

AGREEMENT

This Agreement is made and entered into the 4th day of September 2019, by and between Public Health-Dayton & Montgomery County, 117 South Main Street, Dayton, Ohio 45422-1280, hereafter called "Public Health" and Facility Master Plan Contractor, 9876 Main Street, Dayton, Ohio, hereafter called the "Contractor."

WITNESSETH:

WHEREAS, Public Health has previously entered into an agreement with the Contractor to complete all necessary operations in order to facilitate and produce a Facilities Mater Plan

WHEREAS, the Contractor has been identified as an entity having the requisite staffing, qualifications and expertise to provide such services, and the Contractor represents that they have the requisite staffing, qualifications, and expertise to provide these services.

NOW THEREFORE, in consideration of the promises herein contained, the parties hereto agree as follows:

1. **Term.** The initial term of this Agreement will begin September 1, 2019 and extend through June 30, 2020. The Contractor shall proceed diligently and expeditiously with the rendition of said services, and devote sufficient time to the obligations herein undertaken.

2. **Statement of Work.** The Contractor shall successfully complete all Specifications and Requirements indicated in the ATTACHMENT A Facilities Master Plan Proposal, dated July 19, 2019. No changes to the Statement of Work requirements will be accepted without prior written approval of Public Health.
 - A. **Compliance with Laws and Policies.** In the performance of this Agreement, the Contractor shall comply with all applicable laws, regulations, and orders of governmental entities having jurisdiction thereof. The Contractor shall also conform to all applicable Public Health policies and procedures, including personnel qualifications. Contractor will provide evidence, upon request, that employees are registered and meet competency evaluation qualifications.

The Contractor, in signing this Agreement, certifies that it is in compliance and will remain in compliance with Ohio ethic laws during the term of this Agreement.

The Contractor shall not discriminate in employment on the basis of race, religion, age, gender, marital status, national origin, citizenship, mental or physical disability.

3. **Consideration.** In consideration for performing the Statement of Work as described above, Public Health shall pay the Contractor per the rate schedule indicated in ATTACHMENT B: Cost Schedule.

4. **Invoicing and Payment.** The Contractor shall submit invoices which shall include written, signed reports, itemizing in reasonable detail the time and dates spent performing services, and a description of the services rendered. Public Health shall pay the Contractor the amounts due pursuant to submitted invoices approximately twenty (20) working days after approval at a regularly scheduled Board of Health meeting, which usually occurs on the first Wednesday of each month.

5. **Audits.** As required, the books, records, documents, and accounting procedures and practices of the Contractor relevant to this contract shall be subject to examination by appropriate local and state agencies.

6. **Amendments.** This Agreement shall not be varied except by an instrument in writing properly executed subsequently to the execution of the Agreement by both parties.

7. **Insurance:** The Contractor will provide and maintain in full force, general and professional liability insurance for Contractor and Contractor health care personnel with limits of at least \$1,000,000.00 per occurrence and \$3,000,000.00 aggregate. The Contractor shall provide verification of the same upon request by Public Health.

8. **Relationship of Parties.** Nothing herein shall be construed to create an employer-employee relationship between Public Health and the Contractor. It is expressly understood and agreed that Public Health shall not be construed or held out to be an employer, principal, partner, associate, or joint venture of the Contractor. At all times, the Contractor and its employees, agents or contractors shall have the status of an independent contractor. No benefits are extended and no taxes shall be withheld. The Contractor shall be responsible for the payment of its own tax liabilities including, but not limited to, Federal Withholding Tax, Social Security Tax, City Income Tax and State Income Tax.

9. **Confidentiality.** In the course of performing this maintenance service plan, the parties recognize that the Contractor may come in contact with confidential information. This information may include, but is not limited to, information pertaining to Public Health business operations or its patients/clients, which information may not be disclosed or divulged to anyone other than appropriate Public Health staff or their designees. The Contractor will maintain the confidentiality of Public Health confidential information and shall not disclose it to anyone or use it for any purpose whatsoever other than this Agreement, provided that in the event that the Contractor is legally compelled to disclose such information, the Contractor shall provide Public Health with prompt written notice so that Public Health may seek a protective remedy, if available.

10. **Assignment.** Neither Public Health nor the Contractor shall assign, or in any way transfer, either party's interest in this Agreement without the written consent of the other.

11. **Waiver.** No waiver by Public Health of any terms of this Agreement to be kept, performed and observed by Contractor shall be construed to be of act as a waiver by Public Health of any subsequent default on the part of Contractor.

12. **Liability.** All loss, costs, or damages which may occur to be claimed with respect to any person, or persons, corporation, property or chattels resulting from activities of either party pursuant to this Agreement shall be the responsibility of the respective parties as such liabilities may be determined by a court of law or pursuant to any other appropriate procedure.

13. **Notices and Points of Contact.** All notices required or permitted under this Agreement and points of contact shall be given to the following individuals:

Public Health:	Paul Clark Supervisor-Purchasing & Facilities Public Health-Dayton & Montgomery County 117 S. Main Street Dayton, Ohio 45422-1280 (937) 224-8081
Contractor:	Kevin Middleton Facility Master Plan Contractor 9876 Main Street Dayton, Ohio 111-XXX-5432

14. **Termination.** Public Health may terminate this Agreement upon thirty (30) days prior written notice to Contractor without any further obligation of Public Health. Public Health will pay for necessary costs incurred by Contractor until time of termination only. Contractor shall neither perform work nor submit an invoice for payment of work performed under this Agreement for any time period after termination.

Public Health reserves the right to request the removal of any Contractor personnel from the performance of this Agreement, and the Contractor shall comply with such request, if in the judgment of Public Health, such removal shall be necessary in order to protect the interests of Public Health, such as, but not limited to insubordination, lack of appropriate licensure, training, and experience; or the failure to follow applicable laws, Public Health policies and procedures, or fails to engage in accepted standards of care. Public Health shall pay for services performed through the date of removal.

15. **Governing Law.** All matters related to the validity, performance, interpretation or construction of this Agreement shall be governed by the laws of the State of Ohio.
16. **Severability.** If any provision of this Agreement shall prove to be invalid, void or unenforceable, it shall in no way affect, impair or invalidate any other provision, and all other provisions of this Agreement shall remain in full force and effect.
17. **Entire Agreement.** This Agreement is the entire Agreement between the parties and cannot be altered or amended, except by a written amendment signed by each party as described in Section 6 of this Agreement. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written relating to the subject matter herein.
18. **Authority to Bind Principal.** Signatures herein shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.

IN WITNESSES WHEREOF, the parties hereto on the day and year first above mentioned, have executed this Agreement.

Witness

PUBLIC HEALTH-DAYTON &
MONTGOMERY COUNTY

Jeffrey A. Cooper, M.S.
Health Commissioner

Facilities Master Plan Contractor.

Printed Name

Printed Title

Attachment A

Facilities Master Plan Proposal
July 19, 2019

Attachment B
Cost Schedule