

FAIRFIELD TOWNSHIP
RESOLUTION NO. 18-71

**RESOLUTION AUTHORIZING ADMINISTRATOR TO EXECUTE CONTRACT
WITH CINCINNATI UNITED CONTRACTORS, LLC FOR THE BUILDING OF THE
NEW FIRE STATION, AT A TOTAL COST OF \$3,992,555.00.**

WHEREAS: The Township has been working to replace the current Fire Station on Tylersville Road and the Trustees advertised for design build proposals; and

WHEREAS: Bids were received and after careful review the Cincinnati United Contractors, LLC, was the most responsive and responsible bid and was therefore accepted; and

WHEREAS: Their proposal meets the request of the Township and it is recommended that we enter into a contract for the construction of a Fire Station; and

WHEREAS: This project is a design build which sets the maximum cost to the contract amount if no additional changes are made to the design; and

WHEREAS: Appropriations have been made within these Funds - Fund No.1000-760-720 for \$500,000.00 and Fund No. 2906-760-720 in the amount of \$3,500,000;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of Fairfield Township, Butler County, Ohio, as follows;

SECTION 1: The Board hereby authorizes the Administrator to execute the contract with Cincinnati United Contractors, LLC., for building of the new Fire Station, at a total cost of \$3,992,555.00, attached hereto as Attachment "A".

SECTION 2: The Board hereby dispenses with the requirement that this resolution be read on two separate days, pursuant to RC 504.10, and authorizes the adoption of this resolution upon its first reading.

SECTION 3 This resolution is the subject of the general authority granted to the Board of Trustees through the Ohio Revised Code and not the specific authority granted to the Board of Trustees through the status as a Limited Home Rule Township.

SECTION 4: That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in meetings open to the public, in compliance with all legal requirements including §121.22 of the Ohio Revised Code.

SECTION 5: This resolution shall take effect at the earliest period allowed by law.

Adopted: April 25, 2018

Board of Trustees

Vote of Trustees

Susan Berding: Susan Berding

yes

Shannon Hartkemeyer: Shannon Hartkemeyer

yes

Joe McAbee: Joe McAbee

yes

AUTHENTICATION

This is to certify that this is a resolution which was duly passed, and filed with the Fairfield Township Fiscal Officer this 25th day of April, 2018.

ATTEST:

Shelly Schultz
Shelly Schultz, Fairfield Township Fiscal Officer

APPROVED AS TO FORM:

L.E. Barbieri
Lawrence E. Barbieri, Township Law Director

FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR
For Construction Projects of Limited Scope where the Basis of Payment is a Stipulated Sum

AGREEMENT made as of the _____ day of April in the year Two Thousand and Eighteen.

Between the Owner: Fairfield Township Board of Trustees
6032 Morris Road
Hamilton, Ohio 45011

and the Contractor: Cincinnati United Contractors, LLC.
7143 East Kemper Road
Cincinnati, Ohio 45249

The Project: Fairfield Township Fire Station 212

The Site: Gilmore Road, Hamilton, Ohio 45011

The Owner, a township organized under the laws of the State of Ohio, and the Contractor, an Ohio corporation, agree as set forth below.

ARTICLE 1
THE WORK

- 1.1** The Contractor shall perform all of the Work required by the Contract Documents for the construction of a new 15,750 square foot fire station to be located on Gilmore Road in Fairfield Township, Ohio.

ARTICLE 2
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 2.1** The Work to be performed under this Agreement shall be commenced upon execution of this Agreement and, subject to adjustments as set forth herein, Substantial Completion (as defined in Paragraph 14.2) shall be achieved not later than 259 days from the issuance of a building permit (the "Contract Time"). The Contract Time does not include any allowance for days lost to bad weather, which may extend the Contract Time.
- 2.2** The Contractor shall not be required to proceed or continue with the Work prior to, or in the absence of, evidence satisfactory to the Contractor that the Owner has secured funds or financing dedicated to the Contractor's behalf in an amount sufficient for the entire Contract Sum (as defined in Article 3).

ARTICLE 3
CONTRACT SUM

- 3.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Work the sum of: **THREE MILLION NINE HUNDRED NINETY TWO THOUSAND FIVE HUNDRED FIFTY FIVE DOLLARS AND ZERO CENTS (\$3,992,555.00)**, subject to additions and deductions by Change Order as provided herein (the "Contract Sum"). See below cost summary / break down.

Base Bid	\$3,570,436
Alternate #1 - Add plymovent system	\$135,000
Alternate #4 - Add stamped concrete patio	\$23,500
Alternate #5 - Add window shades	\$7,800
Alternate #7 - Add mesh to apparatus bay slab	\$6,500
Alternate #8A - Add soil chemical treatment allowance	\$30,000
Alternate #8B - Add undercut allowance	\$50,000
Alternate #9 - Temporary heating / tenting allowance	\$20,000
Alternate #10 - Electric provider fee allowance	\$30,000
COR #1 - Add option A	No Charge
COR #1 - Add option B	No Charge
COR #1 - Add option C	No Charge
COR #1 - Add option D	\$2,680
COR #1 - Add option E	\$1,850
COR #1 - Add option F	\$3,000
COR #1 - Add option G	\$6,600
COR #1 - Add option H	\$600
COR #2 - Add option B	\$8,960
COR #3 - Add option B	\$55,629
<u>COR #4 - Add owner allowance for future scope items</u>	<u>\$40,000</u>
CONTRACT TOTAL	\$3,992,555.00

ARTICLE 4
PROGRESS PAYMENTS

- 4.1 Based upon Applications for Payment submitted by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor within ten (10) days after receipt of each Application for Payment.
- 4.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.
- 4.3 The Owner shall withhold retainage of 5% of each payment until the total retainage amount equals 2 1/2% of the total contract amount.

ARTICLE 5
FINAL PAYMENT

- 5.1 Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when the Work has reached Substantial Completion (as defined in Paragraph 14.2) and a final Application for Payment has been issued by the Contractor, less any retainage being held for uncompleted work or punch list items. Final Payment shall be due within ten (10) days after receipt of such final Application for Payment.
- 5.2 Any Payment due and unpaid shall bear interest from the date payment is due at the rate of US Bank, National Association's published "Prime Rate" plus one half percent (1/2%) for thirty (30) days thereafter. After such thirty (30) day period, payments due and unpaid shall bear interest at the rate of five one hundredths of one percent (0.05%) per day.
- 5.3 Any funds withheld for uncompleted Work after Substantial Completion shall be itemized along with the associated amount withheld. Payment for each Work item on which funds are being withheld shall be paid within ten (10) days after such Work item has been completed and an Application for Payment has been issued by the Contractor.

ARTICLE 6
ENUMERATION OF CONTRACT DOCUMENTS

- 6.1 The Contract Documents, which constitute the entire agreement between the Owner and the Contractor, are further defined in Article 7 and, except for modifications issued after execution of this Agreement, are enumerated as follows:
 - A. This executed Form of Agreement between Owner and Contractor
 - B. Proposal Letter issued by Cincinnati United Contractors, LLC., dated March 22, 2018
 - C. Proposal Cost Form issued by Cincinnati United Contractors, LLC., dated March 22, 2018
 - D. Project Schedule issued by Cincinnati United Contractors, LLC., dated April 16, 2018
 - E. Blanket Tax Exemption Certificate issued by Fairfield Township, dated April 17, 2018
 - F. COR #1A issued by Cincinnati United Contractors, LLC., dated April 19, 2018
 - G. COR #2 issued by Cincinnati United Contractors, LLC., dated April 19, 2018
 - H. COR #3 issued by Cincinnati United Contractors, LLC., dated April 25, 2018
 - I. COR #4 issued by Cincinnati United Contractors, LLC., dated April 25, 2018
 - J. The following Drawings (collectively, the "Drawings"):

Title	Issued By	Date
3D Color Rendering	CUC, LLC.	3/21/18
Preliminary Site Plan	CUC, LLC.	3/21/18
Preliminary Truck Turn Study	CUC, LLC.	3/21/18
Preliminary Floor Plan	CUC, LLC.	3/21/18
Preliminary East & West Elevations	CUC, LLC.	3/21/18
Preliminary North & South Elevations	CUC, LLC.	3/21/18

GENERAL CONDITIONS

ARTICLE 7 CONTRACT DOCUMENTS

- 7.1** The Contract Documents, which constitute the entire agreement between the Owner and the Contractor, consist of this Agreement with General Conditions (Sections 7.1 through 21.3 hereof), the Drawings, the Specifications and any modifications issued after execution of this Agreement such as Change Orders and written orders for minor changes in the Work. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the Contract Documents will not be required of the Contractor unless it is consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- 7.2** Nothing contained in the Contract Documents shall be construed to create any contractual relationship of any kind between the Owner and any Subcontractor or Sub-subcontractor (as defined in Article 11).
- 7.3** The term "Work" means the construction and services required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated in such construction.

ARTICLE 8 OWNER

- 8.1** The Owner shall furnish a boundary survey and a legal description of the site.
- 8.2** The Owner shall execute and file the "Notice of Commencement" prior to the start of construction.
- 8.3** The Owner shall provide as an attached Exhibit 'A' to the Contract, the tax exemption form required to be used by the Contractor.
- 8.4** The Owner shall provide as an attached Exhibit 'B' to the Contract, the prevailing wage rates required to be paid by the Contractor.
- 8.5** Except as provided in Paragraph 9.5, the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.
- 8.6** If the Contractor fails to correct defective Work or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner, by written order, may

order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

ARTICLE 9 CONTRACTOR

- 9.1** The Contractor shall supervise and direct the Work, using his best skill and attention and he shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.
- 9.2** Unless otherwise specifically provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- 9.3** The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him.
- 9.4** The Contractor warrants to the Owner that all materials and equipment incorporated in the Work will be new, unless otherwise specified, and that all Work will be of good quality, free from defects and in conformance with the Contract Documents. All Work not conforming to these requirements may be considered defective.
- 9.5** Unless otherwise provided in the Contract Documents, the Contractor shall pay all sales, consumer, use and other similar taxes which are legally enacted at the time bids are received, and shall secure and pay for the building permit and for all other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work.
- 9.6** The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Work, and shall promptly notify the Owner if the Drawings and Specifications are at variance therewith.
- 9.7** The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.
- 9.8** The Contractor shall review and approve all shop drawings, product data, samples and similar submittals required by the Contract Documents. The Work shall be in accordance with approved submittals.
- 9.9** The Contractor shall keep the premises reasonably free from accumulation of waste

materials or rubbish caused by his operations under the Contract Documents. At the completion of the Work he shall remove all his waste materials and rubbish from and about the Project as well as his tools, construction equipment, machinery and surplus materials.

9.10 The Contractor shall pay all royalties and license fees due for the work. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof.

9.11 To the fullest extent permitted by law, the Contractor shall protect, defend, indemnify and hold harmless the Owner and his agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from the performance of the Work, provided that such claim, damage, loss or expense is: (1) attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and is (2) caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 9.11.

In claims against the Owner or any of his agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 9.11 shall not be limited by any limitation of the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Workers' or Workmen' Compensation Acts, Disability Benefit Acts, or other employee benefit acts.

ARTICLE 10 **ADMINISTRATION OF THE CONTRACT**

Not Used

ARTICLE 11 **SUBCONTRACTORS**

11.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. A Sub-subcontractor is a person or entity who has a direct contract with the Subcontractor to perform any of the Work at the site.

11.2 The Contractor shall not be required to contract with anyone to whom he has a reasonable objection. Contracts between the Contractor and Subcontractors shall: (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents,

and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the Owner, and (2) allow to the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.

- 11.3 The Contractor shall promptly pay all amounts due Subcontractors or other persons with whom the Contractor has a contract upon receipt of any payment from the Owner, the application for which includes amounts due such Subcontractor or other persons.
- 11.4 Any agreement, or any provision of an agreement between the Contractor and any Subcontractor or material supplier shall in no way constitute a modification, clarification or be used in any way to interpret or define the intent of this Agreement between Owner and Contractor.

ARTICLE 12
WORK BY OWNER OR BY SEPARATE CONTRACTORS

- 12.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under conditions of the contract identical or substantially similar to these.
- 12.2 The Contractor shall afford the Owner and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall coordinate the Contractor's Work with theirs as may be required by the Contract Documents.
- 12.3 Costs caused by delays, ill-timed activities, defective construction or work performed by others shall be borne by the party responsible therefor.

ARTICLE 13
CHANGES IN THE WORK

- 13.1 The Owner, without invalidating the Agreement, may order changes in the Work consisting of additions, deletions, or modifications, the Contract Sum and Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by written Change Order signed by the Owner and Contractor.
- 13.2 The Contract Sum and Contract Time may be changed only by Change Order signed by the Owner and Contractor.
- 13.3 The cost or credit to the Owner from a change in the Work shall be determined by mutual agreement.

ARTICLE 14
TIME

- 14.1** All time limits stated in the Contract Documents are of the essence of the Agreement. The Contractor shall expedite the Work and achieve Substantial Completion within the Contract Time set forth in Article 2. The term "day" as used in the Contract Documents shall mean a calendar day.
- 14.2** The date of Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. Such use shall include activities which are intended by the Owner to immediately follow the completion of the Work by the Contractor such as the installation of fixtures, furniture, equipment or finishes.
- 14.3** If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in transportation, adverse weather conditions, unavoidable casualties, or any causes beyond the Contractor's control, or by any other cause which the Contractor and the Owner in good faith, determine may justify the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Contractor and Owner in good faith, may determine.

ARTICLE 15
PAYMENTS AND COMPLETION

- 15.1** Payments shall be made as provided in Article 4 and Article 5 of this Agreement.
- 15.2** Payments may be withheld on account of and in the amount of: (1) defective Work not remedied, (2) liens filed against the premises by any person claiming that the Contractor or any Subcontractor or any person working for it has failed to make payment for any labor, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or (3) damage to the Project by Contractor.
- 15.3** When the Contractor determines that the Work is substantially complete, the Contractor will issue a Certificate of Substantial Completion.
- 15.4** Final Payment shall not be due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts or affidavits in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien if filed. If such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees. Under no condition shall payment be withheld beyond the date stipulated by statute when lien rights expire on account of any lien which has not yet been filed.
- 15.5** The making of final Payment shall constitute a waiver of all claims by the Owner

except those arising from: (1) unsettled liens, (2) faulty or defective Work appearing during warranty period after Substantial Completion, (3) failure of the Work to comply with the requirements of the Contract Documents, or (4) terms of any special warranties required by the Contract Documents. Acceptance of final Payment by the Contractor shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

- 15.6** The Owner shall not make direct payment to any Subcontractor or material supplier on account of any Work or material provided pursuant to any agreement or contract with the Contractor without written approval from the Contractor.

ARTICLE 16 **PROTECTION OF PERSONS AND PROPERTY**

- 16.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. He shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (1) all contractor employees on the Work and other persons who may be affected thereby, (2) all the Work and all materials and equipment to be incorporated therein, and (3) other property at the site or adjacent thereto. The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and order of any public authority bearing on the safety of persons and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage or loss to property at the site caused in whole or in part by the Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, except damage or loss attributable to the acts or omissions of the Owner or anyone for whose acts the Owner may be liable, and not caused by the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 9.11.

ARTICLE 17 **INSURANCE**

The Contractor and all Subcontractors on this project will be required to take out and maintain during the life of this Contract, and as provided below, the insurance listed below, and approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. The Contractor shall purchase the insurance listed below to protect the Owner from all claims incurred by the actions of the Contractor or Subcontractors in the construction of this Project.

Certified copies of the insurance coverage shall be submitted to the Owner for approval.

- 17.1** The Contractor shall purchase and maintain liability insurance to protect it from claims under workers' or workmen' compensation acts and other employee benefit acts, claims for damages because of bodily injury, including death, and from claims for

damages, other than to the Work itself or property which may arise out of or result from the Contractor's operations under this Contract, whether such operations by the Contractor or by a Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than any limits of liability specified in the Contract Documents, or required by law, whichever is greater and shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 9.11. Certificates of such insurance shall be filed with the Owner prior to the Commencement of the Work.

In case any class of employees are engaged in hazardous work and are not protected under the Workers' Compensation statute, the Contractor shall provide and shall cause each subcontractor to provide employers General Liability Insurance for the protection of such of his employees not otherwise protected.

17.2 Public Liability and Owner's or Contractor's Protective Insurance:

The Contractor shall procure and maintain the following type of insurance and shall require any of its Subcontractors performing work covered by the Contract to do the same in order to protect themselves and owner from claims for damage to property or for personal injury which may arise from operations under this Contract, whether such operations are by the Contractor or by any subcontractor or by anyone directly or indirectly employed by either of them.

1. (Comprehensive) Automobile Liability covering:
 - a. Bodily Injury including wrongful death in an amount not less than Two Million Dollars (\$2,000,000.00) for each person and Two Million Dollars for each accident, and
 - b. Property Damage in an amount not less than One Million Dollars \$1,000,000.00) for each accident.

2. (Comprehensive) General Liability covering:
 - a. Bodily Injury including wrongful death in an amount not less than Two Million Dollars (\$2,000,000.00) for each person and Two Million Dollars for each accident, and an aggregate liability of Two Million Dollars (\$2,000,000.00), and
 - b. Property Damage including Blasting (if applicable to project work) and Underground Excavation in an amount not less than One Million Dollars (\$1,000,000.00) for each accident and an aggregate liability of Two Million Dollars (\$2,000,000.00).
 - c. Coverage shall be provided on standard forms for bodily injury and property damage liability per occurrence and shall include but not be limited to the following extensions:
 - i. Personal injury
 - ii. X.C.U.
 - iii. Broad form property damage
 - iv. Blanket contractual, including coverage for paragraph IV "Indemnity of Owner" below
 - v. Independent contractors
 - vi. Products/completed operations. Evidence of continuation of products/completed operations coverage shall be provided for a

period of three (3) years after completion of the work under the project.

- 17.3 Scope of Insurance and Special Hazards:** The insurance required under paragraph 17.2, hereof, shall provide adequate protection for the Owner, Contractor and his Subcontractor, respectively, against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by him, and also against any of the special hazards which may be encountered in the performance of the Contract. Each of the aforesaid policies shall include the Owner as an additional insured and will provide that such policy will not be modified, changed, canceled, non-renewed or expired until after the Owner shall have been given thirty (30) days written notice thereof by registered or certified mail.
- 17.4** The Owner shall be responsible for property and casualty insurance covering the Work on the date a Certificate of Occupancy is obtained or the Owner actually occupies the Work, whichever is earlier.

ARTICLE 18 **CORRECTION OF WORK**

- 18.1** The Contractor shall promptly correct all Work rejected as defective or as failing to conform to the Contract Documents whether or not fabricated, installed or completed, and found to be defective or nonconforming within a period of two years from the Date of Substantial Completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents. The provisions of this Article 18 apply to Work performed by Subcontractors as well as to Work performed by direct employees of the Contractor.

ARTICLE 19 **MISCELLANEOUS PROVISIONS**

- 19.1** This Agreement shall be governed by the law of the State of Ohio.
- 19.2** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns where permitted by this Agreement.
- 19.3** This Agreement shall not be assignable by either party without the prior written consent of the other.
- 19.4** This Agreement constitutes the sole and entire agreement between the parties hereto. No representation, warranty, promise or inducement not included in this Agreement shall be binding upon any party.
- 19.5** Even though the Owner or the Contractor may be responsible for the drafting or

inclusion of certain terms or conditions within this Agreement, it is agreed that the executed Agreement between Owner and Contractor is the product of mutual negotiation and no term or condition shall be interpreted more strongly in favor of one party than the other.

- 19.6 This Agreement may not be changed orally but only in writing by an instrument of equal dignity signed by both Parties.
- 19.7 This Agreement may be signed in counterparts, each of which will constitute one and the same instrument.

ARTICLE 20 **TERMINATION OF THE CONTRACT**

- 20.1 If the Contractor is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he fails to make proper payment to Subcontractors or for material or for labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of this Agreement, the Owner may, so long as he is not in default hereof, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, ten (10) days written notice, during which period the Contractor fails to cure the violation, terminate the employment of the Contractor and take possession of the site and of all materials, equipment and tools to be incorporated in the Work thereon and owned by the Contractor and may finish the Work by whatever reasonable method he may deem expedient. In such event, the Contractor shall not be entitled to receive any further payment until the Work is finished and then shall be owed only for its uncompensated work up to the termination.

ARTICLE 21 **OTHER CONDITIONS OR PROVISIONS**

- 21.1 Security services may be provided at the option of the Contractor but only for the protection of the Work of the Contractor as defined by the Contract Documents. Notwithstanding any term to the contrary, the Contractor's provision of any type of security service shall be at the sole discretion of the Contractor and in no way shall security service be required to protect any item which is not specifically included as a condition of the Work of the Contractor.
- 21.2 Except as specifically provided elsewhere in the Contract Documents, any subsoil conditions requiring removal and replacement of unsuitable subgrade, foundation piling, or substructure drainage and de-watering systems are excluded as a condition of this Agreement. Should any other concealed conditions be encountered in the performance of the Work below the surface of the ground; or should concealed or unknown conditions in an existing structure, be at variance with the conditions

indicated by the Drawings, Specifications, or Owner furnished information; or should concealed or unknown conditions be encountered in an existing structure of unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the character of the Work provided for in this Agreement; then the Contract Sum and the Contract Time shall be equitably adjusted by Change Order.

21.3 This Agreement shall remain open for acceptance until April 30, 2018 at 5:00 p.m., Cincinnati, Ohio time (EST). If not executed by Owner and returned to Contractor prior to such time, this Agreement shall be void.

This Agreement entered into as of the day and year first written above.

WITNESSES

Printed Name: _____

Printed Name: _____

OWNER

Fairfield Township Board of Trustees

By: _____

Printed Name: _____

Title: _____

Date: _____

WITNESSES

Printed Name: _____

Printed Name: _____

CONTRACTOR

Cincinnati United Contractors, LLC.

By: _____

Printed Name: _____

Title: _____

Date: _____