

RESOLUTION NO.: 2019-R110
SPONSOR: MAYOR NEUGEBAUER
INTRODUCED: NOVEMBER 26, 2019 **ASSIGNED TO:** FINANCE

A RESOLUTION AUTHORIZING THE CITY OF GREEN TO ENTER INTO A CONTRACT WITH GARDINER SERVICE COMPANY, LLC FOR EMERGENCY INSTALLATION OF A NEW BOILER SYSTEM AT THE CENTRAL ADMINISTRATION BUILDING, MAKING AN APPROPRIATION, AND DECLARING AN EMERGENCY.

WHEREAS, it has been determined it is no longer feasible to make repairs to the Central Administration Building ("CAB") heating system; and

WHEREAS, the CAB has been without heat numerous times; and

WHEREAS, the CAB's boiler heating system is no longer in a warranty period; and

WHEREAS, a real and present emergency exists with the start of winter weather and the possibility of the CAB without heat which would endanger employees and citizens and the structure of the building itself; and

WHEREAS, it is necessary to appropriate funds to pay for the repairs; and

WHEREAS, the City authorizes the purchase of a new Bryan Free Flex high efficiency condensing hot water boiler system, containing two (2) boilers, from Gardiner Service Company, LLC, pursuant to pricing through Sourcing Alliance, a State of Ohio authorized Purchasing Program.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT AND STATE OF OHIO THAT:

SECTION ONE:

The Mayor is hereby authorized and directed to enter into a Purchase Agreement with Gardiner Service Company, LLC, to replace the two (2) existing boilers with new high efficiency condensing hot water boilers, as is more fully set forth in the proposal attached hereto and incorporated herein as Exhibit "A".

SECTION TWO:

Green City Council authorizes an appropriation of One Hundred Twelve Thousand Eight Hundred Ninety-Five Dollars (\$112,895.00) to the CAB Improvement Account (acct# 100-7110-53630) from the unappropriated balance of the General Fund. Green City Council authorizes and directs the Finance Director to make payment to the Contractor through the established purchase order procedures.

SECTION THREE:

The City of Green finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and any deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION FOUR:

Green City Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of Green and for the further reason that this is an appropriation of money. Provided that this legislation receives the affirmative vote of three-fourths (¾ths) of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: November 26, 2019

Molly Kapeluck
Molly Kapeluck, Clerk of Council

Bob Young
Bob Young, Council President

APPROVED: Nov. 27, 2019

Gerard M. Neugebauer
Gerard M. Neugebauer, Mayor

COPIED
MAY FIN LAW PLAN ENG
SVCE FIRE PARK ZONE HR

ENACTED EFFECTIVE: November 27, 2019

ON ROLL CALL: Babbitt -aye Dyer -aye Humphrey ^{aye} Shaughnessy - Absent
Speight -aye Yeargin -aye Young -aye Adopted 6-0

Suburbanite publication on December 6 and December 13, 2019

Molly Kapeluck
Molly Kapeluck, Clerk of Council

11/21/2019 Approved as to form and content by William G Chris, Law Director, Interim

WGC

GARDINER

2019-R110
"EXHIBIT A"

PROPOSAL



SourcingAlliance
Design Procure Comply Manage

GARDINER

City of Green – Central Administration Building Boiler Replacement

CITY OF GREEN
1755 TOWN HALL BOULEVARD.
GREEN, OHIO 44685

ATTN: MR. MICHAEL ELKINS
SOURCING ALLIANCE QUOTE #

GPS QUOTE #60- 5502

PROPOSAL IN ACCORDANCE WITH COOPERATIVE COUNCIL OF GOVERNMENTS
ORC SECTION 3354.01

DELIVERY TERMS: FOB Factory, Freight Allowed

TERMS OF PAYMENT: 1.5% 10 Day Net 30

Wednesday, November 20, 2019

City of Green – Central Administration Building Boiler Replacement

Dear Mr. Elkins,

As you requested, Gardiner has developed a proposal to furnish all engineering, supervision, labor and material to replace the (2) existing Fulton hot water boilers with (2) new Bryan Free Flex high efficiency condensing hot water boilers.

Installation Services:

Scope of work for this project will include the following:

- 1) Drain down the existing hot water system and disconnect electrical power, controls, flue, gas and supply/return hot water piping from the (2) existing Fulton hot water boilers.
- 2) Remove and dispose of (2) existing boilers and associated boilers
- 3) Rigging and assembly of the new Bryan high efficiency boilers on existing concrete pad.
- 4) Modify the existing hot water piping to accommodate the new boilers.
- 5) Install new stainless steel flues and PVC combustion air duct from the new boilers and connect to te existing lines with the mechanical room.,
- 6) Extend new gas piping existing gas for existing services within room and extend a gas line to each boiler.
- 7) Reconnect electrical and control wiring from existing circuit to new electrical to new boilers and new pump. All wiring is to be done in accordance with State and Local codes.
- 8) Work to include all necessary labor and material to install a communication network between the new boilers and the existing automation system and updating programming and graphics.
- 9) Insulate all new piping from new boilers and pump from connection to existing system.
- 10) Clean up and remove job related waste from site.

- 11) Refill hot water system and remove air from system.
- 12) Factory Start-up, check and adjust unit for proper operation.
- 13) Provide a one year warranty for material and workmanship.

Price complete as noted: \$ 112, 895.00

Notes:

- All labor proposed shall be performed during normal working hours Monday-Friday
- This price includes provisions for safety under standard industry & Gardiner safety guidelines. Any special additional safety training, equipment, or processes required by your organization could affect the project scope and/or hours and may result in a price adjustment. If you have any specific safety practices or requirements, please alert your sales representative immediately so we ensure that our proposal fully meets your requirements

Excluded from the Scopes

- 1) Repairs to existing system if required will be performed on a "Time and Material" basis.
- 2) Hazardous Material identification, abatement and/or removal is excluded from this scope of work.
- 3) No provision for temporary heating during unit installation.
- 4) State and local taxes.

Best regards,

Rocky Williams
Account manager

Cc: D. Herbst. M. Ludrosky

**GARDINER PERFORMANCE SOLUTIONS STANDARD CONTRACT
TERMS & CONDITIONS**

ACCEPTANCE

If your order is an acceptance of a written proposal, on a form provided by

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Gardiner Service Company LLC dba GARDINER ("GSC"), without the addition of any other terms and conditions of sale or any other modification, this document shall be treated solely as an acknowledgment of such order, subject to credit approval. If your order is not such an acceptance, then this document is GSC's offer, subject to credit approval, to provide the goods and/or work solely in accordance with the following terms and conditions of sale. Customer's acceptance of goods and/or work by GSC on this order will in any event constitute an acceptance by Customer of these terms and conditions. This proposal shall remain valid for a period of 30 days from the date of proposal.

PAYMENT TERMS

Customer shall pay GSC's invoices within net thirty (30) days of invoice date. GSC will invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all work performed on-site or off-site on a monthly basis. All amounts outstanding 10 days beyond the due date are subject to a service charge not to exceed 1.5% of the principal amount due or the maximum allowable legal interest rate, retroactive to the due date. Customer shall pay all costs (including attorneys' fees) incurred by GSC in attempting to collect amounts due.

ASBESTOS & HAZARDOUS MATERIALS

GSC's work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials").

INDEMNIFICATION

GSC and Customer shall mutually, in proportion to their respective degree of fault, indemnify, defend and hold each other harmless from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of the indemnifying party, and/or its respective employees or agents. With respect to any claims based on facts or conditions that occurred prior to expiration or termination of this agreement, the duty to indemnify will continue in full force and effect notwithstanding expiration or early termination.

NO-HIRE; NO-SOLICITATION

Customer hereby covenants and agrees that, without the prior written consent of the Company, he/it will not, directly or indirectly (including, without limitation, through any affiliate or related party), (for a period of two (2) years after the date hereof solicit the employment of, offer employment to or hire, any employee of the Company, or any individual whose employment with the Company ended less than one hundred eighty (180) days prior to such solicitation or offer. Customer acknowledges that in the event of a violation of the covenants contained in this Section, the Company's damages will be difficult to ascertain and the Company's remedies at law will be inadequate. Accordingly, the Customer agrees that, in addition to such remedies as the Company may have at law, the Company shall be entitled to specific performance of such covenants and to an injunction to prevent any continuing violation thereof.

WARRANTY

GSC guarantees service work and all materials of GSC's manufacture against defects in workmanship for 365 days from date of completion of work and will repair or replace such products or components as GSC finds defective. This warranty does not include cost of handling, shipping or transportation involved in supplying replacements for defective components. This warranty does not include the replacement of refrigerant lost from the system. On

machinery and materials furnished by GSC, but manufactured by others, the only warranty provided is that of the manufacturer. THE WARRANTY AND LIABILITY SET FORTH IN THE PRECEDING PARAGRAPH ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR FITNESS FOR A PARTICULAR PURPOSE.

LIMITATION OF LIABILITY

All claims, causes of action or legal proceedings against GSC arising from GSC performance under this contract must be commenced by Customer within the express warranty period specified above. Failure to commence any such claim, cause of action or legal proceeding within such period shall constitute a voluntary and knowing waiver thereof of Customer. IN NO EVENT SHALL GSC'S LIABILITY FOR DIRECT OR COMPENSATORY DAMAGES EXCEED THE PAYMENTS RECEIVED BY GSC FROM CUSTOMER UNDER THIS CONTRACT, NOR SHALL GSC BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES. THESE LIMITATIONS ON DAMAGES SHALL APPLY UNDER ALL THEORIES OF LIABILITY OR CAUSES OF ACTION, INCLUDING BUT NOT LIMITED TO, CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY. GSC DISCLAIMS ANY LIABILITY FOR DAMAGES OR ANY KIND ARISING FROM MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES.

DISPUTES & CHOICE OF LAWS

This contract shall be deemed to have been entered into and shall be governed by the laws of the State of Ohio. All claims, disputes, and controversies arising out of or relating to this contract, shall be submitted to mediation, pursuant to the Commercial Dispute Resolution Procedures ("CDRP") of the American Arbitration Association. The mediation shall take place in Cleveland, Ohio within thirty (30) days of the date the dispute arises. If mediation is unsuccessful, the dispute shall proceed to binding arbitration, pursuant to the CDRP, in Cleveland, Ohio, no later than sixty (60) days after the mediation is concluded. Any judgement upon the arbitration award may be confirmed in any court having jurisdiction thereof. The parties agree that any party to the arbitration shall be entitled to discovery from the other party as provided by the Ohio Rules of Civil Procedure. All discovery shall be completed within (4) months from the date the Demand for Arbitration is filed with the American Arbitration Association. Unless otherwise agreed, the arbitration shall be completed no later than six (6) months after the arbitration commenced.

ENTIRE AGREEMENT

These terms and conditions, and the terms and conditions on the reverse side hereof, constitute the entire agreement between GSC and Customer. If there is a conflict with any other terms and conditions, these terms and conditions, together with those on the reverse side hereof, shall control. No course of dealing or performance, or prior, concurrent or subsequent understanding, agreements or representations become part of this contract unless expressly agreed to in writing by an authorized representative of GSC.

CONTRACT AMOUNT: \$112,895.00

ASSIGNMENT

Neither GSC nor Customer may assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the other party.

CUSTOMER SIGNATURE OF ACCEPTANCE

DATE

GSC REPRESENTATIVE

DATE