



**CITY OF
COVINGTON
KENTUCKY**

INVITATION FOR BIDS

COVINGTON POLICE FIRING RANGE TARGET SYSTEM
REPLACEMENT

PROJECT MANUAL

Issued: August 1, 2018

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****Bidder must complete and turn in with bid**

I. SCOPE OF WORK

1. **General Information.** The City is soliciting Bids from qualified Vendors to remove the current firing range target system and replace it with a new target system at the City's Police Department, located 1 Police Memorial Drive, Covington KY 41014.
 - A. The City shall require ongoing coordination with the awarded vendor and the City's designated Representative, prior to performance of any work on City property. Respondent shall notify the City's designated Representative, (72) seventy-two hours in advance, before anticipated work on City property.
 - B. Respondent shall ensure ongoing compliance with the laws and requirements of the Commonwealth of Kentucky by requiring all necessary personnel to maintain valid licenses, *when applicable*, and obtaining all required permits prior to commencement of any work. Any additional licensures and/ or credentials should be included in the Bid, *if available*.
 - C. Respondents will have the opportunity to make qualified measurements and verify range dimensions by attending the **pre-bid site visit scheduled for August 8th, 2018, at 10:00 a.m. at 1 Police Memorial Drive, Covington, KY 41014.** Reasonable opportunities will be afforded to Vendors, who in good faith cannot meet the scheduling requirements by contacting:

LT Marcus Jordan, Agency Quartermaster/Facility Manager
Covington Police Department
(859) 292-2362
mjordan@covingtonky.gov

2. **Description of Work.**

- A. Remove and dispose of existing range tracks, control units, and shooting stalls.
- B. The range will be used on a frequent basis, and the targetting system must be constructed to withstand such use.
- C. The shooting distance from the targets will be 0 to 25 yards.
- D. The range will contain 6 lanes with targets.
- E. Install a target retrieval system (Hercules Wireless / Turning / Programmable Target Retriever System). The system will also be required to operate individual targets or all of the combined targets at once

1. Install new, programmable controllers, for each lane.
 2. Install new master controller for the entire range. The Covington Police Department will supply a computer to serve as the system master control.
- F. Install new target tracks.
- G. Install new target mounting units for each lane.
- H. Install new ballistic, rifle rated shooter stalls, to include benches or shooting stall tables, with LED lighting for the stalls. The benches/tables shall be fold down type.
- I. The system should include target lighting, but may be allowed to use lighting that is already in place.
- J. The target mechanism should be protected from damage from bullets.
- K. Metal target frames are desired.
- L. They will be turning targets.
- M. The Contractor shall supply a detailed list of any construction work they either sub-contract to another entity, or otherwise would require prior to installation of the system.
- N. The Contractor shall supply a detailed list of any work, equipment, manpower, or contractors that are requested to be supplied by the Covington Police Department.
- O. The work shall be completed so that projectiles-and ricochets or back splatter cannot harm range users. Considerations should be made for cleaning of all surfaces and handling of hazardous wastes.
- P. Contractor shall advise the City on all laws, regulations, and rules affecting the Work, including but not limited to Environmental Protection Agency (“EPA”) and Occupational Safety and Health Administration (“OSHA”) rules and regulations.
3. **Inspection.** All replacements, repairs and overall workmanship shall be subject to inspection and approval by a designated City representative. A FINAL INSPECTION shall be conducted by both parties to the contract, to ensure suitable workmanship and satisfaction. The City shall conduct a final inspection within (14) fourteen days after completion of work. Respondent shall remedy any identified issues, discrepancies and/or defects at no additional cost to the City. After notification, if the Respondent fails to correct

the known defect, the City reserves the right to deduct from, and or withhold, the costs associated with correcting improper or defective work, off the final payment to Respondent.

4. **Warranties.** City shall require the material manufacturer to warrant that the material supplied and installed will meet or exceed physical properties as published, and have a warranty that is industry standard. Respondent shall guarantees that workmanship will be free of defects for a minimum of a (2) two year period. During the execution of this contract Respondent must ensure the protection of the building and its occupants. All guarantees and warranties obtainable by the Respondent from manufacturers and vendors of equipment, in the performance of this contract, shall be extended to the City to the full extent of their terms.

5. **Safety.**
 - A. All contractors and subcontractors performing services for the City are required and shall comply with all Occupational and Health Administration (OSHA), State and County Safety and Occupational Health Standards, and any other applicable rules and regulations. Also, all contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.

 - B. Maintenance activities on the property shall be performed in a safe and efficient manner and shall comply with all local, state, and federal requirements. The contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor and sub-contractors employees will be expected to wear approved safety equipment and follow all relevant safety rules and guidelines.

 - C. Respondent shall be responsible for furnishing, installing and maintaining all warning devices, i.e. barricades, etc. required to adequately protect the public, building users, and City employees during the performance or work.

 - D. Respondent must immediately notify the City's designated Representative of any unsafe or potentially hazardous condition that exists on City property, which has been discovered during the execution of this contract. The City's designated Representative will then notify the necessary parties.

 - E. In performing the Work, Respondent is responsible for complying with all Federal, State, and Local laws, ordinances, and regulations that govern

shooting ranges, hazardous waste, and occupational safety, including but not limited to EPA and OSHA rules and regulations concerning:

1. Disposal of lead-contaminated hazardous waste.
2. The design and construction of the gun range.
3. Lead exposure.

Respondent shall provide evidence to City of all necessary certifications and forms establishing compliance with this section.

6. Labor and Materials.

- A. Respondent shall provide all necessary equipment (i.e., ladders, ladder trucks, aerial lifts, scaffolding, etc.) required to perform the work specified.
- B. Respondent shall provide and pay for all labor, materials, equipment, tools, transportation and other facilities and services needed for the proper execution and completion of the work.
- C. All replacement parts/materials shall be new, high grade (commercial grade), free of defects, suitable for the specific purpose intended, and subject to the review and approval of a qualified City representative.
- D. Any material or equipment not conforming to the requirements or found to be damaged or defective at the time of delivery shall be replaced by the contractor without additional cost to the City.
- E. If the Respondent fails to comply promptly with any request of the City to replace or repair damaged or defective material, equipment or work, the City shall, upon written notice to the Respondent, have the authority to deduct the cost of such replacement or repair from any compensation due or to become due to the Respondent.

7. Workmanship.

- A. Respondent agrees to provide adequate supervision, and take necessary measures to assure that all work is completed in a workmanlike manner. Respondent agrees to perform the work assigned under this contract in a workmanlike manner by qualified, licensed and skilled workers. In the event of substandard workmanship or defective materials furnished by the Respondent, as may be determined by inspection of the City, or in the event of poor working performance as may be determined by the City's designated Representative, the City may, at any time, require the Respondent to expeditiously remedy such failure or defect, at no additional cost to the City.

- B. Workmanship may be determined to be substandard if the work is incomplete, inadequately installed or supported, poorly fitted or sealed, damaged, improperly finished, or installed in a manner that the operation or the maintainability of the installation is impaired beyond the limits specified or indicated by the agreement.
 - C. The performance of services by the contractor shall not relieve the contractor from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to the City, when such inaccuracies are due to the acts or omissions, negligent or otherwise, of the contractor.
8. **Site Location.** Covington Police Department, 1 Police Memorial Drive, Covington KY 41014.

ADVERTISEMENT FOR BIDS

The Covington City Manager will receive sealed bids for the:

REPLACEMENT OF THE COMPONENTS OF THE FIRING RANGE LOCATED AT 1 POLICE MEMORIAL DRIVE, COVINGTON, KENTUCKY, 41014

Said bid shall be enclosed in an envelope, marked with the aforementioned project name, and must be delivered to and time stamped by the **FIRST FLOOR WINDOW FINANCE DEPARTMENT, 20 WEST PIKE STREET, COVINGTON, KY 41011** no later than **10:00 a.m.**, prevailing time, **August 22nd , 2018** and will be opened and read in public by the City Clerk, or her alternate, at that time and date in the 1st floor Commission Chambers, 20 W. Pike Street, Covington, KY 41011.

Said bids will be tabulated and referred to the City Manager for recommendations to the City Commission. The City Commission reserves the right to reject any and all bids. The owner reserves the right to waive any informalities.

Further information and/or **specifications may be obtained at the City of Covington Police Department, 1 Police Memorial Drive, Covington, KY 41011** information for bidders, form of bid, form of contract, plans, specifications and forms of bid bond, and other contract documents, if applicable, copies of which, if applicable, may be obtained at the office of Covington Police Department, LT Jordan at 859-292-2362 for a non-refundable cost of **\$35.00** or by email at mjordan@covingtonky.gov for no cost.

SECTION 00100

INSTRUCTIONS TO BIDDERS

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ARTICLE 1 - DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.
 - A. Agreement: The written instrument forming a Contract between OWNER and CONTRACTOR outlining specific terms of the Work.
 - B. Bidder: The individual or entity who submits a Bid directly to OWNER.

- C. Successful Bidder: The Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluation as hereinafter provided) makes an award.
- D. Bid Submittal Documents: The set of documents which must be submitted in its entirety by the Bidder with its Bid and which includes the following:
 - 1. Notice to Bidders.
 - 2. Instructions to Bidders.
 - 3. Bid Form.
 - 4. Bid Bond.
 - 5. Insurance and Workers Compensation Affidavit
 - 6. Subcontractor List
 - 7. Non-Collusion Affidavit.
 - 8. Campaign Finance Affidavit
- E. CONTRACTOR--The individual or entity with whom OWNER has entered into the Agreement.
- F. Notice of Award--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.
- G. Notice to Proceed--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.
- H. OWNER--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.
- I. SELECTION PROCESS—The process by which the Award will be made as further described throughout the Bid Documents.

ARTICLE 2 - BIDS RECEIVED

- 2.01 Refer to Notice to Bidders for information on receipt of Bids.

ARTICLE 3 - LOCATION AND DESCRIPTION OF PROJECT

- 3.01 The City is soliciting Bids from qualified Vendors to remove and replace the firing range control system at the City's Police Department at 1 Police Memorial Drive, Covington, Kentucky 41014.

ARTICLE 4 - COPIES OF BIDDING DOCUMENTS

- 4.01 Refer to Notice to Bidders for information on examination and procurement of Bidding Documents.
- 4.02 Complete sets of Bidding Documents must be used in preparing Bids; OWNER assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 4.03 OWNER, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant permission for any other use.

ARTICLE 5 - QUALIFICATIONS OF BIDDERS

- 5.01 Bidders shall be experienced in the kind of Work to be performed, shall have the necessary equipment therefor, and shall possess sufficient capital to properly execute the Work within the time allowed. Bids received from Bidders who have previously failed to complete work within the time required, or who have previously performed similar work in an unsatisfactory manner, may be rejected. A Bid may be rejected if Bidder is already obligated for the performance of other work which would delay the commencement, prosecution or completion of the Work.
- 5.02 Bidders may be asked to furnish additional data to demonstrate their qualifications.
- 5.03 **In accordance with KRS 45A.343 all Bidders are required to:**
 - (a) Reveal any final determination of a violation by the Contractor or subcontractors within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the Contractor and Subcontractor; and
 - (b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the Contractor and Subcontractor for the duration of the contract.
- 5.04 Bidders shall be qualified to do business in the state where the Project is located or covenant to obtain such qualification prior to signing the Agreement. **Successful Bidder must obtain an Occupational License from the City of Covington Finance Department and be registered with the Kentucky Secretary of State to do business in Kentucky prior to entering into an agreement.**

ARTICLE 6 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA AND SITE

6.01 Hazardous Environmental Condition

- A. The work is being done on a firing range. There is the possibility for the exposure to lead dust and other chemicals used for firearm ammunition propellants.
- B. The range has a ventilation system in place. When contractors, sub-contractors or their employees on the range, the ventilation system will be running.

6.02 On request, OWNER will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests and studies as each Bidder deems necessary for submission of a Bid. Bidder shall restore the Site to its former conditions upon completion of such explorations, investigations, tests and studies.

6.03 It is the responsibility of Bidder, before submitting a Bid to:

- A. Examine and carefully study the Bidding Documents, including any Addenda and the other related data identified in the Bidding Documents;
- B. Visit the Site and become familiar with and satisfy Bidder as to the general, local and Site conditions that may affect cost, progress and performance of the Work;
- C. Become familiar with and satisfy Bidder as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work;
- D. Obtain and carefully study (or assume responsibility for having done so) all examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Bidder, including any specific means, methods, techniques, sequences and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
- E. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for the performance of the Work at the price bid

and within the times and in accordance with the other terms and conditions of the Bidding Documents;

- F. Become aware of the general nature of work (if any) to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents;
- G. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies and data with the Bidding Documents;
- H. Promptly give OWNER written notice of all conflicts, errors, ambiguities or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by OWNER is acceptable to Bidder; and
- I. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

6.05 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 6, that without exception the Bid is premised upon performing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences or procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given OWNER written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by OWNER are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing the Work.

6.06 By submitting a Bid, CONTRACTOR hereby waives and releases all, if any, claims against the OWNER arising from the Selection Process, including without limitation, procedural variation or defects with the Selection Process.

ARTICLE 7 - PRE-BID CONFERENCE

There is pre-bid site visit scheduled for August 8th, 2018, at 10:00 a.m. at 1 Police Memorial Drive, Covington, KY 41014. Reasonable opportunities will be afforded to Vendors, who in good faith cannot meet the scheduling requirements by contacting:

LT Marcus Jordan, Agency Quartermaster/Facility Manager
Covington Police Department
(859) 292-2362
mjordan@covingtonky.gov

ARTICLE 8 - SITE AND OTHER AREAS

- 8.01 The Site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment, to be incorporated into the Work are to be obtained and paid for by CONTRACTOR, and approved of by OWNER. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by OWNER unless otherwise provided in the Bidding Documents.

ARTICLE 9 - INTERPRETATIONS AND ADDENDA

- 9.01 All questions about the meaning or intent of the Bidding Documents shall be submitted to OWNER in writing. In order to receive consideration, questions must be received by OWNER at least three days prior to the date for the opening of Bids. Interpretations or clarifications considered necessary by OWNER in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by OWNER as having received the Bidding Documents for receipt not later than three days prior to the date for the opening of Bids. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 9.02 Addenda may also be issued to clarify, correct or change the Bidding Documents as deemed advisable by OWNER. Such Addenda, if any, will be issued in the manner and within the time period stated in paragraph 9.01.

ARTICLE 10 - BID SECURITY

- 10.01 A Bid must be accompanied by Bid security made payable to the OWNER in the amount of **ten percent (10%)** of Bidder's maximum Bid price and in the form of a certified check or Bid Bond.
- 10.02 Bid Bond shall be on the form bound in the Bid Submittal document.
- 10.03 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to sign and deliver the Contract Documents and furnish the required contract security within ten days after the Notice of Award, OWNER may annul the Notice of Award and the Bid security of that Bidder will be forfeited to the OWNER as liquidated damages for such failure.
- 10.04 The Bid security of any Bidder may be retained by OWNER until the earlier of the seventh day after the Effective Date of the Agreement or the sixtieth

day after the Bid opening whereupon the Bid security furnished by such Bidders will be returned upon demand of the Bidder. The Bid security of Bidders whom OWNER believes do not have a reasonable chance of receiving an award will be returned within fifteen days of the Bid opening.

ARTICLE 11 - CONTRACT TIMES

11.01 The Work shall be completed and ready for final payment within 150 days of a notice to proceed.

ARTICLE 12 - LIQUIDATED AND SPECIAL DAMAGES

12.01 Provisions for liquidated and special damages are set forth in the Agreement, and further summarized below.

LIQUIDATED DAMAGES

- The OWNER shall have the right to invoice the CONTRACTOR \$200.00 per day for each day that the work is not complete beyond the Contract Times.

ARTICLE 13 - SUBSTITUTE AND "OR EQUAL" ITEMS

13.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, with consideration of possible substitute or "or-equal" items.

ARTICLE 14 - SUBCONTRACTORS, SUPPLIERS AND OTHERS

14.01 **In accordance with KRS Chapter 45A, the bid proposal must identify all subcontractors and the amount of each of their bids used in formulating the overall bid proposal.** If the Supplementary Conditions require the identity of certain other Suppliers, individuals or entities to be submitted to OWNER in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening submit to OWNER a list of all such Suppliers, other individuals or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualifications for each such Subcontractor, Supplier, individual or entity if requested by OWNER. If OWNER, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual or entity, OWNER may, before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price.

- 14.02 If apparent Successful Bidder declines to make any such substitution, OWNER may award the Contract to the next lowest responsive and responsible Bidder that proposes to use acceptable Subcontractors, Suppliers and other individuals or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual or entity so listed and against which OWNER makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER.
- 14.03 CONTRACTOR shall not be required to employ any Subcontractor, Supplier, individual or entity against whom CONTRACTOR has reasonable objection.

ARTICLE 15 - PREPARATION OF BID

- 15.01 A Bid must be made on the Bid form and shall not be altered in any way.
- 15.02 All blanks in the Bid form shall be completed by printing in black ink or by typewriter. A Bid price shall be indicated in numerals for each Bid Item listed therein or the words "No Bid", or "Not Applicable" entered. Ditto marks shall not be used.
- 15.03 A Bid shall be executed as stated below.
- A. A Bid by an individual shall show the Bidder's name and official address.
 - B. A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title shall appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signature.
 - C. A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid form. The official address of the joint venture shall be shown below the signature.
 - D. A Bid by a corporation shall be executed in the corporate name by an officer of the corporation and shall be accompanied by a certified copy of a resolution of the board of directors authorizing the person signing the Bid to do so on behalf of the corporation. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The state of incorporation and the official corporate address shall be shown below the signature.
 - E. A Bid by a limited liability company shall be executed in the name of the firm and signed by a member accompanied by evidence of authority to

sign. The state of formation of the firm and the official address of the firm shall be shown below the signature.

- F. All names shall be typed or printed in black ink below the signature.
- G. Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided, if applicable.
- H. Contractor's license or registration number, if any, shall be entered in the space provided on the Bid Form.

15.04 The Bid shall contain an acknowledgment of the receipt of all Addenda in the space provided on the Bid Form.

15.05 The address and telephone number for communications regarding the Bid shall be shown.

15.06 The Bid Submittal Documents, described in Article 1, Section 1.01D, shall be submitted with the bid. Each document shall be executed in the manner described in paragraph 15.03 unless another manner is indicated.

ARTICLE 16 - BASIS OF BIDS; COMPARISON OF BIDS

16.01 The Bid consists of a series of lump sums with unit price items:

- A. For each lump sum item on the Bid Form, Bidder shall enter the lump sum Bid in the spaces provided on the Bid Form.
- B. For each unit price item on the Bid Form, Bidder shall enter the unit price Bid, and shall enter the computation of the respective quantity times the Bidder's unit price for that item in the spaces provided on the Bid Form.
- C. Bidder shall compute and enter the total of all lump sum items and the products of quantity and unit price Bid for each unit price item in the space provided on the Bid Form. This amount shall be considered as the Total Bid Amount.
- D. For determination of the apparent low Bidder, Bids will be compared on the basis of the sum of the Total Bid Amount.

16.02 Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

ARTICLE 17 - SUBMITTAL OF BID

- 17.01 The entire Bid Submittal shall be submitted no later than the date and time prescribed and at the place indicated in the Notice to Bidders.
- 17.02 Bid shall be enclosed in an opaque sealed envelope plainly marked on the outside with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted) the name and address of the Bidder and its license or registration number, if applicable. Bid shall be accompanied by Bid security and other required documents.
- 17.03 If the Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "Bid Enclosed". A mailed Bid shall be addressed to:

FIRST FLOOR WINDOW FINANCE DEPARTMENT
ATTN: POLICE RANGE INVITATION FOR BID
20 WEST PIKE STREET
COVINGTON, KY 41011

ARTICLE 18 - MODIFICATION OR WITHDRAWAL OF BID

- 18.01 Withdrawal Prior to Bid Opening:
- A. A Bid may be withdrawn by an appropriate document duly executed, in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time fixed for the opening of Bids. Upon receipt of such written notice, the unopened Bid will be returned to the Bidder.
- 18.02 Modification Prior to Bid Opening:
- A. If a Bidder wishes to modify its Bid, Bidder must withdraw its initial Bid in the manner specified in paragraph 18.01.A and submit a new Bid.

ARTICLE 19 - OPENING OF BIDS

- 19.01 Bids will be opened at the time and place where Bids are to be submitted and, unless obviously non-responsive, read aloud publicly. An abstract of the Bids will be made available to Bidders after the opening.
- 19.02 Bids received by mail or otherwise after the date and time specified for the opening of Bids will not be accepted and will be returned to the Bidder unopened.

ARTICLE 20 - DISQUALIFICATION OF BIDDERS

20.01 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

ARTICLE 21 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

21.01 All Bids shall remain subject to acceptance for a maximum of sixty days after the day of the Bid opening, but OWNER may, in its sole discretion, release any Bid and return the Bid security prior to that date.

ARTICLE 22 - AWARD OF CONTRACT

22.01 OWNER reserves the right to reject any or all Bids, including without limitation the right to reject any or all nonconforming, nonresponsive or conditional Bids. OWNER further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. Owner also reserves the right to waive any informality not involving price, time or changes in the Work.

22.02 OWNER reserves the right to reject any Bid not accompanied by specified documentation and Bid security.

22.03 OWNER reserves the right to reject any Bid that, in its sole discretion, is considered to be unbalanced or unreasonable as to the amount bid for any lump sum or unit price item.

22.04 In evaluating Bidders, OWNER will consider their qualifications whether or not their Bids comply with the prescribed requirements, the alternatives, if any, the lump sum and unit prices, and other data as may be requested in the Bid Form or prior to the Notice of Award.

22.05 OWNER may consider the qualifications and experience of Subcontractors, Suppliers and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers and other individuals or entities must be submitted as provided in any Supplementary Conditions hereto.

22.06 OWNER may conduct such investigations as OWNER deems necessary to establish the responsibility, qualifications and financial ability of the Bidders to perform the Work in accordance with the Contract Documents. OWNER

reserves the right to reject the Bid of any Bidder who does not pass any such evaluation to OWNER's satisfaction.

22.07 Award of the Contract will be made to the lowest, responsive, and responsible Bidder, with consideration of the preference for resident bidders where applicable, who has neither been disqualified nor rejected pursuant to Article 20 or this Article 22, where the Bid is reasonable and does not exceed the funds available for the Project. The OWNER further reserves the right to award the Base Bid, plus any or all of the alternates or combination thereof, to the lowest responsive and responsible Bidder as determined by comparing the Bidder's Base Bid costs plus the applicable alternates.

ARTICLE 23 - CONTRACT SECURITIES

23.01 The Performance Bond and the Payment Bond shall be in the form of American Institute of Architects (AIA) Document A312. The amounts of such bonds shall be equal to 100% of the total Bid amount.

23.02 Successful Bidder shall within ten days from the date of the Notice of Award deliver to OWNER, for OWNER's review and approval, the Performance Bond and the Payment Bond CONTRACTOR proposes to furnish at the time of the execution of the Agreement.

ARTICLE 24 - CONTRACTOR'S INSURANCE

24.01 The successful CONTRACTOR shall, prior to the commencement of the work, furnish to OWNER a certificate of State of Kentucky worker's compensation, public liability, and property damage insurance in the amounts as listed below. OWNER shall be named as an additional insured and indemnified and held harmless from all claims, suits, and action of every name and description brought against OWNER for or on account of any injury or damage to person or property arising from or growing out of the demolition or application of said Work or doing any of the Work herein described.

State of Kentucky Worker's Compensation: Workers Liability \$1,000,000
or the minimum required in accordance with state law if greater

CONTRACTOR'S General Liability:

Bodily Injury: \$1,000,000 Each Occurrence, \$2,000,000 Aggregate
Property Damage: \$1,000,000 Each Occurrence, \$2,000,000 Aggregate

CONTRACTOR'S Automobile Liability

Bodily Injury: \$1,000,000 Each Person, \$1,000,000 Each Accident
Property Damage: \$2,000,000 Each Occurrence or Combined Single
Limit of \$5,000,000

Lead Pollution Liability Coverage: \$1,000,000

24.02 Successful Bidder shall within ten days from the date of the Notice of Award deliver to OWNER, for review and approval, the required policies of insurance.

24.03 CONTRACTOR shall either (1) require each of his/her Subcontractors to procure and to maintain during the life of the subcontract, Subcontractor's Public Liability and Property Damage Insurance of the type and in the same amounts as specified above or (2) insure the activities of the Subcontractors in his/her own policy.

24.04 **Pursuant to KRS 198B.060(10) CONTRACTOR and Subcontractors shall complete the affidavit found in Section 00440 certifying compliance with Kentucky Chapter 341 for Unemployment Insurance and Kentucky Chapter 342 for Worker's Compensation Insurance.**

ARTICLE 25 - SIGNING OF AGREEMENT

25.01 When OWNER gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within ten days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER. Thereafter, OWNER will deliver one fully signed counterpart to Successful Bidder.

ARTICLE 26 - NOTICE TO PROCEED

26.01 If a Notice to Proceed is given, the Contract Times will commence on the day indicated in the Notice to Proceed.

ARTICLE 27 – Incorporated Terms and Conditions

27.01 The provisions of KRS 45A.490 to 45A.494, Preference for Resident Bidders, are made a part of this solicitation for bids, and specifically incorporated herein by reference.

27.02 **By submitting a bid, this Respondent affirms that Respondent is aware of the prohibition against conflicts of interest, gratuities, and kickbacks as set forth in KRS 45A.455, which is incorporated by reference into this Invitation for Bids, and agrees not to violate these provisions.**

ARTICLE 28 - SALES AND USE TAXES

28.01 Applicable sales and use taxes on materials and equipment are to be incorporated into the Work and must be accounted for in the Bid. The City of Covington is exempt from sales tax.

ARTICLE 29 - ADDITIONAL REQUIREMENTS

29.01 Bidders must comply with the Department of Labor, Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (PL 91-54).

29.02 CONTRACTOR agree that he/she will indemnify and save the OWNER harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, power tools and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The CONTRACTOR at OWNER'S request shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the CONTRACTOR fails to do so, then the OWNER may, after having served written notice on the said CONTRACTOR, either pay unpaid bills, of which the OWNER has written notice, direct, or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to CONTRACTOR shall be resumed, in accordance with the terms of the Contract, but in no event shall the provisions of this paragraph be construed to impose any obligations upon the OWNER to either the CONTRACTOR or his/her surety. In paying any unpaid bills of the CONTRACTOR, the OWNER shall be deemed the agent of the CONTRACTOR, and any payment so made by OWNER shall be considered as payment made under this Contract by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payment made in good faith.

++ END OF INSTRUCTIONS TO BIDDERS ++

SECTION 00300

BID FORM

(This Bid Form shall not be altered in any way. This entire bid form, consisting of 6 **pages** shall be returned with the executed Bid along with other bid requirements. The entire project manual is not to be submitted)

BID FOR: FIRING RANGE TARGET SYSTEM REPLACEMENT AT POLICE DEPARTMENT, CITY OF COVINGTON, 1 POLICE MEMORIAL DRIVE, COVINGTON, KY 41014

BID TO: FIRST FLOOR WINDOW FINANCE DEPARTMENT
CITY OF COVINGTON
20 W. PIKE STREET
COVINGTON, KY 41011

BID _____ **FROM:** _____

(Print or Type Name of Bidder)
(/A Corporation/A Partnership/A Limited Liability Company/An Individual/A Joint Venture/[Bidder to strike out inapplicable terms.]

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the price(s) and within the times indicated in this Bid and in accordance with the Bidding Documents.
- 2.01 Bidder accepts all of the terms and conditions of the Notice to Bidders and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for the time period set forth in the Instruction to Bidders. Bidder will sign the Agreement and will furnish the required contract security, and other required documents within the time periods set forth in the Bidding Documents.
- 3.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:
 - A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, if any, and the following Addenda receipt of all of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Date Received</u>	<u>Addendum No.</u>	<u>Date Received</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance for the Work.
 - C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
 - D. Bidder has carefully studied all reports of explorations and tests of subsurface conditions, if any, at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site.
 - E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
 - F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance of the Work at the price(s) and within the times and in accordance with the other terms and conditions of the Bidding Documents.
 - G. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
 - H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents and all additional examinations, investigations, explorations, tests, studies and data with the Bidding Documents.
 - I. Bidder has given OWNER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by OWNER is acceptable to Bidder.
 - J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- 4.01 Bidder further represents that this Bid is genuine and is not made in the interest of or on behalf of any undisclosed individual or entity and is not

submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER; and that no person or persons acting in any official capacity for the OWNER are directly or indirectly interested in this Bid, or in any portion of the profit thereof.

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for sums as marked on the following pages and:

Bidder acknowledges that estimated quantities of items of Unit Price Work are not guaranteed and final payment will be based on actual quantities of Unit Price Work performed as provided in the Contract Documents.

- 6.01 Bidder agrees that the Work will be substantially complete and completed and ready for final payment on or before the dates or within the number of calendar days indicated in the Notice to Bidders and Agreement.

- 7.01 Bidder accepts the provisions of the Agreement as to liquidated and special damages in the event of failure to complete the Work within the times specified above.

- 8.01 The following documents are attached to and made a condition of this Bid:

1. Notice to Bidders.
2. Instructions to Bidders.
3. Bid Form.
4. Bid Bond.
5. Insurance and Workers Compensation Affidavit
6. Subcontractor List
7. Non-Collusion Affidavit.

- 9.01 The terms used in this Bid will have the meanings indicated in the Instructions to Bidders and the General Conditions.

the total price by the bidder, it shall be changed as only the unit prices and lump sum prices shall govern as described in the Instructions to Bidders, Article 16. The bidder shall verify all quantities in the field prior to submitting his bid.

Respectfully submitted on _____, 20__.

()A Corporation ()Limited Liability Company ()A Joint Venture ()An Individual

(check applicable business entity)

By _____
(Firm Name)

(State of Incorporation or Formation)

By _____
(Signature of Officer Authorized to Sign)

(Printed or Typed Name and Title of Officer Authorized to Sign)
(Attach evidence of authority to sign.)

License or Registration Number:

Business Address:

Phone No.: _____ FAX No. _____

(If a Joint Venture, each venturer must sign.)

++END OF BID FORM++

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SECTION 00435

BID BOND FORM

KNOWN ALL MEN BY THESE PRESENTS, that we, the undersigned,
_____ as Principal, and
_____ as Surety, are hereby held and firmly bound
unto the City of Covington, Kentucky as owner in the penal sum of _____

_____ for the payment of which, well and truly to be made, we hereby jointly and severally bind
ourselves, our heirs, executors, administrator, successors, and assigns.

Signed this _____ day of _____, 20_____.

The condition of the above obligation is such that whereas the Principal has submitted to the City of
Covington, Kentucky a certain Bid, attached hereto make a part hereof to enter into a contract in
writing, _____ for _____ the

NOW THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the
Form of Contract attached hereto (properly completed in accordance with said Bid) and
shall furnish a bond for his faithful performance of said contract, and for the payment of
all persons performing labor or furnishing materials in connection therewith, and shall in
all other respects perform the agreement created by the acceptance of said Bid, then this
obligation shall be void, otherwise the same shall remain in force and effect; it being
expressly understood and agreed that the liability of the Surety for any and all claims
hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its
bond shall be in no way impaired or affected by an extension of the time within which the Owner may
accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and
such of them as are corporations have caused their corporate seals to be hereto affixed and these
presents to be signed by their proper officers, the day and year set forth above.

(L.S.)
Principal

Surety

SEAL By: _____

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SECTION 00440

CONTRACTORS AND SUBCONTRACTORS
INSURANCE AND WORKERS COMPENSATION AFFIDAVIT
PURSUANT TO KRS 198B.060(10)

Pursuant to the requirements of Kentucky Revised Statutes, the undersigned contractors and/or subcontractors hereby state and affirm that they presently are or will be in compliance with Kentucky Chapter 342 and Unemployment Insurance according to KRS Chapter 341 prior to beginning any employment or work within the City of Covington, Kentucky on the above referenced project.

If the applicant is not the contractor or subcontractor then the applicant, _____ states, pursuant to KRS 198B.060(10), that all contractors and subcontractors employed or that will be employed on any activity covered under this subject project by the City of Covington shall be in compliance with the Commonwealth of Kentucky requirements for Worker's Compensation Insurance (according to KRS Chapter 342) and Unemployment Insurance (according to KRS Chapter 341).

Pursuant to KRS 198B.060(10) the undersigned states that they understand they cannot conduct any activity relating to building, construction, reconstruction, renovation, demolition or maintenance of facilities within the City of Covington, Kentucky without signing this affidavit and that they have the required Worker's Compensation and Unemployment Compensation Insurance.

Signed this _____ day of _____, 20_____.

Signature

Business

Address

STATE OF KENTUCKY)
COUNTY OF KENTON)

The above noted Affidavit was subscribed and sworn to before me by the above noted applicant, contractor or subcontractor on this ____ day of _____, 20_____.

_____/My
expires: _____
Notary Public

Commission

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SECTION 00451

SUBCONTRACTOR LIST

The Bidder shall enter the names and the type of work to be done in the Subcontractors List that follows for each subcontractor that the Bidder proposed to use for the work.

Only one (1) Subcontractor shall be listed for each work item. Upon award of a Contract, the named Subcontractors shall be employed to perform the work, unless the changes are specifically authorized by the OWNER. Failure to furnish all information requested may render the Bid non-responsive.

Except as otherwise specifically stated by the Bidder in this Section, omission of any names of Subcontractors herein shall constitute an affirmative representation and statement that the Bidder proposes to use his own forces for the work for which no Subcontractors are listed.

Subcontractor	Work	Price

(use additional sheets if necessary)

By: _____

++END OF FORM++

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- (c) did not, in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the bid price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of his bid price, or that of anyone else;
- (d) did not, directly or indirectly, submit his bid price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to the awarding authority or to any person or persons who have a partnership or other financial interest with said bidder in his business; and
- (e) did not include in his bid price any fees, dues, charges, or assessments because required to do so by reason of his membership in or affiliation with any association, organization, corporation, partnership, company, individual or group of individuals, or because of any agreement or understanding with anyone that he would do so.

Signed: _____

Title: _____

Subscribed and sworn to before me this ____ day of _____, 20____.

(SEAL OF NOTARY HERE)

Notary Public in and for

My commission expires _____.

++ END OF NON-COLLUSION AFFIDAVIT OF BIDDER ++

NOTICE OF AWARD

TO: [Vendor]

You are hereby notified that the City of Covington, herein called OWNER, has reviewed all Bids submitted for the construction of

**REPLACEMENT OF FIRING RANGE TARGET SYSTEM AT 1 POLICE MEMORIAL
DRIVE, COVINGTON, KY 41014**

in accordance with the Contract Documents and that your Lump Sum and Unit Price Bid along with the listed alternates in the amount of \$_____ has been accepted and that OWNER intends to execute the Agreement for this Work, provided, however, that you first comply with the obligations of the successful Bidder set forth in the Instructions to Bidders and subject to the provisions of the form of Agreement enclosed herewith and the proper, punctual execution thereof by you. Acceptance by the OWNER is conditioned upon your compliance with those obligations, and the OWNER reserves the right to refrain from entering into or to rescind the contract if you do not fulfill those obligations within the respective times specified.

Three copies of the updated Agreement are enclosed for your execution. All copies of these documents along with the Performance Bond, Payment Bond and City Occupational License must be executed **(do not date Agreement)** by yourself and your Surety and returned within ten calendar days to OWNER at the following address:

Covington Police Department
1 Police Memorial
COVINGTON, KY 41011
Attn: LTC Patrick Swift

In addition, two (2) copies of all required certificates of insurance shall be submitted to the OWNER within ten calendar days of the date of this Notice of Award for his review and approval.

Subsequent to execution of the Agreement by OWNER, one copy of the Agreement, the Performance Bond, and the Payment Bond will be returned to you.

Date: _____, 20____

By _____
LTC Patrick Swift

Assistant Chief of Police

RANGE SYSTEM REPLACEMENT CONTRACT

This **RANGE SYSTEM REPLACEMENT CONTRACT** is entered into this ___ day of _____, 2018, by and between **CONTRACTOR**, an _____ limited liability company with a principal place of business at _____ (the "Contractor") and the **CITY OF COVINGTON, KENTUCKY**, a Kentucky city of the home rule class with a principal place of business at 20 W. Pike Street, Covington, KY 41011 (the "City").

RECITALS

1. **WHEREAS**, the City sought bids to perform certain repair work on the City-owned firing range located at 1 Police Memorial Drive, Covington, Kentucky (the "Site"); and

2. **WHEREAS**, pursuant to Commissioner's Order No. _____, the City of Covington Mayor and City Manager were directed to enter into an agreement with the Contractor.

NOW THEREFORE, in consideration for the mutual promises contained herein, the Parties agree as follows:

STATEMENT OF THE AGREEMENT

1. **Compensation.** That for and in consideration of the payment of a sum not to exceed \$ _____ (the "Contract Price") to be paid by the City according to the terms set forth in Paragraph 4 of this Agreement, the Contractor agrees to perform and/or provide the services described throughout the Contract Documents.

2. **Work.** The Contractor shall do, perform and carry out, in a satisfactory and workmanlike manner with due diligence all of the professional services and provide all of the materials necessary to perform the services set forth in the Contract Documents. Said services and materials shall hereinafter be referred to as "the Work."

3. **Controlling Documents.** The documents as listed below are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work. Together said documents shall hereinafter be referred to as "the Contract Documents" and shall include:

- a. This Agreement
- b. Exhibit A- **PROJECT SPECIFICATIONS**
- c. Exhibit B-**THE CONTRACTOR'S BID**

4. **Payment.** The City shall pay the Contract Price by monthly payments minus ten percent (10%) retainage. The rates for Contractor's services shall be determined according to the schedule provided in **THE CONTRACTOR'S BID**. Payment will be made by the City's Finance Department within thirty (30) days of receipt in a detailed monthly statement regarding the work that was completed, and upon the submission by Contractor of a completed and notarized Acknowledgment Form in a form substantially similar to that attached as Exhibit C. The City reserves the right to refuse payment if it is determined, by

its Finance Director, that the monthly statement is inadequate. The City further reserves the right to refuse payment if it is determined by the City Engineer, City Manager, or their Designee that the work performed or materials provided for the Work are inadequate or defective. If it is determined by the City's Finance Director, City Manager, or Designee, that the monthly statement is inadequate, or that work performed or materials provided are inadequate or defective, the City shall notify the Contractor and tender written explanation for such action within ten (10) days of the action. Upon receipt of such notice, the Cure provisions provided in Paragraph 13 shall apply.

5. **Payment of Retainage.** The ten percent (10%) retainage held by the City shall be paid to Contractor after the Contractor completes the Project and submits a final request for payment (the "Final Payment") and after the City has inspected the work performed and materials provided and reasonably determines the Project has been completed in a workmanlike manner and in accordance with the terms and specifications of the Contract Documents. If the City or the Designee determines that the work or materials are defective then the City may institute the remedies provided in Paragraph 14.

6. **Contract Times.** The Work will be conducted and completed according to the schedule set forth in the **PROJECT SPECIFICATIONS**. The Parties hereby agree that time is of the essence.

7. **Compensatory Damages.** The Contractor shall reimburse the City (1) for any fines, fees or penalties imposed on the City as a direct result of the Contractor's failure to complete the Work according to the Project Schedule, and (2) for the actual costs, reasonably incurred by the City in order to cure an Event of Default.

8. **Liquidated Damages.** In addition to the Compensatory Damages provided above, the Parties agree that an amount of **\$200.00/Day** shall be assessed for each day after the Work is not complete and ready for Final Payment according to the schedule provided in the **PROJECT SPECIFICATIONS**. The Parties further agree that this amount does not represent a penalty and that the actual amount of damages for delay cannot be readily ascertained at the time of executing this Agreement.

9. **Contractor's Deliveries Prior to Work.** The Contractor hereby agrees to make the following deliveries prior to the commencing the Work:

- a. **Insurance.** The Contractor shall furnish the City with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of insurance policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the City of Covington, Kentucky." The Contractor covenants and agrees to keep all insurance coverage in full force and effect until completion of the Work. The City will be named as an additional insured on all liability policies.
- b. **Occupational License.** The Contractor shall acquire, or demonstrate prior acquisition of, a City of Covington Occupational/Business Regulatory Licenses prior to commencing the Work.

10. **Contractor's Warranties, Representations, and Covenants**. Upon executing this Agreement, Contractor makes the following representations and warranties:

- a. All warranties and representation set forth in the **PROJECT SPECIFICATIONS** are hereby incorporated by reference;
- b. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Work.
- c. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.
- d. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- e. Contractor has considered the information known to contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Work Documents; and the Site-related reports and drawings identified in the Work Documents, if any, with respect to the effect of such information observations, and documents on (1) the cost, progress and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and (3) Contractor's safety precautions and programs.
- f. Contractor represents that it has, or will have, at its own expense, all personnel required in performing the Work. Such personnel shall not be employees of, or have any contractual relationship with the City.
- g. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance to the other terms and conditions of the Contact.
- h. Contractor is aware of the general nature of the work to be performed by others at the site that relates to the Work as indicated in the Contract Documents and acknowledges that the Designee may refuse inadequate or defective work.
- i. Contractor has given notice to the City or the Designee of any conflicts, errors, ambiguities, or discrepancies that the Contractor has discovered in the Contract Documents.
- j. The Contract Documents are generally sufficient to convey the understanding of all terms and conditions for performance and furnishing of the Work.
- k. **By signing this Agreement Contractor affirms that Contractor is aware of the prohibition against conflicts of interest, gratuities, and kickbacks as set forth in KRS 45A.455, which is incorporated by reference into this Agreement, and agrees not to violate these provisions.**
- l. Contractor represents that it has revealed any final determination of a violation of KRS Chapters 136 "Corporation and Utility Taxes", 139 "Sales and Use Taxes",

141 "Income Taxes", 337 "Wages and Hours", 338 "Occupational Safety and Health of Employees", and 342 "Workers' Compensation" by the within the previous five (5) years, and further covenants that it shall be in continuous compliance with the provisions of KRS Chapters 136 "Corporation and Utility Taxes", 139 "Sales and Use Taxes", 141 "Income Taxes", 337 "Wages and Hours", 341 "Unemployment Compensation", and 342 "Workers' Compensation" for the duration of this Contract.

11. Equal Opportunity Employment. Unless exempted by KRS 45.590, during the performance of the Agreement the Contractor agrees as follows:

- a. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin.
- b. The contractor shall take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin.
- c. The contractor shall state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin.
- d. The contractor shall post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section.
- e. The contractor shall send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

12. Events of Default. The following actions shall constitute an Event of Default under this Agreement:

- a. The Contractor's failure to fully perform and carry out any of the obligations, covenants and/or conditions of this Agreement; and/or
- b. The discovery at any time after the execution of this Agreement that any representation or warranty is inaccurate or untrue.

13. Cure. Upon an Event of Default, that the City in its sole discretion deems subject to cure, the City shall provide written notice to the Contractor with a request that the Contractor cure said Event of Default within a reasonable time (the "Cure Period"). If the Contractor fails to cure said default within such reasonable time or if the City determines that an Event of Default may not be cured, the City reserves the right to institute the Remedies provided in Paragraph 14 below

14. **Remedies.** Upon the occurrence of an Event of Default that is not subject to cure, or if Contractor fails to cure any default within a reasonable time, the City, in its sole discretion, may implement any or all of the following remedies:

- a. Terminate and cancel the Contract;
- b. Withhold any payment that may be due, provided that such retention of any payment due shall not release the Contractor from liability for the default;
- c. Withhold any retainage that may be held by the City; and/or
- d. Contract with a third party and complete the Contract at the expense of the Contractor, or if applicable its surety.

15. **Attorney's fees.** In the event the City institutes any of the above remedies, the Contractor shall pay the City's attorney's fees, court costs and expenses incurred by the City as a result of the Contractor's uncured default. If City or the Designee inspects the Project and determines that a Final Payment is due Contractor, but later discovers a defective condition in work or materials, then the final payment shall not waive any rights that the City may have against the Contractor and the Contractor shall correct any defect without additional consideration.

16. **Cumulative Remedies.** The implementation of any or all of the remedies in Paragraph 14, shall not affect or terminate any of the rights of the City as against the Contractor then existing or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the City under the law, including attorneys' fees incurred in curing the default.

17. **Dispute Resolution.** Any dispute between the Parties arising under this Agreement, shall be subject to the following dispute resolution procedures:

LEVEL 1 The Parties shall conduct an informal mediation between the parties.

LEVEL 2 Provided the Parties do not resolve any dispute in accordance with the Level 1 mediation procedure, within fourteen (14) days of the unsuccessful Level 1 mediation, the Parties shall select a mutually agreeable, neutral mediator and schedule a mediation. The Parties shall share the costs of any Level 2 mediation.

LEVEL 3 Should any dispute remain unresolved after Level 2 mediation, the dispute shall be resolved through litigation in a court of competent jurisdiction located in Kenton County, Kentucky.

18. **Sub-Contracting.** The Contractor hereby agrees that none of the work or services covered by this Contract shall be subcontracted without prior written approval of the City.

19. **Notice.** All notices required or permitted under this agreement shall be in writing, and directed to the Parties at the following addresses:

- a. Any communication to the Contractor shall be deemed effective for all purposes as of the date such communication is personally delivered to or received by registered or certified mail, return receipt requested:

- b. Any communication to the City shall be deemed effective for all purposes as of the date such communication is personally delivered to or received by registered or certified mail, return receipt requested:

CITY OF COVINGTON

David Johnson, City Manager
20 W. Pike Street,
Covington, Kentucky 41011

20. **Modification.** The City may, from time to time, require changes in the Work. Such changes, including any increase or decrease in compensation, which are mutually agreed upon between the City and the Contractor, may be contingent upon approval by the Covington Board of Commissioners and shall be incorporated as written amendments to this Contract.

21. **Assignment.** The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the City.

22. **Governing Law and Venue.** This Agreement shall be interpreted and construed in conformity with the laws of the Commonwealth of Kentucky. Any litigation related to this contract shall take place in a court of competent jurisdiction in Kenton County, Kentucky.

23. **Indemnification.** The Contractor hereby indemnifies the City and holds the City harmless against all claims, demands, and causes of action arising from the negligent, intentional, or otherwise tortious acts of the Contractor related to its performance of the Work.

22. **Indemnification.** The Contractor shall indemnify the City against any damages to property or injuries to or death of any person or persons, including property and employees or agents of the city, and shall defend and indemnify the City from any claims, demands, suits, actions or proceedings of any kind, including workers' compensation claims, of or by anyone, in any way resulting from or arising out of the Work in connection here, including operations of subcontractors and acts or omissions of employees or agents

of the Contractor or Contractor's subcontractors. Insurance coverage specified here and in the special conditions constitutes the minimum requirements and those requirements shall in no way lessen or limit the liability of the contractor under the terms of the contract.

23. **Duty to Defend.** In addition to the indemnities provided above, Contractor shall defend City, its officers, agents, and employees (i) against any suit, proceeding, claims for losses, costs, damages or expenses including, without limitation, charges for personal injury, death or property damage that arise out of any and all acts or omissions of employees or agents of the Contractor or Contractor's subcontractors in connection with the Work; and (ii) shall pay all damages, costs and expenses in connection with such actions, including City's attorneys' fees.

24. **Force Majeure.** Neither the City nor the Contractor shall hold the other responsible for damages or delays in performance caused by uncontrollable events, which could not reasonably have been anticipated or prevented, including without limitation, acts of God, the public enemy, acts of the United State Government or of the several states, or any foreign country, or any of them acting in their sovereign capacity, wars, riots, terrorism, rebellions, sabotage, fires, explosions or accidents not the fault of either Party, floods or other natural disasters causing materially different Site conditions, strikes, or other concerned acts of workers, lockouts, or changes in law, regulations, or ordinances.

25. **Severability.** In the event that any provision or portion of this Contract shall be found to be invalid or unenforceable, then such provision or portion of the Contract shall not affect the validity or enforceability of any other provision or portion of the Contract.

26. **Entire Agreement.** This Contract including **THE PROJECT SPECIFICATIONS** and **CONTRACTOR'S BID** constitute the entire agreement between the City and the Contractor with respect to the Work. It is intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement.

27. **Meaning.** The terms used in this Agreement will have the meanings stated herein. This Agreement is to be construed according to the terms, conditions and promises contained herein as well as those contained in the Contract Documents, which are incorporated by reference. In the case of conflicting terms between this Agreement and **THE PROJECT SPECIFICATIONS**, this Agreement shall govern. In the case of conflicting terms between **THE PROJECT SPECIFICATIONS** and **CONTRACTOR'S BID** the **PROJECT SPECIFICATIONS** shall govern.

[SIGNATURE PAGE BELOW]

IN WITNESS WHEREOF, the CITY and the CONTRACTOR have executed this agreement as of the date first above written.

CITY OF COVINGTON, KENTUCKY

Joseph U. Meyer, Mayor
Pursuant to Order No. _____

Witness

CONTRACTOR

BY:

Witness

ITS:_____

EXHIBIT A
PROJECT SPECIFICATIONS

**EXHIBIT B
CONTRACTOR'S BID**

EXHIBIT C – AKNOWLEDGMENT FORM

Date of Application:	
Contractor:	
Project:	
Street Name where work completed:	
Total Amount of Work Completed	
10% Retainage	
Total Payment Requested	

The Contractor hereby acknowledges that: (1) it has completed the work detailed in the invoice submitted to the Finance Department of the City of Covington on the date herewith; and (2) it has substantially complied with all of the Terms and Condition set forth in Exhibit B attached to the Agreement/Contract dated _____, 2017.

 CONTRACTOR

By: _____ Date:

Its: _____.

State of Kentucky)
 County of Kenton) SS:

The foregoing Acknowledgement Form was subscribed, sworn to and acknowledged before me this ____ day of _____, 2017 by the CONTRACTOR, _____, by and through its duly authorized agents, _____.

My Commission Expires: _____ Notary Public, State at Large

NOTICE TO PROCEED

To: _____

Date: _____

Project:

You are hereby notified to commence Work in accordance with the Agreement dated _____, on or before _____. You are to complete the work in accordance with the milestone schedule in the Agreement, which is repeated below for reference only. The milestone work activity durations are as stated in the Agreement and are calendar days. The milestone dates are established based on the effective date of the Notice to Proceed. Liquidated damages in the amount scheduled below per calendar day for each calendar day the work remains incomplete after its associated milestone date will be imposed unless the Contract Times are otherwise adjusted for due cause by change order to the Agreement. Note that Special Damages will also be imposed in accordance with the Agreement, Article 4. All damages listed below are additive.

MILESTONE	MILESTONE WORK ACTIVITY DURATION	MILESTONE DATE	LIQUIDATED DAMAGES
			\$200.00

Please note the prevailing wage scales in the contract as this will have to be paid using prevailing wages.

CITY OF COVINGTON
Owner

By _____

Title _____

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