

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement") is made effective on the ____ day of _____, 20____ by and between City of Green ("Owner"), with an address at 1755 Town Park Blvd, Green, OH, and Graybar Electric Company, Inc. ("Supplier"), with a corporate address at 34 N. Meramec Avenue, St. Louis, MO 63105.

PROPERTY: Boettler Park, Green OH

GENERAL SCOPE OF WORK: [Rough in electrical and installation of new poles and light fixtures (the "Work")]

Owner desires to hire Supplier to perform the Work at the Property in accordance with Supplier's Proposal, which is accepted by Owner and attached hereto and made a part hereof as Attachment A. (Graybar Quote)

The Parties agree as follows:

1. **The Work.** Supplier agrees to perform the Work set forth in the Supplier's Proposal in Attachment A. Owner acknowledges that Supplier is not a licensed subcontractor in all jurisdictions and that, when applicable, Supplier will subcontract all services requiring licensure to an appropriately licensed subcontractor.

2. **Commencement.** Supplier will start the Work when notified by Owner and will perform the Work with diligence and promptness as requested by Owner and as mutually agreed upon by the parties. Supplier requires a minimum of 30 days prior notice before commencing Work.

3. **Contract Price.** Subject to the Standard Terms and Conditions attached to this Agreement as Attachment B, Owner agrees to pay Supplier for the performance of the Work the total sum of _____, subject to additions and deductions for changes requested or approved by Owner (the "Contract Price").

4. **Terms and Conditions.** The Standard Terms and Conditions, which are attached to this Agreement as Attachment B, are incorporated into this Agreement and govern all work performed by Supplier and its Subcontractors. In the event that any provision of any invoice, acknowledgment, quotation, proposal, delivery ticket, authorization, work order, schedule, purchase order, or other document whatsoever provided by either party to the other party conflicts with the provisions in this Agreement, the provisions of this Agreement shall control. This Agreement may be modified only by a writing signed by both parties.

5. **Special Provisions:**

List of Attachments: The following Attachments are part of this Agreement:

Attachment A – Supplier's Proposal
Attachment B – Standard Terms and Conditions

6. **Payment Terms: Net 30**

Supplier will diligently pursue and substantially complete all work within a reasonable time. Supplier estimates substantial completion ("Substantial Completion") will occur approximately _____ days from commencement. The Project will be considered substantially complete upon any of the following: (a) issuance of a government certificate of occupancy, final or temporary; (b) notice from Supplier that the work has been completed if a certificate of occupancy is not required; or (c) the Project is usable for the intended purpose.

Payments are due within thirty days from the submission to Owner of an invoice or application for payment. A "late payment" charge of one and one half percent (1 1/2%) per month or the maximum legal interest rate, whichever is greater, will be applied to all monies past due and shall be paid by Owner immediately upon demand.

7. **Complete Agreement.** This Agreement sets forth the entire and integrated agreement between Owner and Supplier and supersedes any and all prior agreements, representations, and negotiations. No verbal agreement or conversation with any representative or employee of Supplier, either before or after execution of the Agreement, shall affect or modify any of the terms or obligations of this Agreement.

City of Green

Graybar Electric Company, Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A

[Proposal accepted by Owner]

**ATTACHMENT B
SUPPLY AND INSTALLATION**

STANDARD TERMS AND CONDITIONS

1. **Contractual Conditions.** These Standard Terms and Conditions are not binding until Owner has authorized Supplier to commence work by execution of the Services Agreement.
2. **Warranty.**
 - A. **Workmanship:** Supplier warrants that the Work will be performed in a good and workmanlike manner in accordance with the Supplier's Proposal.
 - B. **Material Warranty:** Supplier warrants that all materials sold to Owner (the "Products") are free of any security interest, and Supplier will make available to Owner all transferable warranties made to Supplier by the manufacturer of the Products.
 - C. **Entire Warranty:** SUBJECT TO ANY DIFFERENT OR ADDITIONAL WARRANTIES PROVIDED IN ATTACHMENT A, SUPPLIER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE WORK OR THE PRODUCTS, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WITHOUT LIMITATION OF THE PRECEDING SENTENCE, THE WARRANTIES OF THIS SECTION 2 DO NOT COVER ANY FAILURE OR DEFECT RESULTING FROM: (I) SUBSTRATE DETERIORATION OR MOVEMENT, (II) WATER INFILTRATION, (III) HARMFUL CHEMICALS, FUMES OR VAPORS, (IV) VANDALISM OR PHYSICAL ABUSE, (V) LACK OF PROPER MAINTENANCE AND REPAIR, (VI) UNAUTHORIZED PENETRATIONS OR REPAIRS, OR (VII) ACTS BEYOND THE REASONABLE CONTROL OF SUPPLIER, SUCH AS FIRE, FLOOD, EARTHQUAKE, TORNADO, EXPLOSIONS, ACTS OF GOD OR OTHER CATASTROPHIC EVENTS.
 - D. **Supplier's Obligation:** Supplier shall correct, or shall cause its Subcontractor to correct, any defects due to a breach of the foregoing warranties, which appear on or before the earlier of (i) eighteen (18) months after the first delivery of the Products to the Property, or (ii) twelve (12) months after Substantial Completion of the Work (the "Warranty Period"). Supplier's obligation and liability under the foregoing warranties are limited to the repair or replacement of any defective workmanship or materials, at the Property, and shall not in any case extend to any loss of anticipated profits, rents, shutdown or non-operation of the facility, or other consequential loss suffered by Owner from any cause, including defects covered by this paragraph. [Note: Confirm Warranty Period is appropriate for each project]
 - E. **Notice:** Any warranty claim must be presented in writing to Supplier prior to the expiration of the Warranty Period, or the claim shall be waived.
 - F. **Product Exclusions:** UNLESS OTHERWISE AGREED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF GRAYBAR, PRODUCTS SOLD HEREUNDER ARE NOT INTENDED FOR USE IN OR IN CONNECTION WITH (I) ANY SAFETY APPLICATION OR THE CONTAINMENT AREA OF A NUCLEAR FACILITY, OR (II) IN A HEALTHCARE SITUATION, WHERE THE PRODUCTS HAVE POTENTIAL FOR DIRECT PATIENT CONTACT OR WHERE A SIX (6) FOOT CLEARANCE FROM A PATIENT CANNOT BE MAINTAINED AT ALL TIMES. [Note: Inclusion of this provision is subject to further business discussions]
3. **Permits.** Unless otherwise provided in the Agreement, all building, construction, and other permits required for the Work shall be obtained by Owner with Supplier's assistance but at no cost to Supplier.

4. **Other Charges.** The Contract Price shall include applicable sales and use tax. However, Owner shall pay any other charges upon the sale, use, transportation, production or installation of the material, structures, or real property additions and improvements in excess of those covered by this Agreement. If Supplier is required to pay any such charges, Owner shall promptly reimburse Supplier. [Note: Discuss inclusion of sales and use tax in Contract Price – separate line item? Tax on services?]
5. **Performance Dates.** The schedule, if stated in the Agreement or the Supplier's Proposal, is approximate and is not guaranteed by Supplier. Supplier shall not be liable for delays in delivery, fabrication or installation when such delays result from acts of government, acts of God, adverse weather, war, riot, labor disputes, civil insurrection or any other causes beyond Supplier's reasonable control, and the date of performance shall be adjusted for any such delays. Supplier shall not be responsible for damages for delayed completion.
6. **Contract Amendments.** Either Supplier or Owner may propose changes to the Work, and such changes shall be incorporated into the Work as long as each party agrees in writing upon the appropriate adjustments to the Contract Price and the schedule (each such writing being a "Change Order").
7. **Facility/Site Conditions.** Owner shall provide adequate and safe working and storage areas, utilities, and reasonable access to the Property. Owner shall pay any additional costs incurred by Supplier as a result of variations in the conditions of the Property (including but not limited to conditions that were not reasonably anticipated by Supplier.)
8. **Hazardous Conditions.** Upon execution of this Agreement, Owner will provide notice of any hazardous or dangerous conditions on the Property. In the event that Supplier encounters material on the site that is reasonably believed to be a hazardous substance, including without limitation, asbestos-containing material, Supplier will immediately stop work in the area affected and report the condition to the Owner.
 - A. Upon Supplier's notice, Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported and, in the event such material or substance is found to be present, to cause it to be rendered harmless. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of Owner and Supplier. By Change Order, the schedule shall be extended appropriately and the Contract Price shall be increased in the amount of Supplier's reasonable additional costs of shut-down, delay and start-up.
 - B. To the fullest extent permitted by law, Owner shall indemnify and hold harmless Supplier and its subcontractors, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if hazardous materials or materials or substances that present the risk of bodily injury or death have not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.
9. **Labor.** Supplier will use non-union labor for the performance of the Work. If use of union labor or the payment of prevailing wages is required, the Contract Price will be modified to reflect the cost of using union labor or paying prevailing wages.
10. **Indemnification.** Subject to the limitation of liability provided in Section 13:
 - A. Owner agrees to defend and indemnify Supplier against any loss or expense from any claim or suit against Supplier as a result of any bodily injury or property damage caused by the negligence of Owner or its agents, employees, or suppliers; and
 - B. Supplier agrees to indemnify Owner for any loss or expense from any claim or suit against Owner as a result of any bodily injury or property damage caused by the negligence of Supplier or its subcontractors,

agents or employees. In no event shall a party be required to indemnify the other party for the other party's negligence.

11. Insurance.

- A. **Owner's Insurance.** Owner will procure and maintain Commercial General Liability insurance from commencement of the Work until twelve (12) months after the Work is finally completed. The limit of liability under such insurance shall be at least \$1,000,000 for any one occurrence. Owner shall also purchase and maintain for the term of the Agreement both property and casualty insurance for the full replacement value of the Property and statutory workers compensation insurance.
- B. Owner and Supplier waive all rights of subrogation for workers compensation claims.
- C. **Supplier's Insurance.** Supplier shall purchase and maintain insurance of the following types of coverage and limits of liability:
 - 1. Commercial General Liability (CGL) \$1,000,000
 - 2. Business Automobile Liability \$1,000,000
 - 3. Umbrella \$1,000,000
 - 4. Worker's Compensation Statutory Limits
- D. Supplier will name Owner as an additional insured on commercial general liability insurance policies upon request with respect to Supplier's negligence in its performance under this Agreement.

- 12. **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE ARISING OUT OF ANY WORK PERFORMED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFIT, BUSINESS INTERRUPTION, INTEREST, INCREASED EXPENSES OF OPERATION OF THE PROJECT, THE FACILITY OR OTHER FACILITIES, OR SPECIAL CONSEQUENTIAL LOSS OR DAMAGE, ARISING FROM ANY CAUSE WHATSOEVER (WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE), ALL REGARDLESS OF WHETHER SUCH PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH LOSSES. To the fullest extent permitted by law, the total liability, in the aggregate, of Supplier to Owner or anyone claiming by or through Owner, for any and all liabilities, claims, losses, expenses, or damages whatsoever arising out of or in any way related to Supplier's services or the Work, from any cause or causes whatsoever, including without limitation, negligence, strict liability, warranty, or breach of contract, shall not exceed the Contract Amount.

- 13. **Cancellation.** Upon cancellation of this Agreement prior to completion of the Work, Owner shall be responsible to Supplier for all costs of cancellation, including (1) the proportionate Contract Price for all Work completed, whether shipped or not, prior to Supplier's receipt of notice or cancellation; (2) all costs incurred by Supplier in connection with Work not completed at the time notice of cancellation is received; (3) Supplier's full anticipated fee for this Agreement [Alternative: 25% of Suppliers anticipated profit/fee for the portion of the Work not performed]; and (4) all expenses incurred by Supplier by reason of such cancellation, including costs arising from termination of subcontractors and vendors. This clause shall not limit nor apply to Owner's remedies in the event Supplier breaches or fails to perform any of the material terms of this Agreement; provided, however, that Supplier's liability shall be subject to the limitation of liability set forth in these Terms and Conditions.

14. Default.

- A. If Owner fails to make payment for a period of thirty (30) days after the date the payment is due, Supplier may, upon three (3) days' written notice to Owner, terminate this Agreement and recover from the Owner payment for Work performed and for loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead and profit applicable to the Project.
- B. If Supplier fails to perform a provision of this Agreement or neglects to carry out the Work in accordance with this Agreement, within fifteen (15) days after receipt of written notice of such default from Owner,

then Owner may perform or correct such deficiencies and may deduct the reasonably documented cost thereof from the payment due Supplier. If the unpaid balance of the Contract Price exceeds the cost of finishing the Work, such excess shall be paid to Supplier, but if such costs exceed such unpaid balance, Supplier shall pay the difference to Owner, subject to the limitation of liability set forth in these Terms and Conditions.

15. **Choice of Law.** This Agreement and any disputes arising under or related to it shall be governed by the laws of the State of Missouri.
16. **Assigns.** Neither party shall assign this Agreement without written consent of the other party. Notwithstanding the foregoing, Supplier will be permitted, without the prior written consent of Owner, to subcontract all or portions of the Work to third party subcontractors and/or to assign this Agreement to an affiliate of Supplier.
17. **Attorneys' Fees.** In any proceeding or other action brought by one party against the other party to enforce or interpret the terms of this Agreement, or to resolve any dispute concerning any of the services, work, or obligations of this Agreement or any other matter arising out of this Agreement, the prevailing party in such proceeding or action shall be entitled, in addition to such other relief the court may grant, to an award of its costs and expenses incurred in connection with the proceeding or action, including, but not limited to, reasonable fees and disbursements of its attorneys.

Date: Mar 15, 2022

Quote: AKOH22-3028-5

Quote
Page 1/2



Graybar
3805 Highland Park St N.W.
North Canton OH 44720
Phone: (330) 526-2800
Fax: (330) 526-2888

Project **Boettler Park Pickleball Courts**
Location **Green**
Quote **AKOH22-3028-5**

To:

For
Bid Date Mar 7, 2022
Expires Apr 6, 2022

QTY	Type	MFG	Part	Price	UQ	ExtPrice
12	A	LSI	FLOOD W/ POLE			
12	A	LSI	ZNL 78L CT UNV 50 BLK			
12	A	LSI	688138BLK BKA ASF BLK			
12	A	LSI	5RP T S11G24 N BLK LAB			
12	A	LSI	ABKIT 5RP S11G STL GAL 3/4X30 11BC			
12	A	LSI	KIT BCVR 5SRBC BLK			
6	A1	LSI	FLOOD LIGHTS W/POLE			
12	A1	LSI	ZNL 78L CT UNV 50 BLK			
12	A1	LSI	688138BLK BKA ASF BLK			
6	A1	LSI	BKS PTB 2 BLK			
6	A1	LSI	5RP T S07G30 N BLK LAB			
6	A1	LSI	ABKIT 5RP S07G STL GAL 1X36 11BC			
6	A1	LSI	KIT BCVR 5SRBC BLK			
1		LSI	ENGINEER DRAWINGS			
Note			DESIGNED BY MYRIAD ENERGY SOLUTIONS			
1		LSI	LOT TOTAL	\$66,870.40		\$66,870.40
SUBTOTAL						\$66,870.40

Note

LABOR - LAKE ERIE LOOMIS

BOETTLER PARK PICKLEBALL COURTS LIGHTING

- 1)
Furnish and install a 100 Amp 1 Phase 120/240 Feeder from MDP-1 to a location near the entrance to the first court.
- 2)
Furnish and install a 100 Amp Panelboard and two Lighting Contactors in an enclosure mounted to a separate board near this entrance.
- 3)
Furnish and install key switch controls for each of the two pickleball courts on the outside of the enclosure.
- 4)
Furnish and install 18 pole bases, complete with grounding, at the locations shown.
- 5)
Furnish and install power wiring from the lighting contactors to the pole base locations.
- 6)
Install poles, furnished by others, as indicated on your layout plan.

Date: Mar 15, 2022

Quote: AKOH22-3028-5

Quote
Page 2/2



Graybar
3805 Highland Park St N.W.
North Canton OH 44720
Phone: (330) 526-2800
Fax: (330) 526-2888

Project **Boettler Park Pickleball Courts**
Location **Green**
Quote **AKOH22-3028-5**

QTY	Type	MFG	Part	Price	UQ	ExtPrice
			7) Furnish and install inline fusing in pole handholes.			
			8) Furnish all sitework required, including seeding of area at finish.			
			9) Provide all permits necessary.			
			10) Electrical drawings for permit provided by others.			
1			LOT PRICE	\$124,583.33		\$124,583.33
SUBTOTAL						\$124,583.33
			Total:			\$191,453.73

Terms and conditions of sale:

This quote is valid for 30 days. All counts are subject to approval.

Lamps are included unless otherwise noted. Preshipment of anchor bolts will be plus freight. Partial shipments are subject to freight terms. Fixture price are based on lighting agent's complete package only. Any deviation from this may result in price increases. Fusing is not included in poles unless otherwise noted. Graybar will not be responsible for retainage fees. All claims for labor and defective material must be pre authorized by the manufacturer prior to the performance of work. Unauthorized claims will not be considered for payment by Graybar.

Prices shown do not include sales or other taxes imposed on the sale of goods. Taxes now or hereafter imposed upon sales or shipments will be added to the purchase price. Buyer agrees to reimburse graybar for any such tax or provide Graybar with acceptable tax exemption certificate. Graybar's standard terms and conditions of sale apply. Terms and conditions are available upon request.

Mfg Terms:
LSI LSI

Freight
Allowance

Minimum
Order