

CANTON CITY COUNCIL

President Kristen Bates Aylward

Council At Large:

James Babcock - **Asst. Majority Leader**
Louis Giavasis
Crystal Smith

Mailing Address:

218 Cleveland Ave. SW
Canton, Ohio 44702
(330) 489-3223
www.CantonOhio.gov



Ward Council Members:

Greg Hawk, Ward 1
Brenda Kimbrough, Ward 2
Jason Scaglione, Ward 3
Chris Smith, Ward 4
Robert Fisher, Ward 5
Jonathan Cooks, Ward 6
John Mariol, Ward 7 - **Majority Leader**
Richard Sacco, Ward 8
Frank Morris, Ward 9

FINAL AGENDA
April 15, 2024
7:00 PM

Roll Call: All Members Present

Motion to Excuse Members: Not Necessary

Invocation: Louis Giavasis, Council Member-at-Large

Pledge of Allegiance: President Bates Aylward

AGENDA CORRECTIONS & CHANGES: (Suspended Rule 22A to add 2nd Rdg O#19)

PUBLIC HEARINGS: 7:00 PM - Amend text to Chapter 1131 - Definitions Small Box and Chapter 1148 - Special Provisions (Small Box Discount Retail Stores) of Part Eleven, Planning and Zoning Code (NO SPEAKERS) SEE O#78/2024

OLD BUSINESS: None

PUBLIC SPEAKS: Rami Hamdan, Josiah Ali, Hasan Muheisen and Ahmed Cheema asked Council to stand for peace, and support an Informal Resolution for a ceasefire in Gaza. David Kerestes expressed concerns over unfair entitlement, sin tax and criminal conduct of office holders. He thanked whoever was responsible for "cleaning up" the people smoking and selling meth on 9th Street and 2nd Street. Tina Rhodes and Jeffrey Rhodes spoke about the Homeless Coffee House at 800 Smith Ave SW. They said it has become a nuisance due to drugs, violence and trash. President Bates Aylward suggested that they speak with Safety Director Perry.

INFORMAL RESOLUTIONS:

1. Majority Leader Mariol: Auth purch of two Portable Generator Powered Tow Behind Lights for Public Works Dept. - Adopted
2. Personnel Committee: Confirm appt of Ms. Carla Stokes to Fair Housing Commission commencing 4/15/24 to 12/31/26. - Adopted

COMMUNICATIONS:

3. Req for Add'l Amended Certificate dated 3/31/24. - Auditor Mallonn
4. Req new D5J, D6 permit for DiPietro Enterprises 6 Inc., dba The Pizza Oven HOFV Ste 8A @ 2101 HOF Way NW, Ward 7. - Liquor Control Div (OH)
5. Req to amend Approp O#61/2024; emergency (supp approp from General Operating Fund of 2024 Prisoner Extradition Reimbursement Grant - Clearwater FL). - Safety Director Perry
6. Req to amend Approp O#61/2024; emergency (supp approp from General Operating Fund of 2024 Prisoner Extradition Reimbursement Grant - Murfreesboro TN). - Safety Director Perry
7. Req prof servs contract for West Manor Area Water Main Replacement Proj - Phase I Design; Req to amend O#61/2024; emergency (supp approp from Water Works Fund). - Service Director Highman
8. Req contract amendment with Community Drop-In Ctr for facility improvements using CDBG funds; emergency. - Service Director Highman
9. Req purchase of Portable Generator Powered Tow Behind Lights for Public Works Dept. - Service Director Highman
10. Req auth of final participatory legislation with ODOT for STA-SR43/172-14.40/VAR, PID 101269, GP1245 (Rts 43, 43D and 172 Paving); Req to amend Approp O#61/2024; emergency (supp approp from Comprehensive Plan Fund). - Service Director Highman
11. Req update to Canton Codified Ord 917.09(f)(4) - Tree Contractor License Requirements. - Service Director Highman

FIRST READINGS:

12. Auth Community Reinvestment Area Agrmt with JSC Properties LLC to provide real property tax exemptions; emergency - Community & Economic Development Committee
13. Establish "JSC Properties LLC Non-School TIF" - Community & Economic Development Committee
14. Accept Tax Incentive Review Council's recommendations regarding Enterprise Zone Agrmts; emergency - Community & Economic Development Committee
15. Amend Approp O#61/2024; emergency (supp approp and inter-fund trf from General Operating Fund and HOFV Project Fund) - Finance Committee
16. Auth all necessary contracts with Board of Stark County Commissioners for Harmont Ave - Columbus Rd NE Resurfacing Proj, GP 1401; Amend Approp O#61/2024; emergency (supp approp from Amazon TIF Fund) - Finance and Public Safety & Thoroughfares Committee

17. Auth Council Clerk to certify to Stark County Auditor unpaid and delinquent charges for board up, clean up and demo servs performed by Bldg/Code Dept; emergency - Finance Committee
18. Auth contract to hire Certified Master Plans Examiner at hourly rate of \$95.00, in amt not to exceed \$125,000.00 for first yr of agrmt; emergency - Personnel Committee

***Ordinances and Formal Resolutions for First Reading Vote**

SECOND READINGS: (SUSPENDED RULE 22A TO ADD 2ND RDG O#19)

19. Establish Demolition Assistance Program (DAP) and enter into agrmt with Canton Community Improvement Corporation; emergency (supp approp to General Gov't Support Admin - Other) - C&ED

***Ordinances and Formal Resolutions for Second Reading Vote**

THIRD READINGS:

20. **78/2024** Amend Chapter 1131 Definitions Small Box of Title Seven and Chapter 1148 Special Provisions of Title Thirteen of Canton Codified Ordinances
PUB HRG: 4/15/24 @7:00 PM
21. **79/2024** Auth all necessary contracts and prof servs contracts for Traffic Engineering Bldg Project - GP1446 design, construction oversight and completion; emergency
22. **80/2024** Auth all necessary contracts to implement 2024 Summer Work Experience Programs and 2024 Summer Camp/Learning Programs utilizing ARPA Funds; emergency
23. **81/2024** Auth establishment of FMV of real property for purchase/acquisition for fee simple takes and easements, and agrmt for purchase/acquisition of said parcels utilizing FMV, necessary for construction of Belden Ave NE Bridge Rehabilitation Project, GP 1375; emergency

COMMITTEE MEETINGS:

Monday, April 22, 2024 in Council Chambers @ 6:15 PM

Community & Economic Development Committee

Finance Committee

Personnel Committee

Public Safety & Thoroughfares Committee

MISCELLANEOUS BUSINESS: Member Mariol asked for a moment of silence for Clerk Wood and her family since the passing of Joe Wood. President Bates Aylward and Council Members Hawk, Cooks, Scaglione and Kimbrough recognized the "Be a Better Me" Foundation and Officer LaMar Sharpe for all the great work they have done for the community, and thanked them for attending tonight's meeting. Member Chris Smith asked that they be given City pins to wear. Member Giavasis

stated that one of tonight's speakers, who is a substitute teacher, would like to bring his students to a Council meeting and asked that they also be given pins at that time.

ADJOURNMENT: 7:44 PM

THE NEXT REGULAR COUNCIL MEETING: MONDAY, APRIL 22, 2024 AT 7:00 PM

4-15-24
C#3
R4F



RICHARD A. MALLONN II
CANTON CITY AUDITOR

City Hall, Canton, Ohio 44702
Phone: (330) 489-3226

April 11, 2024

Canton City Council
218 Cleveland Avenue SW
Canton OH 44702

RE: REQUEST FOR ADDITIONAL AMENDED CERTIFICATE DATED 3/31/2024

Please record on the Canton City Council Agenda the attached communication as Request for Additional Amended Certificate dated March 31, 2024

Please contact me at (330) 489-3226 if you have any questions! Thank you!

Sincerely,

Richard A. Mallonn II
Canton City Auditor

4-15-24
C#4
R&F

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD
P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005

NOTICE TO LEGISLATIVE AUTHORITY

TO

2188066 PERMIT NUMBER		NEW TYPE	DIPIETRO ENTERPRISES 6 INC DBA THE PIZZA OVEN HOFV STE 8A 2101 HOF WAY NW CANTON, OH, 44708
ISSUE DATE			
11/28/2023 FILING DATE			
D5J D6 PERMIT CLASSES			
76 TAX DISTRICT	055	E006493 RECEIPT NO.	

FROM 04/01/2024

PERMIT NUMBER		TYPE
ISSUE DATE		
FILING DATE		
PERMIT CLASSES		
TAX DISTRICT		RECEIPT NO.



MAILED 4/02/2024 RESPONSES MUST BE POSTMARKED NO LATER THAN. 5/03/2024

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.
REFER TO THIS NUMBER IN ALL INQUIRIES _____
(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT
THE HEARING BE HELD IN OUR COUNTY SEAT. IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)

- Clerk of County Commissioner
- Clerk of City Council
- Township Trustee

(Date)

CLERK OF CANTON CITY COUNCIL
218 CLEVELAND AV SW
CANTON OHIO 44702

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

4-15-24
C# 5
FIN



April 10, 2024

Canton City Council
Council Office
Canton, Ohio 44702

OKAY TO PREPARE LEGISLATION:

**RE: Legislation Request – Office of Criminal Justice Services, Prisoner Extradition
Reimbursement Fund – Clearwater FL**

Dear Madam President and Honorable Members:

The City of Canton Police Department has been awarded the 2024 Prisoner Extradition Reimbursement Fund Grant in the amount of \$2,643.00.

These funds will be utilized to reimburse expenses pertaining to extradition costs that will occur for the return of a Tier 1 offender. This extradition transport will be handled through the United States Marshals Service returning prisoner from Clearwater, Florida. This expense is being paid from our General Operating.

Therefore, I hereby request legislation that does the following:

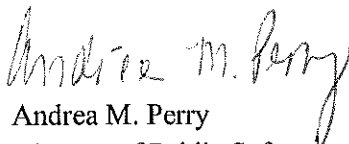
1. Amends appropriation Ordinance No. 61/2024 with the following supplemental appropriations:

FROM: Unappropriated balance of 1001 General Operating Fund	\$ 2,643.00
TO: 1001 102001 – Police Admin – Other	\$ 2,643.00

2. Authorizes the Mayor and/or the Director of Public Safety to enter into contract for the purchase of said items in paragraph 1 above in accordance with any procurement process authorized by Law.
3. Authorizes the Auditor to draw warrants upon receipt of vouchers duly approved by the proper departmental authority.
4. Declares this ordinance to be an emergency measure.

Please do not hesitate to contact me if you have any questions. Thank you for your consideration.

Respectfully,


Andrea M. Perry
Director of Public Safety

cc: John Gabbard, Chief of Police
Jason Reese, Law Director
John Slebodnik, Chief Deputy Auditor
Andrew Roth, Director of Purchasing



4-15-24
C# 6
FIN



April 10, 2024

Canton City Council
Council Office
Canton, Ohio 44702

OKAY TO PREPARE LEGISLATION:

**RE: Legislation Request – Office of Criminal Justice Services, Prisoner Extradition
Reimbursement Fund – Murfreesboro, TN**

Dear Madam President and Honorable Members:

The City of Canton Police Department has been awarded the 2024 Prisoner Extradition Reimbursement Fund Grant in the amount of \$2,643.00.

These funds will be utilized to reimburse expenses pertaining to extradition costs that will occur for the return of a Tier 1 offender. This extradition transport will be handled through the United States Marshals Service returning prisoner from Murfreesboro, Tennessee. This expense is being paid from our General Operating.

Therefore, I hereby request legislation that does the following:

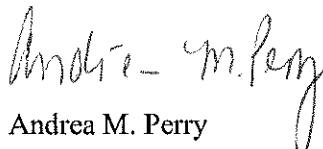
1. Amends appropriation Ordinance No. 61/2024 with the following supplemental appropriations:

FROM: Unappropriated balance of 1001 General Operating Fund	\$ 2,643.00
TO: 1001 102001 – Police Admin – Other	\$ 2,643.00

2. Authorizes the Mayor and/or the Director of Public Safety to enter into contract for the purchase of said items in paragraph 1 above in accordance with any procurement process authorized by Law.
3. Authorizes the Auditor to draw warrants upon receipt of vouchers duly approved by the proper departmental authority.
4. Declares this ordinance to be an emergency measure.

Please do not hesitate to contact me if you have any questions. Thank you for your consideration.

Respectfully,


Andrea M. Perry
Director of Public Safety

cc: John Gabbard, Chief of Police
Jason Reese, Law Director
John Slobodnik, Chief Deputy Auditor
Andrew Roth, Director of Purchasing



4-15-24
C#7
FIN



April 9, 2024

OKAY TO PREPARE LEGISLATION:

Canton City Council
Council Office
Canton, OH 44702

RE: Request for Legislation – West Manor Area Water Main Replacement Project – Phase I - Design

Dear Mr. President and Honorable Members:

The Water Department desires to replace approximately 1.9 miles of failing water mains in the West Manor area. The project area will include the area north of 13TH Street, south of 7TH Street, east of Western Avenue, and west of Delverne Avenue. The Water Department advertised for qualifications from professional engineering firms, and dyutilizing the qualification-based selection process as required by the Ohio Revised Code, have selected Arcadis to perform the detailed design engineering at a total cost of \$149,010.00. The estimated cost of the construction and construction oversight of the project is approximately \$2.7 million, but the Water Department will be applying for OPWC grant and loan funding totaling \$1.5 million to help fund this project.

Therefore, I hereby request legislation that does the following:

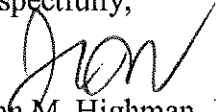
1. Authorizes the Mayor and/or Director of Public Service to execute a professional services contract with Arcadis for design of the West Manor Area Water Main Replacement Project.
2. Authorizes and directs the Auditor to pay any and all moral obligations for contract change orders that are otherwise approved by the Board of Control pursuant to Canton Codified Ordinance 105.14 within the established dollar amount thresholds for the above-named project.
3. Makes the following supplemental appropriation, amending Ordinance 61/2024:

FROM:	Unappropriated Balance 5201 Water Works Fund	(\$149,010.00)
TO:	5201 207090 West Manor Area Water Main Replacement Project – Phase 1 – Other	\$149,010.00
4. Authorizes the Auditor to draw warrants upon receipt of vouchers duly approved by the proper department authority.
5. Declares this ordinance to be an emergency measure.



Please do not hesitate to contact me if you have any questions. Thank you for your consideration.

Respectfully,



John M. Highman, Jr.
Director of Public Service

cc: William V. Sherer II, Mayor
Tyler Converse, Superintendent of Water
Andrew Roth, Director of Purchasing
John Slebodnik, Chief Deputy Auditor
Jason Reese, Law Director

4-15-24
C# 8
CYED



April 10, 2024

Canton City Council
Council Chambers
Canton, OH 44702

OKAY TO PREPARE LEGISLATION:

RE: Legislation Request- Community Drop-In Center Contract Amendment

Dear Madam President and Honorable Members:

Ordinance 176/2022 authorized the City to enter into various contracts utilizing CDBG funding. One of these contracts involved an award to the Community Drop-In Center in the amount of \$100,000 to replace the roof of the Center, located at 1492 Cherry Ave NE. Due to increased costs of materials and labor, the total cost of the project has risen from the original contract. As such, the Community Development Department has recommended an additional contract award of \$18,000.00 to complete the project. There was a delay in the project due to issues with obtaining a federal UEI number and other personnel changes.

Therefore, I am requesting legislation that does the following:

1. Authorizes the Mayor or Director of Public Service to enter into a contract amendment with the Community Drop-In Center in the amount of \$18,000.00 for facility improvements using CDBG funds.
2. Authorizes the Auditor to draw warrants upon receipt of vouchers duly approved by the proper departmental authority.
3. Declares this ordinance to be an emergency.

As always, please contact me should you have any questions or concerns and thank you for your consideration.

Respectfully,

John M. Highman, Jr.
Director of Public Service

cc: William V. Sherer II, Mayor
Jason P. Reese, Law Director
John Slebodnik, Chief Deputy Auditor
Sherice M. Freeman, Director of Community Development
Andrew Roth, Director of Purchasing



4-15-24
C# 9
R+F



April 11, 2024

Canton City Council
Council Office
Canton, OH 44702

RE: Request for Informal Resolution – Portable Generator Powered Tow Behind Lights

Dear Madam President and Honorable Members:

Recently Council approved the purchase of two Portable Generator Powered Tow Behind Lights for the Police Department to be used for public events or whenever a high powered light is needed for public safety. It has been determined that it would be beneficial to have two additional lights to be used for public events. However, we will purchase these for the Public Works (Street) Department to additionally use for afternoon and evening projects during the winter months. Quotes have been requested and received for this purchase, and we would like to move forward with Evans Supply at a total cost of \$29,000.00. Funding will come from previously appropriated capital funds. Therefore, pursuant to Ordinance 137/2023, I am respectfully requesting that Canton City Council put forward and approve an informal resolution that authorizes the Director of Public Service to open a purchase order not to exceed \$29,000.00 to Evans Supply for the purchase of two (2) Portable Generator Powered Tow Behind Lights.

Please do not hesitate to contact me if you have any questions. Thank you for your consideration.

Respectfully,

John M. Highman, Jr.
Director of Public Service

- cc: William V. Sherer II, Mayor
- Steve Trzcinski, Superintendent of Public Works
- Andrew Roth, Director of Purchasing
- John Slebodnik, Chief Deputy Auditor
- Jason Reese, Law Director



4-15-24
C#10
FIN+PST



April 11, 2024

OKAY TO PREPARE LEGISLATION:

Canton City Council
Council Chambers
Canton, OH 44702

RE: Request for Legislation - Final Participatory Legislation, Ohio Department of Transportation (ODOT) STA-SR43/172-14.40/VAR, PID 101269, GP1245 (Routes 43,43D, and 172 Paving)

Dear Madam President and Honorable Members:

Earlier this year, Council passed preliminary participatory legislation allowing ODOT to resurface SR43D (Walnut Ave. from 12th St. NE to Market St. N and Market St. N from 12th St. NE to 19th St.), SR43 (19th St. NE to E 55th St.), and SR172 (W Tusc. from Whipple Ave. to Wertz. Ave and from Smith Ave. to IR77) within the City limits. ODOT has now requested the final participatory legislation with their final cost estimate. The estimated cost of Canton's required share of the project is \$1,514,526.00 pending ODOT's bid and final project quantities. This is approximately \$428,626.00 more than ODOT's initial estimate. As a result, we will need to appropriate the remaining funds. Our funding for this project will come from the Comprehensive Plan fund as these are all gateway corridors within the City.

Therefore, I am requesting legislation that does the following:

1. Authorizes final participatory legislation that allows ODOT to construct the above described project on SR43D (Walnut/Market)/SR172 (Tuscarawas)/SR 43 (Market), PID 101269, GP1245 pursuant to the attached sample consent legislation.
2. Authorizes the Mayor and/or Director of Public Service to enter into all agreements necessary for the construction of said project.
3. Makes the following supplemental appropriation amending Ordinance 61/2024 as amended:

FROM: Unappropriated balance of the 2175 Comprehensive Plan fund (\$430,000.00)

TO: 2175 202001 Engineering-Administration - Other \$430,000.00

4. Authorizes and directs the Auditor to pay any and all moral obligations necessary to close out the project as per the terms of the agreement with ODOT.



5. Declares this ordinance to be an emergency measure.

As always, please do not hesitate to contact me if you have any questions or concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "John", written over a faint, illegible background.

John M. Highman, Jr.
Director of Public Service

Cc: William V. Sherer II, Mayor
Mark Crouse, Finance Director
Jason Reese, Law Director
John Slebodnik, Chief Deputy Auditor
Chris Barnes, City Engineer

Att.

FINAL RESOLUTION

The following Final Resolution enacted by the City of **Canton**, Ohio, hereinafter referred to as the Legislative Authority/Local Public Agency or "LPA", in the matter of the stated described project.

WHEREAS, on the **12th day of February 2024**, the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

The project consists of improvements to Walnut Avenue NE (S.R. 43D) through Market Avenue N from 12th Street NE to 19th Street NW (S.L.M. 0.00 to S.L.M. 0.75) and Market Avenue N (S.R. 43) to 55th Street NW (S.L.M. 14.40 to S.L.M. 17.14), and Tuscarawas Street NW (S.R. 172) from Whipple Avenue NW to Wertz Avenue NW (S.L.M. 11.85 to S.L.M.12.77) and from Smith Avenue NW to I.R. 77 (S.L.M. 13.28 to 13.46), including, resurfacing, curb, curb and gutter, drainage upgrades, pavement, pavement planing, traffic signal upgrades, and pavement markings, lying within the City of Canton; and

WHEREAS, the LPA shall cooperate with the Director of Transportation in the above described project as follows:

The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.

The share of the cost of the LPA is now estimated in the amount of **One Million Five Hundred Fourteen Thousand Five Hundred Twenty-Six and - - - 00/100 Dollars, (\$1,514,526.00)**, but said estimated amount is to be adjusted in order that the LPA's ultimate share of said improvement shall correspond with said percentages of actual costs when said actual costs are determined; and

WHEREAS, The Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to this legislative authority; and

WHEREAS, The LPA desires the Director of Transportation to proceed with the aforesaid highway improvement.

NOW, THEREFORE, be it resolved:

- I. That the estimated sum, of **One Million Five Hundred Fourteen Thousand Five Hundred Twenty-Six and - - - - 00/100 Dollars, (\$1,514,526.00)** is hereby appropriated for the improvement described above and the fiscal officer is hereby authorized and directed to issue an order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume in the first instance, the share of the cost and expense over and above the amount to be paid from **Federal** funds.
- II. That the LPA hereby requests the Director of Transportation to proceed with the aforesaid highway improvement.
- III. That the LPA enter into a contract with the State, and that the **Mayor or Director of Public Service** be, and is hereby authorized to execute said contract, providing for the payment of the LPA the sum of money set forth herein above for improving the described project.
- IV. That the LPA transmit to the Director of Transportation a fully executed copy of this Resolution.

This is to certify that we have compared the foregoing copy of Resolution with the original record thereof, found in the record of the proceedings of the LPA, and which Resolution was duly passed by the LPA on the _____ day of _____, 20____, and that the same is a true and correct copy of the record of said Resolution and the action of said LPA thereon.

We further certify that said Resolution and the action of said LPA thereon is recorded in the journal of said LPA in Volume _____, at Page _____, and under date of _____, 20____.

Legislative Authority of the
City of **Canton**, Ohio

Mayor or Director of Public Service

Clerk (Secretary Ex-Officio)

SEAL
(If Applicable)

FISCAL OFFICER'S CERTIFICATE
(Chapter 5521 and Section 5705.41, Ohio Revised Code)

I hereby certify to that the money, to wit: **\$1,514,526.00** required for the payment of the cost other than that thereof assumed by the **Federal** Government, for the improvement of that portion of **S.R. 43/S.R. 172 - 14.40/VAR**, lying within the corporate limits of the City of **Canton**, more particularly described as follows:

The project consists of improvements to Walnut Avenue NE (S.R. 43D) through Market Avenue N from 12th Street NE to 19th Street NW (S.L.M. 0.00 to S.L.M. 0.75) and Market Avenue N (S.R. 43) to 55th Street NW (S.L.M. 14.40 to S.L.M. 17.14). and Tuscarawas Street NW (S.R. 172) from Whipple Avenue NW to Wertz Avenue NW (S.L.M. 11.85 to S.L.M.12.77) and from Smith Avenue NW to I.R. 77 (S.L.M. 13.28 to 13.46), including, resurfacing, curb, curb and gutter, drainage upgrades, pavement, pavement planing, traffic signal upgrades, and pavement markings, lying within the City of Canton; and

has been lawfully appropriated for such purpose and is in the treasury to the credit of, or has been levied placed on the duplicate and in process of collection for the appropriate fund, and not appropriated for any other purpose; or is being obtained by sale of bonds issued on account of said improvement, which bonds are sold and in process of delivery.

I further certify that this certificate was made, sealed and filed with the legislative authority of the City of **Canton**, Ohio, after said legislative authority passed the final resolution in connection with the within described project; and that this certificate was forthwith recorded in the record of the proceedings of said legislative authority, namely:

Legislative Authority's Journal, Volume _____, at Page _____,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as said fiscal officer, this _____ day of _____, 20____.

(Fiscal Officer's Seal)
(If Applicable)

Fiscal Officer of the City of
Canton, Ohio

C O N T R A C T
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of **Canton**, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

WITNESSTH:

WHEREAS, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

WHEREAS, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

WHEREAS, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

WHEREAS, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

WHEREAS, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

NOW, THEREFORE, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

SECTION I: **RECITALS**

The foregoing recitals are hereby incorporated as a material part of this contract.

SECTION II: **PURPOSE**

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

SECTION III: LEGAL REFERENCES

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

SECTION IV: SCOPE OF WORK

The work to be performed under this contract shall consist of the following:

The project consists of improvements to Walnut Avenue NE (S.R. 43D) through Market Avenue N from 12th Street NE to 19th Street NW. (S.L.M. 0.00 to S.L.M. 0.75) and Market Avenue N (S.R. 43) to 55th Street NW (S.L.M. 14.40 to S.L.M. 17.14). and Tuscarawas Street NW (S.R. 172) from Whipple Avenue NW to Wertz Avenue NW (S.L.M. 11.85 to S.L.M.12.77) and from Smith Avenue NW to I.R. 77 (S.L.M. 13.28 to 13.46), including, resurfacing, curb, curb and gutter, drainage upgrades, pavement, pavement planing, traffic signal upgrades, and pavement markings, lying within the City of Canton.

SECTION V: FINANCIAL PARTICIPATION

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **One Million Five Hundred Fourteen Thousand Five Hundred Twenty-Six and - - 00/100 Dollars, (\$1,514,526.00).**
5. **The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**
6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.

7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

SECTION VI: RIGHT-OF-WAY AND UTILITIES

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
 - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
 - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
 - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

SECTION VII: ADDITIONAL PROJECT OBLIGATIONS

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
 - A. To keep said highway open to traffic at all times;

- B. To maintain the PROJECT in accordance with the provisions of the statutes relating thereto,
- C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
- D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;
- E. To place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

SECTION VIII: DISPUTES

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

SECTION IX: NOTICE

Notice under this contract shall be directed as follows:

**City of Canton
218 Cleveland Ave. SW
Canton, Ohio
44702**

**Ohio Department of Transportation
Office of Contract Sales & Estimating
1980 West Broad Street, MS 4110
Columbus, Ohio 43223**

SECTION X: FEDERAL REQUIREMENTS

- 1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, or age (40 years or older), sexual orientation, or military status (past, present, future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, future). If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.
3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

SECTION XI: GENERAL PROVISIONS

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.

- 6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
- 7. LPA agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

SECTION XII: SIGNATURES

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL
(If Applicable)

**OHIO DEPARTMENT OF
TRANSPORTATION**

**LOCAL PUBLIC AGENCY
City of Canton**

Director of Transportation

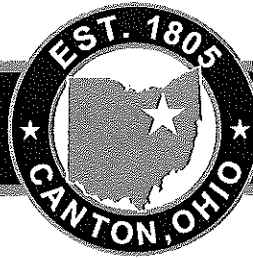
Mayor or Director of Public Service

Date

Approved:
Dave Yost
Attorney General of Ohio

By: _____
Corinna Efke
Unit Coordinator, Transportation
Executive Agencies Section

4-15-24
C#11
JUD



April 10, 2024

OKAY TO PREPARE LEGISLATION:

Canton City Council
Council Office
Canton, OH 44702

RE: Request for Legislation – Tree Contractor License Requirements Update

Dear Madam President and Honorable Members:

The Engineering Department and Tree Commission have respectfully requested a change to the licensure requirements for approving contractors who perform work within the City’s urban forest. Currently, Canton Codified Ordinance 917.09(f)(4) reads as follows:

Evidence of current Certified Arborist accreditation, with a copy of the ISA certified arborist identification number on file.

Practically, this has posed an issue as most contractors who perform this work do not necessarily have an ISA certification. If this ordinance were strictly enforced, we would almost certainly find ourselves in a situation where there are not enough tree contractors to serve the needs of the public. As a result, the Tree Commission has voted to recommend that this provision be changed to read as follows:

Evidence of current certified Arborist accreditation or other experience and/or training satisfactory to the Director of Public Service and or designee that demonstrates knowledge and experience of proper tree care.

This change would eliminate the issue while giving the Engineering Department the flexibility to license contractors who demonstrate competency either through additional training and/or experience within the industry.

Therefore, I hereby request legislation that does the following:

1. Updates Canton Codified Ordinance 917.09(f)(4) to read as follows: “Evidence of current certified Arborist accreditation or other experience and/or training satisfactory to the Director of Public Service and or designee that demonstrates knowledge and experience of proper tree care.

Please do not hesitate to contact me if you have any questions. Thank you for your consideration.

Respectfully,

John M. Highman, Jr.
Director of Public Service

cc: William V. Sherer II, Mayor
Chris Barnes, City Engineer
John Slobodnik, Chief Deputy Auditor
Jason Reese, Law Director

