

**Contractor/Auditor**

# **AGREEMENT**

*with*  
**CITY OF LORAIN, OHIO**

*And*

UNITED WAY OF GREATER LORAIN COUNTY

*For*

Utility Assistance Program <b>A - 25 - 044</b> (year) (#)
---

**Department**

BHP

**Fund/Account**

<sup>4010</sup>  
401.C401.6300.1500

**Bid**

Yes \_\_\_ No \_\_\_

This AGREEMENT is in effect from

START DATE \_\_\_\_\_ END DATE \_\_\_\_\_

Board of Control: 04/30/2025.

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ORDINANCE NO. 244 22

**AN ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR OF THE CITY OF LORAIN TO ENTER INTO AN ELECTRIC AGGREGATION SERVICE AGREEMENT WITH ENERGY HARBOR LLC AND DECLARING AN EMERGENCY.**

**WHEREAS**, R.C. §4928.20(A) authorizes the legislative authority of a municipal corporation to adopt an ordinance that aggregates the retail electrical loads located, respectively, within the municipal corporation and enter into service agreements to facilitate for those loads the sale and purchase of electricity; and,

**WHEREAS**, the City's electric aggregation consultant, Brilliant Source, negotiated a fifty-seven month proposal with Energy Harbor LLC at a rate of \$0.0848 per kilowatt-hour for both residential and commercial customers; and,

**WHEREAS**, the current electricity market is in flux and difficult to predict, creating an advantage for municipalities to enter into long-term fixed price agreements; and,

**WHEREAS**, Council finds this rate to be competitive and that prompt execution of a service agreement is necessary in order to secure this rate for City residents and businesses;

**WHEREAS**, as part of the electric aggregation service agreement with Energy Harbor LLC, Energy Harbor will pay a community grant to the City on an annual basis in the amount of \$100,000.00 prorated for any partial year. Funds will be appropriated to a suitable account to be determined by the Auditor's Office.

**WHEREAS**, the City intends to set aside \$25,000.00 of the annual grant money to a separate account, to be determined by the Auditor's Office, to be used to provide assistance to qualified residents in paying their energy bills.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LORAIN, OHIO:

**Section 1:** The Safety Service Director is hereby authorized to enter into an electric aggregation service agreement with Energy Harbor LLC attached hereto in substantial form for a term not to exceed fifty-seven months at a rate of \$0.0848 per kilowatt-hour for residential and commercial customers pursuant to R.C. §4928.20(A).

**Section 2:** It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public; and in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

**Section 3:** That this Ordinance is declared to be an emergency, the nature of the emergency being the immediate need to enter into a service agreement with Energy Harbor LLC in order to benefit from the cost savings in an expeditious manner before electricity rates increase and in order to satisfy the requirements as dictated by Ohio Revised Code. Therefore, the Ordinance shall take effect and be in force from and immediately after its passage and approval of the Mayor, providing it meets the statutory requirements for passage, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed: December 19, 2022

Attest: Beanna M. Ull, Clerk

Approved: December 19, 2022

  
\_\_\_\_\_  
President of Council

  
\_\_\_\_\_  
Mayor



# CITY OF LORAIN

## Board of Control

### Meeting of April 30, 2025

#### **I. ROLL CALL**

The Board of Control meeting was called to order at 11:16 a.m. by Mayor Bradley. In attendance were Mayor Jack Bradley, Safety/Service Director Rey Carrion, Joe Carbonaro, Mindy Stoyka, Dave Comer, Matt Kuszniir, Andrea Smith Hannah Kiraly, Rose White, Deputy Safety Service Director Tim Williams, and Alonna Lopez.

#### **II. MATTERS FOR DISCUSSION**

**a. A request from the Lorain Utilities Billing & Meter Department for a purchase order with Neptune Equipment in an amount not to exceed \$350,000 per year for the purchase of meters and supplies. Ordinance 41-25 passed council on 4/21/25. Funding GL Accounts 6020.P602.6100.6700.1303 Water Works, Accounting, Meters and 6130.P613.6100.6700.1303 Water Pollution Control, Accounting, Meters.**

**Discussion:** Neptune Equipment is the provider of the material and equipment for the meters and supplies that the City of Lorain uses. The ordinance passed is for the length of two years- not to exceed \$350,000 per year.

**Mayor Bradley made the motion to approve the request; Safety/Service Director Carrion seconded the motion.**

**Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.**

**b. A request from the Department of Public Property, Parks Division, to purchase six magnetic door locks for park restroom doors from Young Security Services for a total amount not to exceed \$6,864.00. Funding will be through account 1010.B200.6400.2200 Parks Maintenance of Facilities.**

**Discussion:** The door locks will be installed at Campana Park.

**Mayor Bradley made the motion to approve the request; Safety/Service Director Carrion seconded the motion.**

**Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.**

**c. IT Department requests to increase PO# 2025-378 (Passed BOC 1/22/25 Item g) with U.S. Bank for the renewal of Adobe Licenses. PO will be increased to \$18,460.20 from \$15,000.**

**Adobe has changed their licensing model, increasing the cost of our licenses.**

**Discussion:** This is for the City's annual licenses. The cost of this year's licenses increased since last year.

Mayor Bradley made the motion to approve the request; Safety/Service Director Carrion seconded the motion.

Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

**d. A request from the Civil Service Commission for a purchase order with the Ohio Association of Chiefs of Police (OACP) in the amount of \$18,400.00 to administer the promotional Sergeant assessment center exam. Funding will come from GL Account #1010.B400.6300.1500 Contractual Service.**

**Discussion:** An amendment was made to add the International Association of Chiefs of Police (IACP) in addition to the Ohio Association of Chiefs of Police (OACP). There is a written portion and assessment portion of this promotional exam. About thirty-five candidates will take the written component and the top fourteen candidates will advance to the assessment portion of the promotional exam.

Mayor Bradley made the motion to approve the request; Safety/Service Director Carrion seconded the motion.

Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

**e. The Department of Building, Housing and Planning requests to enter into a contract with United Way of Greater Lorain County to provide utility grants to Lorain residents for an amount not to exceed \$25,000 per year for the next three years, a total of \$75,000. Funds will be paid from account #: 401.C401.6300.1500 Capital improvements – contractual.**

**Discussion:** This is part of the Energy Safe Harbor Grant received by the city. The utility grants can be used to aid with only gas and electric bills.

Mayor Bradley made the motion to approve the request; Safety/Service Director Carrion seconded the motion.

Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

**f. The Building, Housing and Planning Department requests to enter into an agreement for an amount not to exceed \$19,700 with Hen and Sons Lawncare for the cutting of tall grass and debris removal from properties as a part of the Mow Down Program. The total is tentative, based on the need for contracted cuts in addition to the Mow Down program cuts. The City of Lorain accepted quotes from February 25, 2025, until April 4, 2025, and received six (6) quotes. All quotes were scored to determine the lowest and best. A scoring tabulation is attached to display the scores of all quotes received. Funds will be paid out of NSP funding (2350.R235.6300.1520) \$15,230 and Contractual Service funding (1010.S900.6300.1500) \$4,470.**

**Discussion:** NSP stands for Neighborhood Stabilization Program. An amendment was made to this request to change the vendor being awarded this agreement to Rowser and Son's Lawn Maintenance LLC in the amount of \$9,660.00. Funding will come from the same listed funding accounts. BHP will adjust the amounts coming from each account to reflect the change in price for this agreement. This approval was given subject to the following conditions: 1. verification that the vendor is registered with our City Treasurer's Office, 2. Rowser and Son's will be put on a 30-day probationary period, and

3. Deputy Safety Service Director Tim Williams will oversee the Mow Down Program to ensure Rowser and Son's Law Maintenance LLC abides by the agreement.

Mayor Bradley made the motion to approve the request as amended; Safety/Service Director Carrion seconded the motion.

Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

**g. \*\*\*REQUEST TO WAIVE THE 24-HOUR RULE TO ADD AN ITEM FOR CONSIDERATION**  
A request from the Lorain Utilities Department to amend the highest rated and ranked engineering firm being awarded the agreement for the construction management services for the construction of the Jaeger Road Pump Station to Accenture Infrastructure and Capital Projects LLC. This request was approved by the Board of Control on 1/14/2025 Item L with Anser Advisory.

Discussion: Mayor Bradley made the motion to waive the 24-hour rule and add this item for consideration; Safety/Service Director Carrion seconded the motion.

Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

Anser Advisory was bought out by Accenture Infrastructure and Capital Projects LLC. The cost of this contract will remain the same. This item was conditionally approved subject to verification from the City Law Department that this item does not need to go back to City Council for approval. If no verification is received by Safety Service Director Carrion, the approval is negated.

Mayor Bradley made the motion to approve the request; Safety/Service Director Carrion seconded the motion.

Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

**h. \*\*\*REQUEST TO WAIVE THE 24-HOUR RULE TO ADD AN ITEM FOR CONSIDERATION**  
A request from the Lorain Utilities Department to amend the highest rated and ranked engineering firm being awarded the agreement for the construction management services for the construction of the Martin's Run Pump Station to Accenture Infrastructure and Capital Projects LLC. This request was approved by the Board of Control on 7/24/2024 Item G with Anser Advisory.

Discussion: Mayor Bradley made the motion to waive the 24-hour rule and add this item for consideration; Safety/Service Director Carrion seconded the motion.

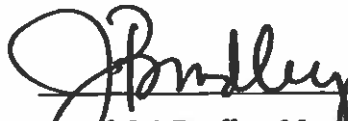
Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

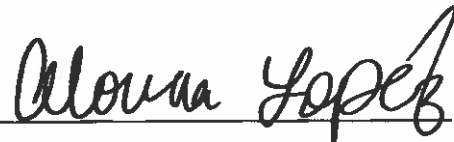
Anser Advisory was bought out by Accenture Infrastructure and Capital Projects LLC. The cost of this contract will remain the same. This item was conditionally approved subject to verification from the City Law Department that this item does not need to go back to City Council for approval. If no verification is received by Safety Service Director Carrion, the approval is negated.

Mayor Bradley made the motion to approve the request; Safety/Service Director Carrion seconded the motion.

Roll Call: Safety/Service Director Carrion-aye; Mayor Bradley-aye. Motion carried unanimously.

The Board of Control Meeting of April 30 adjourned at 11:50 a.m.

 4/2/2025  
\_\_\_\_\_  
Jack W. Bradley, Mayor  
City of Lorain, Ohio

\_\_\_\_\_  
Alonna Lopez  
Secretary for Board of Control

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**AGREEMENT  
BETWEEN THE CITY OF LORAIN AND  
VENDOR**

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**AGREEMENT**

Effective as if the 30<sup>th</sup> day of April in the year of 2025:

**BETWEEN the City:**

**The City of Lorain**  
200 West Eric Avenue  
Lorain, Ohio 44052

**The Vendor is:**

**United Way of Greater Lorain County**  
642 Broadway Avenue,  
Lorain, OH 44052

**The Project is:**

**Utility Assistance Program**

**The City of Lorain and Vendor agree as set forth below.**

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**THIS AGREEMENT, effective as of the 30<sup>th</sup> day of April, 2025, between the City of Lorain, organized and existing as a political subdivision of the State of Ohio, and (“Vendor”).**

**The City of Lorain and Vendor agree as set forth below:**

**WHEREAS, it is necessary to perform professional services for the (herein after known as PROJECT); and**

**WHEREAS, in order to perform such services, it is necessary to supplement regularly employed City of Lorain staff with outside professional consulting services; and**

**WHEREAS, the City of Lorain finds Vendor’s proposal acceptable and desires to hire and engage Vendor to supplement the staff of the City of Lorain and to furnish the services necessary, in accordance with the Vendor’s proposal and the terms, conditions and provisions contained herein. Vendor, pursuant to the information provided in its proposal and evaluated by the City of Lorain, has been determined to be qualified and competent to provide the required professional services;**

**NOW, THEREFORE, it is agreed that the City of Lorain shall and does hereby employ Vendor to perform the services as hereinafter specified; and that, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, it is agreed by and between the parties as follows:**

**Section 1. DEFINITIONS**

**1.1 “City” means the City of Lorain, Ohio.**

**1.2 “Director of Public Safety/Service” means the Director of Public Safety/Service for the City of Lorain, Ohio, his/her successor, or his/her Authorized Designee.**

- 1.3** “Vendor” means
- 1.4** “Services” means those services performed by Vendor as detailed in the Scope of Services, (Exhibit “A”) as per this Agreement.
- 1.5** “Base Agreement Price” means the Vendor’s base agreement price for Services as specified in the Scope of Services, (Exhibit “A”), and Compensation, (Exhibit “B”), excluding specific and general allowances.
- 1.6** “Agreement Modification” means changes to this original agreement as executed. Agreement Modifications require prior authorization by the Director of Public Safety/Service and approval by the City Council, and must be executed by both the City and the Vendor.
- 1.7** “General Allowance” means funds, not included in the Base Agreement Price, reserved for additional services not foreseeable at the time of scope development but necessary to complete the project to meet the City’s needs. The amount of the General Allowance is determined by multiplying the Base Agreement Price by a defined percentage as shown in Exhibit “B” Compensation.
- 1.8** “Reallocation of Funds” means a transfer of funds between tasks, as presented in Exhibit “B” – Compensation, that does not result in a change to the original Agreement Scope of Services or Total Agreement Price.
- 1.9** “Schedule Delay” means a projected or actual delay in completion of tasks, activities, or project completion that does not result in a change to the original Agreement scope of Services or Total Agreement Price.
- 1.10** “Specific Allowance” means funds, as established by the City, that are included in the Total Agreement Price for specific scope of Services tasks that are either 1) generally

known to be required for the project but whose level of effort is unknown until after select items of the base Services have been performed, or 2) pre-identified optional tasks that may or may not be required to complete the project as contemplated. The price of Specific Allowance items are usually defined with a dollar amount.

**1.11** "Total Agreement Price" means the sum of Vendor's Base Agreement Price for the original scope of Services, Specific Allowances, and General Allowances.

**1.12** "Project" means

## **Section 2. SCOPE OF SERVICES**

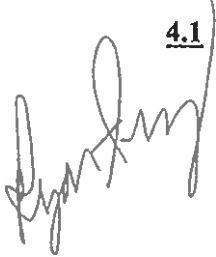
**2.1** Vendor does hereby promise and agree to provide the professional services as described in the Scope of Services (Exhibit "A").

## **Section 3. REPRESENTATIVES**

**3.1** Vendor shall designate and authorize an employee of Vendor to act as its agent for all purposes under this Agreement, who shall be available at all times to the representatives of the City for the purpose of notification and consultation, and who shall be designated as the Project Manager having overall responsibility for all phases of Vendor's participation in the project. The Vendor's Project Manager must be approved by the City, and any change in the Vendor's Project Manager requires prior approval by the City.

**3.2** For purposes of this Agreement, the agent for the City who is authorized to bind the City and liaison officer with respect to the matters contained herein shall be the Director of Public Safety/Service or such other person designated by him.

**Section 4. COMPENSATION FOR VENDOR'S SERVICES**



**4.1**

The City will pay the Vendor for the successful completion of the Scope of Services in Exhibit "A", subject to the terms and conditions of this Agreement, a Total Agreement Price not to exceed 25,000 per year for three years. Compensation for the Services described in this Agreement will be according to the terms and methods of this Agreement and Exhibit "B" - Compensation. The approved methods for compensation are "time and materials". "Lump sum" compensation shall not be accepted. The compensation method for this Agreement is designated and further defined in Exhibit "B" - Compensation.

**4.1.1 Time and Materials**

Time and materials, if specified in Exhibit "B" - Compensation, is based on a combination of labor, subVendor, and direct expense costs as specified in Exhibit "B" - Compensation and defined in this Agreement.

**4.1.1.1 Labor Costs**

Labor costs are computed by multiplying the Vendor's billing rates (as designated in Exhibit "B" - Compensation) that comprises all overhead and profit applied to the actual labor hours worked on the Services.

**4.1.1.2 SubVendor Costs**

SubVendor costs (both labor - using the same cost approach as the Vendor - and direct expense costs incurred by SubVendor) are invoiced by Vendor with no markup.

**4.1.1.3 Direct Expense Costs**

Direct expense costs in support of delivering the Services are included on the Vendor invoice. Direct expense costs (non- labor) may include, but are not limited to, mileage, travel and lodging expenses, mail, shipping, supplies, printing and reproduction services, and other direct expenses routinely charged by Vendor to specific projects that are applicable to delivering the Services.

**4.2** The task budgets are presented in Exhibit "B" - Compensation. Task funds may be reallocated within individual tasks, as long as reallocations do not negatively affect the business opportunity program goals, upon written approval to Vendor by the City's Project Manager or supervisors. Task funds may be reallocated between tasks, so long as the changes do not result in a change to the original Scope of Services or Total Contract Price, upon written approval by the City.

**4.3** Tasks may be modified with prior written authorization of the Director, in which case funds may be shifted from one task budget to another, in accordance with Section 4.2. In the event funds are not available to perform a modified Task, or Services are considered to be outside the original contract scope, such items will be deemed additional Services.

**4.4** Vendor shall not perform Additional Services, nor incur any expenses which are not required by this Agreement, and the City shall not be obligated to pay for such services and expenses until the following conditions have been satisfied:

**4.4.1** Submittal by Vendor of written notice to the City prior to the initiation of such additional Services, including an estimate of cost and schedule implications and a detailed scope of such Services;

- 4.4.2** Prior approval of the City's Council of the modification of this Agreement by the addition of such Services and additional compensation, if any;
- 4.4.3** If the additional Services increase the Total Agreement Price under this Agreement, certification of such additional cost by the City's Auditor;
- 4.4.4** A written modification to the Agreement; and
- 4.4.5** Written notification to Vendor from the Director directing Vendor to perform such additional Services prior to commencement of the additional Services.
- 4.5** For additional Services deemed by the City to be time critical, Vendor may commence Services with verbal authorization from the Director of Public Safety/Service.
- 4.6** Specific and general allowance funds may be utilized with prior written approval by the City.
- 4.7** Any costs which are paid by the City and are determined by a final audit or subsequent audit to be non-allowable in accordance with generally accepted cost accounting principles shall be refunded to the City. The City is exempt from all sales, use, and excise taxes and the City shall not be obligated to pay for such taxes. Upon request by Vendor, the City shall provide a copy of the City's certificate of tax exemption.
- 4.8** The Vendor shall assist the City in preparing any required permits or licenses; however City shall be responsible for paying for the permit, licenses or access fees required to complete the Services.

**Section 5. METHOD OF PAYMENT**

- 5.1** For the purpose of providing progress payments for the performance of the Services under this Agreement, Vendor will submit monthly invoices on the City's standard invoice template and on a schedule stipulated by the City. Progress payments will be made according to the provisions in Exhibit "B" - Compensation.
- 5.2** Invoices must be accompanied by backup information appropriate to the compensation method designated in Exhibit "B" – Compensation. However invoices will not be paid unless schedule updates are submitted as required in Section 6.0 - Term and Schedule.
- 5.3** Vendor shall furnish a list of key personnel to be assigned to the project prior to the initial invoice. Vendor shall update this list to reflect changes in key personnel assigned to the Project as they occur and/or at the City's request. The City reserves the right to reject any personnel assigned or proposed for assignment to this project after consultation with Vendor.
- 5.4** If the Time and Materials compensation method is designated in Exhibit "B" – Compensation, then Vendor shall also furnish, prior to the initial invoice, a list of all personnel expected to be assigned to the Project along with their direct "raw" hourly rates in order to facilitate processing of Vendor invoices. Vendor shall update this list to reflect changes prior to new personnel appearing on an invoice.
- 5.5** If the Time and Materials compensation method is designated in Exhibit "B" – Compensation, then Vendor shall furnish the City with a list of all personnel anticipated to be authorized to incur travel, lodging, meals and related expenses. This list shall display the individuals by name, assigned location and item of expense

authorized to be incurred. Vendor shall update this list to reflect additions or deletions of personnel to the project as they occur and/or at the City's request.

**5.6** All compensation procedures and invoice requirements set forth herein shall also apply to all subVendors directly contracted to the prime Vendor. Deviations from said procedures and requirements may be allowed only after written application by the Vendor to the City and written acceptance of such deviation by the City.

**5.7** The City retains the right to limit progress payments if, in the reasonable opinion of the City, the percentage of the Total Agreement Cost billed exceeds the earned value in delivering the Services as measured by the City's earned value tracking system.

**5.8** Prior to payment of the final invoice, Vendor agrees to deliver to the City the following, if applicable to the Services:

**5.8.1** All electronic data files, plans, sketches, drawings, documents, reports, memoranda and reproducibles related to the project and as required by the City's representative. Vendor may retain one copy of any or all of the aforementioned materials for its files.

**5.8.2** Record drawings.

**5.8.3** All non-expendable personal property purchased and approved by the City as other Direct Costs.

**5.8.4** A formal written release of all claims and financial requirements arising by virtue of this Agreement, other than such claims, if any, as may be specifically exempted by Vendor from the operation of the release in stated amounts to be set forth therein.

- 5.9** All accounting and financial matters relating hereto shall be processed by the City's Auditor. Payments shall be made by the City on the monthly statements only after they have been certified by the City's representatives and approved by the Director and the City Auditor. Provided the City receives the required backup documentation, the City shall endeavor to make payment to the Vendor within thirty (30) days from the City's receipt of a monthly statement.
- 5.10** No approval or payment made under this Agreement shall be conclusive evidence of the acceptance of performance under this Agreement either wholly or partially, and no payment made hereunder shall be construed to be an acceptance of deficient or unsatisfactory Services.
- 5.11** **Right to Inspect; Right to Audit Books.** The Vendor and all subVendors shall maintain books, records, documents, and other evidence directly pertinent to performance of this Agreement in accordance with generally accepted accounting principles. Any authorized representative of the City shall, at all reasonable times and with reasonable notice, have the right to inspect and examine the drawings, specifications and other contract documents at Vendor's office during the period of their preparation. Any authorized representative of the City shall, at all reasonable times and with reasonable notice, also have the right to examine records of payments to SubVendors. Further, if the Time and Materials method of compensation is designated in Exhibit "B" – Compensation, any authorized representative of the City shall, at all reasonable times and with reasonable notice, have the right to audit, inspect and examine the Vendor's accounting books and financial records for the

Project, including, but not limited to, records of hours expended, personnel utilized, payments of employee salaries, and records of payments made to SubVendors.

**5.12** In the event of a disputed invoice, only the disputed portion shall be withheld from payment by the City and the City will process the remaining undisputed portion of the invoice.

**Section 6. TERM AND SCHEDULE**

**6.1** Vendor shall not perform any Services hereunder until receipt of written Notice to Proceed from the City. The term of this Agreement shall begin upon performance of the Services hereunder, and shall, unless extended by the City, or unless sooner canceled or terminated pursuant to the provisions hereof, expire on upon successful completion of the Services.

**6.2** The completion of the Services in a timely and orderly manner is essential. Vendor shall perform all Services and submit deliverables required by the Agreement within the times stipulated in the approved baseline Project Schedule.

**6.3** Vendor shall prepare and submit a baseline project schedule for City approval in accordance with the City's Schedule Guidance Document.

**6.4** Vendor shall monthly update, status, and submit the project schedule and schedule narrative for review by the City in accordance with the City's Schedule Guidance Document. The requirement to submit schedule updates on a monthly basis may only be revised by authorization of the Director or his designee.

**6.5** Neither party to this Agreement shall be deemed in default in the performance of its obligations if that party is prevented or delayed from performing by forces beyond its

control, (hereinafter "Force Majeure") including, without limitation, acts of God or of a public enemy; acts of a municipal, state, federal or other governmental legislative, administrative or judicial entity; any catastrophe resulting from flood, fire, extreme weather conditions, explosion; labor disturbances; and other cause beyond the control of the non-performing party. Vendor may be granted a time extension and cost adjustment for its performance based on the duration of the Force Majeure.

**Section 7. STANDARDS OF PERFORMANCE, ERRORS AND OMISSION**

- 7.1** Services provided by the Vendor and all of its agents, subVendors, and employees under this Agreement shall be performed in a manner consistent with the degree of care and skill customarily accepted as good professional practices and procedures by members of the same profession.
- 7.2** The City shall not be responsible for discovering deficiencies in the technical accuracy of Vendor's Services. During the term of the Agreement, the Vendor shall be solely responsible for the accuracy of Services and shall promptly make necessary revisions or corrections to the Services performed to the extent that the necessary revisions or corrections resulted from Vendor's negligent acts, errors or omissions, without any additional compensation from the City.
- 7.3** Acceptance of Services, including payment for same, shall not relieve the Vendor of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities.
- 7.4** In the event of any negligent act, error, or omission which the City determines, using a reasonableness standard, to be the responsibility of the Vendor in any phase of the

service, the correction, repair or reconstruction of which may require additional field or office work or services, the Vendor shall be promptly notified and shall be required to perform such corrective Services as may be necessary without delay and without additional cost to the City. The period of re-performance for Services under this Section shall be limited to one (1) year from the time the original Services were completed. Vendor shall be reimbursed for any costs incurred for the correction, repair, or reconstruction of which requires additional field or office work or services that have been subsequently determined not to be the responsibility of Vendor as per above.

**7.5** The City will provide to Vendor all data in City's possession relating to the Services. The Vendor shall be able to reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the City, however, prior to relying upon such data and information, the Vendor shall be required to take reasonable measures to verify its accuracy, timeliness and completeness.

**7.6** The City will endeavor to review Vendor- provided reports, studies, drawings, specifications, proposals and other documentation in a timely manner and provide prompt written notice of any inconsistencies, errors or items of concern.

## **Section 8. INSURANCE AND WAIVER OF SUBROGATION**

### **8.1 INSURANCE**

**8.1.1 Liability Insurance to be provided by Vendor, Vendor's subVendors and professionals engaged by Vendor.** For any Services under this Agreement, and until completion of the entire Services, the Vendor, Vendor's

subVendor(s), and Professionals engaged by Vendor shall purchase and maintain, at its own expense, insurance coverage as specified below. All insurance required hereunder shall apply to and cover all loss or liability caused by, arising from, or resulting from the Services performed or required to be performed, provided or required to be provided, hereunder.

**8.1.1.1 Auto Liability Insurance**

Auto Liability coverage for Owned, Non-owned and Hired Auto Liability with a limit of One Million Dollars (\$1,000,000) for the Vendor and not less than Five Hundred Thousand Dollars (\$500,000) for the SubVendor(s) minimum annual combined single limit, bodily injury and property damage. Such insurance shall cover and include liability arising from all vehicles owned by, hired by, or used by or on behalf of the Vendor, Vendor's subVendors, or Professionals engaged by Vendor. The Auto Liability Insurance limit requirement can be satisfied by the purchase and maintenance of any combination of primary, excess and/or Umbrella insurance.

The City and its officials, employees, representatives, agents, and Vendors including the City's Vendors for the Project shall be named as additional insureds on the Vendor's, Vendor's subVendor's(s'), and Professional's(s') engaged by Vendor Automobile Liability policies. The extent of the additional insured coverage shall be no less broad than that provided under ISO Form CA 20 48 02/99 for Auto Liability, or a substitute form providing equivalent coverage.

### **8.1.1.2 Workers' Compensation**

Workers' Compensation with statutory limits. Employers Liability with an annual limit of One Million Dollars (\$1,000,000) bodily injury by accident, each accident, One Million Dollars (\$1,000,000) bodily injury by disease, each employee, and One Million Dollars (\$1,000,000) bodily injury by disease, policy aggregate minimum coverage including defense of an allegation against the employer for injury believed to have been substantially certain to occur. The Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor shall subscribe to and comply with, throughout all phases of the Project, the Workers' Compensation laws of the State of Ohio. The Employers Liability insurance requirement may be satisfied by including such coverage within the General Liability policy.

### **8.1.1.3 General Liability Insurance**

Commercial General Liability insurance on an occurrence coverage basis (including without limitation, bodily injury, personal injury and advertising injury, property damage, and broad-form contractual liability arising from or relating to this Agreement, coverage as respects independent contractors, operating mobile equipment, products and completed operations, explosion, collapse and underground hazards) of the following amounts:

(a) Vendor's General Liability (occurrence basis, limits per occurrence and annual aggregate):

**\$2,000,000 General Aggregate**  
**\$2,000,000 Products/Completed Operations Aggregate**  
**\$1,000,000 Personal Injury and Advertising Injury**  
**\$1,000,000 Bodily Injury and Property Damage Limit -**  
**Each Occurrence**

**(b) Vendor's Vendor(s) and Professionals engaged by the Vendor's General Liability (occurrence basis, limits per occurrence and annual aggregate):**

**\$2,000,000 General Aggregate**  
**\$2,000,000 Products/Completed Operations Aggregate**  
**\$1,000,000 Personal Injury and Advertising Injury**  
**\$1,000,000 Bodily Injury and Property Damage Limit -**  
**Each Occurrence**

The City and its officials, employees, representatives, agents, and City's Vendors for the Project shall be named as additional insureds on the Vendor's, Vendor's subVendor's(s'), and Professionals' engaged by the Vendor Commercial General Liability policies (including Employers Liability) and Excess/Umbrella Liability. The extent of the additional insured coverage shall be no less broad than that provided under ISO Form CG 20 26 11/85 for General Liability, or substitute form providing equivalent coverage. The additional insured coverage afforded under the Vendor's, Vendor's subVendor's(s') and Professionals' engaged by the Vendor policies shall include both ongoing operations (services in progress) and completed operations (completed services). All coverage shall be maintained for a minimum of three (3) years after expiration of this Agreement. The General Liability Insurance limit requirement can be satisfied by the purchase

and maintenance of any combination of primary, excess and/or Umbrella insurance Commercial General Liability and Umbrella/Excess limits of liability (including Product/Completed Operations coverage) shall apply on a per project basis.

**8.1.1.4 Professional Liability Insurance**

Vendor, Vendor's subVendor's(s) and Professionals engaged by the Vendor shall purchase and maintain in force Professional Liability insurance (including contractual liability coverage) covering liability and damages arising out of or resulting from Vendor's professional services rendered, or which should have been rendered, pursuant to this Agreement. Each of Vendor's subVendor(s) or Professionals engaged by Vendor who are required to render or provide professional services pursuant to this Agreement and/or the contract between the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor, or at any other subVendor level, shall purchase and maintain Professional Liability insurance coverage with limits of liability and coverage requested herein.

**(a) Vendor's Professional Liability limits of not less than:**

**\$1,000,000 Annual Aggregate**  
**\$1,000,000 Per claim**

**(b) Vendor's subVendor(s) and Professionals engaged by Vendor Professional Liability limits of not less than:**

**\$1,000,000 Annual Aggregate**  
**\$1,000,000 Per claim**

Professional Liability insurance may be written on a claims-made basis provided such policy shall either (i) be renewed annually for a period of not fewer than three (3) years following expiration of this Agreement with substantially the same terms and conditions or (ii) include an extended reporting period endorsement or clause providing not less than three (3) years within which a claim may be made under the policy respecting the Vendor's, Vendor's subVendor(s) or Professionals engaged by Vendor performance of Services; the cost of coverage for such three (3) year period shall be borne exclusively by the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor as the case may be.

## **8.2** **Property Insurance**

The Vendor shall purchase and maintain Property insurance covering construction machinery, equipment, special equipment, false work, scaffolding, materials, mobile equipment, valuable papers, trailers, and tools used or owned by the Vendor in the performance of the Services. The Vendor also agrees to require Vendor's subVendor(s) and Professionals engaged by Vendor to insure any and all property listed above used or owned by the Vendor's subVendor(s) or Professionals engaged by Vendor in the performance of the Services. City shall in no circumstance be responsible or liable for the loss or damage to, or disappearance of, any property listed above used or owned by the Vendor, Vendor's subVendor(s) or Professional engaged by Vendor in the performance of the Services.

## **8.3** **Insurance Coverage Requirements:**

**8.3.1 Primary Coverage**

The insurance coverage to be purchased and maintained by the Vendor, Vendor's subVendor(s) and Professionals engaged by Vendor as required herein to name the City as Additional Insured shall be primary to any insurance, self-insurance, or self-funding arrangement maintained by City which shall not contribute therewith, and there shall be severability of interests under the insurance policies required herein for all coverages provided under said insurance policies and otherwise provide cross liability coverage.

**8.3.2 Thirty Days Notice**

Either the insurance coverage required of Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor, or the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor shall incorporate a provision requiring the giving of written notice to City, Vendor, and to any other person(s) or party(ies) reasonably designated by City, at least thirty (30) days (except when due to non-payment of premium) prior to the cancellation, non-renewal, and/or material modification of any insurance policy required to be purchased and maintained pursuant to this Agreement. Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor shall promptly notify City of a downgrade in the AM Best Company rating of any insurance company providing the insurance coverage for Vendor, Vendor's subVendor(s) and/or Professionals engaged by Vendor.

**8.3.3 Financial Strength**

The insurance coverage required of Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor herein shall be placed and maintained until expiration of this Agreement with insurance companies rated at least A-, Financial Size Category of at least VII, by A.M. Best Company, licensed or otherwise authorized and able to do business in Ohio.

**8.3.4** Vendor(s) and Professionals engaged by Vendor Insurance. Vendor shall not sublet or subcontract any part of this Agreement without assuming absolute responsibility for requiring and taking actions to know that each Vendor's subVendor(s) and Professionals engaged by Vendor (and each subVendor at every tier) purchase and maintain the types of insurance required hereby with the same terms and conditions as herein required of the Vendor and the limits of liability herein required of Vendor's subVendor(s) and Professionals engaged by Vendor. Failure of Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor to purchase and maintain insurance for a minimum of three (3) years after expiration of this Agreement shall be deemed a material breach of this Agreement, allowing the City, in addition to all other remedies available to City under this Agreement, at law and/or in equity, to terminate this Agreement or to provide insurance at the Vendor's sole expense, in neither case, however, shall the Vendor's liability hereunder be lessened.

**8.3.5** Notice of Occurrence

Upon Vendor's knowledge of any actual or alleged occurrence, event, or third-party claim(s) which may result in or give rise to a claim against liability

imposed upon, or loss suffered by Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor related to the Project, and which may exceed One Million Dollars (\$1,000,000), Vendor shall (i) immediately provide the City with written notice of such occurrence, event or third-party claim(s) with reasonable detail; this requirement applies irrespective of when, where, or how the claim, liability, or loss occurred, whether or not the claim, liability or loss relates to or arises from the Vendor's, Vendor's subVendor(s) or Professionals engaged by Vendor Services, or the validity or status of such claim, liability or loss, and applies to the entire Contract term and the three (3) years following expiration of this Agreement; and (ii) all such notice shall be issued in accordance with this Agreement.

**8.3.6 Evidence of Insurance**

Vendor shall submit to the City within ten (10) Calendar Days after City's notice of Contract award and prior to Date of Commencement, certificates of insurance evidencing the effectiveness of the insurance policies required by this Agreement. The Project Site shall be identified on the certificate(s) and the certificate(s) and policies shall be delivered to City pursuant to the terms of this Agreement.

At any time during the term of this Agreement and annually (measured from the Date of Commencement) for a period of three (3) years following expiration of this Agreement, the Vendor shall promptly provide certificates of insurance to the City evidencing the effectiveness of the insurance coverages required pursuant to this Agreement, including all endorsements no

less frequently than upon the renewal of any insurance coverage required by this Agreement. All endorsements to or modifications of insurance purchased and maintained by the Vendor, Vendor's subVendor(s) and Professionals engaged by Vendor pursuant to this Agreement shall be subject to City's review and final acceptance. City's review, receipt and/or acceptance of any insurance policy purchased and maintained by the Vendor, Vendor's subVendor(s), or Professionals engaged by the Vendor or a certificate of insurance evidencing such insurance, shall not constitute nor be deemed to constitute City's approval of such insurance or City's agreement that such insurance satisfies the insurance requirements set forth in this Agreement.

**8.3.7 Compliance**

If any insurance purchased and maintained by the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor pursuant to this Contract contains a warranty or other clause providing that coverage is null and void (or words to that effect), or otherwise reduced in scope or limit if the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor does not comply with the regulations or statutes governing the Project, such policy or policies shall be modified or endorsed so that coverage shall be afforded in all cases except for the Vendor's, Vendor's subVendor(s) and Professionals engaged by Vendor intentional or willful non-compliance with Applicable Laws.

**8.3.8 No Limitation**

The types and limits of insurance to be purchased and maintained by the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor pursuant to these Contract Document shall not be deemed to constitute a limitation of the Vendor's, Vendor's subVendor's(s'), Professionals' engaged by Vendor liability hereunder or otherwise, or otherwise to limit or affect the Vendor's indemnification obligations hereunder; by requiring insurance herein, City does not represent or warrant that coverage and limits will be adequate or sufficient to protect the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor.

**8.3.9 Purchase of Insurance**

If the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor fail(s) to purchase and maintain, or fail to continue in force throughout the term of this Agreement and until expiration of this Agreement and where required herein, for the minimum of three (3) years after expiration of this Agreement, insurance in the types and with limits of liability required herein, City may purchase such insurance and the cost thereof shall be borne by the Vendor, and shall be deducted from any amounts due and owing by the City to the Vendor. If such amounts are insufficient, the Vendor agrees to promptly pay the City the amount incurred by the City to purchase such insurance.

**8.3.10 Other Insurance**

Any insurance or any increase of limits of liability not described in this Article 3 which Vendor, Vendor's subVendor(s) and Professionals engaged by

Vendor requires for their own protection shall be its own responsibility and at its own expense and shall not be considered part of the Vendor's fee for base Services or part of Vendor's Reimbursable Expenses or be subject to a request for Additional Services.

**Section 9. TERMINATION OF AGREEMENT AND THE CITY'S RIGHT TO PERFORM**

**VENDOR'S OBLIGATIONS**

**9.1 Termination for Cause and Default of Vendor**

This Agreement may be terminated by the City at any time for cause upon written notice to Vendor of such intent when either the progress or results achieved under this Agreement are unacceptable to the City, and upon giving Vendor reasonable notice and opportunity to cure such unacceptable progress or results, which Vendor fails to perfect. In no event, shall the reasonable notice be less than thirty (30) calendar days.

**9.2** If this Agreement is cancelled by the City prior to completion, Vendor, within ten (10) working days of such cancellation, shall submit a certified final progress report of the percentage of Services completed by the date of cancellation. The City shall pay Vendor for the Services completed as certified in this statement and as approved by the Director of Public Safety/Service. Notwithstanding any other provision of this Agreement, all records, documents, materials, equipment, and working papers prepared or purchased as part of the Services under this Agreement shall become and remain the property of the City, and upon any such cancellation, Vendor shall turn over to the City all records, documents, working papers, equipment and other materials which should be necessary, in the opinion of the City, to maintain

continuity in progress of the Services by another Vendor. The City shall allow the Vendor to retain copies for their records, if Vendor chooses to do so.

**9.3** Upon the occurrence and during the continuance of an event of default, the City may, but shall not be obligated to, take such actions as the City deems reasonable in order to cure the act or omission of Vendor that is the basis of the default, and the Total Contract Price shall be reduced by the cost to the City of taking such actions. Costs associated with the start-up and shut-down of the Services shall be at Vendor's expense.

**9.4** This Agreement may be terminated by Vendor for event of default by the City, which would include failure to perform a material obligation and non-payment by City, upon thirty (30) days written notice, based upon the breach provisions as contained in this Agreement. Within ten (10) working days, Vendor shall submit a certified final progress report of the percentage of Services completed by the date of the termination. The City shall pay Vendor for the Services completed as certified in the statement and approved by the Director of Public Safety/Service.

**9.5** Termination without Cause

The City may terminate this Agreement without cause upon thirty (30) days written notice. If the City terminates this Agreement without cause it shall make payment to Vendor for Services performed prior to the date of termination and reasonable demobilization costs, including any reimbursable expenses, if any then due, which shall be subject to the City's review and approval, and which shall not be unreasonably withheld. Vendor shall, as a condition of receiving the payments referred to in this Section 9, execute and deliver all such documents and take all such

steps, including the legal assignment of its contractual rights, as the City may require for the purposes of fully vesting in it the rights and benefits of Vendor under such obligations or commitments. The acceptance of payment under this Section 9 for termination by the City without cause shall constitute full and complete satisfaction of any and all damages and claims of Vendor regarding the Vendor's performance of the Services and the termination of Vendor's Services by the City.

**Section 10. WORKERS' COMPENSATION COVERAGE**

**10.1** Vendor shall at all times during the term of this Agreement subscribe to and comply with the Workers' Compensation Laws of the State of Ohio, shall pay such premiums as may be required thereunder, and shall save the City harmless from any and all liability arising from or under said Act. It shall furnish at the time of delivery of this Agreement and at such other times as may be requested, a copy of the official certificate of receipt showing the payment hereinbefore referred.

**Section 11. INDEMNITY**

**11.1** Vendor shall be responsible for the safety of its personnel related to and during the performance of Services required by this Agreement and will take reasonable measures to ensure that it and its SubVendors provide and maintain a safe working environment. Vendor shall ensure that its employees and the employees of its SubVendors, before they begin and throughout their employment at any Project site, are made aware of the requirements of all applicable safety and health regulations including, but not limited to, Applicable Laws and are notified that compliance therewith is a condition of their continued employment. Vendor shall

remove from the site any employees or SubVendors that fail to abide by applicable health and safety regulations. Vendor shall not knowingly permit a hazardous, unsafe, unhealthy or environmentally unsound condition or activity to be conducted at any Project site.

If Vendor becomes aware of any hazardous, unsafe, unhealthy or environmentally unsound condition at any Project site, it shall notify the City and take reasonable steps to eliminate, terminate, abate or rectify any condition over which Vendor has control. The City may, but is not obligated to, inspect at reasonable times, the Project site and Vendor's facilities and appropriate Project Records to ascertain Vendor's and its SubVendors' compliance with the requirements of this Agreement; provided however, neither the existence nor exercise of such right will relieve Vendor of its responsibility for its own and its SubVendors' compliance with this Agreement, to always use due care in the performance of Services and for fulfilling all of its other obligations hereunder with respect to health and safety. Vendor shall promptly notify the City of any injury, death, loss or damage to persons, animals, or property, which is in any way related to Services performed under the Agreement, even though such occurrence was not caused or consented to by Vendor, its employees, SubVendors or agents. Smoking is prohibited at the Project site. Vendor shall monitor the City's no smoking rule with respect to its employees and SubVendors while they are working at the Project site.

**11.2** Vendor shall indemnify, save and hold the City and its officers, employees, and agents free and harmless against any and all claims, demands, actions, losses, damages, settlements, costs, charges, professional fees, or other expenses or liabilities

of every kind and character arising directly or indirectly out of or relating to any and all negligent acts, errors, or omissions by the Vendor (including its employees and agents) or any ambiguities in the plans and specifications, providing that such ambiguities are originated by or the responsibility of the Vendor and to the extent that such ambiguity is the result of a negligent act, error, or omission of the Vendor in the performance of this Agreement. The Vendor shall be given the opportunity to defend on behalf of the City, any action or claim brought against it which, if successfully prosecuted, would give rise to a claim hereunder against the Vendor. This indemnification shall not result in the unjust enrichment of the City. In the case of any ambiguities, the City shall afford the Vendor a reasonable opportunity to mitigate the damage and clarify any such ambiguities within a reasonable time after discovery by or notice to City. City shall promptly notify the Vendor of any claim, demand, action, cause of action, or other liability for which the City may seek indemnification from the Vendor. The provisions of this paragraph shall survive the termination/expiration of this Agreement

**11.3** In any and all claims against the City, Vendor or any of its members, officers, agents or employees, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 11 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Vendor under Workers' Compensation Acts, disability benefit acts or other employee benefit acts.

**11.4** Vendor further agrees to indemnify and hold harmless the City from claims made by employees of Vendor or employees of Vendor's subVendors and based on

injuries, sickness, disease, death or disability, to the extent arising out of the professional negligence of Vendor. As between Vendor and the City, Vendor agrees that it will not assert a claim of and expressly waives any and all immunity pursuant to applicable Workers' Compensation laws, with regard to this indemnification.

**Section 12. MBE/WBE/SBE COMPLIANCE**

**12.1** The Minority- and Women Business Enterprise ("MBE/WBE") and/or Small Business Enterprise ("SBE") subcontracting goals established for this Agreement are defined in Exhibit "D" – MBE/WBE/SBE Compliance Goals.

**Section 13. EQUAL EMPLOYMENT OPPORTUNITY**

**13.1** Vendor agrees to adopt and maintain a policy of non-discrimination in employment. It further agrees that it will comply with all applicable Federal and State laws with regard to Equal Employment Opportunity and Fair Employment Practices, and with the City's Equal Employment Opportunity Policy, Guidelines and Procedures.

**13.2** Vendor agrees to provide the City with information regarding its employment practices, in such forms as the City may prescribe; and that compliance with such requests is a condition of this Agreement.

**Section 14. WPCLF ASSISTANCE AND APPLICABILITY OF FEDERAL REQUIREMENTS**

**14.1** Should the City seek Water Pollution Control Fund (WPCLF) financing for this Agreement under the Clean Water Act, as amended, and it is the intent of the parties that the Agreement be construed in a manner most favorable to obtaining such financing.

**14.2** In the event that WPCLF financing is utilized for this Agreement, it is specifically agreed that the City Standard Clauses for WPCLF Assisted Professional Services Agreements (Exhibit "E") shall apply to this Agreement.

**Section 15. INDEPENDENT CONTRACTOR**

**15.1** Vendor shall be and remain an independent contractor with respect to all Services performed hereunder, and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions or annuities, now or hereafter imposed under any State or Federal law which are measured by the wages, salaries or other remuneration paid to persons employed by Vendor on Services performed under the terms of this Agreement, and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by any duly authorized State or Federal officials; and Vendor agrees to indemnify and save harmless the City from any such contribution or taxes or liability therefore.

**Section 16. SUBVENDORS**

**16.1** Since this Agreement is made pursuant to the proposal submitted by Vendor and in reliance upon Vendor's qualifications and responsibility, Vendor shall not sublet nor shall any subVendor commence performance of any part of the Services except as specifically included in this Agreement without prior written consent of the City. In making the application for subletting any portion of the Services, Vendor shall state in writing the portion of the Services which each subVendor is to do or the material

which it is to furnish, his place of business, and such other information as may be required by the City. Subletting, if permitted, shall not relieve Vendor of any of its obligations under this Agreement.

**16.2** All subVendors for Services covered by this Agreement must conform to the requirements of this Agreement.

**16.3** **Debarment**

The Vendor acknowledges the EPA regulations regarding the use of businesses which are included on the System for Award Management (SAM) database of businesses which have been debarred, suspended or voluntarily excluded from participating in EPA assisted activities, and expressly agrees not to subcontract to any such businesses.

**Section 17. ASSIGNMENT OF AGREEMENT**

**17.1** The City and Vendor bind themselves and their successors, administrators and assigns to the other party of this Agreement and to the successors, administrators and assigns of the other party of this Agreement, in respect to all covenants of this Agreement. Except as stated above, neither the City nor Vendor shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

**Section 18. DISPUTE RESOLUTION**

**18.1** In the event of a dispute between the Parties for obligations under this Agreement, either Party may request the following dispute resolution process. The Parties shall

continue the performance of their obligations under this Agreement notwithstanding the existence of a dispute.

**18.1.1** The Parties are committed to working with each other to resolve disputes and agree to communicate regularly so as to avoid or minimize disputes. The Parties shall first try to resolve the dispute at the level of the designated representatives in Section 3. If the Parties are unable to resolve the dispute at that level within 10 working days, the Parties shall escalate the issue to the next higher level within their respective organizations to resolve the dispute.

**18.1.2** If the Parties are unable to resolve the dispute through the above meetings, then on the written notice of either party requesting the matter may be taken to mediation, the Parties shall begin the mediation process within 20 days of such notice. The Parties shall select a mediator, who is experienced in the relevant services provided herein. The mediator shall review all documents and written statements, in order to accurately and effectively resolve the dispute. The mediator shall call a meeting between the Parties within 10 working days after mediator appointment, which meeting shall be attended by at least the respective representatives in Section 3. The Parties shall attempt in good faith to resolve the dispute. The Parties agree to follow the Uniform Mediation Act, Chapter 2710 of the Ohio Revised Code. The Parties shall share the cost of the mediator equally.

**18.1.3** Such mediation shall be non-binding between the Parties and shall be kept confidential. If the dispute is resolved and settled through the mediation process, the decision will be implemented by a written agreement signed by

both Parties. If the dispute is unable to be resolved through mediation, the Parties agree to submit the dispute to the appropriate jurisdiction as per Section 20.2 below.

**Section 19. CONSTRUCTION**

**19.1** All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any paragraph or clause herein may require, the same as if such words had been fully and properly written in the number and gender. Vendor agrees that no representations or warranties of any type shall be binding upon the City, unless expressly authorized in writing herein. In the event of any variance between the provisions of this Agreement and Vendor's Scope of Services (Exhibit "A"), the provisions of this Agreement shall govern. The headings of sections and paragraphs, if any, to the extent used herein are used for reference only, and in no way define, limit or transcribe the scope or intent of any provision hereof. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered in any number of counterparts, shall be deemed original, but such counterparts together shall constitute but one and the same instrument. Invalidation of any provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

## **Section 20. MISCELLANEOUS**

### **20.1 Copyrights**

The Vendor acknowledges and agrees to follow the EPA requirements of 40 CFR Part 30 regarding copyrights and rights in data for any discovery or invention which arise or is developed in the course of implementing this Agreement. All specific deliverables developed under this Agreement shall become the property of the City. All work product (including pre-existing intellectual property) of the Vendor in executing the Services shall remain the property of Vendor. Any inventions, patents, copyrights, computer software, or other intellectual property developed during the course of, or as a result of the Services shall remain the property of the Vendor.

### **20.2 Remedies**

The parties agree that all claims, counter-claims, disputes and other matters in question between the City and the Vendor arising out of or relating to this Agreement, or the breach thereof, will be decided at law. This Agreement shall be governed by and interpreted according to the law of the State of Ohio.

### **20.3 Defective Pricing**

The Vendor and subVendor, where appropriate, warrant that cost and pricing data submitted for evaluation with respect to negotiated agreements, lower tier subagreements, and change orders is based on current, accurate, and complete data supported by their books and records. If the City determines that any price (including profit) negotiated in connection with this Agreement, any lower tier subagreement or any amendment thereunder was increased by any significant sums because the data

provided was incomplete, inaccurate, or not current at the time of submission, then such price or cost or profit shall be reduced accordingly; and the Agreement shall be modified in writing to reflect such action.

**20.4** **Contingent Fees**

The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fees.

**20.5** **Gratuities**

If the City finds after a notice and hearing that the Vendor, or any of the Vendor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the City in an attempt to secure an Agreement or favorable treatment in awarding, amending, or making any determination related to the performance of this Agreement, the City may, by written notice to the Vendor, terminate this Agreement. The City may also pursue other rights and remedies that the law or this Agreement provides.

**20.6** The Vendor shall retain all records relating to this Agreement and the Services performed for a period of five (5) years after its termination.

**Section 21. EXHIBITS**

**21.1** It is mutually understood and agreed that all Exhibits attached hereto are made a part hereof as if fully written herein. In the case of any conflict or variance between the terms of this Agreement and the terms of referenced documents, the terms of this Agreement shall govern.

The following Exhibits attached hereto are hereby incorporated with and made a part of this Agreement:

- a. Exhibit "A" – Scope of Services
- b. Exhibit "B" – Compensation
- c. Exhibit "C" – Not Used
- d. Exhibit "D" – Not Used
- e. Exhibit "E" – Not used

IN WITNESS WHEREOF, this Agreement was entered into on the date and year first written above.

WITNESS:

\_\_\_\_\_  
  
\_\_\_\_\_

CITY OF LORAIN, OHIO

BY: Ray A

(Title): SAFETY SERVICE DIRECTOR

WITNESS:

Curtis Malhotra-Plas

Community Impact Director

United Way of Greater Lorain County

BY: [Signature]

(Title): President & CEO

34-1011104  
TAXPAYER I.D. NUMBER

[Signature]  
Approved as to Form:  
Patrick D. Riley  
Law Director  
City of Lorain, Ohio

(5/19/2025)

## EXHIBIT A - SCOPE OF WORK

### Purpose:

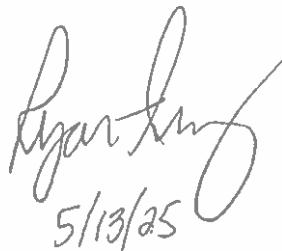
The City of Lorain received a grant in the amount of \$75,000 from Brilliant Source to assist Lorain City residents who have been unable to pay their utility bills or be able to get out of being in arrears with Utility Companies. The City of Lorain has partner with United Way of Greater Lorain County to provide a one-time financial assistance to any Lorain household who has been impacted by past due utilities through United Way of Greater Lorain County's existing UCAN Program. Requirements of the program are listed below:

### Eligible for City of Lorain Residents under this Agreement:

- Must follow eligibility requirements outlined within the UCAN Program.
- Must be a City of Lorain Resident
- A one-time grant not to exceed \$1,000 of financial assistance for past due utilities per household.
- Utilities including but not limited to Gas, Coal, Propane, Electrical and other non-city owned utilities.

### Reporting Requirements for United Way of Greater Lorain County:

- Monthly Reports due to BHP on the last day of the Month including but not limited to:
  - o List or Record of Resident Impact including:
    - Proof of Payment to Utility
    - Name of Resident
    - \$ Amount
    - Address of Resident (confirming City of Lorain resident)
- Final Report is required including overall monthly reports and an overall impact statement from United Way of Greater Lorain County regarding grant funds, etc.

  
5/13/25

**EXHIBIT B - COMPENSATION**

Eligible Expenses under this Agreement:

The Vendor will be responsible for administering a Utility Assistance Program in the total amount of seventy – three thousand dollars (\$73,000) to assist Lorain City Residents with past due utility payments as outlined in Exhibit A. Administrative time for United Way of Greater Lorain County in the amount not to exceed one thousand (\$1,000.00). If Administrative funds with United Way of Greater Lorain County are not fully utilized, then they should be rolled into assisting residents with past due utility bill for a total not to exceed \$74,000.

One thousand dollars (\$1,000.00) of this allocation will be utilized for the administrative time associated with the City of Lorain Building Housing and Planning Department administering the program for a total project cost not to exceed \$25,000.00 per year for the next three years a total not to exceed \$75,000 dollars.

  
5/13/25

## Request for Taxpayer Identification Number and Certification

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give Form to the  
 requester. Do not  
 send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <b>Unified Way of Greater Lorain County, Inc</b>	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input checked="" type="checkbox"/> Other (see instructions) ▶ <b>Nonprofit corp. exempt under IRS Code Section 501(c)(3)</b>	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
5 Address (number, street, and apt. or suite no.) See instructions. <b>642 Broadway</b>	Requester's name and address (optional)
6 City, state, and ZIP code <b>Lorain, OH 44052</b>	
7 List account number(s) here (optional)	

Print or type.  
 See specific instructions on page 3.

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
or									
Employer identification number									
3	4	-	1	0	1	1	1	0	4

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶ <b>4/7/20</b>
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### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

#### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
  - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
  - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
  - Form 1099-S (proceeds from real estate transactions)
  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*



CITY OF LORAIN INCOME TAX DEPARTMENT  
 605 WEST 4<sup>TH</sup> STREET, LORAIN OH 44052  
 INCOMETAX@CITYOFLORAIN.ORG

**BUSINESS REGISTRATION**  
 Lorain City Income Tax Rate 2.5%

Company Name: United Way of Greater Lorain County  
 DBA or Trade Name: \_\_\_\_\_

SSN or Fed ID# 34-101104

Date Started or Acquired in Lorain: 11/1967

Lorain Address: 642 Broadway  
Lorain, OH 44052

Lorain Phone: 440-277-6530

Lorain Fax: \_\_\_\_\_

E-mail Address: ryan.aroney@unlwc.org

Address of Main Office: 642 Broadway

Phone: (440) 277-6530

E-mail Address For \_\_\_\_\_

Accounting Period Used:

Net Profit Accounts: \_\_\_\_\_

Calendar Year \_\_\_\_\_ FYE Month 7/1

E-mail Address For \_\_\_\_\_

Number of Persons Employed in Lorain: 11

Withholding Accounts: \_\_\_\_\_

- OR:  Payroll Service (no forms will be sent)
- Type of Ownership:  Corporation  Partnership  1120S  Individual  Non-Profit
- Other: \_\_\_\_\_

**Complete The Following Information For All Partners, Officers And/or Associates:**

Name: \_\_\_\_\_ SSN#: \_\_\_\_\_  
 Address: \_\_\_\_\_

Name: \_\_\_\_\_ SSN#: \_\_\_\_\_  
 Address: \_\_\_\_\_

**If The Lorain Location Is Rented Or Leased, Please Provide Name, Address & Phone Of Rental Owner:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Ryan Aroney  
 Signature

Ryan Aroney  
 Print Name

4/7/25  
 Date

**\*\*ALL INFORMATION ON THIS FORM IS CONFIDENTIAL AND IS USED FOR CITY INCOME TAX PURPOSES ONLY\*\***





**Subaward Reporting is live on SAM.gov** [Show Details](#)  
Mar 8, 2025



**See All Alerts**

**Scheduled SAM Maintenance** [Show Details](#)  
Apr 22, 2025



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All Words

e.g. 1606N020Q02

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**Simple Search**

**Search Editor**

( No results found

All Words *i*

Exact Phrase *i*

e.g. 1606N020Q02

**Federal Organizations**

United Way of Greater Lorain County



Status

Active

Inactive

Reset 



All Domains

Contracting

Federal Assistance

Entity Information

Federal Hier:



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Choose your filters and run your report to begin.



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SAM.gov

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No results found



Office of Auditor of State  
88 East Broad Street  
Post Office Box 1140  
Columbus, OH 43216-1140

Auditor of State - Unresolved Findings for Recovery Certified Search

(614) 466-4514  
(800) 282-0370

I have searched The Auditor of State's unresolved findings for recovery database using the following criteria:

Contractor's Information:

Name: ,  
Organization: **United Way of Greater Lorain County**  
Date: **5/6/2025 3:53:26 PM**

This search produced the following list of **12** possible matches:

Name/Organization	Address
Harmony Community School	
Harmony Community School, c/o Buckeye Community Hope Foundation	3021 East Dubli Granville Road
Harmony Community School, c/o Buckeye Community Hope Foundation	3021 East Dublin Granville Rd.
Harmony Community School, c/o Buckeye Community Hope Foundation	3021 East Dublin Granville Road
Harmony Community School, c/o Buckeye Community Hope Foundation	3021 East Dublin-Granville Rd.
Harmony Community School, c/o Buckeye Community Hope Foundation	3021 East Dubln Granville Rd.
New Opportunity Development and Management Services, Inc., c/o Mark Olds	38510 Flanders Drive
Rhea Academy Community School	
Somali Bantu (Youth Community of Ohio)	3823 Sullivant Avenue
Theodore Roosevelt Public Community School	c/o Richland Academy 75 North Walnut Street
Third Wave Communications, LLC	PO Box 1355
Unimicro, Inc., Mr. Benedict Uguru, President	1463 Warrensville Center Road #106

The above list represents possible matches for the search criteria you entered. Please note that pursuant to ORC 9.24, only the person (which includes an organization) actually named in the finding for recovery is prohibited from being awarded a contract.

If the person you are searching for appears on this list, it means that the person has one or more findings for recovery and is prohibited from being awarded a contract described in ORC 9.24, unless one of the exceptions in that section apply.

If the person you are searching for does not appear on this list, an initialed copy of this page can serve as documentation of your compliance with ORC 9.24(E).

Please note that pursuant to ORC 9.24, it is the responsibility of the public office to verify that a person to whom it plans to award a contract does not appear in the Auditor of State's database. The Auditor of State's office is not responsible for inaccurate search results caused by user error or other circumstances beyond the Auditor of State's control.

## CERTIFICATIONS and APPROVALS

I hereby certify that the amount of this AGREEMENT is \$75,000.00

Date: 5/20/, 2025

[Signature]  
Safety/Service Director

## AUDITOR'S CERTIFICATION

I hereby certify that the money required to meet the foregoing agreement, agreement or obligation, in the sum of the above-mentioned amount has been lawfully appropriated or authorized or directed for such purpose and is in the process of collection to the credit of the Cap Improvements - C/S Fund free from any previous outstanding obligation.

ORD 55-25

25K x 3 years  
= 75K

- Energy Harbor Comm. Grant.

I hereby certify that this AGREEMENT is correct as to form.

Date: June 3, 2025

[Signature]  
Auditor/Deputy Auditor

Date: 5/19, 2025

[Signature]  
Law Director

I hereby certify that this AGREEMENT was approved by the Board of Control on 04/30/2025.

5/20, 2025

[Signature]  
Clerk of the Board of Control