

WATER SERVICE AGREEMENT

This Agreement is dated this ____ day of _____, 2025 between the City of Dayton, Ohio ("Dayton") and the City of Trotwood, Ohio ("Trotwood"), both political subdivisions in and existing under the laws of the State of Ohio.

WITNESSETH THAT:

WHEREAS, Trotwood and Dayton are parties to prior long-term agreements concerning the provision of water services; and,

WHEREAS, Dayton has the resources and authority to provide potable water to residents, commercial and industrial businesses, other private and public entities located both inside and outside Dayton boundaries and desires, pursuant to this Agreement, to sell potable water to Trotwood; and,

WHEREAS, Trotwood desires to purchase potable water from Dayton under the terms of this agreement, and,

NOW, THEREFORE, in consideration of these premises and mutual covenants and obligations herein, the Parties agree as follows:

SECTION 1. WATER SERVICE AREA

- A. For purposes of this Agreement, the "Trotwood Water Service Area" shall be the jurisdiction of the City of Trotwood municipal corporation as it exists at the time of execution of this Agreement (Exhibit A), which is attached hereto and incorporated therein, excluding those areas indicated on Exhibit A which represent areas receiving water service by an entity other than Dayton or Trotwood. The Trotwood Water Service Area also includes any areas annexed during the term of this Agreement and any renewal hereof. Trotwood will have the non-exclusive right to obtain and provide Dayton's water for the portion of the Trotwood Water Service Area located outside its municipal corporation limits. Notwithstanding the foregoing sentence, it is agreed that nothing contained herein shall prevent or impede Dayton from negotiating and executing a water service agreement(s) to provide Dayton water directly to the area(s) outside the Trotwood municipal corporation limits.
- B. The Trotwood Water Service Area may be modified only by mutual written agreement between the parties, and subject to the ability of Dayton to supply its water to serve the expanded or additional territory.

SECTION 2. TERM

- A. This Agreement shall commence upon the first full billing cycle following approval by the Commission of the City of Dayton, Ohio and approval by the Council of the City of Trotwood, Ohio and remain in effect for a period of fifteen (15) years ("Initial Term"). This Agreement may be renewed by mutual agreement of the parties for one additional renewal period and the term for the renewal shall not exceed ten (10) years. No renewal will be effective unless it is reduced to writing, executed by duly authorized representatives for each

party and approved by the Commission of the City of Dayton, Ohio and Council of the City of Trotwood, Ohio.

- B. Effect of Expiration or Termination.** Upon expiration or termination of this Agreement, any obligations that are intended to survive expiration or termination of this Agreement shall survive the expiration or termination of this Agreement for any reason. If this Agreement is not renewed before it expires, and the parties are negotiating in good faith regarding the provisions of a new agreement, then the parties may mutually reinstate the Agreement and extend the term. However, no such reinstatement shall be effective unless it is reduced to writing and references this Agreement, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio and/or the Council of the City of Trotwood, Ohio.

SECTION 3. TROTWOOD WATER SYSTEM

For purposes of this Agreement, the “Trotwood Water System” shall be all mains, distribution and transmission lines situated inside the Trotwood municipal corporation limits, now existing or as may be added in the future. The Trotwood Water System shall also include all mains, distribution and transmission lines and infrastructure constructed by Trotwood to supply water to Users situated outside the Trotwood municipal corporation boundaries, whether existing now or added in the future.

At the time of execution of this Agreement, Trotwood hereby represents and warrants to Dayton that the Trotwood Water System existing at the time of this Agreement provides Dayton water to the existing Users in the Trotwood Water Service Area.

During the term of this Agreement and any renewal hereof, Trotwood shall submit to Dayton’s Director of Water for consent and approval prior to actual construction, all plans and specifications for any additional mains, laterals, transmission and/or distribution lines, booster station, storage facility or any other water appurtenance for the Trotwood Water System. Dayton’s Director of Water shall review said plans and specifications for adequate flow, volume, and other system needs, with said consent and approval not to be unreasonably withheld. Further, Trotwood agrees that all Trotwood Water System planning, construction, installation, and inspection(s) shall be performed in accordance with Dayton’s specifications, rules, regulations, and inspection requirements for similar work now existing or as amended, and all applicable federal and state laws, regulations, standards, or orders. Dayton agrees to work cooperatively with Trotwood to prepare and/or revise Trotwood’s rules, regulations, specifications, and inspection requirements to ensure consistency with Dayton’s rules, regulations, specifications, and inspection requirements.

SECTION 4. DISTRIBUTION OF WATER

- A.** During the term of this Agreement, Dayton shall endeavor to use its best efforts equivalent to that effort used to provide water to Dayton residents to furnish an adequate supply of water to Trotwood for resale by Trotwood to the Users within the Trotwood

Water Service Area subject to such interruption of supply as may arise from natural causes, failure or insufficiency of equipment or water lines, or causes reasonably beyond Dayton's control. All water supplied under this Agreement, including water supplied for municipal facilities, shall be individually metered.

- B. Dayton undertakes to use reasonable care and diligence to provide uninterrupted water supply but reserves the right at any time to temporarily interrupt water supply for emergency purposes. Dayton shall notify Trotwood of any emergency interruption as soon as practicable. Dayton shall restore, expeditiously, its system to its pre-emergency capabilities to supply water to Trotwood.
- C. During the term of this Agreement, Dayton shall endeavor to use its best efforts so that the water pressure and volume of water to be provided under this Agreement will not be reduced within the Trotwood Water System, subject to emergency failure of pressure due to supply line breaks, insufficient water mains or equipment, power failure, acts of God or other events beyond the control of Dayton. In the event of a restriction in flow or pressure due to drought conditions or other causes which significantly affect the entire Dayton water system, Dayton shall endeavor to use its best efforts so that the reduction in flow or pressure to the Trotwood Water Service Area will not be proportionally greater than applied to other users of Dayton water outside Dayton's municipal boundaries. Dayton shall have no responsibility for water pressure or volume problems and conditions arising in the Trotwood Water System, not designed and built by Dayton.
- D. The use and consumption of water by Users within the Trotwood Water Service Area shall be subject at all times to such rules and regulations, specifically including those concerning excessive use, as Dayton may establish in accordance with the provisions of Section 3 of this Agreement, and as are generally applicable to other users of Dayton water outside Dayton's municipal boundaries. Such rules and regulations applicable to the operation of, and consumption and distribution from Dayton shall, as may be practicable and applicable, govern and apply to similar situations within the Trotwood Water Service Area. Fire hydrants shall be used only by Trotwood's Fire Department or for normal system flushing, except that special permits for hydrant use (such as pool use, street sweeping, construction) may be obtained in accordance with Dayton's Department of Water Rules and Regulations. Private fire hydrants may be set in accordance with Dayton's Department of Water Rules and Regulations.
- E. Nothing contained herein shall prevent Trotwood from establishing such similar or additional rules and regulations governing the consumption and use of water to be provided under this Agreement. However, any such rules and regulations established by Trotwood shall not establish requirements or set standards which conflict with and/or fall below those rules, regulations, standards, conditions, or restrictions set forth in Dayton's Department of Water Rules and Regulations and shall be consented to by Dayton.

SECTION 5. WATER METERS AND TAPS

- A. Dayton shall furnish and install all meters necessary to measure the use of water

furnished to the Users within the Trotwood Water Service Area and shall make all service taps on the distribution system, including the Trotwood Distribution System. Service charges for installing and setting the meters, cost of the meters and other special charges will be at the rates in effect within the municipal boundaries of Dayton at the time of installation plus a ten percent (10%) surcharge. All meters installed shall remain the sole property of Dayton. However, if this Agreement is terminated before the end of the Initial Term, Trotwood shall purchase from Dayton all meters, including the meter reading technology, based on the original purchase price less depreciation based on a twenty (20) year depreciation life, not to be less than 25% of the meter's original price.

- B. Taps shall only be made after a Dayton permit has been obtained by a plumber, who shall be licensed and bonded with Dayton. The plumber shall first obtain and remit payment for all required permits from Trotwood, if any, prior to seeking a Dayton permit. The Dayton permit shall set forth the plumber's name, address, and the address and size of the tap to be made. Dayton's charge for the permit will be the same as the charge for a permit within the municipal boundaries of Dayton, plus a ten percent (10%) surcharge. Dayton's charge for the tap will be the same as the charge for a tap within the municipal boundaries of Dayton, plus a ten percent (10%) surcharge.
- C. Service taps will only be made in the sizes currently offered and permitted under the Dayton Department of Water Rules and Regulations. Prices for taps two inches (2") in diameter and smaller shall be at the standard rates charged within Dayton, plus the ten percent (10%) surcharge. Prices for taps over four inches (4") in diameter will only be provided upon plumber's request and will be based upon the requisite tapping charge and estimate of the actual cost(s) to Dayton for equipment, labor and materials, plus the ten percent (10%) surcharge.
- D. All tapping fees (direct or indirect) and permit fees or charges shall be paid by the plumber seeking to obtain the Dayton permit(s), with payment to be made directly to the municipality imposing said fee or charge. Dayton agrees that it shall be responsible for the billing and collection of its tapping and permit fee(s) or charge(s). The plumber shall be responsible for all excavations, as Dayton will not excavate in any street outside its corporate limits. Once a Dayton permit is issued, Dayton shall install the specified tap. Despite payment of tapping fees and permit fees to Dayton, the tap and all service lines from the tap to the curb stop shall become the sole property of Trotwood, and Trotwood shall be responsible for maintenance, service, and replacement of same.

SECTION 6. WATER PAYMENT AND USER BILLING

- A. The rates or charges to be paid by Trotwood to Dayton for water supplied under this Agreement will be based upon the Cost of Service Financial Model. The model accounts for an allocation of Dayton's total water utility costs (operating and capital) and projected water production and consumption across Dayton's customer classes. The resulting outputs are the rates and fees necessary to generate the needed revenue for Dayton to properly operate the utility and serve all customers. The Cost of Service Financial Model follows the "Utility Method" of rate setting and follows the methodology defined in

Principles of Water Rates, Fees, and Charges, Manual of Water Supply Practices, American Water Works Association M1, Latest Edition. Under the utility method, revenue requirements are recovered through several cost components, operation and maintenance (O&M) expenses, depreciation, and rate of return on assets. Time frames and additional details are explained in Exhibit B.

The billing statement shall form the basis for a water payment to Dayton, for the water furnished and consumed by Users within the Trotwood Water Service Area. Trotwood shall remit to Dayton the aforesaid quarterly billing payment in full within thirty (30) days of receipt of bill. Any amount not paid in full within thirty (30) days of receipt of bill is subject to a ten percentage (10%) penalty. Dayton reserves the right to change to a monthly billing statement based on mutual agreement with Trotwood.

- B. Dayton will read all meters within the Trotwood Water Service Area and furnish Trotwood with a quarterly billing statement for all water usage within the Trotwood Water Service Area. Dayton shall also provide Trotwood with quarterly billing, information in electronic format evidencing Dayton's charges for each individual User served within the Trotwood Water Service Area. The electronic information shall be in such format as to be readily usable by Trotwood for individual billing to Users within the Trotwood Water Service Area.

The quarterly billing statement shall form the basis for a water payment to Dayton, for the water furnished and consumed by Users within the Trotwood Water Service Area.

Trotwood shall remit to Dayton the aforesaid quarterly billing payment in full within thirty (30) days of receipt of bill. Payments not received on or before the thirty-first (31st) day are considered in default and are subject to the provisions of Section 8 of this Agreement.

Dayton reserves the right to change to a monthly billing statement based on mutual agreement with Trotwood. An amendment addressing monthly billing terms to this Agreement shall be issued if monthly billing is implemented.

- C. Consistent with Dayton's obligations under the foregoing Subsection (C), all meters in the Trotwood Water Service Area shall be read by Dayton at least once a year. Meters including, but not limited to, those not read in one year may be deemed inaccessible by Dayton. Dayton shall notify Trotwood of any such inaccessible meters. Trotwood shall notify individual Users and effect a resolution, satisfactory to Dayton, within sixty (60) days. Trotwood shall cause the property owner or responsible party to provide locations for the relocation and reinstallation of accessible meters to replace the inaccessible meters. Trotwood shall cause the property owner or responsible party to permit an actual reading in conjunction with the satisfactory resolution of the inaccessible meters.

Failure to correct or effect the correction of an inaccessible condition, as stipulated

herein, is cause for discontinuing the water service to the User and rendering of a bill for fees and charges in accordance with Dayton's Department of Water Rules and Regulations, which are in effect at the time of execution of this Agreement or as may be amended, modified, or enacted.

- D. If any meter or other measuring device fails to function, the compensation or charges during such period of failure shall be based upon estimated quantities to be determined and fixed by Dayton's Director of Water after consultation with Trotwood Public Works Director for this meter's typical usage.
- E. Trotwood shall be responsible to bill all Users within the Trotwood Water Service Area for all Dayton water provided under this Agreement, at such rates and charges as Trotwood may establish from time to time. It is agreed and understood that Dayton shall not be responsible for any User billing errors or failure by User to remit payment. If a User dispute arises, whereby a User seeks to challenge the amount of water consumed and Trotwood desires Dayton's involvement, Trotwood shall immediately contact Dayton concerning such dispute and Dayton shall take such actions within sixty (60) days as reasonably necessary to investigate same under its existing policies and procedures for such disputes. Regardless of whether Trotwood has credited or taken such other action to resolve the dispute Dayton shall not be bound by such resolution, absent consent from Dayton's Director of Water.

SECTION 7. MAINTENANCE, LEAK DETECTION AND BACKFLOW

- A. Trotwood, except as provided for in Section 7 (B), shall assume all maintenance, repair, replacement, and service responsibilities and costs for the Trotwood Water System.
- B. Dayton shall assume all maintenance, repair and replacement responsibilities for the water meters.
- C. In the event that Trotwood fails to repair service or replace any portion of the Trotwood Water System within twenty-four (24) hours after Dayton's Director of Water notifies Trotwood to so do, Dayton shall cause such repair, service or replacement, and Trotwood shall reimburse Dayton for any and all costs reasonably related thereto.
- D. Trotwood shall undertake or cause a complete Trotwood Water System leak detection survey every five (5) years that this Agreement is effective, with the first complete system leak detection survey to occur in 2026. The scope of said leak detection survey(s) in the Trotwood Water Services Area shall include all then existing water pipe of the Trotwood Water System.

Notwithstanding the foregoing, if twenty percent (20%) or greater of the annual amount of Dayton water supplied through the Trotwood Water System is not accounted for based upon the consumption by the Trotwood Water Service Area Users, Dayton's Director of

Water will provide written notice to Trotwood of the area(s) deemed to require a leak detection survey or the necessity for a complete Trotwood Water System leak detection survey. If Trotwood fails to undertake or complete leak detection survey(s) within one hundred and eighty days (180) from the date of the notice or such other period as Dayton and Trotwood may mutually agree upon, Dayton shall have the right to conduct said leak detection survey(s) in the Trotwood Water Service Area.

Dayton shall also retain the right to make such emergency leak detection survey(s) as may be deemed necessary by Dayton's Director of Water, after consultation with Trotwood.

If Dayton conducts any leak detection survey, Trotwood shall be responsible to reimburse Dayton for the actual costs of same and shall provide assistance during the leak detection survey, including, but not limited to, making valves accessible, operating the valves and repairing leaks. Should Trotwood fail to provide said assistance, Trotwood shall be responsible to reimburse Dayton for all costs and overhead expenses reasonably incurred for performing same. Trotwood shall be responsible to provide such drawings of the Trotwood Water System and appurtenance locations, as may be requested by Dayton's Director of Water.

- E. Trotwood shall protect the public water supply in the Trotwood Water Service Area and shall implement and maintain a backflow prevention and cross connection control program in compliance with the laws of the State of Ohio and in accordance with Dayton's Department of Water Rules and Regulations, which are in effect at the time of execution of this Agreement or as may be amended, modified or enacted.

SECTION 8. DEFAULT

If Trotwood defaults in its water payment to Dayton as required under Section 6 of this Agreement and said default is not cured within twenty-one (21) days from written notice thereof, Dayton may, at its option, continue to furnish water to the Trotwood Water Service Area through the Trotwood Water System, including main(s) and distribution lines then existing, maintain and operate the entire Trotwood Water Service Area water system, and bill all Users at rates equal to the rates now, plus a surcharge not to exceed thirty five percent (35%) of the amount billed to the User. Dayton shall also be entitled to directly bill and collect all meter installation fees, service fees, permit fees and tap fees chargeable to Users by Trotwood under this Agreement, and to recover from Trotwood all remaining costs for the complete operation of the water system, all without any obligation to reimburse Trotwood for the use of the entire Trotwood Water Service Area water system during said period of default.

SECTION 9. TERMINATION

Either party may propose to terminate this Agreement upon giving one (1) year prior written notice to the other party. However, this Agreement may only be terminated by mutual written agreement, which consent shall not be unreasonably withheld, between the parties, and termination shall be effective on the date set forth in such written agreement.

SECTION 10. REPRESENTATIONS

- A. Trotwood hereby represents and agrees that nothing contained herein shall be construed or accepted, directly or indirectly, as conferring upon Trotwood the right to extend any water distribution or service line or main outside the Trotwood Water Service Area for the purposes of supplying any other municipality, political Subdivision, or other governmental entity with Dayton water.
- B. Trotwood hereby represents and agrees that the Trotwood Water System shall not be supplied or serviced with other water under any contract or agreement with any other governmental or private water supply system during the term of this Agreement. However, Trotwood shall have the right to develop emergency inter-connections with other sources of water supply, which may be used only in emergency situations and upon notice to and consent by Dayton.

SECTION 11. GENERAL PROVISIONS

- A. Consent. Whenever in this Agreement consent is to be given by Dayton or Trotwood, such consent shall not be unreasonably withheld. For purposes of this Agreement, consent by Dayton shall be manifested by action of its Director of Water.
- B. Integration. This Agreement represents the entire and integrated Agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.
- C. Severability. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect. The parties further agree that in such instances, the parties will act in good faith to mutually agree to an acceptable substitute provision.
- D. Waiver. A waiver by Dayton or Trotwood of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect the party's rights with respect to any other or further breach.
- E. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws.
- F. Independent Contractor. The parties hereby agree that at all times, the relationship between the parties shall be that of an independent contractor. At no time shall the relationship between the parties under this Agreement be construed, held out or considered as a joint venture, principal-agent or employer-employee.

G. Assignment. Assignment of this Agreement for the benefit of bond holders or other debt holders of some or all the water facilities to be constructed and installed as described herein, including all contracts, agreements and/or franchises, and all right, title, and interest in real and personal property for the purposes of financing the water service enhancements, is specially approved and permitted. No other assignment of this Agreement is permitted or authorized without the express written consent of both parties.

H. Amendment. This Agreement may be amended by the parties, provided that any such amendment or modification makes specific reference to this Agreement, is executed in writing, signed by a duly authorized representative of Dayton and Trotwood, and, if required or applicable, approved by the Commission of the City of Dayton, Ohio and Council of the City of Trotwood, Ohio.

I. Notices. Notice required or permitted herein shall be sufficient if hand-delivered or sent by certified U.S. Mail, return receipt requested, to the respective Parties at the following addresses:

To Dayton: Department of Water
City of Dayton, Ohio
101 West Third Street, P.O. Box 22
Dayton, Ohio 45402
Attn: City Manager

with a copy to: City of Dayton, Ohio
320 West Monument
Dayton, OH 45402
Attn: Director of Water

To Trotwood: City of Trotwood, Ohio
3035 Olive Road
Trotwood, Ohio 45426-2600
Attn: City Manager

with a copy to: City of Trotwood, Ohio
3035 Olive Road
Trotwood, Ohio 45426-2600
Attn: Public Works Operations Supervisor

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, Trotwood and Dayton, each by a duly authorized representative and intending to be legally bound, have executed this Agreement as of the day and date written above.

THE CITY OF DAYTON, OHIO

THE CITY OF TROTWOOD, OHIO

City Manager

City Manager

**APPROVED AS TO FORM,
AND CORRECTNESS:**

Musto, John Digitally signed by Musto, John
Date: 2025.06.13 11:08:34
-04'00'

City Attorney
City of Dayton, Ohio

APPROVED AS TO FORM:

Law Director
City of Trotwood, Ohio

**APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO:**

_____, 2025

Min./Bk. _____ Pg. _____

Clerk of the Commission

EXHIBIT A

Service Area Map

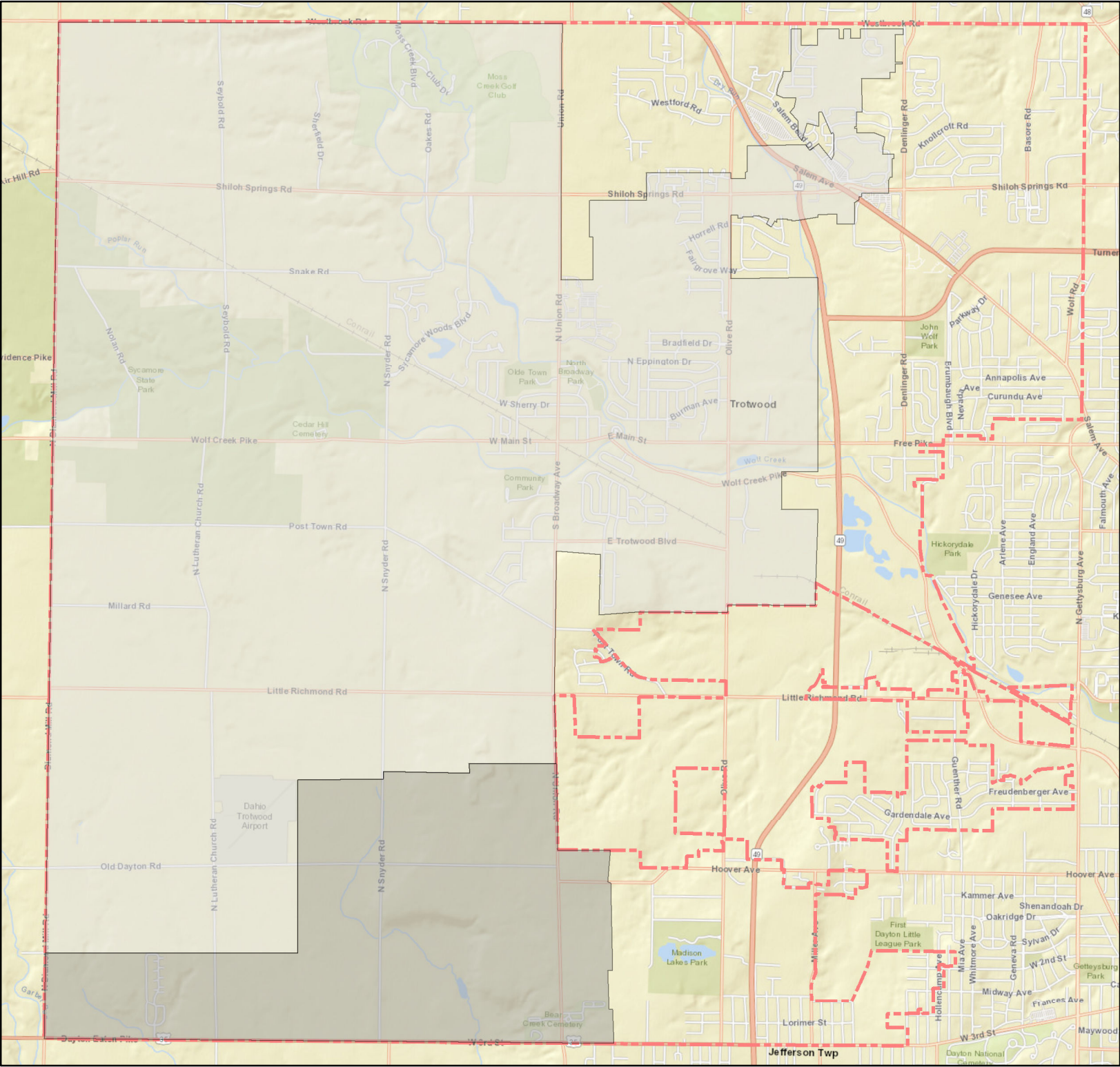


EXHIBIT A

Legend

City of Trotwood Water Service Area (Present & Future)

Jefferson TWP Water Authority

Trotwood Corp



EXHIBIT B

Determination of Rates and Charges

The Financial Cost of Service Model will be updated on an annual basis unless both City of Dayton and the City of Trotwood agree to other terms. Model data will be updated according to the process below:

- The City shall update the Model each calendar year during the Term of the Agreement to determine the rates and fees to be charged to Trotwood.
- On or before November 1st of each year, the City shall deliver to Trotwood the City's determination of the next year's rates and fees to be charged to Trotwood based upon the annually updated Model.
- The Rates charged to Trotwood shall be comprised of a base charge and a volumetric rate.

The 2025 base charge is \$231,660.00 per year, payable quarterly at \$57,915.00 per quarter.

The 2025 volumetric rate is \$30.06/MCF..