employee's refusal to cooperate with search efforts may result in discipline, up to and including immediate termination.

### **3.6 REPORTING OF ACCIDENTS & HAZARDS**

All accidents, including those that do not involve serious injury and those involving the public, must be reported immediately to your supervisor and or Human Resources. Likewise, immediately report to your supervisor any unsafe conditions, defective tools or equipment, or other hazards. If it is not unsafe to do so, you should attempt to correct any such unsafe conditions, defective tools or equipment, or other hazards. If you believe correcting the condition would be unsafe to you, your coworkers, or the public, you should take whatever steps are necessary to ensure the safety of you, your coworkers, and the public such as notifying others of the hazard. Each employee is expected to assist the City in maintaining safe conditions.

### **3.7 INCLEMENT & SEVERE WEATHER**

If any part of the City's operations is closed or delayed by order of the City Manager, or designee, due to weather conditions, non-union employees of the affected operations who were scheduled to work may be excused from duty. When a decision has been made to stop work or decrease the hours of the scheduled shift, all employees available for work at that time will not be paid, but can take personal, vacation or compensatory time.

The provisions of this section do not apply to Union represented employees.

An employee of a work unit scheduled for duty who is unable to report to work due to adverse weather conditions may request an excused absence from the immediate supervisor prior to the start of the regular workday. The supervisor shall decide whether an excused absence due to weather is justified. If not granted by the supervisor, the employee shall be required to report to work at the scheduled time. If an excused absence is granted, the employee may use his/her paid vacation, personal or compensatory leave time.

Communication of Closings and Emergencies Decisions to close or delay City operations will be made by the City Manager, or designee. It will be the responsibility of departments to inform or attempt to inform employees of work closings as early as possible. Employees who have not been contacted by department management are expected to check with their supervisors if uncertain whether to report to work.

This policy may also be invoked in the event of other types of emergencies (e.g., toxic material hazard, epidemic, etc.).

In most circumstances, the City will not close City offices. Under extreme weather conditions, employees may not be able to report to work or the City may close an operation. Public Safety and emergency response crews, including Public Service Workers, operate 24 hours a day, 365 days a year, regardless of the weather and regardless of whether the City is “closed.”

In the event of severe weather, non-essential employees should listen to local newscasts and check with their supervisor for delayed opening or closing information. Non-essential employees should make every effort to report to work when the City is open unless their personal safety or the safety of their family is at risk. If you are not able to report to work, you must follow the normal “call-in” procedures to report your absence. If you make every effort to safely report to work and notify your supervisor of your absence according to the normal “call-in” procedures, your absence will be excused. Employees may use vacation time or a floating holiday to be paid for an excused absence. Failure to properly report an absence will result in an unexcused absence and may result in disciplinary action.

In the event that the City is “closed” due to severe weather, employees will be paid at the normal hourly rates according to their regular work schedules for the time that the City is “closed.” In the event of extraordinary circumstances requiring a prolonged closure of the City, the City reserves the right to suspend this policy.

### **3.8 INFECTIOUS DISEASE CONTROL**

The City of Powell will take proactive steps to protect the workplace in the event of an infectious disease outbreak. It is the goal of the City, during any such time period, to strive to operate effectively and ensure that all essential services are continuously provided and that employees are safe within the workplace.

The City of Powell is committed to providing authoritative information about the nature and spread of infectious diseases, including symptoms and signs to watch for, as well as required steps to be taken in the event of an illness or outbreak.

#### **3.8 a Preventing the Spread of Infection in the Workplace**

The City will ensure a clean workplace, including the regular cleaning of objects and areas that are frequently used, such as bathrooms, breakrooms, conference rooms, door handles and railings.

All employees are encouraged to cooperate in taking steps to reduce the transmission of infectious disease in the workplace. The best strategy remains the most obvious—frequent hand washing with warm, soapy water; covering your mouth whenever you sneeze or cough.

Unless otherwise notified, the City’s normal attendance and leave policies will remain in place. Employees who believe they may face challenges reporting to work during an infectious disease outbreak should take steps to develop any necessary contingency plans.

### **3.8 b Temperature Screening**

City employees may be required to have their temperature taken upon reporting to work. Employees will have a designated area to report to upon arrival at work and prior to entering any other City property.

Each employee will be screened privately. The employee's temperature will be documented, and the record will be maintained as a private medical record. An employee who has a fever at or above 100 degrees Fahrenheit may be sent home.

Time spent waiting for the health screening should be recorded as time worked for non-exempt employees.

### **3.8 c Limiting Travel**

All nonessential travel, included business-relate travel outside the United States, may be put on hold until a time when the City feels it is safe for employees. Employees who travel as an essential part of their job should consult with their supervisor on appropriate actions.

### **3.8 d Telecommuting**

Telework requests will be handled on a case-by-case basis. While not all positions may be eligible, all requests for temporary telecommuting should be submitted to a supervisor for consideration.

### **3.8 e Staying at Home When Ill**

Many times, with the best of intentions, employees report to work even though they feel ill. The City provides paid sick time and other benefits to compensate employees who are unable to work due to illness.

During an infectious disease outbreak, it is critical that employees do not report to work while they are ill and/or experiencing various symptoms. The City will rely on the guidance of the Delaware Public Health District and the Centers for Disease Control and Prevention for recommendations in accordance with health guidelines.

### **3.8 f Requests for Medical Information & Documentation**

If an employee is out sick or shows symptoms of being ill, it may become necessary to request information from a health care provider. The Human Resources Department will request medical information to confirm if an employee needs to be absent, to show whether and how an absence relates to the infection, and to know that it is appropriate for an employee to return to work.

It is the City's policy to treat any medical information as a confidential medical record. Any disclosure of medical information is in limited circumstances with supervisors, first aid and safety personnel, and government officials as required by law.

### **3.8 g Social Distancing Guidelines**

In the event of an infectious disease outbreak, The City of Powell may implement the following social distancing guidelines to minimize the spread of the disease among the staff:

- Avoid meeting people face-to-face. Employees are encouraged to use the telephone, online conferencing, e-mail, or instant messaging to conduct business as much as possible, even when participants are in the same building.
- If a face-to-face meeting is unavoidable, minimize the meeting time, choose a large meeting room, and sit at least 6 feet from each other if possible; avoid person-to-person contact such as shaking hands.
- Avoid any unnecessary travel and cancel or postpone nonessential meetings, gatherings, workshops, and training sessions.
- Do not congregate in offices, kitchens, hallways, or other areas where people socialize.
- Bring lunch and eat at your desk or away from others (avoid crowded restaurants).
- Avoid recreational or other leisure classes, meetings, activities, etc., where employees might encounter contagious people.

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## 4. HOURS OF WORK



## **4.1 PAYROLL SCHEDULE**

All employees are paid bi-weekly through direct deposit. Direct deposit is required as a mandatory condition of employment. Each paycheck will include earnings for all work performed through the end of the previous payroll period or applicable work period.

The work week for all non-exempt employees begins at 12:00 AM on Sunday and continues through until 11:59 PM on the following Saturday.

## **4.2 HOURS OF WORK**

Each employee shall have an established regular work schedule for the workweek. The schedule shall be determined in accordance with the needs of the City and the reasonable needs of the public who may be required to do business with various City departments. Employees may be required to workdays, evenings, nights and/or weekends due to operational needs.

On occasion, an employee may need to deviate from their regular work schedule. Any changes in a schedule shall be at the direction of the employee's supervisor and shall be scheduled as far in advance as practical to minimize disruptions to both the City and the employee.

## **4.3 OVERTIME COMPENSATION**

It is the policy of the City to keep work more than the established schedules to a minimum and to permit such work only when it is necessary to meet urgent City operating requirements. For employees who are members of a bargaining unit, specific provisions regarding overtime compensation are covered in the City's various collective bargaining agreements.

Hours actually worked in excess of (40) hours per week will be compensated at the rate of time-and-one-half (1 ½) for non-exempt employees only. Overtime hours worked which are not more than forth (40) hours per week actually worked shall be compensated at straight time.

Exempt employees are declared exempt from the overtime requirements of the Fair Labor Standards Act and shall not receive compensation for hours worked more than forty (40) hours per week.

For the purposes of computing weekly overtime, sick time, holiday hours, vacation time, compensatory time, and any other approved paid leave time during normal work hours shall not be counted as hours actually worked.

The City may mandate overtime as a condition of continued employment. Supervisors shall attempt to distribute overtime as equally as practicable among employees within those classifications in which overtime is required. An employee who refuses to work a mandatory overtime assignment may be considered insubordinate and subject to discipline, up to and including termination.

The workweek for employees begins at their scheduled starting time of Sunday each week.

#### **4.4 COMPENSATORY TIME**

The City may grant compensatory time in lieu of overtime wages to non-exempt employees.

If requested, compensatory time will be earned at a rate not less than one and one-half (1½) hours for each actual hour of employment more than forty (40) hours during a workweek.

Non-exempt employees may not accrue and use more than twenty-four (24) hours of compensatory time in a calendar year. Any employee who has accrued more than twenty-four (24) hours of compensatory time shall be paid overtime compensation.

Upon separation, each employee shall be paid for any net accumulation of compensatory time.

#### **4.5 ATTENDANCE**

The purpose of this policy is to set forth the City of Powell's policy and procedures for handling employee absences and tardiness to promote the efficient operation of the City and minimize unscheduled absences.

Punctual and regular attendance is an essential responsibility of each employee. Employees are expected to report to work as scheduled, on time and prepared to start working. Employees are also expected to remain at work for their entire work schedule. Late arrival, early departure or other absences from scheduled hours are disruptive and must be avoided.

This policy does not apply to absences covered by the Family and Medical Leave Act (FMLA) or leave provided as a reasonable accommodation under the Americans with Disabilities Act (ADA). Medical documentation within these guidelines of the FMLA and ADA may be required in these instances.

#### **4.6 SCHEDULED ABSENCE**

A scheduled absence occurs when an employee requests and obtains approval for time off prior to the absence.

When an employee knows in advance that they will be absent from work, it is the employee's responsibility to inform their supervisor prior to the absence. If the absence is unanticipated, the employee should notify the supervisor directly by a phone call or text message, e-mail will not be accepted, as soon as possible. Failure to report an absence according to the City policy may result in disciplinary action, up to and including termination.

## **4.7 UNEXCUSED ABSENCE**

Unexcused absences occur when an employee is absent from work without notifying their supervisor directly or requesting the appropriate leave according to City policies.

Repeated absence from work without approved leave will be grounds for disciplinary action up to, and including, termination.

## **4.8 TARDINESS & EARLY DEPARTURES**

Employees are expected to report to work and return from scheduled breaks on time. If employees cannot report to work as scheduled, they must notify their supervisor either with a phone call or text message, e-mails will not be accepted, no later than their regular starting time. This notification does not excuse the tardiness but simply notifies the supervisor for adequate coverage requirements.

Employees who must leave work before the end of their scheduled shift must either have prior approval or notify their supervisor immediately.

Excessive tardiness or early departures will not be tolerated and could be grounds for disciplinary action up to, and including, termination.

## **4.9 JOB ABANDONMENT**

The City of Powell expects employees to report for work on time for every scheduled shift. An employee who is unable to report to work at the designated time is required to notify their supervisor as soon as practicable but no later than the employee's scheduled start time in accordance with the sick leave policy.

Any employee who fails to report to work and fails to notify their supervisor of the reason for absence from work for three (3) consecutive workdays, by the end of their third scheduled shift, will be considered to have abandoned their job. The employee is deemed to have quit without notice and will be subject to disciplinary action, up to and including termination. The supervisor should notify the Human Resources Department after the first day of the employee failing to report to work.

If the employee is unable to contact their supervisor for any absence, they should ask a representative (such as a family member or friend) to do so on the employee's behalf. If the employee or a representative is unable to contact the City of Powell due to extreme circumstances (such as a medical emergency or natural disaster that prohibits the employee or their representative from contacting the company within three days), the employee or his or her representative must contact the company as soon as practicable to explain the situation. In extreme circumstances, the employer will consider the explanation and its timing before determining if the voluntary resignation will be upheld.

## **4.10 TIMEKEEPING**

Employees are responsible for ensuring their actual hours worked and absences are recorded accurately and in a timely manner. Non-exempt employees complete a timesheet for their time-in and time-out at the beginning and end of each scheduled workday and for nonpaid meal breaks to be compensated for time worked.

Excessive timesheet mistakes and failure to turn a timesheet in on time will be addressed through corrective action. Employees may only complete a timesheet for themselves. Employees are expected to be ready to engage in work activities as soon as start their shift, and employees are not to engage in work activities after their day ends.

### **4.10 a Timekeeping Adjustments**

Employees who make a mistake or forget to submit their timesheet should notify their supervisor immediately. The supervisor must adjust the timecard along with a comment notating the reason for adjustment. Timesheet adjustments must reflect actual time worked. Non-exact time reporting is prohibited as it misrepresents the timeframes in which the employee worked.

### **4.10 b Improper Time Reporting**

All employees have a duty to accurately record their time and attendance. Employees who improperly record their time and attendance in order to receive pay for time not actually worked are effectively stealing from the City, in violation of several criminal statutes, and are subject to criminal penalties.

Similar criminal penalties apply to false statements or claims made by an employee in connection with time and attendance abuse or to cover up such abuse. City employees may also be civilly liable for knowingly submitting false timesheets to the City to be paid for time not actually worked.

Further, all employees are responsible for acting in an ethical manner in all aspects of their work. Reporting fraudulent time in a way that makes it appear you are working is theft, commonly referred to as “time theft”. Time theft occurs when an employee is paid for work that they knowingly did not perform, claiming hours they did not work or receiving compensation to which they are not entitled.

Other actions that are considered time theft and could result in disciplinary action up to and including termination:

- Recording time as worked when an employee did not work.
- Manipulating time records to increase overtime hours and/or other compensation.
- Improperly recording paid time off, such as recording vacation leave as sick leave.
- Intentionally clocking out early and/or late to be paid hours you are not actually working.

- Completing a timesheet for another employee who is not actually at work.
- Excessive use of personal time on the job after beginning work.
- Intentionally misrepresenting start and end times of work to avoid reduction in actual hours worked.
- Failure to report when you receive hours and other compensation that you are not entitled to.

The City recognizes that breaks and minor diversions from work are important for employees' health and a productive work environment. This policy is not meant to prohibit these activities.

If you have questions about what is allowed, please contact the Human Resources Department.

If an employee has received compensation for which they are not entitled to, or if an employee is aware of instances of improper reporting of time occurring, please notify your supervisor and/or the Human Resources Department immediately.

Supervisors are essential to preventing and reporting time theft. Supervisors are responsible for the timely review of timesheets and the correction of timesheet errors. If a supervisor is aware of the improper time reporting, they must work with the Human Resources Department to report this to the Finance Department. Failure to report any known timesheet errors may result in disciplinary action up to and including termination.

#### **4.11 CALL-IN PAY**

Call-in pay shall be provided when a non-exempt employee is required to report for work at times other than their regular shift or hours of work. Employees called in under these circumstances shall receive two hours' pay at their base rate for no less than two (2) hours.

#### **4.12 BREAK & LUNCH (MEAL) PERIODS**

Breaks are paid time and therefore cannot be used or reduced for the purpose of leaving early, arriving late, or extending the lunch period. Employees may be denied a break period if the workload dictates or to ensure adequate coverage in the work area. Employees are not guaranteed that they will receive any or all breaks.

Generally, meal break time is not considered time worked with respect to most hourly employees and other nonexempt personnel. Unless instructed otherwise, non-exempt employees are expected to take their meal breaks and be completely relieved of their job duties for this time. As such, meal breaks should be taken away from the employee's usual workstation. If a non-exempt employee is required to work during all or part of their meal break, it must report that on their timecard.

## **4.13 LACTATION BREAKS**

In compliance with the Fair Labor Standards Act, the City of Powell will give reasonable break times and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing child for up to one year after the child's birth.

A rest period should be permitted each time the employee has the need to express breast milk. Such breaks, if feasible, should be taken at the same time as the employees' regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding the regularly scheduled break time will be considered unpaid.

### **4.13 a Private Location**

The City will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express breast milk in private. Such a room or place should be near the employee's work area and should be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public.

This area assigned for this purpose should not be used for storage of any devices, supplies, or expressed milk and should be returned to its original state after each use.

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

### **4.13 b Storage of Expressed Milk**

Any employee storing expressed breast milk in any authorized refrigerated area shall clearly label it as such. No expressed breast milk shall be stored beyond the employee's shift.

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## 5. TIME-OFF & LEAVE OF ABSENCE BENEFITS

## 5.1 HOLIDAYS

All full-time employees are entitled to the holidays as determined by the City Manager. Generally, these will consist of the following:

- New Year's Day.
- Martin Luther King Jr. Day.
- President's Day.
- Memorial Day.
- Juneteenth.
- Independence Day (4<sup>th</sup> of July).
- Labor Day.
- Veteran's Day.
- Thanksgiving Day.
- Friday after Thanksgiving.
- ½ day Christmas Eve.
- Christmas Day.
- ½ day New Year's Eve.

When one of the holidays listed above falls on a Sunday, the next following Monday shall be observed as a holiday. When one of the holidays listed above falls on a Saturday, the preceding Friday shall be observed as a holiday. This provision only applies to employees whose regularly scheduled days off are Saturday and Sunday.

Holidays occurring during vacation shall not be counted as a day of vacation.

Holiday pay for non-exempt employees will be paid at the employee's regular rate of compensation for eight (8) hours per holiday. Holiday pay for exempt employees is included in their salary for the week. Holiday hours are not considered as "hours worked" for purposes of computing overtime.



Employees are not eligible for holiday pay when in an unpaid leave status. An employee must be in active pay status, approved paid leave or on a flexible work schedule status before and after the holiday to be eligible for holiday pay.

A full-time employee who is directed to work on a holiday by their supervisor shall receive compensation for all hours worked at their normal rate of pay in addition to receiving their regular holiday pay. There is no additional holiday compensation.

The City Manager has the sole discretion to determine what day a holiday will be observed on, if any.

### **5.1 a Part-Time Employee Holiday Leave**

Part-time employees must work a minimum of nine hundred and sixty (960) hours per year to be eligible for holiday leave. The City shall assume in the year of hire that the employee will be working a minimum of nine hundred and sixty (960) hours per year to begin eligibility for holiday leave. The City shall confirm on February 1st each year that the previous year, the employee worked a minimum of nine hundred and sixty (960) hours. When the employee falls below the minimum nine hundred and sixty (960) hours per year, the employee will lose their eligibility for holiday leave that calendar year.

In observance of each “general” holiday, eligible part-time employees will be paid at their regular rate of compensation for four (4) hours per holiday (2 hours per Christmas Eve and New Year’s Eve holiday).

### **5.1 b Floating Holidays**

Full-time employees receive two (2) eight (8) hours paid floating holidays each calendar year. Floating holidays shall be the day of employee’s choice with their supervisor’s approval.

Unused floating holidays will not be permitted to be carried over and will be forfeited at the end of each year.

Employees hired during a calendar year shall receive floating holidays on a pro-rated basis. Employees hired prior to November 1, but after July 1, shall receive one (1) floating holiday. Employees hired after November 1 shall not receive any floating holidays until the following calendar year on January 1st.

## **5.2 VACATION LEAVE**

Full-time and Permanent Part-time employees, except elected officials, are eligible to earn vacation leave. For employees who are members of a bargaining unit, specific provisions regarding vacation leave accumulation, use, transfer, and payment upon separation of employment, are covered in the City’s various collective bargaining agreements. Permanent part-

time employees earn vacation on a prorated basis according to the number of hours they are scheduled to work.

### **5.2 a Full-Time Employee Accumulation**

All nonunion full-time employees of the City, shall accumulate vacation leave with pay in accordance with the following schedule for each full pay period of service:

<b>CONTINUOUS LENGTH OF SERVICE</b>	<b>AMOUNT PER YEAR OF VACATION</b>	<b>ACCRUAL LEVEL PER PAY PERIOD</b>
0-2 years of service	80 hours (10 days)	3.10 hours
3-4 years of service	120 hours (15 days)	4.60 hours
5-9 years of service	160 hours (20 days)	6.20 hours
10-15 years of service	180 hours (22.5 days)	6.90 hours
16-20 years of service	200 hours (25 days)	7.70 hours
21+ years of service	220 hours (27.5 days)	8.50 hour

Employees may use accumulated vacation (calculated on a bi-weekly basis) after completion of six (6) months of continuous service.

### **5.2 b Part-Time Employee Accumulation**

Regular part-time employees may accumulate vacation leave after one (1) year of part-time employment. The part-time employee will receive 40 hours (5 days) of sick leave after one (1) year of part-time service and 60 hours (7.5 days) after eight (8) years of part-time service if they worked a minimum of nine hundred and sixty (960) hours the previous year.

Part-time employees must work a minimum of nine hundred and sixty (960) hours per year to be eligible for vacation leave. The City shall assume in the year of hire that the employee will be working a minimum of nine hundred and sixty (960) hours per year to begin the accrual of vacation leave. The City shall confirm on February 1st each year that the previous year, the employee worked a minimum of nine hundred and sixty (960) hours. When the employee falls below the minimum nine hundred and sixty (960) hours per year, the employee will lose their right to vacation leave. However, the employee will continue to be eligible to use any previously accrued vacation leave until exhausted.

### **5.2 c Full-Time Maximum Accumulation**

Full-time employees may accumulate unused vacation leave days as calculated below:

<b>CONTINUOUS LENGTH OF SERVICE</b>	<b>MAXIMUM ACCUMULATION</b>
0-2 years of service	120 hours (15 days)
3-4 years of service	180 hours (22.5 days)

5-9 years of service	240 hours (30 days)
10-15 years of service	270 hours (33.75 days)
16-20 years of service	300 hours (37.5 days)
21 + years of service	330 hours (41.25 days)

Hours more than the maximum amount at the end of the year (December 31st) will not be permitted to be carried over and will be forfeited.

#### **5.2 d Part-Time Maximum Accumulation**

Part-time employees may accumulate unused vacation leave days as calculated below:

<b>CONTINUOUS LENGTH OF SERVICE</b>	<b>MAXIMUM ACCUMULATION</b>
0-7 years of service	60 hours (7.5 days)
8 + years of service	80 hours (12.5 days)

Hours more than the maximum amount at the end of the year (December 31st) will not be permitted to be carried over and will be forfeited.

#### **5.2 e Prior Service Credit**

Employees with prior service with the State of Ohio, or any political subdivision in the state, will receive credit for that service in computing their continuous length of service for vacation accrual.

If the prior public service was with an Agency that qualifies for credit under this policy, Human Resources will contact the Agency to verify the employee's time worked. Two thousand and eighty (2080) hours of prior public service will equal one year of credit under this procedure.

#### **5.2 f Use of Vacation Leave**

Employees wishing to schedule vacation leave must complete a Leave Request Form. Employees must obtain approval from their supervisor prior to taking their vacation leave. The supervisor has sole discretion in determining how many days and which employees may be approved for vacation at any given point in time. Their first responsibility is to ensure that the needs of the City are met.

Vacation time may be taken in one (1) hour increments.

Vacation hours are not considered as "hours worked" for purposes of computing overtime.

Sick days cannot be exchanged for vacation time. Thus, employees cannot extend their paid vacations by using any available sick time.

Vacation pay for non-exempt employees will be paid at the employee's regular rate of compensation for eight (8) hours per vacation day. Vacation pay for an exempt employee is included in their salary for the week at the employee's salary level at the time the vacation is taken.

Should an employee become ill or experience bereavement during a period of vacation, the employee may opt to change their time to any unused, accumulated sick leave days. An updated Leave Request Form should be completed upon their return to work.

### **5.2 g Termination of Employment & Vacation Payout**

Upon termination of employment, employees will be paid 100% of their accrued vacation time as of their separation date.

## **5.3 Sick Leave**

Full-time and Permanent Part-time employees, except elected officials, are eligible to earn sick leave. For employees who are members of a bargaining unit, specific provisions regarding sick leave accumulation, use, transfer, and payment upon separation of employment, are covered in the City's various collective bargaining agreements. Permanent Part-time employees earn sick leave that is prorated based on the number of hours they are scheduled to work.

### **5.3 a Full-Time Employee Accumulation**

Full-Time employees shall accumulate sick leave with pay at the rate of 4.6 hours for each eight (80) hours in paid status.

For purposes of accumulating paid sick leave hours, "active pay status" is defined as hours worked and any paid time off hours (vacation, sick leave, bereavement leave, holidays, compensatory time). It shall not include non-paid time off.

Approved paid sick leave for non-exempt employees will be paid at the employee's regular rate of compensation for eight (8) hours per sick leave day. Paid sick leave hours are not considered as "hours worked" for purposes of computing overtime.

### **5.3 b Part-Time Employee Accumulation**

Regular part-time employees may accumulate sick leave after one (1) year of part-time employment. The part-time employee will receive 60 hours (7.5 days) of sick leave if they worked a minimum of nine hundred and sixty (960) hours the previous year.

Part-time employees must work a minimum of nine hundred and sixty (960) hours per year to be eligible for sick leave. The City shall assume in the year of hire that the employee will be working

a minimum of nine hundred and sixty (960) hours per year to begin the accrual of sick leave. The City shall confirm on February 1st each year that the previous year, the employee worked a minimum of nine hundred and sixty (960) hours. When the employee falls below the minimum nine hundred and sixty (960) hours per year, the employee will lose their right to sick leave. However, the employee will continue to be eligible to use any previously accrued sick leave until exhausted.

### **5.3 c Full-Time Maximum Accumulation**

Full-time employees may accumulate unused sick leave days up to a maximum of one thousand forty (1,040) hours (130 days).

### **5.3 d Part-time Maximum Accumulation**

Part-time employees may accumulate unused sick leave days up to a maximum of five hundred twenty (520) hours or sixty-five (65) days. Employees who have reached the maximum “cap” amount will receive a cash benefit at the end of the year for any accrued paid sick leave hours over the maximum amount. The cash benefit shall equal one (1) hour of the employee’s regular rate of pay for every three (3) hours of unused sick leave credit.

An employee may use sick leave only up to the amount that has been accumulated at the time of need.

### **5.3e Transfer of Sick Leave Balances**

A new employee who transfers from another agency within the State of Ohio, or any political subdivision in the state, shall be credited with their unused balance of the accumulated sick leave credit up to eight hundred (800) hours.

It is the new employee’s responsibility to make the request to the Human Resources Department to contact their prior agency to obtain their sick leave balance.

### **5.3 f Annual Sick Leave Payout**

Full-time employees who have reached the maximum “cap” amount will receive a cash benefit at the end of the year for any accrued paid sick leave hours over the maximum accumulation amount. The cash benefit shall equal one (1) hour of the employee’s regular rate of pay for every two (2) hours of unused sick leave credit.

Unused, accumulated sick leave cannot be converted to personal holidays or vacation and, for non-bargaining unit employees, cannot be transferred to another employee unless approved through the Sick Leave Donation policy.

### **5.3 g Full-Time Termination of Employment & Sick Leave Payout**

Unused, accumulated sick leave days shall be forfeited upon separation of employment with two (2) narrow exceptions:

- Upon the voluntary retirement of any full-time employee with five (5) years of service with the City and ten (10) years of public service under the State Retirement System, the employee will be entitled to a payout for twenty-five percent (25%) of the value of their unused and accumulated sick leave credit up to the maximum 130-day limit.
- The same pay out arrangement shall be made to the full-time employee's spouse or estate upon the death of an employee who was actively employed by the City.

Once the cash out is complete, all accrued sick leave is eliminated. Should an employee return to employment with the City of Powell, they would start with a zero (0) balance in their sick leave bank.

Employees wishing to defer any part of their sick leave cash out payment are urged to request cash out as early as possible to ensure that the deferred funds can be received into the employee's Ohio Deferred Comp or ICMA Deferred Comp account within 75 days of the federal IRS deadline.

### **5.3 h Part-Time Termination of Employment & Sick Leave Payout**

Unused sick leave days shall be forfeited upon separation of employment with one (1) exception:

- Upon the voluntary retirement of any part-time employee with five (5) years of years of service with the City and at least ten (10) years of public service under the State Retirement System, they will be entitled to a payout for twenty-five percent (25%) of the value of the part-time employee's unused and accumulated sick leave credit up to the maximum sixty-five (65) day limit.

### **5.3 i Use of Sick Leave**

An employee may use sick leave only up to the amount that has been accumulated at the time of need.

If sick leave is exhausted, an employee may opt to use any accrued vacation that may be necessary, upon approval from the Human Resources Department, or may apply for any applicable leave of absence. Otherwise, any medical related absence more than the number of paid sick leave days accumulated to their credit will be without pay.

Sick leave may be used by employees and upon approval of their supervisor for absences due to the following:

- Illness, injury, or pregnancy-related medical condition of the employee.
- Exposure of an employee to a contagious disease which could be communicated to and jeopardize the health of other employees.

- Examination of the employee, including medical, psychological, dental, or optical examination, by an appropriate practitioner.
- Illness, injury, or pregnancy-related medical condition of a member of the employee's immediate family where the employee's presence is reasonably necessary for the health and welfare of the employee or affected family member.
- Medical, dental, or optical examinations or treatments of an employee or of a member of an employee's immediate family where the employee's care and attendance is reasonably required.
- Elective cosmetic surgeries that are not medically necessary do not constitute an appropriate usage of sick leave. Other appropriate leaves of absence, such as vacation, may be requested for such purposes.

For purposes of sick leave, immediate family is defined as grandparent; great-grandparents; brother; sister; father; mother; father-in-law; mother-in-law; spouse; child; stepchild; stepparent; grandchild; legal guardian; or another person who stands in place of a parent.

When an employee is unable to report to work due to illness or other acceptable sick leave reason, they shall notify their supervisor of such reason as reasonably in advance of the absence as possible but in no event later than fifteen (15) minutes after the scheduled start of the employee's shift. An employee must continue such notification each succeeding day of absence except in cases of prolonged illness or absence where the employee has been granted a set period of leave. Failure of an employee to make proper notification may result in denial of sick leave and/or appropriate disciplinary action.

If an employee becomes injured or ill while on scheduled vacation, and that injury or illness confines them to a hospital or a residence, the employee may opt to change their time away to any unused, accumulated sick leave days. Proper documentation confirming the injury or illness may be required to be submitted to Human Resources before such a change can be made.

### **5.3 j Documentation Request**

An employee may be asked at any time to submit medical documentation, from a physician, to approve the use of sick leave.

In addition, if an employee is off sick for more than three (3) consecutive workdays, the employee must obtain a physician's statement to return to work and be paid for sick leave. Any employee will be sent home when returning to work after more than three (3) consecutive workdays without a physician's return to work statement and forced to use vacation time.

A physician's release to return to work will be required by Human Resources if an employee seeks to return to work from any medical leave of absence.

### **5.3 k Abuse of Sick Leave**

Employees may be found to be abusing sick leave if their absences fall into any of the following patterns:

- Before and/or after holidays or vacations.
- Before and/or after weekends or regular days off
- After pay days.
- Any one specific day.
- Absence following overtime worked.
- Half day.
- Continued pattern of maintaining zero or near zero sick leave balances.
- Excessive absenteeism.

Sick leave is considered excessive when it causes a burden to the employee's department via the following:

- The work of the absent employee frequently goes undone, and thus generates a negative impact on the areas and/or individuals waiting for the product or service.
- The work of the absent employee must be frequently reassigned to co-workers, causing an undue overload to those staff in workload, job stress and morale.
- Additional tasks are frequently assigned to co-workers, causing an undue overload to those staff in workload, job stress and morale.

Employees whose sick leave usage follows any of these or other patterns may be subject to discipline. Absences covered under the Family & Medical Leave Act will not be considered when determining pattern abuse or if sick leave use is excessive.

### **5.4 SICK LEAVE DONATION**

The City of Powell recognizes that on rare occasions an employee may not have sufficient sick leave accruals to cover a long-term illness or serious injury. To address such occasions, the City finds it appropriate that other employees be allowed to donate some of their sick leave hours to other injured/ill employees within the guidelines of this policy. For employees who are members of a bargaining unit, specific provisions regarding sick leave donation are covered in their specific collective bargaining agreements.



### **5.4 a Eligibility**

Employees must be continuously employed with the City of Powell for a minimum of one year to be eligible to donate and/or receive donated sick time.

### **5.4 b Guidelines**

Employees who would like to make a request to receive donated sick time from their co-workers must have a situation that meets the following criteria:

- Medical emergency, defined as a medical condition of the employee or an immediate family member that will require the prolonged/extended absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available.
- An immediate family member is defined as a spouse, child, or parent.
- Medical documentation may be required.
- Conditions that are short-term in nature including, but not limited to, common illnesses and injuries such as influenza, measles, broken bones, strained ligaments, and the like are not considered medical emergencies.
- The donation of sick leave is strictly voluntary.

To donate sick leave hours, employees must meet the following requirements:

- Donating employees must maintain a balance of 200 hours of sick leave.
- Donations must be in no less than four-hour increments.
- Employees may donate up to a maximum of 40 hours in one calendar year.
- Donations may only be made to eligible recipients as defined in these guidelines.
- Employees who are currently on an approved leave of absence cannot donate sick time.

To receive donated sick leave hours, employees must meet the following requirements:

- All leave type balances must be depleted.
- Must currently be off work for a qualifying serious health condition as defined by the Family Medical Leave Act (FMLA).
- Should the requestor return to work prior to the leave payout being utilized, the remaining leave payout will be credited back to the employee donating the leave.

- Employees receiving voluntary Donated Sick Leave should be aware that those hours will count toward their total annual Family and Medical Leave entitlement, provided the employee has been approved for FMLA. Please note that approval for FMLA does not guarantee approval for Donated Sick Leave, & vice versa. Shared Leave cannot be used to extend FMLA benefits if total FMLA hours have been exhausted by the applicant.
- To be eligible to receive donated sick time, the requesting employee must not have been counseled for abuse of the sick leave policy in the last rolling 12-month period.
- Before an employee is eligible to receive additional donated leave after having received donated leave for a previous occasion, they must have returned to work with the City and have worked a minimum of 12 consecutive months.
- Employees receiving workers' compensation, short-term disability, or long-term disability are not eligible to request sick leave donation.
- Use of the sick leave donation may only be taken in increments of full days.
- Recipients of donated sick time will receive paid leave at their normal rate of pay.

#### **5.4 c Donation of Sick Time**

The donation of sick time will have the following requirements:

- Recipient identity will not be disclosed to donating employees.
- The donation of sick time is on an hourly basis, without regard to the dollar value of the donated or used leave.
- Employees cannot borrow against future sick/personal time to donate.
- Donor employees may not claim an expense, a tax deduction, or a charitable contribution for any of the leaves donated under this policy.
- Requests for donations for sick time must be approved by Human Resources, the Finance Director, and the City Manager.

Employees wishing to donate must complete a Sick Leave Donation Request and Authorization Form, indicating the number of hours they wish to donate and the date and time of the donation. Completed forms should be handed into the Human Resources Department.

Donated hours will be used by the recipient according to the date and time in which they were donated – first hours donated will be first hours used. This information will be forwarded to the

Finance Department to ensure the time banks are updated accordingly for the employee receiving and the employee(s) donating.

## **5.5 UNPAID LEAVE OF ABSENCE**

After all permissible absence with pay is exhausted, the City of Powell, under certain circumstances, may grant a personal leave of absence without pay. A written request for personal leave should be presented to the Human Resources Department at least two (2) weeks before the anticipated start of the leave. The requested leave may only be approved by the City Manager. If the leave is requested for medical reasons and employees are not eligible for leave under the federal Family and Medical Leave Act (FMLA) or any state leave law, medical certification also must be submitted.

The request will be considered based on staffing requirements and the reasons for the requested leave, as well as performance and attendance records. Normally, a leave of absence will be granted for a period of up to four (4) weeks. However, personal leave may be extended if, prior to the end of leave, employees submit a written request for an extension to the Human Resources Department and the request is granted. No such leave will be granted for a total or continuous period or periods which exceed sixty (60) calendar days.

During the leave, employees will not earn vacation, personal days, or sick days. An employee on approved personal leave will not be eligible for any holiday falling within this leave period.

The City of Powell will continue health insurance coverage during the leave if employees submit their share of the monthly premium payments to the City in a timely manner, subject to the terms of the plan documents.

When the employees anticipate returning to work, they should notify the Human Resources Department of the expected return date. This notification should be made at least one (1) week before the end of the leave.

Upon completion of the personal leave of absence, the City will attempt to return employees to their original job or a similar position, subject to prevailing business considerations.

Reinstatement, however, is not guaranteed. Failure to advise management of availability to return to work, failure to return to work when notified or a continued absence from work beyond the time approved by the City will be considered a voluntary resignation of employment.

Personal leave runs concurrently with any City-provided Short-Term Disability Leave of Absence.

## **5.6 DISABILITY LEAVE & SEPARATION**

When an employee becomes physically or mentally incapacitated such that they are unable to perform the essential functions of their position, with or without reasonable accommodation,

they may request or be placed on a disability leave of absence. An employee may be placed on unpaid disability leave when they are unable to perform the essential functions of the job with or without reasonable accommodation. An employee may request a voluntary disability separation upon presentation of appropriate medical documentation. If an employee fails to request a voluntary disability separation, the City may place the employee on an involuntary disability separation. However, a medical or psychological examination conducted by a licensed practitioner shall be required prior to placing an employee on disability separation unless the employee is hospitalized at the time of the disability separation, or substantial credible medical evidence already exists that documents the employee's inability to perform the essential job duties.

For an involuntary disability separation, the City shall schedule a pre-separation hearing when it has substantial credible medical evidence of the employee's disability, and the City has determined that an employee is incapable of performing the essential job duties of his or her assigned position due to the disabling illness, injury, or condition. At this hearing (if the employee does not waive it), the employee shall have the right to examine the City's evidence of disability, to rebut that evidence, and to present testimony and evidence on their behalf.

If the City, after weighing the testimony presented and evidenced submitted at the pre-separation hearing, determines that the employee is incapable of performing his essential job functions with or without reasonable accommodation, an O.R.C. 124.34 order of involuntary disability separation shall be issued, along with a notice to the employee of the required procedures to apply for reinstatement. An employee given a disability separation shall have the right to reinstatement within two years of the disability separation or unpaid leave of absence, as appropriate upon submission of appropriate medical documentation.

Upon completion of a disability leave of absence and submission of any required documentation, the employee shall be returned to the position formerly occupied, or to a similar position if the employee's former position no longer exists. An employee may be returned to work before the scheduled expiration of a disability leave if requested by the employee and upon advance submission of substantial, credible medical documentation, if required, that the employee is once again capable of performing the essential functions of their position, with or without reasonable accommodation.

In the event an employee requests reinstatement from a disability leave of absence or involuntary disability separation and the City, upon review of the medical evidence presented initially determines that the employee remains incapable of performing the essential job duties of their position with or without reasonable accommodation, a pre-reinstatement hearing shall be scheduled. If the employee does not waive the right to that hearing, then they shall have the right to examine the evidence of continuing disability, to rebut that evidence, and to present evidence and testimony on their own behalf.

## **5.7 BEREAVEMENT LEAVE**

Full-time employees are eligible to receive paid bereavement leave due to the death of a member of their family.

### **5.7 a Death in Immediate Family**

An employee shall be granted three (3) days, which will be considered bereavement leave and will not be deducted from the employee's accrued leave, for the death of a member of their immediate family. For purposes of bereavement leave, the term "immediate family" means an employee's spouse, child, parent, sibling, grandparent, grandchild, son-in-law, daughter-in-law, as well steps of those family members or an adult who stood in loco parentis to the employee during childhood.

There is no accumulation of bereavement leave days and no payment upon separation from City employment. The approved bereavement leave days do not have to be taken consecutively but must be used within a six (6) month time period.

### **5.7 b Death in Non-Immediate Family**

In the event of the death of a relative who is not within the immediate family, as defined above, an employee may be permitted one (1) day off with pay to attend the funeral. Non-immediate family is defined as: brother-in-law, sister-in-law, aunt, uncle, niece, and nephew.

### **5.7 c Other Funeral Leave**

Funeral leave for a person other than those described above must still be approved by the supervisor and will be taken as unpaid leave of absence or annual leave if requested by the employee.

All time off in connection with the death of one of the above-listed individuals must be coordinated with the employee's supervisor. The Department Head may approve time off due to the death of a non-immediate family member or additional time off for an immediate family member. This time off would require the use of annual leave or unpaid leave (with the approval of the City Manager).

## **5.8 JURY DUTY**

Employees must notify their supervisor immediately when they receive a summons to report for jury duty to plan the department's work with as little disruption as possible. While on jury duty, the employee will be paid for their regularly scheduled hours. Employees on jury duty will not be paid for any anticipated overtime, nor is time spent on jury duty considered working time for the calculation of overtime. Any monies received by the employee from the Court must be turned in to the City to be paid for their regular scheduled hours.

Employees on jury duty must provide Human Resources with a copy of the jury notice. Employees who are released from jury service before the end of their regularly scheduled shift or who are not asked to serve on a jury panel are expected to report to work as soon as possible. Any employee excused from court after 2:00 pm is not expected to report to work.

The employee will not be granted any mileage, travel, or other related expenses while on jury duty.

## **5.9 WITNESS DUTY**

Any employee subpoenaed to appear as a witness must notify their supervisor immediately so they can plan the department's work with as little disruption as possible. An employee who is subpoenaed to appear as a witness for matters unrelated to City business is not paid and may use vacation leave or take unpaid leave (with City Manager approval).

A City employee who is subpoenaed or ordered to attend court to appear as a witness or to testify in an official capacity on behalf of the City of Powell, the State of Ohio or the Federal Government will be compensated at their regular rate of pay for the period in which they are in court. An employee absent from a court appearance will promptly return to work on any days in which they are excused from court. The employee will be granted mileage and reimbursed for parking while appearing as a witness for the City.

An employee on witness duty must provide Human Resources with a copy of the subpoena. An employee who is released from witness service is expected to report to work as soon as possible. Any employee excused from court after 2:00 pm is not expected to report to work.

## **5.10 VOTING**

Although polls are open most of the day, the City realizes that in some instances employees may find that these hours are insufficient to get to the polls. If an employee has a problem in this regard, they should notify their supervisor so that arrangements can be made for the employee to have the necessary time to get to the polls.

## **5.11 FAMILY & MEDICAL LEAVE ACT (FMLA)**

Employees may be eligible to take up to 12 weeks of unpaid, job-protected leave each year for specified family and medical reasons. For family or medical reasons that qualify an employee for FMLA, the City is obligated by federal law to designate the leave as FMLA.

### **5.11 a Employee Eligibility**

To be eligible for family or medical leave, an employee must have worked at least:

- 12 months for the City; and
- 1,250 hours for the City over the previous 12 months.

### **5.11 b Conditions Triggering Leave**

Family and medical leave must involve one or more of the following reasons:

- To care for a newly born child, or placement of a child with the employee for adoption or foster care.
- To care for an immediate family member (spouse, child, or employee's parent) with a serious health condition.
- The employee has a serious health condition that makes the employee unable to perform the employee's job duties.
- Because of any qualifying exigency arising out of an employee's spouse, son, daughter, or parent being on covered active duty involving a foreign deployment (or being notified of an impending call or order to active duty involving a foreign deployment) in the Armed Forces (including National Guard or Reserves) in support of a contingency operation.
- For a spouse, son, daughter, parent, or next of kin to care for a service member or covered veteran who is undergoing medical treatment, recuperation or therapy, is otherwise in "outpatient status," or is otherwise on the temporary disability retired list for a serious injury. A "serious injury" is one incurred or aggravated by the service member in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the service member's office, grade, rank or rating.

### **5.11 c Duration of Leave**

Eligible employees may receive up to 12 workweeks of unpaid leave during any "rolling" 12-month period, measured backward from the date of any family or medical leave. Family and medical leave involving the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a single, 12-month period to care for the service member. During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 workweeks of leave under the FMLA.

Eligible employees may take family and medical leave intermittently which means taking leave in blocks of time, or by reducing your normal weekly or daily work schedule whenever it is medically necessary to care for a seriously ill family member or because you are seriously ill and unable to work.

Employees who are approved for intermittent FMLA leave must continue to fully comply with the City's regular absence reporting policies as much as possible.

The City requires the use of paid time off concurrently with family and medical leave. For example, if the employee is eligible for any paid leave under any other benefit programs such as accrued vacation, compensatory or sick time, the employee will be required to exhaust the paid leave upon the commencement of, and concurrently with, FMLA leave. Paid leave will run concurrently with and be counted toward the employee's total 12-week or 26-week period of FMLA leave. If an employee accepts a light duty position, any time spent working light duty will not count against the employee's FMLA leave entitlement.

#### **5.11 d Maintenance of Health Benefits**

The City will maintain coverage for eligible employees and dependents (if applicable) during family and medical leave. This coverage will be provided if you or your family were covered under the plan before the leave was taken and on the same terms as if you had continued to work. Where appropriate, you must decide to continue to pay your share of health plan premiums while on leave.

In some instances, the City may recover premiums it paid to maintain health coverage for you and your family if you do not return to work from your leave.

#### **5.11 e Job Restoration**

Upon returning from a family and medical leave, an eligible employee will normally be restored to his or her original job or to an equivalent job with equivalent pay, benefits and other employment terms and conditions.

Use of family and medical leave does not result in the loss of any employment benefit that an employee earned or was entitled to before using family and medical leave. However, an employee does not continue to accrue paid leave while on unpaid family and medical leave. When an employee is out on family and medical leave, that employee will accrue paid leave during the period the employee is using paid leave such as vacation and sick leave. If an employee on family and medical leave exhausts all paid leave in accordance with the Duration of Leave policy above and remains unable to return to work, then the remainder of the family and medical leave will be unpaid. During the period of unpaid family and medical leave, the employee will not continue to accrue paid leave.

Job restoration may be denied if conditions unrelated to the FMLA leave have resulted in the elimination of the employee's position or if the employee qualifies as a "key employee" (generally the highest paid 10% of the workforce). Key employees may be denied job restoration if it would cause substantial and grievous economic injury to the City, in which case the key employee will be notified of this.

#### **5.11 f Notice & Medical Certification**

When seeking family and medical leave, an employee may be required to provide: 1. 30 days of advance written notice to the Human Resources Director of the need to take family and medical



leave if the need is foreseeable. If the leave is not foreseeable, the employee must provide written notice to the Human Resources Director of the need for leave as soon as practical and must comply with the City's standard procedures for reporting an absence. 2. Medical certifications supporting the need for leave, including any need for intermittent or reduced schedule leave, due to a serious health condition affecting the employee or an immediate family member. 3. Failure to provide the necessary requested certification forms will result in the delay or denial of FMLA leave. 4. Second or third medical opinions (at the City's expense) and periodic recertification may also be required. 5. Periodic reports during the leave regarding the employee's status and intent to return to work. 6. Medical certification of fitness for duty before returning to work if the leave was due to the employee's health condition.

When leave is needed to care for an immediate family member or for the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so that it will not unduly disrupt the City's operation.

Upon receiving sufficient notice of an employee's need for FMLA-qualifying leave, the City will notify the employee of his or her eligibility to take FMLA leave within five (5) business days of the request, absent extenuating circumstances. At this time, the City will also provide the employee with written notice of the employee's rights and obligations with respect to the leave (as well as providing copies of the required certification form).

### **5.11 g Extended Medical Leave**

Eligible employees who have exhausted their FMLA leave, and all other leave may be allowed to take an extended unpaid medical leave of absence, not to exceed 12 months following the last day worked. Employees who take such extended medical leave are not guaranteed to be returned to work or reinstated to a particular job, rate of pay or shift at the end of their extended medical leave. However, the City will attempt to return an employee to his or her regular position if it is available. If it is not available at the time reinstatement is sought, the City will attempt to place the employee in a similar job for which he or she is qualified, if such a job is available. An employee on extended medical leave may maintain his or her insurance benefits, subject to policy terms and conditions, by paying in a timely manner any applicable continuation of benefits premiums for which he or she may be responsible. An employee on extended medical leave does not accrue any additional employee benefits such as paid time off while on extended medical leave.

Failure to Return from Leave or to Comply with City Policy: An employee may be subject to immediate termination for: 1. Failure to return to work as scheduled following the end of a medical or family leave without express prior approval from the City; 2. Providing false or misleading information or omitting certain information in connection with a leave; or, 3. Violation of any of the City's rules and regulations relating to leave (or any other City policy or performance standard).

## **5.12 MILITARY LEAVE OF ABSENCE**

The City allows employees who require time off from work to fulfill military duties to meet those commitments. An employee with such a commitment is expected to notify his or her immediate supervisor and to provide the City with a copy of the orders as soon as possible. An employee on military leave may, at his or her option, use any or all accrued paid compensatory, holiday or vacation time. Employees do not accrue vacation, sick or holiday leave during periods of unpaid military leave.

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is a federal law that protects the rights of individuals who leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. Under USERRA, employees can elect continuation of group health coverage for the shorter period of up to 24 months or the length of their leave. In compliance with USERRA, employees on leave for 30 days or less will not be required to make a premium contribution for any more than their regular share of premium while on leave. Employees on active duty for more than 30 days may be covered by military health care along with their dependents. However, in the event that an employee on a military leave of absence is not eligible or does not qualify for medical, dental and/or vision coverage through the U.S. Armed Forces, the City will continue to provide coverage for the employee and covered dependents under the same terms and conditions as he or she had at the time of the commencement of their military leave for a period of up to 24 months. With respect to the City's retirement plans, upon reemployment, an employee who has taken military leave will be credited for purposes of vesting with the time spent in military service and will be treated as not having incurred a break in service.

**Notification upon Completion of Service:** Upon the completion of a military leave of absence, the employee should notify the City of the employee's intent to return to a position of employment with the City as follows:

- For periods of service of up to 30 consecutive days, the employee must report back to work for the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and safe transportation home, plus an eight-hour period for rest. If reporting back within this deadline is "impossible or unreasonable" through no fault of the employee, he or she must report back as soon as possible after the expiration of the eight-hour period.
- After a period of service of 31-180 days, the employee must submit a written or verbal application for reemployment with the employer not later than 14 days after the completion of the period of service. If submitting the application within 14 days is impossible or unreasonable through no fault of the employee, he or she must submit the application as soon as possible thereafter.

- After a period of service of 181 days or more, the employee must apply for reemployment not later than 90 days after completion of the period of service. These deadlines to report to work or apply for reemployment can be extended up to two years to accommodate a period during which an employee was hospitalized for or convalescing from an injury or illness that occurred or was aggravated during a period of military service.

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## 6. EMPLOYEE CONDUCT & RESPONSIBILITY

## **6.1 STATEMENT OF CONFIDENTIALITY**

It is the responsibility of every employee to maintain the confidentiality of City information. This includes, but is not limited to, City records, documents, notes, files, records, oral information, computer files or similar materials. Confidential items may not be shared without permission. Employees are required to always handle information in a confidential manner during and after employment. Employees must not disclose any confidential information, purposefully through casual conversation, to any unauthorized person inside or outside the City. Employees who are unsure about the confidential nature of specific information or regarding the release of information should ask their supervisor for clarification. Employees are also required to immediately report any unauthorized use or disclosure of confidential information that they become aware of to their supervisor and/or the Human Resources Department. Employees who knowingly violate this policy will be subject to appropriate disciplinary action and may result in civil and/or criminal liability under Federal or State laws.

## **6.2 TEAMWORK**

We believe that our success depends upon the strength of our teamwork. The City expects that all employees will always make a concerted effort to ensure a harmonious work environment that promotes a teamwork mentality. All employees will avoid disruptive behavior, insubordination, or intentionally sabotaging co-workers or other departments. The key to teamwork is that all employees look to their supervisor and respect that individual's authority. Employees are expected to follow the directions of their supervisors. The only acceptable deviation is where a supervisors' request is believed to be unlawful. If an employee becomes aware that another employee has intentions to harm or sabotage another employee or supervisor, this information should be reported to a supervisor immediately. In the event an employee has concerns about the employee's supervisor, a report should immediately be made to the Human Resources Department.

## **6.3 REFERENCE CHECKS**

All reference checks and inquiries regarding current or former City employees should be referred to Human Resources. In response to a reference check, the City will only provide verification of the employee's dates of employment, last job title, and final pay rate.

It is generally not recommended that any supervisor or Department Head provide a letter of reference for a current or former City employee.

Employee personnel files are subject to public records laws. However, certain records are classified as sensitive personnel records and will not be released pursuant to a public records request.

The City will provide employee information to outside agencies as requested in writing. Human Resources is the only Department authorized to respond to requests for references, and any

requests to view personnel records must be made through the Office of the City Clerk as a public records request.

#### **6.4 PERSONNEL FILES**

The City keeps personnel files on all employees. The personnel files include the job applications and related hiring documents, training records, performance documentation, salary history, and other employment records. The personnel records are the property of the City.

Upon written request to Human Resources, an employee may inspect their own personnel file. Inspections will be held in the Human Resources office in the presence of Human Resources. No employee is allowed to remove anything from any file. Copies will be made by Human Resources upon the employee's request.

To keep your personnel records up to date, to ensure that the City can contact employees, and to ensure that the appropriate benefits are available, employees must promptly notify the City of any change of name, address, phone number, emergency contact, education credentials, exemptions on tax forms, number of dependents, or other applicable information. Name changes will need to be accompanied by a copy of a new social security card or a letter from the Social Security Administration office, documenting the name change.

#### **6.5 PUBLIC RECORDS**

All public records requests are subject to Ohio's Public Record Act, Chapter 149 of the Ohio Revised Code. Any questions regarding the policy are to be directed to the Human Resources Department. All public records requests, whether from members of the public or other employees, must first be communicated to the City Clerk before being released. The City Clerk is responsible for releasing the records or referring the request for clarification on the applicability of the law. Any requests that are made concerning personnel information about any City employee are to be forwarded to the Human Resource Department for review. The information released will be in accordance with the applicable law.

Employees are never permitted to copy and disseminate documents for themselves, to each other or to the public, even if they have access to the information as part of their position. Violations of this policy may result in corrective action up to and including termination.

#### **6.6 STATEMENTS TO THE MEDIA**

All media inquiries regarding the position of the City as to any issues must be referred to the Communications Department. Only the Communications Department and the City Manager are authorized to make or approve public statements on behalf of the City. No employees, unless specifically designated by the City Manager, are authorized to make those statements on behalf of City. Any employee wishing to write and/or publish an article, paper, or other publication on behalf of the City must first obtain approval from the Communications Department.

## **6.7 VEHICLE & DRIVING REQUIREMENTS**

Only authorized employees may use City vehicles. Employees should get prior approval from their Department Director. If a City vehicle incurs any damage while under the charge of a particular employee, that employee must report the damage immediately and may be responsible for paying for some or all of the repair costs, to be determined in the City's sole discretion. Employees also must maintain the ability to be insured under the City's vehicle insurance policy.

Likewise, if an employee receives a citation for any violation while operating a City vehicle or a personal vehicle while on City business, the employee is responsible for paying any fine or penalty incurred and may be subject to discipline, up to and including immediate termination. All such citations must be reported to your supervisor immediately. Failure to immediately report a citation may result in discipline, up to and including immediate termination.

Drinking alcoholic beverages is prohibited in a City-owned vehicle or in a personal vehicle while on City business, and employees are prohibited from driving after consuming alcohol or taking any controlled substance that could impair his or her ability to operate the vehicle.

### **6.7 a Seatbelts**

All employees must wear a seatbelt while driving or riding in any vehicle while performing City business. Furthermore, the City encourages all of its employees to wear seatbelts at all times, as required by state law.

### **6.7 b Use of Cellular Telephones While Driving**

Employees must refrain from using any communication device while driving any vehicle for City business, including the use of a wireless device to write, send or read any text-based communication, including but not limited to a text message, instant message, and e-mail or internet data. If communication is necessary, employees are required to drive safely out of the flow of traffic and stop the vehicle before using the communication device. Exceptions to this policy may apply when stopping the vehicle would not serve the best interest of public safety and would prohibit an employee from performing his or her duties. While certain City vehicles may be approved for hands-free communication devices, no personal calls may be answered while operating a City vehicle or City equipment or while driving on City business.

Employees should never use personal communication devices or accept personal telephone calls while responding to or working on an emergency scene except as necessary to make work-related calls regarding the emergency.

## **6.8 DRIVER'S LICENSES**

Based on the requirements of their job description, certain employees are required to possess a valid driver's license and adequate vehicle insurance while employed with the City of Powell unless they have obtained a waiver from the City.

### **6.8 a Operation of City Vehicles**

All employees authorized to drive City-owned vehicles or personal vehicles in conducting City business must possess a current, valid driver's license and an acceptable driving record. Any change in license status or driving record must be reported to Human Resources immediately. Employees must have a valid driver's license in their possession while operating a vehicle off or on City property. It is the responsibility of every employee to drive safely and obey all traffic, vehicle safety, and parking laws or regulations. Drivers must always demonstrate safe driving habits. City-owned vehicles may be used only as authorized.

### **6.8 b New-Hire Check**

If the position requires a valid driver's license, a newly hired employee must provide the Human Resources Department on their first day of employment proof of a valid driver's license and adequate vehicle insurance. If the individual does not have a driver's license, a waiver may be requested.

### **6.8 c Annual Check**

At least annually, the Human Resources Department will obtain a report from the Ohio Bureau of Motor Vehicles on all employees required to have a driver's license, which summarizes the driving record and provides proof of a valid driver's license. It is expected that the driver's license of all employees who are licensed drivers is in good standing.

Employees must advise their supervisor within 24 hours should there be a change in the status of their driver's license or vehicle insurance. If the supervisor learns of any concerns, they must bring them to the attention of the Human Resources Department.

Failure to follow this policy, and/or to report such failure, may result in corrective action up to and including termination.

## **6.9 CITY COUNCIL & STAFF COMMUNICATIONS**

While any staff member is available to answer questions and requests for information from City Council members, the City Manager should be the primary information liaison between City Council members and City staff.

When a City Council member makes a request for information to a particular staff member, the practice is for staff to inform the City Manager so that he or she is aware of City Council's requests and needs.

City staff and City Council members should refer to the established *Rules of the City Council* amended on April 19, 2022, in Resolution 2022-22.



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## 7. DISCIPLINE

## 7.1 DISCIPLINE

It is the policy of the City of Powell to use positive measures in encouraging excellent work performance and behavior, and to use a process of progressive discipline to minimize and/or resolve employee performance or behavioral problems before more serious actions must be taken.

Employees may be disciplined for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, failure of good behavior, violation of a policy or a work rule, misfeasance, malfeasance, nonfeasance, conviction of a felony or any other reason set forth in O.R.C. §124.34.

Examples of reasons for which disciplinary action may be taken include, but are not limited to, the following:

- Failure to maintain appropriate work standards.
- Failure to comply with the work rules, policies, or instructions of a supervisor.
- Abuse of sick leave or falsification of leave requests.
- Failure to observe proper safety standards and rules.
- Engaging in non-work-related activity while on duty.
- Improper use of the City's equipment or use of equipment for non-work-related purposes.
- Failure to cooperate with other employees.
- Sleeping while on duty.
- Being in possession of, consuming, selling or being under the influence of alcohol or drugs while on duty.
- Falsifying records and/or making false statements.
- Performing private work while on duty.
- Making or publishing of false, vicious or malicious statements concerning employees, supervisors, the City or their operations.
- Use of abusive, profane, or threatening language towards employees or the public.
- Unauthorized political activity.

- Conduct that impacts the employee's credibility and/or has a relationship to the employee's job and/or public perception.
- Misuse or removal of City records or information without prior authorization.
- Failure to cooperate in a disciplinary investigation.

For discipline to be effective, the discipline must be presented to the employee soon after an improper action occurs. The goal of the disciplinary process is to give employees the opportunity to improve by identifying what specific actions they must take to meet performance and behavior standards; and ensure that disciplinary procedures are applied uniformly and consistently, in accordance with City policies, ordinances and work rules.

Supervisors and employees should work together to carry out the goals and responsibilities of their department and the City. It is the responsibility of all employees to observe regulations necessary for the proper operation of City functions. The supervisor is responsible for the activities of their work group.

Outlined below are the steps of the City's progressive discipline policy and procedures. The City of Powell reserves the right to combine or skip steps depending on the facts of each situation and the nature of the offense. Some of the factors that will be considered are whether the offense is repeated despite coaching, counseling, or training; the employee's work record; and the impact the conduct and performance issues have on the organization.

Nothing in this policy provides any contractual rights regarding employee discipline or counseling, nor should anything in this policy be read or construed as modifying or altering the employment-at-will relationship between the City of Powell and its unclassified employees.

## **7.1 a Procedure**

### *Step 1: Counseling and Verbal Warning*

Step 1 creates an opportunity for the immediate supervisor to bring attention to the existing performance, conduct or attendance issue. The supervisor should discuss with the employee the nature of the problem or the violation of company policies and procedures. The supervisor is expected to clearly describe expectations and steps the employee must take to improve their performance or resolve the problem.

The supervisor will prepare written documentation of the verbal counseling. The employee will be asked to sign this document to demonstrate their understanding of the issues and the corrective action.

The verbal warning will be placed in the employee's personnel file for a period of one (1) year from the date the warning was submitted to the employee.

#### *Step 2: Written Warning*

The Step 2 written warning involves more-formal documentation of the performance, conduct or attendance issues and consequences.

During Step 2, the immediate supervisor and Human Resources will meet with the employee to review any additional incidents or information about the performance, conduct or attendance issues as well as any prior relevant corrective action plans. Management will outline the consequences for the employees of their continued failure to meet performance or conduct expectations.

The written warning may also include a statement indicating that the employee may be subject to additional discipline, up to and including termination, if immediate and sustained corrective action is not taken.

Written Warnings may be removed from an employee's file, as determined by the Department Director and Human Resources, after a period of two (2) years from the date the written warning was implemented. It is the responsibility of the employee to request the file be purged.

The City reserves the right to issue multiple written warnings to an employee.

#### *Step 3: Suspension*

Some performance, conduct or safety incidents are so problematic and harmful that the most effective action may be the temporary removal of the employee from the workplace.

Suspensions that are recommended as part of the normal sequence of the progressive discipline policy and procedures are subject to approval from the City Manager.

An employee may be placed on administrative leave, with or without pay, when a serious violation has occurred, and it is considered in the best interest of the City pending the results of an investigation. Pay may be restored to the employee if an investigation of the incident or infraction absolves the employee. Nonexempt/hourly employees may not substitute or use an accrued paid vacation or sick day in lieu of the unpaid suspension. In compliance with the Fair Labor Standards Act (FLSA), unpaid suspension of salaried/exempt employees is reserved for serious workplace safety or conduct issues. The Human Resources Department will provide guidance to ensure that the discipline is administered without jeopardizing the FLSA exemption status.

#### *Step 4: Recommendation for termination of employment*

The last and most serious step in the progressive discipline process is a recommendation to terminate employment. Generally, the City of Powell will try to exercise the progressive nature

of this policy by first providing warnings, issuing a final written warning, or suspending the employee from the workplace before proceeding to a recommendation to terminate employment. However, the City of Powell reserves the right to combine and skip steps depending on the circumstances of each situation and the nature of the offense. Furthermore, employees may be terminated without prior notice or disciplinary action.

The recommendation to terminate employment may only be approved by the City Manager.

### **7.1 b Appeals Process**

Employees will have the opportunity to present documentation to dispute information management has used to issue disciplinary action. The purpose of this process is to provide insight into extenuating circumstances that may have contributed to the employee's performance or conduct issues while allowing for an equitable solution.

If the employee does not present this information during any of the step meetings, they will have five business days after each of those meetings to present such information. Appeals can also be filed through The Powell Personnel Review Board of Review.

### **7.1 c Documentation**

The employee will be provided with copies of all progressive discipline documentation, including all performance improvement plans. The employee will be asked to sign copies of this documentation attesting to their receipt and understanding of the corrective action outlined in these documents.

Copies of these documents will be placed in the employee's official personnel file.

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## 8. EMPLOYEE BENEFITS

## **8.1 INSURANCE BENEFITS OVERVIEW**

Each regular full-time employee is eligible to enroll in the health insurance benefits plan offered by the City for its employees and their eligible family members. These benefits include medical, prescription dental, and vision insurance. New employees can enroll on day one, benefits will be effective after on the first day of employment (note, new employees have 30 days to enroll in the insurance plan. If an employee misses the 30-day cut off, they will have to wait until open enrollment to enroll in the benefits). Cost for the insurance will be communicated to employees during new hire orientation and open enrollment.

Changes to an employee's health insurance coverage may only be made during open enrollment (offered annually) unless the employee has a change in their family status. A change in family status means to gain/lose a dependent, or loss of other coverage. Enrollment in such instances must be made within 30 days of the day of the event. Refer to the Summary Plan Description (SPD) for more detailed information. Employees are responsible for notifying Human Resources within the 30-day time limit should a change in family status occur. Employees failing to do so may be liable for back payments to the City for additional premiums paid by the City on the employee's behalf.

The City of Powell retains full discretionary authority to interpret the terms of the plans, as well as full discretionary authority regarding administrative matters arising in connection with the plans and all issues concerning benefit terms, eligibility, and entitlement. While the City intends to maintain these employee benefits, it reserves the absolute right to modify, amend or terminate these benefits at any time and for any reason.

## **8.2 LIFE-INSURANCE & AD&D INSURANCE**

On behalf of each full-time employee of the City of Powell provides life insurance and Accidental Death & Dismemberment (AD&D) insurance benefits. The amounts of coverage are communicated to employees during new hire orientation and open enrollment. Eligible employees may also elect to purchase additional life insurance and AD&D coverage for themselves and eligible spouses and dependents. Such benefits shall be administered in accordance with the policy of the current provider.

## **8.3 EMPLOYEE ASSISTANCE PROGRAM (EAP)**

The City of Powell provides to all full-time employees a comprehensive Employee Assistance Program (EAP). EAP is a City funded benefit that offers the support and resources needed to address any personal challenges and/or concerns that may affect an employee's personal well-being and/or work performance. It is confidential and free to all City employees as well as their eligible family members, including spouses and dependent children. The EAP benefit provides confidential access to licensed professional counselors and work/life specialists who are available for short term assistance.

Please contact the Human Resources Department for more information.

## 8.4 RETENTION INCENTIVE

All employees serving in Full-Time positions shall be entitled to retention incentive in accordance with the following schedule, provided that all complete years of service are consecutive and have been accumulated in Full-Time permanent positions:

Completed, Consecutive Years of Service in Full-Time Permanent Positions with the City of Powell	Amount
Four (4) through Six (6) Years	\$950
Seven (7) through Ten (10) Years	\$1,150
Eleven (11) through Fourteen (14) Years	\$1,450
Fifteen (15) through Nineteen (19) Years	\$1,700
Twenty (20) or More Years	\$1,900

Employees shall become eligible for their retention incentive payment on the anniversary date of their appointment and must be in active status on that date. The employee shall receive such retention incentive payment during the first pay of November each year in the employee's regular payroll deposit. This includes employees on workers' compensation leave. The payroll deposit in which the retention incentive payment is included shall be taxed at the employee's existing W-4 rate.

In the event an employee is on Leave without Pay for more than six (6) months within the particular year for which the employee would normally be entitled to retention incentive pay, they shall forfeit their entitlement to such pay.

Employees must be employed by the City of Powell on their retention incentive payment date to receive retention incentive pay. Retention incentive pay will not be prorated.

The payout of retention incentive pay to employees is subject to periodic review and may be changed or stopped at the discretion of the City of Powell at any time.

## 8.5 TUITION REIMBURSEMENT

The City of Powell is committed to the educational development of City employees. The tuition reimbursement program has been designated to promote continuing education by offering financial assistance to employees for job-related courses.

The City may reimburse full-time, regular employees for education costs for courses approved by the City. The approval for reimbursement will be dependent on the course and its relevance to the employee's current or future potential position. Approval must be obtained prior to commencement of each course per semester.



### **8.5 a Reimbursement Approval**

The following procedures must be followed for any employee to be eligible for the tuition reimbursement program:

- There must be a correlation between the employee's duties and responsibilities and the courses taken or the degree program pursued. The course or program shall not lead to qualification for a new trade or position.
- An employee on an unpaid leave of absence, unauthorized leave of absence, disability leave, or injury leave may not apply for tuition reimbursement.
- All courses must be taken during non-working hours. Any situation which would interfere with an employee's job responsibilities or require a change in their work schedule would require the City Manager's approval.
- Any financial assistance from any governmental or private agency available to an employee, whether applied for if the assistance was widely known and regardless of when such assistance may have been received, shall be deducted in the entire amount from the tuition reimbursement the employee is eligible for. If an employee's tuition is fully covered by another governmental or private agency, then the employee is not entitled to any tuition reimbursement from the City.
- No reimbursement will be granted for books, paper, supplies of whatever nature, transportation, meals, or any other expense connected with any course except the cost of tuition and fees.
- Eligibility for reimbursement ceases upon termination, regardless of the reason for termination.
- No reimbursement shall be provided for correspondence courses.
- A copy of the course description, registration form and documentation of course cost and fees shall be submitted with the request for tuition reimbursement approval, at least thirty (30) days prior to the start date of the course.
- Upon completion of the course, the employee must submit an official grade report and proof of tuition and fees payment. These must be submitted within 30 days after receipt of final grade. The City may deny tuition reimbursement if submitted late.

### **8.5 b Reimbursement Procedure**

The percentage of reimbursement is based on the grade achieved for each course, subject to the maximum reimbursement for the following:

#### Undergraduate Courses

A— 100% of allowable amount

B – 75% of allowable amount

C – 50% of allowable amount

No reimbursement for any grade below a C

#### Graduate Courses

A— 100% of allowable amount

B – 75% of allowable amount

C – 50% of allowable amount

No reimbursement for any grade below a C

Courses taken on a Pass/Fail basis when no other option exists will be reimbursed at 100% if the course is passed. A copy of the course description stating this course is only offered as pass/fail will be required. If an employee elects to take a course as pass/fail/ the reimbursement will be 50% if the course is passed.

For the College-Level Examination Program (CLEP) College credit by examination, employees will be reimbursed at 100% if the exam is passed.

The maximum eligibility for tuition reimbursement is \$2,000 per calendar year for undergraduate courses and \$2,500 per calendar year for graduate courses.

The Internal Revenue Service (IRS) has placed limits on the amount of educational assistance which may be excludable from an employee's income.

Any employee who participates in the tuition program who terminates, for any reason other than disability, must repay a portion of the tuition reimbursement paid by City for courses taken less than two years prior to the date of termination or discharge:

- 6 months or less — repay 100% of the reimbursed amount.
- 7 months — 12 months — repay 75% of the reimbursed amount.
- 13 months — 24 months — repay 50% of the reimbursed amount.

If necessary, this amount will be deducted from the employee's final paycheck.

## **8.6 CONTINUING EDUCATION**

The City of Powell will budget for continuing education through an accredited program that either offers growth in an area related to their current position or that may lead to promotional opportunities. This education may include seminars and certification tests that are job-related.

Expenses must be validated by receipts to the Finance Department and a copy of the final certification or training completion handed in to the Human Resources Department.

Full-time, regular employees who have completed their initial probationary period are eligible to participate in continuing education classes.

### **8.6 a Procedures**

To receive approval for continuing education expenses, employees should follow the procedures listed here:

- Prior to enrolling in an educational course or training, the employee must seek approval from their supervisor first.
- Once the supervisor approves, the employee will send an e-mail request to the Human Resources Department, and their supervisor, providing information about the training or certification and discuss the job-relatedness of the continuing education.
- Human Resources will send the request to the Department Director and City Manager for final approval.
- Employees must submit proof to the Human Resources Department of successful completion of the training or certification.
- Employees who terminate within one year of completion of a training or certification will be required to reimburse the City for expenses incurred. The City Manager is authorized to waive this requirement under unusual and justifiable circumstances.
- Any questions on this process should be directed to the Human Resources Department.

## **8.7 PENSION FUNDS**

The City of Powell currently contributes to two (2) pension funds as required by the State of Ohio.

### **8.7 a Ohio Police & Fire Pension Fund**

Full-time employees of the Police Department must be members of the Ohio Police & Fire Pension Fund (OP&F), 140 East Town Street, Columbus, Ohio 43215. Telephone (614) 228-2975. Employees, and the City, are required to contribute a percentage of the employee's gross salary each pay period as set by the OP&F. For further information, including contribution rates, an employee should contact the pension board.

### **8.7 b Ohio Public Employees Retirement System (OPERS)**

All municipal employees other than full-time Police Officers must be members of the Ohio Public Employees Retirement System, 277 East Town Street, Columbus, Ohio 43215. Telephone (800) 222-7377. Employees, and the City, are required to contribute a percentage of the employee's gross salary each pay period as set by OPERS. Please contact OPERS for further information and/or additional requirements.

## **8.8 UNEMPLOYMENT COMPENSATION**

The City will pay unemployment compensation to employees who have been separated from City employment and meet the eligibility requirements set by the Ohio Department of Job and Family Services' Office of Unemployment.

## **8.9 WORKERS' COMPENSATION**

The City of Powell strives to provide a safe and secure working environment for all employees. When a work-related injury or illness occurs (i.e. injuries and illnesses that arise out of, or are incurred in the course of job related activities on behalf of the City), the City shall provide appropriate medical care and treatment to the injured worker through its Workers' Compensation Program.

The Human Resources Department is responsible for administering the City's Worker's Compensation program.

### **8.9 a Employee Responsibilities**

Employees should immediately notify their supervisor when sustaining an injury. The supervisor will begin the injury reporting process. No matter how minor the injury may seem, it is required that an employee reports it.

### **8.9 b Supervisor Responsibilities**

A supervisor should immediately assess the incident and assist the employee in seeking appropriate medical care or necessary treatment for any work-related injury. Contact Human Resources to start the process of completing the Injury/Accident Report within 24 business hours of the incident.

If the employee seeks medical attention, the medical provider must indicate when the employee can return to work and whether job modifications are required to accommodate physical restrictions. Employees without restrictions can return to their usual work duties.

If the Medical Provider imposes work restrictions, the supervisor and Human Resources will review the job modifications that are required to comply with the restrictions. Every effort will be made to accommodate the employee's restrictions, however there may be times it may not be possible due to the restrictions and the employee's job description. The City must be advised and continually updated if an employee continues to be absent due to a work-related injury on an anticipated date of return to work. All requirements for reporting off work must be followed. Employees are responsible for providing the City with their expected date of return.

If an employee is on leave as a direct result of their employment with the City, the City shall continue to pay their insurance premiums for up to one year, provided the employee continues paying their share of the insurance cost.

The City reserves the right to have the employee examined by a physician of its choice at the expense of the City to confirm any medical diagnosis and period of disability.

## **8.10 TRANSITIONAL WORK PROGRAM**

The City of Powell strives to assist employees to return to work as soon as possible following an injury or illness. A return-to-work program has several benefits for both the employer and employees by minimizing time lost from work.

This policy is not intended to supersede or modify the procedures applicable to employees eligible for reasonable accommodation under the Americans with Disabilities Act (ADA) or leave benefits under the Family and Medical Leave Act (FMLA).

### **8.10 a Eligibility**

The policy applies to regular full- and part-time employees who are on leave because of injury or illness and who are receiving workers' compensation benefits.

### **8.10 b Transitional Work**

The City defines "transitional work" as temporary, modified work assignments within the worker's physical abilities, knowledge and skills.

When possible, transitional positions will be made available to employees on leave because of injury or illness to minimize or eliminate time lost from work. The City cannot guarantee a transitional position and is under no obligation to offer, create or encumber any specific position for purposes of offering placement to such a position.

### **8.10 c Procedures**

The expected maximum duration of a transitional work agreement is 12 weeks. Extensions may be granted by Human Resources, in consultation with a supervisor, when:

- It is recommended by the health care provider.
- The employee has demonstrated significant progress and is expected to make a successful transition to work within an additional specified time.
- The nature and severity of the employee's medical condition requires a transitional period that is expected to exceed 12 weeks.
- A health care provider documented aggravation or change of the condition occurs.

Transitional positions are developed based on the physical capability of the worker, the business needs of the City and the availability of transitional work.

The City will determine appropriate work hours, shifts, duration and locations of all work assignments.

The City reserves the right to determine the availability, appropriateness, and continuation of all transitional work assignments.

It is the responsibility of the employee to notify Human Resources immediately of all changes in medical conditions.

It is the responsibility of the employee and the employee's supervisor to notify Human Resources immediately of any work-related injuries, if the employee misses time from transitional work or of any changes to transitional work assignments.

A transitional work agreement may be completed whenever an employee has returned to work with temporary restrictions from their health care provider for 14 calendar days or more.

Human Resources, in consultation with the employee's department, determines whether an employee may use a transitional work agreement. If so, a transitional work agreement is established, and the employee is placed in an appropriate available position. Transitional work agreements are established through a meeting with Human Resources, the employee, the employee's department and the temporary department as appropriate.

#### **8.10 d Transitional Work Assignments**

A request for a transitional work assignment can be initiated by the department, employee, or the employee's health care provider by contacting Human Resources. Medical documentation from a health care provider that describes the restrictions must be submitted to Human Resources.

Human Resources may conduct a transferable skills analysis and job analysis with the employee to ensure appropriate placement.

Staff may be required to work out of classification as deemed necessary for a transitional work agreement.

Transitional work assignments may be offered for a shift other than the employee's usual shift assignment.

Employees who are restricted to working less than their regular full-time employment will be paid at their regular rate of pay for hours worked. Accrued paid leave can be used as appropriate. If an employee refuses the transitional work agreement, the employee's workers' compensation or short-term disability benefits may be terminated and corrective action may be taken. If an employee on a transitional work agreement does not participate in the treatment plan recommended by their health care provider, their workers' compensation and short-term disability benefits may be terminated.

Periods of work under transitional work assignment are not calculated as part of the probationary period, unless otherwise noted in the transitional work agreement.

The priority for placement is that employees remain in their department. If this is not possible, placement will typically occur in a different job within the employee's department or another department.

## **8.11 EMPLOYEE OF THE YEAR**

The City of Powell appreciates the efforts of its employees in achieving Council goals and to support the citizens of the community. Outstanding employees deserve to be recognized both as a reward for exceptional performance and as a model for other employees.

The aim is to recognize an employee who has made significant contributions in areas related to the improvement of operations and customer satisfaction internally and externally. The recognition program will be managed with the support and administration of the Human Resources Department. Recognition is aimed to acknowledge those contributions that are beyond the normal job expectations.

### **8.11 a Selection Committee**

The committee should consist of the City Manager, Human Resources, and one member of the leadership team. The Selection Committee will evaluate, discuss, and vote on the selection of the Employee of the Year based on the established criteria.

### **8.11 b Eligibility**

All full-time employees are eligible to participate in the employee recognition program by being nominated and voted upon by the Selection Committee. The employee must have at least one year of continuous employment with the City. Employees' nominations should be e-mailed to Human Resources and submitted by any member of staff. Employee(s) must meet at least three out of the five criteria listed below. Employees will be selected based on the following established criteria:

- **Professionalism** - The employee conducts themselves in a manner consistent with the values and goals of the City of Powell. Employee demonstrates an above average knowledge of their job responsibilities and delivers a high-quality job performance and service.
- **Customer Focus** - The employee consistently recognizes and meets the needs and requirements of internal/external (where applicable) customers. Employee demonstrates compassion in dealing with the customer, being mindful of how their attitude and actions are perceived. The employee uses problem-solving techniques, when necessary, to satisfy the customer's needs and creates a positive image of the City.

- **Quality** - The employee consistently uses a systematic approach to accomplishing their responsibilities, taking care to minimize errors. Employee acknowledges and takes pride in ownership of the day-to-day processes for which they are responsible and utilizes initiative where necessary to meet overall goals.
- **Teamwork** - The employee consistently demonstrates the spirit of teamwork by offering support to fellow employees whenever a need arises for a collective effort in accomplishing a task or goal. The employee takes a positive approach in interacting with fellow employees.
- **Innovation** - The employee has developed an original idea or suggestion that has a positive effect on the operations, policy and/or procedure of the City of Powell. The result of the idea or suggestion is a reduction in cost(s) to the operation or increased efficiency or accountability.

### **8.11 c Award Benefits**

The employee will receive a plaque or trophy and have their name published on the City's website and social media channels.

Employee of the Year Nominations are typically due on November 10<sup>th</sup> each year.



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## 9. USE OF CITY PROPERTY

## **9.1 ACCIDENTS & TRAFFIC CITATIONS**

In the event of a traffic accident or traffic stop for a violation while in the course of employment, employees shall:

- Stop, no matter how minor the accident. Report all collisions involving vehicles to the law enforcement agency having jurisdiction.
- Take precautions to avoid further damage or injury to persons or property.
- Make no statements admitting responsibility.
- Do not advise other parties involved on any matter.
- If a collision is with an unattended vehicle or other object, try to locate the owner and call the law enforcement agency. If this cannot be done, leave a written notice with your name, department name, address, and telephone number.
- The driver of a vehicle is responsible for the vehicle until it has been returned to the department or collected by the towing service. Unsafe vehicles should not be driven from the scene of an accident. Contact your supervisor regarding damage and towing if necessary.
- Report accidents and/or damage to vehicles to your supervisor, who shall notify the Human Resources Department immediately.

## **9.2 COMPUTER & TECHNOLOGY USE**

Employees are provided with internet access and electronic communications services (which may include, but are not limited to, computers, e-mail, cell phones, iPhones, iPads, personal computers, and the like) as required for the performance and fulfillment of job responsibilities. All employees are obligated to make effective, safe, and responsible use of this technology. This policy applies to all employees, including regular full-time, permanent part-time, temporary, and seasonal employees who are provided access to the technology systems.

The City offers this access to technology for the purpose of increasing productivity and not for non-work related activities. Specifically, this technology is meant to enhance operations by enabling users to, among other things: locate and retrieve information; communicate more effectively with other departments, employees, and organizations; and more easily publish information of interest to the public. Users must understand that any connection to the internet offers an opportunity for non-authorized users to view or access information stored in the system. Therefore, it is important that all connections be secured, controlled, and monitored.

The electronic equipment and communications systems provided are City property to be used for valid business purposes only. All communications and/or information created, stored,

received, sent, or otherwise transmitted on or through provided technology, including without limitation the internet, e-mail, servers, personal computers, iPads, associated hardware and software, online services, and other electronic communications services, are considered City property.

There shall be no expected right of privacy for any matter related to using equipment provided, including no personal privacy right in any matter passing through, viewed, downloaded, printed, created, stored, received, sent, or otherwise transmitted from City-provided technology and equipment. All employees should understand that the City reserves and intends to exercise the right to monitor, review, access and disclose all internet usage, e-mail communications sent or received, and all cell phone, iPhone, and iPad usage, if necessary, to ensure that the system is being used for business purposes in compliance with this policy, to ensure that all other policies (including for instance those related to harassment and discrimination) are being followed, and to be able to access information in an employee's e-mail or other electronic communications system in the event that the employee is unavailable to do so. Electronic audits of internet activity and other electronic communications by City employees may be implemented to identify and properly deal with unauthorized activity.

### **9.2 a Internet Access, E-mail, & Public Records**

Restrictions may apply to access, of all users, to certain unapproved internet sites and capabilities (ex: YouTube and instant messenger capabilities).

E-mails are public records under State Law and are subject to public records requests. E-mails must be maintained and may be deleted only according to the public records policy.

### **9.2 b Permitted Use**

The internet and electronic communications services are intended for the purposes of conducting City business. Valid business purposes include, but are not limited to:

- Locating, retrieving, collecting and/or disseminating information in connection with business.
- Communicating with other departments and employees, as well as with outside contractors, businesses, individuals or organizations currently or potentially doing business with or assisting with the business of the City.
- Conducting research to obtain information and material related to City issues.
- Limited personal use does not result in the disruption of network operation or interfere with productivity at work. Personal use of City technology and electronic devices must be kept to the minimum amount of time needed to address a situation. Excessive use will be determined on a case-by-case basis.

## **9.2 c Prohibited Use**

Internet and electronic communications services should not be used for any prohibited purpose. Prohibited usage may result in the cancellation or loss of privileges. Any non-work-related use is defined as prohibited use. Prohibited usage includes, but is not limited to:

- Conducting personal business activities or seeking personal financial gain.
- Playing games during working hours.
- Bringing actual or potential embarrassment or harm to the City.
- Conducting illegal activities or otherwise violating federal, state, or local laws.
- Receiving, transmitting, downloading, viewing, or printing offensive materials of any kind, including any obscene or pornographic materials.
- Receiving, transmitting, downloading, viewing, or printing any materials of a derogatory, inflammatory, discriminatory, harassing, sexually explicit, obscene, offensive, defamatory, violent, or threatening in nature, or other material which is inappropriate, including any content regarding an individual's or group's race, national origin, gender, age, marital status, sexual orientation, religion, or disability.
- Downloading and/or installing software, games or any files or programs which could potentially change system configuration without the consent of authorized Information Technology personnel.
- Removing and/or copying software, shared files, or programs without the consent of authorized Information Technology personnel.
- Any social media use that is unrelated to an employee's duties and responsibilities.
- Use of any streaming or websites that impair system operations.
- Downloading, distributing, or printing copyrighted materials, which include articles, software, or intellectual property, in violation of the copyright laws.
- Copying programs from City owned systems for personal use or non-City use.
- Spamming e-mail accounts or forwarding chain letters.
- Disclosing confidential information or otherwise violating the privacy rights of the City or its employees, citizens, or business associates.

- Using the internet or electronic communications systems of another employee without authorization.
- Vandalizing data of another user, including uploading or creating computer viruses.
- Purchasing goods, materials, or services via the internet using a City credit card or other credit means without having proper authorization.
- Violating any state or federal law.
- Other uses as determined by the City.

### **9.2 d Employee Responsibilities**

Employees have the following responsibilities while using City provided technology:

- Ensuring the security of their accounts and related passwords. Passwords should never be shared between users or be in plain sight. If the integrity of a password has been compromised, it should be changed and/or the Information Technology personnel should be notified.
- Abiding by existing federal, state, and local telecommunications and networking laws and regulations.
- Minimizing unnecessary network traffic that may interfere with the ability of others to make effective use of City network resources and to conduct normal business activities.
- Avoiding the overload of networks with excessive data or wasting other City technical resources.
- Exercising good judgment and generally accepted rules of network etiquette when using the internet or other electronic communications services to avoid offense to others.
- Maintaining the integrity and confidentiality of all City information.
- Exercising good judgment when providing information to other individuals and using all reasonable safeguards to avoid the mistaken distribution of another's information. The transmission of confidential, sensitive, or personal information shall follow current procedures and regulations. Employees should only disclose such information or messages from the electronic communications system to authorized individuals with a need to know.
- All dissemination of public records must follow the rules in this handbook and all public records policies and laws.

- Access personal e-mail accounts.

### **9.2 e E-mail Use Policy**

This policy provides the employees with effective, consistent standards regarding the use of the electronic mail system (e-mail). This policy applies to all employees. All City of Powell employees will have a City e-mail address. This e-mail account will be used for City-wide and Departmental communications, as well as communicating to outside agents on behalf of the City. It will be the employees' responsibility to check their e-mail frequently. This e-mail account will serve as the main communication channel for receiving all city-wide communications. (i.e., Human Resource, insurance/benefits updates, memos from the City Manager, etc.) Reviewing the employee e-mail account on a frequent basis allows for the timely response to any actions that are necessary or needed. This City e-mail account is required to be used when discussing city business. The use of personal e-mail accounts (Hotmail, yahoo, Gmail, etc.) is not the City's protocol and is not permitted for use when conducting City business. Violations of any guidelines listed above may result in disciplinary action up to and including termination. If necessary, the appropriate legal officials will be advised of any illegal activities.

All electronic communications and stored information transmitted, received, or archived in the City's information system are the property of the City. The City reserves the right to access and disclose all messages sent by e-mail. Employees have no expectation of privacy with respect to any e-mail coming into or going out of City resources, particularly those which come into, or go out of, a City e-mail account. City e-mail accounts are provided to carry out communications for City or City-related business only. Employees should avoid accessing their personal e-mail accounts through the computer system.

### **9.2 f Social Media**

Public employees have responsibilities, higher standards of conduct, and a public image to follow and maintain.

There are many tools available today that enable people to publish and share content on the public internet. These include social media and networking sites such as Facebook, Twitter, Yelp, YouTube, and foursquare, subscription services, as well as blogs, blog comments, forum posts, wikis, and other similar sites.

Employees may participate in any of these forms of communication using personal equipment during their personal non-work time. The City respects the right of its employees to use social media sites and other parts of the public internet as a medium of self-expression, communication, and public conversation. The City does not discriminate against employees who use this media for personal interests and affiliations or for other lawful purposes.

However, employees should keep in mind that their postings can affect how the general public perceives the City. The City has the right to make sure that nobody has made unauthorized use of or discloses confidential information (e.g., personal, and protected information about employees and/or citizens). Employees are cautioned that they should have no expectation of privacy while using the public internet, even on their own personal time, and even when using their own personal equipment. Employees' public postings on social media and other internet sites can be viewed by anyone, including the City's management.

The following guidelines apply to all use of social media or the public internet by City employees, even when on their own personal time and on their own personal equipment:

- Only employees who are specifically authorized by the City are permitted to prepare and modify content for the City's website and any of the City's official social sites. If an employee is uncertain about whether they are permitted to post certain content, they must discuss the proposed content with their supervisor prior to posting.
- If an employee sees a posting on the internet from a member of the public that speaks adversely about any City operation or service, they should forward the post to their supervisor instead of responding directly to the poster.
- Employees may not claim to speak on behalf of the City in an official capacity on the public internet or in any social networking service unless they have been specifically authorized to do so.
- Employees may not discuss or disclose on the public internet or in any social networking service any confidential information they obtained through their employment with the City.
- Employees may not post or view any content on social media sites or to the public internet during working time, except as part of the employee's official assigned job duties.
- Employees may not post any threats of violence or any unlawful harassing or discriminatory content about any of their co-workers, or any person.
- Any employee found to be violating this Policy is subject to immediate disciplinary action, including termination.

## **9.2 g Cellular Phone & Electronic Devices**

This policy outlines the use of personal cell phones/electronic devices at work, the personal use of City cell phones/electronic devices and the safe use of cell phones/electronic devices by employees while driving.

While at work employees are expected to exercise the same discretion in using personal cellular phones/electronic devices as is expected for the use of City phones. Excessive personal calls/electronic device use during the workday, regardless of the phone/device used, interfere with employee productivity, and distract others. Employees must limit personal calls and electronic device use to non-working time (i.e., authorized breaks and lunch periods) and ensure that friends and family members are aware of the City's policy. Flexibility will be provided in circumstances demanding immediate attention or for emergencies.

Where an employee's duties require immediate access to an employee the City may issue a cellular phone to an employee for work-related communications.

Employees in possession of City equipment are expected to protect the equipment from loss, damage, or theft. Upon resignation or termination of employment, or any time upon request, the employee may be asked to produce the equipment for return or inspection. Employees unable to present the equipment in good working condition within the period requested (i.e., 24 hours) may be expected to bear the cost of a replacement.

## **9.2 h Safety Issues for Cellular Phones & Electronic Devices**

This policy outlines the safety issues surrounding the use of City cell phones and electronic devices:

- Certain employees may be provided cellular telephones to provide communications needed to perform job duties and responsibilities on behalf of the City of Powell. Employees who are issued cellular telephones under the City plan shall be selected at the sole discretion of the appointing authority, in consideration of business need, and to enhance the efficiency and economy of City services. The City is responsible for ensuring that only those employees whose job demands require the use of mobile telecommunications shall be issued a City cellular telephone.
- When personal telephone calls on City cellular phones are necessary, they are to be brief, and limited in number, to avoid tying up the cellular telephone on non-business-related matters.
- City issued cell phones are the property of the City and as such may be accessed and inspected at any time by the City. There are absolutely no rights or expectations of privacy for any contents on the City owned phone.
- Lost, stolen, or broken City cell phones should be reported by the Employee to the Human Resources Department immediately.
- Each employee who makes personal telephone calls on their City issued cellular telephone shall be required to reimburse the City in full, for any costs associated with said personal calls.



- When using a City issued cellular telephone in a City or personal vehicle, the employee is required to first pull over and stop the vehicle at a safe location, prior to placing the call or texting. When receiving a cellular telephone call while driving, the employee is required to pull over as soon as it is safe and practicable to do so. If needed to remain safe, the employee receiving a cell phone call should place the caller on hold, or advise that the employee will return the call, when the employee can safely park the vehicle. For the safety of the employee and other drivers, the employee is required to remain parked during the entire telephone conversation. No texting while driving.
- Upon termination of employment, any employee who has been issued a City cell phone shall turn their phone into the Human Resources Department.

### **9.2 i Violations and Discipline**

If it is determined that a user has violated any of the above policy guidelines under section 9, the user will be considered to have misused City property and will be subject to disciplinary action, up to and including termination, as well as the loss of electronic communications privileges. If necessary, the City will advise appropriate legal authorities of any illegal activities.

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## 10. EMPLOYEE RESIGNATIONS & RETIREMENTS

## **10.1 RESIGNATIONS**

Resigning employees are expected to provide a two weeks' notice, preferably in writing, to facilitate a smooth transition out of the City. If an employee provides less than the requested two weeks' notice, the City may deem the employee to be ineligible for rehire depending on the circumstances regarding the notice given.

Resignation effective dates are the last day an employee works and cannot be extended by any accrued leave without the prior written approval of the City Manager and review by the Human Resources Department. Resignation effective dates cannot be on a holiday or weekend unless it is a normally scheduled workday. An employee is not eligible for pay for any holidays occurring after their last actual workday.

Any employees on unpaid leave who submits their resignation, the resignation date will be the last day the employee was in paid status. For employees on paid leave who submit their resignation, the resignation date is that date requested by the employee or the last day the employee is in paid status, whichever is sooner.

All resignations must be confirmed in writing with the effective date and reason for leaving. Notices may be delivered to the Human Resources Department either in-person or by e-mail. Employees will receive a confirmation of resignation notice from Human Resources within 24 hours of submitting their resignation.

The City reserves the right to provide an employee with two weeks' pay in lieu of notice in situations where a job or business needs a warrant. Such a decision should not be perceived as reflecting negatively on the employee, given that it may be due to a variety of reasons not known to the individual or other employees.

A resigning employee is not permitted to perform City work after their resignation date. Should a resigning employee not have completed all their work prior to the resignation date, the employee may request in writing an extension of their resignation date to their Department Director. If the Department Director agrees with the extension, Human Resources will confirm in writing to the employees the revised resignation date.

## **10.2 RETIREMENT**

Employees may retire from the City of Powell by submitting the appropriate forms to the Ohio Public Employees Retirement System (OPERS) and providing written notice to Human Resources. Employees are expected to provide as much notice as possible, preferably in writing, when submitting their retirement notice. Forms may be found on the OPERS website: [www.OPERS.org](http://www.OPERS.org) or by contacting Human Resources. Upon receipt, Human Resources will confirm acceptance to the employee in writing within 24 hours of submitting their retirement.

### **10.3 RESCISSION OF RESIGNATION**

Requests from resigning employees to rescind their resignation prior to their termination date are sent in writing to Human Resources and are considered on a case-by-case basis. Only the City Manager has the authority to accept the employees' request to rescind their resignation.

### **10.4 EXIT INTERVIEW**

All departing employees who leave voluntarily will be asked to participate in an exit interview. Human Resources will conduct the interview no later than the last working day of employment.

Any feedback by the employees on improvement or concerns regarding City operations will be shared with the City Manager. If the employee requests that their response remain confidential, Human Resources will try to keep all information confidential wherever possible, and as allowed by law. Information that relates to harassment, discrimination, or illegal activity will be acted upon immediately and it will not be possible to keep the source of this information confidential.

Human Resources will discuss the employee's remaining accrued leave benefits, and conversion/withdrawal options for insurance and retirement benefits. The employee will turn in all City property and provide a forwarding address to Human Resources to facilitate the forwarding of correspondence, including COBRA notification and W-2 forms.

#### **10.4 a Leave Time Cash-Out**

Any outstanding overtime, compensatory time, and vacation time is paid out to the resigning employee in their final paycheck. Resigning employees may request to transfer any outstanding vacation balance to their new employer where such employer will accept the vacation balance.

Once the cash out is complete, all accrued vacation leave is eliminated. Should an employee return to employment with the City of Powell, they would start with a zero (0) balance in their vacation leave bank.

In the event of an employee's death, same pay out arrangement shall be made to the employee's spouse or estate.

#### **10.4 b Sick Leave Cash-Out**

Upon separation from the City of Powell, sick leave payout will follow the guidelines set in Policy 5.3 g of this Employee Handbook.

### **10.5 RE-HIRING RETIRED PENSION MEMBERS**

This policy establishes a formal process to be followed when the rehire of a non-bargaining full-time employee, who has formally retired through the Ohio Public Employee Retirement System (OPERS) or Ohio Police & Fire Pension Fund (OP&F) is approved by the City Manager.

### **10.5 a Procedure**

The City of Powell is committed to attracting and retaining exceptional talent. When an employee retires but has unique capabilities such as having knowledge in a discipline, function, or service area that is not readily available in the relevant employment market and by which the retirement of a particular individual will leave a significant gap of knowledge or service in the City, a rehire agreement may be offered to employees based on the City Manager's approval. The decision to rehire a retiree will be based on the best interest of the City and the services provided.

Any employee who retires in good standing may be rehired, under unusual circumstances (hard to recruit positions of technical competency; difficult to obtain certifications/licenses; unique general skills; difficult recruitment conditions; to assist in the transition of knowledge, skills, and abilities; workload and/or anticipated workload exceeding capacities) and without the normal competitive selection process, to any position in the same job classification, if vacant, when the City Manager has determined that there is a compelling need for the former employee's services. All such rehires are subject to approval by the City Manager.

This practice should not be considered as part of an employee's retirement planning strategy. A retirement/rehire arrangement is temporary and can be terminated at any time.

Department Directors must first identify the need or gap being created due to an employee retiring. Directors must then provide justification to the City Manager for requesting the rehire of a retiring employee. In justifying the rehiring of a retiring employee, the Director must consider lead time, potential for promotion from within given the skill set of current employees, and the potential for recruitment from outside the City.

Eligible employees are subject to the provisions of OPERS and OP&F and applicable state and/or federal law. Employees must be currently employed by the City and eligible to retire under OPERS or OP&F. Eligibility for rehire includes employees being in good standing with the City and not having current discipline or improvement plans. Employees will enter into an employment agreement and may be asked to sign one or more agreements memorializing the retire/rehire arrangement.

### **10.5 b Responsibilities**

When the City Manager approves a recommendation to rehire an employee, the resulting process will follow:

- Leave Banks: Employee must cash out their vacation and compensatory banks of leave at the time of retirement and prior to being re-hired.
- Employees can choose to cash out their sick leave bank or keep it for use as part of their rehire. Employees forfeit the right to cash out their sick leave bank if they choose not to cash it out with their initial rehire.

- **Salary:** The rehire salary will be a 10% reduction from the pay at retirement for those returning in a full-time capacity. Employees returning to a part time capacity will retain their hourly rate at retirement.
- **Sick Leave:** Rehired employees accrue sick leave per the City's paid sick-leave benefits policy upon rehire.
- **Vacation Leave:** Rehired employees accrue vacation leave as a new employee and per the City's paid vacation accrual benefits policy upon rehire.
- **Floating Holidays:** Rehired employees receive an amount at the rate as established in the City's paid holidays benefits policy. If an employee is rehired in the same payroll calendar year in which they were previously credited Holiday Leave, they must wait until the new payroll calendar year to receive a new credit.
- **Insurance:** Rehired employees in a full-time status can remain on the City's Health Care coverage. Employees returning in less than full-time status will not receive health care coverage unless otherwise provided to less than full-time employees by a change to City policy.
- **Pay Increases:** Rehired employees will forfeit any future pay increases.
- **Annual Evaluations:** Employee's performance will be evaluated and ongoing employment during the rehire period is contingent upon performance.
- **Overtime:** Will be paid at the same rate as all other non-bargaining employees in accordance with the Overtime policy.

## **10.6 REDUCTION IN FORCE**

Due to budgetary restrictions, reduction in workload, or reorganization, the City Manager may determine that an employee reduction in force (RIF) is necessary. When it becomes necessary to reduce the workforce, full-time/regular employee(s) with the positions to be eliminated shall, when possible and determined to be feasible, be notified in writing of the reduction in force at least two weeks before the planned reduction in force.

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## 11. EMPLOYEE ACKNOWLEDGEMENT

## CITY OF POWELL EMPLOYEE HANDBOOK

Employee Name: \_\_\_\_\_

Department: \_\_\_\_\_

Date: \_\_\_\_\_

I hereby acknowledge that I have received a copy of the City of Powell's Employee Handbook. I hereby acknowledge that I understand that it is my responsibility to familiarize myself with the Employee Handbook and I agree to comply with all the policies and procedures contained in the Handbook.

I further understand that if I have any questions as to the applicability or meaning of any policy, I can direct my questions to my supervisor or the Human Resources Department.

I further understand that this Handbook is not an employment contract and that changes may occur to this Handbook.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*This form must be completed and signed at the time of the issuance of this Handbook. A copy of this acknowledgment is to be placed in the employee's personnel file.*



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**From:** Andrew D. White, City Manager  
**To:** Members of City Council  
**Re:** Ordinance 2023-35 – Amending Chapter 182  
**Date:** December 5, 2023

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**Summary:**

This Ordinance adopts the amendments to the municipal income tax code as recommended by the Regional Income Tax Agency (RITA) and as required by the General Assembly and the Ohio Revised Code under House Bill 33.

House Bill 33 of the 135th General Assembly, the State's general appropriations bill for the biennium, included a number of amendments to Chapter 718 of the Ohio Revised Code and required that municipalities amend their municipal income tax ordinances to conform to the changes. The Ohio Legislative Service Commission's Final Analysis describing those amendments is attached.

Staff has prepared the proposed Ordinance amending the applicable sections of the City's municipal income tax code based on recommendations by the Regional Income Tax Agency.

**Legal Review:**

The Law Director's office prepared the amendments to the City's municipal income tax code as shown in the attachment to the Ordinance.

**Financial Review:**

The Finance Department is aware that the changes may impact income tax receipts. However, the full impact is not yet known. The most significant changes are related to Net Profit reporting. Net profit receipts account for 10% of all income tax collections. The department will closely monitor income tax receipts and report any potential related impact to the Finance Committee as needed.

**Recommendation:**

Staff recommends that City Council waive the multiple reading rule and adopt Ordinance 2023-35 by emergency such that it will be in place by January 1, 2024.



**ORDINANCE 2023-35**

**AN ORDINANCE TO AMEND CHAPTER 182 OF THE CITY'S CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.**

**WHEREAS,** the General Assembly comprehensively reviewed and amended Chapter 718 of the Ohio Revised Code by enacting HB 33 in 2023, and mandated that municipal income tax codes be amended by January 1, 2024 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in [Chapter 718]"; and

**WHEREAS,** upon a detailed review of HB 33, and the Codified Ordinances of the City of Powell, this Ordinance is found and determined by this Council to enact the amendments required to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code.

**NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO, AS FOLLOWS:**

Section 1: That Chapter 182 of the City of Powell's Codified Ordinances be amended as provided in Exhibit A.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: That this ordinance is declared to be an emergency measure necessary to provide for the public peace, safety, health and welfare of the City, and for the further reason that such action is necessary to be implemented by January 1, 2024, and as such will be in full force and effect immediately upon its passage.

\_\_\_\_\_  
Daniel Swartwout                      Date  
Mayor

\_\_\_\_\_  
Elaine McCloskey                      Date  
City Clerk

**EFFECTIVE DATE:** December 5, 2023

This legislation has been posted in accordance with  
the City Charter on this date \_\_\_\_\_ .  
\_\_\_\_\_  
City Clerk

0128851.0615531 4855-6192-3217v1

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## ***Exhibit A***

### **182.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.**

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

- (a) Except as otherwise provided in division (i) of this section, ~~Net-net~~ profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:
- (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.  
  
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
  - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 182.052 of this chapter;
  - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (b) (1) If the apportionment factors described in subsection (a) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- A. Separate accounting;
  - B. The exclusion of one or more of the factors;
  - C. The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
  - D. A modification of one or more of the factors.
- (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by subsection 182.19(a) of this chapter.
- (3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in subsection (b)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by subsection 182.19(a) of this chapter.

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- (4) Nothing in subsection (b) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (c) As used in subsection (a)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
    - A. The employer;
    - B. A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
    - C. A vendor, customer, client, or patient of a person described in subsection (c)(1)B. of this section, or a related member of such a vendor, customer, client, or patient.
  - (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
  - (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in subsection (c)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (d) For the purposes of subsection (a)(3) of this section, and except as provided in division (i) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:
    - A. The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
    - B. The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
    - C. The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
  - (2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.
  - (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

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- (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
  - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.
  - (e) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

- (f) (1) Except as provided in subsection (f)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 182.081 of this chapter.
- (g) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under subsections (11)L. and (34)A.(iv) of Section 182.03 of this chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

- (h) When calculating the ratios described in subsection (a) of this section for the purposes of that subsection or subsection (b) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(i)(1) As used in this division:

(A) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(B) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(C) "Reporting location" means either of the following:

- (i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;
- (ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section (d) of this chapter, on qualifying wages paid to an employee for the performance of personal services at that location.

(D) "Qualifying reporting location" means one of the following:

- (i) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;
- (ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;
- (iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (F) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (F)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (G)(2):

- (a) For the purpose of division (F)(1)(a) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
- (b) For the purpose of division (F)(1)(b) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
- (c) For the purpose of division (F)(1)(c) of this section, and notwithstanding division (F)(4) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
- (4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (F)(2) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.
- (5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section (d) of this chapter.

(Ord. No. 2015-49, 10-20-2015)

## **182.094 EXTENSION OF TIME TO FILE.**

- (a) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
- (b) Any taxpayer that qualifies for an automatic federal extension for a period other than six months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return. For tax years ending on or after January 1, 2023, the extended due date of the City's income tax return for a taxpayer that is not an individual shall be the 15<sup>th</sup> day of the eleventh month after the last day of the taxable year to which the return relates.
- (c) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.
- (d) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
- (e) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.
- (f) If a taxpayer receives an extension for the filing of a municipal income tax return under this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or

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before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a tax administrator files section (f), the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.

This division does not apply to an extension received under section (b) of this division if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under section (b) of this division or failed to file for an extension under this division.

(Ord. No. 2015-49, 10-20-2015)

## **182.10 PENALTY, INTEREST, FEES, AND CHARGES.**

(a) As used in this section:

- (1) *Applicable law* means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
- (2) *Federal short-term rate* means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.
- (3) *Income tax, estimated income tax, and withholding tax* mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.
- (4) *Interest rate as described in subsection (a) of this section* means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with subsection (a)(2) of this section.
- (5) *Return* includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) *Unpaid estimated income tax* means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) *Unpaid income tax* means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) *Unpaid withholding tax* means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) *Withholding tax* includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(b) (1) This section shall apply to the following:

- A. Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
- B. Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016;



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- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality.
- (c) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.
- (1) Interest shall be imposed at the rate defined as "interest rate as described in subsection (a) of this section," per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to 15 percent of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty equal to 50 percent of the amount not timely paid shall be imposed.
- (4) (a) For tax years ending on or before December 31, 2023, ~~With-with~~ respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of \$25.00 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of \$150.00 in assessed penalty for each failure to timely file a return.
- (b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the City shall impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except that the City shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.
- (d) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.
- (e) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.
- (f) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.
- (g) The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

(Ord. No. 2015-49, 10-20-2015)

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**182.76 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95**

- (a) The City hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the Ohio Revised Code for tax years beginning on or after January 1, 2018.
- (b) A taxpayer, as defined in division (c) of this section, may elect to be subject to Sections 718.80 to 718.95 of the Ohio Revised Code in lieu of the provisions of this Ordinance.
- (c) "Taxpayer" has the same meaning as in section 718.01 of the Ohio Revised Code, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the Ohio Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.



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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 33**  
**135<sup>th</sup> General Assembly**

## Final Analysis

[Click here for LSC's fiscal analyses of H.B. 33](#)

**Primary Sponsor:** Rep. Edwards

**Effective date:** Operating appropriations effective July 4, 2023. Most other provisions effective October 3, 2023. Some provisions effective on other dates. Contains item vetoes.

Amanda Goodman, Attorney  
Samuel Duling, Research Analyst, and LSC staff

REVISED VERSION\*

## SUMMARY

This analysis is arranged by state agency in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item. There is a chapter addressing changes to various boards and commissions.

Separate segments at the end address items affecting local government, revisions to the 9-1-1 emergency service law, revisions to adjudication procedures under the Administrative Procedure Act (R.C. Chapter 119), which apply across state government, and authority for state agencies to make electronic notifications and conduct meetings by electronic means.

The analysis concludes with a note on effective dates, expiration, and other administrative matters.

Within each agency and category, a summary of the items appears first (in the form of dot points) followed by a more detailed discussion.

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\* This version corrects the description of the act's abolishment of the State Adoption Assistance Loan Fund (page 369). It also revises the discussion of the partial veto in the act's ODM doula program provisions (page 439).

cap on the federal deduction for state and local taxes. It also requires OAGI, for purposes of the credit, to be calculated by first deducting the business income deduction described above.

In other words, for purposes of the resident income tax credit for taxes paid to other states, the act includes taxes paid to those states on account of the resident taxpayer's ownership of a PTE that paid taxes to the other jurisdiction on behalf of the taxpayer, either as part of a composite return or as part of a tax designed to avoid the \$10,000 state and local tax deduction cap. But, the tax liability against which that credit is applied is first reduced because it is calculated with an OAGI that has been reduced by the business income deduction.

The act applies these changes to taxable years ending on or after January 1, 2023. Taxpayers may, however, apply them to taxable years ending on or after January 1, 2022, by filing an amended or original return for that year.

### **Eliminate quarterly employer reconciliation return**

(R.C. 5747.07 and 5747.072; Section 803.60)

The act removes the requirement that employers who withhold and remit employee income taxes on a partial weekly basis, i.e., two times in a single week, file quarterly withholding reconciliation returns. Instead, these employers will only be required to file the annual reconciliation returns required for other employers under continuing law starting on January 1, 2024. Reconciliation returns allow an employer to calculate and pay any required employee withholding that was not remitted in the preceding period.

Under continuing law, employers are required to remit employee withholding on a partial weekly basis if they withhold and accumulate a significant amount of it. Employers with smaller accumulated withholding may remit it monthly or quarterly.

## **Municipal income taxes**

### **Exemption for minors' income**

(R.C. 718.01(C)(15); Section 803.10)

The act requires municipal corporations to exempt the income of individuals under 18 years of age from municipal income taxation. The exemption applies to taxable years beginning on or after January 1, 2024. Under prior law, only municipal corporations that authorized such an exemption before 2016 were authorized to grant such an exemption.

### **Net operating loss deduction cross-reference**

(R.C. 718.01; Section 803.10)

The act corrects an erroneous cross-reference in the municipal income tax law governing the deduction of net operating loss (NOL). From 2018-2022, a business was allowed to deduct 50% of its NOL from its taxable net profits. Beginning in 2023, the 50% limitation is discontinued and a business may deduct the full amount of its NOL. The act's correction clarifies that the 50% limitation ceases to apply in 2023. The act requires municipalities that levy an income tax to incorporate this cross-reference change into their municipal tax ordinances and apply it to taxable years beginning in 2023.

## **Net profits apportionment for remote employees**

(R.C. 718.02, 718.021, 718.82, and 718.821; R.C. 718.021 (718.17); Section 803.240)

Under continuing law, municipal corporations may impose an income tax on the net profit of businesses operating within their jurisdictions. When determining the portion of a business' total net profit that is taxable by a particular municipality, the business uses a three-factor formula based on the business' payroll, sales, and property.

The act allows businesses with employees who work remotely to use a modified version of this apportionment formula. Instead of apportioning the payroll earned, sales made, or property used by a remote employee to that employee's remote work location, the employer may instead apportion those amounts to a designated "reporting location." This alternative is available both to businesses that file returns with municipal tax administrators and businesses that elect to file a single return covering all municipal corporations with the Tax Commissioner.

Under continuing law, an employee's payroll is generally only included in the existing apportionment formula if the employee performs services at a location "owned, controlled, or used by, rented to, or under the possession of" the employer, or a vendor or customer of the employer.

### **Designating a reporting location**

To use the act's modified apportionment formula, the business must assign a remote employee to a designated reporting location, which is any location owned or controlled by the employer or, in some circumstances, by a customer of the employer.<sup>160</sup> An employee's designated reporting location will be (a) the location at which the employee works on a regular or periodic basis, (b) if no such location exists, the location at which the employee's supervisor works on a regular or periodic basis, or (c) if neither such locations exist, any reporting location designated by the employer, provided that the designation is made in good faith and is reflected in the employer's business records.

A business can change a remote employee's designated reporting location at any time. If the business is a pass-through entity, e.g., a partnership or LLC, it can also designate a reporting location for any of its equity owners who work remotely.

### **Election**

A business that wishes to use the act's modified apportionment formula must make an election to do so with each municipality in which it is required to file a net profits tax return or, if the business has elected to file a single return with the Tax Commissioner, with the Commissioner. The election can be made on the business' net profit return, timely filed amended return, or a timely filed appeal of an assessment. Once the election is made, it applies to each municipality in which the business operates and to all future taxable years, until it is revoked.

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<sup>160</sup> A customer location qualifies only if it is located in a municipality to which the employer is required to withhold income taxes on employee wages, due to one or more employees providing services at that location. R.C. 718.021(A)(3)(b).

## **Application of continuing formula and effective date**

Aside from the apportionment of payroll, sales, and property attributable to remote employees, all other aspects of continuing law's apportionment formula will continue to apply to a business that makes the election allowed under the act. The business can still request to use an alternative apportionment method, as under the continuing apportionment formula, although the act specifies that the business cannot be compelled to use an alternative method that would require it to file a return with a municipality solely because an employee is working remotely in that municipality.

The act applies to taxable years ending on or after December 31, 2023.

## **Prohibited inquiries and notices**

(R.C. 718.05 and 718.85; Section 803.100)

The act limits when a municipal tax administrator or the Tax Commissioner may make inquiries or send notices to taxpayers whose income tax filing deadline has been extended. Under continuing law, taxpayers generally report and remit municipal income tax to municipal tax administrators, but a business that owes taxes on its net profits may elect to report and remit municipal net profits taxes to TAX, which then disperses payments to each municipality to which such tax is owed.

Under continuing law, the due date of a taxpayer's municipal income tax return, whether filed with a municipality or the Tax Commissioner, may be extended under various circumstances, including any of the following:

- The taxpayer has requested an extension of the deadline to file the taxpayer's federal income tax return.
- The taxpayer has requested an extension of the deadline to file the taxpayer's municipal income tax return from the municipal tax administrator or Commissioner.
- The Commissioner extends the state income tax filing deadline for all taxpayers.

When a taxpayer receives an extension, the act prohibits a municipal tax administrator or the Commissioner from sending any inquiry or notice regarding the municipal return until after either the taxpayer files the return or the extended due date passes. If a tax administrator sends a prohibited inquiry or notice, the municipality must reimburse the taxpayer for any reasonable costs incurred in responding to it, up to \$150.

The act's new limitations apply to taxable years ending on or after January 1, 2023. The limitations do not apply, and a municipal tax administrator or the Commissioner may send an otherwise prohibited inquiry or notice, if either has actual knowledge that the taxpayer did not actually file for a federal or municipal income tax extension.

## **Penalty limitations**

(R.C. 718.27 and 718.89; Section 803.100)

The act limits the penalty a municipal corporation or the Tax Commissioner may impose for the failure to timely file a municipal income tax return. Previously, a municipal corporation

could impose a penalty of \$25 for each month a taxpayer failed to file a required income tax or withholding return, up to \$150 for each return. The Commissioner could impose the same monthly penalty on those unfiled returns as well as on unfiled estimated tax declarations. The act reduces these penalties to a one-time \$25 penalty. The act also exempts a taxpayer's first failure to timely file from the penalty, requiring the municipal corporation or Commissioner to either refund or abate the penalty after the taxpayer files the late return. These changes also apply to taxable years ending on or after January 1, 2023.

### **Extension for businesses**

(R.C. 718.05(G)(2) and 718.85(D)(1); Section 803.100)

The act provides an additional, automatic one-month filing extension for municipal income tax returns where a business entity has received a six-month federal extension, bringing the full duration of the extension to seven months beginning in taxable years ending on or after January 1, 2023. The previous extended deadline for individuals and business entities was the same as the extended federal deadline.

### **Net profits tax reports and notifications**

(R.C. 718.80 and 718.84; Section 803.80)

Under continuing law, a business that operates in multiple municipalities, and is therefore subject to multiple municipal income taxes, may elect to have TAX serve as the sole administrator for those taxes. For electing taxpayers, a single municipal net profit tax return is filed through the Ohio Business Gateway for processing by TAX, which handles all administrative functions for those returns, including distributing payments to the municipalities, billing, assessment, collections, audits, and appeals. The act modifies, as described below, the reporting and notification requirements associated with this state-administered municipal net profits tax.

#### **TAX's municipal income tax report**

The act requires that twice a year, in May and December, TAX provide information to municipalities on any businesses that had net profits apportioned to the municipality, as reported to TAX, in the preceding five or seven months only, as applicable. (Net profits apportionable to the municipality, e.g., earned in the municipality, are generally subject to the municipality's income tax.) Under prior law, this twice-per-year notification, which had been done in May and November, was required to list information for businesses that had net profits apportioned to the municipality in any prior year. This change applies to reports required to be filed after October 3, 2023.

#### **Rate decrease notification**

Under continuing law, by January 31 of each year, a municipal corporation levying an income tax must certify the rate of the tax to TAX. If the municipality increases the rate after that date, the municipality must notify TAX of the increase at least 60 days before it goes into effect. The act requires a municipality to notify TAX, within the same 60-day notice period, when there is any change in its municipal income tax rate, including a decrease.

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**From:** Andrew D. White, City Manager  
**To:** City Council  
**Initiated By:** Rosa Ocheltree, Finance Director  
**Re:** Ordinance 2023-36  
**Date:** December 5, 2023

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**Summary:**

Ordinance 2023-36 amends the annual appropriations for the fiscal year ending December 31, 2023. The following three items are included in the Ordinance for a \$0 net change to the Seldom Seen TIF Fund (453) and the General Fund (100):

1. An appropriation of \$1,400 for account 453-910-5910-00 Transfer to Debt Service. This appropriation is necessary to book a transfer from the Seldom Seen TIF fund to the Seldom Seen TIF Debt fund as required to book the semi-annual Seldom Seen bond payment. Currently, the unencumbered account balance is \$130,300, and the bond payable is \$131,700.
2. An un-appropriation of \$1,400 from account 453-850-5600-00 Seldom Seen TIF Capital Improvements. All 2023 TIF payments have been made with no additional expenditures planned by year-end. The current unencumbered account balance is \$2,840.
3. A transfer within General Fund transfer accounts to resolve a negative variance within the Seldom Seen TIF Fund (453). The transfer to Fund 453 is needed to resolve a negative fund ending balance. This negative variance is due to less than anticipated revenues.

**Legal Review:**

The Law Director's Office has reviewed the legislation and approved as to form.

**Financial Review:**

The supplemental appropriation is necessary for accounting purposes. Available fund balances will not be impacted.

**Recommendation:**

Staff recommends approval of Ordinance 2023-36.





Exhibit A - An Ordinance to Amend the Annual Appropriations for the Fiscal Year Ending December 31, 2023, And Declaring an Emergency

Item	Fund	Available Fund Balance	Dept.	Account	Account Description	Amount	Revised Fund Balance
	Seldom Seen TIF (453)	\$ 124,242.53					
1			Debt Service	453-850-5600-00	Seldom Seen TIF Capital Improvements	\$ (1,400.00)	\$ 125,642.53
2			Transfers	453-910-5910-00	Transfer to Debt Service	\$ 1,400.00	\$ 124,242.53
	General Fund (100)	\$ 19,648,886.21					
3			Transfers	100-910-5910-08	Transfer to PDC	\$ (7,221.25)	\$ 19,641,664.96
4			Transfers	100-910-5910-02	Transfer to Other - Fund 453	\$ 7,221.25	\$ 19,648,886.21



# Upcoming City Meetings & Events DECEMBER 2023






Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2 Holidays in Powell 
3	4	5 6:30 pm Development 7:30 pm—City Council	6	7	8	9
10	11	12	13 6:30 pm—Planning & Zoning Commission	14 10 am Records Commission	15	16
17	18	19	20	21	22 City Offices Close at Noon	23
24	25  Christmas - City Offices Closed	26	27	28	29 City Offices Close at Noon	30
31	1  City Offices Closed					



# Upcoming City Meetings & Events JANUARY 2024



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	<b>1</b>  <b>City Offices Closed</b>	<b>2</b> <b>7:30 pm—City Council</b>	<b>3</b>	<b>4</b> <b>6:30 pm—Board of Zoning Appeals</b>	<b>5</b>	<b>6</b>
<b>7</b>	<b>8</b>	<b>9</b> <b>7 pm—Finance Committee –Cancelled</b>	<b>10</b> <b>6:30 pm—Planning &amp; Zoning Commission</b>	<b>11</b>	<b>12</b>	<b>13</b>
<b>14</b>	<b>15</b>  <b>City Offices Closed</b>	<b>16</b> <b>6:30 pm –Operations Committee</b> <b>7:30 pm - City Council</b>	<b>17</b> <b>6 pm—Community Diversity Advisory Committee</b>	<b>18</b> <b>6 pm—Historic Downtown Advisory Commission</b>	<b>19</b>	<b>20</b>
<b>21</b>	<b>22</b>	<b>23</b> <b>7 pm—Powell Development Corp</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>
<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>			