



Interoffice Memorandum
City of Green
Public Service Department

To: City Council
Cc: Mayor Neugebauer, Steve Schmidt, Lisa Carey Dean
From: Valerie Wax Carr, Director of Public Service
Date: Nov. 16, 2020
Subject: Energy/Ionization Project

I wanted to review some background and provide detail on upcoming legislation.

Energy Audit and Recommendations

As a way of history, the Gardiner Company monitors the software and controls of the HVAC systems Central Administration Building after its construction. The Gardiner Company has been engaged with the City in providing energy consultation over the years. The City of Green is home to the Gardiner Company's Akron headquarters, and the current company president is a proud Green High School graduate. Gardiner has been a valuable partner over the years.

The Gardiner Company assists communities with energy solutions utilizing the original Ohio HB 420 passed in the 1990s to assist cities to make energy improvements to their facilities. The improvements are paid through energy savings that result from the energy improvements. One of the Living Green Task Force (LGTF) goals has been to expand energy conservation and savings within the City of Green facilities. The City thus far has implemented energy savings measures on a piece-meal basis. This has consisted on trying to replace incandescent and/or compact fluorescent bulbs with LEDs as bulbs burn out or if a fixture needs to be replaced.

Earlier in 2019, Gardiner performed a preliminary review of energy conservation measures and potential savings to provide a comprehensive approach. In April 2019, Gardiner provided the City with preliminary data indicating that we have several viable projects that would provide costs savings to pay for themselves under the HB 420 plan. That preliminary data was also shared with the LGTF and it was recommended we advance to the next steps of developing a plan.

Gardiner is the authorized and selected vendor for HVAC and Building Solutions through

Sourcing Alliance Purchasing Cooperative, in which the City of Green is a member. We have utilized Sourcing Alliance pricing for other purchases with the in the City, most recently the energy and conservation measures at the Torok Center. Please see attached information.

In July 2019, the City signed a Letter of Intent (see attached) to stay engaged with Gardiner to now provide an Investment Grade Audit (IGA) to develop a final proposal. A proposal was developed, and we began an internal review and budget review. When reviewing the Letter of Intent there is language in the letter that identifies the cost to perform the audit of \$24,127.00. However, that fee becomes part of the total project when we move forward with a contract. If the audit does not produce a savings of at least that amount, we have no obligation to pay or move forward. Essentially, there is no upfront out of pocket cost to do the audit. In addition, the project will be structured as a performance contract and the energy savings produced will pay for the improvements.

Due to the timing of the Torok Center improvements Gardiner reviewed those items separately so the work could be coordinated and completed at the time of the renovation. There will cost savings at Torok since those renovations are finished.

Gardiner has provided the City with the results of the IGA and we have reviewed the recommendations. We have narrowed the scope of work to provide the most sensible approach to the energy measures and improvements which allows us to achieve an overall project payback in approximately 10 years (10.3 years to be exact). Unfortunately, the movement of the project forward was severely hampered due to the impacts and the City's refocus with COVID-19. However, we are now ready to put the project back on the forefront. In fact, COVID has resulted in us looking at other measures to heighten the ability to purify our air through our HVAC systems to increase the health and safety of our employees and visitors to our buildings. A process known as ionization has also been priced to be included with the installation of our energy measures. Essentially, a mechanism is installed on our HVAC systems to purify the air and reduce air-borne viruses such as COVID-19. Although, this technology has been around for about 5 years, it is obviously has been an important choice to consider while in a pandemic situation. The pricing for the ionization still allows us to have a project payback of 10.3 years.

The administration is recommending the energy measures and the ionization. Please find attached the scope of work, contract, and legislation for the project. We are planning to introduce the legislation in November. Anticipating passage in January 2021 with the work to commence in 2021. The City intendeds to finance this project as a lease, as the interest rates are extremely low, and it allows the City to have all of the work complete, build up energy savings, without any payment on the project until a year after its completion, so our first payment would not until sometime in 2022. Gardiner guarantees the energy savings which will be used by the City's to meet the annual debt service requirements during the payback period.

Under What Legal Authority Can Public Sector Entities in Ohio Utilize CCOG Contracts through Sourcing Alliance?

Sourcing Alliance is a collaboration of public, private, and not-for-profit contract holders formed for the purpose of making already-procured, competitively solicited contracts for products and services available to organizations that join Sourcing Alliance. Through the combined buying power of Sourcing Alliance's members, these available contracts offer better pricing and improved contract terms and conditions than Sourcing Alliance members can typically achieve on their own.

The Cooperative Council of Governments ("CCOG") is one of Sourcing Alliance's lead contract holders. CCOG makes its publicly-procured contracts, featuring better pricing and improved contract terms and conditions, available to Sourcing Alliance members.

What Is the Legal Authority of the Cooperative Council of Governments?

CCOG is an Ohio-based Council of Governments organized as required under the guidelines of **Chapter 167** of the Ohio Revised Code (the "ORC"), which states in **Section 167.01**:

That governing bodies of any two or more counties, municipal corporations, townships, special districts, school districts, or other political subdivisions may enter into an agreement with each other, or with the governing bodies of any counties, municipal corporations, townships, special districts, school districts or other political subdivisions of any other state to the extent that laws of such other state permit, for establishment of a regional council consisting of such political subdivisions.

CCOG is a political subdivision and a unit of local government under Ohio law. It is legally empowered to enter into cooperative purchasing agreements and make those cooperative purchasing agreements available to its members, agencies of local or state governments, the federal government, private persons, companies, and not-for-profit entities as authorized by **ORC Section 167.03**, which includes the following explicit authorities for councils of governments:

(A)(2) Promote cooperative arrangements and coordinate action among its members, and between its members and other agencies of local or state governments, whether or not within Ohio, and the federal government;

(A)(4) Promote cooperative agreements and contracts among its members or other governmental agencies and private persons, corporations, or agencies;

Through this legal authority, CCOG competitively procures contracts for products and/or services in accordance with applicable public sector procurement guidelines. CCOG makes these already-procured contracts available to members of Sourcing Alliance as a Sourcing Alliance contract holder. **Public sector entities within and outside of Ohio are eligible to join Sourcing Alliance and utilize CCOG's competitively procured contracts to the extent permitted by law in Ohio and those other states.**

CCOG's governing document is CCOG's Code of Regulations, which describes CCOG's purpose in **Section 1.3**:

The purpose of CCOG is to develop and promote opportunities for public sector entities and organizations exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "IRS Code") to improve their operations, reduce their costs, and increase their efficiencies to augment their capacity to better serve their constituents and customers. Further, CCOG is not organized for profit and will be operated for the exclusive purpose of engaging in charitable, educational, religious, and scientific activities within the meaning of Section 501(c)(3) of the IRS Code of 1986, as amended.

Section 2.2 of CCOG's Code of Regulations defines the types of entities eligible to utilize CCOG's contracts:

(a) Public Sector Entities. . . . "Public Sector Entities" include, but are not limited to, political subdivisions, municipal corporations, counties, townships, villages, school districts, special districts, public institutions of higher education or training, units of government, state/regional/territorial agencies, state/regional/territorial governments, federal/national agencies, and federal/national governments, and other entities receiving financial support from tax monies and/or public funds.

(b) Other Entities. Any organization that is exempt from Federal income tax under Section 501(c)(3) of the IRS Code, and any other entity if permitted under the IRS Code and other applicable law. . .

Through Sourcing Alliance, CCOG makes its established contracts available to any type of entity (public, private, or not-for-profit), so long as the laws governing each entity permit it to utilize CCOG's publicly-procured, competitively solicited contracts. It is the responsibility of each entity to determine whether it may join Sourcing Alliance and utilize the already-procured contracts made available by Sourcing Alliance contract holders, such as CCOG.

Under Ohio Law, Are Ohio-Based Political Subdivisions Eligible to Utilize Sourcing Alliance Contracts?

Under **ORC Section 9.48**, the State of Ohio authorizes political subdivisions (as defined in **ORC Section 2744.01**) to utilize joint purchasing programs. **ORC Section 9.48** includes the following language:

(B) A political subdivision may do any of the following:

- (1) Permit one or more other political subdivisions to participate in contracts into which it has entered for the acquisition of equipment, materials, supplies, or services, and may charge such participating political subdivisions a reasonable fee to cover any additional costs incurred as a result of their participation;*
- (2) Participate in a joint purchasing program operated by or through a national or state association of political subdivisions in which the purchasing political subdivision is eligible for membership.*

(C) Acquisition by a political subdivision of equipment, material, supplies, or services, through participation in a contract of another political subdivision or participation in an association program under division (B)(1) or (2) of this section, is exempt from any competitive selection requirements otherwise required by law, if the contract in which it is participating was awarded pursuant to a publicly solicited request for a proposal or a competitive selection procedure of another political subdivision within this state or in another state.

CCOG is a political subdivision and, in its capacity as a Sourcing Alliance lead contract holder, permits Sourcing Alliance members, such as other political subdivisions, units of local government, and educational institutions, to participate in contracts which CCOG has established through its public sector procurement process. **Political subdivisions in Ohio are eligible to participate in a contract of another political subdivision (such as CCOG) and participate in a joint purchasing program operated by or through a national association of political subdivisions (such as Sourcing Alliance).**

What Is the Definition of a "Political Subdivision" Under Ohio Law?

ORC Section 2744.01, which is referenced by and defines political subdivisions subject to **ORC Section 9.48** as: "a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state." This **ORC Section 2744.01** continues to define political subdivisions to include, but not be limited to, the following types of public entities formed under specific sections of ORC: county hospital commissions, municipal hospital commissions, regional planning commissions, county planning commissions, joint planning councils, interstate regional planning commissions, port authorities, regional councils of governments, emergency and joint planning districts, joint emergency medical services districts, fire and ambulance districts, joint interstate emergency planning districts, county solid waste and joint solid waste management districts, community schools, counties served by community-based correctional facilities, district community-based correctional facilities, and the facility governing board of a community-based correctional facility. **ORC Section 3354.01** defines community colleges in Ohio as political subdivisions.

Legal Disclaimer

Please keep in mind that this information is provided as a service to Sourcing Alliance members and suppliers. It is designed only to give general information. This document is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion. Sourcing Alliance and its members are not attorneys and are not responsible for any legal advice. Sourcing Alliance encourages political subdivisions, units of local government, and other public agencies to have appropriate legal counsel review the applicable articles under State Statutes to determine their eligibility to utilize Sourcing Alliance's competitively solicited contracts.



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Common Challenges

The Sourcing Alliance Program

Why Gardiner?

Procurement Process

Getting Started

Why did Sourcing Alliance Select Gardiner?

Sourcing Alliance recognized that finding the right supplier who can work with you to develop the right building solution, within your budget, and within your allotted timeframe can be a bit of a challenge. We selected Gardiner because of its demonstrated ability to deliver high quality, cost-effective HVAC and building solution services to our members. With over 55 years of industry experience, Gardiner currently manages over 3,000,000 square feet of building space for over 2,500 clients, and has an exceptional reputation built on effective problem solving, and more importantly, results. Gardiner provides:

Industry Expertise – 211 associates and over 3,000 combined years of engineering experience solving building challenges. Gardiner’s team are some of the most experienced HVAC associates in the industry and present a demonstrated history of high-quality service delivery, performance, and customer satisfaction. How else do you become the leading professional building services company in Ohio?

Custom Designed Solutions – intensive discovery process to develop optimized solutions for each individual member based on that member’s current system, financial goals, and strategic objectives. Gardiner’s process begins with a full comprehensive audit of all existing equipment and places a special focus on making sure your building systems have the lowest Total Cost of Ownership over the life of the system.

Competitive Pricing – aggressive discounting structure exclusively for Sourcing Alliance members on Gardiner’s full line of products and services that is 2.5 – 5.25% lower than the manufacturer’s published national cooperative pricing schedule.

A Robust Portfolio of Products & Services – a full line of HVAC equipment and supplies, professional services including maintenance and repair, intelligent services, and water treatment, and a host of building solutions such as automation and controls, building analytics, automated meter infrastructure and supporting components, and supply side energy management.

Reliability – a proven process for reducing downtime due to mechanical error. This process includes access to temporary chillers and generators, refresh and factory recertification programs, factory designed maintenance programs, predictive and diagnostic services, modernization and integration solutions, and 24/7 parts availability.

Financing Mechanisms – expertise in assisting members with securing financing for their building projects. Gardiner provides a variety of financing tools including government procurement options and shared savings programs.

Account Management – a strict and detailed process to manage customer accounts, from planning and initial implementation to regular equipment audits to ensure customer satisfaction and regular ongoing communication.

A Local Presence – a local footprint throughout Ohio with over 200 associates readily available via phone, email, or in person.

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