CITY COMMISSION MEETING AGENDA

CITY COMMISSION  DAYTON, OHIO  JANUARY 27, 2021

8:30 A.M.

I. AGENDA SCHEDULE

Please register to speak on items 9, 11 and 13 with the Clerk of the Commission.
(Sign-up sheets at entrance of Commission Chambers.)

1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager’s Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager’s Recommendations
11. Public Hearing: (See Section V)
12. Discussion Item: N/A
13. Comments by Citizens - Please register to speak with the Clerk of Commission
   (Non - Calendar items) sign-up sheets at entrance of Commission Chambers
14. Comments by City Manager
15. Comments by City Commission
16. Work Session: N/A
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)
The following recommendations are offered for City Commission approval.

A. Purchase Orders, Agreements and Contracts:
(All contracts are valid until delivery is complete or through December 31st of the current year).

1. Purchase Orders:

   AVIATION
   A1. Green & Green Lawyers, A Legal Professional Association
       (professional legal services as needed through 12-31-21) $20,000.00
1. (Cont’d):

**FIRE**
B1. Montgomery County (radio communication user fees as needed through 12-31-21) $360,480.00

**HUMAN RELATIONS COUNCIL**
C1. Vocalink, Inc. (professional interpreter services as needed through 12-31-21) 15,000.00

**INFORMATION TECHNOLOGY**
D1. Kronos, Inc. (Kronos professional services) 27,315.00

**LAW**
E1. Frost Brown Todd LLC (professional legal services as needed through 12-31-21) 50,000.00
E2. Green & Green Lawyers, A Legal Professional Association (professional legal services as needed through 12-31-21) 60,000.00

**MUNICIPAL COURT**
F1. Vocalink, Inc. (professional interpretation services as needed through 12-31-21) 14,000.00

**PUBLIC WORKS**
G1. Quality Masonry Company, Inc. (repair damaged brickwork on residential roads) 15,400.00
G2. Oakwood Car Wash (vehicle interior and exterior cleaning services as needed through 12-31-23) 60,000.00
G3. Southeastern Equipment Company (one articulated tandem roller) 16,391.27

**WATER**
H1. Celico Ptnshtp dba Verizon Wireless (cellular telephones, broadband card services, and related items as need through 12-31-21) 12,000.00
H2. Ohio Newspapers, Inc. dba Dayton Daily News (legal publication services as needed through 12-31-24) 80,000.00
H3. Dayton Parts Company (oil, lubricants and related items as needed through 12-31-23) 51,000.00


Total: $781,586.27
2. **BI Incorporated – Contract Modification** – fourth amendment for services for the Electronic Home Detention Program – The Municipal Court/Court Administrator. $40,000.00

B. **Construction Contracts:**

3. **J.L. Kuck General Contractors, Inc. – Award of Contract** – for the City Hall Ludlow Street Vault Roof Slab Replacement and ADA Access (Open Market) – Dept. of Public Works/Property Mgmt. $950,000.00 (Thru 12/31/23)

4. **L.J. DeWeese Co., Inc. – Award of Contract** – for the Wolf Creek Bike Path Connection (7% DBE Participation Goal/5% DBE Participation Achieved) (Federal Construction Funds) – Dept. of Public Works/Civil Engineering. $122,426.75 (Thru 06/30/23)

5. **Turn-Key Environmental Consultants, Inc. – Award of Contract** – for Nuisance Abatement Program Commercial and Residential Asbestos Surveys and Post Abatement Verification Inspections II – 2020 (10% SBE Participation Goal/100% SBE Participation Achieved) – Dept. of Planning & Community Development/Housing Inspection. $29,330.00 (Thru 12/31/22)

E. **Other – Contributions, Etc.:**

6. **Linebarger Goggan Blair & Sampson, LLP – Other** – to increase budget authority to existing Professional Collection Services Agreement – Dept. of Finance/Revenue Admin. $422,000.00 (Thru 12/31/22)

V. **PLANNING ACTION**

A. **PUBLIC HEARING:**

*** 2021 Annual Appropriation
VI. MISCELLANEOUS:

ORDINANCE NO. 31862-21

RESOLUTION NO. 6564-21

IMPROVEMENT RESOLUTION NO. 3599-21

INFORMAL RESOLUTION NO. 985-21
City Manager’s Report

From 2730 – PMB/Procurement

Supplier, Vendor, Company, Individual
See Below

Address See Below

Date January 27, 2021
Expense Type Purchase Order
Total Amount $781,586.27

2021 Purchase Orders

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>See below</td>
<td>See below</td>
<td>See below</td>
</tr>
</tbody>
</table>

Includes Revenue to the City  ☑ No
Affirmative Action Program  ☑ Yes  ☐ No  ☐ N/A

Description

AVIATION

(A1) P0210513 – GREEN & GREEN LAWYERS, A LEGAL PROFESSIONAL ASSOCIATION, DAYTON, OH
• Professional legal services as needed through 12/31/2021.
• These services are required to provide legal consultation and representation.
• The law firm of Green & Green Lawyers, A Legal Professional Association is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
• Green & Green Lawyers, A Legal Professional Association qualifies as a Dayton local entity.
• The Departments of Aviation and Law recommend approval of this order.

Fiscal Year  Fund Source(s)  Fund Code(s)  Fund Amount(s)
2021    DIA Airport Operations  51000-3210-1152-43  $20,000.00

Signatures/Approval
Approved by City Commission

[Handwritten Signatures]

Division
City Manager

FORM NO. MS-16

Updated 06/2016
FIRE

(B1) P0210540 – MONTGOMERY COUNTY, DAYTON, OH

- Radio communication user fees as needed through 12/31/2021.
- These fees are required to cover the licensure, use, maintenance and support costs of the P25 radio communication system for the City's participation in the Montgomery County Regional Radio Communication Council covering the Departments of Aviation, Fire and Water.
- Montgomery County qualifies as a Dayton local entity.
- The Departments of Aviation, Fire, and Water recommend approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>$12,720.00</td>
</tr>
</tbody>
</table>

HUMAN RELATIONS COUNCIL

(C1) P0210536 – VOCALINK, INC., DAYTON, OH

- Professional interpreter services as needed through 12/31/2021.
- These services are required to provide professional translation and language interpretation services for City departments.
- Rates are in accordance with the State of Ohio Term Schedule #CSP901416 and Index #GDC024 with pricing through 8/31/2021.
- Vocalink, Inc. qualifies as a Dayton local entity.
- The Human Relations Council recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
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<td>$15,000.00</td>
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</tbody>
</table>
INFORMATION TECHNOLOGY

(D1) P0210544 – KRONOS, INC., LOWELL, MA
- Kronos professional services.
- These services are required to input workforce leave and attendance information from the workforce accrual module into the workforce tele staff module within the City’s Kronos timekeeping system for the designated departments.
- Kronos, Inc. is recommended as the original software developer and sole source of this proprietary support agreement; therefore, this purchase was negotiated.
- The Department of Information Technology recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
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</tbody>
</table>

LAW

(E1) P0210539 – FROST BROWN TODD LLC, CINCINNATI, OH
- Professional legal services as needed through 12/31/2021.
- These services are required to provide legal consultation and representation.
- The law firm of Frost Brown Todd LLC is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
- The Department of Law recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2021</td>
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</table>

(E2) P0210538 – GREEN & GREEN LAWYERS, A LEGAL PROFESSIONAL ASSOCIATION, DAYTON, OH
- Professional legal services as needed through 12/31/2021.
- These services are required to provide legal consultation and representation.
- The law firm of Green & Green Lawyers, A Legal Professional Association is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
- Green & Green Lawyers, A Legal Professional Association qualifies as a Dayton local entity.
- The Department of Law recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</thead>
<tbody>
<tr>
<td>2021</td>
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<td>$60,000.00</td>
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</table>
MUNICIPAL COURT

(F1) P0210533 – VOCALINK, INC., DAYTON, OH

- Professional interpretation services as needed through 12/31/2021.
- These services are required to provide professional translation and interpretation services for the Court.
- Rates are in accordance with the State of Ohio Term Schedule #CSP901416 and Index #GDC024 with pricing through 8/31/2021.
- Vocalink, Inc. qualifies as a Dayton local entity.
- The Municipal Court recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</table>

PUBLIC WORKS – CIVIL ENGINEERING

(G1) P0210532 – QUALITY MASONRY COMPANY, INC., MARION, OH

- Repair damaged brickwork on residential roads.
- These goods and services are required to fix damage caused by a vehicle crash.
- Quality Masonry Company, Inc. is recommended based on past proven performance on various similar projects; therefore, this purchase was negotiated.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</table>

PUBLIC WORKS – FLEET MANAGEMENT

(G2) P0210541 – OAKWOOD CAR WASH, DAYTON, OH

- Vehicle interior and exterior cleaning services as needed through 12/31/2021.
- These services are required to maintain the cleanliness of the City’s fleet.
- Twenty (20) possible vendors were solicited and five (5) bids were received. This order establishes a price agreement per IFB D21001 with pricing through 12/31/2023.
- Oakwood Car Wash qualifies as a Dayton local entity.
- The Department of Public Works requests additional authority of $40,000.00 through 12/31/2023.
- The Department of Public Works recommends acceptance of the low total bid. Multiple awards are recommended to ensure the best value and supply availability for the City.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2023</td>
<td>Fleet Management</td>
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<td>$20,000.00</td>
</tr>
</tbody>
</table>
PUBLIC WORKS – STREET MAINTENANCE

(G3) P0210530 – SOUTHEASTERN EQUIPMENT COMPANY, MONROE, OH

- One (1) 2020 articulated tandem roller.
- This equipment is required for City roadway repairs and will replace Unit #5258 which will be disposed of in the best interest of the City.
- Rates are in accordance with the Sourcwell Contract #032119-BAI.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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<tr>
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</table>

WATER – WATER ENGINEERING

(H1) P0210519 – CELLCO PRTNSHP dba VERIZON WIRELESS, CINCINNATI, OH

- Cellular telephones, broadband card services, and related items as needed through 12/31/2021.
- These goods and services are required to maintain data communications within the Division of Water Engineering.
- Rates are in accordance with the State of Ohio Verizon Wireless Master Service Agreement #MSA0033.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</thead>
<tbody>
<tr>
<td>2021</td>
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<tr>
<td>2021</td>
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<td>$2,000.00</td>
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</tbody>
</table>

(H2) P0210518 – OHIO NEWSPAPERS, INC. dba DAYTON DAILY NEWS, DAYTON, OH

- Legal publication services as needed through 12/31/2021.
- These services are required to provide public and legal notices for the City.
- Cox Ohio Publishing dba Dayton Daily News qualifies as a Dayton local entity.
- The Department of Water requests additional authority of $60,000.00 through 12/31/2024.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2024</td>
<td>Water Engineering</td>
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<td>$20,000.00</td>
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</tbody>
</table>
WATER – WATER RECLAMATION

(H3) P0210523 – DAYTON PARTS COMPANY, DAYTON, OH

- Oil, lubricants and related items as needed through 12/31/2021.
- These goods are required to maintain treatment processing equipment.
- Twenty-one (21) possible vendors were solicited and seven (7) bids were received. This order establishes a price agreement per IFB 21005D with pricing through 12/31/2023.
- Dayton Parts Company qualifies as a Dayton local entity.
- The Department of Water requests additional authority of $40,000.00 through 12/31/2023.
- The Department of Water recommends acceptance of the total low bid.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
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<td>2022</td>
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<td>2023</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

The aforementioned departments recommend approval of these orders.
City Manager's Report

From 2510 - Municipal Court
Supplier, Vendor, Company, Individual
Name BI Incorporated
Address 6400 Lookout Dr.
Denver, CO 80301

Date January 27, 2021
Expense Type Contract Modification
Total Amount $40,000.00 thru 12/31/21

Fund Source(s) Fund Code(s) Fund Amount(s)
Electronic Home Detention 22113-2510-1159-74 $40,000.00

Includes Revenue to the City Yes No
Affirmative Action Program Yes No N/A

Description

Fourth Amendment to the Services Agreement

The Dayton Municipal Court requests permission to enter into a Fourth Amendment with BI Incorporated in the amount of $40,000.00 for services rendered to the Court for the Electronic Home Detention Program.

BI Incorporated supplies satellite tracking equipment used for the Electronic Home Detention Program. The equipment costs are reimbursed through a Consulting Services Agreement with the Montgomery County Board of Commissioners.

The original contract was approved on June 23, 2010. Amendment No. 3 was executed on July 15, 2015, changing the automatic renewal from the anniversary date to the first day of the calendar year beginning January 1, 2016 and each succeeding year.

The term of this Amendment is for one year from the effective date, unless terminated prior. Dayton Municipal Court and BI Incorporated have agreed to terminate this contract upon the execution of an agreement for OMNIA LOC8 monitoring equipment and services. The new equipment will replace the current Exacutrack equipment. The Court expects to have this transition of equipment done by the end of April 2021.

A Certificate of Funds for $40,000.00 is attached.

This Agreement has been reviewed by the Department of Law as to form and correctness.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
**CERTIFICATE OF FUNDS**

**SECTION I - to be completed by User Department**

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
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</thead>
<tbody>
<tr>
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<td>Expiration Date</td>
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<td>Original CT/CF Increase Encumbrance</td>
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<tr>
<td>Decrease Encumbrance</td>
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<td>Copy of City Manager's Report</td>
</tr>
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</table>

**Required Documentation**

- Initial City Manager's Report
- Initial Certificate of Funds
- Initial Agreement/Contract
- Copy of Original Certificate of Funds

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**Amount:** $40,000.00

| Fund Code | 22113 - 2510 - 1159 - 74 - XXXX - XXXX |
| Fund   | Org | Acct | Prog | Act | Loc |

**Fund Code XXXX - XXXX - XXXX - XXXX - XXXX - XXXX**

| Amount: | |
| Fund Code | XXXX - XXXX - XXXX - XXXX - XXXX - XXXX |
| Fund   | Org | Acct | Prog | Act | Loc |

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**Attach additional pages for more FOAPALs**

**Vendor Name:** Bi Incorporated

**Vendor Address:** 6400 Lookout Dr. Denver CO 80301

**Federal ID:** 84-0769926

**Commodity Code:** 68008

**Purpose:** To pay monthly monitoring invoices for calendar year 2021.

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**Contact Person:** Ann Marie Murray

**Department/Division:** Municipal Court / Administration

**Date:** 12-Jan-21

**Originating Department Director's Signature:**

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**SECTION II - to be completed by the Finance Department**

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

**Finance Director Signature:**

**Date:** 1/19/2021

**CF Prepared by:**

**Date:** 1/15/2021

**CF/CT Number:** CT21-0992

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Finance Department

October 18, 2011
AMENDMENT NO. 4

TO THE
EXACUTRACK AT SERVICE AGREEMENT ("Agreement")
BETWEEN
BI INCORPORATED ("BI")
AND
THE CITY OF DAYTON OHIO ("Agency")

This Amendment is entered into by and between Agency and BI.

In consideration of the promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, desiring to be legally bound, hereby agree to amend the above-referenced Agreement as follows:

This Agreement will be terminated in 2021, due to a forthcoming agreement for OMNIA LOC8 equipment and services to replace Exacutrack. In order to provide for this change, the second and third paragraphs of “6. TERM, TERMINATION, RENEWAL” are revised, and the first paragraph remains the same, as follows:

6. TERM, TERMINATION, RENEWAL

The term of this Agreement is for one (1) year (unless terminated as provided herein) from the effective date of this Agreement. This Agreement, its terms and conditions, and authorized amendments are renewed automatically for succeeding periods of one (1) year. Starting January 1, 2016, the renewal period shall be based on the calendar year and the automatic renewal date shall be the first day of January of each succeeding year, unless the Agreement is terminated as provided below.

Termination. The parties have agreed to terminate this Agreement upon the execution of an agreement for LOC8 monitoring equipment and services to replace Exacutrack. No other prior written notice of termination shall be provided to either party. All notices with respect to this Agreement shall be in writing and signed by a duly authorized representative of the party. Notices shall be sent by certified mail or delivered by messenger.

Payment and Return of Equipment. Upon termination of the Agreement, Agency shall immediately return to BI all property in its possession within seven (7) days and all property not in its possession within sixty (60) days. Agency shall provide BI with all outstanding payments due within thirty (30) days. BI is entitled to full payment for services rendered and accepted by Agency whether during the term of this Agreement or thereafter.
The changes in this Amendment shall be effective January 1, 2021.

All other terms and conditions of this Agreement, except as expressly amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, by signing below, THE CITY OF DAYTON, OHIO and BI have caused this Amendment to be effective January 1, 2021.

BI INCORPORATED

Danna Coapland

Printed Name

VP Finance

Printed Title

1/8/2021

Date

THE CITY OF DAYTON

Signature

Printed Name

Printed Title

Date

APPROVED AS TO FORM
AND CORRECTNESS:

12/21/2020

X John Musto for

City Attorney

Signed by: Musto, John

**No Commission Action Required**
AMENDMENT NO. 3

TO THE
EXACUTRACK AT SERVICE AGREEMENT ("Agreement")
BEETWEEN
BI INCORPORATED ("BI")
AND
THE CITY OF DAYTON OHIO ("Agency")

This Amendment is entered into by and between Agency and BI.

In consideration of the promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, desiring to be legally bound, hereby agree to amend the above-referenced Agreement as follows:

In order to change the renewal period for the Agreement to a calendar year and the renewal date to the first day of January of each succeeding year, the first paragraph of "6. TERM, TERMINATION, RENEWAL" is revised and the second and third paragraphs remain the same, as follows:

6. TERM, TERMINATION, RENEWAL

The term of this Agreement is for one (1) year (unless terminated as provided herein) from the effective date of this Agreement. This Agreement, its terms and conditions, and authorized amendments are renewed automatically for succeeding periods of one (1) year. Starting January 1, 2016, the renewal period shall be based on the calendar year and the automatic renewal date shall be the first day of January of each succeeding year, unless the Agreement is terminated as provided below.

This Agreement may be terminated for convenience by either party upon sixty (60) days prior written notice to the other party. Cessation of services and responsibilities defined in this Agreement may not take place less than sixty (60) days from the receipt of notice except in the event of default by either party. All notices with respect to this Agreement shall be in writing and signed by a duly authorized representative of the party. Notices shall be sent by certified mail or delivered by messenger.

Upon expiration or termination of the Agreement, Agency shall immediately return all property due to BI. In the event BI's Units, unused supplies and other such property are not returned within seven (7) days, Agency shall pay to BI ten dollars ($10.00) per Unit per days until BI has all such Units and other property in its possession. BI is entitled to full payment for services rendered and accepted by Agency whether during the term of this Agreement or thereafter.
The changes in this Amendment shall be effective January 1, 2016, as long as full execution of the Amendment is completed by November 30, 2015.

All other terms and conditions of this Agreement, except as expressly amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, by signing below, THE CITY OF DAYTON, OHIO and BI have caused this Amendment to be effective January 1, 2016.

BI INCORPORATED

[Signature]
Ruth Skerjanec
VP, Financial Planning

Printed Name

Printed Title

Date

THE CITY OF DAYTON

[Signature]
Stanley A. Farley
Deputy City Manager

Printed Name

Printed Title

Date

APPROVED AS TO FORM AND CORRECTNESS

[Signature]
CITY ATTORNEY

**No Commission Action Required**
AMENDMENT NO. 2

TO THE
EXACUTRACK AT SERVICE AGREEMENT ("Agreement")
BETWEEN
BI INCORPORATED ("BI")
AND
THE CITY OF DAYTON, OHIO ("Agency")

This Amendment is entered into by and between Agency and BI.

In consideration of the promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, desiring to be legally bound, hereby agree to amend the above-referenced Agreement as follows:

In Exhibit A to the Agreement, all ExacuTrack One Unit pricing is deleted and replaced with the following:

EXACUTRACK ONE CHARGES:

ExacuTrack One Tracker 
Component Rental: \$4.50 per day per Unit provided from BI inventory.

EXACUTRACK ONE WITH 1.240.A0 NZ SERVICE:

Description: ET One - GPS Point Collection every 1 minute, Data Transmission every 240 minutes, no AFLT, no Zone Crossing Notification.

ExacuTrack One 1.240.A0 NZ Service: \$0.75 per day per Unit provided from BI inventory.

ExacuTrack One 1.240.A0 NZ Total: \$5.25 total of ExacuTrack One Components and ExacuTrack One 1.240.A0 NZ Service charges.

EXACUTRACK ONE WITH 1.30.A0 ZX SERVICE:

Description: ET One - GPS Point Collection every 1 minute, Data Transmission every 30 minutes, no AFLT, with Zone Crossing Notification.

ExacuTrack One 1.30.A0 ZX Service: \$1.35 per day per Unit provided from BI Inventory.

ExacuTrack One 1.30.A0 ZX Total: \$5.85 total of ExacuTrack One Components and ExacuTrack One 1.30.A0 ZX Service charges.

EXACUTRACK ONE WITH 1.30.A30 ZX SERVICE:

Description: ET One - GPS Point Collection every 1 minute, Data Transmission every 30 minutes, AFLT Collection every 30 minutes if needed, with Zone Crossing Notification.

ExacuTrack One 1.30.A30 ZX Service: \$2.15 per day per Unit provided from BI inventory.

ExacuTrack One 1.30.A30 ZX Total: \$6.85 total of ExacuTrack One Components and ExacuTrack One 1.30.A30 ZX Service charges.
Eighteen (18) ExecuTrack One Unit No-charge Spares: Each month during the term of the Agreement, Agency is entitled to keep up to, but not to exceed, eighteen (18) ExecuTrack One Tracker Units at no charge (not subject to the Unit Rental Charge while not in use). For any inactive ExecuTrack One Units in excess of the eighteen (18) spares allowance, Agency will incur a $4.50 charge per unit per day.

Five Percent (5%) ExecuTrack One Unit Loss or Damage: During each year of the Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged ExecuTrack One Units equal to, but not to exceed, 5% of the average daily total number of active Units in Agency’s possession. Agency will be responsible for all costs related to replacing lost, stolen or damaged ExecuTrack One Equipment in excess of the 5% allowance. Replacement costs for ExecuTrack One Units are the following: ExecuTrack One Beacon - $250.00 each; ExecuTrack One Tracking Unit - $1,740.00 each; ExecuTrack One fiber optic strap - $80.00 each; and ExecuTrack One wallcharger - $90.00 each.

The changes listed in this Amendment shall be effective the first day of the first full month following the date of full execution of this Amendment.

Capitalized terms used herein, and not otherwise defined, shall have the same meaning set forth in the Agreement. All other terms and conditions of the Agreement, except as expressly amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, by signing below THE CITY OF DAYTON, OHIO and BI have caused this Amendment to be effective as of the latest date set forth below.

BI INCORPORATED

Signature

Michael Phariss
Printed Name

Assistant Controller
Printed Title

10-11-13
Date

THE CITY OF DAYTON, OHIO

Signature

Timothy Riordan
Printed Name

City Manager
Printed Title

October 29, 2013
Date

**No Commission Action Required**
AMENDMENT NO. 1
EXACUTRACK AT VOICE ADDENDUM
TO THE
EXACUTRACK AT SERVICE AGREEMENT

AGREEMENT NO. _____________ ("Agreement")

BETWEEN
BI INCORPORATED ("BI")
AND
THE CITY OF DAYTON, OHIO ("AGENCY")

This Amendment is entered into by and between Agency and BI.

In consideration of the promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, desiring to be legally bound, hereby agree as follows:

1. **ExacuTrack AT Voice Unit:** An ExacuTrack AT unit that allows incoming voice calls. Calls may last up to ten (10) minutes depending on Agency's selected settings. **While a call is in process the Unit cannot send GPS points or other data to the host.** However, the Unit continues to record GPS points and in/out of range information during the call. All recorded data is sent upon completion of the call.

2. **ExacuTrack AT Voice Charges:**

   **EXACUTRACK AT VOICE CHARGE:**

   | ExacuTrack AT Voice Tracker & Transmitter Charge: | $6.46 per day per Unit provided from BI inventory |
   | ExacuTrack AT Voice Base Station Charge: | No Charge |
   | ExacuTrack AT Voice Service Charge: | $3.48 per day per Unit provided from BI inventory |
   | ExacuTrack AT Voice Charge: | $9.94 (Total of the ExacuTrack AT Voice component charges and the ExacuTrack AT Voice Service Charge) |

   **EXACUTRACK ON DEMAND VOICE CHARGE:**

   | ExacuTrek On Demand Voice Tracker & Transmitter Charge: | $4.77 per day per Unit provided from BI inventory |
IN WITNESS WHEREOF, by signing below Agency and BI have caused this Amendment No. 1 to be effective as of the latest date set forth below.

THE CITY OF DAYTON, OHIO
By:  
Printed Name: Timothy H. Rohacan
Printed Title: City Manager
Date: 8-31-10

BI INCORPORATED
By:  
Printed Name: Michael E. Hankerd
Printed Title: Corporate Controller
Date: 9-1-10

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

August 18, 2010

Min. Bk. L11 Pg.

Clerk of the Commission
EXACUTRACK AT SERVICE AGREEMENT

Agreement No. ____________

This ExacuTrack AT Service Agreement ("Agreement") is made between BI INCOPORATED ("BI"), a Colorado corporation with its principal place of business at 6400 Lookout Road Boulder, CO 80301, and THE CITY OF DAYTON, OHIO ("Agency") with its principal place of business at 101 West Third Street, Dayton, OH 45402. This Agreement is effective as of the date of full execution.

In consideration of the promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, desiring to be legally bound, hereby agree as follows:

1. DEFINITIONS

1.1 "Active monitoring" or "actively monitor", as used herein means the ability to periodically receive recent location coordinates and other limited information about Clients, subject to certain limitations set forth in the Documentation.

1.2 "Client" means a person who is subject to Agency’s electronic monitoring programs.

1.3 "Confidential information" means any information which is marked, or should be reasonably understood to be, confidential, proprietary, or trade secrets of BI.

1.4 "Documentation" means the "BI ExacuTrack AT Officer’s Reference Manual", which is incorporated herein by this reference and will be provided upon execution of this Agreement.

1.5 "Unit" or "Equipment" means:

(1) "ExacuTrack Equipment" consisting of (a) a transmitter, (b) an ExacuTrack Tracking Unit, and (c) base station; and/or
(2) "ExacuTrack AT Equipment" consisting of (a) a transmitter, (b) an ExacuTrack AT Tracking Unit, and (c) a base station; and/or
(3) "ExacuTrack One Equipment" consisting of an ExacuTrack One Tracking Unit. The ExacuTrack One Equipment may include an ExacuTrack One Beacon in addition to the ExacuTrack One Tracking Unit.

1.6 "ExacuTrack" or ExacuTrack Service” means the ExacuTrack Equipment and/or the ExacuTrack AT Equipment, and/or the ExacuTrack One Equipment, licensed software, Documentation and services described in Section 2.

1.7 "GPS" means global positioning satellite.
1.8 "Passive monitoring" or "passively monitor", as used herein, means the ability to periodically store location coordinates and other limited information about Clients for download to the System upon return to the location of the base station by placing the Tracking Unity in the base station.

1.9 "System" means BI's ExacuTrack AT central monitoring computer system that is located and maintained at BI's offices.

2. BI'S SERVICES

2.1 ExacuTrack AT Service. BI shall provide Agency access to and use of BI's ExacuTrack AT Service. BI's ExacuTrack AT Service permits the Agency to access the System using the licensed software in order to actively or passively monitor Clients with ExacuTrack AT Equipment via the GPS network.

2.2 Training. BI will provide an initial training session at no cost to the Agency regarding the operation and use of the ExacuTrack AT Service. This training is a requirement before commencement of the services under this Agreement. No login ID will be activated until and unless the assigned user has successfully completed training certified by BI. Additional training will be available in accordance with Exhibit A.

2.3 Agency Support. BI will endeavor to provide Agency with answers to specific Agency support requests as related to the ExacuTrack AT Service. BI will supply Agency with an address for e-mail and a 1-800 toll free number for questions and or feedback.

3. EQUIPMENT

3.1 Supply. Subject to availability of the Units, BI shall supply a sufficient quantity of Units to meet Agency's need subject to notice of five (5) business days prior to shipment. Agency agrees that it shall assist BI in forecasting its Unit needs. All Units supplied by BI shall be subject to all charges set forth in Section 5 herein, as applicable. Agencies utilizing BI supplied Units shall be entitled to receive, at no additional charge, a reasonable quantity of supplies (batteries, latches, and straps) and a reasonable quantity of installation kits to maintain Agency's active monitoring program. In the event any item of ExacuTrack AT Equipment is damaged to a material extent by any occurrence whatsoever, Agency shall promptly notify BI and shall at its cost and expense repair such ExacuTrack AT Equipment to its original condition. In the event any item of ExacuTrack AT Equipment shall be lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit or unavailable for use, for any reason whatsoever (any occurrence being referred to as an "Event of Loss"), Agency shall promptly notify BI and shall at its cost and expense replace such ExacuTrack AT Equipment.

3.2 Freight. Unless otherwise set forth on Exhibit A, any equipment made by one party to the other hereunder shall be made F.O.B. Destination.

4. AGENCY'S OBLIGATIONS
Agency agrees:

4.1 to retain complete authority and responsibility for Client selection, enrollment and management;

4.2 to use ExacuTrack AT in accordance with the terms of this Agreement, including specifically the Documentation;

4.3 to perform or oversee orientation and installation of ExacuTrack AT Equipment in compliance with BI policy. BI policy establishes a specifically correct method of ExacuTrack AT Equipment installation. Orientation, in accordance with BI policy, establishes ExacuTrack Equipment use guidelines;

4.4 to be responsible for all liaison work with the involved courts;

4.5 to be responsible for all follow up calls to the Clients;

4.6 to use a computer with Internet Explorer 5.5 or higher to access and utilize the ExacuTrack AT Service;

4.7 to verify the accuracy of its profile and notification defaults prior to enrolling any Clients;

4.8 to be responsible for monitoring Clients, including, but not limited to, managing alerts and reports, in accordance with the Documentation;

4.9 to establish policies and procedures for response to alert notifications and to respond accordingly;

4.10 to be responsible for the proper use, management and supervision of ExacuTrack AT Equipment;

4.11 to refrain from sharing login ID’s;

4.12 to perform the functions of data entry and data storage for all Clients properly enrolled per the Documentation. The data entry function consists of the input of all required demographic, curfew, and system configuration information on each case in the System.

5. COST OF SERVICES

5.1 ExacuTrack AT Charges. For each component of a Unit provided to Agency by BI, Agency shall pay to BI an amount for each day in any given month that such component is in Agency’s possession. The component charges are as set forth on Exhibit A, which is attached hereto an incorporated herein.
5.2 **ExacuTrack AT Service Charge.** For the purposes of this Agreement, an Active Unit is defined as a Unit that is assigned to a Client that is being monitored (an "Active Unit"). An Active Unit Day is defined as any day, or any portion thereof, in which there is an Active Unit (an "Active Unit Day"). Every Active Unit is subject to a daily charge, the "ExacuTrack AT Service Charge", as set forth in Exhibit A hereto. For every Active Unit Day, Agency shall pay to BI an amount based upon the ExacuTrack AT Service Charge.

5.3 **Net 30.** BI will invoice Agency on a monthly basis for all charges incurred during the month. Payment shall be made by Agency to BI within thirty (3) days of receipt of BI’s invoice. Interest on any amount which is past due shall accrue at the rate of 1-1/2% per month, or if such rate exceeds the maximum rate allowed by law, then at such maximum rate, and shall be payable on demand.

5.4 **Taxes.** In the event any item hereunder is found to be subject to taxation in any form, except taxes based upon net income, Agency will pay as the same respectively come due, all taxes and governmental charges of any kind whatsoever together with any interest or penalties that may at any time be lawfully assessed or levied against or with respect to such item of equipment or services. In the event Agency is tax exempt, Agency agrees to supply BI with a tax exemption certificate.

6. **TERM, TERMINATION, RENEWAL**

The term of this Agreement is for one (1) year (unless terminated as provided herein) from the effective date of this Agreement. This Agreement, its terms and conditions, and authorized amendments are renewed automatically for succeeding periods of one (1) year each on the anniversary of its original effective date unless otherwise terminated as provided for herein.

This Agreement may be terminated for convenience by either party upon sixty (60) days prior written notice to the other party. Cessation of services and responsibilities defined in this Agreement may not take place less than sixty (60) days from the receipt of notice except in the event of default by either party. All notices with respect to this Agreement shall be in writing and signed by a duly authorized representative of the party. Notices shall be sent by certified mail or delivered by messenger.

Upon expiration or termination of the Agreement, Agency shall immediately return all property due to BI. In the event BI’s Units, unused supplies and other such property are not returned within seven (7) days, Agency shall pay to BI ten dollars ($10.00) per Unit per days until BI has all such Units and other property in its possession. BI is entitled to full payment for services rendered and accepted by Agency whether during the term of this Agreement or thereafter.

7. **LIMITATION OF LIABILITY**

7.1 **Disclaimer of Warranty.**
EXCEPT AS SPECIFICALLY PROVIDED HEREIN, BI EXCLUDES ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OF THE SERVICE OR EQUIPMENT FOR A PARTICULAR PURPOSE. BI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICE OR EQUIPMENT IS IMPERVIOUS TO TAMPERING. BI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICE OR EQUIPMENT IS COMPLETE, ACCURATE, RELIABLE, ERROR FREE OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS, THAT THE PRODUCTS AND SERVICES WILL BE CONTINUOUSLY AVAILABLE, OR THAT DATA ENTERED ARE SECURE FROM UNAUTHORIZED ACCESS.

7.2 **Damages.**

IN NO EVENT WILL BI BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF BI HAS KNOWLEDGE OF THE POSSIBILITY OF THE POTENTIAL LOSS OR DAMAGE, IN CONNECTION WITH OR ARISING OUT OF THE PROVIDING, PERFORMANCE, OR USE OF THE SERVICE OR EQUIPMENT PROVIDED UNDER THIS AGREEMENT.

7.3 **Acts.**

IN NO EVENT DOES BI ASSUME ANY RESPONSIBILITY OR LIABILITY FOR ACTS THAT MAY BE COMMITTED BY PERSONS AND/OR CLIENTS THAT ARE SUBJECT TO AGENCY’S ELECTRONIC MONITORING PROGRAM.

8. **INDEMNIFICATION COVENANTS**

8.1 **General.**

BI will indemnify Agency from and against all liability resulting from the negligence or willful misconduct of BI, its employee and agents in the providing of the services set forth herein.

8.2 **Liability.**

As used in this Agreement, the term “liability” includes but is not limited to legal fees and expenses, penalties and interest.

8.3 **Survival.**

This Section 8 shall remain in effect even if Agency has made full payment under this Agreement or this Agreement is terminated.

9. **OWNERSHIP – CONFIDENTIALITY/NONDISCLOSURE OBLIGATIONS**

9.1 BI shall retain all ownership interests in all parts of the ExacuTrack AT Service.
All rights owned by BI that are not granted by this Agreement, including the right to derivative works, are reserved to BI. The Licensed Software, Documentation, and any and all copies thereof, whether in whole or in part, whether made by BI or anyone else, and all rights, powers, and privileges which arise out of this Agreement, are and shall remain at all times, the sole and exclusive property of BI. Nothing contained in this Agreement shall be deemed to convey to Agency any title or ownership interest in the Licensed Software, Documentation and rights, powers, and privileges that arise out of this Agreement. Agency shall not directly or indirectly dispute or contest the validity of BI's rights to the Licensed Software.

9.2 Agency further understands, acknowledges, and agrees that certain aspects of the Licensed Software are BI's trade secrets. These include, but are not limited to, the following: system design, modular program structure, system logic flow, file content, video and report format, coding techniques and routines, file handling, video screen and data entry handling, and report and/or form generation. Agency agrees to hold in confidence and not disclose to any party, other than authorized employees, the Licensed Software Documentation or any trade secrets of BI.

9.3 BI will issue Agency a login ID and a password for use in accessing the System and the specific Client information for that Agency. The confidentiality of the ExacuTrack AT Service and Client information is dependent upon Agency's careful control of the login ID and password. Agency agrees to maintain its password as private and confidential information and to take all reasonable measures to maintain the careful control and security of the login ID and password and the Licensed Software, and shall not allow parties, except authorized employees or contractors of the Agency, access to the Licensed Software or any of its component parts. In this regard, Agency agrees that each employee or contractor, to be authorized to work with or to have access in any way to the Licensed Software, Documentation, or trade secrets hereunder, shall agree to be bound by the confidentiality, nondisclosure, use, and copying restrictions of this Agreement. Agency agrees to notify BI immediately of the existence of any circumstances surrounding any unauthorized knowledge, possession, or use of the login ID and password, Licensed Software or any part thereof by any person or entity. BI is not responsible for breaches in security resulting from third party access to Agency's password.

9.4 Agency shall not itself and also shall not knowingly permit any of its employees, subcontractors, or sublicensees to alter, maintain, enhance, or otherwise modify any part of the ExacuTrack AT Service, other than strictly to input, access and update information relating to Clients, as permitted by this Agreement. Agency shall not reverse engineer, reverse compile, reverse assemble or do any other operation or analysis with the Service or the System or associated software, hardware, and technology that would reveal any of BI's confidential information, trade secrets, or technology.

9.5 Agency agrees not to make any attempt to gain any unauthorized access to any other Agency's or user's account or to the systems, networks or databases of System other than Agency's specific Client information as specifically permitted herein. Violations of the System security system are prohibited and could result in criminal and civil liability.

9.6 Agency shall not, and shall take all reasonable actions to cause its employees,
agents and subcontractors, if any, not to, during the term of this Agreement or at any time thereafter, divulge, communicate or utilize, other than in the performance of Agency’s obligations under this Agreement, any Confidential Information which Agency or such person has acquired or may acquire, whether technical or non-technical, relating to the business and affairs of BI, including without limitation the ExacuTrack AT Service and related documentation.

10. **FORCE MAJEURE**

BI shall not be liable for any delay in the performance or nonperformance which is due to causes beyond BI’s control, including, but not limited to, war, fire, floods, sabotage, civil unrest, strikes, embargoes or delays, acts of God, acts of third parties, acts of governmental authority or any agent or commission thereof, accident, breakdown of equipment, failure of third-party telecommunications services (both wireless and wire systems), differences with employees or similar or dissimilar causes beyond BI’s reasonable control.

11. **SOFTWARE LICENSE INDEMNIFICATION**

11.1 BI shall indemnify Agency against the liabilities and costs arising from the infringement by the Licensed Software of any United States copyright or patent, or from the infringement of the trademark, trade secret, or unfair competition rights of a third party, provided that Agency promptly notifies BI in writing of the right of the suit or any claim of infringement and that BI is permitted to control fully the defense and settlement of any claim or suit. Agency shall have the right, at its own expense, to appear through counsel of its own choosing.

11.2 BI shall have the right to settle any such claim or suit at its discretion and may procure the right to continue using the software at issue or substitute alternative substantially equivalent non-infringing software, computer programs and supporting documentation.

11.3 BI shall have no liability for any claim or suit based on any United States copyright or patent, or the trademark, trade secret, or unfair competition rights of a third party based on any modification done to the Licensed Software by the Agency.

12. **ASSIGNMENT OF SOFTWARE LICENSE**

Agency will not assign, sublicense, or otherwise transfer any of its rights under this Agreement or the license granted hereby without prior written consent of BI.

13. **INSURANCE**

BI shall maintain comprehensive general liability insurance, and Agency shall be self-insured, including acts, errors or omissions and contractual liability insurance, in an amount not less than $1,000,000. Upon request, the parties hereto shall furnish to the other a certificate of insurance or other evidence that the required insurance is in effect.

14. **GOVERNING LAW**
This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. In the event that a dispute arises with respect to any of the provisions herein contained or any other matter affecting the relationship between BI and Agency, the parties agree it shall be subject to the jurisdiction of the courts located in Montgomery County, Ohio.

15. GENERAL

This Agreement is limited in its scope to its defined purpose. It in no way implies that either party has specific knowledge or bear responsibility for the business practices of the other party. All business practices and contract compliance outside the defined conditions of this Agreement and authorized amendments are the sole responsibility of each party.

16. ENTIRE AGREEMENT

The entire agreement between the parties with respect to the subject matter hereof is contained in this Agreement. This Agreement shall be binding on and inure to the benefit of the parties hereto and their representatives, successors and assigns.

17. ASSIGNMENT/SUBCONTRACTING

This Agreement may not be transferred or assigned by Agency or by operation of law to any other person, persons, firms, or corporation without the express written approval of BI. BI shall have the right to subcontract any and all services set forth under this Agreement, so long as BI remains primarily responsible hereunder.

18. AVAILABILITY

The parties agree and acknowledge that the terms of this Agreement are conditioned upon and subject to the availability of BI’s ExacuTrack products and service. BI shall not be liable for any delay in performance due to limited availability of ExacuTrack products and service.

[The remainder of this page intentionally left blank.]
IN WITNESS WHEREOF, by signing below Agency and BI have caused this Agreement to be effective as of the latest date set forth below.

THE CITY OF DAYTON, OHIO

By: [Signature]

Printed Name: Timothy H. Riordan

Printed Title: City Manager

Date: 6-25-10

BI INCORPORATED

By: [Signature]

Printed Name: Michael E. Hankerd

Printed Title: Corporate Controller

Date: 6-1-10

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

[Signature]

Mip. Bk. F-11 Pg. [Signature]

Clerk of the Commission
EXHIBIT A

to the
EXACUTRACK AT SERVICE AGREEMENT
Agreement No. _______________ ("Agreement")
between
BI INCORPORATED ("BI")
and
THE CITY OF DAYTON, OHIO

Pursuant to Section 5 of the ExacuTrack AT Service Agreement referenced above, the cost to
Agency for the services rendered by BI is as follows:

EXACUTRACK AT CHARGE:
ExacuTrack AT Tracker &
Transmitter Charge: $5.47 per day per Unit provided from BI inventory
ExacuTrack AT Base Station Charge: No Charge
ExacuTrack AT Service Charge: $3.48 per day provided from BI inventory
ExacuTrack AT Charge: $8.95 (Total of the ExacuTRack AT component
charges and the ExacuTrack AT Service Charge.)

EXACUTRACK ON DEMAND CHARGE:
ExacuTrack On Demand Tracker &
Transmitter Charge: $3.78 per day per Unit provided from BI inventory
ExacuTrack AT Base Station Charge: No Charge
ExacuTrack AT Service Charge: $3.48 per day per Unit provided from BI inventory
ExacuTrack AT Charge: $7.26 (Total of the ExacuTrack On Demand AT
Component charges and the ExacuTrack AT Service Charge.)

EXACUTRACK ONE 1.240.A0 CHARGES:
ExacuTrack One 1.240 Tracker
Component Rental: $4.65 per day per Unit provided from BI inventory
ExacuTrack One 1.240.A0 Beacon
Component Rental: No Charge
ExacuTrack One 1.240.A0 Service: $1.20 per day per Unit provided from BI inventory
ExacuTrack One 1.240.A0 Total: $5.85 (Total of ExacuTrack One Components and
ExacuTrack One 1.240.A0 Service charges.)
EXACUTRACK ONE 1.30.A0 CHARGES:

ExacuTrack One 1.30.A0 Tracker Component Rental: $4.65 per day per Unit provided from BI inventory

ExacuTrack One 1.30.A0 Beacon Component Rental: No Charge

ExacuTrack One 1.30.A0 Service: $2.20 per day per Unit provided from BI inventory

ExacuTrack One 1.30A0 Total: $6.85 (Total of ExacuTrack One Components and ExacuTrack One 1.30.A0 Service charges.)

EXACUTRACK ONE 1.30.A30 CHARGES:

ExacuTrack One 1.30A30 Tracker Component Rental: $4.65 per day per Unit provided from BI inventory

ExacuTrack One 1.30.A30 Beacon Component Rental: No Charge

ExacuTrack One 1.30.A30 Service: $3.00 per day per Unit provided from BI inventory

ExacuTrack One 1.30A30 Total: $7.65 (Total of ExacuTrack One Components and ExacuTrack One 1.30.A30 Service charges.)

ADDITIONAL SERVICES:

Freight: BI will pay for the cost of shipping Units and other Equipment to and from Agency.

ExacuTrack AT No-charge Spares: Agency is entitled to up to, but not to exceed, four (4) ExacuTrack AT Tracker Units at no charge (not subject to the Unit Rental Charge) each month during the term of this Agreement. For billing purposes, the monthly No-charge Spare allowance will be calculated by multiplying four (4) Units by the number of days in the calendar month, to determine the number of inactive days allowed. Any inactive ExacuTrack AT days that exceed this allowance will incur a $3.69 charge per inactive day. (An inactive day is defined as one Unit that is inactive for one day.)

ExacuTrack AT Loss or Damage: Agency is not entitled to a loss or damage allowance. Agency will be responsible for all costs related to lost, stolen or damaged ExacuTrack AT Equipment. Replacement costs for ExacuTrack AT units are the following: ExacuTrack AT Base Station $1,320.00 each; ExacuTrack AT Transmitter $575.00 each; and ExacuTrack Active Tracking Unit $1,095.00.

20% No-charge ExacuTrack One Spares: Each month hereunder, Agency is entitled to keep a quantity of ExacuTrack One Tracking units equal to 20% of that month’s corresponding average number of actively used ExacuTrack One Tracking units per day, in its possession at no charge (i.e. these units are not subject to the daily rental rate while not in use). For billing purposes, the
monthly 20% No-charge ExacuTrack One Spares allowance will be calculated by multiplying 20% by the number of active ExacuTrack One days for the month. (An active day is defined as one Unit that is active for one day.) Any inactive ExacuTrack One days that exceed this allowance will incur a $4.65 charge per inactive day. (An inactive day is defined as one Unit that is inactive one day.) Following execution of this Agreement, Agency will be granted a sixty (60) day ramp-up period before billing of spares will commence.

**ExacuTrack One Loss or Damage:** Agency is not entitled to a loss or damage allowance. Agency will be responsible for all costs related to lost, stolen or damage ExacuTrack One Equipment. Replacement costs for ExacuTrack One units are the following: ExacuTrack One Beacon $250.00 each; ExacuTrack One Tracking Unit $1,740.00 each; ExacuTrack One fiber optic strap $149.00 each; and ExacuTrack One wallcharger $109.00.

**Additional remote training:** From 8:00 a.m. to 5:00 p.m. Mountain Standard Time, $200.00 per hour. Minimum charge of one (1) hour; thereafter billed in fifteen minute increments.

**Additional on-site training:** $1,000 per day; 2 day minimum, plus actual out of pocket expenses for on-site training including one BI staff person’s travel, room, board, and miscellaneous expenses.

Capitalized terms used herein, and not otherwise defined, shall have the meaning set forth in the Agreement. All other terms and conditions of the Agreement, except as expressly amended herein, shall remain in full force and effect.
CITY HALL LUDLOW STREET VAULT ROOF SLAB REPLACEMENT AND ADA ACCESS
(OPEN MARKET)

The Department of Public Works request permission to enter into a Contract with J.L. Kuck General Contractors, Inc. in the amount of $950,000.00 for the City Hall Ludlow Street Vault Roof Slab Replacement and ADA Access project. This amount includes the base bid in the amount of $872,698.00 and Alternate No. 1 – Contingency Allowance in the amount of $77,302.00. This project consists of full depth replacement of the Ludlow Street vault roof slab, which also serves as a section of sidewalk abutting City Hall. An ADA accessible entrance will also be constructed at the Ludlow Street entrance into City Hall by means of a new ramp and landing in front of the existing entrance and an interior ADA lift.

Three bids were received for this project on December 17, 2020. After evaluating the bids, J.L. Kuck General Contractors, Inc.’s bid was determined to be the lowest and best. The estimated cost for the project was $864,000.00. The time bid for completion is October 1, 2021.

This project is fully funded using the 2020 Facility City Hall ADA Entrance & Vault Repair fund.

A Certificate of Funds, Tabulation of Bids, Human Relations Council’s verification letter, and the Bid Form from the firm recommended for the award are attached.
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>X New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/31/23</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 950,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 950,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td></td>
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<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
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<tr>
<td>Increase Encumbrance</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$ -</td>
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<tr>
<td>Remaining Commission Approval</td>
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| Amount: | $ 950,000.00 |

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>49005</th>
<th>6480</th>
<th>1425</th>
<th>54</th>
<th>XXXX</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Fund</td>
<td>Org</td>
<td>Acct</td>
<td>Prog</td>
<td>Act</td>
<td>Loc</td>
<td></td>
</tr>
</tbody>
</table>

| Amount: | XXXX | XXXX | XXXX | XX | XXXX | XXXX |

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>XXXX</th>
<th>XXXX</th>
<th>XXXX</th>
<th>XX</th>
<th>XXXX</th>
<th>XXXX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund</td>
<td>Org</td>
<td>Acct</td>
<td>Prog</td>
<td>Act</td>
<td>Loc</td>
<td></td>
</tr>
</tbody>
</table>

## NO DRAFT DOCUMENTS PERMITTED

<table>
<thead>
<tr>
<th>Required Documentation</th>
<th>Initial City Manager's Report</th>
<th>Initial Certificate of Funds</th>
<th>Initial Agreement/Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Copy of original City Manager's Report</td>
<td>Copy of Original Certificate of Funds</td>
<td></td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

- **Vendor Name:** J.L. Kuck General Contractors, Inc.
- **Vendor Address:** 1905 S. State Route 48, Ludlow Falls, OH 45339
- **Federal ID:** 311256810
- **Commodity Code:** 91831
- **Purpose:** City Hall Ludlow Street Vault Roof Slab Replacement and ADA Access (Open Market)

## SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

**Finance Director Signature:**

**Date:** 1/15/2021

**CF Prepared by:**

**Date:** 1/15/2021

**CF/CT Number:** CT21-2915

---

October 18, 2011
December 18, 2020

TO:       Andrew Marks, Senior Engineer
          Department of Public Works, Civil Engineering

FROM:    Chrisondra Goodwine, Contract Compliance
          Human Relations Council (HRC)

SUBJECT: City Hall Ludlow Street Vault Roof Slab Replacement and ADA
Access Project (Open Market)

The apparent low bidder, J L Kuck General Contractors Inc., has been reviewed. HRC’s contract compliance analysis has verified that J L Kuck General Contractors Inc. is an approved bidder in the City of Dayton’s Affirmative Action Assurance program and that the company’s authorized representative signed the Contractor’s Certification to indicate fair hiring practices.

Contract compliance will include meeting minimal worker utilization goals as stated in the Affirmative Action Program Equal Employment Opportunity form certified in the bid submission. If you have further questions or concerns, please feel free to contact me at 333-1405.

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR</th>
<th>AMOUNT OF BASE BID</th>
</tr>
</thead>
<tbody>
<tr>
<td>J L Kuck General Contractors Inc.</td>
<td>$872,698.00</td>
</tr>
</tbody>
</table>

CAG
<table>
<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>UoM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
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</thead>
<tbody>
<tr>
<td>SPL</td>
<td>Full Depth Split Slab Replacement &amp; New ADA Ramp</td>
<td>LS</td>
<td>1</td>
<td>$635,748.00</td>
<td>$635,748.00</td>
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<td>SPL</td>
<td>Railing Replacement/New Railings</td>
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<td>$46,980.00</td>
<td>$46,980.00</td>
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<td>SPL</td>
<td>Interior Stair Removal, Slab, and ADA Lift</td>
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<td>1</td>
<td>$61,615.00</td>
<td>$61,615.00</td>
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<td>SPL</td>
<td>Overhead Patch Repairs</td>
<td>SF</td>
<td>50</td>
<td>$374.00</td>
<td>$18,700.00</td>
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<tr>
<td>SPL</td>
<td>Footing Pier Jacket</td>
<td>EA</td>
<td>1</td>
<td>$5,346.00</td>
<td>$5,346.00</td>
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<tr>
<td>SPL</td>
<td>Misc. Work, General Conditions, and Permits</td>
<td>LS</td>
<td>1</td>
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<td>$61,560.00</td>
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<tr>
<td>SPL</td>
<td>Bonding</td>
<td>LS</td>
<td>1</td>
<td>$12,749.00</td>
<td>$12,749.00</td>
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<tr>
<td><strong>Mobilization and Demobilization Allowance</strong></td>
<td></td>
<td></td>
<td></td>
<td>$20,000.00</td>
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</tr>
<tr>
<td>SPL</td>
<td>Mobilization and Demobilization Allowance</td>
<td>LS</td>
<td>1</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
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<tr>
<td><strong>Hazardous Material Abatement Allowance</strong></td>
<td></td>
<td></td>
<td></td>
<td>$10,000.00</td>
<td></td>
</tr>
<tr>
<td>SPL</td>
<td>Hazardous Material Abatement Allowance</td>
<td>LS</td>
<td>1</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td><strong>Add Alternate No. 1: Contingency Allowance</strong></td>
<td></td>
<td></td>
<td></td>
<td>$100,000.00</td>
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<tr>
<td>SPL</td>
<td>Contingency Allowance ($100,000)</td>
<td>LS</td>
<td>1</td>
<td>$100,000.00</td>
<td>$100,000.00</td>
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<tr>
<td><strong>Add Alternate No. 2: Price Reduction for Cold Fluid Applied Waterproofing</strong></td>
<td></td>
<td></td>
<td></td>
<td>$10,660.00</td>
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<tr>
<td>SPL</td>
<td>Price Reduction for Cold Fluid Applied Waterproofing</td>
<td>LS</td>
<td>1</td>
<td>$10,660.00</td>
<td>$10,660.00</td>
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<tr>
<td><strong>Add Alternate No. 3: Vertical Patch Repairs</strong></td>
<td></td>
<td></td>
<td></td>
<td>$52,616.00</td>
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<tr>
<td>SPL</td>
<td>Vertical Patch Repairs</td>
<td>SF</td>
<td>400</td>
<td>$131.54</td>
<td>$52,616.00</td>
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<tr>
<td><strong>Add Alternate No. 4: Price Adjustment for Change in Base Bid Railing Material to</strong></td>
<td></td>
<td></td>
<td></td>
<td>$42,752.00</td>
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<tr>
<td>SPL</td>
<td>Price Adjustment for Change in Base Bid Railing Material to Match Existing</td>
<td>LS</td>
<td>1</td>
<td>$42,752.00</td>
<td>$42,752.00</td>
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<td><strong>Add Alternate No. 5: New Pipe Railing on Third Street</strong></td>
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<td></td>
<td></td>
<td>$12,058.00</td>
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</tr>
<tr>
<td>SPL</td>
<td>New Pipe Railing on Third Street</td>
<td>LS</td>
<td>1</td>
<td>$12,058.00</td>
<td>$12,058.00</td>
</tr>
<tr>
<td><strong>Add Alternate No. 6: New Railing on Third Street to Match Existing</strong></td>
<td></td>
<td></td>
<td></td>
<td>$28,501.00</td>
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</tr>
<tr>
<td>SPL</td>
<td>New Railing on Third Street to Match Existing</td>
<td>LS</td>
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<td>$28,501.00</td>
<td>$28,501.00</td>
</tr>
<tr>
<td><strong>Add Alternate No. 7: Remove and Replace Existing Sidewalk on Grade</strong></td>
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<td></td>
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<td>$43,785.00</td>
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<tr>
<td>SPL</td>
<td>Remove and Replace Existing Sidewalk on Grade</td>
<td>SF</td>
<td>1500</td>
<td>$29.19</td>
<td>$43,785.00</td>
</tr>
<tr>
<td><strong>Add Alternate No. 8: Chemical Crack Injection at Vault Foundation Walls</strong></td>
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<td></td>
<td></td>
<td>$38,110.00</td>
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</tr>
<tr>
<td>SPL</td>
<td>Chemical Crack Injection at Vault Foundation Walls</td>
<td>LF</td>
<td>1000</td>
<td>$38.11</td>
<td>$38,110.00</td>
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<tr>
<td><strong>Add Alternate No. 9: Installation of Waterproofing over Vault Façade</strong></td>
<td></td>
<td></td>
<td></td>
<td>$5,194.00</td>
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<tr>
<td>SPL</td>
<td>Installation of Waterproofing over Vault Façade</td>
<td>SF</td>
<td>700</td>
<td>$7.42</td>
<td>$5,194.00</td>
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<tr>
<td><strong>Add Alternate No. 10: Sealant Replacement at Vault Façade</strong></td>
<td></td>
<td></td>
<td></td>
<td>$3,130.00</td>
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</tr>
<tr>
<td>SPL</td>
<td>Sealant Replacement at Vault Façade</td>
<td>LF</td>
<td>250</td>
<td>$12.52</td>
<td>$3,130.00</td>
</tr>
</tbody>
</table>

**Base Bid Total:** $872,698.00
CITY OF DAYTON, OHIO

DEPARTMENT OF PUBLIC WORKS

DAYTON CITY HALL

LUDLOW VAULT ROOF SLAB

REPLACEMENT & ADA ACCESS PROJECT

DAYTON OHIO

Bidder

J.L. KUCK GENERAL CONTRACTORS, INC.

1905 S. STATE ROUTE 48

P.O. BOX 160

LUDLOW FALLS, OHIO 45339
DISCLOSURE OF LITIGATION

Disclosure of Litigation: Have you or any person, group, partnership, company, or corporation affiliated with you been engaged in the past three (3) years in litigation, mediation or any form of contractual dispute resolution with any state government or any political subdivision thereof including, without limitation, the State of Ohio, the City of Dayton, Ohio, or Montgomery County, Ohio? For the purpose of your response, “affiliated” means directly or indirectly controlling, controlled by, or under common control, with “control” meaning legally or operationally in a position to exercise restraint or direction over the other.

RESPONSE: YES [ ] NO [X]

If your response is “YES” please separately identify each lawsuit, mediation or dispute resolution process in which you or your affiliate have been engaged during the past three (3) years. Identify the nature of the dispute, the parties involved, and the current status of the dispute. Attach or include any information you believe pertinent to a full understanding of the disputed matters.
Bidder is
An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Telephone

Corporation
Name

J.L. KUCK GENERAL CONTRACTORS, INC.

State of Incorporation

OHIO

Name and Title of
Officers with Authority
to Sign Contract

TODD KUCK, V.P.

JOHN L. KUCK, JR., PRESIDENT

1905 SOUTH STATE ROUTE 48, LUDLOW FALLS OHIO 45339

P.O. BOX 160, LUDLOW FALLS, OHIO 45339

Telephone (937) 836-0081 Fax (937) 836-4892

E-mail todd@jlkuck.com

Federal I.D.# 311256810

Dated this 17 day of December 20, 2020

Bidder: (Person, Firm, or Corporation)

By: Todd Kuck

Title: Vice President
Please fill in the bond amount in dollars and cents equal to 10% of your bid including all plus alternates.
BID BOND

Amount $119,464.00

Ve, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum of One Hundred Nineteen Thousand Dollars, for the payment of which well and truly to be made, we hereby, jointly and severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder, J.L. Kuck General Contractors, Inc.

amended herein, and the said bidder shall within ten (10) days after being notified that said contract has been awarded to the bidder, enter into a Contract in the form acceptable to the Director and give bond in a form to be furnished by the Director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Signed at Dayton, Ohio, this 17th day of December 2020.

J.L. Kuck General Contractors, Inc.

[Signature]

Bidder

Merchants Bonding Company (Mutual)

[Signature]

Nicole A. Luber
Surety
Attorney-in-Fact

Marsh & McLennan Agency LLC

Name of Insurance Agency

P.O. Box 37, Dayton, OH 45401

Address of Insurance Agency

Telephone 937-228-4135  FAX 212-948-6397
I, Jillian Froment, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

MERCHANTS BONDING COMPANY (MUTUAL)

of Iowa is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)
Fidelity
Other Liability
Surety

MERCHANTS BONDING COMPANY (MUTUAL) certified in its annual statement to this Department as of December 31, 2019 that it has admitted assets in the amount of $265,319,464, liabilities in the amount of $102,628,634, and surplus of at least $162,690,830.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.

Jillian Froment, Director

Inspected by the National Association of Insurance Commissioners (NAIC)
MERCHANTS BONDING COMPANY (MUTUAL)

Statements of Admitted Assets, Liabilities, and Surplus - Statutory Basis

<table>
<thead>
<tr>
<th>Admitted Assets</th>
<th>Dec. 31, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds</td>
<td>$132,007,383</td>
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<tr>
<td>Common Stocks</td>
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<tr>
<td>Real Estate</td>
<td>13,080,084</td>
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<tr>
<td>Cash and Short-Term Investments</td>
<td>12,154,445</td>
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<tr>
<td>Total Cash and Invested Assets</td>
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<tr>
<td>Investment Income Due and Accrued</td>
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<tr>
<td>Premiums in the Course of Collection</td>
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<tr>
<td>Reinsurance Recoverable from Reinsurers</td>
<td>1,594,160</td>
</tr>
<tr>
<td>Net Deferred Tax Asset</td>
<td>2,980,562</td>
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<tr>
<td>Receivable from Affiliate</td>
<td>6,853,688</td>
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<tr>
<td>Other Assets</td>
<td>6,155,606</td>
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<tr>
<td>Total Admitted Assets</td>
<td>$226,033,865</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Liabilities &amp; Surplus</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Losses</td>
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</tr>
<tr>
<td>Reinsurance Payable on Paid Losses and LAE</td>
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</tr>
<tr>
<td>Loss Adjustment Expenses</td>
<td>12,846,057</td>
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<tr>
<td>Commissions Payable</td>
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<tr>
<td>Other Expenses</td>
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<td>Taxes, Licenses, and Fees</td>
<td>571,584</td>
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<tr>
<td>Current Federal Income Taxes</td>
<td>687,530</td>
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<tr>
<td>Unearned Premiums</td>
<td>47,591,408</td>
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<tr>
<td>Dividends Declared to Policyholders</td>
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<tr>
<td>Reinsurance Payable to Reinsurers</td>
<td>2,850,713</td>
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<tr>
<td>Amounts Withheld for Others</td>
<td>7,682,762</td>
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<tr>
<td>Total Liabilities</td>
<td>91,292,340</td>
</tr>
<tr>
<td>Surplus</td>
<td></td>
</tr>
<tr>
<td>Total Liabilities and Policyholders' Surplus</td>
<td>$134,741,525</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$226,033,865</td>
</tr>
</tbody>
</table>

I, Don Blum, Chief Financial Officer and Treasurer of Merchants Bonding Company (Mutual), do hereby certify that the foregoing is a true and correct statement of the balance sheet of said Corporation as of December 31, 2018, to the best of my knowledge and belief.

Don Blum, CFO & Treasurer
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Amanda L Brumbaugh; Brenda G Taylor; David E Griffin; David G Eveleigh; Debra D Brummert; Jennifer Eddy; Jennifer L Salm; Katherine J Scarberry; Lisa Dawson-Knight; Michelle A Demmitt; Nicholas J Bertke; Nicole A Laber

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of MERCHANTS BONDING COMPANY (MUTUAL) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of MERCHANTS NATIONAL BONDING, INC., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereof, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 21st day of October, 2020.

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By

[Signature]

President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 11th day of February 2020 before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies, and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

POLLY MASON
Commission Number 750576
My Commission Expires
January 07, 2023

Notary Public

[Stamp]

Expiration of notary’s commission
does not invalidate this instrument

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 17th day of December, 2020.

[Signature]

Secretary

POA 0018 (1/20)
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 3)

In accordance with Ordinance No. 31487-16 of the City of Dayton, Ohio Revised Code of General Ordnances,

I, TODD KUCK, V.P.
__________________________________________
(print name – an Officer of the company)

J.L. KUCK GENERAL CONTRACTORS, INC.
__________________________________________
(company)

meets the following Contractor requirements relating to this City of Dayton construction project

Check All That Apply:

☑️ Comply with all City of Dayton income tax obligations and requirements

☑️ Maintain worker’s compensation insurance for all employees as required by the State of Ohio

☑️ Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project

☑️ Comply with the State of Ohio Bureau of Worker’s Compensation Drug Free Workplace Policy

☑️ Maintain an unemployment compensation insurance policy registered with the State of Ohio Department of Job and Family Services

☑️ Made a good faith effort to contract with one or more qualified minority business enterprises to perform work required by this project, in accordance with bid documents, ordinances, and applicable Federal and State law

By: ____________________________________________

(signature)

Title: VICE PRESIDENT

Date: 12/17/2020
CITY OF DAYTON, OHIO  
Department of Public Works  

Responsible Contractor Bidding Requirements  
(Form 2 of 3)

A. Please provide a complete listing of the fringe benefits provided to employees, including but not limited to health insurance and retirement benefits.

SEE ATTACHED BREAKDOWN FOR  

UNION, CARPENTER, FINISHER AND LABORERS FRINGE BENEFITS

B. Please identify any “bona fide apprentice training program” in which this company participates in accordance with the Ohio Bureau of Apprenticeship Training and the U. S. Department of Labor.

PART OF UNION AGREEMENTS

C. Please provide a list of subcontractors whose quotes or information are included or used in the bid submitted for this project.

H.J. BECKER

FOUNDATION STEEL

ROD-TECHS, INC.
BUILDING WAGE RATES

RATE A
Building & Construction Laborers, Railroad Laborers, Asbestos and Hazardous Waste (Levels A, B, C, & D), Concrete Crew, Form Setter, Pipelayer, Bottom Man, Burner (Cutting Torch), Welder Helper, all Machine and Power Driven Tools, Sandblaster

25.90 27.40 27.30

RATE B
Mason Tender for Bricklayers, Flexicore, Firebrick Tender (Blast Furnaces, Soaking Pits, Stoves & Stacks), Plasterer Tenders and Lathers

26.50 28.00 27.90

RATE C
Tender Operator, Forklift/Skidsteer operation, CDL driver
Labor Foreman is $.50 above the highest classified labor rate. General Laborer Foreman is $1.00 above the highest classified labor rate.

27.00 28.50 28.40

The following rates for Apprentices is the percentage of whichever rate applies, laborer scale or tender scale:

RATE D
Apprentice (1-1000 hours) 60% of scale

RATE E
Apprentice (1001 - 2000 hours) 70% of scale

RATE F
Apprentice (2001 - 3000 hours) 80% of scale

RATE G
Apprentice (3001 - 4000 hours) 90% of scale

There is a working dues deduction of 4% of gross wages and $.35 an hour LDC Dues Deduction.

FRINGE BENEFITS
(Paid on All Hours Worked)

Any increase in the Fringe Benefits during the period of this Agreement shall be diverted from the wages.

<table>
<thead>
<tr>
<th></th>
<th>6/01/19</th>
<th>4/01/20</th>
<th>5/01/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health &amp; Welfare</td>
<td>7.00</td>
<td>7.00</td>
<td>7.00</td>
</tr>
<tr>
<td>Pension</td>
<td>3.70</td>
<td>3.70</td>
<td>3.80</td>
</tr>
<tr>
<td>Training &amp; Apprenticeship</td>
<td>.40</td>
<td>.40</td>
<td>.40</td>
</tr>
<tr>
<td>LECET</td>
<td>.10</td>
<td>.10</td>
<td>.10</td>
</tr>
<tr>
<td>Industry Fund (non-irrevocable fund)</td>
<td>.25</td>
<td>.25</td>
<td>.25</td>
</tr>
</tbody>
</table>

Phone: 937.254.6172 Fax: 937.254.9949
2228 E. Third St, Dayton, OH 45403

LiUNA!
BUILDING WAGE RATES

RATE A
Building & Construction Laborers, Railroad Laborers, Asbestos and Hazardous Waste (Levels A, B, C, & D), Concrete Crew, Form Setter, Pipelayer, Bottom Man, Burner (Cutting Torch), Welder Helper, all Machine and Power Driven Tools, Sandblaster

RATE B
Mason Tender for Bricklayers, Flexicore, Firebrick Tender (Blast Furnaces, Soaking Pits, Stoves & Stacks), Plasterer Tenders and Lathers

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Labor Foreman is $5.00 above the highest classified labor rate.
General Laborer Foreman is $1.00 above the highest classified labor rate.

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RATE E
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<th>04/01/20</th>
<th>05/01/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health &amp; Welfare</td>
<td>7.00</td>
<td>7.00</td>
<td>7.00</td>
</tr>
<tr>
<td>Pension</td>
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<td>3.70</td>
<td>3.80</td>
</tr>
<tr>
<td>Training &amp; Apprenticeship</td>
<td>.40</td>
<td>.40</td>
<td>.40</td>
</tr>
<tr>
<td>LECET</td>
<td>.10</td>
<td>.10</td>
<td>.10</td>
</tr>
<tr>
<td>Industry Fund (non-irrevocable fund)</td>
<td>.25</td>
<td>.25</td>
<td>.25</td>
</tr>
</tbody>
</table>
Local 32 OPCMIA
2951 Bluefield Ave.
Dayton, OH 45414
937-279-0262 Office / 937-279-3127 Fax

Wage Sheet

Dayton Cement Masons
June 1, 2020 - May 31, 2021

**Journeyman**

| Description                        | Amount  
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Rate</td>
<td>$24.43</td>
</tr>
<tr>
<td>Pension</td>
<td>$7.15</td>
</tr>
<tr>
<td>Health &amp; Welfare</td>
<td>$7.75</td>
</tr>
<tr>
<td>Annuity</td>
<td>$2.25</td>
</tr>
<tr>
<td>Apprenticeship</td>
<td>$0.75</td>
</tr>
<tr>
<td>Promotional/Marketing Fund</td>
<td>$0.15</td>
</tr>
<tr>
<td>Safety &amp; Personnel Fund</td>
<td>$0.25</td>
</tr>
<tr>
<td>International Training Fund</td>
<td>$0.05</td>
</tr>
<tr>
<td>CISAP/Drug Testing Policy</td>
<td>$0.10</td>
</tr>
<tr>
<td><strong>Total Package</strong></td>
<td><strong>$42.88</strong></td>
</tr>
</tbody>
</table>

**Deductions:**
Dues Check Off - 5% of Total Package = $2.14

- Foreman Base Rate - $25.93
- General Foreman Base Rate - $26.43

**Apprentices**

| Year       | Percentage of Journeyman Base Rate | Amount  
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Year</td>
<td>70%</td>
<td>$17.10</td>
</tr>
<tr>
<td>2nd Year</td>
<td>80%</td>
<td>$19.54</td>
</tr>
<tr>
<td>3rd Year</td>
<td>90%</td>
<td>$21.99</td>
</tr>
</tbody>
</table>

All Apprentice contributions & deductions are the same as Journeyman.

**Increases:**

<table>
<thead>
<tr>
<th>Years</th>
<th>Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020-2021</td>
<td>$1.30</td>
</tr>
</tbody>
</table>

**Jurisdiction**
Ohio: Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble and Shelby.
**GENERAL CONTRACT / W & C**

**EFFECTIVE JUNE 01, 2020**

**GENERAL CONTRACT / W & C**

**INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS**

**MONROE OFFICE – SOUTHWEST AREA**

**Local 136**

**ZONE 1** - Work being done in the following **OHIO COUNTIES**: Champaign, Clark, Darke, Greene, Logan, Montgomery, Miami, Preble and Shelby

<table>
<thead>
<tr>
<th>CBA CODE</th>
<th>WORK CLASS</th>
<th>JOB CLASSIFICATION</th>
<th>TAXABLE HOURLY RATE</th>
<th>WORKING DUES ASSESSMENT</th>
<th>PAYROLL DEDUCTIONS</th>
<th>NON-TAXABLE BENEFIT RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>220</td>
<td>JRNY</td>
<td>Journeyman</td>
<td>$27.87</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>JRNY</td>
<td>Foreman</td>
<td>$29.37</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>JRNY</td>
<td>General Foreman</td>
<td>$29.87</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A60-1</td>
<td>1st Three Months – 60%</td>
<td>$16.72</td>
<td>3.50%</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>220</td>
<td>A60-2</td>
<td>2nd Three Months – 60%</td>
<td>$16.72</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A60</td>
<td>2nd Three Months – 60%</td>
<td>$16.72</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A65</td>
<td>3rd Three Months – 65%</td>
<td>$18.12</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A65</td>
<td>4th Three Months – 65%</td>
<td>$18.12</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A70</td>
<td>5th Three Months – 70%</td>
<td>$19.51</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A75</td>
<td>6th Three Months – 75%</td>
<td>$20.90</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A80</td>
<td>7th Three Months – 80%</td>
<td>$22.30</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
<tr>
<td>220</td>
<td>A85</td>
<td>8th Three Months – 85%</td>
<td>$23.69</td>
<td>3.50%</td>
<td>$0.58</td>
<td>$7.81</td>
</tr>
</tbody>
</table>

---

**EMPLOYER PAID CONTRIBUTIONS**

<table>
<thead>
<tr>
<th>Work Class</th>
<th>Health &amp; Welfare</th>
<th>Pension</th>
<th>Annuity</th>
<th>Apprentice</th>
<th>Contractor Dues-CAP</th>
<th>UBC National Fund</th>
<th>LMCC</th>
<th>UBC Programs</th>
<th>Market Recovery Fund</th>
<th>Market Dues Assessment</th>
<th>COPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>JRNY</td>
<td>$7.81</td>
<td>$6.95</td>
<td>$1.64</td>
<td>$0.38</td>
<td>$0.25</td>
<td>$0.10</td>
<td>$0.02</td>
<td>$0.05</td>
<td>$0.50</td>
<td>$3.5%</td>
<td>$0.03</td>
</tr>
<tr>
<td>A60-1</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$3.5%</td>
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<td>A60-2</td>
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<tr>
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<td>$0.10</td>
<td>$0.02</td>
<td>$0.05</td>
<td>$0.50</td>
<td>$3.5%</td>
<td>$0.03</td>
</tr>
</tbody>
</table>

The total Employer Contributions and Employee Payroll Deductions shall be made payable to **OVCBEF/KEY BANK** forward to **P.O. Box 74566, CLEVELAND, OHIO 44194-4566**. Contact the Monroe office if you need further information, 513-539-2759.
CITY OF DAYTON, OHIO  
Department of Public Works  

Responsible Contractor Bidding Requirements  
(Form 3 of 3)

D. Please provide a list of all minority business enterprises contacted for the purpose of obtaining quotes to perform work for this project.

ROD-TECHS, INC. -EDGE/SBE/DBE/MBE

FOUNDATION STEEL- EDGE/DBE

E. Provide a complete listing of any determinations of the bidder’s violations of federal, state, or local laws, including a list of all citations, orders, or recommendations issued to or against the bidder within the previous 3 years.

N/A
CERTIFICATION OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13 FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS ($500.00)

STATE OF OHIO,
COUNTY OF MIAMI, ss:

TODD KUCK being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of J.L. KUCK GENERAL CONTRACTORS, INC. ("the Contracting Party").

2. The Contracting Party is a/an (select one):

☐ Individual, partnership, or other unincorporated business association (including without limitation, a professional association organized under Ohio Revised Code Chapter 1785), estate, or trust.

☐ Corporation organized and existing under the laws of the State of OHIO.

☐ Labor organization.

3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C. 3517.93(J)(3) (with respect to corporations) are in full compliance with the political contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand that a false representation on this certification constitutes a felony of the fifth degree pursuant to R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification shall be rescinded.

By: ___________________________

Title: VICE PRESIDENT
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT

STATE OF OHIO )
COUNTY OF MIAMI ) SS:

TODD KUCK, being first duly sworn deposes and states that:

(1) He/she is VICE PRESIDENT of
   (owner, partner, officer, representative, or agent)
   J.L. KUCK GENERAL CONTRACTORS, INC. that
   (business or organization name)

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and all pertinent circumstances respecting such Bid.

(3) Such offering is genuine and is not a collusive or sham offering

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from offering in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Dayton, its employees, or citizens.

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest including the affiant.

SIGNED
VICE PRESIDENT
TITLE
AFFIRMATIVE ACTION PROGRAM
EQUAL EMPLOYMENT OPPORTUNITY

PROJECT: LUDLOW VAULT ROOF SLAB REPLACEMENT & ADA ACCESS PROJECT
CITY HALL, DAYTON OHIO

NAME
LOCATION

During the performance of this contract:

J.L. KUCK GENERAL CONTRACTORS, INC.
P.O. BOX 160 LUDLOW FALLS OHIO 45339
937-836-0081/937-836-4892

CONTRACTOR
ADDRESS
TELEPHONE / FAX

being the general contractor, assumes the responsibility and obligation to institute an Affirmative Action Program which complies with revised City Ordinances 24059 and 26090 and Executive Order 11246 on any city, federal or federally-assisted construction project, to insure Equal Employment Opportunity regardless of race, color, religion, sex, national origin, ancestry, place of birth, age, or marital status.

The successful contractor using one or more trades of construction employees must comply with Part I of these Affirmative Actions Program conditions to each such trade.

Part I: Requirements. To be eligible for award of a contract under this Invitation to Bid, contractors must certify as prescribed in Paragraph 1a, of the certification specified in Part II hereof that it adopts the minimum goals and timetables of minority and female worker utilization, and specific Affirmative Action steps set forth in Sections 1 and 2 of this Part I.

1.) Goals & Timetables. The goals of minority and female worker utilization required of the contractor are applicable to each trade which will be used on any project in Greene, Miami, Montgomery, and Preble Counties, OH (hereinafter the Economic Area).

The required goals and timetables are as follows:

<table>
<thead>
<tr>
<th>Goals of Minority Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1/1/2000 to Present</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goals of Female Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 4/1/80 to Present</td>
</tr>
</tbody>
</table>
The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

In reaching the goals for minority and female utilization, every effort shall be made to find and employ qualified journey-persons. Provided, however, and pursuant to the requirements of the Department of Labor Regulations, 29 CFR 5a.3, twenty-five percent (25%) of apprentices or trainees shall be employed on all projects and shall be in their first year of training, where feasible.

In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and/or trainees at the completion of the training subject to the availability of employment opportunities. Apprentices and trainees must be trained pursuant to programs which have been approved by The U.S. Department of Labor and/or The State of Ohio.

A contractor shall be deemed to be in compliance with the terms and requirements of this Part I by the employment and training of minorities and females in the appropriate percentage of the contractor's aggregate work force in the Economic Area for each trade for which it is committed to the goals under Part I.

However, no contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet the goals and timetables, but such contractor shall be given the opportunity to demonstrate that all of the specific Affirmative Action steps specified in Part I have been instituted and has made every "good faith" effort to make these steps work towards the attainment of the goals and timetables.

2.) **Specific Affirmative Action Steps.** A contractor subject to Part I, must engage in Affirmative Action directed at increasing minority and female utilization, which is at least as extensive and as specific as the following steps:

a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.

b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefor.

c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
e) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.

f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.

g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.

h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.

i) The contractor shall validate all tests and other selection requirements.

j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor's employees needs consistent with its obligations under Part I.

k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.

l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.

m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.
o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.

3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.
Part II: Contractor's Certification. A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

CONTRACTOR'S CERTIFICATION

J.L. KUCK GENERAL CONTRACTORS, INC. (Contractor) certifies that:

1. The following listed construction trades will be used in performance of this project.

   CARPENTERS   MECHANICAL
   FINISHERS
   LABORERS
   IRON WORKERS
   WATERPROOFERS
   ELECTRICIANS

   a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor's aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

   b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

   SIGN: [Signature]
   (Signature of Authorized Representative of Bidder)

   FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
City Manager’s Report

From 6450 - PW/Civil Engineering
Date January 27, 2021
Expense Type Award of Contract
Total Amount $122,426.75 thru 6/30/23

Supplier, Vendor, Company, Individual
L.J. DeWeese Co., Inc.
Address 3616 Tipp-Cowlesville Rd.
Tipp City, Ohio 45371

Fund Source(s) Fund Code(s) Fund Amount(s)
Wolf Creek Bike Path Improvements 41761-6450-1424-54 $101,226.75
2020 Infrastructure Wolf Creek Bike 49036-6450-1424-54 $ 21,200.00
Path Improvements

Includes Revenue to the City Yes No Affirmative Action Program Yes No N/A

Description

WOLF CREEK BIKE PATH CONNECTION
(7% DBE PARTICIPATION GOAL/5% DBE PARTICIPATION ACHIEVED)
FEDERAL CONSTRUCTION FUNDS

This project will convert the northbound curb lane of James H. McGee Blvd. into a 12’ concrete path. This project will also extend the Wolf Creek Bike Path from its current terminus 300’ south of Little Richmond Road to Little Richmond Road.

Six bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, L.J. DeWeese Co., Inc. in the amount of $122,426.75, the base bid. The estimated cost for this project is $162,000.00. The time bid for completion June 30, 2021.

This project is being funded using Wolf Creek Bike Path Improvements Funds and 2020 Infrastructure Wolf Creek Bike Path Improvements Funds.

A Certificate of Funds, Tabulation of Bids, ODOT DBE affirmation, Bid Form from the firm recommended for award, and location map are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>NEW CONTRACT</th>
<th>RENEWAL CONTRACT</th>
<th>CHANGE ORDER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>June 30, 2023</td>
<td>X Initial City Manager's Report</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$122,426.75</td>
<td>X Initial Certificate of Funds</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$122,426.75</td>
<td>X Initial Agreement/Contract</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td>Copy of City Manager's Report</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td>$-</td>
<td>Copy of Original Certificate of Funds</td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$-</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount: $101,226.75</th>
<th>Amount: $21,200.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>41761</td>
</tr>
<tr>
<td>Fund Org Acct Prog Act Loc</td>
<td>6450 1424 54</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: L.J. DeWeese Co., Inc.

Vendor Address: 3616 Tipp-Cowlesville Rd.
Tipp City Ohio 45371

Federal ID: 31-0602186
Commodity Code: 91831

Purpose: Wolf Creek Bike Path Connection (5% DBE Participation Goal)
(Federal Construction Funds)

Contact Person: Joseph Weinle, Chief Engineer
PW/Civil Engineering
Department/Division 937-333-4218
Phone Number

Originating Department Director's Signature: [Signature]
Date: 1-14-2024

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Director Signature: [Signature] Date: 1/15/2021

CF Prepared by: Janie Williams Date: 1/15/2021
CF/CT Number: CT21-916

Finance Department
October 18, 2011
**Dayton, Ohio**

Department of Public Works

Bid Tabulation For: Wolf Creek Bike Path

Connection (5% DBE Participation Goal)

Federal Construction Funds

<table>
<thead>
<tr>
<th>Bid Opening Date:</th>
<th>Cost Estimate:</th>
<th>Estimated Time Of Completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 10, 2020</td>
<td>$162,000.00</td>
<td>June 30, 2021</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bidders</th>
<th>Actual Amount Of Base Bid</th>
<th>Adjustment For Work Days</th>
<th>Adjustment For Comparison Purposes Only</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>L.J. DeWeese Co., Inc.</strong></td>
<td>$122,426.75</td>
<td>-0-</td>
<td>$122,426.75</td>
</tr>
<tr>
<td>Outdoor Enterprise</td>
<td>$137,630.50</td>
<td></td>
<td>$137,630.50</td>
</tr>
<tr>
<td>Double Jay Construction, Inc.</td>
<td>$139,758.00</td>
<td></td>
<td>$139,758.00</td>
</tr>
<tr>
<td>Belgray, Inc.</td>
<td>$156,323.00</td>
<td></td>
<td>$156,323.00</td>
</tr>
<tr>
<td>Adleta Construction</td>
<td>$165,484.53</td>
<td></td>
<td>$165,484.53</td>
</tr>
<tr>
<td>Brumbaugh Construction</td>
<td>$166,504.00</td>
<td></td>
<td>$166,504.00</td>
</tr>
</tbody>
</table>

---

*Awards*

Revised 9/14/98
The DBE Plan for the subject project is acceptable as follows: Prime Contract Amount $122,426.75 x 5% = $6,121.34

The DBE Goal will be met with participation from:

First Star Safety performing maintenance of border signs, flat sheet, APP, ground mounted supports, and removal of supports in the amount of $1,712.00
Crystal Brook performing erosion control and inspections in the amount of $3,800.00
EWOL Trucking performing trucking in the amount of $800.00

Please remember that the DBE Goal is a percentage of the overall contract. If the project increases or decreases the dollar amount of the DBE Goal may change accordingly. Please let the district CCO and myself know if you should have any changes to the DBE Plan for the subject project.

As far as DBE goal is concerned you may now proceed with contract signing. Within 30 days of the prime contract execution (or before the date the DBE sub needs to start work – whichever comes first) the prime needs to have executed sub agreements/purchase orders for all DBEs submitted to the District CCO- (included in this email) for review and acceptance.
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid

Wolf Creek Bike Path Connection

Bidder
L.J. DeWeese Co., Inc.
3616 Tipp-Cowlesville Rd.
Tipp City, Ohio 45371
<table>
<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>UoM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>202</td>
<td>Clearing and Grubbing</td>
<td>LUMP</td>
<td>1</td>
<td>$2,100.00</td>
<td>$2,100.00</td>
</tr>
<tr>
<td>202</td>
<td>Concrete Pavement Removed</td>
<td>S.Y.</td>
<td>65</td>
<td>$27.00</td>
<td>$1,755.00</td>
</tr>
<tr>
<td>202</td>
<td>Catch Basin Removed</td>
<td>EACH</td>
<td>2</td>
<td>$300.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>202</td>
<td>Sidewalk Removed</td>
<td>S.F.</td>
<td>1656</td>
<td>$1.25</td>
<td>$2,070.00</td>
</tr>
<tr>
<td>202</td>
<td>Driveway Removed</td>
<td>S.F.</td>
<td>234</td>
<td>$2.00</td>
<td>$468.00</td>
</tr>
<tr>
<td>202</td>
<td>Curb Removed</td>
<td>L.F.</td>
<td>405</td>
<td>$4.00</td>
<td>$1,620.00</td>
</tr>
<tr>
<td>304</td>
<td>Aggregate Base</td>
<td>C.Y.</td>
<td>95</td>
<td>$50.00</td>
<td>$4,750.00</td>
</tr>
<tr>
<td>453</td>
<td>Concrete driveway</td>
<td>S.F.</td>
<td>340</td>
<td>$8.00</td>
<td>$2,720.00</td>
</tr>
<tr>
<td>608</td>
<td>Concrete Walk</td>
<td>S.F.</td>
<td>5220</td>
<td>$4.25</td>
<td>$22,185.00</td>
</tr>
<tr>
<td>608</td>
<td>Concrete Curb Ramp</td>
<td>S.F.</td>
<td>540</td>
<td>$12.00</td>
<td>$6,480.00</td>
</tr>
<tr>
<td>609</td>
<td>Barrier Curb</td>
<td>L.F.</td>
<td>460</td>
<td>$32.00</td>
<td>$14,720.00</td>
</tr>
<tr>
<td>614</td>
<td>Maintaining Traffic</td>
<td>LUMP</td>
<td>1</td>
<td>$2,900.00</td>
<td>$2,900.00</td>
</tr>
<tr>
<td>623</td>
<td>Construction Layout Staking</td>
<td>LUMP</td>
<td>1</td>
<td>$3,600.00</td>
<td>$3,600.00</td>
</tr>
<tr>
<td>620</td>
<td>Delineator, Type C, Post Mounted</td>
<td>EACH</td>
<td>5</td>
<td>$100.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>630</td>
<td>Sign, Flat Sheet, As Per Plan</td>
<td>S.F.</td>
<td>30</td>
<td>$27.00</td>
<td>$810.00</td>
</tr>
<tr>
<td>630</td>
<td>Sign Support Assembly, Pole Mounted</td>
<td>Each</td>
<td>2</td>
<td>$44.00</td>
<td>$88.00</td>
</tr>
<tr>
<td>630</td>
<td>Ground Mounted Support, No. 2 Post</td>
<td>Each</td>
<td>14</td>
<td>$12.00</td>
<td>$168.00</td>
</tr>
<tr>
<td>630</td>
<td>Removal of ground mounted sign and disposal</td>
<td>Each</td>
<td>2</td>
<td>$25.00</td>
<td>$50.00</td>
</tr>
<tr>
<td>647</td>
<td>Edge Line, White, Type B125</td>
<td>L.F.</td>
<td>600</td>
<td>$6.75</td>
<td>$4,050.00</td>
</tr>
<tr>
<td>647</td>
<td>Transverse Line, White, Type B125</td>
<td>L.F.</td>
<td>450</td>
<td>$15.90</td>
<td>$7,155.00</td>
</tr>
<tr>
<td>647</td>
<td>Crosswalk Line (12”), Type B125</td>
<td>L.F.</td>
<td>260</td>
<td>$12.40</td>
<td>$3,224.00</td>
</tr>
<tr>
<td>647</td>
<td>Stop Line, Type B125</td>
<td>L.F.</td>
<td>25</td>
<td>$16.75</td>
<td>$418.75</td>
</tr>
<tr>
<td>647</td>
<td>Lane Reduction Arrow, Type B125</td>
<td>Each</td>
<td>2</td>
<td>$760.00</td>
<td>$1,520.00</td>
</tr>
<tr>
<td>653</td>
<td>Topsoil Furnished and Plance</td>
<td>C.Y.</td>
<td>25</td>
<td>$155.00</td>
<td>$3,875.00</td>
</tr>
<tr>
<td>659</td>
<td>Seeding and Mulching</td>
<td>S.Y.</td>
<td>200</td>
<td>$3.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>810</td>
<td>Excavation and Backfill for 12” Pipe with Structural Backfill</td>
<td>L.F.</td>
<td>32</td>
<td>$60.00</td>
<td>$1,920.00</td>
</tr>
<tr>
<td>821</td>
<td>Reinforced Concrete Pipe, 12” Storm</td>
<td>L.F.</td>
<td>32</td>
<td>$15.00</td>
<td>$480.00</td>
</tr>
<tr>
<td>831</td>
<td>Catch basin, type “3A”</td>
<td>EACH</td>
<td>1</td>
<td>$2,800.00</td>
<td>$2,800.00</td>
</tr>
<tr>
<td>831</td>
<td>Catch basin, type “3”</td>
<td>EACH</td>
<td>1</td>
<td>$3,500.00</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>831</td>
<td>Catch basin, type “E”</td>
<td>EACH</td>
<td>2</td>
<td>$3,500.00</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>ODOT B32</td>
<td>Storm Water Pollution Prevention Plan</td>
<td>LUMP</td>
<td>1</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
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<tr>
<td>835</td>
<td>12” Plug type “C”</td>
<td>EACH</td>
<td>2</td>
<td>$50.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>836</td>
<td>Major Manhole Adjusted</td>
<td>EACH</td>
<td>1</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>ODOT B32</td>
<td>Temporary Soil Erosion Control Allowance</td>
<td>EACH</td>
<td>1</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>SPL</td>
<td>Contingency Allowance</td>
<td>LUMP</td>
<td>1</td>
<td>$16,200.00</td>
<td>$16,200.00</td>
</tr>
</tbody>
</table>

Base Bid Total: $122,426.75
Bidder is
An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Telephone

Corporation
Name

State of Incorporation
Ohio

Name and Title of
Officers with Authority
to Sign Contract
Kristen Dilbone, President
Jeremy Hench, Vice-President

Home Office Address
3616 Tipp-Cowlesville Rd., Tipp City, Ohio 45371

Local Address
Same

Telephone (937) 440-1736  Fax (937) 440-0745

E-mail kdlilbome@yahoo.com

Federal I.D.# 31-0602186

Dated this _____ day of ____________, 20____

Bidder: Kristen Dilbone

Digitally signed by Kristen Dilbone
Date: 2020.12.10 10:30:06 -05'00'
(Person, Firm, or Corporation)

By: Kristen Dilbone

Title: President
I, Jillian Froment, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

WESTERN SURETY COMPANY

of South Dakota is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)
Fidelity
Other Liability
Surety

WESTERN SURETY COMPANY certified in its annual statement to this Department as of December 31, 2019 that it has admitted assets in the amount of $2,101,389,646, liabilities in the amount of $533,948,430, and surplus of at least $1,567,441,217.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.

Jillian Froment, Director
WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2019

ASSETS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds</td>
<td>$1,943,152,245</td>
</tr>
<tr>
<td>Stocks</td>
<td>27,166,227</td>
</tr>
<tr>
<td>Cash, cash equivalents, and short-term investments</td>
<td>27,903,793</td>
</tr>
<tr>
<td>Receivables for securities</td>
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</tr>
<tr>
<td>Investment income due and accrued</td>
<td>17,854,019</td>
</tr>
<tr>
<td>Premiums and considerations</td>
<td>56,706,652</td>
</tr>
<tr>
<td>Amounts recoverable from reinsurers</td>
<td>1,307,522</td>
</tr>
<tr>
<td>Current federal and foreign income tax recoverable and interest thereon</td>
<td>2,678,469</td>
</tr>
<tr>
<td>Net deferred tax asset</td>
<td>11,798,536</td>
</tr>
<tr>
<td>Receivable from parent, subsidiaries, and affiliates</td>
<td>12,821,583</td>
</tr>
<tr>
<td>Other assets</td>
<td>601</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td><strong>$ 2,101,389,646</strong></td>
</tr>
</tbody>
</table>

LIABILITIES AND SURPLUS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Losses</td>
<td>$ 206,051,147</td>
</tr>
<tr>
<td>Loss adjustment expense</td>
<td></td>
</tr>
<tr>
<td>Commissions payable, contingent commissions and other similar charges</td>
<td>9,862,381</td>
</tr>
<tr>
<td>Other expenses (excluding taxes, license and fees)</td>
<td>3,624</td>
</tr>
<tr>
<td>Taxes, License and fees (excluding federal and foreign income taxes)</td>
<td>3,875,099</td>
</tr>
<tr>
<td>Federal and foreign income taxes payable</td>
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</tr>
<tr>
<td>Unearned premiums</td>
<td>248,521,840</td>
</tr>
<tr>
<td>Advance premiums</td>
<td>6,112,006</td>
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<tr>
<td>Ceded reinsurance premiums payable (net of ceding commissions)</td>
<td>1,673,524</td>
</tr>
<tr>
<td>Amounts withheld or retained by company for account of others</td>
<td>5,332,206</td>
</tr>
<tr>
<td>Provision for reinsurance</td>
<td>290,516</td>
</tr>
<tr>
<td>Payable to parent, subsidiaries and affiliates</td>
<td>2,905</td>
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<tr>
<td>Payable on security transactions</td>
<td></td>
</tr>
<tr>
<td>Other liabilities</td>
<td>97,836</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td><strong>$ 533,948,430</strong></td>
</tr>
</tbody>
</table>

Surplus Account:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common stock</td>
<td>$400,000</td>
</tr>
<tr>
<td>Gross paid in and contributed surplus</td>
<td>$280,071,837</td>
</tr>
<tr>
<td>Unassigned funds</td>
<td>$1,283,369,380</td>
</tr>
<tr>
<td><strong>Surplus as regards policyholders</strong></td>
<td><strong>$1,567,441,217</strong></td>
</tr>
<tr>
<td><strong>Total Liabilities and Capital</strong></td>
<td><strong>$2,101,389,646</strong></td>
</tr>
</tbody>
</table>

I, Amy Smith, Senior Vice President of Western Surety Company, hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2019, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.

WESTERN SURETY COMPANY

By [Signature]

Senior Vice President

Subscribed and sworn to me this [day of March] 2020
My commission expires:

[Seal]

YOLANDA JIMENEZ
Notary Public
My Commission Expires September 24, 2021
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 2)

In accordance with Ordinance No. 31487-16 of the City of Dayton, Ohio Revised Code of General Ordinances.

1. [signature] President hereby certify that
(print name – an Officer of the company)

[company] meets the following Contractor requirements relating to this City of Dayton construction project.

Check All That Apply:

☑ Comply with all City of Dayton income tax obligations and requirements

☑ Maintain worker’s compensation insurance for all employees as required by the State of Ohio

☑ Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project

☑ Comply with the State of Ohio Bureau of Worker’s Compensation Drug Free Workplace Policy

By: [signature]

Title: President

Date: 12/10/20
A. Please provide a complete listing of the fringe benefits provided to employees expected to be utilized at the project site, including, but not limited, to health insurance and retirement benefits. {Reference to benefits traditionally provided on past, similar projects can be made.}

SRA - Medical

HOF - Retirement

B. Please identify any “bona fide apprentice training program” in which this company participates in accordance with the Ohio Bureau of Apprenticeship Training and the U. S. Department of Labor.

N/A

C. Please provide a list of subcontractors whose quotes or information are included or used in the bid submitted for this project.

Crystal Brook, LLC

First Star Safety

Evol Tracking
CERTIFICATION
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13
FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS ($5000.00)

STATE OF OHIO,
COUNTY OF Miami, ss:

Kristen Dilbone, President

being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of
   L.J. DeWeese Co., Inc. ("the Contracting Party").

2. The Contracting Party is a/an (select one):

   Individual, partnership, or other unincorporated business association (including without
   limitation, a professional association organized under Ohio Revised Code Chapter
   1785), estate, or trust.

   Corporation organized and existing under the laws of the State of Ohio.

   Labor organization.

3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C.
   3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C.
   3517.93(J)(3) (with respect to corporations) are in full compliance with the political
   contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand
   that a false representation on this certification constitutes a felony of the fifth degree pursuant to
   R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification
   shall be rescinded.

   By: Kristen Dilbone

   Title: President
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT
TO BE SUBMITTED WITH THE BID

STATE OF OH  )
COUNTY OF Miami  )

Kristen Dilbone, being first duly sworn deposes and
states that:

(1) He/she is President
   (owner, partner, officer, representative, or agent)
   L.J. DeWeese Co., Inc. that
   (business or organization name)

(2) He/She is fully informed respecting the preparation and contents of the attached Bid
and all pertinent circumstances respecting such Bid.

(3) Such offering is genuine and is not a collusive or sham offering

(4) Neither the said Bidder nor any of its officers, partners, owners, agents,
representatives, employees or parties in interest, including this affiant, has in any way
colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm
or person to submit a sham Bid in connection with the Contract for which the attached Bid
has been submitted or to refrain from offering in connection with such contract, or has in
any manner, directly or indirectly, sought by agreement or collusion or communication or
conference with any other Bidder, or to secure through collusion, conspiracy, connivance
or unlawful agreement any advantage against the City of Dayton, its employees, or
citizens.

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted
by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder
or any of its agents, representatives, owners, employees, or parties in interest including
the affiant.

Kristen Dilbone
Digitally signed by Kristen Dilbone
Date: 2020.12.10 10:33:45 -05'00'

SIGNED
President
TITLE
Contractor Qualifications

Project: Wolf Creek Bikie Path Connector

Contractor: L.J. Deweese Co., Inc.

Contractor is prequalified with Ohio Department of Transportation to perform work? Yes ☑ No ☐

Prime contractor will perform 50% percent of base bid. Prime contractor is required to perform no less than 30 percent of the total contract price.

Date: 12/10/20
During the performance of this contract:

L.J. DeWeese Co., Inc. 3616 Tipp-Cowlesville Rd., Tipp City, Ohio 45371 937-440-1736/937-440-0745

being the general contractor, assumes the responsibility and obligation to institute an Affirmative Action Program which complies with revised City Ordinances 24059 and 26090 and Executive Order 11246 on any city, federal or federally-assisted construction project, to insure Equal Employment Opportunity regardless of race, color, religion, sex, national origin, ancestry, place of birth, age, or marital status.

The successful contractor using one or more trades of construction employees must comply with Part I of these Affirmative Actions Program conditions to each such trade.

**Part I: Requirements.** To be eligible for award of a contract under this Invitation to Bid, contractors must certify as prescribed in Paragraph 1a, of the certification specified in Part II hereof that it adopts the minimum goals and timetables of minority and female worker utilization, and specific Affirmative Action steps set forth in Sections 1 and 2 of this Part I.

1.) **Goals & Timetables.** The goals of minority and female worker utilization required of the contractor are applicable to each trade which will be used on any project in Greene, Miami, Montgomery, and Preble Counties, OH (hereinafter the Economic Area).

The required goals and timetables are as follows:

<table>
<thead>
<tr>
<th>Goals of Minority Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1/1/2000 to Present</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goals of Female Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 4/1/80 to Present</td>
</tr>
</tbody>
</table>
The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

In reaching the goals for minority and female utilization, every effort shall be made to find and employ qualified journey-persons. Provided, however, and pursuant to the requirements of the Department of Labor Regulations, 29 CFR 5a.3, twenty-five percent (25%) of apprentices or trainees shall be employed on all projects and shall be in their first year of training, where feasible.

In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and/or trainees at the completion of the training subject to the availability of employment opportunities. Apprentices and trainees must be trained pursuant to programs which have been approved by The U.S. Department of Labor and/or The State of Ohio.

A contractor shall be deemed to be in compliance with the terms and requirements of this Part I by the employment and training of minorities and females in the appropriate percentage of the contractor's aggregate work force in the Economic Area for each trade for which it is committed to the goals under Part I.

However, no contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet the goals and timetables, but such contractor shall be given the opportunity to demonstrate that all of the specific Affirmative Action steps specified in Part I have been instituted and has made every "good faith" effort to make these steps work towards the attainment of the goals and timetables.

2.) **Specific Affirmative Action Steps.** A contractor subject to Part I, must engage in Affirmative Action directed at increasing minority and female utilization, which is at least as extensive and as specific as the following steps:

   a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.

   b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefore.

   c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

   d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
e) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.

f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.

g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.

h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.

i) The contractor shall validate all tests and other selection requirements.

j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor's employees needs consistent with its obligations under Part I.

k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.

l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.

m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.
o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.

3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.
Part II: Contractor's Certification. A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

**CONTRACTOR'S CERTIFICATION**

L.J. DeWeese Co., Inc. ____________________________________________ (Contractor) certifies that:

1. The following listed construction trades will be used in performance of this project.

   Laborer
   Operator
   Cement Mason

   ____________________________
   ____________________________
   ____________________________
   ____________________________
   ____________________________
   ____________________________

   a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor's aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

   b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

**SIGN:**

Kristen Dilbone Digitally signed by Kristen Dilbone
Date: 2020.12.10 10:26:37 -05'00'

(Signature of Authorized Representative of Bidder)

FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
6. **FEDERALLY REQUIRED EEO CERTIFICATION FORM**

The bidder hereby certifies that he has , participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he has , filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements. **The Bidder must select the appropriate “has or has not” above.**
Bond Number: SOH20887785
Contractor Information
Principal: L J DeWeese Co. Inc
Address: 3616 Tipp-Cowlesville Rd Tipp City Ohio 45371 United States

Owner/Obligee Information
Bond Form: Bid Bond in accordance with Contract Specifications
Owner/Obligee: City of Dayton
Address: 101 W Third St Dayton Ohio 45402 United States

Bond Information
Surety: Western Surety Company
Bid Date: 12/10/2020
Estimated Contract Price: 250000
Time For Completion: 06/30/2021
Liquidated Damages: 1000/day
Estimated Work On Hand:
Amount of Bid Security: 250000
Contract # or IFB #: 7392621
Description of Job: Wolf Creek Bike Path Connection
Job Breakdown:

Electronic Bidding Information
Bid Security Percentage: 10
Bid Security Maximum: 250000
Owner Assigned Contractor Number: 6596932

Primary Agency:
Arnold Insurance Agency Inc
Power of Attorney Limited to: unlimited
Executed
Entered By: Mark Arnold - 11/23/2020 2:18:50 PM ET
Approved & Executed By:

Mark Arnold
Mark Arnold (Signed: 23-Nov-2020 02:18:36 PM EST (UTC-05:00))
Signature Information

Know all men by these presents that Western Surety Company, a Corporation duly organized under the laws of the State of South Dakota, are held and firmly bound unto the above owner/obligee by this transmission. The surety agrees to waive the Statute of Fraud defense and further agrees that the owner/obligee is a third party beneficiary of the waiver for the purposes of enforcing this bid bond.

Document ID: 52000-1001075504
Wolf Creek Bike Path Extension

Centerline
Montgomery_2019_rgb_20x.sid

- Red: Band_1
- Green: Band_2
- Blue: Band_3

1/13/2021, 4:25:59 PM

1:1,128

From 2320 - Planning & CD/Housing Inspection
Supplier, Vendor, Company, Individual
Name Turn-Key Environmental Consultants, Inc.
Address 714 E. Monument Avenue
Dayton, OH 45402

Date January 27, 2021
Expense Type Award of Contract
Total Amount $29,330.00 (thru 12/31/22)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demolition Special Projects</td>
<td>16022-2320-1174-32</td>
<td>$29,330.00</td>
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</tbody>
</table>

Includes Revenue to the City [ ] Yes [ ] No
Affirmative Action Program [ ] Yes [ ] No [ ] N/A

Description

NUISANCE ABATEMENT PROGRAM
COMMERCIAL AND RESIDENTIAL ASBESTOS SURVEYS AND
POST ABATEMENT VERIFICATION INSPECTIONS II – 2020
(10% SBE PARTICIPATION GOAL/100% SBE PARTICIPATION ACHIEVED)

The Department of Planning & Community Development requests permission to enter into a contract with Turn-Key Environmental Consultants, Inc. for asbestos survey and post abatement verification inspection services. The Contractor will determine and document the presence of asbestos-containing materials (ACM) in 16 commercial and 65 residential structures, and provide a written Survey Report for each structure. The Contractor will provide inspection services after the asbestos abatement work is performed, to insure that the asbestos abatement work has been completed. There is no list of structures associated with this bid.

One bid was received for this project. It is recommended that the contract be awarded to this bidder, Turn-Key Environmental Consultants, Inc., in the amount of $29,330.00, the base bid. The estimated cost for the project is $44,310.00. The time bid for completion is 150 working days.

This project is being funded using General Funds.

A Certificate of Funds, Tabulation of Bids, Human Relations Council's verification letter, and the Bid Form from the firm recommended for award are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
CERTIFICATE OF FUNDS

**SECTION I - to be completed by User Department**

<table>
<thead>
<tr>
<th>NEW CONTRACT</th>
<th>RENEWAL CONTRACT</th>
<th>CHANGE ORDER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
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<td>Expiration Date</td>
<td>December 31, 2022</td>
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<tr>
<td>Original Commission Approval</td>
<td>$29,330.00</td>
<td>Initial City Manager's Report</td>
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<tr>
<td>Initial Encumbrance</td>
<td>$29,330.00</td>
<td>Initial Certificate of Funds</td>
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<tr>
<td>Remaining Commission Approval</td>
<td>$29,330.00</td>
<td>Initial Agreement/Contract</td>
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<td>Original CT/CF</td>
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<tr>
<td>Increase Encumbrance</td>
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<td></td>
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<tr>
<td>Decrease Encumbrance</td>
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<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
</tr>
</tbody>
</table>

| Amount: $29,330.00 |
| Fund Code 16022 |
| Org 2320 |
| Acct 1174 |
| Prog 32 |
| Act - |
| Loc - |

**Vendor Name:** Turn-Key Environmental Consultants, Inc. 937.335.8807

**Vendor Address:** 714 E. Monument Avenue Dayton OH 45402

**Federal ID:** 01-0585010

**Commodity Code:** 96832

**Purpose:** Nuisance Abatement Program Commercial and Residential Asbestos Surveys and Post Abatement Verification Inspections II - 2020

10% SBE Participation Goal

**Contact Person:** Ariane Cook

**PCD/Hsng Conserv** 333-3910

**Department/Division** Phone Number

**Originating Department Director's Signature:** 14-Jan-21

**SECTION II - to be completed by the Finance Department**

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

**Finance Director Signature** 1/19/2021

**CF/CT Number** Date

Finance Department 10-18-2011
December 28, 2020

TO: Don Long, Interim Division Manager
Division of Housing Inspection
Planning and Community Development

FROM: Chrisondra Goodwine, Contract Compliance Officer
Human Relations Council (HRC)

SUBJECT: NAP Commercial and Residential Asbestos Surveys and Post Abatement Verification Inspections II-2020 (10% SBE Participation Goal)

The apparent low bidder, Turn-Key Environmental Consultants, Inc., submitted a bid utilizing one (1) PEP-certified contractor to meet the project’s participation goal. The HRC’s contract compliance analysis has verified that Turn-Key Environmental Consultants, Inc is an approved bidder in the City of Dayton’s Affirmative Action Assurance program and that the company’s authorized representative signed the Contractor’s Certification to indicate fair hiring practices.

The recommended company to receive the above-mentioned construction award is as follows:

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR</th>
<th>AMOUNT OF BASE BID + ALTERNATE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turn-Key Environmental Consultants, Inc</td>
<td>$29,330.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFIED BUSINESS PARTICIPATION</th>
<th>COMMITTED DOLLAR AMT</th>
<th>% TOWARDS GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turn-Key Environmental Consultants, Inc</td>
<td>$29,330.00</td>
<td>100% SBE</td>
</tr>
</tbody>
</table>

The attached participation forms should be included with the contract agreement. Contract compliance will include meeting verified participation and minimal worker utilization goals as stated in the Affirmative Action Program Equal Employment Opportunity form certified in the bid submission. If you have any questions or concerns, please feel free to contact me at (937) 333-1405.
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid
Nuisance Abatement Program
Commercial And Residential Asbestos Surveys and
Post Abatement Verification Inspections II-2020
Project # 7378994

Bidder
Turn-Key Environmental Consultants, Inc.
714 E Monument Ave.
Dayton, OH, 45402
## NAP Commercial and Residential Asbestos Surveys and Post Abatement

**Verification Inspection II - 2020 (#7378994)**

**Owner:** Dayton OH, City of  
**Solicitor:** Dayton OH, City of  
**12/03/2020 12:00 PM EST**

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<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>Unit of Measure (UoM)</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
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<tbody>
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<td></td>
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<td><strong>Base Bid Total:</strong></td>
<td><strong>$29,330.00</strong></td>
<td></td>
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</tbody>
</table>
DISCLOSURE OF LITIGATION

Disclosure of Litigation: Have you or any person, group, partnership, company, or corporation affiliated with you been engaged in the past three (3) years in litigation, mediation or any form of contractual dispute resolution with any state government or any political subdivision thereof including, without limitation, the State of Ohio, the City of Dayton, Ohio, or Montgomery County, Ohio? For the purpose of your response, “affiliated” means directly or indirectly controlling, controlled by, or under common control, with “control” meaning legally or operationally in a position to exercise restraint or direction over the other.

RESPONSE: YES □ NO ☑

If your response is “YES” please separately identify each lawsuit, mediation or dispute resolution process in which you or your affiliate have been engaged during the past three (3) years. Identify the nature of the dispute, the parties involved, and the current status of the dispute. Attach or include any information you believe pertinent to a full understanding of the disputed matters.
Bidder is
An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Telephone

Corporation
Name

State of Incorporation

Name and Title of
Officers with Authority
to Sign Contract

Turn-Key Environmental Consultants, Inc.
Ohio

Linda Treasure, President
William Treasure, Vice President
790 Barnhart Rd., Troy, OH, 45373
714 E. Monument Ave., Dayton, OH, 45402
Telephone (937) 335-8807 Fax (937) 339-4882
E-mail tkec@turn-keyenvironmental.com

Federal I.D.# 01-0585010

Dated this 30 day of November, 2020

By: Linda Treasure

Title: President

Digitally signed by Linda Treasure
Date: 2020.11.30 12:27:39 -05'00'
BID BOND

Conforms with The American Institute of Architects, A.I.A. Document No. A-310

KNOW ALL BY THESE PRESENTS, that we, Turn-Key Environmental Consultants, Inc.
714 Monument Ave., Dayton, OH 45402

_____________________________ as Principal, hereinafter called the Principal, and the

United States Fire Insurance Company
305 Madison Ave., Morristown, NJ 07962

_____________________________, a corporation duly organized under the laws of
the State of Delaware, as Surety, hereinafter called the Surety, are held and firmly bound unto

City of Dayton ___________________________ as Obligee, hereinafter called the Obligee, in the sum

of 10% of the amount bid including alternates

Dollars ($________________________), for the payment of which sum well and truly to be made, the said Principal and the
said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these
presents.

WHEREAS, the Principal has submitted a bid for NUISANCE ABATEMENT PROGRAM COMMERCIAL AND
RESIDENTIAL ASBESTOS SURVEYS AND POST ABATEMENT VERIFICATION INSPECTIONS II – 2020

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the
Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract
Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor
and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give
bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount
specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the
Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 3rd day of December, 2020.

By ____________________________
Linda ________
Principal

United States Fire Insurance Company

By ____________________________
Melanie Blankenburg, Attorney-in-Fact

Agent:
The Fedeli Group
5005 Rockside Rd., Suite 500
Independence, OH 44131
216-328-8080
POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Kevin Keller, Sharon Brickman, Lisa Jennings, Scott Liptak, Daniel A. Fedeli, Melanie Blankenburg

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties not exceeding Seven Million, Five Hundred Thousand Dollars ($7,500,000).

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous Powers of Attorney issued on behalf of the Attorneys-In-Fact named above and expires on January 31, 2021.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part.

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

(a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;

(b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney, policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 22nd day of August 2019.

UNITED STATES FIRE INSURANCE COMPANY

[Signature]

Anthony R. Slimowicz, Executive Vice President

State of Pennsylvania }
County of Philadelphia }

On this 22nd day of August 2019, before me, a Notary public of the State of Pennsylvania, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.

Commonwealth of Pennsylvania – Notary Seal
Tamara Watkins, Notary Public
Philadelphia County
My commission expires August 22, 2023
Commission number 1348843

Tamara Watkins (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the 3rd day of December 2020.

UNITED STATES FIRE INSURANCE COMPANY

[Signature]

Al Wright, Senior Vice President
I, Jillian Froment, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

UNITED STATES FIRE INSURANCE COMPANY

of Delaware is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)

- Accident & Health
- Aircraft
- Allied Lines
- Boiler & Machinery
- Burglary & Theft
- Collectively Renewable A & H
- Commercial Auto - Liability
- Commercial Auto - No Fault
- Commercial Auto - Physical Damage
- Credit
- Credit Accident & Health
- Earthquake
- Fidelity
- Fire
- Glass
- Group Accident & Health
- Guaranteed Renewable A & H
- Inland Marine
- Medical Malpractice
- Multiple Peril - Commercial
- Multiple Peril - Farmowners
- Multiple Peril - Homeowners
- Noncancellable A & H
- Nonrenew-Stated Reasons (A&H)
- Ocean Marine
- Other Accident only
- Other Liability
- Private Passenger Auto - Liability
- Private Passenger Auto - No Fault
- Private Passenger Auto - Physical Damage
- Surety
- Workers Compensation

UNITED STATES FIRE INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2019 that it has admitted assets in the amount of $4,444,829,190, liabilities in the amount of $3,038,752,768, and surplus of at least $1,406,076,422.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.

Jillian Froment, Director

Accredited by the National Association of Insurance Commissioners (NAIC)
UNITED STATES FIRE INSURANCE COMPANY
1209 ORANGE STREET, WILMINGTON, DELAWARE 19801

STATEMENT OF ASSETS, LIABILITIES, SURPLUS AND OTHER FUNDS
AT DECEMBER 31, 2018

<table>
<thead>
<tr>
<th>Assets</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds (Amortized Value)</td>
<td>1,575,095,694</td>
</tr>
<tr>
<td>Preferred Stocks (Market Value)</td>
<td>2,500,000</td>
</tr>
<tr>
<td>Common Stocks (Market Value)</td>
<td>1,163,841,710</td>
</tr>
<tr>
<td>Mortgage Loans (Market Value)</td>
<td>3,510,000</td>
</tr>
<tr>
<td>Cash, Cash Equivalents, and Short Term Investments</td>
<td>477,327,351</td>
</tr>
<tr>
<td>Derivatives</td>
<td>23,002,739</td>
</tr>
<tr>
<td>Other Invested Assets</td>
<td>216,475,684</td>
</tr>
<tr>
<td>Investment Income Due and Accrued</td>
<td>8,006,764</td>
</tr>
<tr>
<td>Premiums and Considerations</td>
<td>195,195,701</td>
</tr>
<tr>
<td>Amounts Recoverable from Reinsurers</td>
<td>31,104,247</td>
</tr>
<tr>
<td>Funds Held by or Deposited with Reinsured Companies</td>
<td>4,482,823</td>
</tr>
<tr>
<td>Current Income Taxes Recoverable</td>
<td>1,966,565</td>
</tr>
<tr>
<td>Net Deferred Tax Asset</td>
<td>161,021,872</td>
</tr>
<tr>
<td>Electronic Data Processing Equipment</td>
<td>4,043,042</td>
</tr>
<tr>
<td>Receivables from Parent, Subsidiaries and Affiliates</td>
<td>138,140,008</td>
</tr>
<tr>
<td>Other Assets</td>
<td>80,113,770</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td><strong>$ 4,085,827,970</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Liabilities, Surplus &amp; Other Funds</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Losses (Reported Losses Net of Reinsurance Ceded and Incurred But Not Reported Losses)</td>
<td>1,559,822,684</td>
</tr>
<tr>
<td>Reinsurance Payable on Paid Losses and Loss Adjustment Expenses</td>
<td>41,178,534</td>
</tr>
<tr>
<td>Loss Adjustment Expenses</td>
<td>386,839,596</td>
</tr>
<tr>
<td>Commissions Payable, Contingent Commissions and Other Similar Charges</td>
<td>3,516,082</td>
</tr>
<tr>
<td>Other Expenses (Excluding Taxes, Licenses and Fees)</td>
<td>68,790,043</td>
</tr>
<tr>
<td>Taxes, Licenses and Fees (Excluding Federal Income Taxes)</td>
<td>20,335,069</td>
</tr>
<tr>
<td>Uncurred Premiums</td>
<td>517,688,148</td>
</tr>
<tr>
<td>Advance Premiums</td>
<td>5,194,006</td>
</tr>
<tr>
<td>Ceded Reinsurance Premiums Payable</td>
<td>23,630,611</td>
</tr>
<tr>
<td>Funds Held by Company under Reinsurance Treaties</td>
<td>20,864,701</td>
</tr>
<tr>
<td>Amounts Withheld by Company for Account of Others</td>
<td>76,666,809</td>
</tr>
<tr>
<td>Provisions for Reinsurance</td>
<td>627,927</td>
</tr>
<tr>
<td>Payable to Parent, Subsidiaries and Affiliates</td>
<td>10,488,505</td>
</tr>
<tr>
<td>Other Liabilities</td>
<td>52,539,781</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES</strong></td>
<td><strong>$ 2,768,186,596</strong></td>
</tr>
</tbody>
</table>

| Common Capital Stock | 13,560,000 |
| Gross Paid In and Contributed Surplus | 1,246,294,940 |
| Unassigned Funds (Surplus) | 57,786,434 |
| **Surplus as Regards Policyholders** | **1,377,641,374** |
| **TOTAL LIABILITIES, SURPLUS & OTHER FUNDS** | **$ 4,085,827,970** |

1. Carmine Scapilone, Senior Vice President and Controller of UNITED STATES FIRE INSURANCE COMPANY, certify that the foregoing is a fair statement of Assests, Liabilities, Surplus and Other Funds of this Company, at the close of business, December 31, 2018, as reflected by its books and records and as reported in its statement on file with the Insurance Department of the State of Delaware.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the Company, this 5th day of March, 2019
UNITED STATES FIRE INSURANCE COMPANY.
BID BOND

Amount $2,933.00

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum of $2,933.00 Dollars, for the payment of which well and truly to be made, we hereby, jointly and severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder, Turn-Key Environmental Consultants, Inc.

named therein, and the said bidder shall within ten (10) days after being notified that said contract has been awarded to the bidder, enter into a Contract in the form acceptable to the Director and give bond in a form to be furnished by the Director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Signed at Dayton, Ohio, this 03 day of December, 2020.

Turn-Key Environmental Consultants, Inc.
714 E. Monument Ave., Dayton, OH, 45402
Bidder

United States Fire Insurance Company
305 Madison Ave., Morristown, NJ, 07962
Surety

The Fedeli Group
Name of Insurance Agency

5005 Rockside Rd., Fifth Floor, Independence, OH, 44131
Address of Insurance Agency

(216) 643-6987 FAX (216) 328-8081
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 3)

In accordance with Ordinance No. 31487-16 of the City of Dayton, Ohio Revised Code of General Ordinances,

I, _______________________, hereby certify that

(print name – an Officer of the company)

Turn-Key Environmental Consultants, Inc. _______________________, meets the following Contractor requirements relating to this City of Dayton construction project

Check All That Apply:

☑ Comply with all City of Dayton income tax obligations and requirements

☑ Maintain worker’s compensation insurance for all employees as required by the State of Ohio

☑ Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project

☑ Comply with the State of Ohio Bureau of Worker’s Compensation Drug Free Workplace Policy

☑ Maintain an unemployment compensation insurance policy registered with the State of Ohio Department of Job and Family Services

☑ Made a good faith effort to contract with one or more qualified minority business enterprises to perform work required by this project, in accordance with bid documents, ordinances, and applicable Federal and State law

By: _______________________

(signature)

Title: _______________________

President

Date: 11/30/2020
A. Please provide a complete listing of the fringe benefits provided to employees, including but not limited to health insurance and retirement benefits.

<table>
<thead>
<tr>
<th>None</th>
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B. Please identify any "bona fide apprentice training program" in which this company participates in accordance with the Ohio Bureau of Apprenticeship Training and the U. S. Department of Labor.

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<th>None</th>
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</table>

C. Please provide a list of subcontractors whose quotes or information are included or used in the bid submitted for this project.

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<tr>
<th>None</th>
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</tbody>
</table>
D. Please provide a list of all minority business enterprises contacted for the purpose of obtaining quotes to perform work for this project.

<table>
<thead>
<tr>
<th>Turn-Key is a PEP Certified SBE</th>
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E. Provide a complete listing of any determinations of the bidder’s violations of federal, state, or local laws, including a list of all citations, orders, or recommendations issued to or against the bidder within the previous 3 years.

<table>
<thead>
<tr>
<th>None</th>
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</table>
CERTIFICATION
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13
FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS ($500.00)

STATE OF OHIO,
COUNTY OF Miami, SS:

Linda Treasure, being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of ____________________________ (“the Contracting Party”).

2. The Contracting Party is a/an (select one):

☐ Individual, partnership, or other unincorporated business association (including without limitation, a professional association organized under Ohio Revised Code Chapter 1785), estate, or trust.

☑ Corporation organized and existing under the laws of the State of Ohio.

☐ Labor organization.

3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C. 3517.93(J)(3) (with respect to corporations) are in full compliance with the political contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand that a false representation on this certification constitutes a felony of the fifth degree pursuant to R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification shall be rescinded.

By: Linda Treasure
Title: President

Digitally signed by Linda Treasure
Date: 2020.11.30 12:28:45 -05'00'
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT

STATE OF OH  )
COUNTY OF Miami  )  SS:

Linda Treasure  
being first duly sworn deposes and states that:

(1) He/she is Officer  
(owne[r, partner, officer, representative, or agent]

Turn-Key Environmental Consultants, Inc.  that
(business or organization name)

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and all pertinent circumstances respecting such Bid.

(3) Such offering is genuine and is not a collusive or sham offering

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from offering in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Dayton, its employees, or citizens.

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest including the affiant.

Linda Treasure
Digitally signed by Linda Treasure
Date: 2020.11.30 12:29:05 -05'00'

SIGNED
President
TITLE
During the performance of this contract:

Turn-Key Environmental Consultants, Inc. 714 E. Monument Ave., Dayton, OH, 45402 937-335-8807/937-339-4882

being the general contractor, assumes the responsibility and obligation to institute an Affirmative Action Program which complies with revised City Ordinances 24059 and 26090 and Executive Order 11246 on any city, federal or federally-assisted construction project, to insure Equal Employment Opportunity regardless of race, color, religion, sex, national origin, ancestry, place of birth, age, or marital status.

The successful contractor using one or more trades of construction employees must comply with Part I of these Affirmative Actions Program conditions to each such trade.

**Part I: Requirements.** To be eligible for award of a contract under this Invitation to Bid, contractors must certify as prescribed in Paragraph 1a, of the certification specified in Part II hereof that it adopts the minimum goals and timetables of minority and female worker utilization, and specific Affirmative Action steps set forth in Sections 1 and 2 of this Part I.

1.) **Goals & Timetables.** The goals of minority and female worker utilization required of the contractor are applicable to each trade which will be used on any project in Greene, Miami, Montgomery, and Preble Counties, OH (hereinafter the Economic Area).

The required goals and timetables are as follows:

<table>
<thead>
<tr>
<th>Goals of Minority Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1/1/2000 to Present                                      11.5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goals of Female Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 4/1/80 to Present                                        6.9%</td>
</tr>
</tbody>
</table>
The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

In reaching the goals for minority and female utilization, every effort shall be made to find and employ qualified journey-persons. Provided, however, and pursuant to the requirements of the Department of Labor Regulations, 29 CFR 5a.3, twenty-five percent (25%) of apprentices or trainees shall be employed on all projects and shall be in their first year of training, where feasible.

In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and/or trainees at the completion of the training subject to the availability of employment opportunities. Apprentices and trainees must be trained pursuant to programs which have been approved by The U.S. Department of Labor and/or The State of Ohio.

A contractor shall be deemed to be in compliance with the terms and requirements of this Part I by the employment and training of minorities and females in the appropriate percentage of the contractor's aggregate work force in the Ecomonic Area for each trade for which it is committed to the goals under Part I.

However, no contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet the goals and timetables, but such contractor shall be given the opportunity to demonstrate that all of the specific Affirmative Action steps specified in Part I have been instituted and has made every "good faith" effort to make these steps work towards the attainment of the goals and timetables.

2.) Specific Affirmative Action Steps. A contractor subject to Part I, must engage in Affirmative Action directed at increasing minority and female utilization, which is at least as extensive and as specific as the following steps:

a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.

b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefore.

c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
e) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.

f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.

g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.

h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.

i) The contractor shall validate all tests and other selection requirements.

j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor's employees needs consistent with its obligations under Part I.

k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.

l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.

m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.

o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.

3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.
Part II: Contractor's Certification. A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

CONTRACTOR'S CERTIFICATION

Turn-Key Environmental Consultants, Inc. (Contractor) certifies that:

1. The following listed construction trades will be used in performance of this project.

   Asbestos Hazard Evaluation Specialist

   
   
   
   
   
   

   
   
   
   
   
   
   

   a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor's aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

   b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

   
   Linda Treasure

   Digitally signed by Linda Treasure
   Date: 2020.11.30 12:20:15 -05'00'

   (Signature of Authorized Representative of Bidder)

   FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
### SECTION 1: BIDDER / PROPOSER INFORMATION

**Name of Bidder / Proposer’s Firm:** Turn-Key Environmental Consultants, Inc.

**Address:**

714 E. Monument Ave.

**City:** Dayton

**State:** OH

**ZIP:** 45402

**Telephone:** (937) 335-8807

**Email:** tkec@turn-keyenvironmental.com

**Primes Base Bid $**

**Name of Project:** Nuisance Abatement Program Commercial and Residential Asbestos Surveys and Post Abatement Verification Inspections II-2020

### SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

**Name of PEP-Certified Firm:** Turn-Key Environmental Consultants, Inc.

**PEP-Certified Firm’s Tax ID:** 01-0585010

**Scope of Work to Be Performed by Certified Firm:** Asbestos Surveys and Post Abatement Verification

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described:</th>
</tr>
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<tbody>
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<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Labor</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

### SECTION 3: AFFIRMATIONS

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

**Linda Treasure**

(Signature of Bidder/Proposer’s Authorized Agent)

Date: 2020.11.30 12:24:06 -05'00'

**Linda Treasure**

(Printed Name of Bidder/Proposer’s Authorized Agent)

**President**

(Date)

**11/30/20**

*IF THE BIDDER/OFFEROR IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.*
PEP-CERTIFIED  (SELECT ONE) PARTICIPATION FORM

Instructions for Bidders / Proposers: Submit one executed copy of this form for each Procurement Enhancement Plan (PEP)-Certified Firm whose participation you plan to count toward the project/contract’s participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm’s participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSB).

SECTION 1: BIDDER / PROPOSER INFORMATION

Name of Bidder / Proposer’s Firm: ____________________________

Address: ___________________________________________________________________

City: ____________________________ State: _____ ZIP: ________

Telephone: ____________________ Email: _________________

Primes Base Bid $________________________

Name of Project: ____________________________

SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: ____________________________

PEP-Certified Firm’s Tax ID#: ____________________________

Scope of Work to Be Performed by Certified Firm: ____________________________

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
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<th>Amount to Be Paid to This PEP Firm for the Work Described:</th>
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</thead>
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</tr>
<tr>
<td>Labor</td>
<td>$______________________</td>
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</tr>
</tbody>
</table>

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The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

(Signature of Bidder/Proposer’s Authorized Agent)

(Printed Name of Bidder/Proposer’s Authorized Agent)

(Title of Bidder/Proposer’s Authorized Agent) (Date)

IF THE BIDDER/OFFEROR IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.
SECTION 1: BIDDER / PROPOSER INFORMATION

Name of Bidder / Proposer’s Firm: ________________________________

Address: ______________________________________________________

City: __________________________ State: _____ ZIP: ________________

Telephone: ______________________ Email: _______________________

Primes Base Bid $_________ Name of Project: ______________________

SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: ________________________________

PEP-Certified Firm’s Tax ID#: ________________________________

Scope of Work to Be Performed by Certified Firm: ____________________________

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(Signature of Bidder/Proposer’s Authorized Agent)

(Printed Name of Bidder/Proposer’s Authorized Agent)  (Date)

(IF THE BIDDER/OFFEROR IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.)
PEP-CERTIFIED

(SELECT ONE) PARTICIPATION FORM

Instructions for Bidders / Proposers: Submit one executed copy of this form for each Procurement Enhancement Plan (PEP)-Certified Firm whose participation you plan to count toward the project/contract’s participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm’s participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSB).

SECTION 1: BIDDER / PROPOSER INFORMATION

Name of Bidder / Proposer’s Firm: ____________________________

Address: ______________________________________________________

City: ____________________________ State: _____ ZIP: ____________

Telephone: ______________________ Email: ______________________

Primes Base Bid $________________________

Name of Project: ______________________

SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: ____________________________

PEP-Certified Firm’s Tax ID#: ____________________________

Scope of Work to Be Performed by Certified Firm: ____________________________

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SECTION 3: AFFIRMATIONS

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

(Signature of Bidder/Proposer’s Authorized Agent)

(Printed Name of Bidder/Proposer’s Authorized Agent)

(Title of Bidder/Proposer’s Authorized Agent) (Date)

IF THE BIDDER/OFFEROR IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.
PEP-CERTIFIED  (SELECT ONE) PARTICIPATION FORM

Instructions for Bidders / Proposers: Submit one executed copy of this form for each Procurement Enhancement Plan (PEP)-Certified Firm whose participation you plan to count toward the project/contract’s participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm’s participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSB).

SECTION 1: BIDDER / PROPOSER INFORMATION

Name of Bidder / Proposer’s Firm: ________________________________

Address: _______________________________________________________

City: __________________________ State: _____ ZIP: __________

Telephone: __________________________ Email: ______________________

Primes Base Bid $____________________________

Name of Project: _________________________________________________

SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: _______________________________________

PEP-Certified Firm’s Tax ID#: __________________

Scope of Work to Be Performed by Certified Firm: ______________________

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<td>$__________________________</td>
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<td>$__________________________</td>
</tr>
<tr>
<td>Labor $_______________________</td>
<td>%_____________________</td>
<td>$__________________________</td>
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SECTION 3: AFFIRMATIONS

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

(Signature of Bidder/Proposer’s Authorized Agent)

(Printed Name of Bidder/Proposer’s Authorized Agent)

(Title of Bidder/Proposer’s Authorized Agent) ____________________________ (Date) ____________

IF THE BIDDER/OFFEROR IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.
PEP PARTICIPATION COMMITMENT AND/OR WAIVER REQUEST FORM

Instructions for Bidders/Proposers: Submit one (1) executed copy of this form with your Bid/Proposal.

- If Option 1 is selected, you must also submit one (1) executed PEP-Certified SBE/MBE/WBE/DLSB Participation Form for each PEP-Certified Firm whose participation you plan to count toward the project/contract’s participation goal(s).
- If Option 2 (WAIVER REQUEST) is selected, you must also submit documentation of your Good Faith Efforts to the City of Dayton Human Relations Council (HRC) within two (2) business days of the Bid Opening / Proposal Due Date. Bidders/Proposers will receive no further reminders about this deadline.

The undersigned affirms that the Bidder/Proposer has satisfied the requirements of the Bid/RFP Specification in the following manner: (Check the box for Option 1 and/or Option 2, complete the appropriate spaces, and sign below.)

☑ Option 1. The Bidder/Proposer has secured enough commitment(s) from one or more PEP-Certified Firms to meet or exceed the project’s PEP participation goal(s). The Bidder/Proposer is committed to a minimum of:

| 100.00% SBE | % MBE | % WBE | % DLSB |

participation on this contract, as detailed on the executed PEP-Certified SBE/MBE/WBE/DLSB Participation Form(s) submitted with this Bid/Proposal.

☐ Option 2 (WAIVER REQUEST). The Bidder/Proposer is unable to meet the project’s PEP participation goal(s) and requests that the following goal(s) be waived: (Check all that apply.)

- SBE
- MBE
- WBE
- DLSB

The Bidder/Proposer’s documentation of Good Faith Efforts to meet the participation goal(s) checked above must be submitted to the HRC within two (2) business days of the Bid Opening / Proposal Due Date. The Bidder/Proposer will receive no further reminders about this deadline.

A waiver will be granted based on a Bidder/Proposer’s documented Good Faith Efforts, and only when the HRC determines that the Bidder/Proposer has completed all of the following activities:

1. Solicited the interest of all PEP-Certified Firms having the capability to perform the work of the contract. The Bidder/Proposer must solicit this interest at least ten (10) business days before the Bid Opening / Proposal Due Date in order to allow the PEP-Certified Firm sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient Good Faith Efforts, if it is the sole method of communication used.
2. Divided contract work items into economically feasible units to facilitate PEP participation, even when the Bidder/Proposer might otherwise prefer to perform these work items with its own forces.
3. Negotiated in good faith with PEP-Certified Firms, and considered the firms’ prices and capabilities as well as the contract goals. Rejected PEP-Certified Firms as being unqualified only for reasons based on a diligent investigation of their capabilities. The Bidder/Proposer’s standing within its industry; membership in specific groups, organizations, or associations; and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes to reject or not solicit bids from particular PEP-Certified Firms.
4. Provided interested PEP-Certified Firms with plans and specifications at no cost, or directed them to the Greater Dayton Minority Business Assistance Center (Dayton MBAC) for information about the project’s plans, specifications, and requirements at least ten (10) business days prior to the Bid Opening / Proposal Due Date in order to assist them in responding to a solicitation.
5. Sought the Dayton MBAC’s assistance or used the services of community organizations; contractors’ groups; local, state or federal business assistance offices; or similar organizations to find PEP-Certified Firms. Contacting the HRC for a list of certified companies will not be deemed as sufficient Good Faith Efforts.

NOTE: In determining whether a Bidder/Proposer has made Good Faith Efforts, the HRC may take into account the performance of other Bidders/Proposers in meeting the goal(s). For example, when the apparent low bidder fails to meet a participation goal but others meet it, the HRC may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal.

Linda Treasure
(Digitally signed by Linda Treasure
Date: 2020.11.30 12:25:35 -05'00"
(Signature of Bidder/Offeror’s Authorized Agent)

Linda Treasure
(Printed Name of Bidder/Offeror’s Authorized Agent)

Turn-Key Environmental Consultants, Inc.
(Name of Bidder/Proposer’s Firm)

Linda Treasure
(President
(Printed Name of Bidder/Offeror’s Authorized Agent)

11/30/2020
(Date)
Dayton, Ohio

Department of Planning and Community Development

Bid Tabulation For: Nuisance Abatement Program
Residential and Commercial Asbestos Surveys and
Post Abatement Verification Inspections II – 2020
(10% SBE Participation Goal)

<table>
<thead>
<tr>
<th>Bid Opening Date</th>
<th>Cost Estimate</th>
<th>Estimated Time Of Completion</th>
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</thead>
<tbody>
<tr>
<td>December 3, 2020</td>
<td>$44,310.00</td>
<td>150 Working Days</td>
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<table>
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<tr>
<th>Bidders</th>
<th>Actual Amount Of Base Bid</th>
<th>Adjustment For Work Days</th>
<th>Adjustment For Comparison Purposes Only</th>
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<tr>
<td>* Turn-Key Environmental Cons.</td>
<td>$29,330.00</td>
<td>-0-</td>
<td>$29,330.00</td>
</tr>
<tr>
<td></td>
<td>150 Working Days</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Awarded
Revised 9/14/98
City Manager’s Report

From 5340 - Finance/Revenue Admin
Supplier, Vendor, Company, Individual
Name Linebarger Goggan Blair & Sampson, LLP
Address Terrace 2, 2700 Via Fortuna Dr, Ste 500
Austin, TX 78746

Date January 27, 2021
Expense Type Other, (See Description Below)
Total Amount $422,000.00 (thru 12/31/22)

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-5340-1159-64 $422,000.00

Includes Revenue to the City ☑ No Affirmative Action Program ☑ Yes ☑ No ☑ N/A

Description
INCREASE BUDGET AUTHORITY TO EXISTING PROFESSIONAL COLLECTION SERVICES AGREEMENT
The Department of Finance requests City Commission approval to increase the spending authority by $422,000.00 for the existing Agreement with Linebarger Goggan Blair & Sampson, LLP (Linebarger). Linebarger serves as the City’s professional third-party collection agency to recover delinquent Accounts Receivable (AR).

The City Commission approved the original Agreement on December 18, 2019, and granted spending authority for $130,000.00 through December 31, 2022. No amendment to the actual Agreement is required. The terms of the Agreement do not enumerate a specific amount. Instead, the terms call for the City to pay a percentage of gross collections (19% for regular accounts and 28% for accounts that require legal action). Those collection fee percentages will not change. The existing Agreement’s initial term of three (3) years, commencing on January 1, 2020, with two (2) successive one-year renewals, also does not change.

This request will cover estimated fees in 2021 and 2022 for a greater amount of revenue than what Finance anticipated from gross delinquent A/R collections and will bring the total estimated expenses for the initial three-year Agreement to $552,000.00.

Based on the number of outstanding accounts from 2020 that Linebarger is still collecting (approximately $29M as of 12/21/2020) and the anticipated new accounts Finance will send each month, Finance projects gross collections for the year to be between $1.14M and $1.16M. Therefore, the department needs at least $220,000.00 in each remaining year of the Agreement to pay the 19% commission fee. Based on those estimates, the City would receive a net cash amount of $923,400.00 annually to the General Fund, which is $866,000.00 more than we received in 2019 from the two previous collection vendors.

Finance currently has $18,000.00 in remaining budget authority left from the original Commission approval granted in December 2019; therefore, it is only requesting $202,000.00 in additional spending authority for 2021. The remaining $220,000.00 of this $422,000.00 request may be spent through 2022.

A Certificate of Funds for $202,000.00 is attached.

The Department of Law has reviewed the original Agreement for legal form and sufficiency and concluded that no change to the original Agreement is necessary.

Signatures/Approval

Approved by City Commission

Clerk
Date

FORM NO. MS-16
Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
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* The initial encumbrance of $30k was increased twice in 2020: first by $37K and again by $45K for a total of $112K, encumbered by 12/31/2020. These transactions left $18K of the $130K in Commission authority available, which has been encumbered against the original 2021 budget of $50k, leaving a 2021 unencumbered budget amount of $32K. This $32K of budget can only be encumbered with additional Commission Authority.

<table>
<thead>
<tr>
<th>Required Documentation</th>
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<tbody>
<tr>
<td>x Initial City Manager’s Report</td>
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<tr>
<td>x Initial Certificate of Funds</td>
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<tr>
<td>x Initial Agreement/Contract</td>
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<td>Increase Encumbrance</td>
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<tr>
<td>Decrease Encumbrance</td>
<td>$ -</td>
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<tr>
<td>Remaining Commission Approval</td>
<td>$220,000.00</td>
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</tbody>
</table>

X Copy of City Manager’s Report
X Copy of Original Certificate of Funds

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Director Signature: __________________________
Date: 1/19/2021

Tonika Williams __________________________
CF Prepared by: 1/20/2021
CT21-2507 CORD #1

Finance Department
October 18, 2011
January 20, 2021

TO: Shelley Dickstein, City Manager
Office of the City Manager

FROM: LaShea Lofton, Acting Director
Department of Finance

SUBJECT: Request for Additional spending authority for Third Party Collections: Linebarger Goggan Blair & Sampson, LLP

The Department of Finance requests City Commission approval to increase the Professional Services Agreement's spending authority with Linebarger Goggan Blair & Sampson, LLP (Linebarger) by $422,000.00. Linebarger provides professional third party collection services for City delinquent accounts receivables (A/R). The existing Agreement's initial term of three (3) years, commencing on January 1, 2020, with two (2) successive one-year renewals, remains in effect.

This request will cover estimated fees in 2021 and 2022 for a greater amount of cash expected from Linebarger's services to recover delinquent A/R collections than what Finance anticipated initially. The increase will bring the total for the three-year Agreement to $552,000.00. The increase's primary driver is directly related to when Finance sent Linebarger 50,000+ past-due photo enforcement accounts in July 2020.

Of the initial $130,000.00 approved by Commission, Finance anticipated spending $30,000 in 2020 and $50,000 annually in 2021 and 2022. However, from May (the first month we started receiving payments) through December, Finance paid Linebarger a total of $86,790.40 (19% per the Agreement) for the gross collection of $456,791.60. Based on this collection rate, Finance spent all but $18,000 of the initial 3-year budget authority in less than one year. However, this increased collection activity yielded the City net cash revenue of $370,000.00, an 84% increase over the amount we received in net collections from the two previous collection vendors in 2019 ($56,800).

Based on the number of outstanding accounts from 2020 that Linebarger is still collecting (valued at approximately $29M as of 12/21/2020) and the anticipated new accounts Finance will send each month, Finance projects gross collections for 2021 and 2022 to be between $1.14M and $1.16M. Therefore, we need at least $220,000 in each remaining year of the Agreement to pay the 19% commission fee. Based on those estimates, the City would receive net revenue to the General Fund of $923,400.00 annually, which is $866,000.00 more than we received in 2019 from the previous vendor's collection efforts.

Finance is requesting City Commission approval of the total additional spending authority at the January 27, 2021, Commission meeting. The total estimated expense for the provided services in 2021 is $220,000. A Certificate of Funds is attached to encumber an additional $202,000.00 for 2021 costs. Eighteen Thousand ($18,000.00) of the authority granted in 2019 has been encumbered against the original 2021 budget of $50,000.00. Finance took this action to pay for January services, which leaves $32,000.00 to be encumbered, but under the requested additional authority.

There is no amendment to the actual Agreement because there is no fixed cost defined in its terms and conditions. Instead, the Agreement calls for the City to pay a percentage of gross collections (19% for regular accounts and 28% for accounts requiring legal action). Those percentages will not change.

Please contact me at x3578 or Latonna Jones, Senior Financial Analyst at x3656, if you have additional questions.

CLL/lj

Attachments
Cc: Mr. Parlette  Mr. John  Ms. Jones  Mr. Smith  File
City Manager's Report

From 5340 - Finance/Revenue Admin
Supplier, Vendor, Company, Individual
Name Linebarger Goggan Blair & Sampson, LLP
Address Terrace 2, 2700 Via Fortuna Dr, Ste 500
Austin, TX 78746

Date December 18, 2019
Expense Type Service Agreement
Total Amount $130,000.00 (thru 12/31/22)

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-5340-1159-64 $130,000.00

Includes Revenue to the City □ Yes □ No Affirmative Action Program □ Yes □ No □ N/A

Description

AWARD OF PROFESSIONAL THIRD PARTY COLLECTIONS AGREEMENT

The Department of Finance is requesting City Commission approval to enter into an Agreement with Linebarger Goggan Blair & Sampson, LLP for Professional Third Party Collection for Accounts Receivable, Income Tax, Emergency Medical Services (EMS), and Red Light, Speed and Parking Violations in the amount of $130,000.00 for a three-year period.

The Agreement for Linebarger Goggan Blair & Sampson, LLP commences upon execution by the City and ends December 31, 2022. The City, at its discretion, may renew the Agreement for a maximum renewal period of two (2) additional years commencing on January 1, 2023 and ending no later than December 31, 2024.

The selection was made via the Request for Proposals process. The criteria used to evaluate and ultimately select the billing and collection agency was based on Cost, Proposed Procedures, Compliance, Technical Capabilities, Security and Risk Mitigation, Experience, Dayton Local Business, and PEP certification. The Department of Finance received and evaluated proposals from six (6) vendors. Linebarger Goggan Blair & Sampson, LLP was selected based on receiving the highest overall evaluation score and best met the billing and collection service needs of the City. Key features proposed by Linebarger Goggan Blair & Sampson, LLP are bankruptcy assistance and multiple payment options for clients to pay at no additional cost to the client or the City.

Authority is being requested to cover the following periods as needed:

1/1/20 – 12/31/20 $30,000.00
1/1/21 – 12/31/21 $50,000.00
1/1/22 – 12/31/22 $50,000.00

The Department of Law has reviewed and approved the Agreement as to form and legal correctness. An Initial Certificate of Funds in the amount of $30,000.00 is attached to cover the period of January 1, 2020, through December 31, 2020. Future encumbrances will be processed as needed.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS
CT20-2507

SECTION I - to be completed by User Department

NEW CONTRACT

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NO DRAFT DOCUMENTS PERMITTED

CHANGE ORDER

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<tr>
<td>X Initial Certificate of Funds</td>
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<tr>
<td>X Initial Agreement/Contract</td>
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</table>

Copy of City Manager's Report
Copy of Original Certificate of Funds

Vendor Name: Linebarger Goggan Blair & Sampson, LLP
Vendor Address: Terrace 2, 2700 Via Fortuna Dr, Ste 500 Austin, TX 78746
Federal ID: 74-2864602
Commodity Code: 94633
Purpose: To provide delinquent account collection support for the City of Dayton 2020 calendar year.

Contact Person: Latonna Jones
Finance-Tax & Accounting Adm. Department/Division
11/20/2019 Date

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Director Signature
12/10/19 Date

CF Prepared by
12/10/19 Date

Finance Department
October 18, 2011
PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered between the CITY OF DAYTON, OHIO ("City"), a municipal corporation in and of the State of Ohio, and LINEBARGER GOGGAN BLAIR & SAMPSON, LLP ("Linebarger").

WITNESSETH THAT:

WHEREAS, The City’s Department of Finance identified a need for certain professional services regarding collection and bankruptcy matters; and,

WHEREAS, The City desires to enter into a contract with a qualified law firm to provide legal and debt collection services in connection with the collection of delinquent accounts receivable (Court fees, fines and costs) from the City and administration of bankruptcy matters; and,

WHEREAS, Linebarger represents that it is a skilled, experienced and competent consulting firm, with the personnel and know-how to perform the professional services set forth hereinafter for the City’s Department of Finance.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth below, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES

Linebarger’s client is the City. Linebarger will serve as the City’s legal counsel and debt collection services agency in connection with the collection of delinquent accounts receivable on behalf of the City, on an as-needed basis as determined by the City. The City shall refer delinquent accounts receivable to Linebarger for collection in a mutually agreed format that provides the necessary information to effect a reasonable collection effort.

Additionally, Linebarger shall assist the City in bankruptcy matters. The City shall turn over any and all bankruptcy notices, documents, and other materials to Linebarger in a timely manner. Linebarger shall work with the City to determine the best course of action in each bankruptcy matter.

SECTION 2. PAYMENT

The City shall pay the Linebarger in accordance with the fees outlined below:

A. This is a “contingency fee only” agreement for debt collection and legal services. Linebarger shall retain as its contingency fee a percentage of actual collections from delinquent accounts receivable referred by the City to Linebarger, as follows:

   i. Nineteen percent (19%) of the total amount collected on accounts referred to Linebarger by the City which do not require legal action.
ii. Twenty-Eight percent (28%) of the total amount collected on accounts referred to Linebarger by the City for legal action to be taken by Linebarger. If there is no provision that allows for City matters to be filed in local courts without advancement of court filing fees/costs, Linebarger will handle legal/litigation matters at thirty-three percent (33%) and will define this with the City during implementation.

D. For accounts Linebarger believes require litigation, bankruptcy, or other legal services, Linebarger shall, prior to proceeding with such litigation, bankruptcy, or other legal services, obtain approval in writing from the City, through its designated office.

E. Prior to settling any delinquent account receivable for an amount less than what was originally referred to Linebarger for collection, Linebarger shall obtain written approval for such settlement from the City, through its designated office.

F. All payments and fees for services provided by Linebarger shall be wholly dependent upon the results obtained from actual collections from delinquent accounts receivable. The City shall not be obligated to make any payment whatsoever to Linebarger other than as deductions from recoveries actually collected. Linebarger shall advance all of its costs in connection with its representation of the City under this Agreement, and shall not receive any reimbursements or payments whatsoever other than its contingency fee described in this Section.

G. Linebarger shall remit to the City, on a monthly basis or other schedule as directed in writing by the City, the balance of such actual collections received during the preceding month together with an agreed form of accounting and reconciliation.

H. It shall be a condition precedent to payment of any invoice from Linebarger that Linebarger is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Agreement. If damages are sustained by the City as a result of breach or default by Linebarger, the City may withhold payment(s) to Linebarger for the purpose of set off until such time as the exact amount of damages due the City from Linebarger may be determined.

I. No request for payment shall be processed unless the request is in proper form, correctly computed, and is approved as payable under the terms of this Agreement.

J. The City shall not be liable for any obligation incurred by Linebarger except as may be provided for by this Agreement.

K. In the event that statutory authority is enacted during the term of this Agreement that serves to allow the City to shift the cost of collection to the delinquent account holder ("add-on collection fee"), thus allowing the City to obtain the collection services under this Agreement at no cost to the City, the parties may negotiate in good faith an increase or adjustment to the amount of the contingency fee paid to Linebarger consistent with the statutory authority.

SECTION 3. ASSIGNMENT AND LIMITATIONS ON SUBCONTRACTING

A. Restriction against assignment. The City is relying upon the professional skill and experience of Linebarger. Therefore, assignment of this Agreement by Linebarger is prohibited.
B. Limitations on subcontracting. Because the City is relying upon the professional skill and experience of Linebarger, no part of the professional services to be provided hereunder may be subcontracted by Linebarger to other organizations or subcontractors without the prior written and express consent of the City.

SECTION 4. TERMINATION

A. Termination of Agreement for Cause. If, through any cause, Linebarger fails to fulfill in a timely and proper manner its obligations under this Agreement, or if Linebarger defaults in the performance of any terms or conditions of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to Linebarger specifying the effective date of the termination, at least five (5) days before such effective date. In the event of such termination, Linebarger will be paid for the professional services actually performed and reasonable expenses incurred up to the effective date of termination.

B. Termination of Agreement without Cause. The City may terminate this Agreement at any time and without cause upon giving Linebarger thirty (30) days prior written notice. The notice of termination shall be made by mailing written notice to Linebarger by certified mail to its usual place of business. If such termination occurs, Linebarger will be paid for the professional services actually performed and reasonable expenses incurred up to the effective date of termination.

SECTION 5. TERM

This Agreement shall commence upon full execution by the City and it shall expire on December 31, 2022, unless earlier terminated or extended by mutual written agreement.

The City shall have the option to renew this Agreement for a total of two (2) one-year (1) terms upon providing notice to Linebarger thirty (30) days prior to the end of the then-current term.

SECTION 6. DISPUTE RESOLUTION

A. Mediation Period. If during the term of this Agreement the parties are unable to resolve a dispute or controversy among themselves, prior to instituting any court action the parties shall first try, in good faith, to settle the dispute by non-binding mediation.

SECTION 7. INSURANCE

Linebarger shall, at its expense, maintain with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, no less than the following insurance:

A. Professional Liability/Errors and Omissions Insurance, with a one million dollar ($1,000,000) annual aggregate. This annual aggregate amount requirement for professional liability/ errors and omissions may be met on a combined basis, i.e., by combining such insurance maintained by Linebarger with similar insurance maintained by any subcontractor (to the extent that a
subcontractor is consented to by the City through the process described above in this Agreement).

B. General Liability Insurance, with a combined single limit of one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) in the aggregate. This policy shall name the City of Dayton, Ohio and its elected officials, officers, agents, and employees as additional insureds.

Linebarger shall also maintain Workers’ Compensation Insurance in such amounts as prescribed by law. All policy/policies of insurance to be maintained by Linebarger pursuant to this Section, excluding Workers’ Compensation Insurance, shall provide that the insurance may not be reduced, decreased, cancelled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, Linebarger shall furnish the City with a copy of certificates of insurance demonstrating compliance with this Section. Linebarger shall also provide, upon the City’s request, complete copies of any insurance policies required hereunder.

SECTION 8. OWNERSHIP OF WORK PRODUCT AND DOCUMENTS

All work product, including, but not limited to, documents, drawings, analysis, reports, charts, and/or graphs, which are prepared by Linebarger pursuant to this Agreement shall, upon payment by the City, become the sole and exclusive property of the City, except to the extent that the Linebarger retains copies of their work files for a period of not less than five (5) years.

The City recognizes and acknowledges that Linebarger owns all right, title, and interest in certain proprietary software that Linebarger may utilize in conjunction with performing the services provided in this Agreement. The City agrees and hereby grants Linebarger the right to use and incorporate any information provided by the City ("City Information") to update the databases in this proprietary software, and, notwithstanding that City Information has been or shall be used to update the databases in this proprietary software, further stipulates and agrees that City shall have no rights or ownership whatsoever in and to the software or the data contained therein, except that the City shall be entitled to obtain a copy of such data that directly relates to the City’s accounts at any time.

SECTION 9. CONFIDENTIALITY

Due to the nature of the professional services to be provided by Linebarger hereunder, Linebarger agrees that all work product, including, but not limited to, all documents, databases, reports, opinions, and information prepared hereunder and/or furnished to Linebarger by the City, is confidential, and shall not be divulged, in whole or in part, to any person or entity, other than duly authorized representatives of the City, without prior written approval of the City; but excepting therefrom, instances wherein disclosure is required by law, including by order of a court of competent jurisdiction or disclosure under oath in a judicial proceeding. Linebarger shall take all necessary steps to ensure that all its employees, agents, and/or contractors abide by and adhere to this confidentiality requirement.
SECTION 10. CONFLICT OF INTEREST

The City recognizes that Linebarger does not provide services exclusively to the City. During the term of this Agreement, Linebarger agrees not to accept employment, or to perform for or on behalf of another client for which a conflict of interest between the City and Linebarger would be created, without the prior written consent of the City and Linebarger. Assisting other communities with grant or loan applications that may be in competition with the City is not considered a conflict of interest, but Linebarger will disclose, subject to confidentiality obligations, any such projects to the City prior to accepting the engagement.

SECTION 11. INDEMNIFICATION

To the full extent permitted by law, Linebarger shall indemnify, defend and hold harmless the City and its elected officials, officers, agents, and employees from and against all claims, demands, losses, and expenses, including but not limited to reasonable attorneys' fees, to the extent arising out of or resulting in whole or in part from any negligent act or omission, and/or from any failure to perform Linebarger's duties under this Agreement, attributable to Linebarger its employees, agents, and subcontractor, and any other person or entity for whose conduct Linebarger may be liable under Ohio law.

SECTION 12. RECORDS

Linebarger shall use Generally Accepted Accounting Principles ("GAAP") in recording and documenting all costs and expenditures related in whole or part to the performance of this Agreement. Such costs and expenditures shall be supported by time records, invoices, contracts, vouchers, or other accounting documents pertaining in whole or in part to this Agreement and shall be clearly identified and readily accessible to the City. At any time during normal business hours and as often as the City may deem necessary, Linebarger shall make available to the City and/or its designees all of its records with respect to all matters covered under this Agreement. Linebarger will permit the City and/or its designees to audit, examine, and make excerpts or transcripts from such records. Linebarger shall keep its books and records available for this purpose for at least three (3) years after this Agreement terminates. This provision does not affect any applicable statute of limitations.

If Linebarger performs an independent audit of business financial records, Linebarger shall require the company or auditor to comply with all applicable GAAP standards that have been developed by the American Institute of Certified Public Accountants.

SECTION 13. MISCELLANEOUS

A. Non-Discrimination. Linebarger shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship. It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and as if
specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling the City to terminate this Agreement at its option.

B. Remedies. The remedies provided in this Agreement are cumulative. Delay or forbearance in the enforcement of any right under this Agreement shall not be deemed a waiver of, or estoppel against the exercise of such right.

C. Entire Agreement. This Agreement, together with all Exhibits referred to herein, represents the entire and integrated Agreement between the City and Linebarger and supersedes all prior negotiations, representations, and Agreements regarding the subject hereof, whether oral or written.

D. Independent Contractor Status. By executing this Agreement for professional services, Linebarger acknowledges and agrees that it will be providing services to the City as an "independent contractor." As an independent contractor for the City, Linebarger shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this subsection. Linebarger shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City.

Linebarger, its employees and any approved subcontractor performing the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City. Further, Linebarger shall be responsible to withhold and pay, or cause such agents and subcontractor to withhold and pay, all applicable local, state and federal taxes.

Linebarger acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership.

E. Amendment. This Agreement may be amended by mutual agreement between the City and Linebarger. Any such amendment shall be reduced to a writing, which makes specific reference to this Agreement and executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio.

F. Applicable Law and Venue. This Agreement shall be governed and construed under the laws of the State of Ohio. By execution hereof, Linebarger irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.

G. Political Contributions. Linebarger affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

H. Notices. Any notice required under this Agreement shall be deemed to have been given on the date actually received or forty-eight (48) hours having been deposited in the United States mail, postage prepaid, registered or certified, and addressed to the parties as set forth below, whichever occurs earlier. Either party may change its address from time to time by written notice given in this manner.
If to the City:

City of Dayton, Ohio
Attn: Latonna Jones
Department of Finance
101 W. Third Street
Dayton, OH 45402

If to Linebarger:

Linebarger Goggan Blair & Sampson, LLP
Attn: Scott McGlasson
5080 Tuttle Crossing Blvd, Suite 340
Dublin, OH 43016-3540

And to:

Linebarger Goggan Blair & Sampson, LLP
Client Services Department
2700 Via Fortuna, Suite 500
Austin, TX 78746

IN WITNESS WHEREOF, the City and Linebarger, each by a duly authorized representative, have executed this Agreement as of the date first set forth below.

CITY OF DAYTON

City Manager

Date

LINEBARGER GOGGAN BLAIR & SAMPSON/LLP

Title: 

APPROVED AS TO FORM

AND CORRECTNESS:

City Attorney

APPROVED BY THE COMMISSION

OF THE CITY OF DAYTON, OHIO:

December 18, 2019

Min./Bk.: 1-16/Page: 0071

Clerk of the Commission