

BILL NO. S-13-04-19

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding for
EXTENSION OF RFP #3334 - CUSTODIAL
SERVICE AT 200 E. BERRY by the City of Fort
Wayne, Indiana, by and through its Department of
Purchasing and CIOCCA CLEANING AND
RESTORATION.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
OF THE CITY OF FORT WAYNE, INDIANA;**

SECTION 1. That EXTENSION OF RFP #3334 - CUSTODIAL
SERVICE AT 200 E. BERRY between the City of Fort Wayne, by and through
its Department of Purchasing and CIOCCA CLEANING AND RESTORATION
for the PURCHASING, respectfully for:

custodial service at Citizens Square through April 13, 2014;
involving a total cost of TWO HUNDRED FIVE THOUSAND, SIX HUNDRED
TWENTY AND 88/100 DOLLARS - (\$205,620.88) all as more particularly set
forth in said EXTENSION OF RFP #3334 - CUSTODIAL SERVICE AT 200 E.
BERRY which is on file in the Office of the Department of Purchasing, and is
by reference incorporated herein, made a part hereof, and is hereby in all
things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect

from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

March 11, 2013

Mr. Chris Ciocca
Ciocca Cleaning & Restoration
4440 Secretary Drive
Fort Wayne, IN 46808

Dear Chris:

Subject: RFQ# 3334- Custodial Services 200 E Berry

The City of Fort Wayne's Purchasing Department would like to extend the above subject contract from April 14, 2013 to April 13, 2014. Pricing is reduced from a monthly fee of \$18,625.07 to \$17,135.06. Cleaning specifications will remain the same. This amendment per Addendum #2 submitted by Ciocca marked as exhibit #1.

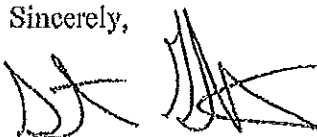
Please indicate your concurrence by signing below and faxing this letter to my attention at 427-1393 or email gayle.cooper@cityoffortwayne.org no later than Friday, March 15, 2013.

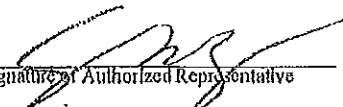
If this extension is accepted for this service, a purchase order will be issued upon Councilmanic approval.

Should you have any questions, please do not hesitate to contact our office at 427-3176.

Sincerely,

Ciocca


Steve Gillette
Director of Purchasing


Signature of Authorized Representative

Date

3/14/13

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Addendum #2 to RFP#3334 Custodial Services and Service Agreement

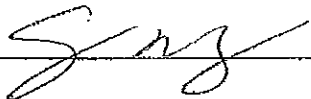
This notification will serve as an addendum to RFP#3334 Ciocca's Response dated February 25, 2011 and the Service Agreement entered into on April 13, 2011 and the Addendum dated October 11, 2011 between Ciocca Cleaning and Restoration and City of Fort Wayne.

The new monthly contract amount will be \$17,135.06.

This addendum is effective April 14, 2013 and will remain in effect until April 13, 2014. By both parties signing this addendum, they acknowledge that the original service agreement end date of April 13, 2012 and Addendum dated October 11, 2011 with service agreement end date of April 13, 2013, will be extended for one year with a new end date of April 13, 2014 and this one year extension will be granted subject to council man's approval as required. As in the original agreement, The City may extend the Contract at its option for an equivalent period by written notice to Ciocca's Cleaning and Restoration not less than thirty days prior to the expiration date.

Ciocca Cleaning and Restoration

By (Signature)



Printed Name

Chris M. Ciocca

Title

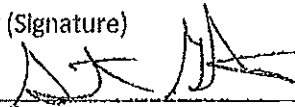
President

Date

3-14-2013

City of Fort Wayne

By (Signature)



Printed Name

STEVE GILLETTE

Title

PURCHASING DIRECTOR

Date

3/11/2013



Vendor	COMPOSITE RATING MATRIX (EVALUATION TEAM)						
	PRICE (25%)	RELEVANT EXPERIENCE (25%)	STABILITY/RETENTION (20%)	REFERENCES (15%)	CONDUCT (5%)	FIN. STABILITY (5%)	BUY INDIANA (5%)
AEITNA BUILDING MAINT.	3.70	3	4	3	5	2	5
RELIABLE	4.20	5	4	3	5	2	5
CROCCA	5.00	5	5	5	5	5	5
TRI-STATE MAINT.	4.00	3	4	4	5	4	5
TOTAL							

RATINGS 1-5
 5-EXCELLENT
 4-GOOD
 3-AVERAGE
 2-BELOW AVERAGE
 1-POOR/LITTLE RESPONSE

TOTAL 3.7
 4.2
 5
 5

JANITOR SERVICES PRICE SHEET COMPARISON (PER YEAR)

	DAYPORTER/YR.	GENERAL CLEANING	TOTAL
CIOCCAS	\$26,520	\$210,000.00	\$236,520
RELIABLE	\$34,320	\$204,000.00	\$238,320
TRI-STATE	\$32,760	\$216,000.00	\$248,760
AETNA	\$28,808	\$219,000.00	\$247,808

REF. NO.:	3334
DEPT:	Property Management Department
DATE:	3/9/11
ITEM/SERVICE:	Custodial Service for 200 E Berry
ADVERTISED BID:	Yes
DATES ADVERTISED:	2/7/11 & 2/14/11
DATE OPENED:	2/25/11
SINGLE SOURCE:	No
NO. OF VENDORS NOTIFIED:	5
NO. OF VENDORS RECEIVING BID:	5
NO. OF VENDORS RETURNING BID:	4
NO. OF VENDORS DISQUALIFIED:	0
DATE SENT TO DEPT FOR RECOMM:	2/25/11
DATE RECOMM RECEIVED BACK:	3/7/11
DATE SENT TO LAW DEPT:	4/9/13
INTRODUCTION DATE:	4/23/13
DISCUSSION DATE:	5/7/13
PASSAGE DATE:	5/14/13

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE**

Resolution 65912

Work Order 65912

THIS AGREEMENT is by and between the Board of Public Works of the City of Fort Wayne, Indiana (hereinafter called Owner) and **All Star Construction & Excavating Inc.**, (hereinafter called Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The Construction of approximately 5,659 LF of 6-inch water main, 1,974 LF of 4-inch water main, 10 fire hydrants, 18 valves, 140 services, and all other appurtenances and work as necessary for the water main replacement project. Installation method of pipe to be by horizontal directional drill.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Riverside – Hannas- Paramount Phase I: Water Main Replacement

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by *City Utilities Water Engineering*, which is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. Owner will confirm to Contractor prior to issuance of Notice to Proceed as to who will serve as Engineer.

ARTICLE 4 – CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

- A. The Work will be substantially completed within **165 days** after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within **195 days** after the date when the Contract Times commence to run.
- B. Definitions of Substantial Completion for this Work shall consist of **Definition of Substantial Completion for this Work shall consist of satisfactory installation of water main, hydrants, valves, backfilling and compaction, successful testing of pipe, transfer of all services, cutting/plugging of abandoned mains, and all other work complete with the exception of concrete, asphalt, final seeding, and restoration..**

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **\$500.00** for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **\$250.00** for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. Not Used

- B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

See Article 5 (itemized Bid Schedule) of the Bid Form 00 41 00-5- 00 41 00-6

Seven Hundred Twenty Six Thousand, Nine Hundred Fifty Seven Dollars, and Zero Cents.

\$726,957.00

Basis of Award PVC-Certalok

ALL STAR CONSTRUCTION
& EXCAVATING, INC.
5183 E. STATE RD. 114-02
ROANOKE, IN 46783

ARTICLE 5 - BASIS OF BID

Riverside - Hannas - Paramount Phase I:
Water Main Replacement

BID SCHEDULE-PVC CERTALOK

5.01

Name All Star Construction & Exc

NOTE: Bidder may complete the following Bid Schedule.

Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

ITEM NO.	WORK ITEM #	DESCRIPTION OF ITEM	UNIT	ESTIMATED QUANTITY	UNIT PRICE (FIGURES)	COMPUTED TOTAL COST (FIGURES)
1	00 95 00-A	MOBILIZATION/DEMOBILIZATION (5% MAXIMUM)	LS	1	35,000 ⁰⁰	35,000 ⁰⁰
2	00 95 00-B	WORK ALLOWANCE	LS	1	\$25,000.00	\$25,000.00
3	01 55 26-A	MAINTENANCE AND PROTECTION OF TRAFFIC	LS	1	10,000 ⁰⁰	10,000 ⁰⁰
4	01 71 16.13-A	VIDEO DOCUMENTATION OF CONDITIONS	LS	1	1,900 ⁰⁰	1,900 ⁰⁰
5	31 00 05-A	#53/#73 AGGREGATE BACKFILL (SPECIAL BACKFILL)	CY	400	25 ⁰⁰	10,000 ⁰⁰
6	32 12 16-A	ASPHALT PAVEMENT PATCHING (11.5" DEPTH MIN.)	SY	576	95 ⁰⁰	54,720 ⁰⁰
7	32 12 16-B	ASPHALT DRIVE RESTORATION (4" DEPTH MIN.)	SY	5	40 ⁰⁰	200 ⁰⁰
8	32 16 00-A	CONCRETE DRIVE RESTORATION (6" DEPTH MIN.)	SY	5	50 ⁰⁰	250 ⁰⁰
9	32 16 00-B	GRAVEL DRIVE RESTORATION (6" DEPTH MIN.)	SY	5	5 ⁰⁰	25 ⁰⁰
10	32 16 00-C	CONCRETE SIDEWALK REPLACEMENT (4" DEPTH)	SY	49	40 ⁰⁰	1,960 ⁰⁰
11	32 16 00-D	CURBFACE WALK REPLACEMENT (6" DEPTH)	SY	7	60 ⁰⁰	420 ⁰⁰
12	32 16 00-E	ADA CURB RAMP, ALL TYPES	EA	10	900 ⁰⁰	9,000 ⁰⁰
13	32 16 00-F	CONCRETE CURB TYPE I-B	LF	23	25 ⁰⁰	575 ⁰⁰
14	32 92 00-A	MULCHED SEEDING	SY	808	150 ⁰⁰	121,200 ⁰⁰
15	32 92 00-B	TOPSOIL FOR MULCHED SEEDING (MIN. 2 INCH DEPTH)	SY	808	200 ⁰⁰	161,600 ⁰⁰
16	33 05 37.24-A	6-INCH DIA; DR 18; Certa-Lok PVC PIPE - HDD INSTALLATION, ALL DEPTHS	LF	5,659	37 ⁰⁰	209,383 ⁰⁰
17	33 05 37.24-B	4-INCH DIA; DR 18; Certa-Lok PVC PIPE - HDD INSTALLATION, ALL DEPTHS	LF	1,974	34 ⁰⁰	67,116 ⁰⁰
18	33 05 37.24-C	6-INCH DIA. 45 DEGREE BEND; RESTRAINED JOINT INSTALLATION	EA	15	140 ⁰⁰	2,100 ⁰⁰
19	33 05 37.24-D	4-INCH DIA. 45 DEGREE BEND; RESTRAINED JOINT INSTALLATION	EA	4	100 ⁰⁰	400 ⁰⁰
20	33 05 37.24-E	6-INCH DIA. 22.5 DEGREE BEND; RESTRAINED JOINT INSTALLATION	EA	1	125 ⁰⁰	125 ⁰⁰
21	33 05 37.24-F	6-INCH DIA. 11.25 DEGREE BEND; RESTRAINED JOINT INSTALLATION	EA	1	125 ⁰⁰	125 ⁰⁰
22	33 05 37.24-G	6-INCH X 6-INCH X 6-INCH TEE, RESTRAINED JOINT INSTALLATION	EA	10	225 ⁰⁰	2,250 ⁰⁰
23	33 05 37.24-H	6-INCH X 6-INCH X 4-INCH TEE, RESTRAINED JOINT INSTALLATION	EA	3	210 ⁰⁰	630 ⁰⁰
24	33 05 37.24-I	6-INCH X 6-INCH CROSS, RESTRAINED JOINT INSTALLATION	EA	1	315 ⁰⁰	315 ⁰⁰
25	33 11 00-A	WATER MAIN CONNECTION - Tapping Sleeve & Valve	EA	7	1,200 ⁰⁰	8,400 ⁰⁰
26	33 11 00-B	WATER MAIN CONNECTION - Connect to existing Valve "Cut In Fittings"	EA	2	500 ⁰⁰	1,000 ⁰⁰
27	33 11 00-C	3/4-INCH TEST RISER	EA	25	425 ⁰⁰	10,625 ⁰⁰
28	33 11 00-D	REMOVAL OF FIRE HYDRANTS	EA	9	400 ⁰⁰	3,600 ⁰⁰

ALL STAR CONSTRUCTION
& EXCAVATING, INC.
5183 E. STATE RD. 114-92
ROANOKE, IN 46783

29	33 11 00-B	REMOVAL OF VALVE BOXES	EA	11	60 ⁰⁰	660 ⁰⁰
30	33 11 00-F	TEMPORARY BLOW-OFF ASSEMBLY (2")	EA	15	650 ⁰⁰	9,750 ⁰⁰
31	33 11 00-G	CUT AND PLUG (WATER MAIN ABANDONMENT)	EA	11	400 ⁰⁰	4,400 ⁰⁰
32	33 11 00-H	6-INCH PLUG	EA	8	75 ⁰⁰	600 ⁰⁰
33	33 12 00-A	WATER SERVICES-SHORT SIDE	EA	101	1,000 ⁰⁰	101,000 ⁰⁰
34	33 12 00-B	WATER SERVICES-LONG SIDE	EA	39	2,500 ⁰⁰	97,500 ⁰⁰
35	33 12 00-C	FIRE HYDRANT ASSEMBLY, TYPE III (RESTRAINED JOINT TEE)	EA	10	3,800 ⁰⁰	38,000 ⁰⁰
36	33 12 00-E	6-INCH, RSW GATE VALVE AND BOX	EA	18	950 ⁰⁰	17,100 ⁰⁰
TOTAL BID PRICE						226,950 ⁰⁰

* If there is an arithmetic error in the tabulation of the TOTAL BID PRICE, the unit prices shall prevail and be used to compute the TOTAL BID PRICE.

Notes:

Bidder acknowledges that the unit quantities of work listed in the Schedule of Unit Prices are estimates only. Unit price bids shall be applied to actual installed quantities of authorized work performed to calculate the total amount of money due the Contractor.

The Bid prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions.

C. Not Used.

ARTICLE 6 -- PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment within 30 days of receipt during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.
 - a. 95% of Work completed (with the balance being retainage). and
 - b. 95% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 % of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 200% of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.
- C. If the contract is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow

Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 00 52 00-1 to 00 52 00-11, inclusive);
 - 2. Escrow Account Agreement (pages 00 54 43-1 to 00 54 43-3, inclusive);
 - 3. E-Verify Affidavit (page 00 54 53-1, inclusive);
 - 4. Performance Bond Form (pages 00 61 13.13-1 to 00 61 13.13-2, inclusive);
 - 5. Payment Bond Form(pages 00 61 13.16-1 to 00 61 13.16-2, inclusive);
 - 6. Guaranty Bond Form(pages 00 61 31-1 to 00 61 31-2, inclusive);
 - 7. General Conditions (pages 00 72 00-1 to 00 72 00-41, inclusive);
 - 8. Supplementary Conditions (pages 00 73 00-1 to 00 73 00-10, inclusive);
 - 9. Specifications as listed in the Table of Contents of the Project Manual

10. Drawings consisting of **Drawing Y-20531, pages 1 through 11, inclusive**, with each sheet bearing the following general title: **Riverside - Hannas - Paramount Phase I: Water Main Replacement**;
 11. Addenda (numbers 1 to 3, inclusive);
 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor's Bid Schedule (page 00 41 00-5 to 00 41 00-6);
 - b. Documentation submitted by Contractor prior to Notice of Award (pages ____ to ____, inclusive);
 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages _____ to _____, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 10.06.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 14.07 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 10.06.E.

- A. **Request for Waiver** – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. **Determination of Waiver Requests** – The Contract Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. **Good Faith Efforts**. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works’ determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;

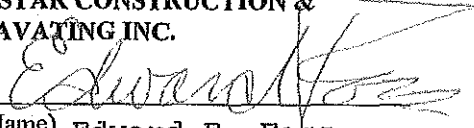
5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. **Consequences of Noncompliance** – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE participation goal of **10%** and the actual participation level met by the Contractor, but in no case shall it be reduced by more than **5%**. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.
- E. **Waiver Approved** – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract/Resolution Number 65912). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on April 10, 2013 (which is the Effective Date of the Agreement).

CONTRACTOR:

**ALL STAR CONSTRUCTION &
EXCAVATING INC.**

BY: 
(Name) Edward F. Foss

TITLE: President

DATE: 3/20/13
(Date signed by Contractor)

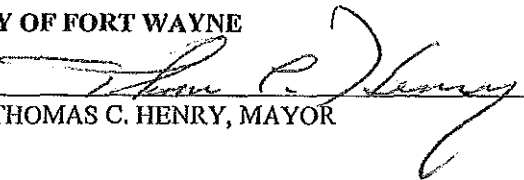
Address for giving notices:

5183 E. State Rd 114-92

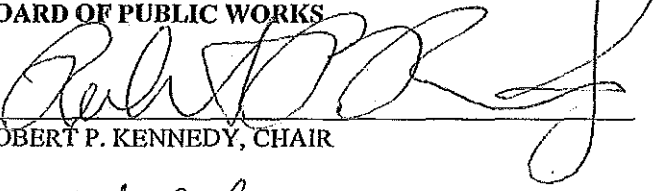
Roanoke, IN 46783

OWNER:

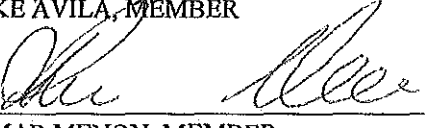
CITY OF FORT WAYNE

BY: 
THOMAS C. HENRY, MAYOR

BOARD OF PUBLIC WORKS

BY: 
ROBERT P. KENNEDY, CHAIR

BY: 
MIKE AVILA, MEMBER

BY: 
KUMAR MENON, MEMBER

ATTEST: 
VICTORIA EDWARDS, CLERK

DATE: April 10, 2013
(Date signed by Board)

ACKNOWLEDGMENT (CONTRACTOR)

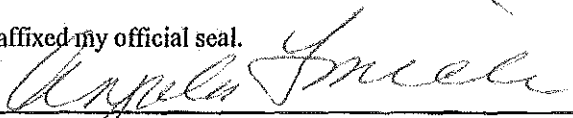
STATE OF INDIANA)

SS:)

COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 20th day of March, 2013, personally appeared the within named Edward F. Foss, who under penalty of perjury says that he is the President of All Star Construction & Exc., Inc. and as such duly authorized to execute the foregoing instrument and acknowledged the same as the voluntary act and deed of All Star Construction & Exc., Inc. for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.



Notary Public

Angela L. Mick

Printed Name of Notary

My Commission Expires: 10/25/19

Resident of Allen County

ACKNOWLEDGMENT (OWNER)

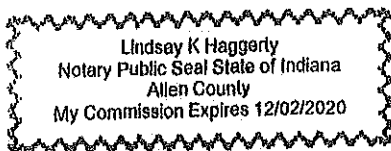
STATE OF INDIANA)

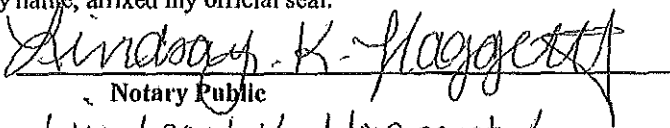
SS:)

COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 10th day of April, 2013, personally appeared the within named Thomas C. Henry, Robert Kennedy, Mike Avila, Kumar Menon and Victoria Edwards, by me personally known, who being by me duly sworn said that they are respectively the Mayor of the City of Fort Wayne, and Chairman, Members, and Clerk of the Board of Public Works of the City of Fort Wayne, Indiana, and that they signed said instrument on behalf of the City of Fort Wayne, Indiana, with full authority so to do and acknowledge said instrument to be in the voluntary act and deed of said City for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.





Notary Public

Lindsay K. Haggerty

Printed Name of Notary

My Commission Expires: 12/02/2020

Resident of Allen County

COUNCIL DIGEST SHEET

Enclosed with this introduction form is a tab sheet and related material from the vendor(s) who submitted bid(s). Purchasing Department is providing this information to Council as an overview of this award.

RFPs & BIDS

Bid/RFP #	3334 – EXTENSION
Awarded To	CIOCCA CLEANING AND RESTORATION
Amount	\$205,620.88
Conflict of interest on file?	☒ Yes ☐ No
Number of Registrants	
Number of Bidders	
Required Attachments	RFPs – attach Award Matrix; Bids – attach Tab Sheet

EXTENSIONS

Date Last Bid Out	FEBRUARY 4, 2011
// Extensions Granted To Date	NONE

SPECIAL PROCUREMENT

Contract #/ID (State, Federal, Piggyback-Authority)	
Sole Source/ Compatibility Justification	

BID CRITERIA *(Take Buy Indiana requirements into consideration.)*

Most Responsible, Responsive Lowest	☒ Yes ☐ No <i>If no, explain below</i>
If not lowest, explain	

COUNCIL DIGEST SHEET

COST COMPARISON

<i>Increase/decrease amount from prior years For annual purchase (if available).</i>	DECREASE \$17,880.12 ANNUALLY
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DESCRIPTION OF PROJECT / NEED

<i>Identify need for project & describe project; attach supporting documents as necessary.</i>	JANITORIAL SERVICES AT CITIZENS SQUARE

REQUEST FOR PRIOR APPROVAL

<i>Provide justification if prior approval is being requested.</i>	

FUNDING SOURCE

<i>Account Information.</i>	CITIZENS SQUARE BUDGET #0002BER3-5365



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

Property Management Department
200 E. Berry St., Suite 490
Fort Wayne, IN 46802
(260) 427-1457
Fax: (260) 427-1393

April 4, 2013

City Council Members
City of Fort Wayne

RE: ITB #3334 – 2013 Extension
Janitorial Services Contract at Citizens Square
Ciocca Cleaning and Restoration

Dear Council Members:

Ciocca Cleaning and Restoration approved an extension for the above contract with an annualized reduction of \$17,880.12 from last year's contracted amount of \$223,501.00 from April 14, 2013 through April 13, 2014.

We are asking for City Council approval of this 2013 extension. The funds for these expenditures will be appropriated out of Fund 0002BER3-5365.

If you have any questions on the above, please feel free to contact me at 427-1457.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry C. Marquart", with a stylized flourish at the end.

Barry C. Marquart
Property Manager – 200 E. Berry St.

ENGAGE • INNOVATE • PERFORM

CITIZENS SQUARE

200 E. Berry St. • Fort Wayne, Indiana • 46802 • www.cityoffortwayne.org

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