

November 14, 2024

**SERVICE COMMITTEE**

November 18, 2024

*Committee and Council Meetings can be viewed by accessing YouTube  
Following Finance Committee*

Council Chambers

**AGENDA**

1. Consider **Resolution No. 24-100** A resolution authorizing the conveyance of certain real property now owned by the city of Newark, Ohio to Newark Development Partners as its agent for industrial, commercial, distribution, and research
2. Consider **Resolution No. 24-101** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITH LAYTON, INC., FOR THE EXCAVATION OF THE TOWER SITE AND CONTRUCTION OF A RETAINING WALL FOR THE NEW STEEL ANTENNA TOWER AT HORNS HILL PARK AND WAIVING COMPETITIVE BIDDING
3. Consider **Resolution No. 24-102** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITHOUT COMPETITIVE BIDDING WITH PAUL J. FORD & COMPANY FOR THE DECOMMISSION OF THE EXISTING ANTENNA TOWER AT HORNS HILL PARK, THE INSTALLATION OF THE REPLACEMENT TOWER, AND THE TRANSFER OF BROADCAST EQUIPMENT
4. Consider **Resolution No. 24-103** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITH REMBCO GEOTECHNICAL CONTRACTORS, INC., FOR THE DESIGN AND CONSTRUCTION OF THE FOUNDATION AND ANCHORS FOR THE NEW STEEL ANTENNA TOWER AT HORNS HILL PARK AND WAIVING COMPETITIVE BIDDING
5. Consider **Resolution No. 24-104** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITH VALMONT INDUSTRIES, INC., FOR THE PRODUCTION OF A NEW STEEL ANTENNA TOWER TO REPLACE THE CURRENT HORNSHILL ANTENNA TOWER AND WAIVING COMPETITIVE BIDDING

6. Consider **Resolution No. 24-106** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO, TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR CONSTRUCTION OF A NEW SOUTHWEST PRESSURE ZONE WATERLINE EXTENSION.
  
7. Other items at the discretion of the Chair

RESOLUTION NO. 24-100

BY: \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY NOW OWNED BY THE CITY OF NEWARK, OHIO TO NEWARK DEVELOPMENT PARTNERS AS ITS AGENT FOR INDUSTRIAL, COMMERCIAL, DISTRIBUTION, AND RESEARCH**

**WHEREAS**, the City of Newark, Ohio currently owns various parcels of real property throughout the city which are of no value in their current state of development; and,

**WHEREAS**, the subject property, because of its size, location, and zoning restrictions, is not currently suitable for any municipal purpose; and,

**WHEREAS**, the City desires to convey the subject property to Newark Development Partners, a Community Improvement Corporation serving as the agent of the City of Newark for growth and development; and,

**WHEREAS**, the City of Newark and Newark Development Partners have entered into an Amended Designated Agency Agreement authorizing the transfer of real property owned by the City and controlling the manner in which such property may then be developed and/or transferred by Newark Development Partners and the manner in which any revenues generated from such development and transfer are to be disbursed; and,

**WHEREAS**, the conveyance of the subject real property would promote the general welfare and stabilize the neighborhood in question, assist in development, and promote the reclamation, rehabilitation, and reutilization of such real property; and,

**WHEREAS**, this matter was considered in regular session of the Service Committee who voted to refer the same to full Council for consideration.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, STATE OF OHIO, THAT:**

SECTION ONE: The Director of Public Service is hereby authorized to convey the following listed parcel of real property located within the City of Newark to Newark Development Partners, a Community Development Corporation, pursuant to the terms and conditions of the Amended Designated Agency Agreement previous approved by this Council as Resolution 23-20:

ADDRESS  
Richards-Morgan Manor, Bryn Mawr Addition, Reserve A

PARCEL NO.  
54-248610-00.001

SECTION TWO: Council hereby declares the subject real property to no longer be needed by the City of Newark, Ohio for any municipal purpose and that the City's interests are best served by conveyance to Newark Development Partners subject to the agreed upon disbursement of and future revenues generated therefrom.

SECTION THREE: This Resolution shall become effective at the earliest date permitted pursuant to Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
Clerk of Council

DATE FILED WITH MAYOR: \_\_\_\_\_

DATE APPROVED BY MAYOR: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

FORM APPROVED:  \_\_\_\_\_  
Director of Law

BY: \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITH LAYTON, INC., FOR THE EXCAVATION OF THE TOWER SITE AND CONSTRUCTION OF A RETAINING WALL FOR THE NEW STEEL ANTENNA TOWER AT HORNS HILL PARK AND WAIVING COMPETITIVE BIDDING**

**WHEREAS**, the City has an antenna tower located at Horns Hill Park which is in critical need of repair; and,

**WHEREAS**, prior to the placement of the new tower, the site requires excavation and the construction of a retaining wall as designed by Rembco Geotechnical Contractors, Inc.; and,

**WHEREAS**, Layton, Inc., a local reputable company, has the skill, experience, and equipment to excavate the tower site and construct the necessary retaining wall so that the tower project may begin; and,

**WHEREAS**, due to economic and availability considerations, it is in the best interest of the City to directly enter into contract with Layton, Inc., without competitive bidding, for the excavation of the tower site and construction of a retaining wall for the new tower; and,

**WHEREAS**, this matter was considered in regular session by the Service Committee who voted to refer the same to full Council for consideration.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING AND STATE OF OHIO, THAT:**

**Section 1:** The Director of Public Service is hereby authorized to negotiate and enter directly into contract with Layton, Inc., for the excavation of the tower site and construction of a retaining wall for the new tower at Horns Hill Park, subject to the appropriation of funds.

**Section 2:** It is in the best interest of the City and its residents that competitive bidding not be required in this matter and the same is hereby waived pursuant to Article 10.02 of the Charter of the City of Newark, Ohio.

**Section 3:** This resolution shall become effective at the earliest time permitted in accordance with Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Date Filed with Mayor: \_\_\_\_\_

Date Approved by Mayor: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Form Approved: \_\_\_\_\_  
Director of Law



# QUOTE

169 Dayton Rd.  
 Newark, OH 43055  
[ckurto@laytoninc.com](mailto:ckurto@laytoninc.com)  
 Phone: 740-739-8885  
 Fax: 740-349-7101

PLAN SET DATE	5/30/2024
DATE	10/18/2024
QUOTE #	1
WAGE	Prevailing
VALID UNTIL	11/17/2024

## Wireless Comm Tower - Newark

<b><u>GENERAL REQUIREMENTS</u></b>	<b><u>TOTAL</u></b>	<b>\$</b>	<b>17,150.00</b>
Supervision	1	ls	
Mobilization	1	ls	
Construction Layout Staking (GPS Guided Site)	1	ls	

<b><u>DEMO</u></b>	<b><u>TOTAL</u></b>	<b>\$</b>	<b>2,150.00</b>
Removal & Disposal of Ex. Fence	100	lf	

<b><u>EROSION CONTROL</u></b>	<b><u>TOTAL</u></b>	<b>\$</b>	<b>5,580.00</b>
8" Filter Sock	230	lf	
24" Filter Sock	125	lf	
Removal of Filter Sock	355	ea	
Concrete Wash Out Area	1	ea	
Seeding & Mulching	630	sy	

<b><u>EARTHWORK</u></b>	<b><u>TOTAL</u></b>	<b>\$</b>	<b>12,170.00</b>
Strip Topsoil	71	cy	
Excavation Not Including Embankment Construction	341	cy	
Finish Grading	630	sy	
Subgrade Compaction	1,370	sy	
4" Topsoil Respread	71	cy	

<b><u>RETAINING WALL WITH LIMESTONE BACKFILL</u></b>	<b><u>TOTAL</u></b>	<b>\$</b>	<b>360,830.00</b>
Stonestrong Precast Retaining Wall System	190	lf	
4" Underdrain Conduit	190	lf	
57 Limestone Stone Backfill (Whole Tower Area)	762	cy	

<b><u>FENCE</u></b>	<b><u>TOTAL</u></b>	<b>\$</b>	<b>36,390.00</b>
Fence, Complete With Gate	1	ea	

<b><u>AGGREGATE BASE</u></b>	<b><u>TOTAL</u></b>	<b>\$</b>	<b>26,780.00</b>
6" 304 Limestone Gravel Drive w/Fabric	86	cy	
6" 304 Limestone Gravel Compound	103	cy	

<b>COMBINED TOTAL</b>	<b>\$</b>	<b>461,050.00</b>
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**ALTERNATE #1 CONCRETE**

**TOTAL \$ 2,340.00**

Propane Tank Concrete Slab 60 sf

**ALTERNATE #2 EXCAVATION FOR OTHER SUBCONTRACTORS**

**TOTAL**

T&M Rates Are Attached

**EXCLUSIONS:**

- Permits & Fees
- Electrical Connections
- Soils Engineering & Testing
- Unsuitable Soils Removal & Replacement
- Multiple Soils Drying Operations Needed for the Same Fill Material (greater than 2 Time)
- Relocation and/or Removal of Existing Utilities (unless otherwise noted above)
- Soils Imported or Exported Off Site (unless otherwise noted above)
- Soil Stabilization (Lime, calcement, or discing/drying)
- ↪ Concrete Placement (unless otherwise noted above)
- Demo (unless otherwise noted above)
- Existing Private/Public Structure Conditions
- Temporary Construction Fencing
- Temporary Support, Removal, and/or Relocation of Existing Utility Pole (Electric, Commuitation, Etc.)
- Seeding and Mulching (unless otherwise noted above)
- Hydro-Excavation
- Dewatering
- Asphalt Pavement
- ↪ Concrete Foundations
- Marc's Building
- Wireless Tower Installation
- Micropile Installation
- Pile Cap Installation
- Utility Installation

**QUALIFICATIONS:**

- Compaction is based on standard proctor.
- Price is based upon performing all work quoted.
- Items not specifically included, are excluded.**
- Scope of work meeting prior to contract signing.
- Delays caused by material volatility are not at fault of Layton Inc.
- Delays caused by weather are not at fault of Layton Inc.

Quoted price good through valid date noted above. All material guaranteed to be as specified. All work is to be performed in a workmanlike manner according to standard practices. Any alteration or deviation from the included specifications noted above will be executed upon written order and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, weather, or delays beyond our control. All Layton Inc. workers are covered by workers compensation insurance. I herby accept the above base bid quote excluding alternative (combined total amount) and authorize Layton Inc. to complete the work as specified. Please sign, date and return a copy to us. Thank you.

Company Name: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Company Name: **Layton Inc.** \_\_\_\_\_

Name (Print): **Gerard Layton** \_\_\_\_\_

Title: **President** \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## Fwd: Wireless Comm Tower Proposal

From: PRK-Jeff Hotchkiss (jhotchkiss@newarkohio.net)

To: jeffrey.hotchkiss@yahoo.com

Date: Friday, October 18, 2024 at 06:07 PM EDT

Sent from my iPhone

Begin forwarded message:

**From:** Curtis Kurto <ckurto@laytoninc.com>  
**Date:** October 18, 2024 at 5:10:42 PM EDT  
**To:** PRK-Jeff Hotchkiss <jhotchkiss@newarkohio.net>  
**Cc:** Rich Tury <rtury@laytoninc.com>, Ron Barcus <rbarcus@laytoninc.com>, Gerard Layton <glayton@laytoninc.com>  
**Subject:** Wireless Comm Tower Proposal

Jeff, sorry for the delay on getting this over to you. Attached is the proposal for the wireless communication tower located in Newark, Ohio. Some things to note here: we are not able to get six axle trucks up the hill so we will have to stockpile stone at the bottom of the hill and use a single axle to load and haul the stone up to the tower. Also, for the block for the retaining wall, we are not able to get a semi up there so we will have to store them at the bottom of the hill and take them up as we need them, so that is why the retaining wall price is a little higher than we expected. As discussed in the in-person meeting, we will back fill the whole tower area with 57 Limestone instead of soil. Also, I attached our T&M rates for the other contractors if they need us to help with anything. Please let me know if you have any questions or want to meet in person to go over the proposal more. Have a great weekend!

Curtis Kurto  
GPS Specialist/Estimator  
169 Dayton Road  
Newark, OH 43055  
Office Phone: (740)-349-7101  
Cell: 740-739-8885



image001.jpg  
2.9kB



Wireless Comm Tower - Newark Proposal.pdf  
121.2kB



Equip. Prices - 7.1.24 w prevailing.pdf  
114kB

BY: \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITHOUT COMPETITIVE BIDDING WITH PAUL J. FORD & COMPANY FOR THE DECOMMISSION OF THE EXISTING ANTENNA TOWER AT HORNS HILL PARK, THE INSTALLATION OF THE REPLACEMENT TOWER, AND THE TRANSFER OF BROADCAST EQUIPMENT**

**WHEREAS**, the City has an antenna tower located at Horns Hill Park which is in critical need of repair; and,

**WHEREAS**, Paul J. Ford & Company is not only an expert in the design, analysis, and modification of towers, but have also been involved in the evaluation of the City's antenna tower since approximately 2006; and,

**WHEREAS**, due to Paul J. Ford & Company's expertise in the field and their familiarity with the City antenna tower, it is in the best interest of the City to directly enter into contract with Paul J. Ford & Company, without competitive bidding, for the decommissioning of the current tower, the replacement of the tower, and the transfer of broadcast equipment; and,

**WHEREAS**, this matter was considered in regular session by the Service Committee who voted to refer the same to full Council for consideration.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING AND STATE OF OHIO, THAT:**

- Section 1:** The Director of Public Service is hereby authorized to negotiate and enter directly into contract with Paul J. Ford & Company for the decommission, replacement, and the transfer of equipment of the Horns Hill antenna tower, subject to the appropriation of funds.
- Section 2:** It is in the best interest of the City and its residents that competitive bidding not be required in this matter and the same is hereby waived pursuant to Article 10.02 of the Charter of the City of Newark, Ohio.
- Section 3:** This resolution shall become effective at the earliest time permitted in accordance with Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Date Filed with Mayor: \_\_\_\_\_

Date Approved by Mayor: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Form Approved: \_\_\_\_\_  
Director of Law

# PJF PAUL J. FORD & COMPANY

250 E Broad St, Ste 600 • Columbus, OH 43215  
 Phone 614.221.6679 www.pauljford.com  
 (c) Copyright 2023 by Paul J. Ford and Company, all rights reserved.

Date of Proposal: Thu, 8/1/2024

## Construction Proposal

Dear Jeff Hotchkiss,

Thank you for the opportunity to provide to you a construction proposal for the site and scope detailed below. Please see below for more details:

SITE INFORMATION		SCOPE OF WORK DESCRIPTION	CONTACT INFORMATION	
Client Site Number		Decommissioning of existing Guyed Tower	Client Firm Name	City of Newark
Client Site Name	Newark		Client POC	Jeff Hotchkiss
Client Project #			Client Phone Number	
Site Address			Client Email Address	jhotchkiss@newarkohio.net
Site City	Newark		PJF Project #	A00023-0049.005.C400
Site County	Licking		PJF POC	Jason Martin, PE
Site State	OH		PJF Phone Number	Program Manager
Site Zip Code	43055		PJF Email Address	jmartin@pauljford.com
Latitude	40.089778			
Longitude	-82.406944			

#	ITEM DESCRIPTION	FEE	COMMENTARY
1	Decommission of Existing Tower	\$90,400.00	
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Lump Sum Fee:		<b>\$90,400.00</b>	

#	ADDITIONAL NOTES:
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We at Paul J. Ford & Company appreciate the opportunity to provide this construction proposal to you. If you have any questions or need further assistance on this or any other projects, please give us a call.

Respectfully Submitted by:

Jason Martin, PE  
 Program Manager  
 jmartin@pauljford.com

- 1) This proposal will be considered to be accepted in the event the customer issues a Purchase Order (PO) or Notice to Proceed (NTP) within the valid time range.
- 2) This proposal will remain valid for up to 15 days from the date of its issue.
- 3) Payment shall be made to PJF within 30 days after the invoice is issued. Invoice will be issued upon completion of the defined scope of work and a delivered close out package. Customer shall pay PJF for services and expenses in accordance with the PO. If prices for services are not specified in the PO, PJF's current fee schedule in effect for the type of services performed shall control. Past due amounts are subject to a late fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Customer. In addition, if there are multiple invoices issued, PJF reserves the right to suspend the performance of all services in any case where invoices remain unpaid for more than sixty (60) days from the invoice date.
- 4) The estimate provided assumes the project can be completed in one mobilization. If additional mobilizations are required where Paul J. Ford and Company (hereinafter "PJF") was not at fault, additional funds will be requested.
- 5) This proposal does include an estimated sales tax. Final amounts of local, state, and federal sales tax will be represented on the invoice. If you are tax exempt, please email us your exemption form.
- 6) All dates in the PO are approximate and are based upon PJF's ability to obtain all necessary labor, materials and parts and, where applicable, the receipt of all necessary information, plans or specifications from Customer. PJF shall not be liable for damages resulting from any delay or failure to deliver the goods, or otherwise perform under the PO, due to circumstances beyond its control and not occasioned by its fault or negligence, including but not being limited to, any act of government, inability to obtain materials, failure of vendors, strikes, labor disputes, civil commotion, acts of God, or other occurrences rendering PJF's performance commercially impracticable, regardless of whether such occurrences are foreseeable.
- 7) The customer is responsible for obtaining all applicable building permits, FAA and FCC approvals, licensees, and permits, leasing arrangements, and zoning approvals. Fees associated with these items are the responsibility of the customer.
- 8) No orders may be cancelled or changed without notice in writing. Cancellation charges may apply for reimbursement for materials and other incurred expenses.
- 9) PJF will not begin fabrication, material acquisition, or construction services until customer has provided an approved PO.
- 10) PJF retains all intellectual property rights for all services and products supplied as a result of this proposal, including but not limited to patents pending and issued, engineering designs and construction methods, product designs, standard details, etc. PJF shall retain title to all drawings, specifications and electronic files.
- 11) Indemnification. Notwithstanding any other terms to the contrary, Customer shall indemnify and hold harmless PJF for all damages, losses, attorney fees, or claims which PJF sustains resulting from negligent act, error, omission or failure to exercise reasonable care, skill or diligence on the part of Customer, its employees, agents, or consultants respecting the performance of any work or service in connection with the project.
- 12) Waiver of claims for consequential damages. Customer and PJF waive all claims for consequential damages arising out of or relating to the project. This waiver includes damages incurred by the Customer for losses of financing, business and reputation, and for loss of profits. This waiver is applicable, without limitation, to all consequential damages due to the Customer's termination of the PO.
- 13) Governing law and venue. The terms of this estimate shall be governed by the law of the laws of Ohio. Any suit, which may be brought to enforce any provision or any remedy with respect hereto, shall be brought in the Common Pleas Court in Franklin County, Ohio, and each party hereby expressly consents to the jurisdiction of such court. The parties expressly waive the right to remove any litigation arising out of these terms to federal court.
- 14) Modification. No modification or waiver of any terms of this document will be effective against a party unless set forth in writing and signed by or on behalf of each party. Under no circumstance will forbearance, including the failure or repeated failure to insist upon compliance with the terms, constitute the waiver or modification of such terms.
- 15) Nothing contained within these terms and conditions shall be construed or interpreted as requiring PJF to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Customer assumes full responsibility for compliance with the provisions of RCRA and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.
- 16) Termination:
- For Convenience - Upon written notice, PJF or Customer may terminate the performance of any further Services under the PO if the terminating party determines termination is in the terminating party's interest. Upon receipt of a termination notice by either party, PJF shall stop work on all Services included in the PO and Client shall pay PJF within thirty (30) days for all Services performed up to the receipt of the termination notice. Upon Termination for Convenience, PJF and Customer shall have no further rights or remedies other than those included in this paragraph.
  - For Cause —In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon five (5) business days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within five (5) business days of receipt of the written notice. Upon Termination for Cause, PJF shall stop work on all Services included in this Agreement. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.
- 17) Limitation of Liability. PJF's total liability arising under the PO shall not exceed the amount of the PO. This limitation applies whether the liability is based on contract, tort, strict liability or otherwise.

**Construction Proposal**

Dear Jeff Hotchkiss,

Thank you for the opportunity to provide to you a construction proposal for the site and scope detailed below. Please see below for more details:

SITE INFORMATION	
Client Site Number	
Client Site Name	Newark
Client Project #	
Site Address	
Site City	Newark
Site County	Licking
Site State	OH
Site Zip Code	43055
Latitude	40.089778
Longitude	-82.406944

SCOPE OF WORK DESCRIPTION
Installation of new 410' SST

CONTACT INFORMATION	
Client Firm Name	City of Newark
Client POC	Jeff Hotchkiss
Client Phone Number	
Client Email Address	jhotchkiss@newarkohio.net

PJF Project #	A00023-0049.005.C400
PJF POC	Jason Martin, PE
PJF Phone Number	Program Manager
PJF Email Address	martin@pauljford.com

#	ITEM DESCRIPTION	FEE	COMMENTARY
1	Installation of New 410' SST	\$139,110.00	Excludes foundation installation
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Lump Sum Fee:		<b>\$139,110.00</b>	

#	ADDITIONAL NOTES:
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We at Paul J. Ford & Company appreciate the opportunity to provide this construction proposal to you. If you have any questions or need further assistance on this or any other projects, please give us a call.

Respectfully Submitted by:

Jason Martin, PE  
 Program Manager  
 jmartin@pauljford.com

## TERMS & CONDITIONS FOR CONSTRUCTION PROPOSAL

- 1) This proposal will be considered to be accepted in the event the customer issues a Purchase Order (PO) or Notice to Proceed (NTP) within the valid time range.
- 2) This proposal will remain valid for up to 15 days from the date of its issue.
- 3) Payment shall be made to PJF within 30 days after the invoice is issued. Invoice will be issued upon completion of the defined scope of work and a delivered close out package. Customer shall pay PJF for services and expenses in accordance with the PO. If prices for services are not specified in the PO, PJF's current fee schedule in effect for the type of services performed shall control. Past due amounts are subject to a late fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Customer. In addition, if there are multiple invoices issued, PJF reserves the right to suspend the performance of all services in any case where invoices remain unpaid for more than sixty (60) days from the invoice date.
- 4) The estimate provided assumes the project can be completed in one mobilization. If additional mobilizations are required where Paul J. Ford and Company (hereinafter "PJF") was not at fault, additional funds will be requested.
- 5) This proposal does include an estimated sales tax. Final amounts of local, state, and federal sales tax will be represented on the invoice. If you are tax exempt, please email us your exemption form.
- 6) All dates in the PO are approximate and are based upon PJF's ability to obtain all necessary labor, materials and parts and, where applicable, the receipt of all necessary information, plans or specifications from Customer. PJF shall not be liable for damages resulting from any delay or failure to deliver the goods, or otherwise perform under the PO, due to circumstances beyond its control and not occasioned by its fault or negligence, including but not being limited to, any act of government, inability to obtain materials, failure of vendors, strikes, labor disputes, civil commotion, acts of God, or other occurrences rendering PJF's performance commercially impracticable, regardless of whether such occurrences are foreseeable.
- 7) The customer is responsible for obtaining all applicable building permits, FAA and FCC approvals, licenses, and permits, leasing arrangements, and zoning approvals. Fees associated with these items are the responsibility of the customer.
- 8) No orders may be cancelled or changed without notice in writing. Cancellation charges may apply for reimbursement for materials and other incurred expenses.
- 9) PJF will not begin fabrication, material acquisition, or construction services until customer has provided an approved PO.
- 10) PJF retains all intellectual property rights for all services and products supplied as a result of this proposal, including but not limited to patents pending and issued, engineering designs and construction methods, product designs, standard details, etc. PJF shall retain title to all drawings, specifications and electronic files.
- 11) Indemnification. Notwithstanding any other terms to the contrary, Customer shall indemnify and hold harmless PJF for all damages, losses, attorney fees, or claims which PJF sustains resulting from negligent act, error, omission or failure to exercise reasonable care, skill or diligence on the part of Customer, its employees, agents, or consultants respecting the performance of any work or service in connection with the project.
- 12) Waiver of claims for consequential damages. Customer and PJF waive all claims for consequential damages arising out of or relating to the project. This waiver includes damages incurred by the Customer for losses of financing, business and reputation, and for loss of profits. This waiver is applicable, without limitation, to all consequential damages due to the Customer's termination of the PO.
- 13) Governing law and venue. The terms of this estimate shall be governed by the law of the laws of Ohio. Any suit, which may be brought to enforce any provision or any remedy with respect hereto, shall be brought in the Common Pleas Court in Franklin County, Ohio, and each party hereby expressly consents to the jurisdiction of such court. The parties expressly waive the right to remove any litigation arising out of these terms to federal court.
- 14) Modification. No modification or waiver of any terms of this document will be effective against a party unless set forth in writing and signed by or on behalf of each party. Under no circumstance will forbearance, including the failure or repeated failure to insist upon compliance with the terms, constitute the waiver or modification of such terms.
- 15) Nothing contained within these terms and conditions shall be construed or interpreted as requiring PJF to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Customer assumes full responsibility for compliance with the provisions of RCRA and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.
- 16) Termination:
  - a. For Convenience - Upon written notice, PJF or Customer may terminate the performance of any further Services under the PO if the terminating party determines termination is in the terminating party's interest. Upon receipt of a termination notice by either party, PJF shall stop work on all Services included in the PO and Client shall pay PJF within thirty (30) days for all Services performed up to the receipt of the termination notice. Upon Termination for Convenience, PJF and Customer shall have no further rights or remedies other than those included in this paragraph.
  - b. For Cause —In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon five (5) business days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within five (5) business days of receipt of the written notice. Upon Termination for Cause, PJF shall stop work on all Services included in this Agreement. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.
- 17) Limitation of Liability. PJF's total liability arising under the PO shall not exceed the amount of the PO. This limitation applies whether the liability is based on contract, tort, strict liability or otherwise.

**Construction Proposal**

Dear Jeff Hotchkiss,

Thank you for the opportunity to provide to you a construction proposal for the site and scope detailed below. Please see below for more details:

SITE INFORMATION	
Client Site Number	
Client Site Name	Newark
Client Project #	
Site Address	
Site City	Newark
Site County	Licking
Site State	OH
Site Zip Code	43055
Latitude	40.089778
Longitude	-82.406944

SCOPE OF WORK DESCRIPTION
Transfer existing equipment, including broadcast equipment, from the existing guyed tower to the new 410' SST.

CONTACT INFORMATION	
Client Firm Name	City of Newark
Client POC	Jeff Hotchkiss
Client Phone Number	
Client Email Address	jhotchkiss@newarkohio.net

PJF Project #	A00023-0049.005.C400
PJF POC	Jason Martin, PE
PJF Phone Number	Program Manager
PJF Email Address	martin@pauljford.com

#	ITEM DESCRIPTION	FEE	COMMENTARY
1	Transfer of Broadcast Equipment	\$84,000.00	
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
Lump Sum Fee:		<b>\$84,000.00</b>	

#	ADDITIONAL NOTES:
1	
2	
3	
4	
5	
6	
7	
8	

We at Paul J. Ford & Company appreciate the opportunity to provide this construction proposal to you. If you have any questions or need further assistance on this or any other projects, please give us a call.

Respectfully Submitted by:

Jason Martin, PE  
 Program Manager  
 jmartin@pauljford.com



## TERMS & CONDITIONS FOR CONSTRUCTION PROPOSAL

- 1) This proposal will be considered to be accepted in the event the customer issues a Purchase Order (PO) or Notice to Proceed (NTP) within the valid time range.
- 2) This proposal will remain valid for up to 15 days from the date of its issue.
- 3) Payment shall be made to PJF within 30 days after the invoice is issued. Invoice will be issued upon completion of the defined scope of work and a delivered close out package. Customer shall pay PJF for services and expenses in accordance with the PO. If prices for services are not specified in the PO, PJF's current fee schedule in effect for the type of services performed shall control. Past due amounts are subject to a late fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Customer. In addition, if there are multiple invoices issued, PJF reserves the right to suspend the performance of all services in any case where invoices remain unpaid for more than sixty (60) days from the invoice date.
- 4) The estimate provided assumes the project can be completed in one mobilization. If additional mobilizations are required where Paul J. Ford and Company (hereinafter "PJF") was not at fault, additional funds will be requested.
- 5) This proposal does include an estimated sales tax. Final amounts of local, state, and federal sales tax will be represented on the invoice. If you are tax exempt, please email us your exemption form.
- 6) All dates in the PO are approximate and are based upon PJF's ability to obtain all necessary labor, materials and parts and, where applicable, the receipt of all necessary information, plans or specifications from Customer. PJF shall not be liable for damages resulting from any delay or failure to deliver the goods, or otherwise perform under the PO, due to circumstances beyond its control and not occasioned by its fault or negligence, including but not being limited to, any act of government, inability to obtain materials, failure of vendors, strikes, labor disputes, civil commotion, acts of God, or other occurrences rendering PJF's performance commercially impracticable, regardless of whether such occurrences are foreseeable.
- 7) The customer is responsible for obtaining all applicable building permits, FAA and FCC approvals, licenses, and permits, leasing arrangements, and zoning approvals. Fees associated with these items are the responsibility of the customer.
- 8) No orders may be cancelled or changed without notice in writing. Cancellation charges may apply for reimbursement for materials and other incurred expenses.
- 9) PJF will not begin fabrication, material acquisition, or construction services until customer has provided an approved PO.
- 10) PJF retains all intellectual property rights for all services and products supplied as a result of this proposal, including but not limited to patents pending and issued, engineering designs and construction methods, product designs, standard details, etc. PJF shall retain title to all drawings, specifications and electronic files.
- 11) Indemnification. Notwithstanding any other terms to the contrary, Customer shall indemnify and hold harmless PJF for all damages, losses, attorney fees, or claims which PJF sustains resulting from negligent act, error, omission or failure to exercise reasonable care, skill or diligence on the part of Customer, its employees, agents, or consultants respecting the performance of any work or service in connection with the project.
- 12) Waiver of claims for consequential damages. Customer and PJF waive all claims for consequential damages arising out of or relating to the project. This waiver includes damages incurred by the Customer for losses of financing, business and reputation, and for loss of profits. This waiver is applicable, without limitation, to all consequential damages due to the Customer's termination of the PO.
- 13) Governing law and venue. The terms of this estimate shall be governed by the law of the laws of Ohio. Any suit, which may be brought to enforce any provision or any remedy with respect hereto, shall be brought in the Common Pleas Court in Franklin County, Ohio, and each party hereby expressly consents to the jurisdiction of such court. The parties expressly waive the right to remove any litigation arising out of these terms to federal court.
- 14) Modification. No modification or waiver of any terms of this document will be effective against a party unless set forth in writing and signed by or on behalf of each party. Under no circumstance will forbearance, including the failure or repeated failure to insist upon compliance with the terms, constitute the waiver or modification of such terms.
- 15) Nothing contained within these terms and conditions shall be construed or interpreted as requiring PJF to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Customer assumes full responsibility for compliance with the provisions of RCRA and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.
- 16) Termination:
  - a. For Convenience - Upon written notice, PJF or Customer may terminate the performance of any further Services under the PO if the terminating party determines termination is in the terminating party's interest. Upon receipt of a termination notice by either party, PJF shall stop work on all Services included in the PO and Client shall pay PJF within thirty (30) days for all Services performed up to the receipt of the termination notice. Upon Termination for Convenience, PJF and Customer shall have no further rights or remedies other than those included in this paragraph.
  - b. For Cause —In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon five (5) business days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within five (5) business days of receipt of the written notice. Upon Termination for Cause, PJF shall stop work on all Services included in this Agreement. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.
- 17) Limitation of Liability. PJF's total liability arising under the PO shall not exceed the amount of the PO. This limitation applies whether the liability is based on contract, tort, strict liability or otherwise.

BY: \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITH REMBCO GEOTECHNICAL CONTRACTORS, INC., FOR THE DESIGN AND CONSTRUCTION OF THE FOUNDATION AND ANCHORS FOR THE NEW STEEL ANTENNA TOWER AT HORNS HILL PARK AND WAIVING COMPETITIVE BIDDING**

**WHEREAS**, the City has an antenna tower located at Horns Hill Park which is in critical need of repair; and,

**WHEREAS**, the design and construction of the foundation for the new tower requires expertise in the field of geotechnical engineering; and,

**WHEREAS**, Rembco Geotechnical Contractors, Inc., possess the specialized knowledge and experience to design the proper foundation for the antenna tower and the ability to construct and install the micropiles and rock anchors necessary for the project; and,

**WHEREAS**, due to the specialized nature of the project, it is in the best interest of the City to directly enter into contract with Rembco Geotechnical Contractors, Inc., without competitive bidding, for the design of the foundation as well as the design, construction and installation of the proper anchors for the new tower; and,

**WHEREAS**, this matter was considered in regular session by the Service Committee who voted to refer the same to full Council for consideration.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING AND STATE OF OHIO, THAT:**

**Section 1:** The Director of Public Service is hereby authorized to negotiate and enter directly into contract with Rembco Geotechnical Contractors, Inc., for the design and construction of the foundation and anchors for the new steel antenna tower located at Horns Hill Park, subject to the appropriation of funds.

**Section 2:** It is in the best interest of the City and its residents that competitive bidding not be required in this matter and the same is hereby waived pursuant to Article 10.02 of the Charter of the City of Newark, Ohio.

**Section 3:** This resolution shall become effective at the earliest time permitted in accordance with Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Date Filed with Mayor: \_\_\_\_\_

Date Approved by Mayor: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Form Approved: \_\_\_\_\_  
Director of Law

July 2, 2024

Jeff Hotchkiss  
City of Newark, OH  
40 W. Main Street  
Newark, Ohio, 43055  
[jhotchkiss@newarkohio.net](mailto:jhotchkiss@newarkohio.net)

RE: Tower Foundation System – Micropiles and Anchors with Concrete Foundation Design and Redi-Rock Gravity Wall design included

REVISED 7/2/2024 to allow Design to Commence as Phase 1 before later authorization for on site installation of micropiles and rock anchors

Jeff,

Please find attached our proposal for designing and construction of deep foundations for the proposed lattice tower at Horn's Hill Park. Our scope of work will include the following (with unit rates defined if overruns are encountered due to excessive rock depth):

- 1) Design of gravity retaining wall to be constructed by others using Redi-Rock Blocks
- 2) Design of micropiles and rock anchors to be constructed by Rembco
- 3) Design of concrete pile caps and grade beams (excluding anchor bolt design) for construction by others.
- 4) Return to the site to tension rock anchors following construction of pile caps by others.

Final quantities may vary based on conditions encountered. The actual length may vary from this estimate and unit pricing is provided if pile or anchor footages overrun.

We appreciate the opportunity to serve you on this project. Please contact us at your convenience with questions or information regarding this proposal.

Sincerely,  
**Rembco Geotechnical Contractors, Inc.**



Jake Messer  
Estimator/Project Manager



R.M. Bivens, P.E., D.GE.  
President

## PROPOSAL

This **Agreement** is made by and between Rembco® Geotechnical Contractors, Inc., hereinafter called Rembco, and \_\_\_\_\_, hereinafter known as the **Client**.

**IN CONSIDERATION** of the mutual promises contained in this agreement, the parties agree as follows:

Date Issued or Revised: July 2, 2024

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### PURPOSE

The purpose of this work is to design and install micropiles and rock anchors and to complete design engineering for retaining wall and concrete pile caps to be built by others.

The site of work is located at Horns Hill Park at the site of the existing radio tower, Newark, Ohio at approximate GPS coordinates 40.08952412280271, -82.4072379027155.

### PROCEDURAL DESCRIPTION

The scope of work includes:

## PHASE 1

- 1) One geotechnical exploratory boring with rock coring for use by micropile designer
- 2) Design a gravity retaining wall to be constructed by others using Redi-Rock Blocks
- 3) Design micropiles and rock anchors to be constructed by Rembco
- 4) Design concrete pile caps and grade beams (excluding anchor bolt design) for construction by others.

## PHASE 2

- 5) Installation of Micropiles and Rock anchors, up to 45ft per any micropile or rock anchor including up to 120% grout volume for all drilled holes including one return trip to the site if necessary to tension rock anchors following construction of pile caps by others.

**PRICING SCHEDULE**

Work to be performed with 1 drill rig. Up to 10 hours on site each shift. Expected duration is 7 working days for installation.

The Client agrees to pay Rembco under the following format:

Item	Est Qty	Units	\$/Unit	Extension
------	---------	-------	---------	-----------

**PHASE 1**

1	EA	\$26,000	\$ 26,000
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Design Engineering and Geotechnical Boring

**PHASE 2**

Micropiles and Rock Anchors up to 45ft each

- 12ea Micropiles
- 3ea Rock Anchors
- 120% Grout
- Tensioning Anchors following pile cap construction

1	LS	\$227,000	\$227,000
0	LF	\$157	\$ 0
0	CF	\$55	\$ 0
0	HR/Rig	\$1,000	\$ 0

**Total Estimated Price (including both phases) \$253,000**

Terms are net 30 days with no retainage. No bonding is included. Payment and Performance bonding is available at a 1.7% rate. Prevailing wages are not included. Sales taxes are included in the above pricing.

## **CLARIFICATIONS**

1. Client will be responsible for providing a work area for our crew and equipment and access to water on the facility at the existing building near the work area.
2. Working hours are expected to be up to 10-hours on site per day, with crews on site Monday through Friday (weekend work, if performed will be at Rembco's discretion).

## **CLIENT RESPONSIBILITIES**

The Client will furnish the following items and services at no additional cost to Rembco:

1. Clearing, Grubbing, Excavation, Retaining Wall Construction, spoil handling, Pile cap Construction, protection of finished surfaces and all site preparation and staging area restoration.
2. Fees reimbursement to Rembco for any licenses or permits required for our scope of work on this project.
3. Free, dry and legal access to the site of the work including maintaining the access during the work at all times.
4. All-weather access for vehicles and equipment to the site of our work at all times.
5. Construction and as-built drawings, reports, locations of buried conduits, utilities, or buried tanks or structures, and other appropriate information regarding the condition of the structure or the site.
6. A hold harmless provision against damage to any utilities or underground structures on the property and in adjoining properties.
7. Coordination and support during the work to prevent downtime for Rembco.
8. A location on site near our work area suitable for cleanout of grouting equipment.
9. All site maintenance and excavation.
10. Erosion and sediment controls and surface runoff control.
11. Surveying and staking of micropile locations.

## **EXCLUSIONS**

We specifically exclude the cost of or responsibility for the following items:

- A. Location, removal, or relocation of any obstructions, above or below ground that increase drilling, grouting, or moving costs. Any costs due to obstructions will be extra.
- B. Location, removal, protection or relocation of any utilities, equipment, structures, surfaces, or property that may be damaged by our work. We will be indemnified for any damage unless the item is properly protected, and we are made aware of its location.
- C. Permits or fees.
- D. Surveying or staking of micropile locations.
- E. Subsidence of adjacent structures or utilities due to drilling.
- F. Material escalation.
- G. Pedestrian safety or traffic control.
- H. Any type of engineering, testing, reports, logs, monitoring, surveying, or inspection.
- I. Photographs, videos or monitoring of anything existing.
- J. Responsibility for any type of delay damages, acceleration costs or default due to schedule so long as we continuously man the job once mobilized as much as is within our control.
- K. Back charges without prior notification and acceptance of the charge in writing.
- L. Dewatering.
- M. Excavation or backfill.
- N. On-site dumpsters
- O. Excavation layout, staking, shooting grades, as-builts or any field engineering.
- P. Bonds (payment and performance bonds may be added prior to mobilization).
- Q. Insurance beyond our standard coverage.
- R. Indemnifying others beyond the extent of our negligence.
- S. Weekend work, night shift work, and overtime past 55hrs per week including travel time.
- T. Designated material sourcing requirements.
- U. Any specialty fuels, oils, lubricants, etc.
- V. Protection of any finished surfaces.
- W. Site preparation and maintenance during the work to maintain all-weather access.



**GENERAL TERMS AND CONDITIONS**

Attached hereto, incorporated in, and made a part of this agreement are the Rembco General Terms and Conditions of Sale.

**ENDORSEMENT**

Endorsement by a representative of the Client will be Rembco's authorization to proceed with the work under this agreement.

**PHASE 1 – DESIGN ENGINEERING ONLY**

**ACCEPTED FOR THE CLIENT**

**ACCEPTED FOR REMBCO**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_

\_\_\_\_\_  
(Date)

\_\_\_\_\_

**PHASE 2 – MICROPILE AND ANCHOR INSTALLATION**

**ACCEPTED FOR THE CLIENT**

**ACCEPTED FOR REMBCO**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_

\_\_\_\_\_  
(Date)

\_\_\_\_\_



## GENERAL TERM AND CONDITIONS

---

These Terms and Conditions are the Contractor's standard terms for all contracts. The term "Contract" is used hereinafter means Contractor's Proposal, the terms and conditions attached thereto and expressly incorporated herein directly or by reference and shall constitute collectively the agreement between the Contractor, Rembco Geotechnical Contractors, Incorporated and the client.

**OFFER AND ACCEPTANCE** Contractor's proposal and the accompanying documents referred to above constitute only an offer to contract which may be accepted by Client only on the exact terms hereof. If additional or different terms are proposed or requested by the Client, such proposal or request shall constitute a counter offer which the Contractor may, at its option, accept by written notice to the Client.

**ENTIRE CONTRACT: MODIFICATION** This Contract constitutes the sole and entire agreement between the Contractor and the Client and any prior or contemporaneous understandings or agreements, oral or written, are merged herein. Contractor shall attempt to comply with all requests for deviations, alterations, or changes in the work and services to be provided under the Contract which are requested by the Client's authorized representative providing that such deviations, alterations, or changes and compensation thereof are agreed by both parties in writing prior to performance of such modified service or work. No employees or other representative of the Contractor has any authority to waive, change, modify, or add to the terms of the Contract or waive any default thereunder without prior written approval by an authorized representative of the Contractor. No such waiver of default shall operate as a waiver of future defaults of any character.

**PRICES** Unless otherwise stated, prices stated in the Contractor's proposal are firm provided that this Contract becomes effective within thirty (30) days from the date of such proposal.

**COVID-19** The Client and Contractor (the parties) acknowledge that the potential effects of the coronavirus disease ("COVID-19") pandemic on the construction industry and the performance of construction projects are not yet fully known and are beyond the control of the parties. The effects of this pandemic may adversely affect the Contractor's workforce, the supply chain for materials, the delivery of materials and/or otherwise adversely affect the Contractor's ability to perform as planned, causing delays in the prosecution and completion of the work and the project. The Parties agree that delays resulting from the effects of the COVID-19 pandemic are beyond the control of the Parties and if such delays occur, the Contractor will be granted a reasonable extension of the Contract Time and an equitable adjustment in the Contract Sum for the additional costs incurred by the Contractor resulting from the COVID-19 Pandemic. Contractor shall give Client written notice of delay if it experiences delays or elevated costs due to the COVID-19 pandemic and any additional costs incurred due to such delay. Furthermore, where the price of any category of material, equipment, insurance, or utility increases significantly during the term of the Agreement, the Contract Sum shall be increased in like amount by Change Order. A significant price increase means a change in price from the date of Agreement execution to the date of purchase by an amount exceeding three percent (3%) of the material, equipment, insurance or utility estimated cost in Contractor's proposal. Such price increases shall be documented by vendor quotes, invoices, catalogs, receipts or other documents of commercial use. Further, the parties acknowledge that some of the materials and products to be used and installed in the construction of the Project may become unavailable, delayed in shipment and/or subject to price increases due to circumstances beyond the control of the Contractor, including the COVID-19 Pandemic. If a required product is unavailable or shipment is delayed, Contractor shall provide written notice to the Client within 3 business days and shall be afforded additional time, substitution of products, and equitable adjustment in contract value via Change Order.

**TERMS AND TIME OF PAYMENT** Terms of payment are net thirty (30) days with no retainage unless stated elsewhere in this contract. Payment delayed beyond thirty (30) days from the specified due date, unless occasioned by fault of the Contractor, shall be subject to two (2) percent per month interest on any unpaid balance.

**DATE OF COMPLETION** The date of completion provided in this Contract is approximate and is based on prompt receipt by the Contractor of all necessary information and data required to be supplied by the Client, and subject to weather, groundwater conditions, and unforeseen site conditions. The Contractor will use all reasonable effort to meet the stipulated completion date and completion within a reasonable time shall constitute reasonable compliance with this Contract.

**FINANCIAL RESPONSIBILITY** Reasonable doubt as to the Client's financial responsibility to make payment due under this Contract shall entitle the Contractor to suspend performance or terminate (see "Client's Default: Termination" below) this Contract without liability to the Contractor until the Client shall have satisfied the Contractor of its continuing financial responsibility. Such action by the Contractor shall not alter Client's obligations hereunder and partial work completed shall be conclusively deemed to be separate contracts governed by the terms of this Contract.

**CLIENT'S DEFAULT: TERMINATION**

- A. Client shall be liable to Contractor for all damages or loss including loss of reasonable profits, and for the costs and expenses including attorney's fees sustained by the Contractor and arising from Client's default under or breach of any of the terms and conditions of this Contract. In the event of any such default or breach, Contractor may, without any obligation or liability of Client, terminate this Contract forthwith by written notice to Client and such action by Contractor shall not be deemed to waive any right or remedy with respect to any default or breach. If Contractor, in the event of such default or breach, has substantially completed the work specified in this Contract, Contractor's damages shall be no less than the price specified in this Contract.
- B. The institution of any proceedings by or against Client, voluntarily or involuntarily, under bankruptcy or insolvency laws or for the appointment of a receiver or trustee or assignee for the benefit of creditors shall be deemed an event of default under this Contract. Further, it shall be an event of default under this Contract should Client fail to make any payment required thereunder within thirty (30) days following the date specified thereof.

**EXCUSABLE DELAY: FORCE MAJEURE** Contractor shall be excused for delay in completion and may suspend performance of this Contract without liability to Client in the event and to the extent of "force majeure" which shall include the occurrence or existence of : acts of God, war, the public enemy, mobilization, riots, strikes, lockout, work stoppage or other labor difficulties, fire, flood, explosion, accident, embargoes, the acts of governmental or political subdivisions thereof, weather, governmental priorities, or any other abnormality, contingency, or cause beyond the control of the Contractor which adversely affects its ability to perform.

**DELAY: SUSPENSION** Unless occasioned by fault of the Contractor, any delay in the project which necessitates the removal and/or subsequent re-mobilization of the Contractor's work crew and/or equipment including but not limited to Client's default, unforeseen work conditions, or changes in work scope will result in expenses payable by the Client. In the event the project is not resumed within thirty (30) days, Contractor shall be relieved of all obligations and liabilities resulting from cessation of the work and shall be entitled to pursue any and all remedies available to the Contractor in law or equity for such termination.

**LIABILITY** Contractor does not disclaim responsibility, in accordance with generally accepted principles of law, for direct damages suffered by the Client resulting from the Contractor's failure to perform in accordance with the provisions of this Contract. Contractor's obligation and responsibility under this Contract for alleged negligence shall not extend to indirect, punitive, special, or

consequential damages, or to losses Client may suffer or incur in connection therewith such as but not limited to loss of revenue or profits, damages or losses as a result of Client's inability to operate, shutdown of its plant or operations, loss of the use of the facilities or services or inability to fulfill contracts with third parties.

**TECHNICAL RESPONSIBILITIES** Unless expressly stated otherwise, this contract does not include engineering or inspection services by an individual registered by a state or other jurisdiction.

**INSURANCE** Contractor agrees to maintain the following minimum insurance coverage throughout the duration of this Contract: Workman's Compensations-statutory; Property Damage, Bodily Injury and Automobile-\$1,000,000.

**TERMINATION** Except as otherwise expressly provided herein, this Contract is not subject to Termination in part or whole.

**ASSIGNMENT** Neither this Contract in its entirety nor any rights or interest therein may be assigned by either party without prior agreement by other party.

**CONTRACTOR'S PERFORMANCE** The work to be performed involves specialty, technical, engineering, and maintenance service and shall be performed by the Contractor's own personnel. Prices do not include "standby", "work-in-harmony", or other personnel or wage rates which may be imposed by local trade agreements.

**LAW** This Contract and Client's acceptance thereof shall be interpreted in accordance with the laws of the State in which the work takes place.

**GUARANTEE** Contractor guarantees that the work shall be performed in a skillful and workmanlike manner, free of defects in workmanship, and in conformance with the contract documents. Contractor's guarantee is limited by the "Liability" section and expressly does not include warranties of merchantability and fitness. Contractor's liability for its guarantee hereunder shall be limited to remedying, at its own expense, any defect in the workmanship. Client shall notify Contractor of any defect in materials or workmanship promptly after discovery of the condition.

**SUB-SURFACE OR LATENT CONDITIONS** Contractor shall not be responsible for damages to underground or concealed pipes, conduits, lines, cables, sewers, tanks, and the like or any other sub-structure unless accurately identified and marked by the Client. Client shall hold harmless and indemnify Contractor for any claim, loss, or delay caused by a failure to accurately identify or mark such sub-surface or latent conditions.

**PERMITS: APPROVALS** The Client shall secure and pay for necessary approvals, easements, assessments, and charges required for the work. Further, Client shall secure and pay for any building permit and for all other permits and governmental fees, licenses, and inspections necessary for the proper execution and completion of the work including those which are customarily secured after execution of the work.

**ARBITRATION** Any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof. By initial of these Terms and Conditions, Client and Contractor specifically acknowledge this Arbitration Clause.

BY: \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND ENTER INTO CONTRACT WITH VALMONT INDUSTRIES, INC., FOR THE PRODUCTION OF A NEW STEEL ANTENNA TOWER TO REPLACE THE CURRENT HORNHILL ANTENNA TOWER AND WAIVING COMPETITIVE BIDDING**

**WHEREAS**, the City has an antenna tower located at Horns Hill Park which is in critical need of repair; and,

**WHEREAS**, Valmont Industries, Inc., specializes in creating vital infrastructure including antenna towers; and,

**WHEREAS**, due to the specialized nature of the project as well as the availability of steel, it is in the best interest of the City to directly enter into contract with Valmont Industries, Inc., without competitive bidding, for the production of a new steel antenna tower; and,

**WHEREAS**, this matter was considered in regular session by the Service Committee who voted to refer the same to full Council for consideration.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING AND STATE OF OHIO, THAT:**

**Section 1:** The Director of Public Service is hereby authorized to negotiate and enter directly into contract with Valmont Industries Inc., for the production of a new steel antenna tower, subject to the appropriation of funds.

**Section 2:** It is in the best interest of the City and its residents that competitive bidding not be required in this matter and the same is hereby waived pursuant to Article 10.02 of the Charter of the City of Newark, Ohio.

**Section 3:** This resolution shall become effective at the earliest time permitted in accordance with Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Date Filed with Mayor: \_\_\_\_\_

Date Approved by Mayor: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Form Approved: \_\_\_\_\_  
Director of Law



# Quotation

Quote Number : 594587-05

Created : 12/8/2023 9:40:09 AM

Revised :

Valmont Industries, Inc.  
1200 N. Oak Road  
Plymouth, IN 46563

Prepared for :	City of Newark	Address1 :	40 W. Main ST
Attention :	Jeff Hotchkiss	Address2 :	
Budgetary :	No	City :	Newark
RFQ :		State :	OH
		Zip :	43055
		Phone :	
		Email :	jhotchkiss@newarkohio.net
Project :	Newark, OH 410' SST		

**NOTICE**  
Quoted prices will be held firm for 15 days. Prices are subject to change if product is not shipped within 2 months of Purchase Order receipt.

Item	Description	Qty	Unit Price
1	H38 X 410' SST  Self-supporting tower constructed of sold steel members transition to tubular steel members. 36 ft. center to center distance between legs; triangular construction. Standard material included with H-series tower: Hot dipped galvanized sections and components Solid rod and Tubular construction of tower sections Angular support bracing Tower assembly hardware Hot dipped galvanized tower assembly hardware Horizontal members for climbing on solid rod lattice legs in lieu of Step bolts. Step Bolts provided on all three tower legs on pipe leg section up to a 9' wide section. Step bolts provided on one leg for sections 7' wide and narrower.  - (1) Standard TIA Grounding - (1) Adjustable Lightning Rod included - (1) Tuf Tug Safety Climb System with one Trolley, no Belt - 2 Beacon mount and 2 mid-level beacon mounts with 2 mid level beacon ice shields - (1) 9 line waveguide ladder 40" vertical rung spacing  SEE EXCEPTIONS ON FOLLOWING PAGES...	1	\$202,883
2	TOWER & FOUNDATION DESIGN DRAWINGS PE STAMPED  Engineering drawings per design, to be P.E. sealed by a Registered Professional Engineer  (3 sets are standard, if more are required please indicate on order) Custom foundation (unit base or drilled caisson) if soil report is supplied (3 drawing sets are standard, if more are required please indicate on order). Rock foundations may incur additional charges. Price is for one site/soils report to be provided by the customer.	1	\$1,000
3	ANCHOR STEEL	1	\$5,078
		<b>3</b>	<b>\$208,961</b>

## NOTES



# Quotation

Quote Number : 594587-05

Created : 12/8/2023 9:40:09 AM

Revised :

Valmont Industries, Inc.  
1200 N. Oak Road  
Plymouth, IN 46563

<b>ANTENNA LOAD</b>	Reference Designed Appurtenance Loading per Preliminary Tower Design.	
<b>DELIVERY</b>	Estimated lead time is 6 to 8 weeks. Please note that lead times are estimated and can fluctuate due to production capacity. Please contact customer service to verify current lead times or if a better delivery date is possible when placing an order. A complete soil report and plot plan (for guyed towers) must be received by Valmont prior to manufacturing.	
	Anchor Steel Delivery: Advance notice is required: estimated 10 business days for standard bolts and 21 business days for guyed tower and non-standard bolts. Please note that lead times are estimated and can fluctuate due to production capacity.	
<b>FREIGHT</b>	Due to the current volatility in the shipping markets, we are unable to guarantee the estimated freight rate(s) on this quote. Final freight will be determined at time of shipment.	
	Estimated anchor steel freight shipped direct from our supplier. Average anchor steel lead time is 3 to 4 weeks.	\$500.00
	Estimated Freight with unloading of truck by others to the nearest access point to the site via flat bed tractor trailer. Any special handling by others. (3)truck(s) required. If anchor steel is shipped prior to tower, additional freight charges will be invoiced. All material prices are FOB point of manufacture.	\$4,500.00
<b>GENERAL</b>	It is the customers responsibility to inform Valmont Structures if this project is federally funded and if the "Buy America Act" or "Buy American Act" applies. Valmont reserves the right to re-quote if either of these "Acts" are applicable.	
<b>INSTALLATION AND MATERIALS BY OTHERS</b>	Ground bars by others. Any special grounding requirements by others. Mounts and tower lighting by others unless purchased as option. Foundation Installation (Including Rebar & Concrete) and tower erection by others.	
<b>MATERIAL PRICE</b>	Due to material price fluctuations, Valmont reserves the right to review all material pricing prior to accepting any order. Any order placed on hold is subject to a price review at the time of its release.  Valmont may be required by state law to collect Sales/Use Tax at the time of shipment. If required, this tax will appear as a separate item on the invoice. If you have a tax exempt certificate, submit it at the time of order.	
<b>OPTIONAL MATERIALS</b>	1- IB24D-T3 (10' x 24" Ice Bridge Triple Coax 24 Run 13'-4" Burial)	\$1,970.00
	FAA E-2+1 LED Dual Medium Intensity Light System - Includes top LED beacon, beacon plate, (2) mid-level LED beacon with attachment and ice shields, controller, SO cord, photo cell, alarms and all necessary hardware. Flash Technology E-2 LED FTS370d SMART (351'-500') Includes (2) Beacons at the Top (W/IR)	\$31,104.00
	1- PSA6 (6' Stand Off Mount Kit)	\$572.00
	1- BOG6 SD 6' Side Arm	\$2,355.00
	1- R5 Universal Pipe Mounts 4.5"O.D. X 72" Pipe (1.5"-4.5" O.D. members)	\$725.00
	1- HS6-K (6' HD Stand Off Mount Kit) (1.5"-4.5" O.D. members)	\$953.00





**COMMUNICATIONS  
STANDARD TERMS AND CONDITIONS OF SALE**

**AGREEMENT:** This document ("Document") contains the standard terms and conditions of sale by Valmont Industries, Inc. ("Supplier"), to Purchaser, of products, materials, other goods, equipment, operations, or services ("Product"). If this Document is a quotation, then the offer contained herein shall remain open for thirty (30) days from the date it was issued, unless otherwise specified, and Purchaser shall be deemed to have accepted the offer and terms and conditions contained herein upon the earlier of: (1) Purchaser's signature and return of this Document to Supplier by fax or any other means; (2) Supplier's receipt of any order or any other writing from Purchaser indicating Purchaser's acceptance and agreement to the terms hereof; or (3) Purchaser's acceptance of any shipment of Product. Whether this Document is a quote, an invoice, or otherwise, the terms and conditions of the parties' agreement shall consist solely of the terms and conditions contained in this Document, together with any separate written agreement previously executed by both Purchaser and Supplier, any invoices generated in connection herewith, and any written addenda to the foregoing that are signed by Purchaser and Supplier (all of which are hereinafter collectively referred to as the "Agreement"). Any additional or different terms contained in any order or other document submitted by Purchaser to Supplier shall be deemed rejected, unless expressly accepted in writing by Supplier. In no event shall Supplier's silence or failure to respond to any such additional or different terms be deemed to constitute acceptance or approval thereof. If this Document is a quotation, then failure of the Purchaser to reject these terms and conditions in writing upon the first to occur of the receipt of this or any other document from or on behalf of the Supplier containing these terms and conditions or the delivery of Product pursuant to the Agreement shall constitute final acceptance of the terms and conditions hereof. To the extent this invoice is in any way deemed to be an acceptance of an offer of the Purchaser, any such acceptance of the Supplier is expressly conditioned upon the consent of the Purchaser to the terms and conditions of the Agreement.

**MODIFICATIONS, RESCISSION & CANCELLATION:** The Agreement may be modified or rescinded only in writing signed by duly authorized representatives of the parties. For any changes requested by Purchaser to the specification, style, or quantity of the Product, Purchaser shall pay the Supplier a charge equal to the actual additional cost incurred by the Supplier as a result of such change plus a reasonable percentage of such actual cost for overhead and profit. Orders may be canceled only with Supplier's written consent and upon terms which will save Supplier from loss, including all out-of-pocket costs and lost profits.

**LIMITED WARRANTY:** Supplier warrants the Product to be free of material and workmanship defects for a period of two years from the date of shipment, but said warranty is limited to material and workmanship of Product designed and manufactured by the Supplier. For any product manufactured using items supplied by Purchaser or Purchaser's designee, Supplier makes no warranty concerning the design, fabrication, or manufacture of the items supplied. Such items shall carry only the respective designer's, fabricator's, or manufacturer's warranty, if any. For product manufactured or fabricated by Supplier according to specifications or designs provided by Purchaser or Purchaser's designee, Supplier makes no warranty concerning the adequacy or sufficiency of the specifications or designs themselves. All warranty claims alleging defects of materials or workmanship must be submitted in writing within seven (7) days after the discovery of the defect or such claim shall be considered waived. Supplier will not accept Product returned to it for repair or replacement, unless Supplier is previously notified of the defect in writing and the return or correction is authorized by Supplier in writing. Any Product deemed by Supplier, in its sole discretion, to be defective in material or workmanship will be repaired or replaced, at Supplier's option, F.O.B. Supplier's plant. Supplier's obligation to repair or replace any defective Product shall not include any obligation to reimburse the Purchaser for transportation, installation, removal, unauthorized repairs, or any other expenses that may be incurred by the Purchaser or others in relation to any Product defect. **THIS WARRANTY EXCLUDES (I) FATIGUE FAILURE OR SIMILAR PHENOMENA RESULTING FROM INDUCED VIBRATION, HARMONIC OSCILLATION OR RESONANCE ASSOCIATED WITH MOVEMENT OF AIR CURRENTS AROUND THE PRODUCT. FURTHER, LABOR REQUIRED TO REMOVE AND/OR REINSTALL ORIGINAL OR REPLACEMENT PARTS SHALL BE THE RESPONSIBILITY OF THE CUSTOMER; (II) DAMAGE CAUSED BY IMPROPER INSTALLATION, OVERLOADING, MISUSE, ABUSE, ACCIDENT OR NEGLIGENCE.** In addition, this warranty does not cover alterations, modifications, or additions unless the change is acknowledged and accepted, in advance in writing, by Valmont; and (iii) if the products are to be used on an existing foundation or on other structures, the customer assumes all responsibility for the structural integrity of the existing foundation, anchorage or structures and all the consequences arising therefrom.

**THE FOREGOING WARRANTIES ARE THE ONLY WARRANTIES GIVEN BY SUPPLIER, AND SUPPLIER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING FROM STATUTE, COMMON LAW, CUSTOM, COURSE OF DEALING, USAGE OF TRADE, OR OTHERWISE. THE REMEDY OF REPAIR OR REPLACEMENT OF THE DEFECTIVE PRODUCT SET FORTH IN THE FOREGOING WARRANTIES SHALL BE THE EXCLUSIVE REMEDY AVAILABLE TO ANY PERSON. SUPPLIER SHALL NOT BE LIABLE FOR ANY LOSS, INJURY, EXPENSE, OR DAMAGE, WHETHER DIRECT, CONSEQUENTIAL, INCIDENTAL, OR OTHERWISE (INCLUDING LOST PROFITS, LOSS OF CONSTRUCTION BONUS OR INCENTIVES), RESULTING FROM THE POSSESSION, INSTALLATION, ERECTION, START-UP, USE, MAINTENANCE, OPERATION, REMOVAL, OR RESALE OF SUPPLIER'S PRODUCT OR CAUSED BY ANY DEFECT, FAILURE, OR MALFUNCTION OF ANY PRODUCT, WHETHER A CLAIM FOR SUCH DAMAGES IS BASED UPON WARRANTY, CONTRACT, NEGLIGENCE, OR OTHERWISE. NO PERSON HAS THE AUTHORITY TO BIND THE SUPPLIER TO ANY REPRESENTATION OR WARRANTY OTHER THAN THE FOREGOING LIMITED WARRANTIES AS DISCLAIMED.**

**DELIVERY, FREIGHT & RISK OF LOSS:** All products are sold F.O.B. factory, full freight allowed within the continental United States, consisting of the lower 48 contiguous states, unless otherwise specified in writing. For shipment destinations outside the continental U.S., freight charges will be prepaid to the nearest port of exit with all other applicable charges from said point of delivery being the responsibility of the customer, unless otherwise noted. The method of shipment will be solely determined by Valmont, using a common carrier of Valmont's choice and delivered to the nearest destination. The customer assumes and will pay all charges for special services such as cartage, airfreight, express deliveries, parcel post and multiple deliveries on one order. For orders less than \$1,500, freight may not be included and may be prepaid and charged to the customer. Orders below \$500 may incur a processing fee. Freight charges for anchor bolts or accessories shipped independent of the structures (at the customer's request) may be billed separately and paid by the customer, unless otherwise specified in writing. Risk of Loss, including transportation delays and losses, shall pass to Purchaser upon the earlier of (i) completion of the Product's manufacture, if shipment is delayed by Purchaser, (ii) delivery of the Product to the Purchaser in cases where shipment is F.O.B. destination, or (iii) delivery of the Product to the carrier in cases where shipment is collect or is F.O.B. point of shipment.

**PRICING:** All prices and discounts are subject to change without advance notice except those shown on a specific quotation indicating the prices to be firm for thirty (30) days from the date of the quotation. For quotations accepted by Purchaser, Purchaser agrees that if the contract documents or designs or the prices of raw materials change from that contained in the quotation, Supplier has a right to charge additional compensation for increased costs, including, without limitation, costs related to freight and raw materials, as well as for increased margin associated therewith. Orders delayed or put on customer hold may not be price protected beyond the date of a general price increase announcement.

**RETURNS & CLAIMS FOR SHORTAGES:** Supplier will not accept returns for custom-made Product for any reason, provided that Supplier will accept returns made solely for repair or replacement under the foregoing express warranties, but only if Supplier has previously authorized said returns in writing. Standard (non-custom) Product may not be returned without the written consent of Supplier obtained within thirty (30) days after shipment, and only upon the following conditions: (i) all returned Product must be in excellent and merchantable condition and in the original packaging; (ii) the outbound and return freight must be pre-paid; and (iv) the return is subject to certain charges depending on current pricing and product. All claims for shortages must be made in writing within 30 days of receipt of shipment at destination.

**PRODUCT SHIPPED WITH PROTECTIVE COVERING:** Product received at the point of destination with protective covering should be unwrapped immediately and inspected. Any exposure to moisture during transportation or storage may cause the wrapping materials to stain the Product. Product is wrapped for protection during shipment.

**INSTALLATION:** Purchaser shall be solely responsible at its cost for the installation and erection of the Product purchased. Although Supplier may, in some cases, provide data, manuals, instructions, designs, drawings or specifications to aid Purchaser with installation or start-up, **SUPPLIER ASSUMES NO RESPONSIBILITY FOR PROPER INSTALLATION OR SUPPORT OF THE PRODUCT WHEN ERECTED AND DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO SUCH INSTALLATION OR SUPPORT, WHETHER OR NOT DATA, MANUALS, INSTRUCTIONS, DESIGNS, DRAWINGS OR SPECIFICATIONS ARE PROVIDED.**

**DELAYS:** Supplier will deliver or ship with reasonable promptness, but shall not be liable for delays for any reason beyond the Supplier's reasonable control, including, but not limited to, delays caused by acts of God, war, riot, embargoes, acts of civil or military authorities, fires, floods, accidents, quarantine restrictions, mill conditions, strikes, differences with workmen, delays in transportation, shortages of cars, fuel, labor or materials. **IN ANY SUCH EVENT, SUPPLIER SHALL HAVE SUCH ADDITIONAL TIME WITHIN WHICH TO PERFORM AS MAY BE REASONABLE AND NECESSARY UNDER THE CIRCUMSTANCES, AND SUPPLIER SHALL NOT BE LIABLE TO PURCHASER FOR ANY DAMAGES ARISING FROM SUCH DELAYS, LOSS OF USE OR FOR OTHER DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND WHATSOEVER. IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OR CLAIMS FOR LABOR RESULTING FROM FAILURE OR DELAY IN DELIVERY.**



**CREDIT APPROVAL & SECURITY FOR PAYMENT:** Acceptance of any offer of Supplier is subject to Supplier's approval of Purchaser's credit, and Supplier may at any time decline to make any shipment or delivery, or to perform any services, except upon receipt of payment or security, or upon such other terms as may be satisfactory to Supplier. To secure the payment of any and all amounts due Supplier under this Agreement or any other contract between the parties, Supplier retains and the Purchaser grants to Supplier a security interest in the Product purchased hereunder and agrees to execute and deliver to Supplier such financing statements or to take any other action necessary to perfect Supplier's security interest as Supplier may reasonably request.

**TERMS, INVOICES, PAYMENT, LATE CHARGE & TAXES:** Payment terms are NET thirty (30) days from the date of Supplier's invoice, unless otherwise specified and approved in advance in writing from the Valmont Credit Department. Invoices will be rendered upon delivery of each order to Purchaser. All payments shall be made to the "remit to" location as stated on the Supplier's invoice. Supplier reserves the right to invoice, and Purchaser agrees to pay for, any or all Product ready for shipment, together with expenses, costs, and losses associated therewith, whenever shipment is delayed pursuant to Purchaser's written instructions or for other reasons beyond Supplier's control. Invoices for anchor bolts shipped in advance of the structures may be billed at the time of such anchor bolt shipment. A monthly late charge of 1.5% of the invoice amount or \$50, whichever is greater, will be assessed on all past-due amounts. Any tax or other charge imposed by law on the sale of goods or the performance of services shall be paid by the Purchaser, unless the law specifically provides that such payment must be absorbed by Supplier. Purchaser shall inform the Supplier, in advance in writing, of such taxes or other charges imposed by state, municipal, or other law that are to be paid by the Supplier.

**DEFAULT OF PURCHASER:** In the event that (i) Purchaser fails to pay any invoice when due; (ii) Purchaser breaches this Agreement or any other contract with Supplier or any of its affiliated companies; or (iii) Purchaser's financial strength becomes unsatisfactory, Purchaser shall thereby be in default, and Supplier reserves the right, in its sole discretion, to do any one or more of the following: (i) cancel this Agreement and any work in progress, shipments, and pending orders without further notice; (ii) declare all sums owing from Purchaser to Supplier to be due and payable; (iii) require payment in advance of performance, in certified funds; (iv) foreclose any security interest; (v) require other security satisfactory to Supplier. Purchaser shall be liable to Supplier for any and all damages, whether direct, indirect, consequential, special or any other kind of damages, caused by or arising out of any breach of this agreement, provided that the exercise of any rights under this contract shall not bar Supplier from exercising its rights under the UCC or any other applicable law. The Purchaser waives any applicable statutory exemptions and shall pay all expenses incurred by Supplier in the collection of the amounts due under the Agreement, including attorneys' fees.

**INDEMNIFICATION & GOVERNING LAW:** Purchaser shall indemnify and hold Supplier harmless from all expenses (including attorneys' fees), claims, demands, suits, judgments, actions, costs, and liabilities (including without limitation those alleging Supplier's own negligence) which may arise from, relate to, or be connected with the Purchaser's possession, installation, erection, start-up, use, maintenance, operation, removal, or resale of the Product described herein and any manuals, instructions, designs, drawings or specifications related thereto. All disputes relating to the execution, interpretation, construction or enforcement of the rights and obligations of the parties hereto shall be governed by the laws of, and resolved in the State and Federal courts in the State of Nebraska, and the parties hereby consent to venue in Omaha, Nebraska. **THE PURCHASER AND SUPPLIER EACH HEREBY WAIVE THEIR RIGHT TO A TRIAL BY JURY ON ANY CLAIM (INCLUDING COUNTERCLAIMS) ARISING WITH RESPECT TO THE GOODS PURCHASED HEREUNDER.** Any lawsuit based on or related in any way to the Agreement or the Product described therein must be commenced within two (2) years after delivery of the Product or other goods to the Purchaser or it shall be barred.

RESOLUTION NO. 24-106

BY: \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO, TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR CONSTRUCTION OF A NEW SOUTHWEST PRESSURE ZONE WATERLINE EXTENSION.**

**WHEREAS**, the City of Newark operates a water distribution system that includes the Southwest Pressure Zone; and,

**WHEREAS**, this pressure zone has parcels for future development that are currently not serviced by a City water line; and,

**WHEREAS**, detailed plans and specifications for the aforementioned improvement project are being prepared and will be available for review in or through the Director of Public Service office; and,

**WHEREAS**, due to the current proposed expansion in the zone there is a need for a waterline extension to service developing properties to ensure reliable service and,

**WHEREAS**, the Public Service Committee of the Newark City Council met on November 18, 2024 and approved submission of the legislation to full Council for its further consideration.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, AND STATE OF OHIO, THAT:**

Section 1: The Director of Public Service is hereby authorized and directed to advertise for bids and enter into contract, subject to the appropriation of funds, for the construction of a waterline extension in the Southwest Pressure Zone.

Section 2: This resolution shall become effective at the earliest time permitted in accordance with Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

DATE FILED WITH MAYOR: \_\_\_\_\_

DATE APPROVED BY MAYOR: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

FORM APPROVED: \_\_\_\_\_  
DIRECTOR OF LAW

Prepared by the Division of Water and Wastewater

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**W W DIVISION OF WATER & WASTEWATER W W**

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Brandon Fox  
Utilities Superintendent  
740-670-7945

34 South 5<sup>th</sup> Street  
P. O. Box 4100  
Newark, Ohio 43058-4100

**MEMORANDUM**

**TO:** Jeff Rath, Chairman  
Public Service Committee

**FROM:** Brandon Fox   
Water Administrator

**SUBJECT:** Service Committee Agenda

**DATE:** November 13, 2023

**COPIES:** Mayor, Service Director, Clerk of Council, Beth Bline, Spencer Barker,  
Cheri Hottinger, Jeff Harris, file

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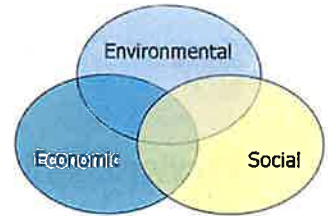
I would appreciate some time on the next Service Committee agenda to present the following resolution.

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO, TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR CONSTRUCTION OF A NEW SOUTHWEST PRESSURE ZONE WATERLINE EXTENSION.**

**Department of Public Service**

**Division of Water and Wastewater**

**Request for Legislation**



***Project Title: Southwest Pressure Zone Waterline Extension***

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO, TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR CONSTRUCTION OF A SOUTHWEST PRESSURE ZONE WATERLINE EXTENSION.**

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**Background/Purpose:**

This Waterline extension is part of the Division of Water and Wastewater Master Plan developed in 2002. The plan is to connect to existing waterline west of Faye Drive/Thornwood Drive intersection and extend the waterline west and north to Park Ridge Subdivision. This waterline would provide a secondary feed for the current customers on River Road as well as future development in the area. A transmission water line is a large diameter pipe with few individual service connections that can transport a large volume of water to a particular area of the distribution system. This waterline was originally designed in 2006 but was never constructed. Phase 1 is approximately 1,700 feet of 16" water line west of Faye Drive/Thornwood Drive intersection and Phase 2 is approximately 4,500 feet of 12" water line north to Park Ridge Subdivision, which will create a loop for Park Ridge, Park Trails and River Road customers.

**Scope of Work:**

The Division of Water and Wastewater, through the Director of Public Service, is requesting authorization to enter into a construction agreement for this project. The project was designed in 2006. It is anticipated Bond funds will be used for this project.

**Justification/Urgency:**

Phase 1 is priority and anticipated bid and award to be 2<sup>nd</sup> quarter 2024. We believe construction on this project will begin in the second quarter of 2024 and last. Phase 2 construction date is yet to be determined based on need and funding.

**Anticipated Costs and funding source:**

The current estimated cost for Phase 1 of this project is approximately \$400,000. Funding for this project will be with water funds and a Revenue Bond.

**Schedule or Term of Contract:**

Legislation is needed at this time to bid, award and enter into a construction agreement with a general contractor. This project will be for approximately \$400,000 for Phase 1 and \$1,300,000 for Phase 2.

**Current Contract(s):**

N/A

**Previous Contract(s):**

N/A

**Request Initiated by:**

Brandon Fox, Water Administrator ([bfox@newarkohio.net](mailto:bfox@newarkohio.net) - 670-7945)

RESOLUTION NO. \_\_\_\_\_

BY: \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO, TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR CONSTRUCTION OF A NEW SOUTHWEST PRESSURE ZONE WATERLINE EXTENSION.**

**WHEREAS**, the City of Newark operates a water distribution system that includes the Southwest Pressure Zone; and,

**WHEREAS**, this pressure zone has parcels for future development that are currently not serviced by a City water line; and,

**WHEREAS**, detailed plans and specifications for the aforementioned improvement project are being prepared and will be available for review in or through the Director of Public Service office; and,

**WHEREAS**, due to the current proposed expansion in the zone there is a need for a waterline extension to service developing properties to ensure reliable service and,

**WHEREAS**, the Public Service Committee of the Newark City Council met on November 18, 2024 and approved submission of the legislation to full Council for its further consideration.

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Section 2: This resolution shall become effective at the earliest time permitted in accordance with Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

DATE FILED WITH MAYOR: \_\_\_\_\_

DATE APPROVED BY MAYOR: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

FORM APPROVED: \_\_\_\_\_  
DIRECTOR OF LAW

Prepared by the Division of Water and Wastewater