



City Council Meeting Agenda

Tuesday, April 12, 2022

8:00 PM

- 1) **Call to Order**
- 2) **Roll Call of Members**
- 3) **Meeting Minutes**
 - A) Minutes from November 22, 2021 Board of Control Meeting
 - B) Minutes from December 14, 2021 Board of Control Meeting
 - C) Minutes from February 22, 2022 Board of Control Meeting
- 4) **Presentation of Proposed Agreements**
 - A) Bid Tabulation of 2022 Street Improvement Bids and City Engineer Recommendation
 - B) Proposed Contract with Earth Peak Organics Composting
- 5) **Adjourn**

All agendas are subject to change.

City Council Policy for Correspondence:

All correspondence addressed to City Council or requested to be distributed to City Council by the sender is a matter of public record and will be placed on the City of Bexley Website (www.bexley.org) at Public Documents > City Council > Council Correspondence. If the subject of the correspondence is not on the Council Agenda, the sender may discuss the issue during Public Comments. If the subject of the correspondence is on the Council Agenda, the sender may discuss the issue at the time the issue is addressed during the Council meeting.

City Council Policy for Public Comments:

Members of the public are encouraged to provide comments to City Council at the following times:

For issues that are not on Council's agenda:

- At a designated public comment period near the beginning of the meeting

For items on Council's agenda (when speaker slip has been filled out in advance):

- During an ordinance or resolution that is being discussed
- Residents may submit up to two separate speaker slips per meeting
- Please note that the speaker slip must be filled out prior to entering Council chambers and must be promptly handed to the Council secretary

For items on Council's agenda (when a speaker slip has not been filled out in advance):

- During the public comment period after a motion has been made and seconded to adopt an ordinance or resolution (typically the third reading)
- During a designated public comment period at the end of the meeting

Time limits for public comments:

While City Council will not routinely impose time limits on either Agenda or Non-Agenda visitors who wish to address City Council, those commenting are asked to confine their remarks to approximately five (5) minutes and for Agenda items, to direct their comments to the subject matter being addressed in the legislation. This five minute limitation also applies to City Council members per 220.01 (rule 13).

Additional guidelines for public comments:

- Any speaker addressing Council shall provide his/her name and address.
- Undue interruption or other interference with the orderly conduct of remarks is not permitted.
- Defamatory or abusive remarks are always out of order.
- Violation of this policy may result in termination of the speaker's comments and/or removal from the meeting



Board of Control

11/19/2021 - Meeting Minutes

Ben Kessler called the meeting to order at 9:15 am.

Board of Control Members Present: Bill Harvey, City Auditor; Lori Ann Feibel, President of City Council; Ben Kessler, Mayor

Mr. Kessler stated that the purpose of the meeting is to review results of the Renewable Electric Household Survey which relates to the proposed electrical aggregate program.

Mr. Harvey asked if Board of Control would make a recommendation to Council for the decision or if the Board of Control would make the decision and Mr. Kessler stated that due to the introduction of ordinances regarding entry into the program, he feels it's wise to provide a recommendation and to allow Council to vote on the decision. Mr. Harvey and Ms. Feibel both agreed with this, and Mr. Kessler moved on.

At Mr. Kessler's invitation, Natalie Vawter presented a summary of key points of the survey results.

Upon review and discussion of the data, Mr. Kessler asked if there is a motion to recommend that Council adopt the Aggregation Program, providing that we add additional annual language regarding opt outs and clear, no-strings-attached opt outs at any time, and clear competitive pricing for the REC program, and the expectation that the program representative will return to Council with an update in January. Mr. Harvey asked a clarifying question and Mr. Kessler further clarified the recommendation includes the expectation that program pricing be in line with what was initially recommended.

Mr. Harvey so moved and Ms. Feibel seconded.
All in Favor: Ben Kessler, Bill Harvey, Lori Ann Feibel

Motion passes 3-0

Mr. Kessler asked if there was any additional business to discuss. There was none.

Mr. Harvey moved to adjourn and Ms. Feibel seconded.
All in Favor: Ben Kessler, Bill Harvey, Lori Ann Feibel

Motion passes 3-0

Meeting adjourned at 9:31 am



Board of Control Meeting Minutes

Tuesday, December 14, 2021

8:00 PM

1) Call to Order

Mayor Kessler called the meeting to order at 8:07 pm

2) Roll Call of Members

Board of Control Members Present: Lori Ann Feibel, President of Council; Bill Harvey, City Auditor; Ben Kessler, Mayor

3) Review of South Drexel Water Main Improvements Bid

Mayor Kessler summarized the purpose of the meeting and also mentioned that Councilman Matt McPeck, Service Director Andy Bashore, and Auditor Elect, Matt McPeck were also present.

A) South Drexel Water Main Improvements Bid Information

Mayor Kessler presented the bids that had been received. The lowest and best bid is from Danbert. Mr. Harvey asked if Danbert's bid was also the lowest base bid, and Mayor Kessler confirmed that yes, it was.

Mayor Kessler asked Mr. Bashore to summarize what this project will accomplish, which he did. Mr. Harvey asked some clarifying questions, which Mr. Bashore answered. The Board briefly discussed this matter.

Mr. Harvey moved to accept the City Engineer's recommendation.

Ms. Feibel seconded.

All in Favor: Ben Kessler, Bill Harvey, Lori Ann Feibel

Motion passed 3-0.

4) Adjourn

Ms. Feibel moved to adjourn.

Mr. Harvey seconded.

All in favor: Ben Kessler, Bill Harvey, Lori Ann Feibel

Motion passed 3-0.

Mayor Kessler adjourned the meeting at 8:16 pm.



Board of Control Meeting Minutes

Tuesday, February 22, 2022

7:30 PM

1) Call to Order

Mr. Kessler called the meeting to order at 7:42 pm.

2) Roll Call of Members

Members in Attendance: Matt McPeek, Troy Markham, and Ben Kessler

3) Meeting Minutes

A) February 15, 2022 Meeting Minutes

Minutes will be amended to reflect Mr. McPeek's arrival.

Mr. Markham moved to approve minutes as amended and Mr. McPeek seconded.

All in Favor: Ben Kessler, Troy Markham, and Matt McPeek

Opposed: None

Motion passed 3-0

4) Review of Proposed Agreements

A) Commonwealth West Field Bid

Mr. Kessler provided an update on the Commonwealth West Field bid and invited Mr. Price and Ryan??? for some background on the bid and the project, which he provided. Mr. Kessler then provided Mr. Kessler and Mr. Markham asked some questions regarding the specific sheet. Mr. McPeek asked about earlier pricing and some differences, which Mr. Price and Ryan answered. Mr. McPeek asked an additional question regarding the spreadsheet.

Mr. Kessler asked if there is a motion to approve the Ad Design, Rain One Irrigation bid, Technical Choice booster bid,

Mr. Markham moved.

Mr. McPeek seconded.

All in Favor:

Mr. Kessler asked the minutes to reflect that there is only one booster component is because it was the best equipment scoped by our 7:56pm.

Mr. Markham moved to adjourn

Mr. McPeck seconded.

All in Favor:

5) Adjourn

BID TABULATION- 2022 STREET IMPROVEMENTS- CONTRACT A & B														
City of Bexley, Ohio- Bids Opened: March 2, 2022, 11:00 a.m.														
Ref. No.	Item No.	Description	Unit	Quantity	Engineer's Estimate		Decker Construction 3040 McKinley Avenue Columbus, Ohio 43204 (614) 488-7958		Strawser Paving Company 1595 Frank Road Columbus, Ohio 43223 (614) 276-5273		Shelly & Sands, Inc. 3040 McKinley Avenue Columbus, Ohio 43204 (614) 488-7958		Midwest Landscape, Inc. 3450 E. 7th Ave. Columbus, Ohio 43219 614-989-0697	
					Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
					CONTRACT A- ASPHALT PAVEMENT									
1	202	Remove and Reset Parking Blocks	Ea.	5	\$50.00	\$250.00	\$100.00	\$500.00	\$325.00	\$1,625.00	\$95.00	\$475.00		
2	203	Removal of Existing Asphalt and Replacement w/ 448 T2 Intermediate Asphalt Base (Contingency)	C.Y.	100	\$340.00	\$34,000.00	\$350.00	\$35,000.00	\$450.00	\$45,000.00	\$388.00	\$38,800.00		
3	203	Removal of Unsuitable Base and Replacement w/ 304 Limestone Base(Contingency)	C.Y.	40	\$130.00	\$5,200.00	\$144.46	\$5,778.40	\$450.00	\$18,000.00	\$114.00	\$4,560.00		
4	203	Pavement Planing	S.Y.	12,713	\$4.00	\$50,852.00	\$2.34	\$29,748.42	\$2.60	\$33,053.80	\$4.75	\$60,386.75		
5	204	Proof Rolling (Contingency)	Hour	4	\$120.00	\$480.00	\$78.74	\$314.96	\$100.00	\$400.00	\$106.00	\$424.00		
6	252	Remove and Replace 8" Concrete Alley Approach, Per BEX-ST-01	S.Y.	30	\$105.00	\$3,150.00	\$133.92	\$4,017.60	\$105.00	\$3,150.00	\$162.00	\$4,860.00		
7	252	Asphalt Driveway Pavement Replacement, Type IIIA Per BEX-UT-05	S.Y.	20	\$80.00	\$1,600.00	\$115.45	\$2,309.00	\$275.00	\$5,500.00	\$135.00	\$2,700.00		
8	SS 1510	Sami-Seal w/ Polymerized Binder	S.Y.	11,813	\$3.30	\$38,982.90	\$3.38	\$39,927.94	\$3.18	\$37,565.34	\$5.20	\$61,427.60		
9	407	Tack Coat- Trackless Tack	Gal.	290	\$5.00	\$1,450.00	\$4.05	\$1,174.50	\$3.15	\$913.50	\$3.20	\$928.00		
10	441	Asphalt Concrete Surface Course, Type 1, (448) PG 64-22	Tons	1,137	\$117.00	\$133,029.00	\$101.85	\$115,803.45	\$117.00	\$133,029.00	\$98.00	\$111,426.00		
11	604	Curb Inlet Reconstructed to Grade, reuse existing casting	Ea.	3	\$980.00	\$2,940.00	\$749.56	\$2,248.68	\$475.00	\$1,425.00	\$1,170.00	\$3,510.00		
12	604	Furnish New Curb Inlet Casting, Neenah 3256 frame with 3256-0013 20' radius top casting and new lid	Ea.	2	\$1,500.00	\$3,000.00	\$1,615.96	\$3,231.92	\$754.00	\$1,508.00	\$2,400.00	\$4,800.00		
13	604	Furnish Curb and Gutter Frame & Grate (AA-S142) Pleasant Ridge & Astor, East Side	Ea.	1	\$1,500.00	\$1,500.00	\$1,799.96	\$1,799.96	\$914.00	\$914.00	\$450.00	\$450.00		
14	604	Remove existing nyloplast surface inlet & Replace with 2x2 surface inlet AA-S133A	Ea.	1	\$2,600.00	\$2,600.00	\$4,475.23	\$4,475.23	\$6,000.00	\$6,000.00	\$1,435.00	\$1,435.00		
15	605	3" Roof Drain Reconnect thru Curb	Ea.	14	\$190.00	\$2,660.00	\$70.78	\$990.92	\$75.00	\$1,050.00	\$545.00	\$7,630.00		
16	608	Detectable Warning- Pinehall Brick ADA Pavers	S.F.	10	\$30.00	\$300.00	\$50.96	\$509.60	\$55.00	\$550.00	\$74.50	\$745.00		
17	608	Detectable Warning- Armortile Wet Set 2'x 4', Red	Ea.	8	\$220.00	\$1,760.00	\$459.22	\$3,673.76	\$185.00	\$1,480.00	\$306.00	\$2,448.00		
18	608	Remove and Replace Concrete Curb Ramps, Sidewalk and Lead Walks	S.F.	900	\$13.00	\$11,700.00	\$13.08	\$11,772.00	\$12.00	\$10,800.00	\$19.00	\$17,100.00		
19	609	Remove and Replace Concrete Curb and Gutter (Spot Work), Per BEX-ST-09	L.F.	550	\$50.00	\$27,500.00	\$42.29	\$23,259.50	\$37.50	\$20,625.00	\$180.00	\$99,000.00		
20	609	New 18" ODOT Type VI Concrete Curb per plan. Includes asphalt repair in front of curb, complete	L.F.	150	\$40.00	\$6,000.00	\$46.82	\$7,023.00	\$40.00	\$6,000.00	\$140.00	\$21,000.00		
21	644	Parking Lines, 4" White	L.F.	300	\$3.00	\$900.00	\$2.27	\$681.00	\$2.60	\$780.00	\$2.35	\$705.00		
22	644	Stop Bars, 20" White	L.F.	144	\$7.50	\$1,080.00	\$6.70	\$964.80	\$7.67	\$1,104.48	\$7.00	\$1,008.00		
23	644	Crosswalks, 12" White	L.F.	650	\$4.00	\$2,600.00	\$3.24	\$2,106.00	\$3.72	\$2,418.00	\$3.40	\$2,210.00		
24	644	Crosswalks, 8" White	L.F.	112	\$4.00	\$448.00	\$3.09	\$346.08	\$3.54	\$396.48	\$3.20	\$358.40		
25	644	Double Yellow Centerline	L.F.	270	\$2.50	\$675.00	\$2.06	\$556.20	\$2.36	\$637.20	\$2.15	\$580.50		
26	644	Word "SCHOOL"	Ea.	1	\$500.00	\$500.00	\$772.50	\$772.50	\$885.21	\$885.21	\$800.00	\$800.00		
27	251	Partial Depth Asphalt Pavement Repair, 2.0" thick, Spot Work, Various Locations throughout Bexley, as directed	S.Y.	600	\$53.00	\$31,800.00	\$53.13	\$31,878.00	\$37.00	\$22,200.00	\$84.00	\$50,400.00		
28	604	MH adjusted to grade (contingency)	Ea.	6	\$250.00	\$1,500.00	\$250.00	\$1,500.00	\$1,300.00	\$7,800.00	\$220.00	\$1,320.00		
29	638	Water Valve adjusted to grade (contingency)	Ea.	6	\$200.00	\$1,200.00	\$200.00	\$1,200.00	\$1,300.00	\$7,800.00	\$220.00	\$1,320.00		
30	659	4" Topsoil, Seeding & Mulching (Including Excavation)	S.Y.	140	\$20.00	\$2,800.00	\$20.00	\$2,800.00	\$18.00	\$2,520.00	\$150.00	\$21,000.00		
Force Account Contingency														
31	Spec.	Force Account	L.S.	1	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00		
					ITEMIZED TOTAL=	\$392,456.90		\$356,363.42		\$395,130.01		\$543,807.25	No Bid	

Ref. No.	Item No.	Description	Unit	Quantity	Engineer's Estimate		Decker Construction 3040 McKinley Avenue Columbus, Ohio 43204 (614) 488-7958		Strawser Paving Company 1595 Frank Road Columbus, Ohio 43223 (614) 276-5273		Shelly & Sands, Inc. 3040 McKinley Avenue Columbus, Ohio 43204 (614) 488-7958		Midwest Landscape, Inc. 3450 E. 7th Ave. Columbus, Ohio 43219 614-989-0697	
					Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total

CONTRACT B- BRICK PAVEMENT REPAIR																																																															
1	203	Removal of Unsuitable Base and Replacement w/ 305 Concrete Base(Contingency)	C.Y.	40	300	\$12,000.00			\$418.50	\$16,740.00	\$675.00	\$27,000.00	\$600.00	\$24,000.00																																																	
2	Spec.	Remove and Relay Brick Pavers on Sand/Cement Bedding, Spot Work as directed	S.Y.	775	135	\$104,625.00			\$156.60	\$121,365.00	\$330.00	\$255,750.00	\$81.90	\$63,472.50																																																	
3	Spec.	Furnish Replacement Bricks, Kiln Fired Clay, 4" x 8" x 3" thick to match existing	Ea.	3,000	1	\$3,000.00			\$2.70	\$8,100.00	\$1.36	\$4,080.00	\$1.60	\$4,800.00																																																	
Force Account Contingency																																																															
4	Spec.	Force Account	L.S.	1	\$10,000.00	\$10,000.00			\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00																																																	
						\$129,625.00	No Bid		\$156,205.00		\$296,830.00		\$102,272.50																																																		
<table border="0" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:30%;"></th> <th style="width:10%;">Engineer's Estimate</th> <th style="width:5%;">Rank</th> <th style="width:15%;">Decker Construction</th> <th style="width:5%;">Rank</th> <th style="width:15%;">Strawser Paving Company</th> <th style="width:5%;">Rank</th> <th style="width:15%;">Shelly & Sands, Inc.</th> <th style="width:5%;">Rank</th> <th style="width:10%;">Midwest Landscape, Inc.</th> </tr> </thead> <tbody> <tr> <td>Contract A Bid Total</td> <td>\$392,456.90</td> <td>1</td> <td>\$356,363.42</td> <td>2</td> <td>\$395,130.01</td> <td>3</td> <td>\$543,807.25</td> <td></td> <td>No Bid</td> </tr> <tr> <td>Percent above/below Estimate</td> <td></td> <td></td> <td>-9.2%</td> <td></td> <td>0.7%</td> <td></td> <td>37.6%</td> <td></td> <td></td> </tr> <tr> <td>Contract B Bid Total</td> <td>\$129,625.00</td> <td></td> <td>No Bid</td> <td>2</td> <td>\$156,205.00</td> <td>3</td> <td>\$296,830.00</td> <td>1</td> <td>\$102,272.50</td> </tr> <tr> <td>Percent above/below Estimate</td> <td></td> <td></td> <td></td> <td></td> <td>20.5%</td> <td></td> <td>129.0%</td> <td></td> <td>-21.1%</td> </tr> </tbody> </table>															Engineer's Estimate	Rank	Decker Construction	Rank	Strawser Paving Company	Rank	Shelly & Sands, Inc.	Rank	Midwest Landscape, Inc.	Contract A Bid Total	\$392,456.90	1	\$356,363.42	2	\$395,130.01	3	\$543,807.25		No Bid	Percent above/below Estimate			-9.2%		0.7%		37.6%			Contract B Bid Total	\$129,625.00		No Bid	2	\$156,205.00	3	\$296,830.00	1	\$102,272.50	Percent above/below Estimate					20.5%		129.0%		-21.1%
	Engineer's Estimate	Rank	Decker Construction	Rank	Strawser Paving Company	Rank	Shelly & Sands, Inc.	Rank	Midwest Landscape, Inc.																																																						
Contract A Bid Total	\$392,456.90	1	\$356,363.42	2	\$395,130.01	3	\$543,807.25		No Bid																																																						
Percent above/below Estimate			-9.2%		0.7%		37.6%																																																								
Contract B Bid Total	\$129,625.00		No Bid	2	\$156,205.00	3	\$296,830.00	1	\$102,272.50																																																						
Percent above/below Estimate					20.5%		129.0%		-21.1%																																																						
<p>_____ David B Koch, PE</p>																																																															

Page	Contractor:	Decker Construction	Strawser Paving Company	Shelly & Sands, Inc.	Midwest Landscape, Inc.
	All required documents submitted	Yes	Yes	Yes	Yes
4	Proposal Completed Correctly	Yes	Yes	Yes	Yes
4	All spaces filled in properly	Yes	Yes	Yes	Yes
4	Price for labor and material stated separately	Yes	Yes	Yes	Yes
4	Total Price Checked	No *	Yes	Yes- Contract A, No- Contract B	Yes
5	Non-collusion Affidavit Completed	Yes	Yes	Yes	Yes
6	Corporation Affidavit Completed (if applicable)	Yes	Yes	Yes	Yes
7	Affidavit of Personal Property Tax Liability Completed	Yes	Yes	Yes	Yes
7a	Auditor of State- Unresolved Findings for Recovery Certified Search Completed	Yes	Did Not Perform Check	Did Not Perform Check	Yes
8	Bid Guaranty and Contract Bond Completed	Yes	Yes	Yes	Yes
10	Detailed Statement of Qualifications Included	Yes	Yes	Yes	Yes
11	Sub-Contractors List Included	Yes	Yes	Yes	Yes
11	EDGE 5% Goal Provided	Columbus Haul All Ltd- Trucking, 5% of Bid	Buds, Inc. 2.7% of Bid	MS Trucking, 7% of Bid	Waiver Requested
12	Campaign Contributions Affidavit Completed	Yes	Yes	Yes	Yes
13	EEO Certificate of Compliance from ODAS	Yes	Yes	Yes	Yes
4b	Bid Addendum No. 1 Acknowledged	Yes	Yes	Yes	Yes
	Bond Amount	Amount of Bid	Amount of Bid	Amount of Bid	Amount of Bid
	Bonding Agency	Cincinnati Insurance Company	Fidelity and Deposit Company of Maryland	Ohio Farmers Insurance Company /	West Bend Mutual Insurance Co
	A.M. Best Rating	A		Travelers Casualty and Surety Company	

* bid price was \$50 less than total of all items
(does not change bid order)

March 31, 2022

From: David B. Koch, P.E.

To: City of Bexley, Ohio, Board of Control

Subject: City of Bexley 2022 Street Improvement Bids Contract A, Recommendation for contract award

Members of the Board,

I have completed the analysis of the bids received for the 2022 Street Improvements Contract A- Asphalt Resurfacing. The attached bid tabulation shows the lowest and best bid for the work is \$356,363.42 from Decker Construction Company for all the work described in the base bid.

The Bid by Decker Construction Company is approximately nine percent (9%) less than the Engineer's Estimate of \$392,456.90. The bid appears to be fair, reasonable and favorable compared to all other bids.

Decker Construction Company has displayed acceptable performance and conduct on past projects in the City of Bexley which include the recent 2019 Street Improvements and the 2012 South Cassady Avenue Improvement Project. They have provided a detailed list of qualifications and appear to be qualified to perform this type and size of project.

I therefore recommend the contract be awarded to Decker Construction Company for the total amount of Three Hundred Fifty Six Thousand, Three Hundred Sixty Three Dollars and Forty Two Cents (\$356,363.42) for the work bid.

Upon receiving your approval, I will prepare a Notice of Award for your signature and then forward the contract documents for signature to the contractor. Upon receiving their signatures I will forward the contracts to you for your review and approval.

Please call me at 949-8102 if you have any questions.

Sincerely,

David B. Koch, P.E.
City Engineer

Approved By: City of Bexley Board of Control

Ben Kessler
Mayor

Mathew McPeck
Auditor

Troy Markham
Council President

March 31, 2022

From: David B. Koch, P.E.

To: City of Bexley, Ohio, Board of Control

Subject: City of Bexley 2022 Street Improvement Bids Contract B, Recommendation for contract award

Members of the Board,

I have completed the analysis of the bids received for the 2022 Street Improvements Contract B- Brick Pavement Repair. The attached bid tabulation shows the lowest and best bid for the work is \$102,272.50 from Mid-West Landscape, Inc. for all the work described in the base bid.

The Bid by Mid-West Landscape, Inc. is approximately Twenty One percent (21%) less than the Engineer's Estimate of \$129,625.00. The bid appears to be fair, reasonable and favorable compared to all other bids.

Mid-West Landscape, Inc. has displayed acceptable performance and conduct on past projects in the City of Bexley which include the recent 2019 Roosevelt Avenue and Main Street Brick Pavement Repairs and several other projects where they have worked as subcontractor to a general contract for roadway improvements. They have provided a detailed list of qualifications and appear to be qualified to perform this type and size of project.

They have requested a waiver for the 5% EDGE requirement specified in the bid documents as they do not have any work that will be subcontracted to other contractors. I would recommend approval of the waiver as this is a specialized type of work and has limited opportunities for subcontracting work to others.

I therefore recommend the contract be awarded to Mid-West Landscape, Inc. for the total amount of One Hundred Two Thousand, Two Hundred Seventy Two Dollars and Fifty Cents (\$102,272.50) for the work bid.

Upon receiving your approval, I will prepare a Notice of Award for your signature and then forward the contract documents for signature to the contractor. Upon receiving their signatures I will forward the contracts to you for your review and approval.

Please call me at 949-8102 if you have any questions.

Sincerely,

David B. Koch, P.E.
City Engineer

Approved By: City of Bexley Board of Control

Ben Kessler
Mayor

Mathew McPeck
Auditor

Troy Markham
Council President

AGREEMENT FOR THE COLLECTION, TRANSPORTATION AND PROCESSING OF
RESIDENTIAL ORGANIC SOLID WASTE GENERATED WITHIN
THE CITY OF BEXLEY FRANKLIN COUNTY, OHIO

THIS AGREEMENT for the collection, transportation and processing of Organic Solid Waste, (“Services”) generated within the City of Bexley, Ohio (the “Collection Agreement”) entered into this ___ day of April, 2022, is by and between the City of Bexley, Ohio (the “City”), with its offices located at 2242 East Main Street, Bexley, Ohio 43209, and Earth Peak Organics LLC (“Collection Contractor”), with offices located at 7685 Fishel Drive S, Dublin, Ohio 43016.

RECITALS

WHEREAS, pursuant to Sections 715.43 and 3707.43 of the Ohio Revised Code, the City may enter written contracts with independent contractors to establish such collection systems and designate solid waste facilities as may be necessary or appropriate to provide for the safe and sanitary management of Solid Waste, including Organic Solid Waste generated within the City; and

WHEREAS, the City has determined that it is in the best interests of the City and its Residents that the City arrange for the collection, transportation and processing of Organic Solid Waste generated at Residential Units, City Facilities and during Special Events located within the City from a single Collection Contractor on an exclusive basis ("Collection Services"); and

WHEREAS, Organic Solid Waste shall be delivered to the Collection Contractor's facility approved to process food scraps making plant food and fertilizer. located at 7685 Fishel Drive S, Dublin, Ohio 43016.

WHEREAS, the above-enumerated facility is the only City-Designated Facility that the Collection Contractor may use for the delivery of Organic Solid Waste pursuant to this Collection Agreement; and

WHEREAS, the City and the Collection Contractor have agreed on terms and conditions for the Collection Services; and

WHEREAS, the City and the Collection Contractor each represent that it has the authority to execute this Collection Agreement for the Collection Services identified herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements below, the parties incorporate the foregoing recitals and agree as follows:

ARTICLE I - DEFINED TERMS

The capitalized terms used in this Collection Agreement are defined in Exhibit A, Defined Terms, which is attached and incorporated by reference.

ARTICLE II- AGREEMENT, TERM & RENEWAL TERMS

11.1 **Agreement and Independent Collection Contractor Status.** The City hereby authorizes the Collection Contractor, and the Collection Contractor hereby accepts such authorization, on an exclusive basis and as an independent Collection Contractor, to collect, transport, and process Organic Solid Waste generated at Residential Units, City Facilities and during certain Special Events within the City to the Designated Facilities.

11.2 **Effective Date and Term.** This Collection Agreement shall be effective on the date of last

execution. The term of this Collection Agreement shall begin on September 1st, 2021 and terminate on September 1st, 2023. This Agreement may be renewed for up to two (2) additional consecutive terms of up to one (1) year each, at the sole election of the City, at the price listed in paragraph 6.1, below.

- 11.3 Implementation Plan. From and after the Effective Date, the Collection Contractor shall submit proof that the benchmarks identified in the implementation plan, which is attached as Exhibit C and incorporated by reference, have been met. The Collection Contractor shall certify:
- (a) compliance with the benchmarks which include, but are not limited to, the purchase of sufficient vehicles, collection containers and equipment to perform;
 - (b) that Collection Contractor's employees have completed training and driven the City-approved collection routes. The City may incorporate additional time restrictions, notwithstanding section 4.3, such as for major roads during rush hour;
 - (c) receipt of the City-approved written notices to Residents explaining the procedures and obligations of each Owner or occupant of a Residential Unit to receive Collection Services, and detailing the requirements for placement of collection containers;
 - (d) that the delivery of any Collection Contractor-provided collection containers is complete;
 - (e) that the Collection Contractor will deliver the Organic Solid Waste to the City- Designated Facility for processing; and
 - (f) that the Collection Contractor has delivered to the City proof of insurance, proof of workers' compensation coverage and the required Performance Bond, which are attached as Exhibits B, D and F, and incorporated by reference. Finally, the Collection Contractor shall certify that all conditions precedent to the commencement of performance of the Collection Services have been satisfied by the dates stated on the implementation plan submitted by the Collection Contractor.

ARTICLE III - GENERAL REQUIREMENTS OF THE COLLECTION CONTRACTOR

- 111.1 Delivery to City- Designated Facility. The Collection Contractor shall provide regular weekly collection of Organic Solid Waste from each Residential Unit, City Facilities and during Special Events located within the City. All Organic Solid Waste generated at each Residential Unit shall be collected by the Collection Contractor, provided the Resident places such items in the manner specified in the City-approved written notice specified in Section 2.3 and Section 4.4. The Collection Contractor's facility is approved to accept and process food scraps making plant food and fertilizer, not compost. All Collection Services performed by the Collection Contractor pursuant to this Collection Agreement shall be performed in a competent and workmanlike manner.
- 111.2 Vehicles and Equipment. The Collection Contractor shall furnish all vehicles and equipment necessary to provide the Collection Services required under this Collection Agreement, as well as the necessary facilities for the thorough cleaning and maintenance of the vehicles and equipment. The Collection Contractor shall keep all vehicles and equipment in a clean, sanitary, and safe operating condition at all times. All vehicles used by the Collection Contractor for the collection of Organic Solid Waste shall be washed and cleaned, leak proof, rust-free trucks equipped with a broom, shovel, and rake. Other types of vehicles may be used only as approved by the city. All vehicles shall be painted uniformly, and shall bear the Collection Contractor's name, vehicle number and Collection Contractor's telephone number. All vehicles and equipment may be inspected from time to time by the City to determine that same are clean, sanitary and in safe operating condition; however, such an inspection shall not constitute a representation by the City that the vehicles and equipment are safe. Any vehicles or equipment that, in the opinion of the City, are not clean, sanitary or in a safe operating condition shall be removed from service by the Collection Contractor until such vehicles have been cleaned and/or repaired to the satisfaction of the City. Failure to comply with these standards constitutes grounds for termination of this Collection Agreement by the City.

- 111.3** Collection Contractor's Office and Telephone. The Collection Contractor shall maintain an office in Franklin County, Ohio, or in an adjacent county, and telephone service with a non-ton telephone number from the City, which shall be manned by alive operator and a supervisor on working days from 8:00 a.m. to 5:00 p.m. to receive any complaints or calls regarding the Collection Services from a Resident or the City. Provided that the city approves, email may also be utilized to address complaints. The Collection Contractor shall also maintain an emergency contact number which is available 24 hours per day, seven (7) days per week.
- 111.4** Collect ion Contractor Ability to Communicate with Vehicles in the Field. The Collection Contractor shall maintain two-way radio or cellular telephone or other means of communication service with the drivers of an vehicles used to provide Collection Services within the City, so that the Collection Contractor may communicate with the drivers to expedite the Collection Contractor's response to complaints regarding the Collection Services.
- III.5** Employee Training. The Collection Contractor shall provide training in operations, approved collection routes, safety practices, use of employee uniforms, which include safety vest, and conduct for an employees involved in providing the Collection Services.
- 111.6** Organic Solid Waste Collection Containers. The Collection Contractor shall collect all Organic Solid Waste from each Residential Unit from the Collection Contractor-provided collection container, liners, and bands. The Collection Contractor shall provide each Residential Unit with weekly liners and one (1) five-gallon lidded collection container at no additional charge, and a second five-gallon lidded collection container at the request of any Resident. The Collection Contractor shall replace lost or damaged collection containers at the request of a Resident one time at no charge and \$10.00 per container thereafter.
- 111.7** Services at City Facilities. The Collection Contractor shall provide collection containers to the City at the location, number, and day of collection as stated on Exhibit E, which is attached and incorporated by reference. The Collection Contractor shall collect all Organic Solid Waste deposited in the collection containers on the collection day stated in Exhibit E. If additional collections of the collection containers shown on Exhibit E are necessary, the Collection Contractor shall collect such containers as requested by the City at no addition charge, provided that City requests for additional collection are not greater than four (4) in a calendar month. Within reason, the number, and locations of the collection container subject to change in the discretion of the City upon written notice to the Collection Contractor.
- 111.8** Collection at Special Event. The Collection Contractor shall collect any city-provided collection containers upon request of the city for special events at an agreed upon price per container.
- 111.9** Commercial Establishments Excluded. This Collection Agreement does not require the Collection Contractor to provide any services to commercial establishments within the city, unless the city has made the determination that the commercial establishment is a residential unit equivalent, or except as provided for under Exhibit G hereto. The Collection Contractor may, in its sole discretion, enter into private contracts to provide services to commercial establishments, not defined as City Facilities, Residential Units, or Residential Unit Equivalents.

ARTICLE IV - COLLECTION CONTRACTOR'S CONDITIONS OF RESIDENTIAL UNIT COLLECTION

- IV.1** Collection Routes and Day of Collection. On or before September 1st, 2021, the City shall furnish the Collection Contractor initial collection routes consisting of a route map; showing the individual routes for the collection of Organic Solid Waste, their beginning and ending points, and number of

Residential Units per route; and the Collection Contractor shall confirm the weekday on which all Residential Organic Solid Waste will be collected within the City (collection of Residential Organic Solid Waste shall be on the same weekly schedule, as set forth in the collection day and route schedule provided by the Collection Contractor and approved by the City.) The Collection Contractor shall not change the day of collection without written approval by the City. In the event such a change is approved by the City, notice of such approved change must be provided to each affected Residential Unit at least ten (10) days prior to the new collection day. The City retains the right to adjust the collection routes submitted by the Collection Contractor to provide for public convenience and safety. The Collection Contractor shall perform the Collection Services using the final City-approved Collection Routes.

- IV.2 Holidays.** Holidays that may be observed by the Collection Contractor include New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. In any week containing an observed holiday, the day of collection may be moved to the day immediately following the regular day of collection. The Collection Contractor shall resume the regular schedule the following week.
- IV.3 Starting and Ending Time.** Collection of Organic Solid Waste shall occur between 7:00 a.m. and 7:00 p.m. on the day designated for collection. In the event the City notifies the Collection Contractor that the Collection Contractor has violated the permissible hours of collection three or more times in any ninety (90) day period, except for the purposes of picking up missed collections as set forth above, the City may, at the City's discretion, withhold or invoice two hundred dollars (\$200.00) per occasion from the quarterly payment due to Collection Contractor, including the first three occasions, from the quarterly release of funds held by the Collection Contractor as provided in 6.1.
- IV.4 Notice to Residential Units.** No later than ten (10) days prior to the first date of the Collection Services and semi-annually thereafter during the term, the city, in collaboration with the Collection Contractor, may provide notice to each residential unit regarding the procedures and obligations of the owner or tenant of each residential unit receiving collection services. Any notices shall be submitted to the city for approval no later than twenty (20) days prior to notice to the residential unit.
- IV.5 Procedure for Curbside Collection Service.** Except as provided in Section 4.6, collection of organic solid waste shall be made for each residential unit at one point of pick-up at the curbside (opposite side of driveway where refuse is collected) of the residential unit or other identified location for non-curbed residential unit.
- IV.6 Procedure for Carry-out Collection Services.** The Collection Contractor shall provide Carry out Collection Service at the same rate as the curbside collection service to any resident with a physical disability which limits or impairs the ability to walk, in accordance with the Ohio Revised Code Section 4503.44(A)(1). The city shall maintain the list of residents who are eligible to receive Carry-out Collection Service at no additional charge and notify the other party of any changes to that list.
- IV.7 Handling of Collection Containers.** All re-usable collection containers used by a resident shall be returned or replaced to the location from which they were removed, erect and with lids in place. The collection contractor shall immediately pick up or sweep up any materials that the collection contractor spills during collection. The collection contractor is also responsible for cleanup of all hydraulic or other fluids which leak from collection vehicles. All such cleanups are required to be performed as soon as possible, but in no case longer than eight (8) hours after the spilled leak, or the end of the collection day. In the event the collection contractor fails to adequately perform a cleanup required pursuant to this section, the city shall have the right to perform such cleanup services using city employees or other collection contractors and withhold release of payment in accordance with section 6.2.

IV.8 Damage to Collection Containers. The collection contractor shall exercise due care to avoid damaging collection containers. The collection contractor shall make a like kind replacement of collection containers that it has substantially damaged through the negligence of the collection contractor. The collection contractor shall warrant that any collection contractor-provided collection container shall be free from defects and engineered to last for not less than ten (10) years. Any damaged or broken collection contractor-provided collection containers shall be replaced by the collection contractor, at the sole cost and expense of the collection contractor.

IV.9 Violation of Resident Obligations; Refusal to Collect. Upon the first instance that a resident places Organic Solid Waste for collection in a manner that violates the Resident's obligations, the Collection Contractor may refuse to pick up such materials provided that at the time of refusal, the Collection Contractor leaves a tag advising the Resident of the reasons for the Collection Contractor's refusal to collect the materials. The Collection Contractor shall provide the City with copies of all tags left at each Residential Unit pursuant to this section, or other such notification as agreed to between the City and the Collection Contractor. The Collection Contractor shall not take undue measures to determine compliance, but shall act, in good faith, in favor of the City and the Residents receiving the Collection Services.

IV.10 Conduct of Collection Contractor and Its Employees. The Collection Contractor shall perform all Collection Services in compliance with federal, state and local laws and ordinances, including rules and regulations adopted by SWACO and the Franklin County District Board of Health. Notwithstanding any deduction pursuant to Section 6.2, any and all violations may be enforced in accordance with Ohio Revised Code Section 343.99.

The Collection Contractor's employees shall conduct themselves in a polite, courteous, and helpful manner at all times and shall refrain from the use of loud or profane language. All employees shall wear a shirt or other appropriate clothing bearing the Collection Contractor's company name in large type. The city may request transfer of any employee who performs his or her duties in a manner that is unsatisfactory to the city.

IV.10 Collection Contractor's Response to Complaints. The City shall notify the Collection Contractor of any complaints received regarding the Collection Contractor's services or performance and suggest corrective measures. The Collection Contractor shall contact the City to determine if any complaints have been received at least once before 5:00 p.m., and once again before the last collection vehicle leaves the City at the end of the day of collection. The Collection Contractor shall give prompt and courteous attention to all complaints, and in the case of missed collections, shall arrange for collection within twenty-four (24) hours from the scheduled date of collection.

ARTICLE V - PERFORMANCE ASSURANCE, BOND, INSURANCE AND INDEMNIFICATION

V.1 Performance Assurance. The Collection Contractor shall immediately report to the City any notice or order from any governmental agency or court or any event, circumstance or condition which may adversely affect the ability of the Collection Contractor to fulfill any of its obligations hereunder. If, upon receipt of such report, or upon the City's own determination that any such notice, order, event, circumstance, or condition adversely affects the ability of the Collection Contractor to fulfill its obligations, the City shall have the right to demand adequate assurances from the Collection Contractor that the Collection Contractor is able to fulfill its obligations. Upon receipt by the

Collection Contractor of any such demand, the Collection Contractor, within fourteen (14) days of such demand, shall submit to the City its written response to any such demand. In the event that the City does not agree that the Collection Contractor's response will provide adequate assurance of future performance to the City and its Residents, the City may, in the exercise of its sole and reasonable discretion, seek substitute or additional sources for the delivery of all or a portion of the Collection Services, declare that the Collection Contractor is in default of its obligations under this Collection Agreement, or take such other action the city deems necessary to assure that the collection services will be provided including the right to terminate the Collection Agreement.

- V.2 Liability Insurance.** The Collection Contractor, at the Collection Contractor's sole cost and expense, agrees that it shall at all times during the term and any renewal term of this Collection Agreement carry and maintain in full force and effect, for the mutual benefit of the City and the Collection Contractor, commercial general public liability insurance against claims for personal injury, death or property damage, occurring as a result of the performance of, the Collection Services. The insurance coverage to be purchased and maintained by Collection Contractor as required by this paragraph shall be primary to any insurance, self-insurance, or self-funding arrangement maintained by the City. The coverage and limits of such insurance are listed on Exhibit F, which is attached and incorporated by reference. The Collection Contractor shall be responsible for payment of any and all deductible(s) or retention(s) under the policies of insurance purchased and maintained by it pursuant to this Contract.
- V.3 Proof of Insurance.** All insurance required by this Collection Agreement shall be obtained from a responsible insurance company or companies reasonably satisfactory to the City and authorized to do business in the State of Ohio. The City shall be named as an additional insured in such insurance policies. Originals of the insurance policies or certificates shall be delivered to the City promptly upon commencement of the term of this Collection Agreement, and insurance policy renewals or certificates shall be delivered to the City not less than thirty (30) days prior to the expiration dates of any policy. Each policy shall provide that the insurance company shall give notice to the City at least thirty (30) days prior to the effective date of any cancellation or expiration of any such insurance policy.
- V.4 Worker's Compensation Coverage.** Prior to commencing work under this Collection Agreement, the Collection Contractor shall furnish to the City satisfactory proof that the Collection Contractor has paid current premiums for workers' compensation coverage for all persons employed in carrying out the work covered by this Collection Agreement. Such proof must be included as Exhibit B, which is attached and incorporated by reference. The Collection Contractor is responsible for forwarding updated proof of payment for workers' compensation coverage on an on-going basis, as such proofs expire. The Collection Contractor shall hold the City free and harmless for any and all personal injuries of all persons performing work for the Collection Contractor under this Collection Agreement.
- V.5 Indemnification.** The Collection Contractor shall save, indemnify and hold the city, its council, its Board of Trustees, employees, agents, officers and consultants(each an indemnitee) harmless from and against any and all liabilities, claims, demands, causes of action, penalties, judgments, forfeitures, liens, suits, costs and expenses whatsoever (including those arising out of death, injury to persons, or damage to or destruction of property), and the cost and expenses incident thereto (including reasonable attorney's fees), which any indemnitee may hereafter incur, become responsible for, or pay out for or resulting from the performance of the Collection services under this Collection Agreement, provided that any such claim, damage, loss or expense:
- (a) Is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including any resulting loss of use; and

(b) Is caused in whole or in part by any intentional, reckless or negligent act or omission of the Collection Contractor, anyone directly or indirectly employed by the Collection Contractor, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

This section shall survive expiration or earlier termination of this Agreement.

V.6 Environmental Indemnification. The Collection Contractor shall save, indemnify and hold the City, its Board of Trustees, employees, agents, officers and consultants (each an indemnitee) harmless from and against any and all liabilities, claims, demands, causes of action, penalties, judgments, forfeitures, liens, suits, costs and expenses whatsoever (including those arising out of death, injury to persons, or damage to or destruction of property), and the cost and expenses incident thereto (including reasonable attorneys' fees), which any indemnitee may hereafter incur, become responsible for, or pay out for violation of governmental laws, regulations, or orders, in each case, to the extent caused by the Collection Services. Any indemnitee shall promptly notify the Collection Contractor of any assertion of any claim against it for which it is entitled to be indemnified, shall give the Collection Contractor the opportunity to defend such claim and shall not settle such claim without the approval of the Collection Contractor. This section shall survive expiration or earlier termination of this Agreement.

V.7 Indemnity Not Limited. In any and all claims against the City, its employees, agents, officers, and consultants, by any employee of the Collection Contractor or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Collection Contractor under workers' compensation acts, disability benefit acts, or other employees' benefit acts.

V.8 Personal liability. Nothing herein shall be constructed as creating any personal liability on the part of any employee, agent, officer or consultant of the city.

ARTICLE VI- BILLING, PAYMENT, ADJUSTMENTS OR REDUCTIONS TO PAYMENT

VI.1 Collection Contractor Billings to City and City Payment. The Collection Contractor shall bill the City for the Collection Services within ten (10) days following the end of the month, and the City shall pay the Collection Contractor on or before the thirtieth (30th) day following the end of such month. Such billing and payment shall be based upon a Service Charge of \$5.99 per household per month for the actual number of participating Residential Units (minimum of 1,000 per month through May 2019 and 1,500 per month for the remainder of the contract term). In the event the City reduces payment to the Collection Contractor, in good faith and at its sole discretion, the City will provide a written explanation and reference to the authorizing provision of the Collection Agreement, including paragraphs 4.3, 4.7, and 6.2. In the event that the Collection Contractor disputes the basis for the reduction in payment, the City shall consider the basis for the dispute and may refund any such deduction to the Collection Contractor. However, the City is under no obligation to accept the validity of any such dispute.

VI.2 Deductions from Collection Contractor's Invoice for Non-performance. If the Collection Contractor misses or fails to make a collection on the regularly scheduled day from any Residential

Unit(s) on the same street two (2) or more times in any ninety (90) day period, even if corrected within twenty-four (24) hours, the City may withhold from payment or the quarterly release of funds held by the Collection Contractor as provided in 6.1, or invoice the Collection Contractor, calculated as follows: the lesser of Twenty-Five Dollars (\$25.00) per Residential Unit or Two Hundred and Fifty Dollars (\$250.00) per street (no more than one mile in length). In the event that the City performs cleanup services pursuant to Section 4.7, or collects a missed pickup more than twenty-four (24) hours after reporting such miss to the Collection Contractor, the City may withhold from payment or the quarterly release of funds held by the Collection Contractor, or invoice the Collection Contractor, one hundred dollars (\$100.00) per service call plus \$50.00 per hour for cleanup services performed by the City. The remedies available pursuant to this section are in addition to any other remedies available to the City pursuant to this Collection Agreement, and the City's determination not to use any remedy in response to a failure to perform shall not constitute a waiver by the City of the right to exercise any remedy in response to subsequent failures to perform.

VI.3 Annual Review of Generation. Annually, the Collection Contractor shall submit a report, or the Collection Contractor and the City shall meet to review the volumes of Organic Solid Waste collected from the City and its Residents and delivered to the City-Designated Facility.

VI.4 Data Collection and Monthly Reporting. The Collection Contractor shall prepare and report the following data on the Collection Services provided by the Collection Contractor on forms provided or approved by the City: (a) a record of the number of Residential Units within the City collected by the Collection Contractor on each regular collection day; (b) a record of the Agreement that the Collection Contractor delivers to the City-Designated Facility, for each day that such Organic Solid Waste is delivered to the City-Designated Facility; and (c) a record of each Residential Unit tagged or refused service pursuant to paragraph 4.9 and identification of the unacceptable waste or placement of waste. The Collection contractor shall prepare such records and provide them to the City on a monthly basis.

ARTICLE VII- BREACH, CURE, AND TERMINATION

VII. 1 Breach of Contract: Termination. Upon the material failure of the Collection Contractor to comply with the terms or conditions of this Collection Agreement, the City may terminate the Collection Agreement in the following manner: the City shall provide notice to the Collection Contractor, by certified mail, return receipt requested, of the alleged material failure of the Collection Contractor to comply with the Collection Agreement. The Collection Contractor shall have ten (10) days to provide the City with written assurance, which can be substantiated by reasonable proof, that the material failure(s) issues identified in the notice have been corrected. In the event that the Collection Contractor fails to provide such written assurance and substantiating proof within the (10) day period for corrective action, or there are ongoing or continuing failures to perform the Collection Services, the City may terminate this Collection Agreement. Any such termination shall not take effect until the City is able to secure alternate or substitute performance for the Collection Services. The City may commence the process to obtain an alternate or substitute service provider for the Collection Services following the failure of the Collection Contractor to cure the alleged material failure to the satisfaction of the City, in the exercise of the reasonable discretion of the City.

VII. 2 Surety or City in the Event of a Material Failure. In the event of termination, the Collection Contractor's surety shall have the right to take over and perform under the Collection Agreement. However, if the surety does not commence performance, the City shall take over performance by contract or otherwise at the expense of surety. In the event there is no surety-provided cover, or the City is unable to provide or obtain cover, the effective termination date may be delayed by the City until the City completes the process of obtaining a substitute service provider of the Collection Services. In such event, the Collection Agreement until effective date of termination. Material failure includes, but is not limited to, the City's receipt of more

than twenty (20) bona fide complaints in any given month regarding the Collection Services. A bona fide complaint is a complaint that the City has investigated and determined that the complaints represent failures of the Collection Contractor to provide the required Collection Services. Material failure also includes the failure of the Collection Contractor to provide the Performance Bond and proof of insurance as required, or payment of the City income taxes.

VII 3. Termination for Change of Control of Collection Contractor. The award of this Collection Agreement is based on the ownership and control of the Collection Contractor as of the time of the award. Such ownership and control are a material term in such award. If during the term of this Collection Agreement, the Collection Contractor shall be merged or sold, the City shall have the right, in its sole discretion, to terminate this Collection Agreement upon thirty (30) days written notice of termination to the Collection Contractor. In the event of such notice of termination, the Collection Contractor shall continue to perform under the terms of this Collection Agreement until such time as the City is able to obtain alternate or substitute service.

ARTICLE-VIII – MISCELLANEOUS PROVISIONS

VIII.1 Entire Agreement. This Collection Agreement, other attachments and exhibits incorporated herein represent the entire agreement of the parties and supersede all other prior written or oral understandings. This Collection Agreement may be modified or amended only by a writing signed by both parties.

VIII.2 Notices. Written notice required to be given under this Collection Agreement shall be sufficient if delivered personally or mailed by certified mail, return receipt requested, to the Collection Contractor, attention (name or title), and to the City, attention (name or title), at their respective addresses set forth above. Any change in address must be given in like manner.

VIII.3 Waiver. No waiver, discharge, or renunciation of any claim or right of the City or the Collection Contractor arising out of a breach of this Collection Agreement by the City or the Collection Contractor shall be effective unless in writing signed by the City and the Collection Contractor.

VIII.4 Applicable Law. This Collection Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio. Venue is proper in Franklin County, Ohio.

VIII.5 Unenforceable Provision. If any provision of this Collection Agreement is in any way unenforceable, such provision shall be deemed stricken from this Collection Agreement and the parties agree to remain bound by all remaining provisions. The parties agree to negotiate in good faith a replacement provision for any provision so stricken.

VIII.6 Binding Effect. This Collection Agreement shall be binding upon and shall inure to the benefit of, and be enforceable by and against, each party's successors and assigns. Provided, however, that the Collection Contractor may not assign this Collection Agreement or any of the Collection Contractor's rights or obligations without the express written consent of the City, which consent may be withheld for any reason or for no reason.

VIII.7 Rights and Benefits. Nothing herein shall be construed to give any rights or benefits in this Collection Agreement to anyone other than the City and the Collection Contractor. All duties and responsibilities undertaken pursuant to this Collection Agreement will be for the sole and exclusive benefit of the City and the Collection Contractor and not for the benefit of any other property.

IN WITNESS WHEREOF, the parties by their duly authorized officers, trustees, or partners, have executed this Collection Agreement on the date set forth above.

City of Bexley, Ohio

MEMBER

(signature)

(Printed name)

(Printed Name and Title)

(Street Address)

(Street Address)

(City, State, Zip Code)

(City, State, Zip code)

