



CITY COUNCIL MEETING
Council Chambers
401 E Third Street
Kewanee, Illinois 61443
Open Meeting starting at 7:00 p.m.
Monday, April 27th, 2020

(Amended) Posted by 3:00 p.m. April 25th, 2020

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Consent Agenda
 - a. Approval of Minutes
 - b. Payroll
 - c. Staff Reports
5. Presentation of Bills and Claims
6. Public Participation
7. Business:
 - a) **Consideration of a Resolution #5208** authorizing the Mayor and City Clerk to execute all documents that are necessary and proper for the City of Kewanee to apply to the state of Illinois Community Development Block Grant for funding through the Downstate Small Business Stabilization Program
 - b) **Discussion** of MFT 20-00000-00-GM, 2020 Resurfacing and Seal Coat Program
 - c) **Consideration of a Resolution #5209** to approve an Illinois department of transportation's resolution for maintenance under the Illinois highway code in the amount of \$635,000
 - d) **Consideration of a Resolution #5210** to accept the bid from L.C. United Painting Co. Inc. for project #20-01, south water tower coating, in the amount of \$271,000.00.
 - e) **Consideration of a Resolution #5211** to accept a proposed amendment to a professional services agreement with Dixon Engineering to provide construction inspection services.
 - f) **Consideration a Resolution #5212** to accept the bid from Performance Pipelining, Inc. for project #20-02, 2020 cured in place pipe (CIPP) sewer program, in the amount of \$500,161.40.
 - g) **Consideration of a Resolution #5213** to ratify and authorize the expended funds used to make emergency repairs to the 20" influent force main at the wastewater treatment plant.
 - h) **Consideration of a Resolution #5214** approving the use of incentives under the small business interest payment program by Midwest Trailer Manufacturing.
 - i) **Consideration of a Resolution #5215** establishing guidelines for the use of incentives for a short term economic development program intended to help small businesses recover from the Covid-19 pandemic and its negative impacts on the local economy.
 - j) **Consideration of a Resolution #5216** to affirm the Mayor's recommendation for appointments to various commissions and boards.
 - k) **Discussion** Ambulance Service to Neponset
8. Council Communications:
9. Announcements:
10. Adjournment:



MEMORANDUM

Date: April 24, 2020
From: Gary Bradley, City Manager
To: Mayor & Council
RE: Council Meeting of **Monday, April 27, 2020**

REGULAR MEETING AT 7:00 P.M.

1. **Alternative Operations**—As I'm sure you are aware, the Governor has extended the stay at home order through the end of May and added additional requirements such as the wearing of masks in public where social distancing is not an option. We will work to develop alternatives that allow us to provide certain services, such as the reopening of the transfer station, so that we can better serve our customers. We're also preparing as a staff for some type of backlash as resistance to isolation begins to become stronger. There are some new requirements expected to be in the next executive order that will be difficult to accomplish or enforce.
2. **Enterprise Zone** — All of the communities but one have completed the required ordinances. I'm working with a handful of companies and individuals that haven't yet completed their annual reports to ensure that the benefits provided by the program can be accurately tracked.
3. **Budget Workshop**—The next budget workshop will be on May 4th, via electronic meeting as previously conducted.
4. **Police Vehicle**—We have taken possession of the 2020 Dodge Ram 1500 SSV (Special Service Vehicle) which is to be used in our Police Dept. Staff is waiting to hear back from the up fitter, who will be installing the police equipment, once we get a date scheduled. The up fitting usually takes about 10 days. It is our hope that the truck will be ready for service by the end of May.
5. **Excess Property**—We received the appraisal for the property at 3rd and Main (surrounding the Spets building). There was a mistake in the calculation of the value of the property. Once we receive a corrected document, we can run the legal notice in the paper then open sealed bids at a regular meeting, perhaps some time in June when we resume more traditional meetings.
6. **Francis Park** — As previously noted, Francis Park will not open at its typical time due to the COVID-19 pandemic. The site will open when the "stay at home" executive orders have expired. We have updated the City Website also.
7. **Police Training**—During the budget workshop, Chief Ainley was asked to provide

information about training requirements. He's included that information along with three articles that reference the "failure to train" liability. The information immediately follows this memorandum.

8. **County-wide Meetings**— We continue to have weekly meetings with the leadership of other communities in the County and key staff at Henry County. There's a great deal of concern about summer events being cancelled, including fireworks and concert series. The not yet released executive order has also created a lot of concern regarding the lack of masks and face coverings available to the general public.
9. **DSBSP** — Despite earlier indications that they would not be pursuing the program, it now appears that Galva and Geneseo are looking into the program, as well. The resolution, though tabled at the last meeting, is on the agenda should the City Council opt to take action on the matter.

INITIAL HIRE PERIOD

1. Basic Hours for Full and Part Time Law Enforcement Officers
2. Mandatory Firearms Training
3. Firearm Qualification
4. Naloxone
5. Epinephrine Administration (not required unless carried)
6. Prison Rape Elimination Act (PREA) (Federal Law)

EVERY YEAR

1. Firearm Qualification
2. Law Updates
3. Use of Force
4. Hazmat
5. Sheriffs/ Chiefs and Deputy Chiefs (Training by assignment)
6. K-9 Narcotic Detection (Training by assignment)
7. Prison Rape Elimination Act (PREA) (Federal Law)

EVERY TWO YEARS

1. CPR/AED
 - a. While there is no requirement for refresher courses on Narcan, agencies may attach a refresher to CPR/AED recertification courses.

EVERY THREE YEARS

1. Constitutional and Proper Use of Authority
2. Procedural Justice
3. Civil Rights
4. Human Rights
5. Cultural Competency
6. Mental Health Awareness and Response
7. Reporting Child Abuse and Neglect
8. Officer Wellness
9. Trauma Informed Response and Investigation of Sexual Assault/Abuse

EVERY FOUR YEARS

1. Lead Homicide Investigator (Training by assignment)
2. Standardized Field Sobriety Testing (Training by assignment)

EVERY FIVE YEARS

1. Psychology of Domestic Violence

INITIAL HIRE PERIOD

- 1. FULL TIME POLICE AND COUNTY CORRECTIONS OFFICERS-** No person shall receive a permanent appointment as a law enforcement officer as defined in this Act nor shall any person receive, after the effective date of this amendatory Act of 1984, a permanent appointment as a county corrections officer unless that person has been awarded, within six months of his or her initial full-time employment, a certificate attesting to his or her successful completion of the Minimum Standards Basic Law Enforcement and County Correctional Training Course as prescribed by the Board; or has been awarded a certificate attesting to his satisfactory completion of a training program of similar content and number of hours and which course has been found acceptable by the Board under the provisions of this Act; or by reason of extensive prior law enforcement or county corrections experience the basic training requirement is determined by the Board to be illogical and unreasonable... If such training is required and not completed within the applicable six months, then the officer must forfeit his position, or the employing agency must obtain a waiver from the Board extending the period for compliance.
(50 ILCS 705/8.1) (From Ch. 85, par. 508.1)

COURT SECURITY OFFICERS- A person hired to serve as a court security officer must obtain from the Board a certificate (i) attesting to his or her successful completion of the training course; (ii) attesting to his or her satisfactory completion of a training program of similar content and number of hours that has been found acceptable by the Board under the provisions of this Act; or (iii) attesting to the Board's determination that the training course is unnecessary because of the person's extensive prior law enforcement experience... All individuals hired as court security officers on or after June 1, 1997 (the effective date of Public Act 89-685) shall be certified within 12 months of the date of their hire, unless a waiver has been obtained by the Board, or they shall forfeit their positions.
(50 ILCS 705/7) (from Ch. 85, par. 507)

PART-TIME POLICE OFFICERS- A person hired to serve as a part-time police officer must obtain from the Board a certificate (i) attesting to his or her successful completion of the part-time police training course; (ii) attesting to his or her satisfactory completion of a training program of similar content and number of hours that has been found acceptable by the Board under the provisions of this Act; or (iii) attesting to the Board's determination that the part-time police training course is unnecessary because of the person's extensive prior law enforcement experience. A person hired on or after the effective date of this amendatory Act of the 92nd General Assembly must obtain this certificate within 18 months after the initial date of hire as a probationary part-time police officer in the State of Illinois. The probationary part-time police officer must be enrolled and accepted into a Board-approved course within 6 months after active employment by any department in the State.

(50 ILCS 705/8.2)

- 2. MANDATORY FIREARMS TRAINING-** Successful completion of a 40 hour course of training in use of a suitable type firearm shall be a condition precedent to the possession and use of that respective firearm by any peace officer or probation officer in this State in connection with the officer's official duties. The training must be approved by the Board and may be given in logical segments but must be completed by a peace officer within 6 months from the date of the officer's initial employment.
(50 ILCS 710/2) (from Ch. 85, par. 516)
- 3. FIREARMS QUALIFICATION-** Annual range qualification. The annual range qualification for peace officers and probation officers shall consist of range fire approved by the Board.
(50 ILCS 710/2.5)
- 4. NALOXONE-** Every State and local government agency that employs a law enforcement officer or fireman as those terms are defined in the Line of Duty Compensation Act must possess opioid antagonists and must establish a policy to control the acquisition, storage, transportation, and administration of such opioid antagonists and to provide training in the administration of opioid antagonists.
(20 ILCS 301/5-23)
- 5. EPINEPHRINE ADMINISTRATION-** The Board shall conduct or approve an optional advanced training program for police officers to recognize and respond to anaphylaxis, including the administration of an epinephrine auto-injector. The training must include, but is not limited to: (1) how to recognize symptoms of an allergic reaction; (2) how to respond to an emergency involving an allergic reaction; (3) how to administer an epinephrine auto-injector; (4) how to respond to an individual with a known allergy as well as an individual with a previously unknown allergy; (5) a test demonstrating competency of the knowledge required to recognize anaphylaxis and administer an epinephrine auto-injector; and (6) other criteria as determined in rules adopted by the Board. (d) A local governmental agency may authorize a police officer who has completed an optional advanced training program under subsection (c) to carry, administer, or assist with the administration of epinephrine auto-injectors provided by the local governmental agency whenever he or she is performing official duties.
(50 ILCS 705/10.19)
- 6. PRISON RAPE ELIMINATION ACT (PREA)-** The purposes of this Act are to— (1) establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States; (2) make the prevention of prison rape a top priority in each prison system; (3) develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; (4) increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities; (5) standardize the definitions used for collecting data on the incidence of prison rape; (6) increase the accountability of prison officials who fail to detect, prevent, reduce,

and punish prison rape; (7) protect the Eighth Amendment rights of Federal, State, and local prisoners; (8) increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness; and (9) reduce the costs that prison rape imposes on interstate commerce.
(42 USC 15602, Sec. 3)

EVERY YEAR

1. **FIREARMS QUALIFICATION**- Annual range qualification. The annual range qualification for peace officers and probation officers shall consist of range fire approved by the Board.
(50 ILCS 710/2.5)
2. **LAW UPDATES**- Minimum in-service training requirements, which a police officer must satisfactorily complete at least annually. Those requirements shall include law updates and use of force training which shall include scenario based training, or similar training approved by the Board.
(50 ILCS 705/7) (from Ch. 85, par. 507)
3. **USE OF FORCE**- (See mandate above)
4. **HAZMAT**- First responders at the awareness level are individuals who are likely to witness or discover a hazardous substance release and who have been trained to initiate an emergency response sequence by notifying the proper authorities of the release. They would take no further action beyond notifying the authorities of the release. First responders at the awareness level shall have sufficient training or have had sufficient experience to objectively demonstrate competency in the following areas: (A) An understanding of what hazardous substances are, and the risks associated with them in an incident. (B) An understanding of the potential outcomes associated with an emergency created when hazardous substances are present. (C) The ability to recognize the presence of hazardous substances in an emergency. (D) The ability to identify the hazardous substances, if possible. (E) An understanding of the role of the first responder awareness individual in the employer's emergency response plan including site security and control and the U.S. Department of Transportation's Emergency Response Guidebook. (F) The ability to realize the need for additional resources, and to make appropriate notifications to the communication center. 1910.120(q)(8)(i) Those employees who are trained in accordance with paragraph (q)(6) of this section shall receive annual refresher training of sufficient content and duration to maintain their competencies, or shall demonstrate competency in those areas at least yearly. (ii) A statement shall be made of the training or competency, and if a statement of competency

is made, the employer shall keep a record of the methodology used to demonstrate competency.

(OSHA 1910.120(q)(6)(i) - Hazardous Waste Operations and Emergency Response)

5. **SHERIFFS AND CHIEFS-** Each police chief and deputy police chief shall obtain at least 20 hours of training each year. The training must be approved by the Illinois Law Enforcement Training and Standards Board and must be related to law enforcement, management or executive development, or ethics. This requirement may be satisfied by attending any training portion of a conference held by an association that represents chiefs of police that has been approved by the Illinois Law Enforcement Training and Standards Board.

(50 ILCS 705/10.7)

6. **NARCOTIC DETECTION K-9-** All police dogs used by State and local law enforcement agencies for drug enforcement purposes pursuant to the Cannabis Control Act (720 ILCS 550/), the Illinois Controlled Substances Act (720 ILCS 570/), and the Methamphetamine Control and Community Protection Act (720 ILCS 646/) shall be trained by programs that meet the minimum certification requirements set by the Board.

(50 ILCS 705/10.12)

7. **PRISON RAPE ELIMINATION ACT (PREA)-** (See PREA mandate under Initial Hire Period)

EVERY TWO YEARS

1. **CPR / AED-** The curriculum for probationary police officers which shall be offered by all certified schools shall include, but not be limited to, courses of ... first-aid (including cardiopulmonary resuscitation), training in the administration of opioid antagonists as defined in paragraph (1) of subsection (e) of Section 5-23 of the Substance Use Disorder Act.

(50 ILCS 705/7) (from Ch. 85, par. 507)

EVERY THREE YEARS

1. **CONSTITUTIONAL AND PROPER USE OF LAW ENFORCEMENT**

AUTHORITY- Minimum in-service training requirements, which a police officer must satisfactorily complete every 3 years. Those requirements shall include constitutional and proper use of law enforcement authority, procedural justice, civil rights, human rights, mental health awareness and response, officer wellness, [reporting child abuse and neglect,] and cultural competency.

(50 ILCS 705/7) (from Ch. 85, par. 507) (from P.A. 101-215 & P.A. 101-564)

2. **PROCEDURAL JUSTICE-** (See mandate above)

3. **CIVIL RIGHTS-** (See mandate above)
4. **HUMAN RIGHTS-** (See mandate above)
5. **CULTURAL COMPETENCEY-** (See mandate above)
6. **MENTAL HEALTH AWARENESS AND RESPONSE-** (See mandate above)
7. **REPORTING CHILD ABUSE AND NEGLECT-** (See mandate above)
8. **OFFICER WELLNESS-** (See mandate above)

The Board shall create, develop, or approve an in-service course addressing issues of officer wellness and suicide prevention. The course shall include instruction on job-related stress management techniques, skills for recognizing signs and symptoms of work-related cumulative stress, recognition of other issues that may lead to officer suicide, solutions for intervention, and a presentation on available peer support resources. (50 ILCS 705/10.23)
9. **TRAUMA INFORMED RESPONSE & INVESTIGATION OF SEXUAL ASSAULT AND ABUSE-** The Illinois Law Enforcement Training Standards Board shall conduct or approve training programs in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but is not limited to, the following: (1) recognizing the symptoms of trauma; (2) understanding the role trauma has played in a victim's life; (3) responding to the needs and concerns of a victim; (4) delivering services in a compassionate, sensitive, and nonjudgmental manner; (5) interviewing techniques in accordance with the curriculum standards in subsection (f) of this Section; (6) understanding cultural perceptions and common myths of sexual assault and sexual abuse; (7) report writing techniques in accordance with the curriculum standards in subsection (f) of this Section; and (8) recognizing special sensitivities of victims due to: age, including those under the age of 13; gender; or other qualifications... (c) Agencies employing law enforcement officers must present this training to all law enforcement officers within 3 years after January 1, 2017 (the effective date of Public Act 99-801) and must present in-service training on sexual assault and sexual abuse response and report writing training requirements every 3 years. (50 ILCS 705/10.21)

EVERY FOUR YEARS

1. **LEAD HOMICIDE INVESTIGATOR-** The Illinois Law Enforcement Training and Standards Board shall conduct or approve a training program in death and homicide investigation for the training of law enforcement officers of local government agencies. Only law enforcement officers who successfully complete the training program may be

assigned as lead investigators in death and homicide investigations. Satisfactory completion of the training program shall be evidenced by a certificate issued to the law enforcement officer by the Illinois Law Enforcement Training and Standards Board. (50 ILCS 705/10.11)

2. **STANDARDIZED FIELD SOBRIETY TESTING-** All officers conducting grant funded, alcohol-related enforcement patrols must be trained in the Standardized Field Sobriety Test (SFST). Approved training in this area consists of the 24-hour National Highway Traffic Safety Administration (NHTSA), DWI Detection and Standardized Field Sobriety Testing Course or other NHTSA/Illinois Law Enforcement Training & Standards Board (ILETSB)-approved refresher course. To satisfy this requirement, officers must complete an ILETSB accredited academy; a 24-hour SFST course or a SFST refresher course every four years from the date of their last completed certified training. These courses must be taught by certified SFST instructors. Note: A department may provide in-house training for its own officers conducted by officers from the same department, provided the trainer is a certified SFST instructor. Officers may also attend training at an agency other than their own provided the training is conducted by a certified instructor. In these situations, a class roster showing all officers who completed the training must be sent to the ILETSB. Upon request, departments must be able to produce verification of compliance with this requirement.

(IDOT Sustained Traffic Enforcement Program)

*While NHTSA does not require retraining, IDOT requires retraining every four years.

EVERY FIVE YEARS

1. **PSYCHOLOGY OF DOMESTIC VIOLENCE-** Every law enforcement agency shall develop, adopt, and implement written policies regarding arrest procedures for domestic violence incidents consistent with the provisions of this Article. In developing these policies, each law enforcement agency shall consult with community organizations and other law enforcement agencies with expertise in recognizing and handling domestic violence incidents. (b) In the initial training of new recruits and every 5 years in the continuing education of law enforcement officers, every law enforcement agency shall provide training to aid in understanding the actions of domestic violence victims and abusers and to prevent further victimization of those who have been abused, focusing specifically on looking beyond the physical evidence to the psychology of domestic violence situations, such as the dynamics of the aggressor-victim relationship, separately evaluating claims where both parties claim to be the victim, and long-term effects.

(725 ILCS 5/112A-27)



Special Report: PPE considerations for law enforcement during the COVID-19 pandemic

Topics > Legal

Legal Corner: Departmental Liability for Failure-to-Train

Aug 1, 2006

By Matthew W. McNamara

Nothing is as important as making sure law enforcement officers receive proper training. Not only does it increase their chances for winning confrontations, the lack of such puts the department at risk of being held liable, according to guidelines set in the 1989 US Supreme Court ruling, *City of Canton, Ohio v. Geraldine Harris*. Since *Canton*, one legal scholar has estimated that in the 1990's, law enforcement agencies faced approximately 30,000 lawsuits per year.¹ The court made it clear in *Canton* that training police personnel is a critical managerial responsibility and is not viewed as a luxury. Administrators may be held liable if inadequate or improper training causes injury or violates a citizen's constitutional rights.¹ The Court also made it clear that the basic police academy emphasizes law and discipline, but that such training alone is not enough.

While most officers spend only a small portion of their time engaging in "criminal catching" activities, this is the focus of a majority of entry-level training. Little time is spent teaching officers the humanistic or interpersonal aspects of non-crime policing – an activity they will use much more often. Even the best entry-level academy training is insufficient to assure an officer has been adequately trained. Training performance alone, is not a valid indicator of future job performance. In addition to receiving academic training, an officer must have the ability to correctly apply that knowledge to a real situation and the willingness to do so.² Training, in all aspects of an officer's duties, must be completed before that officer engages in such activity. Failure to do so may lead to civil liability, potentially crippling a municipality.

Historical Perspective

In *City of Canton, Ohio v. Harris* (1989:1200-1201):

"Geraldine Harris was arrested by officers of the Canton Police Department. Harris was brought to the police station in a patrol wagon. When she arrived at the station, Harris was found sitting on the floor of the wagon. She was asked if she needed medical attention and responded with an incoherent remark. After she was brought inside the station for processing, Mrs. Harris slumped to the floor on two occasions. Eventually, the officers left Mrs. Harris lying on the floor to prevent her from falling again. No medical attention was ever summoned. After about an hour, Mrs. Harris was released from custody and taken by an ambulance (provided by her family) to a nearby hospital. There, Mrs. Harris was diagnosed with several emotional ailments: She was hospitalized for one week and received outpatient treatment for an additional year."²

Further background of the case revealed that the watch commander in charge of the department on the day of Harris' arrest had sole authority in determining if medical attention was needed for any arrestee being housed at the police station. The watch commander was given this authority through departmental policy, even though it was later proven that he had no training in noticing the effects of the illnesses that Harris was displaying or any other type of medical emergency.

What stemmed from this case, as decided by the Justices of the US Supreme Court, was that departmental liability in cases such as these would be judged on "deliberate indifference." "We hold that the inadequacy of police training may serve as the basis for 1983 liability only where the failure-to-train amounts to deliberate indifference to the rights of persons with whom the police come into contact."³ By adopting the higher deliberate indifference standard, the Court rejected the gross negligence standard that had been adopted by many lower Federal courts.⁴

Deliberate Indifference Defined

The Justices articulated the fact that deliberate indifference would be used when judging department liability in regard to the failure-to-train officers. Three areas of deliberate indifference have since been defined:⁵

1. Moral Certainty Standard Violation

If the subject area was one of the clearly established laws, of which a reasonable policy-maker knew or should have known that constitutional violations would occur if employees were not trained, liability could arise.

2. Custom, pattern or practice.

If a custom, pattern or practice demonstrates such an obvious need for more or different training that policy makers could reasonably be said to have been deliberately indifferent to the need (under the concept of knew or should have known), liability could arise. For example, a series of suicides within a jail.

3. An official policy.

If policy-makers adopt an official policy which violates clearly established law of which a reasonable person knew or should have known, liability could arise. For example, a jail policy allowing cross-gender strip searches.

This deliberate choice can be shown where the need for more or different training is so obvious and is so likely to result in the violation of constitutional rights that policy-makers were deliberately indifferent to the need.⁶ The Supreme Court explained that inadequate training meets the deliberate indifference standard only when the need for more or different training is obvious and the failure to implement such training is likely to result in constitutional violations.⁴

The Court also offered two examples of what would constitute deliberate indifference when judging a department's liability in the scope of failure-to-train: First, when city policy-makers know that officers are required to arrest fleeing felons and are armed to accomplish that goal, the need to train officers in the constitutional limitations regarding the use of deadly force to apprehend fleeing felons is obvious; failure to do so amounts to deliberate indifference. Second, deliberate indifference could be based on a pattern of officer misconduct, which should have been obvious to police officials who fail to provide the necessary remedial training.⁴ In general, it has to be demonstrated that training does not currently meet acceptable standards within the law enforcement training community—it omits important aspects, is not satisfactorily documented, is not properly taught or contains inadequate standards.⁷ In an effort to avert second-guessing of municipal training programs, the Court took a position that training be afforded to officers in order to "respond to usual and recurring situations with which they must deal."¹

The Court wisely addressed the fact that officers and the people who manage them are only human, and they took this into consideration when deciding *Canton*:

"Adequately trained officers can make mistakes." Liability can only attach where the city's failure-to-train reflects deliberate indifference to the constitutional rights of citizens and deficiency must be closely related to the ultimate injury. Training then should be designed to directly correspond with recurring tasks of police work.¹

Since the Canton decision, the US Supreme Court has made other rulings that have continued to define the Canton decision. In the case of county commissioners of Bryan County v. Brown, the Court found it possible to hold a municipality liable for failing to train even a single officer in a recurring act. This opens the door for the possibility of a municipality being held liable for failing to train all of its officers in acts they know officers will perform and, if not trained properly, the result will likely be a constitutional violation.⁸

Training Liability Sources

In the year 2000, Darrell L. Ross of the East Carolina University at Greenville, North Carolina conducted a study of failure-to-train Section 1983 cases. Ross did a content analysis of 1,525 cases (from 1989 - 1999) to determine the 10 most frequent areas where failure-to-train allegations were brought against departments.

Ross investigated the following six questions when conducting this study:

1. What are the most common topics of civil litigation filed against police agencies that allege failure-to-train?
2. How frequently does a municipality prevail in these claims?
3. How frequently does the plaintiff prevail?
4. What is the average award granted to the plaintiff?
5. What are the average attorney fees awarded?
6. What are the overall longitudinal trends of these cases for the past 10 years?

Police administration prevailed in slightly less than 2/3 of the litigation, or a 2-1 ratio. Less lethal force and lethal force (for example, excessive force claims) combine to be the most litigated areas asserting a failure-to-train officers (25%). This point on force issues (constituting almost 1/4 of all claims) is interesting because departments generally spend the majority of their time training on some of these issues, while ignoring other force training.

Departments always train officers in weapons disciplines, expandable baton training and pepper spray issues. However, after studying the table, it is obvious that 55% of the non-lethal claims arise from physical or hands-on actions, something which departments spend very little training time on. It is the exception and not the rule for officers to receive any defensive tactics or physical skills training after graduating from the academy. Ross's study indicates this kind of training may be an area that needs more attention. The data also reveals that it may be difficult for plaintiffs to demonstrate a standard of deliberate indifference when they claim a department has a training deficiency. However, plaintiffs prevailed in approximately 1/3 of the overall cases, and the average award is significant, amounting to over \$450,000.¹ It should be noted that costs indicated in the table do not reflect the time the department and its administrators spent in preparation of the lawsuits and claims.

Avoiding this Liability

Law enforcement agencies should make it a high priority to take steps to avoid civil liability issues because of failure-to-train. No other issue will so drastically ensure your department's resiliency as proper training. Administrators must pay attention to issues raised and standards set in Canton. As Ross's study clearly indicates, departments should carefully review training practices related to high-risk activities, such as the use of deadly and non-lethal force, warrantless arrest and searches, vehicle pursuit and prisoner safety in detention facilities. Departmental training policies should be reviewed to ensure conformance with current constitutional standards, and training practices should not be allowed to fall below minimum standards. If a pattern of abuse begins to develop, officers should immediately receive remedial training in that area. Regular in-service training should be the norm for all high-risk areas.

Supervisor policies relating to citizen complaints and departmental disciplinary actions should be periodically reviewed. Specific procedures for investigating citizen complaints should be established and carefully followed.⁴ Complaints should be investigated as soon as possible, and the results of the investigation should be documented and maintained for a number of years. The same rules apply for any discipline assigned to any and all officers. The failure to discipline or dismiss officers who develop a track record of unconstitutional conduct may result in supervisory and municipal liability.⁴ While it is impossible to be free from liability, these proactive management initiatives will help reduce the risk significantly.

Good, clear documentation of training is a must. All officers should have copies of all their training certificates and description of the training received placed in their personnel files and in the department's training files. This training information should be kept as up-to-date as is reasonably possible.⁷ It is also the responsibility of the agency to maintain records of all in-service training, including when training was held, which officers attended, which topics were covered and who provided the training. Certain skills, such as firearms training, should be required of all officers, regardless of rank, assignment or experience.⁷ Taking this proactive step will help reduce department liability by showing an ongoing commitment to proper training.

Other important areas departments should cover in their training curriculum include:

1. Legal training – this should include legal updates, new law information and search and seizure information.
2. Use-of-force training – reviewing the decision matrix and documentation required by officers when force is utilized.⁷

For his part, Ross made four recommendations after analyzing his research:

1. Each administrator should conduct an internal assessment of tasks officers and supervisors perform on a routine basis.
2. Once a training assessment has been finalized, administrators are encouraged to revise those policies and procedures that parallel training topics. An example would be the police department's use-of-force policy that should be reviewed on an annual basis and revised to reflect new and current case laws.
3. In order to avert future failure-to-train liability and to maintain occupational professionalism, supervisory training should be instituted. This should include pre- and post-promotion training, conducted at least biannually, concentrating on supervisory duties, including policy interpretation, implementation and enforcement, as well as performance evaluation of subordinates.
4. It is critical that all training be documented and accurate training records be maintained. Training records for each officer and administrator should be maintained and inspected at least twice a year to ensure their integrity. Administrators should monitor and evaluate current and future training needs annually. It is also recommended that police administrators review their field training officer program.

Conclusion

Ignoring issues raised in the Canton decision can be devastating to an agency, its administrators and municipality. This Supreme Court decision clearly indicates that departments can and will be held liable for a deliberate indifference to train their officers, and to make sure their decision-making ability is based on that training. Although it is difficult to prove the burden of deliberate indifference, the average cost awarded to plaintiffs in winning cases was nearly one-half of a million dollars. Considering the fact that the average police department in the United States is approximately 10 officers, this amount of money could represent a large percentage of the budget. Attorney's fees and number of man-hours that would go into the preparation of such a defense could easily double that amount.

Thankfully, there are things departments can do to insulate themselves against failure-to-train lawsuits. Administrators must make sure their training programs are current and effective, demand that training be a normal part of the department's yearly calendar and thoroughly document all training. An effective training program can be the difference between dismissal of a suit and a serious judgment against an agency.

References

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Editor's Note: This article was adapted from a research paper written by Matt McNamara. Contact Matt at www.matt.mcnamara@triplecanopy.com for a copy of the complete paper.

About the Author


Matthew W. McNamara was an officer for 12 years, most recently Deputy Chief at the Cook County Sheriff's Dept. (Chicago, Illinois). Matthew is a former Team Leader of his department's Tactical Response Team and he is also a former Director for the Illinois Tactical Officer's Association and former Chairman of the physical skills committee. Matthew is certified by the State of Illinois Training and Standards Board to instruct a wide variety of tactical, firearm and combatives related disciplines. He is currently the Senior Manager of the Tactical Training Group for Triple Canopy and may be reached at matt.mcnamara@triplecanopy.com

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Training Liability in Use of Deadly Force

Any time a law enforcement officer uses deadly force, the likelihood that a lawsuit will follow is almost a certainty. Most of these lawsuits are brought in the federal courts as civil rights claims based upon the Fourth Amendment to the United States Constitution. These actions are brought under a federal statute, 42 U.S.C. § 1983 which creates civil liability when a person, acting under color of law, violates federally protected rights of another, causing damage. Under § 1983, a governmental entity, specifically a town, city or county are not liable for all of the actions of their employees. Governmental entities are only liable in cases where some policy, custom, rule or ordinance causes the employee to commit the violation or where the entity has failed to supervise, discipline or train the employee and this failure leads to a foreseeable constitutional violation.ⁱ

The focus of this article is on training with respect to law enforcement's use of deadly force. The article will begin with a summary of the law with respect to law enforcement training and then proceed to the more specific area of firearms training.

The foundation case on failure to train is *City of Canton v. Harris*.ⁱⁱ Geraldine Harris was arrested by the Canton Police and brought to lock-up. During the booking process she fell to the floor several times. When asked if she needed medical assistance, she responded incoherently. No medical attention was ever summoned for her. Following her release, relatives brought her to the hospital where she was treated for several emotional ailments.

During the lawsuit which followed on Harris' claims, evidence was established that shift commanders had the sole discretion to determine whether or not a detainee needed medical attention. It was further established that the shift commanders were given no training to assist them in making these medical evaluations. Harris prevailed on her claim at the trial court level, but the United States Court of Appeals for the 6th Circuit vacated the finding against the city because of the jury instructions. The 6th Circuit would have applied a standard of recklessness, intentional or gross negligence.

The United States Supreme Court held that "a municipality may be held liable under § 1983 for violations of rights guaranteed by the Federal Constitution, where violations result from the municipality's failure to adequately train its employees, only if that failure reflects a DELIBERATE INDIFFERENCE on the part of the municipality to the constitutional rights of its inhabitants.

It should be noted that failure to train cases can be established in two ways. The first involves a lack of training in an area where there is a patently obvious need for training, for example an officer who is untrained in deadly force unreasonably shoots someone. The second method of establishing a failure to train by an agency is to establish a pattern of conduct by officers that would put the final policymaker on notice and the policymaker failed to respond with training. Certain forms of conduct are beyond the reach of failure to train. For example, in *Walker v. City of New York*, a plaintiff who spent nineteen years in jail for a crime he did not commit brought a failure to train claim based on the department's failure to train its officers not to commit perjury.ⁱⁱⁱ Walker's wrongful conviction was based upon perjured testimony by a police officer. The United States Court of Appeal for the 2nd Circuit asserted: "If the conduct on which the claim is based is such that a common person would know the right response without training, there is no duty to train." Some additional language from the Walker case provides further guidance as to when training is required. Specifically: when policy makers know "to a moral certainty that officers will confront a particular situation" and where "the situation present(s) a difficult choice or is there a history of mishandling by employees" and where "the wrong choice frequently result(s) in a deprivation of constitutional right." ^{iv}

Should policy makers know to a "moral certainty" that officers will be faced with making decisions on whether or not to use deadly force? Is the decision to use deadly force a difficult choice? Will the wrong choice frequently result in deprivations of a constitutional right? Decision making training with respect to the use of deadly force falls squarely within the description of a law enforcement task for which there is a patently obvious need for training.

For many years law enforcement agencies trained officers the "how to" shoot by using marksmanship courses for firearms training. Officers would stand at various distances from paper targets and take aim. As training progressed, agencies began creating combat

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and stress courses that incorporated officer movement, target movement and limits on the amount of time an officer would have to fire. While these courses are sufficient in training officers how to shoot; they fail in training an officer when to shoot and they fail to reflect the conditions under which most officers are required to work.

Almost 25 years ago, the courts began telling law enforcement that firearms training had to be more reflective of the conditions that officers would face while working. In *Popow v. City of Margate*,^v an officer in foot pursuit of a suspected kidnapper fired as the kidnapper ran down the street. As a result, the officer accidentally shot Mr. Popow, killing him. While the court's reasoning in *Popow* with respect to the constitutional analysis of an accidental shooting would not be followed by courts today, the court's assertions with respect to firearm's training is still being cited by courts.

In addressing the City of Margate's liability with respect to firearms training the court noted that the officer involved testified in his deposition that he was initially trained on deadly force at the police academy ten years prior to the shooting. His continued firearms training with respect to firearms consisted of going to a range twice a year. The court noted that there was no training with respect to low light conditions, moving targets or firing in residential areas. The court concluded that it was entirely foreseeable that an officer from the City of Margate, a largely residential area, would have to pursue a fleeing (moving) suspect at night (low-light). The court remanded the case back to the trial court after deciding that a jury could find the training provided by the City of Margate was grossly inadequate.^{vi}

The need for training on the "when to" shoot is now an accepted fact among the courts. Unfortunately, many police agencies, due to a lack of resources, still have not developed training in this area. The failure to have "judgment" or "decisional" training with respect to the use of deadly force is a risk that agencies cannot afford to take.

In *Zuchel v. Denver*,^{vii} the United States Court of Appeal examined a case which began when members of the Denver Police Department responded to a disturbance call at a fast-food restaurant. Upon arrival, officers were told that the subject responsible for the disturbance had gone around the corner. As officers turned the corner they observed Zuchel, who had his back to the officers, arguing with some teenagers. Someone shouted that Zuchel had a knife. As the officers approached Zuchel turned toward the officers, at which time Officer Spinharney fired four times, killing Zuchel. A pair of fingernail clippers was found next to Zuchel. Officer Spinharney's partner testified that she was surprised when Officer Spinharney fired because she was right next to Zuchel and about to grab him.

Following a civil trial against the City of Denver, (the case against Officer Spinharney had been settled prior to trial); a jury came back with a verdict against the city for \$330,000 based upon a failure to adequately train. The City of Denver appealed. In upholding the verdict, the court cited testimony by a Denver police detective as well as testimony from the plaintiff's expert on police training. The detective testified that the only "shoot-don't shoot training" that existed at the time of Zuchel's death "consisted of a lecture and a movie." The plaintiff's police practices expert testified that if the only "shoot-don't shoot" training officers received was a lecture and a movie, then the training was grossly inadequate.

In reviewing these two decisions, *Popow* and *Zuchel*, it is clearly established that law enforcement agencies must conduct firearms training on a regular basis; the firearms training must reflect the environment that officers are likely to face, i.e. moving targets, moving officers, low-light conditions and residential areas if applicable to the agency being trained; and finally agencies must conduct decision making training with respect to when to use deadly force. Annual or semi-annual qualification courses are simply insufficient for purposes of assisting officers in making deadly force decisions and for purposes of avoiding liability.

Qualification courses and other courses which emphasize speed under stress and marksmanship, without decision making skills may actually enhance liability. Noted police practices expert G. Patrick Gallagher while speaking to groups nationally has recounted the story of an agency that determined that one of their officers had been involved in a bad shooting, fortunately for the officer's intended target, the officer missed. In order to remediate the officer's mistake, the agency sent the officer to the range where he underwent re-training. As a result, his shooting skills were enhanced, but his decision-making skills with respect to deadly force remained unchanged. Thus, the agency now had a more skilled shooter who would more likely hit his target when he made a bad decision.

Many cases emphasize the need for enhanced decision making skills with respect to use of force decisions. *Allen v. Muskogee*^{viii} serves as one example. In *Allen*, officers responded to a call of a suicidal man. Upon their arrival at the scene they observed Mr. Allen, seated alone, in his vehicle with a gun. Within 90 seconds of their arrival, the officers rushed the car in an attempt to disarm Mr. Allen, rather than isolating and negotiating with him. When the officers rushed the car, Allen made a sudden movement toward the officers leading the officers to believe they were in danger of being shot. The officers opened fire and killed Allen.

A police practices expert reviewing the case based his opinion of the department's training on the deposition of a training officer who testified that the officers' rushing of the car was consistent with their training. The expert opined that if rushing the vehicle was consistent with the department's training then the department's training was "contrary to every piece of training material in existence." As a result the court allowed the case to go forward against the agency. If the agency could have put forth documented training scenarios based upon this type of recurring incident, the plaintiff would not have been able to go fourth on this type of claim.

A recent case from the United States District Court, Rhode Island provides an example of how documented training that incorporates shoot-don't shoot may diminish or eliminate an agency's liability in a failure to train case. *Young v. City of Providence*^{ix} involved every police department's worst nightmare. Two uniformed police officers responded to a call of two women fighting outside a late-night restaurant that was a common gathering spot after the local bars closed. When the officers arrived at the scene they observed a Hispanic male in the parking lot with a gun. One of the officers took cover behind a telephone pole and remained there throughout the ordeal. The second officer, who had completed field training by only eight days, took cover behind the passenger wheel-well of the police cruiser, using the engine block as cover. The officers ordered the man to drop the gun and get on the ground. When the man complied with the officers' commands the officer behind the cruiser no longer had a visual observation of him. The officer then left his position and moved behind the rear bumper of the suspect's vehicle in an attempt to see him.

As the officers continued shouting orders to take the Hispanic subject into custody, a second man came out of the restaurant brandishing a firearm. The second man, an African American male, wearing a heavy winter coat began approaching the Hispanic male. The officers ordered the man to drop his gun and when he failed to do so, both officers fired. Each of the officers fired, what would prove to be, fatal shots. As other officers arrived on the scene of this shooting it was learned that the African American male was an off-duty police officer, Cornel Young Jr., who was apparently going out to assist his brother officers.

In a bi-furcated trial a jury determined that the officer who fired at Officer Young from behind the telephone pole had acted reasonably while the second officer who had moved from his position of cover behind the police vehicle prior to the shooting had acted unreasonably. The only clear distinction between the two officers was that one arguably left a good position of cover, while the second remained in a position of cover. Prior to the case moving on to its second phase where the plaintiff was alleging that the shooting was the result of the police department's failure to train its officers, the judge issued summary judgment for the department and the training officers who were named as defendants in the suit.^x

In dismissing all of the failure to train claims the court cited to the documented training that the police department had conducted. This training included scenario based decision making training that included shoot-don't shoot decision making. The training also included training on an interactive firearms simulator where officers would have to give verbal commands, make decisions regarding cover, and in some cases make the ultimate decision of whether to shoot or don't shoot. As a result of the documented training the court concluded that the plaintiff would not be able to succeed on a claim that the department or its trainers were deliberately indifferent with respect to firearms and deadly-force based training.^{xi}

In addition to the case law, model policies on use of force direct that agencies must conduct shoot-don't training.^{xii} In a lawsuit that includes a failure to properly train on deadly force, police practices experts will use these model policies to support an opinion that the generally accepted police practice or the national standard is to conduct this type of training. An agency that fails to conduct this type of training faces the possibility that liability will be found if the failure in training has led to a bad shooting.

In developing shoot-don't shoot training, agencies should try to foresee as many possible scenarios that officers are likely to face. Every possible scenario cannot be foreseen, but many can be and training should be geared to the recurring circumstances that officers must deal with. Some examples would include situations that may be de-escalated by a proper police response; response to emotionally disturbed persons; response to off-duty situations; response to suicide-by-cop situations; decision making with respect to good citizens who are in possession of firearms i.e. the store owner with a gun who is pursuing the robber from his store; vehicle involved firearms scenarios; circumstances where missed shots may endanger innocent persons; and persons turning with innocent objects in their hands.

Obviously, all of the scenarios should be conducted with varying environmental conditions such as low-lighting; residential or densely populated areas; and movement of both suspects and officers. The scenarios should also encompass a full force continuum evaluation with respect to officer response i.e. did the officer give verbal commands? Did the officer use other tools where they may have effectively resolved the event without resorting to deadly force where appropriate? Did the officer give a warning (where appropriate) before using deadly force?

In managing risk by conducting shoot-don't shoot training, agencies may consider purchasing a firearms training simulator. The current technology in these simulators has greatly advanced over the past few years allowing training officers to escalate and de-escalate scenarios in accordance with the response of the officer involved in the training. Some of the more advanced simulators, such as Advanced Interactive Systems, AIS® simulator, have scenario authoring capability such that agencies can develop their own scenarios. An agency that does not have the resources for scenario development can also purchase canned scenarios that have been developed by their simulator's manufacturer. For example, AIS has hundreds of pre-produced scenarios, each containing numerous branching options depending on officer response, for all of the various law enforcement functions.

While no agency is immune from a lawsuit, no agency can afford to sit back in a defenseless posture. One of the most effective methods of avoiding agency liability is through proper, thorough and documented training. No agency can afford to be without such training. Proper training will undoubtedly lead to better decisions by officers as well. These better decisions also place the individual officer in a position of strength when the lawsuit is filed. Although no officer or agency likes to be served with a lawsuit, there is a great deal of satisfaction when the suit is dismissed due to the investment of the agency and officer in training and professionalism.

Citations:

- i. Note, State Government entities and state actors acting in their official capacity cannot be sued in federal court under § 1983 due to the Eleventh Amendment's bar against such suits. See *E.G. Will v. Michigan Department of State Police*, 491 U.S. 58 (1989).
- ii. *City of Canton v. Harris*, 489 U.S. 378 (1989).
- iii. *Walker v. City of New York*, 974 F.2d 293 (2d Cir. 1992).
- iv. *Id.*
- v. *Popow v. City of Margate*, 476 F.Supp. 1237 (Dist. N.J. 1979).
- vi. Note, the standard for failure to train was set forth in *City of Canton v. Harris* which was decided after *Popow* and is a "deliberate indifference" standard.
- vii. *Zuchel v. Denver*, 997 F.2d 730 (10th Cir. 1993).
- viii. *Allen v. Muskogee*, 119 F.3d 837 (10th Cir. 1997).
- ix. *Young v. City of Providence*, 2004 U.S. Dist. LEXIS 1847 (R.I. 2004).
- x. Note, the case is currently under appeal to the United States Court of Appeal 1st Circuit.
- xi. Note, the author of this article was one of the defendants who was granted summary judgment in this decision.
- xii. See International Association of Chiefs of Police Model Policy on Use of Force and the accompanying concept paper revised August 2001. ("Finally, firearms training with respect to the use of deadly force cannot be limited to routine firearm qualifications and proficiency testing. It is recommended that all officers authorized to carry firearms be required to qualify with each authorized firearm on at least a semiannual basis and preferably three times per 12 month period. But, in addition to proficiency testing, it is strongly recommended that police agencies provide (1) routine instruction and periodic testing on the agency use-of-force policy and (2) instruction and practical exercises in making decisions regarding the use of deadly force. In the latter instance, it is important that an element of firearms training include realistic use of force simulation exercises. This includes night and/or reduced light shooting, shooting at moving targets, strong hand/weak hand firing, and combat simulation shooting. Firearms training should attempt to simulate the actual environment and circumstances of foreseeable encounters in the community setting, whether urban, suburban, or rural. A variety of computer simulation training is available together with established and recognized tactical, exertion, and stress courses. In essence, acceptable firearms training and evaluation are no longer limited to target practice. Scrutiny of firearms training will normally include an evaluation of the relevance and utility of such instruction.")

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About the Author: Jack Ryan, Attorney



Jack Ryan is an attorney in Rhode Island, a graduate Juris Doctorate, Cum Laude Suffolk University Law School. Jack has 20 years police experience as a police officer with the Providence Police Department, Providence, RI. Jack's law degree and experience as a police officer gives him the unique perspective of the legal and liability issues. Jack is a former adjunct faculty member at Salve Regina University and lectures frequently throughout the United States.

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Inadequate Training in the Use of Non-Deadly Force as the Next Frontier in Federal Civil Liability: Analysis of the Baltimore City Baton Program

Brian L. DeLeonardo

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INADEQUATE TRAINING IN THE USE OF NON-DEADLY FORCE AS THE NEXT FRONTIER IN FEDERAL CIVIL LIABILITY: ANALYSIS OF THE BALTIMORE CITY BATON PROGRAM

Brian L. DeLeonardo

Police officers possess awesome powers. They perform their duties under hazardous conditions and with the vigilant public eye upon them. Police officers are permitted only a margin of error in judgment under conditions that impose high degrees of physical and mental stress. Their general responsibility to preserve peace and enforce the law carries with it the power to arrest and to use force - even deadly force.¹

I. INTRODUCTION

Police officers face one of the most "hostile" work environments of any profession.² Not only is the crime rate significant, with over 14.1 million crimes reported in 1993 alone,³ but police officers are increasingly likely to be involved in physical confrontations with suspects.⁴ Between 1980 and 1989 alone, 1,514 police officers were killed or died in the line of duty.⁵ Additionally, police officers have seen their ability to use deadly force in apprehending suspects curtailed over the last decade through a series of United States Supreme Court decisions.⁶ This has served to add pressure to officers when making the split-second decision of whether to use deadly force. Moreover, when police officers use deadly force in apprehending a suspect, that decision will frequently spark a public outcry, an internal investigation, and in some situations, a criminal prosecution of the police officer.⁷ In addition, a police officer's split-second miscalculation to use deadly force may result in a civil suit and large monetary judgment.⁸

Police departments have responded to this difficult work environment in two ways. First, police departments have vigorously worked to ensure that their police officers are proficient in the use of firearms and knowledgeable in the legal limits for using these weapons. This is accomplished by providing not only the initial training in the academy, but also mandating in-service training and annual certification while the officers are on the force.⁹ This increased training has reduced the likelihood of a police officer inappropriate-

ly using deadly force, but by no means has that possibility been eliminated. Second, police departments have focused heavily on finding techniques and weapons that effectively and safely allow officers to carry out their duties, while minimizing risk of injury to the suspect.¹⁰ These "non-deadly" weapons include batons, police dogs, tasers (stun guns), pepper spray, and hand-to-hand defense techniques. The demand by police departments for new and improved non-deadly weapons has been so intense that manufacturers work furiously to be the first on the market with some new "gadget" to add to the police arsenal.¹¹

Nevertheless, the rapid adoption of non-deadly weapons and techniques by police departments has been a mixed blessing. While such weapons and techniques have substantially reduced the likelihood of death in police officer/suspect confrontations,¹² they have also served to foster a new area of excessive force civil judgments based upon the excessive use of non-deadly weapons and techniques.¹³ A primary reason for the civil liability in less than lethal force situations is that the vast majority of police departments have little to no formal rules on the use of non-deadly force. Strangely, unlike the strides made by police departments in the deadly force arena, no detailed requirements for in-service training and annual certification in the use of non-deadly weapons and techniques are in place.¹⁴ This lack of training and fear of liability has led many departments to end the use of some non-deadly weapons altogether.¹⁵ Moreover, the devastating effects of these weapons is systematically underplayed, which in

many situations has led to many unintended deaths of non-violent suspects.

An overview of the new Baltimore City Police Department baton training program provides a good basis for analyzing the deficiencies and problems associated with the adoption and use of non-deadly weapons and techniques. By recognizing the deficiencies in the non-deadly weapons training being provided to its police officers, the Baltimore City Police Department can avoid the civil liability that is sure to follow as courts slowly become as demanding on a police officers' use of non-deadly weapons as courts have become on the use of deadly weapons.¹⁶

II. MUNICIPALITIES ARE SUBJECT TO FEDERAL CIVIL LIABILITY FOR THE USE OF EXCESSIVE FORCE BY THEIR POLICE OFFICERS BASED ON THE CONCEPT OF INADEQUATE TRAINING

Title 42, section 1983 of the United States Code provides a civil tort remedy for citizens who have their federal constitutional rights violated by government officials.¹⁷ This federal statutory remedy, which was derived from the Civil Rights Act of 1871, was passed in order to provide a mechanism for eliminating Ku Klux Klan activity in the South by providing a neutral federal forum for newly freed slaves to bring claims against government officials who violated their civil rights.¹⁸ Today, section 1983 provides a vehicle for citizens to seek redress of constitutional deprivations by police officers who have used excessive force in violation of the citizen's constitutionally protected rights. In order to maintain a section 1983 action, a plaintiff must demonstrate that he has suffered a constitutional deprivation, the deprivation was the result of an action taken under color of state law, and that the constitutional deprivation resulted in injury to the plaintiff.¹⁹

A. THE USE OF EXCESSIVE FORCE IN APPREHENDING SUSPECTS BY POLICE OFFICERS CONSTITUTES A CONSTITUTIONAL VIOLATION ENTITLED TO REDRESS UNDER 42 U.S.C. SECTION 1983

At common law, police officers had a privilege to use deadly force when attempting to arrest a fleeing felon, but not when attempting to arrest a fleeing

misdemeanant. In 1985, however, the United States Supreme Court in *Tennessee v. Garner*²⁰ changed the way in which the use of deadly force by police officers against suspects was to be analyzed by holding that the apprehension of a criminal suspect "by the use of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment."²¹

In determining whether a seizure is reasonable, the *Garner* opinion noted that "[w]e must balance the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion."²² The Court noted that "[t]he intrusiveness of a seizure by means of deadly force is unmatched,"²³ and therefore, such force is only appropriate when "it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical harm, either to the officer or others."²⁴ Thus, the Court found that the reasonableness of the use of deadly force to seize a person must be determined through a balancing test, considering the totality of the circumstances.

The Court later extended this analysis to the use of non-deadly force by a police officer in apprehending a suspect. In *Graham v. Connor*,²⁵ the Court was confronted with a claim that the police had used excessive non-deadly force with a diabetic man during an investigatory stop. The Court held that the Fourth Amendment's reasonableness standard is the proper standard for analyzing all claims that police officers have used excessive force in making arrests, investigatory stops, or other seizures of citizens.²⁶ The Court added that in determining the reasonableness of the force used, the analysis must be from the perspective of a reasonable officer at the scene "rather than with the 20/20 vision of hindsight."²⁷ Furthermore, the Court instructed that this test is an objective one, i.e., whether the officers' actions were objectively reasonable in light of the circumstances confronting them, without considering intent or motivation.²⁸ The Court noted, in assessing the reasonableness of the degree of force used by police officers, one should consider the severity of the crime the suspect allegedly committed, whether the suspect posed an immediate danger to the police or others, and whether the suspect was resisting or fleeing.²⁹

B. A MUNICIPALITY MAY BE LIABLE FOR THE USE OF EXCESSIVE FORCE BY ITS POLICE

OFFICERS IF THE MUNICIPALITY HAS PROVIDED INADEQUATE TRAINING TO THOSE POLICE OFFICERS

The decisions of *Garner* and *Graham* established that if excessive force is used by police officers in apprehending a suspect, whether such force is deadly or not, a Fourth Amendment constitutional violation has occurred. Police officers who use excessive force on the suspect are liable under section 1983 for damages arising from the constitutional violation.³⁰ Additionally, the United States Supreme Court has held that the municipality that employs police officers may also be liable for the constitutional violation arising from the use of excessive force.³¹

In *Monell v. Dept. of Social Services*,³² the Court recognized that, although the doctrine of *respondeat superior* was not available as a method for imposing governmental liability under section 1983, local governments could be sued when "the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officer."³³ The Court, however, did not limit the scope of municipal liability to only its formally promulgated policies. Rather, the Court held that the municipality "may be sued for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal approval through the body's decision-making channels."³⁴ The Court, however, was clear in its requirement that for the municipality to be found liable for the unconstitutional actions of its employees, there must be a direct causal link between a municipal policy or custom and the unconstitutional harm that was actually suffered.

Several years later, the Court further expanded the liability of municipalities by liberally interpreting what constitutes a "policy" or "custom." The Court, in *Canton v. Harris*,³⁵ held that the inadequacy of police training may be a basis for section 1983 liability where the failure to adequately train amounts to a deliberate indifference to the rights of persons with whom the police officers come into contact.³⁶ The Court reasoned that "[t]he issue in a case like this one . . . is whether that training program is adequate; and if it is not, the question becomes whether such inadequate training can justifiably be said to represent 'city policy.'" ³⁷ The Court, in addressing the paradox that a lack of action

equals policy, explained that:

[I]t may happen that in light of the duties assigned to specific officers or employees the need for more or different training is so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that the policy makers of the city can reasonably be said to have been deliberately indifferent to the need. In that event, the failure to provide proper training may fairly be said to represent a policy for which the city is responsible, and for which the city may be held liable if it actually causes injury.³⁸

Against this legal backdrop, an analysis of the Baltimore City Police Department's baton program, and the liability and risks associated with the program, can be evaluated. The Baltimore City Police Department can be held liable for the Department's actual excessive force training policies, and for inadequate non-deadly force policies and training programs where such a deficiency in training demonstrates that the Department was deliberately indifferent to the obvious constitutional violations likely to result.

III. THE BALTIMORE CITY POLICE DEPARTMENT'S BATON PROGRAM - INDICATIVE OF THE PROBLEMS AND SECTION 1983 LIABILITY RISKS INCURRED WITH THE ADOPTION OF NON-DEADLY WEAPONRY

The Baltimore City Police Department recently requested an examination of its policies and techniques from a consultant who has provided similar services to many police departments across the country.³⁹ Robert K. Koga, the founder of the Koga Institute, Inc. ("KOGA"), determined that the Department needed to better train its officers in the use of force against suspects. KOGA recommended that the Baltimore City Police Department replace the 22-inch knurled-ended nightstick, presently used by officers, with a 29-inch straight baton and that officers undergo KOGA's training program on using the baton.⁴⁰ This new training program provided by KOGA has been the subject of sharp criticism. Primarily, officers who have gone

through the training have noted that the instructors emphasize a "two-handed strike aimed at the chest or joints," whereas "previous training had officers aiming for large muscle mass or the legs."⁴¹ One officer even commented that "[t]his is the most dangerous thing I've seen."⁴²

There appears to be more than a sufficient basis for questioning the propriety of this program in light of the potential for liability that the program creates for the City of Baltimore. The baton program in Baltimore City reflects the general problem with the treatment of non-deadly weapons and techniques by police departments across the country. Inadequate training of police officers can be found not only because of the Baltimore Police Department's actual policies and programs, which underplay the actual force utilized in their baton techniques, but also for the Department's deliberate indifference to the need for better training of the police officers in deciding when the use of non-deadly weapons is appropriate. Both deficiencies have made the Baltimore City Police Department, as well as many other police departments, ripe for section 1983 liability.

A. BALTIMORE CITY POLICE DEPARTMENT'S BATON TRAINING PROGRAM IS PACKAGED AS A NON-DEADLY TECHNIQUE

The baton techniques that are taught to Baltimore City Police Department officers are contained in an instructional manual produced by KOGA.⁴³ In the manual, KOGA separates the force police officers use into three categories: (1) controlling force, (2) injuring force, and (3) deadly force.⁴⁴ KOGA defines controlling force as "physical control ranging all the way from exerting a firm grip on an individual through pain compliance control holds to an actual physical control hold or lock."⁴⁵ Injuring force is defined as including the use of a "baton or other impact weapon, as well as some self-defense tactics."⁴⁶ Deadly force, on the other hand, is defined to include "the use of a weapon or tactic that carries with it a substantial risk of death or serious bodily injury."⁴⁷

As this breakdown of force indicates, KOGA believes and teaches that the use of the baton is best classified as injuring force, and thus, that the KOGA baton techniques are capable of being performed in situations calling for less than deadly force. As KOGA explains:

Police officers have often become confused about when the baton may be used in a situation. In most situations, a police officer's best defense is weaponless control. Other rarer situations call for the employment of the firearm. Somewhere in between, however, there may be circumstances which require more force than can reasonably be applied without a weapon, but that fall short of calling for a firearm. These are situations which call for the use of a baton.⁴⁸

Specifically, KOGA teaches that police officers can consider using the baton when:

1. They are confronted by an uncontrolled, violently resisting subject, or are being attacked in a manner not calling for the use of deadly force, and they have attempted to or rejected the use of lesser force;
2. The suspect has a similar weapon, such as a baton, or perhaps a knife;
3. The suspect is larger than them, and has demonstrated to have superior skill and ability;
4. Tactical considerations such as a riot demand immediate control.⁴⁹

While the above situations may in some instances actually call for the use of deadly force, KOGA indicates that baton strikes can be used even in non-deadly force situations. KOGA further conveys its belief in the non-deadly nature of certain baton techniques through illustrations in the manual demonstrating use of these baton techniques on an unarmed criminal suspect.

In regard to the actual baton techniques utilized, KOGA establishes a list of preferred areas of the body that a police officer may strike. The police officers are instructed that:

When striking an aggressor with a baton, the best target areas are those areas where the underlying bone is closest to

the surface of the skin. Suitable areas are those which are easily accessible and effective for quickly subduing the aggressor, yet unlikely to cause serious injury. In general, these areas are the lower legs, arms, chest, midsection, and the rib cage.⁵⁰

The method of striking these areas takes two forms: thrusting blows and striking blows. Thrusting is defined by KOGA as a "one or two-handed jabbing motion, employing one rounded end of the baton for the strike," while striking is defined as a "one or two-hand[ed] strike with the baton, as if cutting with a sword."⁵¹ In regard to the injury that could result from such a blow, KOGA states that "the aggressor against whom the police baton is used will most probably suffer injury, albeit usually minor."⁵²

B. THE BATON STRIKES TO THE CHEST THAT KOGA TEACHES BALTIMORE CITY POLICE OFFICERS AS NON-DEADLY FORCE ACTUALLY CONSTITUTES DEADLY FORCE

While the United States Supreme Court in *Tennessee v. Garner* held that the use of deadly force was a seizure, and thus subject to the Fourth Amendment's reasonableness requirement, the Court did not define what type of force constitutes deadly force. The Model Penal Code, drafted by the American Law Institute, provides a useful definition that has been adopted by many courts.⁵³ It defines deadly force as:

Force which the actor uses with the purpose of causing or which he knows to create a substantial risk of causing death or serious bodily harm. Purposely firing a firearm in the direction of another person or at a vehicle in which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the actor's purpose is limited to creating an apprehension that he will use deadly force if necessary, does not constitute deadly force.⁵⁴

While not all of the baton techniques taught to Baltimore City police officers constitute deadly force, it is difficult to conceive how the two-handed thrust to the chest can be anything but deadly force. The force that is exerted from such use of the baton is enormous. As a KOGA trained instructor stated, the new baton being used "packs a bigger wallop" and "is better suited for samurai-sword-like swings, which help the officer strike suspects fewer times in areas deemed 'acceptable targets.'"⁵⁵ One newspaper reporter, on assessing the KOGA method, noted that "when swung properly, [the baton] can lay a person low without drawing blood. It can also shatter a door, break an ax handle in half or shatter bones."⁵⁶ In light of the power that police officers can exert with the butt end of the baton, especially when using both hands to maximize the force, it is obvious that the thrusting baton blows to the chest and ribs create a substantial risk of causing death or serious bodily harm.

Indeed, "[s]erious chest injuries are often fatal due to the possibility of injury to the lungs, heart and great vessels, and the many types of complications that arise from penetrating or blunt traumas to these organs."⁵⁷ The chest, which is enclosed by the ribs, contains the heart, lungs, veins and arteries that enter the heart, trachea, bronchi (the airways to the lungs) and the esophagus.⁵⁸ The fracturing or breaking of the ribs could result in the puncturing of a lung, which can be fatal.⁵⁹ Injury to the arteries of the heart can result in massive internal bleeding.⁶⁰ Moreover, a strong blunt force directed at the chest can also "fracture four or more ribs on the same side and produce a condition known as flail chest," a condition where the fractured ribs move separately from the rest of the chest area when breathing, thereby resulting in breathing difficulty.⁶¹ Hospitalized individuals with "injuries only of the chest have a four to eight percent mortality rate. The rate rises to ten to fifteen percent when one additional organ system is involved, and to thirty-five percent when there are multiple-organ-system injuries."⁶² In light of all the medical complications that can arise from the use of a thrusting chest blow, the technique is best considered deadly force. Contrary to the assessment made by the Baltimore City Police Department, the conclusion that a baton strike to the chest is deadly force has been reached by the majority of police departments around the country.⁶³

C. THE BALTIMORE CITY POLICE DEPARTMENT BATON PROGRAM, BY MISCLASSIFYING BATON USE AS NON-DEADLY FORCE AND FAILING TO PROVIDE PROPER TRAINING IN THE USE OF NON-DEADLY WEAPONS, RUNS THE RISK OF CIVIL LIABILITY FOR INADEQUATE TRAINING

There are two main grounds for finding section 1983 liability against Baltimore City for failing to adequately train its police officers. First, the misclassification of a baton strike to the chest as non-deadly force provides ample ground for a jury to conclude that the police officer's use of excessive force was pursuant to the Department's actual baton policy. Second, the lack of training in non-deadly weapons, including "live" training, proficiency certification, and regular in-service training, could well result in a jury finding that Baltimore City inadequately trained its officers for the type of split-second judgments that they would face in determining the type of force to use. The policy behind instituting such training requirements in the use of firearms is just as strong, if not stronger, in the context of non-deadly weapons, and failing to provide such training could be seen as deliberate indifference.⁶⁴

1. The Misclassification of KOGAs Baton Techniques Provides Grounds for Liability for Inadequate Training

Police officers are generally instructed to use the minimum amount of force necessary to subdue a suspect.⁶⁵ The proper amount of force is typically judged on a "continuum of force," which instructs officers to start with little or no force, i.e. verbal commands, and if this is ineffective, then to use physical force, such as wrist holds and other non-deadly force alternatives, and only as a final option to use deadly force.⁶⁶ Police officers rely on this continuum as guidance in determining the proper use of force in any given situation they face. Nevertheless, the usefulness and "reasonableness" of the continuum depends on the police department's proper assessment of the nature of the force in a given technique. Thus, by labeling a baton strike to the chest as non-deadly when it is properly considered to be deadly force, police officers who use this technique will, by definition, use excessive force in those situations in which the police officers have been instructed to use the

baton.

The history of the use of chokeholds by police officers provides an example of the devastating consequences of a police department's misclassification of a deadly force technique as non-deadly force.⁶⁷ Borrowed from the martial art of judo, the chokehold technique has been around for many years.⁶⁸ The main type of chokehold is the "carotid" hold. The carotid hold is applied, with the officer behind the person, by placing one of the officer's arms around the person's neck and holding the wrist of that arm with his other hand. Then, by using the muscles in his forearm, the officer applies pressure against the carotid arteries on the sides of the person's neck. The chokehold is designed to stop the flow of blood to the brain by applying pressure to the carotid artery, thereby rendering the person unconscious.⁶⁹

There are many reasons the chokehold poses such a threat to victims. First, the technique, given the amount of force applied and the position of the arm, can result in the officer, even by accident, crushing the victim's larynx, trachea, or thyroid, thereby resulting in the victim suffering a cardiac arrest or asphyxiation.⁷⁰ Medical experts recognize that even a temporary carotid hold can result in serious injury or death.⁷¹ Second, because of the violent and frightening nature of such a hold, victims will often violently struggle to free themselves.⁷² Such a struggle only encourages the police officer to tighten the hold, thereby increasing the risk of harm to the person.

In 1975, the Los Angeles Police Department ("LAPD") began using the chokehold as a non-deadly technique even where the suspect posed no threat of violence.⁷³ Despite the fact that the use of the chokehold posed a very "high and unpredictable risk of serious injury or death," the LAPD officers were never instructed that the chokehold could cause death.⁷⁴ As a result, between 1975 and 1980, the LAPD officers used the chokehold technique in approximately 975 altercations with suspects, or approximately 75% of officer-suspect confrontations.⁷⁵ As a direct result of the chokehold, at least sixteen people died before the LAPD, in 1982, recognized the misclassification and stopped the practice in situations that called for less than deadly force.⁷⁶

The LAPD was not alone in incurring a great deal of problems as a result of authorizing the use of chokeholds in less-than-deadly force situations.⁷⁷ Lia-

bility considerations led the Washington, D.C. Police Department and the New York City Police Department to prohibit the use of chokeholds by police officers, except in situations calling for deadly force.⁷⁸ Indeed, juries have repeatedly found that police officers used excessive force where the carotid hold has been applied in less than deadly force situations, and that the police department and municipality were "deliberately indifferent" in failing to properly train the police officers in the nature of the force, and the proper method for utilizing such a technique.

For example, in 1992, a forty-three year old homeless man was involved in a six-minute physical struggle with three police officers until the carotid hold was applied. The jury, in awarding the plaintiff's estate \$470,000, found that the officer applying the hold used excessive force, and the Commissioner of the California Highway Patrol was liable because of his chokehold training policies.⁷⁹ Nevertheless, many citizens in other jurisdictions continue to suffer the consequences of the chokehold technique when used in non-deadly force situations.⁸⁰

The liability risk resulting from inadequate training faced by the Baltimore City Police Department is strikingly similar to that of police departments that have implemented the non-deadly chokehold technique. Striking a person in the chest with the butt-end of a baton poses such a significant risk of causing death or serious injury that a jury would be well supported in finding the police department liable for classifying this baton technique as non-deadly force.

2. The Lack of Regular Training and Certification Procedures in Non-Deadly Weapons and Techniques Provides an Additional Ground for Section 1983 Liability for Inadequate Training

Baltimore City runs the risk of facing inadequate training claims separate and apart from the issue of misclassification of deadly force as non-deadly force. Baltimore City, like many other major jurisdictions, has concentrated heavily on regulating, training, and certifying police officers on the use of firearms to the point where claims against a municipality based on inadequate training in the use of firearms are extremely difficult, if not impossible, to prevail upon.⁸¹ In Maryland, minimum requirements for firearm certification are set by the Maryland Police Training Commission.⁸²

In-service training in the use of firearms includes two hours of instruction a year in servicing weapons and legal aspects regarding use of firearms.⁸³ Police officers must also pass a proficiency test in firing their service weapon annually.⁸⁴ Additionally, police officers are required to have eighteen hours additional job related courses, and what is taught during these hours is left to the discretion of each individual police department.⁸⁵

Nevertheless, when it comes to policies regarding non-deadly weapons, there are no similar in-service training or proficiency examination requirements.⁸⁶ Baltimore City is not alone in this respect. Most police departments have little or no formal guidelines for the use of non-deadly force, nor do these departments provide certification or periodic in-service training requirements.⁸⁷ There are many reasons why the failure to require more detailed training, including certification and additional in-service requirements may justify the imposition of excessive force liability on a municipality.⁸⁸

First, police departments know that officers will be called upon to use their weapons in apprehending suspects. Police officers need guidance in determining when and how it is constitutionally appropriate to use the various non-deadly weapons. As the United States Supreme Court recognized in the context of firearms training:

[C]ity policy-makers know to a moral certainty that their police officers will be required to arrest fleeing felons. The city has armed its officers with firearms, in part to allow them to accomplish this task. Thus, the need to train officers in the constitutional limitations on the use of deadly force . . . can be said to be "so obvious," that failure to do so could properly be characterized as 'deliberate indifference' to constitutional rights.⁸⁹

The need for police officers to stay within the constitutionally permissible limits when using non-deadly force is no less important and no less obvious. Indeed, an officer is much more likely to be required to use non-deadly force on a suspect than deadly force.⁹⁰ Second, in order for officers to be properly trained in using a technique within constitutional limitations, there must be training that occurs under the stress of actual street

situations, and not merely out of a textbook or from a lecture. Although dealing with the training required in the use of firearms, the recent case of *Zuchel v. City of Denver*,⁹¹ provides an excellent framework for analyzing this liability aspect.

In *Zuchel*, the Tenth Circuit affirmed the lower court's refusal to set aside a \$330,000 judgment against Denver for inadequate training in the use of deadly force. The court relied heavily on expert testimony produced at trial which revealed that Denver's District Attorney had suggested to the Chief of Police several steps to improve the deadly force training of police officers.⁹² Evidence at trial demonstrated that the District Attorney recommended that the police department institute "live" judgment training, such as a "shoot-don't shoot" course, rather than rely on a film lecture series on decisional shooting.⁹³ This type of judgment training, according to expert testimony produced at trial, is important because there is no other way to teach strategic judgment in the use of force except through periodic "shoot-don't shoot" field exercises.⁹⁴ Furthermore, the expert stated that the failure of a large police department to offer this kind of judgment training reflects a deliberate indifference considering the predictability that officers would face situations where such judgment would be called upon.⁹⁵ Thus, the expert concluded, without periodic judgment training, mistakes in the use of force are going to be made.⁹⁶ In light of this evidence, the Tenth Circuit had no difficulty concluding that the evidence was "clearly sufficient" to find that the failure to implement periodic judgment training "constituted deliberate indifference to the constitutional rights of Denver citizens."⁹⁷ Thus, while *Zuchel* concerned the use of firearms, there is an equally compelling argument in requiring "live" training in non-deadly force weaponry. A police officer usually has only a split-second to determine whether a particular suspect poses a threat, what degree of a threat, and what force is proper in response.⁹⁸ This is why many perceive in-service training on non-deadly weapons, including "live" training, as critical in ensuring the proper use of force by a police officer.⁹⁹ As testimony in *Zuchel* supports, it is predictable that police officers who are given non-deadly force weapons will make decisions under pressure regarding their use, and not training police officers to make judgment calls under such stress conditions reflects a deliberate indifference.

Similarly, although not finding liability for failing to

require in-service training, the court in *McQuirter v. City of Atlanta*,¹⁰⁰ stressed the essential nature of in-service training on techniques and weapons. *McQuirter* involved the allegation that a police department failed to provide in-service training in the use of the chokehold. The court, which decided this case several years before the United States Supreme Court decided *Tennessee v. Garner*, took great pains to note that no in-service training was being provided in a deadly force technique such as chokeholds, although such training was being provided in firearms. Nevertheless, the court concluded that the failure to provide in-service training in the chokehold did not rise to the level of recklessness or gross negligence required for the imposition of liability. The court, however, did hold that the failure to train supervisors to deal with such life threatening conduct constituted deliberate indifference. The police department had promoted supervisors without training them on the use of the chokehold, the regulations governing its use, or the risks a person may face when subject to the chokehold.¹⁰¹

The requirements of "live" training, annual proficiency certifications, and in-service training should be as formal and detailed as required for the use of firearms. Superficial requirements would not be sufficient to avoid inadequate training liability under section 1983, as noted in *McKenzie v. City of Milpitas*.¹⁰² In *McKenzie*, the court denied the city's motion for summary judgment on the claim of inadequate training regarding the use of tasers.¹⁰³ The taser training consisted of giving police officers a copy of the city's policy on taser use, discussing the policy with the officers, and teaching officers to take subjects that have been tasered to the emergency room. Moreover, the city not only required that officers were not to use tasers without taking a training course and passing a written test, but also required a mandatory refresher course every year.¹⁰⁴ Even though these requirements surpass what most police departments require today, the court found that the city could be held liable for the inadequate training of its police officers. Indeed, the plaintiff's allegation that the requirements were simply superficial was supported by evidence that police officers were not told of the "constitutional, moral, legal and ethical standards" associated with using the taser.¹⁰⁵ Additionally, the police officers were never instructed on the dangers of prolonged continuation of electrical charges, thereby encouraging officers to use the taser continually until

the suspect complies. Finally, it was alleged that the written test on proper taser use was designed to be passed, as demonstrated by the fact that no officer had ever failed the test.¹⁰⁶ After the District Court denied the city's motion for summary judgment, the jury found that the City had inadequately trained its police officers in the use of the taser and awarded the victim \$200,000.¹⁰⁷

The inadequacy of superficial training requirements was further stressed in *Russo v. City of Cincinnati*,¹⁰⁸ where the Sixth Circuit addressed a claim that the city had failed to adequately train its officers to deal with mentally ill individuals, and this failure proximately caused the shooting death of a paranoid schizophrenic. In reversing the trial court's grant of summary judgment for the city, the Sixth Circuit explained that sufficient evidence was produced to generate a material dispute as to whether the city's training in deadly force amounted to deliberate indifference, and therefore, a failure to adequately train. The court noted that testimony showed that while there was some initial training on handling mentally ill individuals, in-service training for dealing with the mentally ill was non-existent.¹⁰⁹ Expert testimony revealed that "none of the involved police personnel understood the appropriate procedure for reacting to mentally ill individuals."¹¹⁰ The court found that offering a seven-hour course on "Disturbed-Distress Persons" was insufficient in and of itself to shield the city from liability.¹¹¹

Inadequate training liability, therefore, could be imposed based on the Baltimore City Police Department's failure to provide more sophisticated training in non-deadly weapons. Such a lack of training is known to cause a substantial risk of constitutional violations because police officers will be less capable of properly and safely utilizing the weapon. The most innocuous devices can become problematic when a municipality fails to offer the annual certification and in-service training for such weapons. Moreover, police officers without such training tend to become much more indiscriminate in the use of non-deadly weapons, which often leads to the over use of the weapon.¹¹² This lack of training can even turn otherwise non-deadly weapons into deadly ones.¹¹³

A prime example of the problems associated with a lack of training is reflected in the use of pepper spray. Pepper spray is an oily plant resin that is derived from dried spices such as chili.¹¹⁴ Pepper spray is considered by law enforcement agencies to be a proper force after

the police officer's verbal commands fail to control the suspect, but before hands-on type contact such as a baton is utilized.¹¹⁵ When pepper spray is used on a person, that person's airways tend to restrict, his eyelids swell, and he feels a burning sensation on his skin and membranes of the mouth and nose for approximately twenty minutes.¹¹⁶ The use of this spray, because of its seemingly non-injurious nature, is widespread among police departments, including Baltimore City's.¹¹⁷

The American Civil Liberties Union ("ACLU") has recently complained that police officers have become "increasingly indiscriminate [about the use of pepper spray] despite written expressions of 'grave scientific concern' by the Environmental Protection Agency regarding its safety."¹¹⁸ The sometimes free use of the device can be problematic.¹¹⁹ For example, in California, police officers used pepper spray 9,000 times over the last year, at a rate of twenty-four times a day.¹²⁰ The ACLU has recently petitioned the United States Consumer Product Safety Commission to regulate the use of pepper spray by noting that twenty-seven criminal suspects have died over the last two and one-half years in California, and an estimated sixty-one people have perished nationwide, after being subdued with pepper spray by police officers.¹²¹ Although the exact cause of death of these victims was difficult to determine, a large proportion of the victims had underlying heart or respiratory problems suggesting that the use of the spray could have been a "serious complicating factor."¹²²

Assessing the harm caused by pepper spray is complicated by the fact that law enforcement officials will not evaluate their pepper spray training programs unless definitive proof of the causal connection between pepper spray and these deaths is produced. Law enforcement agencies have been lulled into a false sense of security by relying on studies that have shown that no "long-term health risks" have been found as a result of using the spray.¹²³ Also, pepper spray manufacturers, with a great deal at stake, contend that there is little or no evidence that pepper spray caused any of the sixty-one deaths, pointing to the fact that medical examiners only cited pepper spray as a factor in two of the deaths.¹²⁴

The ACLU has argued that police departments must begin to implement regulations and training programs to teach officers about the length of time a person can be sprayed, the danger that use of the spray can cause to some individuals, especially high risk groups

such as drug users and those with respiratory problems, and the need for providing medical attention after someone is sprayed.¹²⁵ Furthermore, instruction on the effects of combining non-deadly force techniques should be carefully analyzed, and appropriate policy formulated. Presently, this type of training is simply not taking place in most police departments around the country.

The debate over the effects of pepper spray is indicative of the problems associated with the use of non-deadly force. Police departments have been very reluctant to impose any restrictions or effective guidelines on the proper use of pepper spray by police officers. While the causal connection between the use of pepper spray and death has not been conclusively proven, there is evidence that the effects of pepper spray tend to be aggravated by police officers' use of other non-deadly techniques in conjunction with pepper spray, such as stun guns, handcuffs, and manual holds.¹²⁶ This is not to say that police officers should discontinue the use of pepper spray, but rather, they must recognize that the use of all non-deadly weapons and techniques run the risk of significant injury or death. Accordingly, civil liability for inadequate training may result if police departments fail to investigate the potential for harm in the non-deadly weapons they use and refuse to increase training through the use of "live" training, proficiency certification, and in-service training in these weapons. Additionally, the indiscriminate use of the non-deadly weapons that accompany the lack of such training is a cause of grave concern.

IV. CONCLUSION

Non-deadly weapons hold a great deal of promise for avoiding the risk of injury to police officers and suspects during confrontation, thereby substantially decreasing the threat of civil liability. Nevertheless, this promise has not been fully realized primarily because police departments have failed to appreciate that significant injury or death, can result from the use of these non-deadly weapons and techniques. Specifically, the systematic undervaluing of the degree of force posed by the use of these weapons, and the failure to recognize the need for "live" training, proficiency certification, and in-service training in the use of these weapons has increased the risk that the use of a non-deadly weapon or technique will be excessive, increasing the risk of civil liability to the officer, the department, and the municipality involved.

Much of the liability concerns could be eliminated if police departments, such as the Baltimore City Police Department, imposed the same training requirements for non-deadly weapons as these departments have done with firearms. The policy justifications for mandating extensive proficiency and in-service training requirements in regard to non-deadly weapons are just as strong, if not more so, than in the context of firearms. The use of "shoot-don't shoot" type training in non-deadly weapons would not only diminish the threat of liability faced by police departments, but such training would give police officers greater confidence and proficiency in using the weapons under stressful conditions. The need for such "live" training in the use of non-deadly weapons is best supported by the fact that most physical confrontations faced by police officers will not call for deadly force, but rather, will require the officers to make the difficult, split-second assessment of what level of non-deadly force is appropriate. By making the training in non-deadly weaponry more extensive, and by carefully evaluating the level of force a particular weapon or technique imposes, the police departments will not only better protect its officers and citizens from unnecessary physical injury, but protect the municipality from unnecessary civil liability.

About the author:

Brian DeLeonardo is a student at the University of Baltimore School of Law, graduating in May 1996.

ENDNOTES:

¹Geoffrey P. Alpert & William C. Smith, *How Reasonable Is the Reasonable Man?: Police and Excessive Force*, 85 J. Crim. L. & Criminology 481, 481-82 (1994) (quoting the United States Civil Rights Comm'n Report, *Who is Guarding the Guardians*, V (1981)).

²There are approximately 17,000 law enforcement agencies operating in the United States today. Mark Fischetti, *Less-Than-Lethal Weapons*, 98 Tech. Rev. 14 (1995). Among these law enforcement agencies, there are approximately 400,000 law enforcement officers employed. Michelle A. Travis, *Psychological Health Tests for Violence-Prone Police Officers: Objectives*,

Shortcomings, and Alternatives, 46 Stan. L. Rev. 1717, 1719 n.8 (1994).

³ Of these crimes, there were 5,482.9 serious crimes per 100,000 people. Baltimore City's murder rate was 48.1 murders per 100,000 people, making it eighth on the "Murder Capitals" list. Wire Report, *Random Killings Increasing, According to FBI*, Balt. Sun, Dec. 5, 1994, at A11.

⁴ Research has shown that police officers are most likely to be involved in a physical confrontation when they are engaged in traffic stops. Geoffrey P. Alpert & William C. Smith, *How Reasonable Is the Reasonable Man?: Police and Excessive Force*, 85 J. Crim. L. & Criminology 481, 495 (1994). Additionally, research has revealed that 20-30% of police activity involves some type of "confrontation" with offenders. Michelle A. Travis, *Psychological Health Tests For Violence-Prone Police Officers: Objectives, Shortcomings, and Alternatives*, 46 Stan. L. Rev. 1717, 1731 n.82 (1994) (citing Samuel Walker, *The Police In America: An Introduction*, 237-38 (2d ed. 1992)). In these "confrontations," police use some type of force 5.1% of the time. *Id.*

⁵ Edwin J. Delattre, *Brutality on the Beat: Can the Violence in L.A. Teach Us Why Cops Lose Control?*, Wash. Post, Mar. 24, 1991, at C1.

⁶ See, e.g., *Tennessee v. Garner*, 471 U.S. 1 (1985).

⁷ See *State v. Albrecht*, 336 Md. 475, 649 A.2d 336 (1994) (holding that there was sufficient evidence to sustain a criminal conviction against a police officer for being grossly negligent in using deadly force).

⁸ Since the early 1960's, § 1983 claims have dramatically increased. Matthew C. Hess, Comment, *Good Cop-Bad Cop: Reassessing the Legal Remedies for Police Misconduct*, 1993 Utah L. Rev. 149, 153 (1993). The number of § 1983 suits filed annually has risen to approximately 30,000. Benjamin I. Wipple, *The Fourth Amendment and the Police Use of "Pain Compliance" Techniques on Nonviolent Arrestees*, 29 San Diego L. Rev. 177 (1991). Meanwhile, the costs of such civil suits to municipalities has grown exponentially. Michelle A. Travis, *Psychological Health Tests for Violence-Prone Police Officers: Objectives, Shortcomings, and Alternatives*, 46 Stan. L. Rev. 1717, 1724 (1994). For example, Los Angeles paid \$7,000 in excessive force cases in 1965. *Id.* However, from 1986 to 1992, the Los Angeles Police Department paid more than \$20 million as a result of excessive force claims. Ruth Marcus, *History of Mistrust May Have Contributed to*

Riots: Experts Say Los Angeles's Minorities Have Long Been Critical of "Hard-Nose" Police, Wash. Post, May 2, 1992, at A18. More striking is the fact that these figures do not include the "staggering" litigation costs incurred by the city. Travis, *Psychological Health Tests for Violence-Prone Police Officers: Objectives, Shortcomings, and Alternatives*, 46 Stan. L. Rev. 1717, 1724 (1994).

⁹ Gregory H. Williams, *Controlling the Use of Non-Deadly Force: Policy and Practice*, 10 Harv. Blackletter J. 79 (1993).

¹⁰ Nicholas Riccardi, *Demand Up for Less Deadly Force*, L.A. Times, Feb. 5 1995, at B1; Heather Hepler, *Keeping Them Safe: Police Work Is More Dangerous Than Ever*, 109 Am. City & Country 55 (1994).

¹¹ Increasingly, weapons are being developed that are intended to temporarily stun or disable criminals, with the hope that death and serious injury to the criminal, the police officer, and the public can be avoided. Mark Fischetti, *Less-Than-Lethal Weapons*, 98 Tech. Rev. 14 (1995). Such weapons include an infrared laser that heats the skin enough to cause pain but not cause burns, a laser beam bright enough to cause temporary blinding of a suspect without causing eye damage, and a back seat air bag that can pin down violent passengers, thereby preventing them from kicking the windows or harming themselves. *Id.* Unfortunately, in addition to the difficulty in designing this new weapons, the cost can be prohibitive. For example, the laser beam that can be used to emit a blinding light presently costs about the same as a police cruiser. *Id.*

¹² For example, many law enforcement officials believe that the use of pepper spray has saved countless lives because it is used as an alternative to the firearm. Bill Miller, *Police Find a Whiff of Pepper Can Work Wonders in a Pinch*, Wash. Post, Aug. 10, 1992, at D1. Indeed, officer related shootings have declined since the introduction of the pepper spray into the police arsenal. Mark I. Pinsky, *Assault on Pepper*, L.A. Times, June 18, 1995, at A3.

¹³ See, e.g., *Kelly v. City of San Jose*, C-86-205260-RPA, United States District Court, Santa Clara County, California, March 1988 (\$212,500 awarded for excessive force with baton); *Janey v. District of Columbia*, CA-3894-86, Superior Court, District of Columbia, Oct. 1988 (\$1,200,000 awarded for excessive force using chokehold); *Davis v. City of San Leandro*, United States District Court, San Francisco County, Califor-

nia, Feb. 1990 (\$25,000 awarded for excessive force with stun gun); *Macleod v. Willie*, 91-6710 AI, Circuit Court, Palm Beach County, Florida, Jan. 1993 (\$235,000 and changes in city policies as settlement for excessive force of police dog); *King v. City of Los Angeles*, CV 91-1543 JGD, United States District Court, Southern District County, California, May, 1994 (\$3,816,535 awarded for excessive force with baton and taser). See also, *Cooper v. City of Virginia Beach*, 817 F. Supp. 1310 (E.D. Va. 1983), *aff'd*, 21 F.3d 421 (4th Cir. 1994) (handcuffs); *Spann v. Rainey*, 987 F.2d 1110 (5th Cir. 1993) (flashlight). Additionally, the use of pain compliance techniques has recently generated litigation and controversy. See Benjamin I. Wipple, *The Fourth Amendment and the Police Use of "Pain Compliance" Techniques on Nonviolent Arrestees*, 29 San Diego L. Rev. 177 (1991) (discussing litigation and issues raised in pain compliance techniques).

¹⁴Gregory H. Williams, *Controlling the Use of Non-Deadly Force: Policy and Practice*, 10 Harv. Blackletter J. 79 (1993).

¹⁵Keith A. Harriston, *D.C. Police Ban Use of Blackjacks: Lack of Training Called Liability Risk*, Wash. Post, Dec. 11, 1993, at B2 (D.C. stopped the use of blackjacks by police officers because lack of training on proper use posed major liability concerns).

¹⁶The focus of this paper will be solely on the potential for municipal liability under 42 U.S.C. § 1983. This narrow focus has been undertaken for two primary reasons. First, while this paper utilizes the Baltimore City Police Department as a case example of the problems associated with the use of non-deadly weaponry, the problems with non-deadly training identified are equally applicable to many police departments around the country. Therefore, an extensive evaluation of the causes of actions provided by any one state is inappropriate. Second, and most importantly, satisfying the requirements for imposing municipal liability under § 1983 is far more difficult than satisfying the requirements of most state tort actions. Thus, the existence of a § 1983 claim against a municipality will generally mean that requirements of the state tort actions can be satisfied.

¹⁷42 U.S.C. § 1983 (1988) reads in part: Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the

jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

¹⁸*Monell v. Department of Social Servs.*, 436 U.S. 658, 665 (1978) (provides extensive discussion on the history of § 1983).

¹⁹Carolyn L. Brown, Comment, *Liability of A Municipality for Acts Committed By Its Police Officers: Inadequate Training Demands Strict Custom of Policy Test*, 53 U. Cin. L. Rev. 525 (1984). Acting under the color of law is satisfied if the police officer utilizes excessive force while acting in his capacity as a police officer.

²⁰471 U.S. 1 (1985).

²¹*Id.* at 7. The Fourth Amendment to the Constitution provides: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or Affirmation, and particularly describing the place to be searched, and the person or things to be seized. U.S. Const. amend. IV.

²²*Id.* at 8 (quoting *United States v. Place*, 462 U.S. 696, 703 (1983)).

²³*Id.* at 9.

²⁴*Id.* at 3.

²⁵490 U.S. 386 (1989).

²⁶*Id.* at 394.

²⁷*Id.* at 396.

²⁸*Id.* at 397.

²⁹*Id.* at 396. An officer, while required to use objectively reasonable force based on the particular circumstances faced, is not obligated to use the minimum amount of force possible. *O'Neal v. DeKalb County*, 850 F.2d 653, 656 (11th Cir. 1988). Police are under no duty to use a less-than-deadly alternative when deadly force is appropriate. *Roy v. City of Lewiston*, 42 F.3d 691 (1st Cir. 1994); *Plakas v. Drinski*, 19 F.3d 1143 (7th Cir. 1994); *Scott v. Henrich*, 39 F.3d 912 (9th Cir. 1994), *cert. denied*, 115 S. Ct. 2612 (1995). Indeed, "[a] police officer need not suffer brutalizing injury before he inflicts it; rather, the restraint on an officer's use of force is that it must be reasonable under the circumstances." *Cotton v. Busic*, 793 F. Supp. 191, 196 (S.D. Ind. 1992).

³⁰This paper focuses on the liability of the municipality under an inadequate training theory. Nevertheless,

police officers who use excessive force can be found personally liable. The doctrine of qualified immunity shields such officers, however, from damage awards where their conduct "does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

³¹A municipality may be liable for such violations, although a state, or its agencies, will not be accountable for a similar violation because the United States Supreme Court has held that Congress did not intend to waive state immunity to suits in federal court through enactment of 42 U.S.C. § 1983. *Quern v. Jordan*, 440 U.S. 332 (1979). In order for the state, or an employee of the state, to be liable in their official capacity, the state must specifically waive immunity under the Eleventh Amendment.

The prohibition against suing the state, or its agencies, under § 1983 has raised an interesting issue regarding the liability of the Baltimore City Police Department under such suits because the Baltimore City Police Department is considered under Maryland law to be an agency of the State of Maryland and not the Mayor and City Council of Baltimore. See Baltimore City Code § 16-2 (1980). See also *Clea v. Baltimore*, 312 Md. 662, 541 A.2d 1303 (1988) (holding that Baltimore City is not liable under the doctrine of respondeat superior for actions of Baltimore City Police Department or its police officers). Thus, the power to control and regulate the training of police officers is vested in the Police Commissioner and not the City of Baltimore. See Charter of Baltimore City art. II, § 27 (1964).

The City of Baltimore has sought to use this distinction to avoid liability under § 1983. Baltimore City has argued that they have no control over the Baltimore City Police Department according to state law, and that the Baltimore City Police Department is a "state agency" not subject to liability under § 1983. This argument, however, has been routinely rejected. *Wiley v. Mayor of Baltimore*, 48 F.3d 773, 776 (4th Cir. 1995), *cert. denied*, 115 S.Ct. 89 (1995) (noting that the argument has been twice rejected because of strong practical links between Baltimore City and the Baltimore City Police Department); *Hector v. Weglein*, 558 F. Supp. 194 (D.Md. 1982) (noting Baltimore City's "substantial control" over activities and policies such as setting of salary and benefits, Mayor's power to appoint and

remove police commissioner, and City Solicitor's representation of the Police Commissioner); *Wilcher v. R. D. Curley*, 519 F. Supp. 1 (D.Md. 1980) (same). The Court of Appeals of Maryland has also recognized that Baltimore City Police Department would not be seen as a state agency under § 1983 actions. *Clea v. Baltimore*, 312 Md. 662, 670 n.5, 541 A.2d 1303 (1980).

³²436 U.S. 658 (1978).

³³*Id.* at 690.

³⁴*Id.* at 690-91.

³⁵489 U.S. 378 (1989).

³⁶*Id.* at 388.

³⁷*Id.* at 390.

³⁸*Id.* A person must demonstrate that they have suffered an underlying constitutional violation for there to be liability even if the government has an actual policy authorizing the use of excessive force. *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986). See also *Temkin v. Frederick County Comm'rs*, 945 F.2d 716, 724 (4th Cir. 1991), *cert. denied*, 502 U.S. 1095 (1992); *Belcher v. Oliver*, 898 F.2d 32, 46 (4th Cir. 1990). Nevertheless, showing that the police officer is liable for the constitutional violation is not necessarily a prerequisite to finding the municipality liable for failing to adequately train. *Hopkins v. Adaya*, 958 F.2d 881, 888 (9th Cir. 1992). Moreover, a jury could certainly refuse to hold a police officer responsible because he reasonably followed city procedures or his conduct did not violate clearly established constitutional or statutory requirements that a reasonable person would have known, thereby enjoying qualified immunity. Such a jury could still find the municipality liable because it does not enjoy qualified immunity. *Chew v. Gates*, 27 F.3d 1432, 1438-39 (9th Cir. 1994), *cert. denied*, 115 S. Ct. 1097 (1995).

³⁹Peter Hermann, *Baltimore Police Retire the Twirling Nightstick, Ending a Century of Use*, Balt. Sun, Mar. 27, 1995, at A1.

⁴⁰Peter Hermann, *Better Training in Use of Force for Police*, Balt. Sun, Nov. 5, 1994, at B1.

⁴¹Peter Hermann, *Baltimore Police Retire the Twirling Nightstick, Ending A Century of Use*, Balt. Sun, Mar. 27, 1995, at A1.

⁴²*Id.* Indeed, Officer Gary McLhinney, the president of the Fraternal Order of Police Lodge 3, stated that "[t]here is an unusual amount of criticism from people who have participated in the [training] program." *Id.*

⁴³Robert K. Koga & William L. Pelkey, *Controlling*

Force: A Primer for Law Enforcement (1994).

⁴⁴*Id.* at 23.

⁴⁵*Id.* at 46.

⁴⁶*Id.*

⁴⁷*Id.*

⁴⁸*Id.* at 182.

⁴⁹*Id.* at 183.

⁵⁰*Id.* at 188. Areas that are not "recommended" to strike are the head, neck, throat, groin, spine, kidneys, and heart. *Id.* at 188-89.

⁵¹*Id.* at 190.

⁵²*Id.* at 182.

⁵³See, e.g., *Robinette v. Barnes*, 854 F.2d 909 (1988) (using this definition in finding that the proper use of a trained police dog on a person was not deadly force).

⁵⁴Model Penal Code, §3.11(2) (Proposed Official Draft 1962).

⁵⁵Eric Young, *Irvine Police Learning Zen of Suspect Control*, L.A. Times, May 30, 1983, at B4.

⁵⁶Pat Dillon, *Can We Avert L.A.'s Horror?*, San Jose Mercury News, Mar. 19, 1991, at B1.

⁵⁷*Attorney's Textbook of Medicine: Manual of Traumatic Injuries*, Vol. I, 9-1 (1989).

⁵⁸*Id.* at 9-3 to 9-4.

⁵⁹*Id.* at 9-4.

⁶⁰*Id.* at 9-6.

⁶¹*Id.* at 9-12 to 9-13.

⁶²*Id.* at 9-3.

⁶³See, e.g., Neal Miller, *Less-Than-Lethal Force Weaponry: Law Enforcement and Correctional Agency Civil Liability for the Use of Excessive Force*, 28 Creighton L. Rev. 733 n.4 (noting that Ohio & Arizona police departments classify baton strikes to the chest as deadly force); Associated Press, *Officer Can Be Sued Over Baton Strike*, *Court Rules*, Wash. Post, Jan. 10, 1995, at B2 (noting that the Minneapolis Police Department only allows baton strikes to the chest where deadly force is appropriate).

⁶⁴Recently, the Baltimore City Police Department appears to be changing its policy regarding the baton strike to the chest. The Department may begin teaching this technique as deadly force rather than non-deadly. If the Department actually changes the baton training program, they would be taking a large step toward a more sensible treatment of non-deadly weapons. Nevertheless, there does not appear to be any plan on the horizon to impose any in-service training requirements or conduct "live" training with the non-deadly weap-

ons given to the police officers in Baltimore City.

⁶⁵Nicholas Riccardi, *Demand Up for Less Deadly Force*, L.A. Times, Feb. 5, 1995, at B1.

⁶⁶*Id.*

⁶⁷KOGA also teaches the application of the carotid chokehold, which is contained in the manual provided to Baltimore City Police officers, as non-deadly force. This only serves to raise more questions about the ability of KOGA to properly assess the nature of the force it teaches police officers. Fortunately, it appears that the Baltimore City Police Department has no plans to implement the use of the chokehold.

⁶⁸*People v. Sanders*, 74 Cal.Rptr. 350 (Cal. App. 1 Dist. 1969).

⁶⁹See *City of Los Angeles v. Lyons*, 461 U.S. 95, 99 (1983) (describing in detail the mechanics of these holds). See also Phil McCombs, *Stacey Koon's Arresting Explanations: The Sergeant and Now Author Reflects*, Wash. Post, Dec. 7, 1992, at B1.

In *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983), a victim of a police chokehold that was used during a traffic violation stop brought suit for being rendered unconscious and for the damage to his larynx. Lyons also sought injunctive relief against the city, which would bar them from using the chokehold technique in similar situations where deadly force would not be appropriate. The District Court found that the city had in effect unconstitutionally authorized the use of deadly force where death or serious harm to the officer or others was not threatened, and thus, found the practice unconstitutional, and entered a preliminary injunction. In a 5-4 decision, the Supreme Court avoided the issue of the constitutionality of the chokehold practice by finding that Lyons failed to demonstrate a "real and immediate threat" and he was likely to be a victim of the attack again, and thus, there was no case or controversy. Moreover, the Court noted that Lyons had an adequate remedy at law to gain compensation for the injuries already suffered, and thereby, reversed the lower court's granting of the preliminary injunction.

⁷⁰See *City of Los Angeles v. Lyons*, 461 U.S. 95, 117 (1983) (Marshall, dissenting).

⁷¹*Id.* at 117 n. 7 (1983) (Medical testimony at the trial court revealed that "immediate heart stoppage" can occur when the technique is used).

⁷²See *Id.*

⁷³See *Id.* at 116.

⁷⁴See *Id.*

⁷⁵*See Id.*

⁷⁶Lou Cannon, *Summations in L.A. Trial Describe Officers as Hoodlums or Heroes*, Wash. Post, April 9, 1993, at A14; Lou Cannon, *Trial Told of "Swarm" Technique: Witness Says Not All Police Got Training*, Wash. Post, Mar. 5, 1993, at A3.

⁷⁷The ending of the use of the carotid hold by many jurisdictions has been labeled as a reason why excessive force has been used with the baton. Lou Cannon, *Officer Says He Sought to 'Cripple' King with Beating to Avoid Shooting*, Wash. Post, Mar. 25, 1993, at A6; Phil McCombs, *Stacey Koon's Arresting Explanations: The Sergeant and Now Author Reflects*, Wash. Post, Dec. 7, 1992, at B1. An LAPD lieutenant has noted that removing the chokehold as an option to the baton has created a gap in the use-of-force continuum, which has resulted in more people being subjected to blows with batons. Greg Meyer, *Finding a Safe Way to Subdue Violent Suspects*, L.A. Times, June 14, 1994, at B7. Indeed, a comparison of injuries to suspects and officers that occurred before and after the ban on the use of chokeholds by Los Angeles police officers reveals that there was a 661% rise in injuries to suspects and a 521% rise in injuries to officers once the use of the chokehold had been discontinued. *Id.*

⁷⁸For example, the estate of a D.C. resident was awarded \$950,000 after he died from the use of a chokehold by D.C. Police. Sandra Saperstein, *\$950,000 Awarded in Arrest Death: Excessive Force by Police Alleged*, Wash. Post, June 5, 1985, at C5. *See also* Michael Specter, *5 N.Y. Police Accused of Murdering Suspect; Man, 21, Found Sleeping in Stolen Car*, Wash. Post, Mar. 21, 1991, at A3 (noting the prohibition against chokeholds in New York). Nevertheless, even though police departments have prohibited the use of such holds, occasionally officers instinctively resort to such tactics in less than deadly force situations. For example, \$1.2 million was awarded to a victim of a D.C. police officer's use of a chokehold that resulted in his vocal cord being crushed. Editorial, ... *And Episodes Near Home*, Wash. Post, Mar. 20, 1991, at A18.

⁷⁹*Bennett v. City of Dublin*, C993-1309 CW, Superior Court San Francisco, California (1994). There are courts that have been willing to allow the use of chokeholds in non-deadly situations. *See, e.g., Gassner v. City of Garland*, 864 F.2d 394 (5th Cir. 1989) (allowing police officer summary judgment on the

issue of excessive force, because the application of the chokehold against a resisting suspect was reasonable). Moreover, there have been cases, based on due process grounds, dealing with the use of a chokehold in order to prevent an arrested person from swallowing drugs. These decisions have generally rested on the notion that use of the chokehold was permissible as long as the person's ability to breathe was not interrupted. *See State v. Harris*, 505 N.W. 2d 724, 732 (Neb. 1993) (noting that chokehold used was not "deadly force" because the breathing of the suspect had not been cut off).

⁸⁰*See* Lou Cannon, *Trial Told of "Swarm" Technique: Witness Says Not All Police Got Training*, Wash. Post, Mar. 5, 1993, at A3 (noting that many departments continue to allow the use of chokeholds). The liability from the ill-fated policy permitting chokeholds is best demonstrated in a recent case where Miami officials agreed to pay a man \$7.5 million plus all future medical expenses, estimated at approximately \$34 million, to keep a 24-year-old man on life support, because police officers applied a chokehold to the man during a traffic stop when he became "unruly." Associated Press, *Chokehold Case May Cost Miami \$34 Million*, L.A. Times, June 30, 1993, at A2. More recently, the city counsel in Inglewood, California paid \$750,000 to the family of a teenager who died as a result of the police use of a carotid artery chokehold. Eric Malnic, *Inglewood to Pay \$750,000 in Death of Man Restrained by Police*, L.A. Times, Feb. 3, 1994, at B2.

⁸¹For example, in an inadequate training claim in *Berry v. Detroit*, 25 F.3d 1342 (6th Cir. 1994), *cert. denied*, 115 S. Ct. 902 (1995), the court reversed a \$6,000,000 award for the estate of a man shot by police officers because there was insufficient evidence to show deliberate indifference. The court noted that at the Detroit Police Academy, officers "were given 60 hours of firearms training and were required to take both a certification examination and an additional written examination," which required a score of 100% to pass. *Id.* at 1347. Officers were also given a deadly force policy manual upon graduation, which was updated regularly. *Id.* Furthermore, Detroit police officers continued to receive firearms training after graduating and 40 hours of in-service training were required annually. During this training, police officers were required to attend annual refresher courses concerning the use of deadly force. *Id.* at 1347. Officers were required to qualify annually in firearms usage. *Id.*

Smaller police departments, which do not always have such in-depth firearms training, are still susceptible to claims for inadequate training of its officers in the use of firearms. See, e.g., *Davis v. Mason County*, 927 F.2d 1473, 1483 (9th Cir. 1991), *cert. denied*, 112 S.Ct. 275 (1991) (holding that county's failure to train officers on legal requirement in the use of deadly force amounted to deliberate indifference as a matter of law).

⁸²Telephone Interview with Carl Bart, Chief of Law Enforcement Training, Maryland Police Training Commission (July 7, 1995). Forty-nine out of fifty states have a similar state commission, with Hawaii being the exception. *Id.*

⁸³*Id.*

⁸⁴*Id.*

⁸⁵*Id.* Maryland's requirements tend to exceed that of most other states. For example, Virginia only requires that an officer "qualify" with their weapon every other year. *Id.*

⁸⁶*Id.* "Slapjacks," which are hand-held pouches filled with lead, have long been used by Baltimore City police officers, even though the weapon has not been authorized to be carried or used by the Department. Peter Hermann, *Better Training in Use of Force for Police*, Balt. Sun, Nov. 5, 1994, at B1. Indeed, officers have been permitted to carry "slapjacks" without any training in the proper use of the weapon. *Id.* As a result of a recent incident, where an internal review indicated that an officer may have hit a suspect in the back of the head with a "slapjack," and in light of KOGA's recommendation, Baltimore City police officers will likely be prohibited from carrying these weapons in the future.

⁸⁷Gregory H. Williams, *Controlling The Use of Non-Deadly Force: Policy and Practice Procedures*, 10 Harv. Blackletter J. 79 (1993). Telephone Interview with Carl Bart, Chief of Law Enforcement Training, Maryland Police Training Commission (July 7, 1995) (also pointing out that he is not aware of any state that has established any minimum requirement regarding non-deadly weapons).

⁸⁸Several courts have found that the failure to adequately train police officers in the use of non-deadly force constituted a deliberate indifference to the safety of their citizens. See *Kerr v. West Palm Beach*, 875 F.2d 1546 (11th Cir. 1989) (holding inadequate training was present where, among other things, the municipality failed to train the K-9 division in the constitutionally permissible use of police attack dogs); *Rymer v. Davis*,

775 F.2d 756 (6th Cir. 1985), *cert. denied*, 480 U.S. 916 (1987) (holding that a municipality may be liable under §1983 for inadequately training its officers in the proper arrest procedures); *McLain v. Milligan*, 847 F. Supp. 970, 979 (D. Me. 1994) (limited instruction to police officers on the proper use of force could demonstrate deliberate indifference).

⁸⁹*Canton v. Harris*, 489 U.S. 378, 390 n. 10 (1989) (citations omitted).

⁹⁰Gregory H. Williams, *Controlling the Use of Non-Deadly Force: Policy and Practice Procedures*, 10 Harv. Blackletter J. 79 (1993).

⁹¹997 F.2d 730 (10th Cir. 1993).

⁹²*Id.* at 737-38.

⁹³*Id.* at 738-39.

⁹⁴*Id.* at 739.

⁹⁵*Id.* at 740-41.

⁹⁶*Id.* at 740.

⁹⁷*Id.* at 741.

⁹⁸Note, *Criminal Law -- The Right to Run: Deadly Force and the Fleeing Felon*, 11 S. Ill. U. L.J. 171, 183 (1986).

⁹⁹Geoffrey P. Alpert & William C. Smith, *How Reasonable Is the Reasonable Man?: Police and Excessive Force*, 85 J. Crim. L. & Criminology 481, 487 (1994).
¹⁰⁰572 F. Supp. 1401 (N.D. Ga. 1983)

¹⁰¹*Id.* at 1420-21.

¹⁰²738 F. Supp. 1293 (N.D. Cal. 1990), *aff'd*, 953 F.2d 1387 (9th Cir. 1992).

¹⁰³A taser is a hand-held device which propels two darts at a subject, and then the officer can send electric charges into the person's body by pressing a button, which then causes involuntary muscular contractions. *McKenzie v. Milpitas*, 738 F. Supp. 1293, 1296 (N.D. Cal. 1990), *aff'd*, 953 F.2d 1387 (9th Cir. 1992). The electrical charge that is transmitted is 50,000 volts. Lou Cannon, *L.A. Officer Says He Tried Not to Use Force On King*, Wash. Post, Mar. 24, 1993, at A3.

¹⁰⁴*McKenzie v. Milpitas*, 738 F. Supp. 1293, 1297 (N.D. Cal. 1990), *aff'd*, 953 F.2d 1387 (9th Cir. 1992).

¹⁰⁵*Id.*

¹⁰⁶*Id.* at 1297 n.2.

¹⁰⁷This verdict was later affirmed by the Ninth Circuit in an unpublished opinion. *McKenzie v. City of Milpitas*, 953 F.2d 1387 (9th Cir. 1992) (unpublished opinion).

¹⁰⁸953 F.2d 1036 (6th Cir. 1992).

¹⁰⁹*Id.* at 1046.

¹¹⁰*Id.* at 1047.

¹¹¹*Id.*

¹¹²Batons were used by Los Angeles police officers 501 times during 1990, prior to the Rodney King incident, and only 41 times last year. News Service, *Around the Nation*, Wash. Post, Mar. 6, 1995, at A10.

¹¹³Many non-deadly weapons can take on a deadly nature as used. *McNeill v. Durham County ABC Board*, 359 S.E.2d 500, 503 (N.C. App. 1987), *rev'd on other grounds*, 368 S.E.2d 619 (N.C. 1988) (jury instruction that flashlight was deadly weapon as a matter of law would not have been prejudicial in this case given weight and size, club-like quality, and officer admitted on stand that flashlight similar to one used was deadly weapon). For example, the use of police attack dogs to arrest suspects has become controversial because of the "find and bite" policies, whereby the police release a dog trained to find and immediately bite a hiding suspect. Louis P. Dell, *Police Attack Dogs: A Dogmatic Approach to Crime Control*, 13 Whittier L. Rev. 515 (1992). This approach runs the serious risk of permanent scarring of tissue, and in some cases, death of the individual. *Id.*

In some situations, the degree of training will influence whether the court views a given technique as deadly or not. In *Robinette v. Barnes*, 854 F.2d 909 (6th Cir. 1988), an unarmed burglary suspect, who had not threatened police officers but was hiding inside a car dealership even though ordered to come out by the police, died after police officers used a "find and bite" trained canine to apprehend the suspect. The dog, after finding the suspect, grabbed him by the throat and pulled him out from under a car, causing the loss of a substantial amount of blood. The court found that the use of the dog was not deadly force, and noted that the dog and trainer underwent continual training, and there-

fore, the police dog, when trained properly, did not present a substantial risk of deadly or serious bodily harm to the suspect.

¹¹⁴Mark I. Pinsky, *Assault on Pepper*, L.A. Times, June 18, 1995, at A3.

¹¹⁵Bill Miller, *Police Find a Whiff of Pepper Can Work Wonders in a Pinch*, Wash. Post, Aug. 10, 1992, at D1.

¹¹⁶L.A. Johnson, *New Spray Give Police Option Over Deadly Force*, Detroit Free Press, Aug. 10, 1992, at B3 (spray is being utilized by the Detroit Police Department).

¹¹⁷Bill Miller, *Police Find a Whiff of Pepper Can Work Wonders in a Pinch*, Wash. Post, Aug. 10, 1992, at D1 (Over 2,000 police departments were using pepper spray as of 1992).

¹¹⁸*Id.*

¹¹⁹*Id.* A spokesman for the Alexandria Police Department explained the reason that officers love pepper spray, "With the spray we can say, 'Hey, you're under arrest.' The guy says, 'Kiss off,' and we zap him."

¹²⁰*Id.*

¹²¹William Claiborne, *ACLU Warns of Need to Restrict Police Reliance on Pepper Spray*, Wash. Post, June 19, 1995, at A16; Mark I. Pinsky, *Assault on Pepper*, L.A. Times, June 18, 1995, at A3.

¹²²*Id.*

¹²³Bill Miller, *Police Find a Whiff of Pepper Can Work Wonders in a Pinch*, Wash. Post, Aug. 10, 1992, at D1.

¹²⁴Mark I. Pinsky, *Assault on Pepper*, L.A. Times, June 18, 1995, at A3.

¹²⁵*Id.*

¹²⁶William Claiborne, *ACLU Warns of Need to Restrict Police Reliance on Pepper Spray*, Wash. Post, June 19, 1995, at A6; Mark I. Pinsky, *Assault on Pepper*, L.A. Times, June 18, 1995, at A3.

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1420 North Charles Street
Baltimore, MD 21202
(410) 837-4493
lawforum@ubmail.ubalt.edu



SYS DATE:04/24/20

CITY OF KEWANEE
A / P W A R R A N T L I S T
REGISTER # 254

SYS TIME:11:18

[NW1]

DATE: 04/23/20

Thursday April 23,2020

PAGE 1

PAYABLE TO INV NO	G/L NUMBER	DESCRIPTION	AMOUNT	DISTR
01 ADVANCED BUSINESS SYSTEMS INC INV 168664	01-11-512	MAINTENANCE CONTRACT	150.69	150.69
01 AIRGAS MID AMERICA 9100191781 9970043580	01-22-612 01-22-612	OXYGEN OXYGEN	625.21	166.46 458.75
01 ALEXIS FIRE EQUIP CO 0067439-IN	01-22-830	LITE BOX BATTERY	35.00	35.00
01 ALTORFER INC 02C825432	62-45-613	TRUCK/BACKHOES	327.84	327.84
01 AMEREN ILLINOIS D04132020 D04132020 D04132020 D04132020 D04132020 D04132020 D04132020	01-11-571 01-52-571 51-93-571 52-93-571 54-54-571 58-36-571 62-45-571	STREET LIGHTS PARKS WTP WWTP FRANCIS PARK CEMETERY MUNICIPAL BLDGS	21839.73	8043.43 32.51 8255.13 4376.59 70.28 145.50 916.29
01 AUCA CHICAGO MC LOCKBOX 152194064 1592202742 1592211452	62-45-471 62-45-471 62-45-471	UNIFORMS UNIFORMS UNIFORMS	123.60	41.20 41.20 41.20
01 BEA OF ILLINOIS 2208401	52-93-850	WWTP FORCEMAIN	1905.46	1905.46
01 BLAIR, KYLE D04152020	01-22-471	CLOTHING ALLOWANCE	75.08	75.08
01 BOCK INC 73.0 73.0	51-93-515 52-93-515	CONTRACT PAYMENT CONTRACT PAYMENT	57126.15	15273.09 41853.06
01 BREEDLOVE'S SPORTING GOODS 39666 39787	01-22-471 01-22-159.7	K SHOOK CLOTHING EMT STUDENT POLOS	518.20	180.85 337.35
01 SALVADOR CEJA D04122020	62-45-513	W69 FRONT SEAT REPAIR	500.00	500.00
01 CROWE AUTO GROUP LLC 301985 301997 301998 D04242020	62-45-613 62-45-613 62-45-613 39-73-840	FIRE SUV WIPER SWITCH FILTER CEMETERY 79 2020 DODGE RAM	33652.65	111.00 12.25 48.40 33481.00
01 DINGES FIRE COMPANY PRE0257	01-22-471	J ROOF BOOTS	311.42	311.42
01 DORNER PRODUCTS, LLC. 152311-IN	51-93-512	PRESSURE REDUCEING VALVE	5362.56	5362.56
01 EASTERN IOWA TIRE, INC 100086798	62-45-513	5 HOLE TRUCK RIMS	63.00	63.00
01 ENVIRONMENTAL RESOURCE ASSOCIA 930149	52-93-542	WWTP SAMPLE TESTING	617.32	617.32

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Thursday April 23,2020

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[NW1]

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PAGE 2

PAYABLE TO INV NO	G/L NUMBER	DESCRIPTION	AMOUNT	DISTR
01 FARM KING OF KEWANEE			104.18	
812906	62-45-612	BOMAS PACKER		2.34
813080	58-36-652	CEM NEW LOCK KEYS		39.42
813088	52-93-653	HAMMER/5PK BLADES		15.48
813832	52-93-652	CAULKING		21.96
813839	52-93-652	AAA BATTERIES		24.98
01 FORD & SONS INC			525.00	
2591811	51-42-615	GRASS SEED		525.00
01 FRIENDS OF THE ANIMALS			1333.33	
628696	01-21-539	SEMI MONTHLY PAYMENT		1333.33
01 GASVODA & ASSOCIATES, INC			14524.00	
INV2000724	52-93-850	LAKE ST LIFT		14524.00
01 GUSTAFSON FORD			346.54	
170007	62-45-513	PWD 77		292.99
7423	62-45-613	W362		53.55
01 HEART TECHNOLOGIES INC			1116.84	
331589	57-44-870	TRANSFER STATION CAMERA		1116.84
01 HODGE'S 66 INC			45.90	
55130	62-45-513	ST 16 2002 WORKHOUSE		45.90
01 IMPACT NETWORKING			220.76	
1762031	01-11-512	MAINTENANCE CONTRACT		201.26
1765534	01-11-512	KONICA TONER		19.50
01 JOHNSON, RODNEY D			320.26	
D04112020	01-41-473	CLOTHING ALLOWANCE		320.26
01 KEY EQUIPMENT & SUPPLY CO			78.26	
158500	62-45-612	E1 SWEEPER		78.26
01 KNOX COUNTY LANDFILL			36548.28	
D03312020	57-44-573	SOLID WASTE DISPOSAL		36548.28
01 KOENIG BODY & EQUIPMENT			11247.00	
JQ44117	39-73-840	2002 CHEVY CRANE TRK		11247.00
01 LEWIS TRUCK & AUTO BODY			382.40	
D04162020	62-45-513	PWD 77 REPAIR PANT ON ROOF		382.40
01 MARTIN BROS COMPANIES INC			262.78	
549	58-36-652	SAND TO BACKFILL		262.78
01 MED-TECH RESOURCE LLC			114.95	
116589	01-22-612	MED SUPPLIES		114.95
01 MENARD'S			308.72	
39412	01-52-652	MCKINLEY PARK BARRIERS		31.39
39928	52-93-653	1/4 HP PUMP		54.99
40129	01-52-652	PARKS HERBICIDES		126.98
40339	52-93-652	SUPPLIES		39.59
40384	01-22-652	VINYL SHEET		15.97
40837	01-41-614	EAST ST MARKERS		39.80
01 MISSISSIPPI VALLEY PUMP INC			7459.00	
13174	52-93-512	REBUILD PUMP FOR SLUDGE		6979.00
13187	52-93-850	HIGH ST LIFT		480.00

DATE: 04/23/20

Thursday April 23,2020

PAGE 3

PAYABLE TO INV NO	G/L NUMBER	DESCRIPTION	AMOUNT	DISTR
01 MOORE TIRES KEWANEE			71.16	
K34640	62-45-513	CAR 445		21.03
K34870	54-54-652	FP TRAILER TIRE		50.13
01 NORTHERN SAFETY CO INC			99.75	
981240769	51-42-473	TYVEK COVERALLS		49.87
981240769	52-43-473	TYVEK COVERALLS		49.88
01 NORTHWEST PLUMBING HEATING AC			543.00	
31626	38-71-549	HVAC MAIN CONTRACT		543.00
01 O'REILLY AUTOMOTIVE STORES, IN			219.67	
1143-380436	62-45-830	TOOL RENTAL RETURN		66.99-
1143-381227	62-45-613	SHOCKS RETURNED		180.04-
1143-382424	51-93-619	SUPER GLUE		2.99
1143-382683	62-45-652	HEATING TOOL AND FUEL		5.29
1143-384606	62-45-830	FILTER WRENCH		47.99
1143-384689	62-45-613	CREDIT/RETURN		7.49-
1143-385057	62-45-613	POLICE CAR STOCK		13.99
1143-385066	52-93-619	MISC SUPPLIES		57.95
1143-385087	62-45-613	OIL FILTER		6.94
1143-385113	52-93-512	CHAIN HOIST		210.48
1143-385458	52-93-619	SPARK PLUG		2.49
1143-386298	52-43-512	BATTERY FOR GENERATOR		126.07
01 OFFICE SPECIALISTS INC			222.68	
1078251-0	01-41-537.4	CONNECT NEW DEVICE		52.50
1078914-1	38-71-611	CITY HALL SUPPLIES		44.66
1079680-2	38-71-611	CITY HALL SUPPLIES		84.43
1080437-0	38-71-611	CITY HALL SUPPLIES		41.09
01 OFFICE MACHINE CONSULTANTS INC			33.85	
IN197891	01-22-537	COPIER MAINTENANCE		33.85
01 PANTHER UNIFORMS INC			350.20	
23539	01-22-471	Z CLARK CLOTHING		187.60
23540	01-22-471	A POWELL CLOTHING		162.60
01 PATRIOT TRAILER MANUFACTURING			560.00	
1129	62-45-513	TAIL LIGHTS		560.00
01 PDC LABORATORIES INC			2173.46	
I9407821	51-93-542	CHLORIDE		19.46
I9412071	51-93-542	COLIFORM/ECOLI		40.00
I9412162	51-93-542	COLIFORM/ECOLI		36.00
I9412409	51-93-542	COLIFORM/ECOLI		20.00
I9412417	51-93-542	CARB MATES		1738.00
I9412741	51-93-542	COLIFORM/ECOLI		20.00
I9412743	51-93-542	COLIFORM/ECOLI		300.00
01 POWER PROCESS EQUIPMENT INC			4760.00	
40135168	51-93-512	N PLANT PUMP SHAFT		4760.00
01 RATLIFF BROS & CO			14871.75	
15783	52-93-850	WWTP FORCE MAIN		14871.75
01 SAM MANGIERI JR.			550.00	

PAYABLE TO INV NO	G/L NUMBER	DESCRIPTION	AMOUNT	DISTR
D04102020	01-11-549	CARPETS CLEANED		250.00
D04102020	01-21-549	CARPETS CLEANED		300.00
01 SIVCO WELDING COMPANY 6135	62-45-513	SANI 49 DUMP BODY	996.85	996.85
01 STAR-COURIER 41605	32-42-549	BIDDERS NOTICE	124.70	124.70
01 SULLIVAN DOOR COMPANY 70374	58-36-651	CEMETERY SHED DOOR	105.00	105.00
01 TRIANGLE CONCRETE INC 9856	52-43-615	TENNEY ST	1003.75	1003.75
01 UMB BANK, NA 743836	46-84-730	REV BONDS SRS 2013	318.00	318.00
01 USA BLUEBOOK 174041	52-93-652	LAB SUPPLIES 4 WWTP	1152.29	102.29
183916	51-93-512	REPLACE LEVER SENSORS		1050.00
01 VERIZON WIRELESS 9851784709	01-22-552	FIRE CELL SERVICE	928.92	114.94
9852506693	01-21-552	POLICE CELLULAR		813.98
01 WALMART COMMUNITY D04162020	01-11-651	OFFICE SUPPLIES	200.90	19.49
D04162020	01-22-652	FILE FOLDERS		10.85
D04162020	38-71-611	OFFICE SUPPLIES		14.88
D04162020	01-11-651	GB OFFICE SUPPLIES		13.05
D04162020	52-43-651	16GB USB		15.76
D04162020	52-43-651	16GB USB/MAILERS		21.03
D04162020	38-71-830	HINTON MONITOR		105.84
01 THOMSON REUTERS - WEST 842165935	01-21-563	2020 LAW BOOKS	522.00	522.00
** TOTAL CHECKS TO BE ISSUED			227980.04	

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A / P W A R R A N T L I S T
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[NW1]

DATE: 04/23/20

Thursday April 23,2020

PAGE 5

FUND INV NO	G/L NUMBER	DESCRIPTION	AMOUNT	DISTR
GENERAL FUND			14475.84	
WATER IMPROVEMENT			124.70	
CAPITAL MAINTENANCE/MUN. BLDG.			833.90	
ACQUISITION FUND			44728.00	
2013 REFUNDING BOND			318.00	
WATER FUND			37452.10	
SEWER FUND			87353.88	
FRANCIS PARK			120.41	
SANITATION			37665.12	
CEMETERY FUND			552.70	
CENTRAL MAINTENANCE			4355.39	
*** GRAND TOTAL ***			227980.04	
TOTAL FOR REGULAR CHECKS:			226,646.71	
TOTAL FOR DIRECT PAY VENDORS:			1,333.33	

DATE: 04/23/20

Thursday April 23,2020

PAGE 6

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A/P MANUAL CHECK POSTING LIST

POSTINGS FROM ALL CHECK REGISTRATION RUNS(NR) SINCE LAST CHECK VOUCHER RUN(NCR)

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PAYABLE TO REG# INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DISTR
78 EXCELLED SHEEPSKIN AND LEATHER	04/23/20	CC042320	200000.00	
457 RES-5206	78-61-900	REV LOAN-RES 5206		200000.00

** TOTAL MANUAL CHECKS REGISTERED 200000.00

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REPORT SUMMARY

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CASH FUND	CHECKS TO BE ISSUED	REGISTERED MANUAL	TOTAL
01	227980.04	.00	227980.04
78	.00	200000.00	200000.00
TOTAL CASH	227980.04	200000.00	427980.04

DISTR FUND	CHECKS TO BE ISSUED	REGISTERED MANUAL	TOTAL
01	14475.84	.00	14475.84
32	124.70	.00	124.70
38	833.90	.00	833.90
39	44728.00	.00	44728.00
46	318.00	.00	318.00
51	37452.10	.00	37452.10
52	87353.88	.00	87353.88
54	120.41	.00	120.41
57	37665.12	.00	37665.12
58	552.70	.00	552.70
62	4355.39	.00	4355.39
78	.00	200000.00	200000.00
TOTAL DISTR	227980.04	200000.00	427980.04

Kewanee - Azavar Government Solutions Quarterly Client Update

April 2020



Client Name	Note Type	Details
Kewanee	A. Gas Revenue (Taxes and Fees) Audit	Azavar has corrected 2 addresses , that will return an estimated \$61.80 per annum to the City. Azavar is working towards a settlement with the Provider or back taxes owed.
Kewanee	B. Electric Revenue (Taxes and Fees) Audit	Azavar has corrected 2 addresses , that will return an estimated \$61.80 per annum to the City. Azavar is working towards a settlement with the Provider or back taxes owed.
Kewanee	C. Cable Revenue (Taxes and Fees) Audit	Audit Complete -- Azavar has confirmed 0 address errors with the Provider. Azavar has also concluded a settlement on back franchise fees for \$1,497.26 .
Kewanee	D. Telecommunications Revenue (Taxes and Fees) Audit	Due to recent changes in the state statute, telecom audits now require address lists be sent to them rather than them sending their lists to Azavar. Because of this, Azavar must insure that the addresses that get submitted match the data in the Provider's database <u>perfectly</u> so as to prevent accidental removal of addresses that should be coded to the municipality. Azavar is working on a solution so as to insure that there is no accidental loss of revenues in the audit process.
Kewanee	E. Hotel/Motel Revenue (Taxes and Fees) Audit	Azavar is in the process of collecting and reviewing data.
Kewanee	F. Sales Tax Revenue (Taxes and Fees) Audit	Review complete--no findings.
Kewanee	G. Food and Beverage Revenue (Taxes and Fees) Audit	Not applicable.
Kewanee	H. Gas Payable Audit	Audit complete--no findings.
Kewanee	I. Electric Payable Audit	Azavar is working to gather current information to perform this audit.
Kewanee	J. Telecommunications Payable Audit	Audit complete--no findings.

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April 27th, 2020	
RESOLUTION OR ORDINANCE NUMBER	Resolution #5208	
AGENDA TITLE	A resolution authorizing the Mayor and City Clerk to execute all documents that are necessary and proper for the City of Kewanee to apply to the state of Illinois Community Development Block Grant for funding through the Downstate Small Business Stabilization Program	
REQUESTING DEPARTMENT	Administration	
PRESENTER	Gary Bradley, City Manager	
FISCAL INFORMATION	Cost as recommended:	N/A
	Budget Line Item:	N/A
	Balance Available	N/A
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
PURPOSE	Authorizes the execution of documents required for CDBG Grant Application.	
BACKGROUND	The state diverted some of its CDBG funds to create a program for small businesses in the Downstate Region. The application process is somewhat extensive, and many businesses will have sought funding through other programs, making them ineligible for this program. But there may be some that qualify which express an interest. Passing the resolution is a requirement. It doesn't mean anyone will apply, or qualify, or be awarded.	

SPECIAL NOTES	The grant is capped at \$25,000 per business. The City enters into an agreement with the business and if they fail to meet the grant requirements, the City is responsible for paying the money back to the state.
ANALYSIS	N/A
PUBLIC INFORMATION PROCESS	Public Hearing Notice published, Public Hearing held 4/9/20
BOARD OR COMMISSION RECOMMENDATION	N/A
STAFF RECOMMENDATION	Staff recommends approval.
REFERENCE DOCUMENTS ATTACHED	Resolution # 5208, proposed agreement(s)

RESOLUTION NO. 5208

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ALL DOCUMENTS THAT ARE NECESSARY AND PROPER FOR THE CITY OF KEWANEE TO APPLY TO THE STATE OF ILLINOIS COMMUNITY DEVELOPMENT BLOCK GRANT FOR FUNDING THROUGH THE DOWNSTATE SMALL BUSINESS STABILIZATION PROGRAM.

WHEREAS, The Global Pandemic commonly known as COVID-19 has made it difficult for many small businesses remain open and provide economic activity that supports their employees and our local, state, and national economies; and

WHEREAS, The City of Kewanee is applying to the State of Illinois for a Community Development Block Grant Program grant, and

WHEREAS, It is necessary that an application be made, and agreements entered with the State of Illinois.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KEWANEE as follows:

- 1) That the City of Kewanee apply for a grant under the terms and conditions of the State of Illinois and shall enter into and agree to the understandings and assurances contained in said application.
- 2) That the Mayor and City Clerk on behalf of the City are authorized to execute such documents and all other documents that are necessary and proper for the preparation and submittal of said application.
- 3) That the Mayor and City Clerk are authorized to provide such additional information as may be required to accomplish the obtaining of such grant.
- 4) This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April 27, 2020	
RESOLUTION OR ORDINANCE NUMBER	N/A	
AGENDA TITLE	Discussion of MFT 20-00000-00-GM, 2020 Resurfacing and Seal Coat Program	
REQUESTING DEPARTMENT	Public Works	
PRESENTER	Scott Hinton, City Engineer	
FISCAL INFORMATION	Cost as recommended:	N/A
	Budget Line Item:	15-41-514
	Balance Available	\$615,000 in the proposed FY2021.
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
PURPOSE	General discussion of options to provide direction to staff regarding MFT-funded street maintenance program.	

BACKGROUND	<p>Council previously approved an intergovernmental agreement with Henry County to allow the Henry County Highway Department (HCHD) to perform portions of the 2020 street maintenance program. The HCHD's portion of the work includes installing all sealcoating and resurfacing in the downtown area. City staff solicited and received bids from contractors to perform the remaining work which includes all asphalt milling and prep work for the HCHD's sealcoat and resurfacing operations. It also includes resurfacing on Prospect Street. The HCHD has scaled back operations due to the COVID-19 pandemic and is no longer able to perform all the anticipated work. It is currently unknown how much, if any, work the HCHD is able to perform. There are various options as to how the City may proceed. Among them:</p> <ol style="list-style-type: none">1) Issue a contract to the lowest responsive and responsible bidder and proceed with only work which is unrelated to the HCHD work. This will include a portion of the resurfacing, but no sealcoat work.2) Issue a contract to the lowest responsive and responsible bidder and increase the contract value to include the resurfacing work allocated to the HCHD. Sealcoat work wasn't included in the contract, so can't be added.3) Issue a contract and proceed as in #2 above and solicit bids for a separate contract to perform all prep and installation for the sealcoat work.4) Don't issue a contract, instead re-bid the project to include all of the HCHD work. This could include all resurfacing and sealcoating work although likely at an increased cost.5) Don't issue a contract, perform no work in 2020, and save all funds until 2021.
SPECIAL NOTES	N/A
ANALYSIS	N/A
PUBLIC INFORMATION PROCESS	N/A



BOARD OR COMMISSION RECOMMENDATION	N/A
STAFF RECOMMENDATION	N/A
PROCUREMENT POLICY VERIFICATION	N/A
REFERENCE DOCUMENTS ATTACHED	Bid tabulation and lowest responsive and responsible bid submittal attached.

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April 27, 2020	
RESOLUTION OR ORDINANCE NUMBER	Resolution #5209	
AGENDA TITLE	Approval of a Resolution for Maintenance Under the Illinois Highway Code	
REQUESTING DEPARTMENT	Public Works	
PRESENTER	Scott Hinton, City Engineer	
FISCAL INFORMATION	Cost as recommended:	Up to \$635,000. \$635,000 in Motor Fuel Tax Funds are budgeted for street maintenance purposes in FY2021.
	Budget Line Item:	15-41-514
	Balance Available	Est. \$882,824
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
PURPOSE	Approval of an Illinois Department of Transportation form titled Resolution for Maintenance Under the Illinois Highway Code is necessary to appropriate Motor Fuel Tax Funds for street maintenance.	

BACKGROUND	<p>The proposed FY2021 budget includes the expenditure of \$635,000 in MFT funds for street maintenance. This includes \$20,000 for pothole patching materials to be used by the Street Department and \$615,000 for street maintenance work performed by the Henry County Highway Department through an intergovernmental agreement and contracted through the competitive bidding process to a local contractor.</p> <p>This form is the vehicle through which the City of Kewanee requests approval from IDOT to appropriate MFT Funds. Approval of this form does not obligate the City to spend the funds nor does it approve contracts for the work or the expenditures.</p>
SPECIAL NOTES	N/A
ANALYSIS	<p>Staff estimates a FY2020 year-end MFT balance of \$363,299 and IDOT estimates FY2021 MFT revenues of \$519,525. This leaves an estimated FY2021 year-end balance of \$247,824 if all \$635,000 is spent in FY2021. Staff will monitor the effect of the COVID-19 pandemic on MFT revenues to ensure expenditures don't exceed available funding.</p>
PUBLIC INFORMATION PROCESS	N/A
BOARD OR COMMISSION RECOMMENDATION	N/A
STAFF RECOMMENDATION	Staff recommends approving the form.
PROCUREMENT POLICY VERIFICATION	Approving this form does not obligate or approve the expenditure of MFT Funds
REFERENCE DOCUMENTS ATTACHED	Form attached.

RESOLUTION NO. 5209

A RESOLUTION TO APPROVE AN ILLINOIS DEPARTMENT OF TRANSPORTATION'S RESOLUTION FOR MAINTENANCE UNDER THE ILLINOIS HIGHWAY CODE IN THE AMOUNT OF \$635,000 AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

- WHEREAS, The City Council considers it in the best interest of the citizens of the City of Kewanee to appropriate Motor Fuel Tax (MFT) monies for the purpose of street maintenance in the City of Kewanee; and,
- WHEREAS, A Resolution for Maintenance Under the Illinois Highway Code is necessary to use MFT monies for the purpose of street maintenance; and,
- WHEREAS, The Fiscal Year 2021 street maintenance funded with MFT monies will include the purchase of pothole patching materials to be placed by City of Kewanee staff, street repair and maintenance performed by the Henry County Highway Department via intergovernmental agreement with Henry County, and street repair and maintenance performed in the annual street maintenance program known as Section 20-00000-00-GM; and,
- WHEREAS, Work performed in Section 20-00000-00-GM will be contracted through the competitive bidding process; and,
- WHEREAS, Approval of this form appropriates MFT funds, but does not obligate the City of Kewanee to spend any monies.

NOW THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF KEWANEE THAT:

- Section 1** There is hereby appropriated the sum of \$635,000 of Motor Fuel Tax funds for the purpose of maintaining streets and highways under the applicable provisions of the Illinois Highway Code for the period of May 1, 2020 to April 30, 2021.
- Section 2** Only those streets, highways, and operations as listed and described on the approved Municipal Estimate of Maintenance Costs, including supplemental or revised estimates approved in connection with this resolution, are eligible for maintenance with Motor Fuel Tax funds during the period as specified above.
- Section 3** The City Clerk shall, as soon as practicable after the close of the period as stated in Section 1 hereof, submit to the Illinois Department of Transportation, on forms furnished by said Department, a certified statement showing expenditures from and balances remaining in the account(s) for this period.
- Section 4** The City Clerk shall immediately transmit two certified copies of this resolution to the district office of the Illinois Department of Transportation at 619 Depot Avenue, Dixon, Illinois, 61021.
- Section 5** This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

Instructions for BLR 14220

This form shall be used when a Local Public Agency (LPA) wants to perform maintenance operations using Motor Fuel Tax (MFT) funds. Refer to Chapter 14 of the Bureau of Local Roads and Streets Manual (BLRS Manual) for more detailed information. This form is to be used by a Municipality or a County. Road Districts will use BLR 14221. For signature requirements refer to Chapter 2, Section 3.05(b) of the BLRS Manual.

When filling out this form electronically, once a field is initially completed, fields requiring the same information will be auto-populated.

Resolution Number	Insert the resolution number as assigned by the LPA, if applicable.
Resolution Type	From the drop down box, choose the type of resolution: -Original would be used when passing a resolution for the first time for this project. -Supplemental would be used when passing a resolution increasing appropriation above previously passed resolutions. -Amended would be used when a previously passed resolution is being amended.
Section Number	Insert the section number of the improvement covered by the resolution.
Governing Body Type	From the drop down box choose the type of administrative body. Choose Board for County; Council or President and Board of Trustees for a City, Village or Town.
LPA Type	From the drop down box choose the LPA body type; County, City, Town or Village.
Name of LPA	Insert the name of the LPA.
Resolution Amount	Insert the dollar value of the resolution for maintenance to be paid for with MFT funds in words, followed by the same amount in numerical format in the ().
Beginning Date	Insert the beginning date of the maintenance period. Maintenance periods must be a 12 or 24 month consecutive period.
Ending Date	Insert the ending date of the maintenance period.
LPA Type	From the drop down box choose the LPA body type; County, City, Town or Village.
Name of LPA	Insert the name of the LPA.
Name of Clerk	Insert the name of the LPA Clerk.
LPA Type	From the drop down box choose the LPA body type; County, City, Town or Village.
LPA Type	From the drop down box choose the LPA body type; County, City, Town or Village.
Name of LPA	Insert the name of the LPA.
Governing Body Type	From the drop down box choose the type of administrative body. Choose Board for County; Council or President and Board of Trustees for a City, Village or Town.
Name of LPA	Insert the name of the LPA.
Date	Insert the date of the meeting.
Day	Insert the day the Clerk signed the document.
Month, Year	Insert the month and year of the clerk's signature.
Clerk Signature	Clerk shall sign here.
Approved	The Department of Transportation representative shall sign and date here upon approval.

Three (3) certified signed originals must be submitted to the Regional Engineer's District office.
Following IDOT's approval, distribution will be as follows:

Local Public Agency Clerk
Engineer (Municipal, Consultant or County)
District



Resolution for Maintenance
Under the Illinois Highway Code



Resolution Number	Resolution Type	Section Number
#5209	Original	20-00000-00-GM

BE IT RESOLVED, by the Council of the City of
Governing Body Type Local Public Agency Type
Kewanee Illinois that there is hereby appropriated the sum of six hundred thirty-five
Name of Local Public Agency
thousand Dollars (\$635,000.00)

of Motor Fuel Tax funds for the purpose of maintaining streets and highways under the applicable provisions of Illinois Highway Code from

05/01/20 to 12/31/20
Beginning Date Ending Date

BE IT FURTHER RESOLVED, that only those operations as listed and described on the approved Estimate of Maintenance Costs, including supplemental or revised estimates approved in connection with this resolution, are eligible for maintenance with Motor Fuel Tax funds during the period as specified above.

BE IT FURTHER RESOLVED, that City of Kewanee
Local Public Agency Type Name of Local Public Agency
shall submit within three months after the end of the maintenance period as stated above, to the Department of Transportation, on forms available from the Department, a certified statement showing expenditures and the balances remaining in the funds authorized for expenditure by the Department under this appropriation, and

BE IT FURTHER RESOLVED, that the Clerk is hereby directed to transmit four (4) certified originals of this resolution to the district office of the Department of Transportation.

I Rabecka Jones City Clerk in and for said City
Name of Clerk Local Public Agency Type Local Public Agency Type
of Kewanee in the State of Illinois, and keeper of the records and files thereof, as
Name of Local Public Agency
provided by statute, do hereby certify the foregoing to be a true, perfect and complete copy of a resolution adopted by the

Council of Kewanee at a meeting held on 04/27/20
Governing Body Type Name of Local Public Agency Date

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this Day day of Month, Year

(SEAL)

Clerk Signature

--

APPROVED

Regional Engineer
Department of Transportation

--

Date

--



Estimate of Maintenance Costs

Submittal Type **Original**

Local Public Agency	County	Section Number	Maintenance Period Beginning	Ending
CITY OF KEWANEE	Henry	20-00000-00-GM	05/01/20	04/30/21

Maintenance Items

Maintenance Operation	Maint Eng Category	Insp. Req.	Material Categories/ Point of Delivery or Work Performed by an Outside Contractor	Unit	Quantity	Unit Cost	Cost	Total Maintenance Operation Cost
Preparation of Base	IV	Yes		sy	7,744	\$3.50	\$27,104.00	\$27,104.00
Aggregate Surface Course, 2"	IV	Yes		ton	882	\$50.00	\$44,100.00	\$44,100.00
Aggregate Base Repair, 10"	IV	Yes		sy	140	\$65.00	\$9,100.00	\$9,100.00
Prime Coat MC-30	IV	Yes	Henry County Hwy. Dept.	gal	2,323	\$3.03	\$7,038.69	\$7,038.69
Cover & Seal Coat, PG 46-28	IV	Yes	Henry County Hwy. Dept.	gal	17,280	\$2.11	\$36,460.80	\$36,460.80
Cover Coat Agg., CA-13	IV	Yes		ton	116	\$25.00	\$2,900.00	\$2,900.00
Seal Coat Agg., CA-16	IV	Yes		ton	748	\$25.00	\$18,700.00	\$18,700.00
Spread Prime Coat, MC-30	IV	Yes	Henry County Hwy. Dept.	gal	2,323	\$0.20	\$464.60	\$464.60
Haul, Spread & Roll for Oil & Chip Operations	IV	Yes	Henry County Hwy. Dept.	sy	49,857	\$0.18	\$8,974.26	\$8,974.26
Bituminous Prime, SS-1	IV	Yes	Henry County Hwy. Dept.	gal	4,020	\$2.00	\$8,040.00	\$8,040.00
Hot Mix Asphalt Surface Course	IV	Yes	Henry County Hwy. Dept.	ton	1,136	\$80.00	\$90,880.00	\$90,880.00
HMA Surface Removal, Var. Depth	IV	Yes		sy	10,651	\$10.00	\$106,510.00	\$106,510.00
Bituminous Prime, SS-1	IV	Yes		lbs	22,807	\$0.36	\$8,210.52	\$8,210.52
Hot Mix Asphalt Surface Course, Mix C, N50	IV	Yes		ton	767	\$115.00	\$88,205.00	\$88,205.00
Class D Patches, 6"	IV	Yes		sy	208	\$150.00	\$31,200.00	\$31,200.00
Incidental HMA	IV	Yes		ton	5	\$175.00	\$875.00	\$875.00
Driveway Aggregate, CA-6	IV	Yes		ton	30	\$55.00	\$1,650.00	\$1,650.00
Manhole Fr & Gr Adjustment	IV	Yes		ea.	18	\$1,350.00	\$24,300.00	\$24,300.00
Water Valve Adjustment	IV	Yes		ea.	24	\$350.00	\$8,400.00	\$8,400.00
Grade & Shape Ditches	IV	Yes		ft	1,384	\$20.00	\$27,680.00	\$27,680.00
Erosion Control Blanket	IV	Yes		sy	923	\$5.00	\$4,615.00	\$4,615.00
Pipe Culvert, Type 1, 8" CMP	IV	Yes		ft	105	\$35.00	\$3,675.00	\$3,675.00
Traffic Control	IV	Yes		ls	1	\$20,000.00	\$20,000.00	\$20,000.00
Cold Patch	IIA	No		ton	266.66	\$75.00	\$19,999.50	\$19,999.50
Total Operation Cost								\$599,082.37

Estimate of Maintenance Costs

Submittal Type **Original**

Local Public Agency	County	Section	Maintenance Period	
			Beginning	Ending
CITY OF KEWANEE	Henry	20-00000-00-GM	05/01/20	04/30/21

Estimate of Maintenance Costs Summary

Maintenance	MFT Funds	Other Funds	Estimated Costs
Local Public Agency Labor			
Local Public Agency Equipment			
Materials/Contracts(Non Bid Items)	\$19,999.50		\$19,999.50
Materials/Deliver & Install/Request for Quotations (Bid Items)			
Formal Contract (Bid Items)	\$579,082.87		\$579,082.87
Maintenance Total	\$599,082.37		\$599,082.37

Estimated Maintenance Eng Costs Summary

Maintenance Engineering	MFT Funds	Other Funds	Total Est Costs
Preliminary Engineering			
Engineering Inspection			
Material Testing			
Advertising			
Bridge Inspection Engineering			
Maintenance Engineering Total			
Total Estimated Maintenance	\$599,082.37		\$599,082.37

Remarks

SUBMITTED

Local Public Agency Official	Date

Title

County Engineer/Superintendent of Highways	Date

APPROVED

Regional Engineer Department of Transportation	Date

Instructions for BLR 14222 - Page 2 of 4

The instructions listed below only apply to the maintenance estimate of cost. For LPA's using Local Public Agency Labor and/or Local Public Agency Equipment Rental, the estimated amounts are only listed on those specific lines and are not to be included with each operation on the estimate of cost.

Insp Req	From the drop down choose No or Yes as it applies to the maintenance operation listed to the left. Items requiring no engineering inspection should be no.
Material Categories/ Point of Delivery or Work Performed by an Outside Contractor	List the items for each operation on a separate line, grouping items for the same operation together, for the operation listed to the left. If work being done as a contract list work by contractor.
Unit	Insert the unit of measure for the material listed to the left, if applicable
Quantity	Insert the quantity of material for the material listed to the left, if applicable.
Unit Cost	Insert the unit cost of the material listed to the left, if applicable.
Cost	No entry necessary, this is a calculated field. This is the quantity times the unit cost.
Total Maintenance Operation Cost	Insert the total of the Maintenance Operation Cost, for items done by a contract insert the estimated contract amount.
Maintenance	
Estimate of Maintenance Costs Summary	Under each item listed below, list the amount to of estimated MFT funds to be expended and other funds, if applicable. The total Estimated cost is a calculated field.
Local Public Agency Labor	Insert the estimated amount for LPA labor for all maintenance operations, if applicable.
Local Public Agency Equipment Rental	Insert the estimated amount for LPA equipment rental for all maintenance operations, if applicable.
Materials/Contracts (Non Bid Items)	Insert the estimated amount for materials and/or contracts for items the LPA is not required to bid, if applicable.
Materials/Deliver & Install,	Insert the total amount estimated to be expended on materials/Request for Quotations (Bid Items) deliver and install proposals and/or Request for Quotations. This will be for items required to be bid.
Formal Contracts	Insert the total amount estimated to be expended on formal contracts. This will be for items required to be bid.
Total Estimated Cost	This is a calculated field and will be automatically filled in for each type. This is the sum of all funding for the item.
Total Maintenance Operation Cost	This is a calculated field, no entry is necessary. This is the sum of all items expended on this operation.
Total Maintenance Cost	This is a calculated field, no entry is necessary. This is the sum of all maintenance operation costs.
Maintenance Engineering Cost Summary	Under each item listed below, list under the funding type what the estimated amount to be expended is.
Preliminary Engineering Fee	Insert the amount of funds estimated to be expended for Preliminary Engineering, if applicable.
Engineering Inspection Fee	Insert the amount of funds estimated to be expended for Engineering Inspection, if applicable.
Material Testing Costs	Insert the dollar amount of funds estimated to be expended on material testing costs, if applicable. Insert the amount to be paid from MFT and the amount to be paid with local funds, if applicable.

Instructions for BLR 14222 - Page 3 of 4

Advertising Costs	Insert the dollar amount of funds estimated to be expended on advertising costs, if applicable. Insert the amount to be paid from MFT and the amount to be paid with local funds, if applicable.
Bridge Inspection Costs	Insert the dollar amount of funds estimated to be expended on bridge inspection costs, if applicable. Insert the amount to be paid from MFT and the amount to be paid with local funds, if applicable.
Total Maintenance Engineering	This is a calculated field, no entry is necessary. This is the sum of all maintenance engineering costs listed above.
Totals:	This is a calculated field. It is the total of the estimated maintenance cost plus the estimated maintenance engineering cost.
These instructions apply to the Maintenance Expenditure Statement.	
Maintenance Operation	Type in the name of the maintenance operation for which the amounts to the right will be completed. For a form that was completed as an Estimate of Cost and is now being changed to a Maintenance Expenditure Statement, this field will be completed from the estimate.
Maint Eng Category	From the drop down select the Maintenance Engineering Category that applies to the operation listed to the left.
LPA Labor	For the operation listed to the left insert the amount expended for LPA labor, if applicable.
LPA Equipment Rental	For the operation listed to the left insert the amount expended on LPA equipment rental if applicable.
Materials/Contracts (Non-Bid)	For the operation listed to the left insert the amount expended for materials and/or contracts that was not required to be bid, if applicable.
Materials/Deliver & Install, Request for Quotations (Bid Items)	For the operation listed to the left insert the amount expended using a bidding process for materials, deliver & install and/or request for quotations, if applicable.
Formal Contract	For the operation listed to the left insert the amount expended for items bid using the formal contract process, if applicable.
Total Operation Cost	This is a calculated field, it will sum the amounts expended for the operation listed to the left.
Operation Engineering Inspection Fee	For the operation listed to the left insert the amount of engineering inspection charged for this operation, if applicable.
Total Maintenance	This is a calculated field, no entry necessary. It is the sum of all maintenance operations.
Maintenance Engineering Cost Summary Preliminary Engineering Fee	Insert the dollar amount of funds spent on preliminary engineering for this maintenance section.
Engineering Inspection Fee	Insert the amount of funds expended for Engineering Inspection, if applicable.
Material Testing Costs	Insert the dollar amount of funds spent on material testing costs, if applicable.
Advertising Costs	Insert the dollar amount of funds spent on advertising costs, if applicable.
Bridge Inspection Costs	Insert the dollar amount of funds spent on bridge inspection costs, if applicable.
Total Maintenance Engineering	This is a calculated field, no entry is necessary. This is the sum of all maintenance engineering costs listed above.
Total Maintenance Program Costs	Insert the total cost of the Maintenance and Maint. Engineering. The maintenance amount will be the amount from the Total Cost from the Maintenance Items table. The Maint. Eng will be the Maintenance Engineering Total from above.

Instructions for BLR 14222 - Page 1 of 4

NOTE: Form instructions should not be included when the form is submitted

This form is used by all Local Public Agencies (LPAs) to submit their maintenance program and also submit their maintenance expenditure statements. A resolution (BLR 14220) must be submitted and approved by the Illinois Department of Transportation (IDOT) prior to incurring any expenditures. For items required to be bid the estimate of cost must be submitted prior to submittal of required bidding documents. Authorizations will be made based on the resolution and/or the approved contract/ acceptance/request for quotations documents.

The maintenance expenditure statement must be submitted within 3 months of the end of the maintenance period. Maintenance resolutions and estimates submitted for future maintenance periods after that date will not be processed until the delinquent maintenance expenditure statement has been submitted. Only one form needs to be completed per maintenance period, combine all operations on one form.

For additional information refer to the Bureau of Local Roads Manual (BLRS), Chapter 14. For signature requirements refer to Chapter 2, section 3.05(b) of the BLRS Manual

For items being completed for the estimate all materials, equipment, labor and contract amounts are considered estimates. For estimates where LPA equipment is completed, an Equipment Rental Schedule (BLR 12110) must also be submitted for approval. When completing the form for the Maintenance Expenditure all items must be actual amounts spent.

Maintenance	From the drop down choose which type of document is being submitted. Choose Estimate of Cost if an estimate is being submitted, choose Maintenance Expenditure Statement if a maintenance expenditure statement is being submitted.
Submittal	Choose the type of submittal, if this is the first submittal choose original, if revising a previous submittal choose, revised. If adding to a previous submittal choose supplemental.
Local Public Agency	Insert the name of the Local Public Agency.
County	Insert the County in which the Local Public Agency is located.
Maintenance Period Beginning	Insert the beginning date of the maintenance period.
Ending	Insert the ending date of the maintenance period.
Section	Insert the section number assigned to this project. The letters at the end of the section number will always be a "GM".
Maintenance Operations	List each maintenance operation separately
Maintenance Eng. Category	From the drop down choose the maintenance engineering category as it applies to the operation listed to the left. The definitions of the categories can be found in the BLRS Manual Chapter 14, section 14-2.04 Maintenance Engineering Categories are:
Category I	Services purchased without a proposal such as electric energy or materials purchased from Central Management Services' Joint Purchasing Program or another joint purchasing program that has been approved by the District BLRS or CBLRS.
Category II-A	Maintenance items that are not included in Maintenance Engineering Category I or do not require competitive sealed bids according to Section 12-1.02(a) or a local ordinance/resolution.
Category II-B	Routine maintenance items that require competitive sealed bids according to Section 12-1.02(a) or a local ordinance/resolution. Routine maintenance includes all items in the following work categories: snow removal, street sweeping, lighting and traffic signal maintenance, cleaning ditches or drainage structures, tree trimming or removal, mowing, crack sealing, pavement marking, shoulder maintenance limited amounts of concrete curb and gutter repair, scour mitigation, pavement patching, and minor drainage repairs.
Category III	Maintenance items that are not covered by Maintenance Engineering Category I and require competitive bidding with a material proposal, a deliver and install proposal or request for quotations.
Category IV	Maintenance items that are not covered by Maintenance Engineering Category I and require competitive bidding with a contract proposal.

Instructions for BLR 14222 - Page 4 of 4

Contributions, Refunds, Paid with Other Funds	Enter the dollar amount of contributions, refunds or amounts paid with other funds for this maintenance section, if applicable, for both maintenance and maintenance engineering.
Total Motor Fuel Tax Portion	These are calculated fields, no entry is necessary. This is the sum of the total cost minus the amount paid with funds other than MFT funds.
Total Motor Fuel Tax Funds Authorized	Insert the total amount of MFT funds authorized for maintenance under the maintenance column, and the total amount of MFT funds authorized for maintenance engineering under the Maint. Engineering column.
Surplus/Deficit	These are calculated fields, no entry is necessary. This is the sum of the Total Motor Fuel Tax funds authorized minus the Total Motor Fuel Tax portion. A positive number will result in a credit to the unobligated fund of the Motor Fuel Tax fund. A negative number means more funds were spent than authorized. If the negative number has a resolution to cover the overage, the item(s) that resulted in the overage have been approved by IDOT, and are covered in the overrun policy, this amount will be authorized. If these conditions are not met, you must contact your District office for guidance.
Certification	Upon submittal of this form as the maintenance expenditure statement the LPA official shall check this box as certification.
End of instructions for Maintenance Expenditure Statement	
Submitted	
Local Public Agency Official	The proper official shall sign, insert their title and date here. For Estimates of Cost covering a Township/Road District the road commissioner shall sign and date as Local Public Agency Official. For Municipalities the municipal official shall sign and date here.
County Engineer/Superintendent of Highways	For County project and/or Township/Road District projects the county engineer/superintendent of highways shall sign here.
Approved	Upon approval the Regional Engineer shall sign and date here. This approval is subject to change based upon a documentation review by the Department.
A minimum of three (3) signed originals must be submitted to the Regional Engineer's District office.	
Following the Regional Engineer's approval, distribution will be as follows:	
Local Public Agency Clerk	
Engineer (Consultant or County Engineer)	
District File	

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April 27, 2020	
RESOLUTION OR ORDINANCE NUMBER	Resolution #5210	
AGENDA TITLE	Approval of a Resolution accepting the lowest responsive and responsible bid from L.C. United Painting Co, Inc. for Project #20-01, South Water Tower Coating, in the amount of \$271,000.	
REQUESTING DEPARTMENT	Public Works	
PRESENTER	Scott Hinton, City Engineer	
FISCAL INFORMATION	Cost as recommended:	\$271,000.
	Budget Line Item:	32-42-850
	Balance Available	\$450,000 in the proposed FY2021 budget
	New Appropriation Required:	[] Yes [X] No
PURPOSE	Approval of the bid is necessary to proceed with the contract documents for the South Water Tower Coating project.	

BACKGROUND	<p>The coating systems on the South Water Tower are at the end of their lives and are no longer protecting the structure in many areas. Also, there are several valves and other minor items in need of repair. Staff worked with Dixon Engineering to evaluate the condition of the tower and determine the appropriate repairs and coatings. A bid package was assembled with specifications to overcoat the exterior of the tank, sandblast and coat the wet interior, and spot coat deteriorated areas of the dry interior. The base bid includes all necessary repair work and coatings. An alternate bid item was included to install a mixer in the tank to aid in preventing ice and stagnant water. The project was advertised for bids on March 27, 2020 and eleven companies requested bid packages. Bids were received and publicly read on April 21, 2020 with the following results:</p> <table data-bbox="706 850 1128 1102"> <tr> <td>\$292,000</td><td>LC United</td></tr> <tr> <td>\$416,300</td><td>Viking Painting</td></tr> <tr> <td>\$448,700</td><td>TMI Coatings</td></tr> <tr> <td>\$481,000</td><td>Utility Services</td></tr> <tr> <td>Not Read</td><td>Seven Brothers</td></tr> <tr> <td>Not Read</td><td>Tecorp</td></tr> </table> <p>The bids from Seven Brothers and Tecorp we received after the specified bid opening time so were not read.</p>	\$292,000	LC United	\$416,300	Viking Painting	\$448,700	TMI Coatings	\$481,000	Utility Services	Not Read	Seven Brothers	Not Read	Tecorp
\$292,000	LC United												
\$416,300	Viking Painting												
\$448,700	TMI Coatings												
\$481,000	Utility Services												
Not Read	Seven Brothers												
Not Read	Tecorp												
SPECIAL NOTES	N/A												
ANALYSIS	<p>Funds have been set aside in the Acquisition Fund for several years to fund the water tower coatings. Sufficient funds are budgeted and available for this project. While this is an expensive project, it's more cost efficient to renew the coatings than to defer the maintenance until such time as structural repairs are also necessary.</p>												
PUBLIC INFORMATION PROCESS	<p>This project was advertised on the City's website and two times in the local newspaper.</p>												
BOARD OR COMMISSION RECOMMENDATION	N/A												

STAFF RECOMMENDATION	Staff recommends accepting the base bid of \$271,000 from L.C. United Painting Co., Inc. and proceeding with execution of the contract documents. Staff does not recommend accepting the alternate bid of \$21,000 for the mixer. While the mixer could be beneficial at times, it's not a necessity and the funds can be better spent in the future on higher priority items.
PROCUREMENT POLICY VERIFICATION	This project was competitively bid in accordance with the the Illinois State Statutes which govern the procurement of publicly-funded construction contracts.
REFERENCE DOCUMENTS ATTACHED	Bid tabulation and contract attached.

CITY OF KEWANEE
CITY HALL
401 EAST THIRD ST.
KEWANEE, IL. 61443

TABULATION OF BIDS

DATE: 4/21/2020 PROJEC 2020 South Water Tower Coating
TIME: 11:00AM OWNER: City of Kewanee
WITNESS: PROJECT #:

				BIDDER NAME :		L.C. United Painting Co., Inc.		Viking Painting, LLC		TMI Coatings, Inc.		Utility Services Co., Inc.		Seven Brothers Painting		Tecorp, Inc.	
				BIDDER ADDRESS :		3525 Barbara Drive		305 N. 93rd Street		3291 Terminal Drive		535 Courtney Hodges Blvd.		50805 Rizzo Drive		2221 Muriel Ct.	
				CITY/STATE/ZIP :		Sterling Heights, MI. 48310		Omaha, NE. 68114		St. Paul, MN. 55121		Perry, GA. 31069		Shelby Twp., MI. 48315		Joliet, IL. 60433	
				BID GUARANTEE :		Bid Bond		Bid Bond		Bid Bond		Bid Bond					
				ENGINEER'S ESTIMATE													
ITEM NO	ITEM	UNIT	QUANTIT Y	ESTIMATED UNIT PRICE	ESTIMATE TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	OVERFLOW FLAP GATE	EA	1	4000.00	4000.00	2000.00	2000.00	3600.00	3600.00	2800.00	2800.00	700.00	700.00	LATE BID NOT READ	LATE BID NOT READ		
2	MUD VALVE	EA	1	6000.00	6000.00	4000.00	4000.00	7200.00	7200.00	5100.00	5100.00	2600.00	2600.00				
3	ROOF VENT	EA	1	8000.00	8000.00	6000.00	6000.00	8600.00	8600.00	6900.00	6900.00	4800.00	4800.00				
4	ACCESS TUBE AIR GAPE SEAL	EA	1	4000.00	4000.00	4000.00	4000.00	5800.00	5800.00	3800.00	3800.00	2000.00	2000.00				
5	CATHODIC CLIP AND COUPLING	EA	1	4000.00	4000.00	2500.00	2500.00	2200.00	2200.00	2300.00	2300.00	2600.00	2600.00				
6	ROOF PAINTER'S RAILING	LS	1	8000.00	8000.00	5500.00	5500.00	12600.00	12600.00	10600.00	10600.00	9300.00	9300.00				
7	EXTERIOR OVERCOAT	LS	1	100000.00	100000.00	98000.00	98000.00	159500.00	159500.00	159000.00	159000.00	215000.00	215000.00				
8	WET INTERIOR REPAINT	LS	1	160000.00	160000.00	119000.00	119000.00	167800.00	167800.00	232000.00	232000.00	180000.00	180000.00				
9	SEAM SEALER	LS	1	4000.00	4000.00	3000.00	3000.00	1000.00	1000.00	2400.00	2400.00	2500.00	2500.00				
10	PARTIAL DRY INTERIOR REPAINT	LS	1	30000.00	30000.00	27000.00	27000.00	20000.00	20000.00	4800.00	4800.00	34000.00	34000.00				
11	MIXER-ALTERNATIVE	LS	1	30000.00	30000.00	21000.00	21000.00	28000.00	28000.00	19000.00	19000.00	27500.00	27500.00				

TOTAL ESTIMATE/ BID =	358,000.00	292,000.00	416,300.00	448,700.00	481,000.00		
COMPARISON TO ESTIMATE --		-18.44%	16.28%	25.34%	34.36%		

CITY OF KEWANEE

CONTRACT

THIS AGREEMENT, made and concluded this ____ day of _____, A.D., 2020, between **L.C. United Painting Co., Inc. of 3525 Barbara Drive, Sterling Heights, MI 48310** hereinafter referred to as the “CONTRACTOR,” and the CITY OF KEWANEE, ILLINOIS, hereinafter referred to as the “CITY;”

WITNESSETH, that the CONTRACTOR for and in consideration of the payments to be made to it by the CITY in the amount of **TWO HUNDRED SEVENTY ONE THOUSAND (271,000.00) DOLLARS** hereby covenants and agrees, to and with the CITY, that it shall and will in good and workmanlike manner, furnish all the labor and material for **PROJECT #20-01, SOUTH WATER TOWER COATING** as per the CONTRACTOR’S **Proposal** dated 4/21/20.

Such work to be under the direction and to the satisfaction of the City Engineer, and in accordance with the contractor’s Proposal, which is part of this contract. The work to be commenced not later than 10 days after the execution of this contract unless mutually agreed upon by the CITY and CONTRACTOR; to progress regularly and uninterruptedly after it shall have been begun excepting as shall otherwise be ordered by the City Council of the City of Kewanee (hereinafter referred to as the “City Council”), or its authorized representative, and shall be finished and fully completed within forty-five (45) calendar days; PROVIDED, however that if the time of the performance of the contract herein be for any reason either expressly or by implication extended, such extension shall not affect the validity of this contract.

The Contractor further agrees that the unit prices submitted are for the purpose of obtaining a gross sum, and for use in computing the value of extras and deductions; that if there is a discrepancy between the gross sum bid and that resulting from the summation of the quantities multiplied by their

respective unit prices, the latter shall apply. When this contract shall be wholly carried out and completed on the part of the Contractor, and when said work has been accepted by the City, a sum of money shall be computed by multiplying the following unit prices by the quantity of items completed, it being understood that the following total sum of money listed is for the purpose of determining the amount of the performance, labor, material and maintenance bond only. Such payment shall be made as provided for in the said specifications.

This Contract calls for the construction of a “public work” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (“the Act”). The Act requires contractors, subcontractors, and truckers to pay laborers, workers, and mechanics performing services on public works projects not less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. The prevailing wage rates for projects for the City of Kewanee are updated regularly by the Illinois Department of Labor and may be found at:

<https://www.illinois.gov/idol/Laws-Rules/CONMED/Documents/2016%20Rates/Rock%20Island.pdf>

All contractors, subcontractors, and truckers rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties. All contractors, subcontractors, and truckers shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed by them on this contract, and also showing the actual hourly wages paid to each of such persons and shall preserve their weekly payroll records for a period of three (3) years from the date of completion of the contract. Weekly certified payrolls shall be sent to the City Engineer.

It is further provided that the CONTRACTOR shall upon the sealing of this contract, file with the CITY a Certificate of Insurance meeting the requirements of the City of Kewanee Special Provision for Insurance Requirements.

IN WITNESS WHEREOF, the said Parties have executed these presents on the date above mentioned.

CONTRACTOR:

CITY:

CITY OF KEWANEE, ILLINOIS

By:

By:

Mayor

Attest:

City Clerk

RETURN WITH BID

KEWANEE

**Local Public Agency
Formal Contract
Proposal**

PROPOSAL SUBMITTED BY	
L.C. UNITED PAINTING Co, INC	
Contractor's Name	
3525 Barbara Dr	
Street	P.O. Box
sterling hts MI 48310	
City	State Zip Code

STATE OF ILLINOIS

COUNTY OF HENRY

CITY OF KEWANEE

(Name of City, Village, Town or Road District)

FOR THE IMPROVEMENT OF

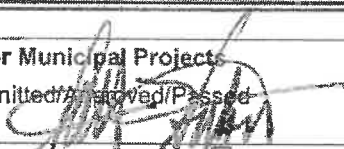
STREET NAME OR ROUTE NO. 2020 South Water Tower Coating

SECTION NO. Project # 20-01

TYPES OF FUNDS Water Utility

☒ SPECIFICATIONS (required)

☐ PLANS (required)

For Municipal Projects	
Submitted/Approved/Passed	
	
<input checked="" type="checkbox"/> Mayor	<input type="checkbox"/> President of Board of Trustees <input type="checkbox"/> Municipal Official
Date	3/27/20

Department of Transportation	
<input type="checkbox"/> Released for bid based on limited review	
Regional Engineer	
Date	

For County and Road District Projects	
Submitted/Approved	
Highway Commissioner	
Date	
Submitted/Approved	
County Engineer/Superintendent of Highways	
Date	

Note: All proposal documents, including Proposal Guaranty Checks or Proposal Bid Bonds, should be stapled together to prevent loss when bids are processed.

TABLE OF CONTENTS
City of Kewanee
Project #20-01: South Water Tower Coating

TABLE OF CONTENTS


BID SUBMITTAL CHECKSHEET	1	SHEET
NOTICE TO BIDDERS	1	SHEET
PROPOSAL	1	SHEET
CONTRACTOR CERTIFICATIONS	1	SHEET
SIGNATURES	1	SHEET
SCHEDULE OF VALUES	2	SHEETS
LOCAL AGENCY PROPOSAL BID BOND	1	SHEET

CITY OF KEWANEE SPECIAL PROVISIONS

BIDDING INSTRUCTIONS	3	SHEETS
PERFORMANCE, LABOR, MATERIAL, AND MAINTENANCE BOND	3	SHEETS
INSURANCE REQUIREMENTS	2	SHEETS
PREVAILING WAGE SPECIAL ORDINANCE No. 3932	2	SHEETS
HENRY COUNTY PREVAILING WAGE RATES	9	SHEETS
PROJECT SPECIFIC SPECIAL PROVISIONS	84	SHEETS



I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED
BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION
AND THAT I AM A DULY REGISTERED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF ILLINOIS.



SCOTT R. HINTON, P.E.
LICENSE NO. 062-052646



DATE
EXPIRES 11-30-21

BID SUBMITTAL CHECKSHEET

Portions of the Proposal that must be returned include the following:

- ✓ BLR 12200 – Contract Cover
- ✓ BLR 12200 – Notice to Bidders
- ✓ BLR 12200 – Proposal
- ✓ SECTION 00 06 00 - Schedule of Values
- ✓ BLR 12200 – Signatures
- ✓ BLR 12230 – Proposal Bid Bond
- BLR 12325 – Apprenticeship or Training Program Certification
- BLR 12326 – Affidavit of Illinois Business Office
- BDE 2342 – Storm Water Pollution Prevention Program
- BDE 2342a – Contractor Certification Statement
- BC 57 - Affidavit of Availability
- ✓ Addendums, if applicable

Contractor shall follow all instructions in the CITY OF KEWANEE SPECIAL PROVISION FOR BIDDING INSTRUCTIONS included in this bid package.

RETURN WITH BID

NOTICE TO BIDDERS

County Henry
Local Public Agency City of Kewanee
Section Number Project #20-01
Route South Water Tower Coating

Sealed proposals for the improvement described below will be received at the office of the Kewanee City Clerk
401 E 3rd Street, Kewanee IL 61443 until 11:00A.M. on April 21, 2020
Address Time Date

Sealed proposals will be opened and read publicly at the office of the Kewanee City Clerk
401 E 3rd Street, Kewanee IL 61443 at 11:00A.M. on April 21, 2020
Address Time Date

DESCRIPTION OF WORK

Name South Water Tower Coating Length: _____ feet (_____ miles)

Location 431 Hollis Street, Kewanee IL 61443

Proposed Improvement Exterior overcoat, dry interior repaint, and wet interior repaint of 500,000 gallon elevated spheroid water tank with miscellaneous associated minor repairs.

1. Plans and proposal forms will be available in the office of the Kewanee City Engineer.
Contact Scott Hinton at shinton@cityofkewanee.net for more information.
Address

2. ☐ Prequalification

If checked, the 2 low bidders must file within 24 hours after the letting an "Affidavit of Availability" (Form BC 57), in duplicate, showing all uncompleted contracts awarded to them and all low bids pending award for Federal, State, County, Municipal and private work. One original shall be filed with the Awarding Authority and one original with the IDOT District Office.

3. The Awarding Authority reserves the right to waive technicalities and to reject any or all proposals as provided in BLRS Special Provision for Bidding Requirements and Conditions for Contract Proposals.

4. The following BLR Forms shall be returned by the bidder to the Awarding Authority:

- a. BLR 12200: Local Public Agency Formal Contract Proposal
- b. BLR 12200a Schedule of Prices
- c. BLR 12230: Proposal Bid Bond (if applicable)
- ~~d. BLR 12325: Apprenticeship or Training Program Certification (do not use for federally funded projects)~~
- ~~e. BLR 12326: Affidavit of Illinois Business Office~~

5. The quantities appearing in the bid schedule are approximate and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed and accepted or materials furnished according to the contract. The scheduled quantities of work to be done and materials to be furnished may be increased, decreased or omitted as hereinafter provided.

6. Submission of a bid shall be conclusive assurance and warranty the bidder has examined the plans and understands all requirements for the performance of work. The bidder will be responsible for all errors in the proposal resulting from failure or neglect to conduct an in depth examination. The Awarding Authority will, in no case be responsible for any costs, expenses, losses or changes in anticipated profits resulting from such failure or neglect of the bidder.

7. The bidder shall take no advantage of any error or omission in the proposal and advertised contract.

8. If a special envelope is supplied by the Awarding Authority, each proposal should be submitted in that envelope furnished by the Awarding Agency and the blank spaces on the envelope shall be filled in correctly to clearly indicate its contents. When an envelope other than the special one furnished by the Awarding Authority is used, it shall be marked to clearly indicate its contents. When sent by mail, the sealed proposal shall be addressed to the Awarding Authority at the address and in care of the official in whose office the bids are to be received. All proposals shall be filed prior to the time and at the place specified in the Notice to Bidders. Proposals received after the time specified will be returned to the bidder unopened.

9. Permission will be given to a bidder to withdraw a proposal if the bidder makes the request in writing or in person before the time for opening proposals.

RETURN WITH BID

PROPOSAL

County Henry
Local Public Agency City of Kewanee
Section Number Project #20-01
Route South Water Tower Coating

1. Proposal of 2020 South Tower Coating

for the improvement of the above section by the construction of exterior overcoat, dry interior repaint, wet interior repaint of 500,000 gallon elevated spheroid tank. Work also includes minor associated repairs.

a total distance of _____ feet, of which a distance of _____ feet, (_____ miles) are to be improved.

2. The plans for the proposed work are those prepared by City of Kewanee and approved by the Department of Transportation on (does not apply)
3. The specifications referred to herein are those prepared by the Department of Transportation and designated as "Standard Specifications for Road and Bridge Construction" and the "Supplemental Specifications and Recurring Special Provisions" thereto, adopted and in effect on the date of invitation for bids.
4. The undersigned agrees to accept, as part of the contract, the applicable Special Provisions indicated on the "Check Sheet for Recurring Special Provisions" contained in this proposal.
5. The undersigned agrees to complete the work within 45 calendar days or by _____ unless additional time is granted in accordance with the specifications.
6. A proposal guaranty in the proper amount, as specified in BLRS Special Provision for Bidding Requirements and Conditions for Contract Proposals, will be required. Bid Bonds will be allowed as a proposal guaranty. Accompanying this proposal is either a bid bond if allowed, on Department form BLR 12230 or a proposal guaranty check, complying with the specifications, made payable to:
City of Kewanee Treasurer of _____
The amount of the check is 10% of the total bid (_____).
7. In the event that one proposal guaranty check is intended to cover two or more proposals, the amount must be equal to the sum of the proposal guaranties, which would be required for each individual proposal. If the proposal guaranty check is placed in another proposal, it will be found in the proposal for: Section Number _____.
8. The successful bidder at the time of execution of the contract will be required to deposit a contract bond for the 50% of the amount of the award. When a contract bond is not required, the proposal guaranty check will be held in lieu thereof. If this proposal is accepted and the undersigned fails to execute a contract and contract bond as required, it is hereby agreed that the Bid Bond or check shall be forfeited to the Awarding Authority.
9. Each pay item should have a unit price and a total price. If no total price is shown or if there is a discrepancy between the product of the unit price multiplied by the quantity, the unit price shall govern. If a unit price is omitted, the total price will be divided by the quantity in order to establish a unit price.
10. A bid will be declared unacceptable if neither a unit price nor a total price is shown.
11. The undersigned submits herewith the schedule of prices on BLR 12200a covering the work to be performed under this contract.
12. The undersigned further agrees that if awarded the contract for the sections contained in the combinations on BLR 12200a, the work shall be in accordance with the requirements of each individual proposal for the multiple bid specified in the Schedule for Multiple Bids below.

RETURN WITH BID

CONTRACTOR CERTIFICATIONS

County	Henry
Local Public Agency	City of Kewanee
Section Number	Project #20-01
Route	South Water Tower Coating

The certifications hereinafter made by the bidder are each a material representation of fact upon which reliance is placed should the Department enter into the contract with the bidder.

1. **Debt Delinquency.** The bidder or contractor or subcontractor, respectively, certifies that it is not delinquent in the payment of any tax administered by the Department of Revenue unless the individual or other entity is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of tax. Making a false statement voids the contract and allows the Department to recover all amounts paid to the individual or entity under the contract in a civil action.
2. **Bid-Rigging or Bid Rotating.** The bidder or contractor or subcontractor, respectively, certifies that it is not barred from contracting with the Department by reason of a violation of either 720 ILCS 5/33E-3 or 720 ILCS 5/33E-4.

A violation of Section 33E-3 would be represented by a conviction of the crime of bid-rigging which, in addition to Class 3 felony sentencing, provides that any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be barred for 5 years from the date of conviction from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation.

A violation of Section 33E-4 would be represented by a conviction of the crime of bid-rotating which, in addition to Class 2 felony sentencing, provides that any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be permanently barred from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation.

3. **Bribery.** The bidder or contractor or subcontractor, respectively, certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or any unit of local government, nor has the firm made an admission of guilt of such conduct which is a matter of record, nor has an official, agent, or employee of the firm committed bribery or attempted bribery on behalf of the firm and pursuant to the direction or authorization of a responsible official of the firm.
4. **Interim Suspension or Suspension.** The bidder or contractor or subcontractor, respectively, certifies that it is not currently under a suspension as defined in Subpart I of Title 44 Subtitle A Chapter III Part 6 of the Illinois Administrative Code. Furthermore, if suspended prior to completion of this work, the contract or contracts executed for the completion of this work may be cancelled.

RETURN WITH BID

SIGNATURES

County Henry
Local Public Agency City of Kewanee
Section Number Project #20-01
Route South Water Tower Coating

(If an individual) N/A

Signature of Bidder _____

Business Address _____

(If a partnership) N/A

Firm Name _____

Signed By _____

Business Address _____

Inset Names and Addressed of All Partners



(If a corporation)

Corporate Name L.C. United Painting Co. Inc

Signed By Kate Lely V. President
President

Business Address 3525 Barbara Dr
Stirling MA 01540

Insert Names of Officers

President Joe Lucaj
Secretary Ioash Ioash
Treasurer Ioash Ioash

Attest:

[Signature]
Secretary

SECTION 00 06 00
SCHEDULE of VALUES

PART 1

1.01

A. Bidder agrees to perform all work in the following sections as described in the Contract Documents, including all labor and material for the following Schedule of Values – Section 05 00 00:

- | | | |
|---------------------------------------|-----------------------------------|-------------------|
| 1. <u>OVERFLOW FLAP GATE</u> | <u>Two Thousand</u> | <u>\$2,000.00</u> |
| 2. <u>MUD VALVE</u> | <u>Four Thousand</u> | <u>\$4,000.00</u> |
| 3. <u>ROOF VENT</u> | <u>Six Thousand</u> | <u>\$6,000.00</u> |
| 4. <u>ACCESS TUBE AIR GAP SEAL</u> | <u>Four Thousand</u> | <u>\$4,000.00</u> |
| 5. <u>CATHODIC CLIPS AND COUPLING</u> | <u>Two thousand five hundred</u> | <u>\$2,500.00</u> |
| 6. <u>ROOF PAINTER'S RAILING</u> | <u>Five thousand five hundred</u> | <u>\$5,500.00</u> |

TOTAL PRICE SECTION 05 00 00 INCLUDING #1 THROUGH #6:

Twenty four thousand dollars \$24,000.00

B. Bidder agrees to perform all work in the following sections as described in the Contract Documents, including all labor and material for the following Schedule of Values – Section 09 00 00:

- | | | |
|--------------------------------|--------------------------------------|---------------------|
| 1. <u>EXTERIOR OVRCOAT</u> | <u>Ninety Eight Thousand</u> | <u>\$98,000.00</u> |
| 2. <u>WET INTERIOR REPAINT</u> | <u>One hundred Nineteen Thousand</u> | <u>\$119,000.00</u> |

3. SEAM SEALER

Three Thousand \$ 3,000.00

4. PARTIAL DRY INTERIOR REPAINT

Twenty Seven Thousand \$ 27,000.00

TOTAL PRICE SECTION 09 00 00 INCLUDING #1 THROUGH #4:

Two hundred forty seven thousand \$ 247,000.00

C. Bidder agrees to perform all work in the following Sections as described in the Contract Documents, including all labor and material for the following Schedule of Values – Section 13 32 12:

1. MIXER - ALTERNATE

Twenty One Thousand \$ 21,000.00

TOTAL PRICE SECTION 05 00 00, 09 00 00 and 13 32 12:

SECTION 05 00 00:	\$ <u>24,000.00</u>
SECTION 09 00 00:	\$ <u>247,000.00</u>
SECTION 13 32 12:	\$ <u>21,000.00</u>
PROJECT TOTAL:	\$ <u>292,000.00</u>

1.02 TOTALS

- A. Project Total Base Bid is to match total Base Bid price supplied in Bid/Agreement form.
- B. Total Alternate Bid is to match total Alternate Bid price supplied in Bid/Agreement form Section 00 04 10.

1.03 ALTERNATE BIDS

- A. Bidders are required to bid both Base and Alternate.

1.04 MISTAKES

- A. Project Total of Schedule of Values paragraph should equal sum of Unit items. If addition of individual items does not match total, then each individual item will be added again and the math corrected.
- B. A mistake in addition for schedule items cannot be used to increase lump sum bid. If Bid correction results in an increased price, then Owner may accept, may request Bidder to reduce all individual item prices proportionally, or may reject Bid.
- C. Mistakes discovered after Award, even after completion will adjust Price downward only. It is the Contractor/Bidders responsibility to recheck prices prior to Award.
- D. A mistake in Schedule of Values may be used as evidence of error in any request to withdraw bids because of error. Approval of request to withdraw bids is covered in



Local Agency Proposal Bid Bond

RETURN WITH BID

Route South Water Tower Coating
County Henry
Local Agency City of Kewanee
Section Project #20-01

PAPER BID BOND

WE L.C. United Painting Co., Inc., 3525 Barbara Drive, Sterling Heights, MI 48310 as PRINCIPAL,

and Westfield Insurance Company, One Park Circle, P.O. Box 5001, Westfield Center, OH 44251-5001 as SURETY

are held jointly, severally and firmly bound unto the above Local Agency (hereafter referred to as "LA") in the penal sum of 5% of the total bid price, or for the amount specified in the proposal documents in effect on the date of invitation for bids whichever is the lesser sum. We bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly pay to the LA this sum under the conditions of this instrument.

WHEREAS THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that, the said PRINCIPAL is submitting a written proposal to the LA acting through its awarding authority for the construction of the work designated as the above section.

THEREFORE if the proposal is accepted and a contract awarded to the PRINCIPAL by the LA for the above designated section and the PRINCIPAL shall within fifteen (15) days after award enter into a formal contract, furnish surety guaranteeing the faithful performance of the work, and furnish evidence of the required insurance coverage, all as provided in the "Standard Specifications for Road and Bridge Construction" and applicable Supplemental Specifications, then this obligation shall become void; otherwise it shall remain in full force and effect.

IN THE EVENT the LA determines the PRINCIPAL has failed to enter into a formal contract in compliance with any requirements set forth in the preceding paragraph, then the LA acting through its awarding authority shall immediately be entitled to recover the full penal sum set out above, together with all court costs, all attorney fees, and any other expense of recovery.

IN TESTIMONY WHEREOF, the said PRINCIPAL and the said SURETY have caused this instrument to be signed by their respective officers this 21st day of April, 2020

Principal

L.C. United Painting Co., Inc.

By: Kath Lely V. President
(Signature and Title)

By: _____
(Company Name)
(Signature and Title)

(If PRINCIPAL is a joint venture of two or more contractors, the company names, and authorized signatures of each contractor must be affixed.)

Westfield Insurance Company

Surety

By: Jane M. Haller
(Signature of Attorney-in-Fact)

STATE OF ILLINOIS, Macomb
COUNTY OF Macomb
Marin Chene

do hereby certify that _____, a Notary Public in and for said county,

(Insert names of individuals signing on behalf of PRINCIPAL & SURETY)

who are each personally known to me to be the same persons whose names are subscribed to the foregoing instrument on behalf of PRINCIPAL and SURETY, appeared before me this day in person and acknowledged respectively, that they signed and delivered said instruments as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17th day of April 2020

My commission expires Sept 26 2020

(Notary Public)

ELECTRONIC BID BOND

☐ Electronic bid bond is allowed (box must be checked by LA if electronic bid bond is allowed)

The Principal may submit an electronic bid bond, in lieu of completing the above section of the Proposal Bid Bond Form. By providing an electronic bid bond ID code and signing below, the Principal is ensuring the identified electronic bid bond has been executed and the Principal and Surety are firmly bound unto the LA under the conditions of the bid bond as shown above. (If PRINCIPAL is a joint venture of two or more contractors, an electronic bid bond ID code, company/Bidder name title and date must be affixed for each contractor in the venture.)

Electronic Bid Bond ID Code

(Company/Bidder Name)

(Signature and Title)

Date

KATH LELY
NOTARY PUBLIC, STATE OF IL
COUNTY OF MACOMB
MY COMMISSION EXPIRES 9-26-20
Active in County of _____

THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 09/24/18, FOR ANY PERSON OR PERSONS NAMED BELOW.

General
Power
of Attorney

CERTIFIED COPY

POWER NO. 2142412 07

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint
DONN JOHNSON, LORI A. POWELL, CASEY D. LOPEZ, THOMAS C. MOGLIA, ROBERT F. MOGLIA, JR., EDMUND M. GEORGE, JANE M. HALLER, NATALIE A. HEIN, ASHLEY LAPARL, JENNIFER HUDSON, JOINTLY OR SEVERALLY

of BLOOMFIELD HILLS and State of MI its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship-

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be it Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact, may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 24th day of SEPTEMBER A.D., 2018.

Corporate
Seals
Affixed



WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By: *Dennis P. Baus*
Dennis P. Baus, National Surety Leader and
Senior Executive

State of Ohio
County of Medina ss.:

On this 24th day of SEPTEMBER A.D., 2018, before me personally came Dennis P. Baus to me known, who, being by me duly sworn, did depose and say, that he resides in Wooster, Ohio; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial
Seal
Affixed



David A. Kotnik

David A. Kotnik, Attorney at Law, Notary Public
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio
County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 21st day of

April A.D. 2020



Frank A. Carrino Secretary
Frank A. Carrino, Secretary

BPOAC2 (combined) (06-02)

ADDENDUM No. 1

Project #20-01, South Water Tower Coating Program

Date: April 13, 2020

Bid Date: April 21, 2020

Location: City Clerk's Office
City of Kewanee
401 E Third Street
Kewanee, IL 61443

This Addendum to the Plans, Specifications, and Contract Documents for the above-referenced project is intended to explain, clarify, and revise the Bid Package. Information provided by this Addendum supersedes all contrary and conflicting information previously provided and is hereby supplemented or revised as follows:

The following items are intended to clarify, revise, and/or replace items listed:

Clarify: City Hall and the City Clerk's office are currently closed due to the COVID-19 crisis. The bid opening will be held as scheduled and bids may be dropped off in-person at the Kewanee Police Station in City Hall at 401 E Third Street, Kewanee IL until 11:00am on Tuesday, April 21st, 2020, however bidders and the public will not be allowed in City Hall or to attend the bid opening in person. Bids may also be submitted via FedEx and UPS delivery, however the City of Kewanee shall not be responsible for delivery delays and will not open bids received after 11:00am on Tuesday, April 21st, 2020. The bid opening will take place via a Zoom meeting. Interested parties may attend using the following: Meeting ID: 924 366 657 Password: 3ij2fe. A link to the meeting will also be emailed to all plan holders.

Add: Sherwin Williams systems as listed below will be accepted as equivalents to the specified Tnemec systems. Note that the coating thicknesses differ in some instances to the specified Tnemec system:

SECTION 09 97 13.13.02

WET INTERIOR STEEL COATING – TWO COAT ZINC-EPOXY

PART 2 – PRODUCTS

2.01 B. Zinc Epoxy – 2-Coat System

Primer: Corothane I GalvaPac 2K 100 Zinc Primer @ 3.0-4.0 mils DFT

Stripe Coat: Macropoxy 646-PW @ 3.0-4.0 mils DFT

Topcoat: Macropoxy 5500 @ 12.0-14.0 mils DFT

SECTION 09 07 13.19.05

DRY INTERIOR STEEL COATING – EPOXY SYSTEM

PART 2 – PRODUCTS

2.01 B. Dry Interior Transition Cone

Primer: Macropoxy 646-PW @ 4.5-5.5 mils DFT

Intermediate: Macropoxy 646-PW @ 4.5-5.5 mils DFT

Topcoat: Macropoxy 646-PW @ 4.5-5.5 mils DFT

2.01 C. All other dry interior surfaces as defined in the specifications

Primer: Macropoxy 646-PW @ 4.5-5.5 mils DFT
Topcoat: Macropoxy 646-PW @ 4.5-5.5 mils DFT

SECTION 09 97 13.24.01

**EXTERIOR STEEL COATING – TWO COAT EPOXY FLUOROPOLYMER
OVERCOAT**

PART 2 – PRODUCTS

2.01 D. Exterior 2-Coat System

Primer (Spot): Macropoxy 646 @ 4.5-5.5 mils DFT
Epoxy Intermediate: Macropoxy 646 @ 3.0-5.0 mils DFT
Topcoat: FluoroKem HS @ 2.0-3.0 mils DFT

3.02 C. Lettering

Topcoat: FluoroKem HS @ 2.0-3.0 mils DFT

SECTION 09 97 23.23.01

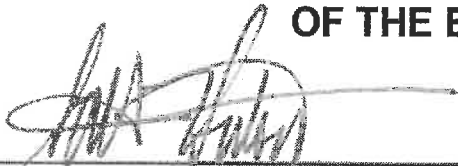
CONCRETE FOUNDATION COATING – TWO COAT EPOXY

PART 2 – PRODUCTS

3.01 D. 2-Coat Epoxy

Primer: Macropoxy 646 @ 3.5-5.5 mils DFT
Topcoat: Macropoxy 646 @ 3.5-5.5 mils DFT

**ALL ADDENDUMS ARE TO BE ATTACHED TO THE FRONT
OF THE BID SUBMITTAL.**



Scott Hinton, City Engineer

L.C. United Painting Co, Inc
Contractor Name

Kate Lulej
Authorized Representative Signature

4-16-2020
Date

**AS ACKNOWLEDGEMENT OF RECEIPT, PLEASE SIGN,
DATE, AND EMAIL THIS PAGE TO THE CITY OF KEWANEE,
ATTENTION SCOTT HINTON, AT shinton@cityofkewanee.net**

Planholders for City of Kewanee South Water Tower Coating

Classic Protective Coatings

Brittany Dittman

N7670 State Highway 25

Menomonie WI 54751

715 223-6267 Phone

715 223-6268 Fax

cpcadmin@classicprotectivecoatings.com

Environmental Sales, Inc.

Eric Schiebold

17348 W 12 Mile Road

Suite 103

Southfield, MI 48076

Phone 248-569-9393

Fax 248-569-9388

Cell 248-761-7195

eschiebold@aol.com

Era-Valdivia Contractors, Inc.

Greg Bairaktaris - PM

Chicago, IL 60617

gbairaktaris@eravaldivia.com

G&L Tank Sandblasting & Coating

2101 Highway 64 West

Shelbyville, TN 37160

Office: (931) 735-6600

Luda Gomez, Office Manager

(931) 492-1552

Isai Gomez, Owner

(615) 524-1679

gltankcoating1986@gmail.com

L C United Painting Co, INC

Kanto Lulaj, VP

3525 Barbara Drive

Sterling Hts MI 48310

P 586-979-2855

F 586-979-8053

lcunited@aol.com

Pittsburg Tank & Tower Group

Melinda Jones

PO Box 1849

Henderson, KY 42419

270-869-9400 Ext: 4663 Phone

270-873-8304 Fax

mjones@pttg.com

Sherwin Williams

Paul L Fitzgerrel

Protective and Marine Coatings Rep

NACE Coatings Inspector Level II

Certified #38231

Cell Phone (563) 529-4377

Paul.L.Fitzgerrel@sherwin.com

Seven Brothers Painting, Inc

Vlad Vushaj

50805 Rizzo Drive

Shelby Twp, MI 48315

T. (586) 323-7054

F. (586) 323-2431

sevenbrothers@sevenbrotherspainting.com

Tecorp, Inc.

Nick Visvardis

2221 Muriel Court

Joliet, IL 60433

815-726-9192

F:815-726-9245

nickv@tec corp.us

Tnemec

Keith Kennett

NACE Coating Inspector – Level 3, #9464

1058 Willow Drive | Geneseo, IL 61254

Tel: 309-945-2094 | Fax: 708-387-7941

kkennett@tnemec.com

RESOLUTION NO. 5210

A RESOLUTION TO ACCEPT THE BID FROM L.C. UNITED PAINTING CO. INC. FOR PROJECT #20-01, SOUTH WATER TOWER COATING, IN THE AMOUNT OF \$271,000.00 AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

- WHEREAS, The City Council recognizes that the coating systems at the South Water Tower have reached the end of their useful lives and are failing in many areas; and,
- WHEREAS, Bids were solicited to replace the coating systems and make minor associated repairs and those bids received on time were opened and publicly read on April 21, 2020; and,
- WHEREAS, L.C. United Painting Co. Inc. of 3525 Barbara Drive, Sterling Heights, MI 48310 submitted the lowest responsive and responsible bid of \$292,000.00; and,
- WHEREAS, L.C. United Painting Co, Inc.'s bid includes a \$271,000.00 Base Bid and a \$21,000.00 Alternate Bid to install a mixer inside the water tower; and,
- WHEREAS, Staff has determined the mixer is unnecessary; and,
- WHEREAS, \$450,000.00 is allocated for this work in the proposed FY2021 budget; and,
- WHEREAS, Staff recommends the City of Kewanee enter into a contract with L.C. United Painting Co. Inc. for the \$271,000.00 Base Bid, but not the Alternate Bid of \$21,000.00.

NOW THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF KEWANEE THAT:

- Section 1** The bid of L.C. United Painting, Inc. is hereby accepted.
- Section 2** The Mayor, City Clerk, City Manager, and City Engineer are hereby authorized to execute and attest to all necessary contract documents with L.C. United Painting, Inc. for Project #20-01, South Water Tower Coating, in the amount of \$271,000.00; provided, however, that said contract documents are in substantially similar form and content to that attached hereto and incorporated herein.
- Section 3** This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

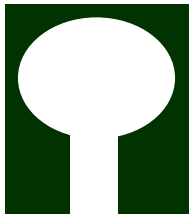
Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April 27, 2020	
RESOLUTION OR ORDINANCE NUMBER	Resolution #5211	
AGENDA TITLE	Approval of an Amendment to an Agreement with Dixon Engineering for construction inspection services at to the South Water Tower Coating project in the amount of \$47,350.	
REQUESTING DEPARTMENT	Public Works	
PRESENTER	Scott Hinton, City Engineer	
FISCAL INFORMATION	Cost as recommended:	\$47,350.
	Budget Line Item:	32-42-532
	Balance Available	\$50,000 in the proposed FY2021 budget
	New Appropriation Required:	[] Yes [X] No
PURPOSE	Approval of the Amendment to the Agreement is necessary to provide for construction inspection services at the South Water Tower Coating project.	

BACKGROUND	Staff sought Statements of Qualifications from engineering firms that specialize in painting and coating storage tanks and towers. There are no local firms that specialize in this service. Staff found Dixon Engineering of Greenfield WI to be the most qualified to provide condition evaluation, technical specification writing, and construction inspection services for the South Water Tank Coating project. Staff entered into an Agreement with Dixon Engineering for \$5,575 to evaluate the existing condition of the South Tower and to use this information to develop technical specifications to solicit bids. Staff proposes to amend the Agreement to include construction inspection services.
SPECIAL NOTES	N/A
ANALYSIS	Coating steel storage tanks and towers is specialized work that can be difficult to perform properly. Staff believes it's in the City's best interest to engage a consulting firm with experience in such work to provide construction inspection services for the South Tower Project. This will help ensure all work is performed properly and the coating systems don't fail prematurely.
PUBLIC INFORMATION PROCESS	N/A
BOARD OR COMMISSION RECOMMENDATION	N/A
STAFF RECOMMENDATION	Staff recommends amending the Agreement with Dixon Engineering to add construction inspection services for standard rates at the not-to-exceed price of \$47,350.
PROCUREMENT POLICY VERIFICATION	Statements of Qualifications were reviewed from several firms as part of the Qualifications-Based Selection (QBS) process used to select Dixon Engineering.
REFERENCE DOCUMENTS ATTACHED	The executed Agreement and proposed Amendment are attached.



DIXON

**ENGINEERING & INSPECTION SERVICES
FOR THE COATING INDUSTRY**

4811 S. 76th St., Suite 109
Greenfield, WI 53220
Telephone: (414) 529-1859
Fax: (414) 282-7830

EXHIBIT K: Agreement Between
Owner and DIXON

AMENDMENT TO OWNER-DIXON AGREEMENT

The Effective Date of this Amendment is: _____

Background Data:

Effective Date of Owner-DIXON Agreement: _____

Owner: City of Kewanee, IL _____

DIXON: 4811 S. 76th Street, Greenfield, WI 53220 _____

Project: 500,000 Gallon Spheroid (South) _____

Nature of Amendment:

☒ Additional Services to be performed by DIXON.

☒ Modifications to services of DIXON.

☒ Modifications to responsibilities of Owner.

☒ Modifications of payment to DIXON.

☒ Modifications to time(s) for rendering services.

Description of Modifications:

Project Administration, Preconstruction Meeting, Weld Coating, Wet Interior, Exterior, Dry Interior Coating Observations, and One Year ROV Warranty on the 500,000 Gallon Spheroid (South).

Agreement Summary:

Original agreement amount: \$5,575

Net change for prior amendments: \$0

This amendment amount: \$47,350

Adjusted Agreement amount: \$52,925

Change in time for services (days or date, as applicable): 28 days

The foregoing Agreement Summary is for reference only and does not alter the terms of Agreement, including those set forth in Exhibit C with the exception of amendment increase and time extension if applicable.

Owner and DIXON hereby agree to modify the above referenced Agreement as set forth in this Agreement. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

_____	_____	_____
DIXON Signature	TITLE	DATE

_____	_____	_____
Owner Signature	TITLE	DATE

DIXON'S SERVICES AND OWNER'S RESPONSIBILITIES

PART 1

A1.01 Construction Phase:

A. Basic Services:

1. DIXON will consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of DIXON shall be as assigned in EJCDC C-700-18 Standard General Conditions of the Construction Contract.
2. All of Owner's instructions to Contractor will be issued through DIXON, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
3. Engineer or RPR has authority to Stop Work if Engineer or RPR questions the quality of Work or rejects the Work, or if there (in the sole opinion of Engineer or RPR) a potential for creating an environmental contamination.
4. Finalize Project to observe all items in the contract specifications have been completed and review the quality of workmanship.
5. Duration of Construction Phase: The Construction Phase will terminate upon written recommendation by DIXON for final payment to Contractors.

A. RPR Services for Maintenance of Existing Structures

1. Perform services expected of DIXON RPR and as detailed in the EJCDC Construction Contract General Conditions, GC-700-18.
2. Attend a Preconstruction Meeting, and address questions regarding observation services and coordination of field observations.
3. Hold Point General:
 - a. Hold Point is a stage of the Construction Project where the Contractor stops Work. Work commences again after the Work is observed and reviewed for compliance.
 - b. A Hold Point Site visit is one observation trip to perform one of the functions below. The number of Site visits required are estimates.
 - c. If two Job Tasks are performed during the same trip, there is no additional charge (i.e. exterior intermediate and pit piping primer).
 - d. The Site visit fees may vary between services (i.e. welding vs. coating) based on the higher compensated weld observer. Hold Point are itemized in EXHIBIT C, Attachment C-1.
4. Hold Point Weld/Modifications- Observe, Record, Report, and:
 - a. Observe repair, and or the installation of work for specifications compliance. All weld repairs will be visually observed for surface defects (i.e. undercut, negative reinforcement, non-fusion, etc.).
5. Hold Points and RPR Coating Observation Services Common to Hold Point: All services will not be necessary each Site visit observation.
 - a. Review abrasive and coating materials for approved manufactures.
 - b. Measure surface profile created by abrasive blast cleaning by compressive tape or surface comparator.
 - c. Observe abrasive blast cleanliness for specification requirements using SSPC Visual Standards, latest edition thereof.
 - d. Review coating mixing, thinning, and manufacturer's application requirements.
 - e. Monitor environmental conditions prior to and during coating application (i.e. ambient temperature, surface temperature, relative humidity, and dew point).
 - f. Observe wet interior using high/low voltage holiday detection.

- g. Observe applied coating for dry film thickness, coverage, uniformity, and cure.
- 6. Hold Point Coating Wet Interior - Observe, Record, Report, and:
 - a. Verify test area for abrasive cleaning meets or exceeds minimum of specified standard
 - b. Collect spent abrasive for sampling and testing.
 - c. Abrasive blast cleaning prior to application of the prime coat.
 - d. Spot power tool cleaning prior to the prime coat.
 - e. Prime coat prior to application of the next coat.
 - f. Intermediate coat prior to application of the stripe or topcoat.
 - g. Topcoat for compliance with specifications.
- 7. Hold Point Coating Exterior - Observe, Record, Report, and:
 - a. Verify test area for high (HPWC) pressure water blast cleaning meets or exceeds minimum specified standard.
 - b. HPWC for thoroughness and compliance with specifications and verify test area meets or exceeds minimum specified standard for spot tool cleaning (SP-11) or abrasive blast cleaning.
 - c. Spot power tool, feathering, and compliance with specifications.
 - d. Prime coat prior to application of the epoxy intermediate coat.
 - e. Urethane intermediate coat prior to application of the topcoat.
 - f. Topcoat for compliance with specifications.
 - g. Application of the lettering/logo for thoroughness, dimensions (visual only) and aesthetic appearance in accordance with specification requirements, and to verify no damage occurred during lettering.
- 8. Hold Point Coating Dry Interior- Observe, Record, Report, and:
 - a. Abrasive blast cleaning prior to application of the prime coat.
 - b. Spot power tool cleaning for thoroughness, surface profile, feathering, and compliance with specifications.
 - c. Prime coat prior to application of the intermediate coat.
 - d. Topcoat for compliance with specifications. Review all contract items to assure they have been completed according to contract requirements.
- 9. Hold Point Project Finalization:
 - a. Review all repairs not installed until after coating.
 - b. Examine entire project for damage that occurred during construction or post construction from rigging and de-rigging or other causes.
 - c. Observe Site for restoration to pre-project conditions.
 - d. Formulate a punch list of items to complete.
 - e. Create a second punch list if needed before finalization.
 - f. Finalize the project to assure all items in the contract specifications have been completed, and the quality of workmanship meets contract requirements.
- B. Construction Phase - Owner's Responsibilities:
 - 1. Inform DIXON in writing of any specific requirements of safety or security programs that are applicable to DIXON, as a visitor to the Site.
 - 2. Attend and participate in the Preconstruction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 - 3. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of DIXON in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on DIXON, then Owner shall compensate DIXON for any related increases in the cost to provide Construction Phase services.

A1.02 Post Construction Phase:

A. Basic Services:

1. One Year Warranty Observation - ROV and Exterior:
 - a. Review all wet or dry interior surfaces for corrosion and/or damage, qualify and quantify damage for repairs. All coating repairs needed are to be quantified by extrapolation of a measured area and compared with warranty requirements.
 - b. Observe the exterior coating and quantify damages.
 - c. Review all repairs completed during Construction Phase.
 - d. Review all exterior appurtenances for damage due to corrosion or construction.
 - e. Review exterior of the exposed foundations.
 - f. Review all health aspects of the tank, including screening of the vent, overflow pipe, and other possible contamination sources.
 - g. Prepare a report documenting all items found that meet or fail to meet warranty requirements and recommendations for repair. The report will be letter format.
2. Warranty Failure - When observation has determined that warranty requirements were not met then DIXON will:
 - a. Together with Owner, visit the Project to observe any apparent defects in the Work if requested, make recommendations as to replacement or correction of defective Work, or the need to repair any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
 - b. If warranty repair is required provide letter as notice of rejection to Owner so that they may forward to Bonding Company. Notice of rejection may be all inclusive or limited to specific area.
 - c. Provide RPR services during any required correction of any work not meeting requirements of one-year warranty observation.
 - d. Extend contract an additional year and repeat warranty services if repairs warrant a second repair period.
3. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this EXHIBIT A, will terminate thirteen months after the commencement of the Construction Contract's correction period.

B. Post Construction Phase – RPR Services

1. Detailed above if repairs are needed.

C. Post Construction Phase - Owner's Responsibilities:

1. Warranty Observation - ROV Observation:
 - a. Fill the tank to overflow or higher capacity and isolate it from the system during the ROV observation, or as a minimum, maintain positive flow (No water withdrawal from tank).
 - b. Perform chlorine residual and bacteriological testing after completion of observation.

A2.01 ADDITIONAL SERVICES

- A. Any service not listed or referenced above in Part 1 will be considered an Additional Service.
 1. All additional requested services and associated fees shall be documented by an Exhibit K, Contract Amendment signed by both parties.

EXHIBIT C ATTACHMENT C-1: Agreement Between
Owner and DIXON

SUMMARY OF DIXON'S COMPENSATION FEES SCHEDULE of VALUES

1. The total compensation for services under this Agreement is the estimated total compensation amount of **Forty-Seven Thousand, Three Hundred, Fifty Dollars, \$47,350** and summarized as follows:

Schedule of Values				
Description of Services	# of Units	Unit Price	Amount	Basis of Compensation
A1.01-Preconstruction Meeting			\$1,500	Unit Price
A1.01-Other Defined Basic Services: Project Administration			\$2,000	Lump Sum
A1.01-RPR Services Weld	1	\$1,450	\$1,450	Unit Price
A1.01-RPR Critical Phase Coating	27	\$1,450	\$39,150	Unit Price
A1.02-Warranty Observation			\$3,250	Unit Price
Total			\$47,350	

2. In the event of a conflict with the number in the Total and the written amount in 1 above or with the number on the Signature Page, the first governance shall be a review of math in this schedule of values.
3. DIXON may alter the distribution of compensation consistent with services actually rendered between individual phases of Basic and RPR Service with unused fees calculated by any method. Reallocation of fees shall not result in a total fee in excess of the total compensation amount unless approved by the Owner.

EXHIBIT C ATTACHMENT C-2: Agreement Between
Owner and DIXON

REIMBURSABLE EXPENSE SCHEDULE

<u>Labor Class</u>	<u>Per Hour</u>	<u>Overtime Rate</u>
Principal	\$255.00	
Project Manager	\$153.00	\$230.00
Engineer	\$158.00	\$237.00
CWI Welding RPR	\$137.00-\$153.00	\$206.00-\$230.00
DIXON Level 3 or NACE Certified Level 3 RPR	\$107.00-\$137.00	\$161.00-\$206.00
DIXON Level 2 or NACE Level 2 RPR	\$97.00-\$122.00	\$146.00-\$183.00
DIXON Level 1 or NACE Level 1 RPR	\$87.00-\$97.00	\$131.00-\$146.00
Contract Support Staff	\$112.00-\$138.00	\$168.00-\$207.00

<u>Expenses</u>	<u>Metropolitan</u>	<u>Out-State</u>
Mileage	\$0.70/mile + tolls	\$0.60/mile
Lodging	\$155.00 per diem	\$145.00 per diem
Meals	\$47.00 per diem	\$40.00 per diem

FEES EFFECTIVE THROUGH: December 31, 2020

Revised: 8/6/2019

DIXON ENGINEERING, INC.

REPORT #: 12
TANK TYPE: 2,500,000 Gallon Hydropillar
LOCATION: [REDACTED]
CITY/STATE: [REDACTED]
CLIENT: [REDACTED]
CONTRACT: Wet Interior Spot Repaint, Dry Interior
Spot Repaint, Misc. Repairs

DATE: 3/31/2020
CONTRACTOR: [REDACTED]
FOREMAN: [REDACTED]
OWNER INSPECTOR: [REDACTED]
PROJECT MANAGER: Tim Wilson
PROJECT ENGINEER: Dixon Engineering, Inc.

DIXON RESIDENT PROJECT REPRESENTATIVE (RPR): Doctor Evans

TIME OF OBSERVATION: 9:00 am **WEATHER:** Sunny, 41°F **WIND DIRECTION:** NE 6 mph

PURPOSE: Perform the following to determine compliance with specified requirements:

1. To observe the topcoat dry film thickness readings in the wet interior.
2. To observe the prime coat dry film thickness readings in the dry interior.
3. To perform a low voltage holiday test in the wet interior.
4. To observe the spot power tool cleaning in the dry interior.

LOCATIONS OF SURFACES OBSERVED:

1. Wet interior roof, sidewall, and bowl
2. Dry interior access tube and bowl

STATUS:

On Site:

Foreman: Yes **Number of crew members:** 3 **Subcontractor on site:** N/A

Arrival Notes:

1. Upon arrival, Dixon Engineering RPR made note that the contractor was on site.
2. Dixon RPR spoke to the contractor's foreman about today's plan, the foreman plans on finishing up the power tool cleaning in the dry interior and applying the prime coat.
3. The contractor plans on de-rigging the wet interior.

Percent of Work Completed:

Wet Interior: ABC 100%; Prime Coat 100%; Intermediate Coat 100%; Stripe Coat 100%, Topcoat 100%
Dry Interior: SPTC 100%; Prime Coat 100%
Other: Metal Repairs 100%

Misc. Items to be Completed: N/A

EQUIPMENT:

On Site: (1) Dumpster, (2) Equipment trailers, (2) Blast pots, (2) Paint pumps, (2) Pallets of Abrasive, (1) Port-o-let, (1) Atlas air compressor

Not on Site as Required: N/A

FORECAST:

Daytime: Sunny, High around 60°F, East winds near 10 mph

Overnight: Partly Cloudy, Low in the upper 30's

DIXON ENGINEERING, INC.

AMBIENT READINGS:

Location of Reading	Time	Weather	Wind	DB °F	WB °F	RH %	ST °F	DP °F	ST-DP °F	Favorable?
Dry Interior	12:00pm	Sunny	NE	55	46	49	64	36	+28	Yes
Exterior Shade	2:00pm	Sunny	NE	52	45	57	55	37	+18	Yes

Legend: DB=Dry Bulb; WB=Wet Bulb; ST=Surface Temperature; DP=Dew Point

1. Ambient readings were taken and recorded by Dixon Engineering RPR.
2. Based on 12:00 P.M. Dry Interior ambient reading recorded, conditions were favorable for abrasive blast cleaning and coating application. Contractor has plans of performing work.

OBSERVATIONS:

Cleaning:

1. Observed spot power tool cleaning of the dry interior access tube and bowl. All surfaces were cleaned of visible dust/oils /grease prior to the observation. No areas of deficiencies noted dry interior; the contractor's foreman was informed of the observation results. All areas observed met SSPC-SP 11 requirements. An additional observation is not required. Surfaces are ready for coating application.

Coating:

Manufacturer: Tnemec

Type: N140

Color: Beige Primer

Batch Numbers: **Part A:** BA201910079

Part C: N/A

Part B: BA2020010138

Thinner: N/A

Method of Mixing: Power Drill

Induction Time: N/A

Method of Application: Roller

Area Coated: Dry Interior Access Tube and Bowl (Prime coat)

1. The Dixon RPR observed the mixing of coating. Part A and Part B were thoroughly mixed before Part A and Part B were mixed together. The Dixon RPR noted that Part A and Part B were thoroughly mixed together. All mixing meets the Tnemec Recommendations.

Location of Applied Coating	Coat	Cure Time	Low DFT (mils)	High DFT (mils)	Avg. DFT (mils)	# of Readings	Required DFT (mils)	Comments
Wet Interior Roof	Topcoat	N/A	8.9	18.2	13.5	20	12.0-18.0	Met Requirements
Wet Interior Sidewall	Topcoat	N/A	10.0	27.1	16.8	20	12.0-18.0	Met Requirements
Wet Interior Bowl	Topcoat	N/A	9.3	20.9	13.0	20	12.0-18.0	Met Requirements
Dry Interior Access Tube	Prime	N/A	2.8	15.3	5.4	20	4.0-6.0	Met Requirements
Dry Interior Bowl	Prime	N/A	1.5	13.3	6.6	20	4.0-6.0	Met Requirements

1. DFT readings for the wet interior were taken with Elektro Physik Type 2 gauge. Serial #130574. Gauge calibration verified on plastic shims. Shim = 11.0. Spot readings = 11.3.
2. Observed topcoat coat application to the wet interior roof for thickness. 20 Different spot readings were taken. The average reading was 13.5 mils. Thickness readings met specified requirement of 12.0 – 18.0 mils.
3. Observed topcoat coat application to the wet interior sidewall for thickness. 20 Different spot readings were taken. The average reading was 16.8 mils. Thickness readings met specified requirement of 12.0 – 18.0 mils.

DIXON ENGINEERING, INC.

4. Observed topcoat coat application to the wet interior bowl for thickness. 20 Different spot readings were taken. The average reading was 13.0 mils. Thickness readings met specified requirement of 12.0 – 18.0 mils.
5. Observed topcoat coat of the wet interior for coverage. Surfaces were found to be free of all defects and contaminates.
6. DFT readings for the dry interior were taken with Elektro Physik Type 2 gauge. Serial #130574. Gauge calibration verified on plastic shims. Shim = 2.44. Spot readings = 2.46.
7. Observed prime coat application to the dry interior access tube for thickness. 20 Different spot readings were taken. The average reading was 5.4 mils. Thickness readings met specified requirement of 4.0 – 6.0 mils.
8. Observed prime coat application to the dry interior bowl for thickness. 20 Different spot readings were taken. The average reading was 6.6 mils. Thickness readings met specified requirement of 4.0 – 6.0 mils.
9. Observed prime coat of the dry interior for coverage. Surfaces were found to be free of all defects and contaminates.

Additional:

1. Low Voltage -Dixon RPR performed a low voltage holiday test on the wet interior. The test was performed with a Tinker & Razor, Low Voltage, M/1, and serial #27378. RPR verified the ground wire was attached to a bare metal section of the structure; the buzzer was tested to ensure it functioned properly, the sponge was wetted with tap water, the circuit periodically tested and the testing rate was maintained at approximately 1ft/sec throughout the observation. The contractor's foreman visually verified the observation results. The results of the testing are as follows: the surface is holiday free and no additional testing is required. The testing was completed per NACE SP0188 Discontinuity (Holiday) Testing of New Protective Coatings on Conductive Substrates.
2. The Dixon RPR observed the contractor apply prime coat to the dry interior bowl prior to the contractor moving the rigging. All areas observed have met specification requirements.

SUMMARY:

1. Next observation to be determined to observe the final observation and chlorination.

DIXON ENGINEERING, INC.



Spot power tool cleaning to the dry interior bowl.



Spot power tool cleaning to the dry interior access tube.

DIXON ENGINEERING, INC.



Spot power tool cleaning to the dry interior access tube.

Topcoat applied to the wet interior sidewall.



DIXON ENGINEERING, INC.



Topcoat applied to the wet interior bowl.



Topcoat applied to the wet interior roof.

DIXON ENGINEERING, INC.



Prime coat applied to the dry interior bowl.



DIXON

**ENGINEERING & INSPECTION SERVICES
FOR THE COATING INDUSTRY**

4811 S. 76th St., Suite 109
Greenfield, WI 53220
Telephone: (414) 529-1859
Fax: (414) 282-7830

February 20, 2020

Mr. Scott Hinton, City Engineer
City of Kewanee
401 E. 3rd Street
Kewanee, IL 61143

Subject: 500,000 Gallon Spheroid Elevated Tank (South)

Dear Mr. Hinton,

Enclosed is the proposal for the 500,000 gallon spheroid water storage tank. We have an updated agreement format. Since this is new format, I want to help explain what all is included.

A summary of the agreement and exhibits:

1. The first three pages are the agreement.
2. Dixon's Services (scope of work) are included in Exhibit A (pages 4 to 6).
3. The basis of fees is included in Exhibit C (pages 7 to 10).
4. The summary of compensation fees is in Exhibit C Attachment C-1 (page 11).
5. Billable rates are in Exhibit C Attachment C-2 (page 12).
6. General provisions are in Exhibit GP (page 13 to 16).
7. Insurance and liability are in Exhibit I (pages 17 to 18).

We appreciate the opportunity to submit this proposal. If you have any questions, please feel free to contact me at (641) 903-4193.

FOR DIXON ENGINEERING, INC.,

Tim Wilson
Project Manager

Enclosure

AGREEMENT BETWEEN OWNER AND DIXON

FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of: _____ ("Effective date") between City of Kewanee, Illinois ("Owner") and Dixon Engineering, Inc. of Lake Odessa, Michigan (DIXON).

IN WITNESS WHEREOF, the ("Owner") and ("DIXON") have executed this Agreement. The Owners Project, of which DIXON's Services under this Agreement are a part, is generally identified as follows: Technical Specifications and Contract Documents on the 500,000 Gallon Spheroid (South) ("Project").

Other terms used in this Agreement are defined in EXHIBIT GP and EJCDC C-700-18®, Standard General Conditions of the Construction Contract, incorporated by reference into this Agreement. This service fee is the Lump Sum Amount **\$5,575**.

Proposals / Agreement Signatures

Tim Wilson, Project Manager
PROPOSED by DIXON (Not a contract until approved by Project Manager or Officer)
[Signature]
CITY ENGINEER
POSITION
DATE 2/24/20
PROPOSAL DATE
February 20, 2020

CO SIGNATURE (if required) POSITION DATE

AGREEMENT APPROVED by DIXON POSITION DATE

With the execution of this Agreement, DIXON and Owner shall designate specific individuals to act as DIXON's and Owner's representatives with respect to the services to be performed or furnished by DIXON and responsibilities of Owner under this Agreement, said individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

Designated Person: Scott Hinton	Designated Person: Tim Wilson
Address for Owner's receipt of notices:	Address for DIXON's receipt of notices:
City of Kewanee	Dixon Engineering, Inc.
401 E. 3 rd Street	4811 S. 76 th St., Suite 109
Kewanee, IL 61143	Greenfield, WI 53220
Email: shinton@cityofkewanee.net	Email: tim.wilson@dixonengineering.net

Any notice required under this Agreement shall be in writing, addressed to the Designated Contract Person at its address on this signature page, or given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices be shall effective upon the date of receipt.

Owner and DIXON further agree as follows:

ARTICLE 1 SERVICES OF DIXON

1.01 DIXON shall provide or cause to be provided:

- A. Contract and Project Management (Basic) Services: EXHIBIT A Part 1
- B. Resident Project Representative (RPR): EXHIBIT A Part 1
- C. Other Services: Services beyond the scope of Exhibit A are Additional Services.

ARTICLE 2 OWNER'S RESPONSIBILITIES

2.01 Owner shall provide or cause to be provided:

- A. Responsibilities set forth in Exhibit A, Part 1, Section C of each phase.
- B. Owner shall arrange for safe access to and make all provisions for DIXON to enter upon public and private property as required for DIXON to perform services under the agreement.

ARTICLE 3 SCHEDULE FOR RENDERING SERVICES

3.01 Commencement:

- A. DIXON is authorized to begin rendering services as of the Effective Date or mutually agreeable date.
- B. DIXON shall complete its obligations within a reasonable time. If a specific period of time for rendering services, or specific dates by which services are to be completed are required, the dates are provided in Exhibit A, and are hereby agreed to be reasonable.

ARTICLE 4 INVOICES AND PAYMENTS – PER EXHIBIT C

ARTICLE 5 OPINIONS OF COST – GENERAL PROVISIONS PER EXHIBIT GP

ARTICLE 6 GENERAL PROVISIONS PER EXHIBIT GP

ARTICLE 7 DEFINITIONS

- A. Whenever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the same meanings indicated in the Construction Contract Documents, EJCDC C-700 18.
- B. Additional definitions pertinent to invoicing or payment can be found in Exhibit C.

ARTICLE 8 EXHIBITS AND SPECIAL PROVISIONS

- A. EXHIBITS Included:
 - 1. EXHIBIT A, DIXON's Services and Owner's Responsibilities.
 - 2. EXHIBIT C, Basis of Fees, Invoicing, and Payment Matters.
 - 3. EXHIBIT C, Attachments C-1 and C-2.
 - 4. EXHIBIT GP, General Provisions from the Agreement and Exhibits.
 - 5. EXHIBIT I, Insurance and Limits of Liability.
- B. EXHIBITS to be added as needed:
 - 1. EXHIBIT J, Special Provisions. Services added at/before Effective date (included in original Agreement sometimes referred to as an Addendum).
 - 2. EXHIBIT K, Amendment to Owner-DIXON Agreement for Services added or changed after effective date of this Agreement or for clarification if requested.
- C. EXHIBITS B, D, F, and H merged with other Exhibits or not used.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.00 Items that pertain to the legal terms of this Agreement. All General Provisions from Article 6 are in Exhibit GP. Those provisions refer mostly to services that result from this Agreement.

9.01 Survival:
A. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

9.02 Severability:
A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and DIXON, which agree that the Agreement 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.

9.03 Successors, Assigns, and Beneficiaries:
A. Owners and DIXON are hereby bound, and the successors, executors, administrators, and legal representatives of Owner and DIXON are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
B. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or DIXON to any Contractor, other third-party individual or entity, or to any surety for or employee of any of them and not for the benefit of any other party.
2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and DIXON and not for the benefit of any other party.

9.04 Waiver:
A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this agreement.
9.05 Accrual of Claims:
A. To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

9.06 DIXON's Certifications:
A. DIXON certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement.

9.07 Total Agreement:
A. This Agreement, (together with the included Exhibits) constitutes the entire agreement between Owner and DIXON and supersedes all prior written or oral understandings. This agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based, whenever possible, on the format of Exhibit K.

DIXON'S SERVICES AND OWNER'S RESPONSIBILITIES

Article 1 and 2 of the Agreement is supplemented to include the following agreement of the parties: DIXON shall provide Contract and Project Management (BASIC) Services, and Resident Project Representative (RPR).

DIXON has combined the six construction project phases into four phases; Design or Technical Specification Phase and Contract Document. We then included DIXON's Basic Services, RPR Services, and Owner's responsibilities for each respective phase.

PART 1

A1.01 Design Phase – Technical Specifications:

- A. Basic Services:
 - 1. In preparing the Technical Specifications, use Design, Bid, Build Project Strategy.
 - 2. DIXON shall prepare Technical Specifications and Drawings to include:
 - a. Additions to General Conditions of Construction Contract relevant to coating projects.
 - b. Specifications and Drawings for Health, Safety and Structural Repairs if any.
 - c. Specifications for Coating Repair or Replacement.
 - 3. Advise Owner of additional reports, data, information, or services which may be necessary, and assist Owner in obtaining such materials.
 - 4. Furnish two review copies of the Design Phase documents, to Owner, and review those documents with Owner.
 - 5. After receipt, Owner shall review the Design Phase documents and submit to DIXON any comments regarding the furnished items within two weeks of receipt or as mutually agreed.
 - 6. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
 - 7. In response to Owner's comments, as appropriate, make revisions and furnish to Owner one electronic copy of the revised Design Phase documents.
 - 8. DIXON's services under the Design Phase will be considered complete on the date when DIXON has delivered to Owner the revised Technical Specifications.
- B. Design Phase – RPR Services—None
- C. Design Phase – Owner's Responsibility:
 - 1. Provide DIXON with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints-and upon DIXON's request, obtain, and furnish, such additional Project-related information and data as is reasonably required to enable DIXON to complete its Services.
 - 2. Give instructions to DIXON regarding Owner's procurement of construction services including instructions regarding Notice of Bids, Information for Bidders, Owner's construction contract practices and requirements, insurance and bonding requirements, requirements for electronic transmittals during construction, other information necessary for the finalization of Owner's bidding-related documents, and Construction Contract Documents.
 - 3. Owner shall be responsible for all requirements and instructions that it furnishes to DIXON pursuant to this Agreement. DIXON may use and rely upon such requirements, materials, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

A1.02 Bidding and Contract Document Phase:

- A. Basic Services:
1. Provide technical criteria and file applications for permits for approvals of governmental authorities having jurisdiction to review or approve the design; and revise the Technical Specifications in response, as appropriate.
 2. Include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, in electronic media or digital format. Any such protocols shall be applicable to transmittals between and among Owner, DIXON, and Contractor during the Construction Phase and Post-Construction Phase.
 3. Prepare and submit to Owner for compliance with local state and municipal requirements:
 - a. Section 00 00 30 Notice to Bidders.
 - b. Section 00 00 40 Project Summary.
 - c. Section 00 02 00 Instructions to Bidders.
 - d. Section 00 07 00 General Conditions as modified by DIXON. EJCDC C-700-18. If Owner elects to use their own documents, then supply Additions to General Conditions.
 - e. Section 00 08 00 Supplemental Conditions to include insurance requirements furnished by Owner.
 - f. Section 00 04 10 Bid/Agreement Form as modified by DIXON.
 - g. Section 00 43 73 Schedule of Values Form.
 4. Furnish for review by Owner, its legal counsel, insurance and other advisors, the draft bidding-related Bid Documents and review them with Owner. Owner shall submit to DIXON any comments regarding the furnished items, and any instructions for revisions.
 5. Revise the final Bid Documents and Specifications in accordance with comments and instructions from the Owner, as appropriate, and submit one electronic copy of revised documents to Owner.
 6. Direct mail advertisements to Contractors who have been prequalified; as capable and responsive by DIXON.
 7. Issue assembled Bid Documents to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, and receive and process contractor charges for the issued documents. Document Fees: charges will be retained as a printing, handling, and/or shipping fee.
 8. Send Bid Documents to selected Builders Exchanges and Dodge Reports.
 9. Address all written submitted questions, by letter or clarifying Addendum as appropriate to all Bidders and Agencies (Builders Exchange and Dodge Reports) identified as having received original documents from DIXON.
 10. Review the bids submitted to the Owner and recommend award in writing based on lowest responsible and responsive bidder.
 11. If Owner agrees, issue Notice of Award to recommended Bidder.
 12. Review bonds and insurance submitted by selected Contractor solely as to compliance with insurance amounts and that bonds are of the format required. Insurance and Bonds are forwarded to Owner for full review by their Insurance Consultant.
 13. Furnish Owner and Contractor the Contract Documents for signatures and distribution. (One signed copy to Owner, one to Contractor and one to DIXON).
 14. Furnish Owner with completed Notice to Proceed to sign and forward to the Contractor.
 15. The Bidding and Contract Documents Phase will be considered complete upon issuance of Notice to Proceed.
- B. Bidding and Contract Document Phase-RPR Services-None.
- C. Bidding and Contract Documents Phase-Owner Responsibilities
1. Use, unaltered, the Contract Documents provided by DIXON when entering into an agreement with the Contractor. DIXON will not unreasonably withhold a request to alter the document.

If Owner elects to use their own General Conditions, then they shall include DIXON's Additions to General Conditions, unaltered unless both parties agree to alteration.

2. Place and pay for advertisement for Bids as required by local ordinances in appropriate publications, method of advertising is to be determined by the Owner.
3. Attend and participate in the pre-bid conference if any.
Provide a place for the bid opening and open the Bids received.
4. Review Payment and Performance Bonds, and insurance certificates of selected Contractor. These should be reviewed by the Owner's insurance consultant and attorney for legality and compliance with required indemnification, subrogation, amounts and all other insurance matters.
5. Sign and forward to the Contractor the Notice to Award and Notice to Proceed. These Notices will be supplied to Owner by DIXON.

BASIS OF FEES, INVOICING AND PAYMENT

General Provisions of Article 4 of the Agreement has been moved to this EXHIBIT C:

Part 1 BASIS OF FEES

C1.00 Owner's Responsibility:

- A. Owner shall pay DIXON for Basic (Project Management and Contract Administration), Resident Project Representative (RPR), and Additional Services as detailed below and as summarized in Attachment 1 to EXHIBIT C. (Exhibit C-1).

C1.01 Basis:

- A. Hourly rates of DIXON's employee are per classification in the Standard Hourly Rate and Reimbursable Expense Schedule included in this Exhibit C as Exhibit C Attachment 2. (Ex C-2)
- A classification that has a range of fees, reflects varying levels of experience within that classification. DIXON reserves the right to select the level of RPR and classification. This decision is at DIXON's discretion only and will be dependent primarily on experience with Owner selected Contractor as well as other factors.
1. Reimbursable expenses are those expenses directly related to and resulting from this Project. These expenses are primarily living expenses and mileage.

C1.02 Methods of Rate Calculation and Definitions including Limitations:

- A. Standard Hourly Rate (SHR) Method: An amount equal to the cumulative hours charged to the Project by each classification of DIXON's personnel, times Standard Hourly Rates and Overtime rates for each applicable billing classification. (Exhibit C-2)
1. The SHR method may be used for all services. It is more commonly used on portions of various Phase Services where scheduling and speed are controlled by the Contractor or unforeseen project expenses. (Phase 3 Construction, Basic, and RPR services, and for Additional Services during all phases. Overtime rates apply on weekends, holiday, and over 40 hours per week. When accounting for the 40 hours it applies over 40 hours worked between Monday and Friday, weekend rates are already at Overtime rate. Holiday pay also does not contribute toward the accounting for 40 hours.)
2. The SHR charged by DIXON constitutes full and complete compensation for DIXON services including labor costs, overhead, and profit but not Reimbursable Expenses.
3. The Standard Hourly Rates per employee classification listed in Attachment C-2 do not include reimbursable expenses. The estimated Reimbursable Expenses are NOT calculated and averaged over the classification rate.
- a. The estimator calculates the number of days a project is expected to require and calculates manpower required to match number of hours and services required.
- b. The estimator then calculates Reimbursable Expenses based on the same criteria.
- c. Both the total manpower estimate, and Reimbursable Expenses total estimate are added. And the total estimate is included in the fee schedule shown in Attachment C-1.
- B. Lump Sum (LS) Method: One agreed fee for completing an agreed defined scope of services. The Lump Sum Method fee charged by DIXON constitute full and completed compensation for DIXON's services including labor costs, overhead, and profit, and reimbursable expenses.
- C. The Lump Sum Method is more commonly used by DIXON for portions of the Phases where DIXON has control over a greater percentage of unknowns, such as the Technical Specifications, Bidding and Contract Documents, and Post Construction Phases excluding fees for Additional Services.
1. DIXON may use a Lump Sum for the entire project.

- D. Unit Price (UP) Method: Can be considered individual Lump Sum amounts. Reimbursable expenses are calculated and included in Unit Price methods.
1. The Unit Price Method is used when DIXON completes Hold Point Observations, Project Progress or Preconstruction Meetings, known, controlled portions of the Contract and unknown Post Construction (Additional Services).
 2. Exhibit J Amendment: If Amendment changes Scope of Services then Additional Services may be negotiated Lump Sum or Standard Hourly Rate Method.
 2. Exhibit K Addendum: Addenda items (if any) may be negotiated according to any agreed method.
 3. Subconsultants or Subcontractor Service Fees are not included in the SHR, LS, or UP methods. DIXON will invoice for Subconsultant's or Subcontractor's actual invoiced amount times a factor of 1.20. The 1.20 factor includes DIXON's overhead and profit associated with DIXON's responsibility for the administration of such services.
- E. Not every Method of Rate Calculation may be used in this or any Contract, but every contract may be amended by using Exhibit K. If additional Work proposed in Exhibit K involves a different Method of Rate Calculation, it will be clearly defined herein.

C1.03 Definitions including Limitations:

- A. Basic Services to be performed are identified as Basic Services in Exhibit A, or by reference, in the General Conditions (GC-700-18) of the Owner/Contractor Construction Documents. Basic Services are generally calculated using the SHR method. These services are contracted services and thus are prior authorized.
- B. RPR Services contractually agreed services per Exhibit A or by reference, in the General Conditions (GC-700-18) of the Owner/Contractor Construction Document RPR services. These services are primarily observation during the Construction phase. RPR Services are generally calculated using the SHR method for Full Time or Daily services and by Unit Price for Hold Point Observations. Often a Contract for RPR services involves a combination of the SHR and the Unit Price method. These are contracted services and thus are prior authorized.
- C. Contingent Services some services are Basic to every contract such as Preconstruction Meeting and review of Final Pay Request. Other Basic Services and the Project Manager's time associated with them are unknown. Some services are not used on all projects, such as review of multiple Pay Requests, Change Orders, Field Orders, and Work Change Directives. These are services which may or may not be needed, and thus Contingent. Contingent Services are generally calculated using the SHR method but may be Lump Sum or Unit Price method. These are contracted services and thus are prior authorized.
- D. Additional Services are services outside of the Scope of Services as defined in Exhibit A. These are NOT contracted services and prior authorization in the form of Exhibit K- Addendum to Agreement is required. The calculation of fees is Work dependent and may be calculated by the SHR method, or Lump Sum or Unit Price.
- E. Antenna Services are defined in Ex B and authorized by Exhibit K – Antenna Addendum. The calculation of the services is usually a combination of Unit Price and SHR methods. These are contracted services (by addendum) and thus are prior authorized.

C1.04 Fees:

- A. Contracted Fees are detailed in this Exhibit C Attachment 1.
- B. Contingency Allowance Fees if identified or requested, are intended to allow the flexibility to continue the Project and Services, without the need for an Addendum for additional fees. Contingent Fees may be transferred within the Project Phase or transferred to other project Phases as needed. Transfer does not require prior authorization. It is intended that any fees in this Contingency be used when other accounts are exhausted or minor Additional Services are

C. Set-Off Fees contractual Set-off: (Applies to Construction and Post Construction Phases only) as defined in the Technical Specifications and General Conditions of the Owner/Contractor Contract, is a Contractually agreed remedy for small violations or nonadherence of the Contract terms which result in extra or unnecessary expenses to the Owner. The cost for these unnecessary expenses are not foreseen and cannot be calculated. They are the same SHR or Unit Price method, that had the service been necessary would have been invoiced to Owner. These services generally do not require prior approval of Owner, because they are required in the administration of the Contract. Set-off fees are invoiced to the Owner, who pays DIXON. The Owner can then Set-off these charges from amounts owed to the Contractor.

I. A few examples of Set-off Fees are when the Owner has incurred extra charges or engineering costs related to:

- a. Excessive submittal review,
 - b. Excessive evaluations of proposed substitutes,
 - c. Tests and inspections, or return Hold Point Observations to complete Field Work that were determined to be a failed inspection and,
 - d. Work is defective, require correction or replacement including additional inspection costs.
2. Set-off is only used during the Construction and Post Construction Phases where additional Observation or engineering services are required to correct failed Work.

C1.05 Estimated Fee:

A. The SHR Method of Rate Calculation is an estimate. The SHR Method is prepared based on

extensive experience and is intended to be conservative.

1. Calculating SHR includes, DIXON's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to DIXON under the agreement.
2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to DIXON that the total compensation amount thus estimated will be exceeded, DIXON shall give Owner notice thereof, allowing Owner to consider its options, including suspension or termination of DIXON's services for Owner's Convenience. Upon notice, Owner and DIXON promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate DIXON's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by DIXON, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend DIXON's services during the negotiations and DIXON exceeds the estimated amount before Owner and DIXON have agreed to an increase in the compensation due DIXON or a reduction in the remaining services, then DIXON shall be paid for all services rendered hereunder.
3. The requirements of minimum work hours and weeks shall remain in effect through negotiations and the minimum requirements of these paragraphs are not negotiable. An RPR is a professional, and if he remains on Site, he is guaranteed the minimum number of hours. Negotiations may Full Time or Daily RPR to Hold Point Observation Services or reduce the number of Daily Inspections. Then minimum hour requirements apply only to demobilization if RPR was Full Time.

C1.06 DIXON's Reimbursable Expenses Schedule and Standard Hourly and Overtime Rates:

- A. Attached to this EXHIBIT C is Attachment C-2, Standard Hourly Rate and Reimbursable Expense Schedule
- B. Annual Cost Adjustment – January 1 each year.

1. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually as of the first January 1 date past expiration date printed on Attachment C-2 to reflect equitable changes in the compensation payable to DIXON. Proposals sent after August 1st will have Attachment C-2 with effective rates through December 31 of the subsequent year.
2. Unit Price for Hold Point observations and Lump Sum items shall be increased at the same time as hourly rate by the same percentage increase as Standard Hourly Rates.
3. Notification of these cost adjustments, or the issuance of an Addendum or Change Order are not required, but DIXON shall endeavor to so advise. Failure to supply notification does not waive the right for implementing rate increases.

PART 2 INVOICING AND PAYMENT for Services in EXHIBIT A per EXHIBIT C-1:

- A. Preparation and Submittal of Invoices: DIXON will prepare invoices in accordance with its standard invoicing practices and the terms of this EXHIBIT C and Attachments C-1 and C-2. DIXON will submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. Small monthly invoices may be held by DIXON only, for a month or more and combined.
- B. Application to Interest and Principal: Payment will be credited first to any interest owed to DIXON and then to principal.
- C. Failure to Pay: If Owner fails to make any payment due DIXON for services and expenses within 30 days after receipt of DIXON's invoice, then:
 - A. Amounts due DIXON will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said 30th day.
- D. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise DIXON in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

EXHIBIT C ATTACHMENT C-1: Agreement Between
 Owner and DIXON

SUMMARY OF DIXON'S COMPENSATION FEES SCHEDULE of VALUES

1. The total compensation for services under this Agreement is the estimated total compensation amount of Five Thousand, Five Hundred, Seventy-Five Dollars, \$5,575 and summarized as follows:

Schedule of Values				
Description of Services	# of Units	Unit Price	Amount	Basis of Compensation
A1.01-Technical Specifications			\$4,575	Lump Sum
A1.02-Bidding and Contract Documents			\$1,000	Lump Sum
Total			\$5,575	

2. In the event of a conflict with the number in the Total and the written amount in 1 above or with the number on the Signature Page, the first governance shall be a review of math in this schedule of values.

3. DIXON may alter the distribution of compensation consistent with services actually rendered between individual phases of Basic and RPR Service with unused fees calculated by any method. Reallocation of fees shall not result in a total fee in excess of the total compensation amount unless approved by the Owner.

EXHIBIT C ATTACHMENT C-2: Agreement Between
Owner and DIXON

STANDARD HOURLY RATE AND REIMBURSABLE EXPENSE SCHEDULE

<u>Labor Class</u>	<u>Per Hour</u>	<u>Overtime Rate</u>
Principal	\$255.00	
Project Manager	\$153.00	\$230.00
Engineer	\$158.00	\$237.00
CWI Welding RPR	\$137.00-\$153.00	\$206.00-\$230.00
DIXON Level 3 or NACE Certified Level 3 RPR	\$107.00-\$137.00	\$161.00-\$206.00
DIXON Level 2 or NACE Level 2 RPR	\$97.00-\$122.00	\$146.00-\$183.00
DIXON Level 1 or NACE Level 1 RPR	\$87.00-\$97.00	\$131.00-\$146.00
Contract Support Staff	\$112.00-\$138.00	\$168.00-\$207.00

<u>Expenses</u>	<u>Metropolitan</u>	<u>Out-State</u>
Mileage	\$0.70/mile + tolls	\$0.60/mile
Lodging	\$155.00 per diem	\$145.00 per diem
Meals	\$47.00 per diem	\$40.00 per diem

FEES EFFECTIVE THROUGH: December 31, 2020

Revised: 8/6/2019

GENERAL PROVISIONS AND RELATED CONDITIONS FROM AGREEMENT OR

EXHIBITS

GP1.00 Time for Completion:

- A. If there is a change in the Scope of Services, or in Scope of Project, if Projects are delayed or suspended through no fault of DIXON, if the orderly and continuous progress of DIXON's services is impaired, if the agreed periods of time or dates are changed, then the time for completion of DIXON's services, and the rates and amounts of DIXON's compensation, shall be adjusted equitably. Delay of Projects by Owner or Contractor until the next season (past the expiration date of EXHIBIT C ATTACHMENT 1 and 2), is considered a Change in Scope of Services and the rates and amounts of DIXON's compensation shall be adjusted equitably in accordance with the succeeding year's EXHIBIT C ATTACHMENT 1 and 2.
- B. Owner shall give prompt written notice to DIXON whenever Owner observes or otherwise becomes aware of any development that affects the scope or time of performance of DIXON's services; the presence at the Site of any Constituents of Concern; or any relevant, material defect or nonconformance in: (a) DIXON's services, (b) the Work, (c) the performance of any Contractor, or (d) Owner's performance of its responsibilities under this Agreement.
- C. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay DIXON's performance of its services.
- D. If DIXON fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

GP1.01 Opinions of Probable Construction Cost:

- A. DIXON's opinions (if any) of probable Construction Cost are to be made on the basis of DIXON's experience, qualifications, and general familiarity with the construction industry. However, because DIXON has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive Bidding or market conditions, DIXON cannot and does not guarantee that proposals, Bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by DIXON.

GP1.02 Standards of Performance and Compliance with Laws and Regulations:

- A. Standard of Care: The Standard of Care for all services performed or furnished by DIXON under this Agreement will be the care and skill ordinarily used by members of this subject profession practicing under similar circumstances at the same time and in the same locality.
- B. Technical accuracy: Owner shall not be responsible for discovering deficiencies in the technical accuracy of DIXON's services. DIXON shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. Reliance on Others: Subject to the Standard of Care set forth above in Paragraph GP1.02. A, DIXON and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers and the publishers or technical standards.
- D. DIXON will make visits to the Site at intervals appropriate to the various stages of construction as DIXON deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, DIXON, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents.

- E. DIXON shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall DIXON have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor's furnishing and performing of its work. DIXON shall not be responsible for the acts or omissions of any Constructor or for Constructor's compliance with Laws and Regulations.
- F. DIXON makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Contractor.
- G. DIXON shall not be responsible for any decisions made regarding the construction Contract requirements, or any application, interpretation, clarification, or modification of the construction Contract documents other than those made by DIXON or its consultants.
- H. DIXON's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of the Section 975 of the Dodd-Frank Wall Street Reform and the Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements, or (4) providing legal advice or representation.

GP1.03 Use of Documents:

- A. All Documents are instruments of service, and DIXON shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of DIXON) whether the Project is completed or not. NOTE: A delayed project may require revisions of the Bid and/or Contract Documents.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. DIXON grants Owner a limited license to use the Documents on the Project. Owner shall not use, reuse, or modify the Documents without written verification, completion, or adaptation by DIXON. The limited license to Owner shall not create any rights in third parties.

GP1.04 Suspension and Termination:

- A. Suspension:
 - 1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to DIXON.
 - 2. By DIXON: DIXON may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay DIXON for invoiced services and expenses, or in response to the presence of Constituents of Concern at the Site.
- B. Termination: The obligation to provide further services under this Agreement may be terminated.
 - 1. For cause, by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - 2. By DIXON:
 - a. Upon seven days written notice if Owner demands that DIXON furnish or perform services contrary to DIXON's responsibilities as a licensed professional; or if services for the Project are delayed or suspended for more than 90 days for reasons beyond DIXON's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
 - b. DIXON shall have no liability to Owner on account of either such termination. This Agreement will not terminate; however, if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof.

3. For convenience, by Owner effective upon DIXON's receipt of notice from Owner.
- C. Effective Date of Termination: The terminating party under Paragraph GP 1.04 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow DIXON to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. Payments Upon Termination:
 1. In the event of termination by Owner or by DIXON for cause, DIXON shall be entitled, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, and other related close-out costs, using methods and rates for Additional Services as set forth in EXHIBIT C.
 2. The scheduled time period between Contract Award and the physical start of Construction, or if Construction is postponed for the off season (winter), shall not be considered a "suspension."

GP1.05 Controlling Law and Compliance with Laws and Regulations:

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located. DIXON and Owner shall comply with state Laws and Regulations of state of Project.
- B. DIXON shall comply with any and all instructions of Owner, and all requirements of Contractor's or Owner's safety program that are applicable to DIXON's performance of services under this Agreement and that Owner provides to DIXON in writing, prior to the Effective Date; subject to the Standard of Care set forth in Paragraph GP1.02.A above, and to the extent compliance is not inconsistent with professional practice requirements.
- C. The following may be the basis for modifications to Owner's responsibilities or to DIXON's scope of services, times of performance, or compensation:
 1. Changes after the Effective Date to Laws and Regulations;
 2. The receipt by DIXON, or changes after the Effective Date of Owner-provided written policies and procedures;
- D. The General Conditions for any construction contract documents prepared hereunder are to be prepared by the Engineer's Joint Contract Documents Committee, and as modified by DIXON unless expressly indicated otherwise. If Owner supplied General Conditions are used, then DIXON supplied Additions shall also be used to the extent they do not conflict with Owner's.

GP1.06 Dispute Resolution

- A. Owner and DIXON agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking nonbinding mediation or exercising their rights at law.
- B. If negotiations fail then Owner and DIXON shall proceed to nonbinding mediation before a panel of three, one panel member selected by each party, and one mutually agreeable person. The only requirements are that neither party have any financial or relational control over any panel member. DIXON will select, based on expertise in the area of dispute. (DIXON pays fees for their panel member, Owner pays fees of their member and third member's fees are to be paid as direct by the panel, even if their final dispute resolution is not accepted).
- C. After one trial mediation, unless an additional attempt is accepted by both parties either party may exercise their rights at law.

GP1.07 Environmental Condition of Site:

- A. Owner represents to DIXON that as of the Effective Date to the best of Owner's knowledge, that there are no Constituents of Concern, other than those disclosed in writing to DIXON, exist at or adjacent to the Site.

- B. Constituents of Concern in the Coating Industry- DIXON and Owner acknowledge that the coating industry may generate hazardous waste or Constituents of Concern (C of C) when removing old coatings, C of C may be existing in soils from coating removal in the past, and some gasket materials contained asbestos. Old coatings may contain heavy metals such as lead, chrome, and cadmium. Hazardous solvents may be present in new coatings, thinners, or used in the cleaning of equipment. These materials may be C of C but are considered Known C of C.
- C. If DIXON Encounters or learns of an undisclosed Constituents of Concern at the Site, then DIXON shall notify Owner. State and Federal notifications, if required, are the responsibility of the Owner.
- D. Owner acknowledges that DIXON is performing professional services for Owner and that DIXON is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as determined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with DIXON's activities under this Agreement

INSURANCE AND LIABILITY CONCERNS

The Agreement is supplemented to include the following agreement of the parties:

11.00 Insurance:

- A. The limits of liability for the insurance required on this project are as follows:
B. By DIXON:

1. Workers' Compensation:
2. Employer's Liability --
1) Bodily injury, each accident: \$1,000,000
2) Bodily injury by disease, each employee: \$1,000,000
3) Bodily injury/disease, aggregate: \$1,000,000
3. General Liability --
1) Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
2) General Aggregate \$2,000,000
4. Excess or Umbrella Liability
1) Per Occurrence: \$5,000,000
2) General Aggregate: \$5,000,000
5. Automobile Liability
1) Combined Single Limit (Bodily Injury and Property Damage): \$1,000,000
2) Professional Liability --
6. Professional Liability --
1) Each Claim Made \$2,000,000
2) Annual Aggregate \$2,000,000

- C. Additional Insured's: The following individuals or entities are to be listed on DIXON's general liability policies of insurance as additional insured's: Owner and other parties requested by Owner Electronic Data Transmittal Protocol within reason.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and DIXON's interests in the Project. Owner shall also require Contractor to cause DIXON and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- E. DIXON shall deliver to the Owner certificates of insurance evidencing the coverages. Such certificates shall be furnished prior to commencement of DIXON's services and at renewals thereafter during the life of the Agreement.
- F. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against DIXON or its Consultants. Owner and DIXON waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner shall take appropriate measures in other Project-related contracts to secure waivers of rights.
- G. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- H. At any time, Owner may request that DIXON or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in EXHIBIT I. If so, requested by Owner, and if commercially available, DIXON

shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and EXHIBIT I will be supplemented to incorporate this requirement.

I. Definitions:

1. Owner and Party 1 is Owner and Owner's officers, directors, membership, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.
2. DIXON and Party 2 is DIXON and/or DIXON's officers, directors, members, partners, agents, employees, consultants, subcontractors, or others under contract to DIXON relative to this Project or Agreement.

11.01 Limitation of Liability:

- A. DIXON's Liability Limited to Amount of Insurance Proceeds: DIXON shall procure and maintain insurance as required by and set forth in EXHIBIT I to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of DIXON and Party 2 to Owner and anyone claiming by, through, or under Owner shall not exceed the total insurance proceeds paid on behalf of or to DIXON by DIXON's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of DIXON's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement

11.02 Exclusion of Special, Incidental, Indirect, and Consequential Damages:

- A. To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision in the Agreement, DIXON and Party 2 shall not be liable for special, incidental, indirect, or consequential damages arising out of, or related to this Agreement or the Project, from any cause or causes, including but not limited to: damage to water supply or reduction in fire protection.

11.03 Percentage Share of Negligence:

- A. To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming under the other party for damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

RESOLUTION NO. 5211

A RESOLUTION TO ACCEPT A PROPOSED AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH DIXON ENGINEERING TO PROVIDE CONSTRUCTION INSPECTION SERVICES AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

- WHEREAS, The South Water Tower is scheduled to be re-coated in 2020; and,
- WHEREAS, Storage tank re-coating is specialized work that is expensive to perform and can be difficult to perform properly; and,
- WHEREAS, There are consulting engineering firms that specialize in coating steel tanks; and,
- WHEREAS, Staff finds it prudent to engage such a consultant to ensure the South Water Tower work is performed properly; and,
- WHEREAS, Staff previously followed a Qualifications-Based Selection (QBS) process to select Dixon Engineering to evaluate the existing condition of the tank and to assist in developing the technical specifications to govern the project; and,
- WHEREAS, Staff entered into a Professional Services Agreement with Dixon Engineering for \$5,575.00 to provide said services; and,
- WHEREAS, Dixon Engineering proposes to amend the Agreement to provide construction engineering services at standard rates for the not-to-exceed price of \$47,350.00; and,
- WHEREAS, \$50,000.00 is included in the proposed FY2021 budget for construction engineering; and,
- WHEREAS, Staff finds Dixon Engineering to be competent, is satisfied with the level of service provided thus far, and recommends approval of the Amendment to the Agreement.

NOW THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF KEWANEE THAT:

- Section 1** The proposed Amendment to the Professional Services Agreement with Dixon Engineering is hereby accepted.
- Section 2** The \$47,530.00 Amendment increases the value of the Professional Services Agreement with Dixon Engineering from \$5,575 to a not-to-exceed value of \$52,925.
- Section 2** The Mayor, City Clerk, City Manager, and City Engineer are hereby authorized to execute the Amendment to the Professional Services Agreement; provided, however, that said contract documents are in substantially similar form and content to that attached hereto and incorporated herein.
- Section 3** This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April 27, 2020	
RESOLUTION OR ORDINANCE NUMBER	Resolution #5212	
AGENDA TITLE	Approval of a Resolution accepting the lowest responsive and responsible bid from Performance Pipelining, Inc. for Project #20-02, 2020 Cured In Place Pipe (CIPP) Sewer Program, in the amount of \$500,161.40.	
REQUESTING DEPARTMENT	Public Works	
PRESENTER	Scott Hinton, City Engineer	
FISCAL INFORMATION	Cost as recommended:	\$500,161.40.
	Budget Line Item:	33-49-850
	Balance Available	\$610,000 in the proposed FY2021 budget which includes \$360,000 budgeted, but unspent, funds from FY2020.
	New Appropriation Required:	[] Yes [X] No
PURPOSE	Accepting the bid is necessary to proceed with the contract documents for the 2020 CIPP Program.	

BACKGROUND	<p>Staff has identified several sanitary sewer mains and laterals that are structurally deficient and proposes to line the mains before they need to be replaced. The proposed 2020 lining locations are on East Central Boulevard, East, Park, Payson, Willard, Beach, and Division Streets. The Program includes the lining of 3,577' of 8", 5,240' of 10", 1,116' of 12", and 97' of 24" sanitary sewer. It also includes the lining of the City's portion of 65 sanitary sewer laterals.</p> <p>The project was advertised for bids on March 27, 2020 and nine companies requested bid packages. Bids were received and publicly read on April 21, 2020 with the following results:</p> <table data-bbox="649 714 1250 924"> <tbody> <tr> <td>\$500,161.40</td><td>Performance Pipelining</td></tr> <tr> <td>\$520,130.00</td><td>Hoerr</td></tr> <tr> <td>\$577,470.96</td><td>Insituform Technologies</td></tr> <tr> <td>\$604,473.30</td><td>Visu-Sewer</td></tr> <tr> <td>\$687,896.00</td><td>SAK Construction</td></tr> </tbody> </table>	\$500,161.40	Performance Pipelining	\$520,130.00	Hoerr	\$577,470.96	Insituform Technologies	\$604,473.30	Visu-Sewer	\$687,896.00	SAK Construction
\$500,161.40	Performance Pipelining										
\$520,130.00	Hoerr										
\$577,470.96	Insituform Technologies										
\$604,473.30	Visu-Sewer										
\$687,896.00	SAK Construction										
SPECIAL NOTES	<p>N/A</p>										
ANALYSIS	<p>Much of the City's sanitary sewer collection system is aging and nearing the end of its useful life. Trenchless technologies allow gravity piping to be rehabilitated by placing a structural liner inside the deteriorating pipe. This process is performed from manhole to manhole without the need to remove pavement, excavate, or expose the pipe. As such, the work is performed quicker and cheaper than installing new pipe and with much less inconvenience to the public. In most cases, CIPP has proven to be more efficient and cost effective than installing new gravity pipe. The City has a history of successful installations and staff finds that CIPP allows the City to stretch our limited funding and get the most bang-for-the buck.</p>										
PUBLIC INFORMATION PROCESS	<p>This project was advertised on the City's website and two times in the local newspaper.</p>										
BOARD OR COMMISSION RECOMMENDATION	<p>N/A</p>										

STAFF RECOMMENDATION	Staff recommends accepting the bid of \$500,161.40 from Performance Pipelining, Inc. and proceeding with execution of the contract documents.
PROCUREMENT POLICY VERIFICATION	This project was competitively bid in accordance with the Illinois State Statutes which govern the procurement of publicly funded construction contracts.
REFERENCE DOCUMENTS ATTACHED	Bid tabulation and contract attached.

**CITY OF KEWANEE
CITY HALL
401 EAST THIRD ST.
KEWANEE, IL. 61443**

TABULATION OF BIDS

DATE: 4/21/20 PROJECT: 2020 CIPP Sewer Program
TIME: 11am OWNER: City of Kewanee
WITNESS: PROJECT #20-02

BIDDER NAME :
BIDDER ADDRESS :
CITY/STATE/ZIP :
BID GUARANTEE :

Performance Pipelining, Inc.
1551 W. Norris Drive
Ottawa, Illinois 61350
bid bond

Hoerr Construction, Inc.
P.O. Box 65
Goodfield, Illinois 61742
bid bond

Insituform Technologies, USA
11351 W. 183rd Street
Orland Park, Illinois 60467
bid bond

Visu-Sewer
W230 N4855 Betker Road
Pewaukee, WI. 53072
bid bond

SAK Construction, LLC
864 Hoff Road
O'Fallon, MO. 63366
bid bond

ITEM NO	ITEM	UNIT	QUANTITY	ENGINEER'S ESTIMATE											
				ESTIMATED UNIT PRICE	ESTIMATE TOTAL										
1	Line Sanitary Sewer 8"	LF	3577	24.69	107184.23	23.75	84958.50	22.80	81560.16	25.40	90860.88	26.50	94795.80	33.00	118047.60
2	Line Sanitary Sewer 10"	LF	5240	28.97	129681.31	25.00	131010.00	24.00	125769.60	26.80	140442.72	28.25	148041.30	34.00	178173.60
3	Line Sanitary Sewer 12"	LF	1116	40.56	45281.18	32.25	36003.90	31.60	35278.24	39.90	44544.36	35.50	39632.20	47.00	52470.80
4	Line Sanitary Sewer 24"	LF	97	118.58	11502.26	157.00	15229.00	151.00	14647.00	244.00	23668.00	182.00	17654.00	207.00	20079.00
5	Lateral Reinstatement	EA.	180	86.93	15647.40	78.00	14040.00	75.00	13500.00	100.00	18000.00	100.00	18000.00	100.00	18000.00
6	Lateral Lining	EA.	65	3500.00	227500.00	3200.00	208000.00	3675.00	238875.00	3705.00	240825.00	3750.00	243750.00	4125.00	268125.00
7	Protruding Service Conection	EA.	20	500.00	10000.00	260.00	5200.00	250.00	5000.00	130.00	2600.00	10.00	200.00	150.00	3000.00
8	Dye Testing of Service	EA.	10	250.00	2500.00	416.00	4160.00	400.00	4000.00	518.00	5180.00	340.00	3400.00	600.00	6000.00
9	Traffic Control Complete	LS	1	20000.00	20000.00	1560.00	1560.00	1500.00	1500.00	11350.00	11350.00	39000.00	39000.00	24000.00	24000.00

TOTAL ESTIMATE/ BID = **569,296.38**

500,161.40

520,130.00

577,470.96

604,473.30

687,896.00

COMPARISON TO ESTIMATE --

-12.14%

-8.64%

1.44%

6.18%

20.83%

CITY OF KEWANEE CONTRACT

THIS AGREEMENT, made and concluded this ____ day of _____, A.D., 2020, between **Performance Pipelining, Inc. of 1661 W Norris Drive, Ottawa, IL 61350** hereinafter referred to as the “CONTRACTOR,” and the CITY OF KEWANEE, ILLINOIS, hereinafter referred to as the “CITY;”

WITNESSETH, that the CONTRACTOR for and in consideration of the payments to be made to it by the CITY in the amount of **FIVE HUNDRED THOUSAND ONE HUNDRED SIXTY-ONE DOLLARS AND SIXTY-ONE CENTS (500,161.40)** hereby covenants and agrees, to and with the CITY, that it shall and will in good and workmanlike manner, furnish all the labor and material for **PROJECT #20-02, 2020 CIPP SEWER PROGRAM** as per the CONTRACTOR’S **Proposal** dated 4/21/20.

Such work to be under the direction and to the satisfaction of the City Engineer, and in accordance with the contractor’s Proposal, which is part of this contract. The work to be commenced not later than 10 days after the execution of this contract unless mutually agreed upon by the CITY and CONTRACTOR; to progress regularly and uninterruptedly after it shall have been begun excepting as shall otherwise be ordered by the City Council of the City of Kewanee (hereinafter referred to as the “City Council”), or its authorized representative, and shall be finished and fully completed within forty-five (45) calendar days; PROVIDED, however that if the time of the performance of the contract herein be for any reason either expressly or by implication extended, such extension shall not affect the validity of this contract.

The Contractor further agrees that the unit prices submitted are for the purpose of obtaining a gross sum, and for use in computing the value of extras and deductions; that if there is a discrepancy between the gross sum bid and that resulting from the summation of the quantities multiplied by their

respective unit prices, the latter shall apply. When this contract shall be wholly carried out and completed on the part of the Contractor, and when said work has been accepted by the City, a sum of money shall be computed by multiplying the following unit prices by the quantity of items completed, it being understood that the following total sum of money listed is for the purpose of determining the amount of the performance, labor, material and maintenance bond only. Such payment shall be made as provided for in the said specifications.

This Contract calls for the construction of a “public work” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (“the Act”). The Act requires contractors, subcontractors, and truckers to pay laborers, workers, and mechanics performing services on public works projects not less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. The prevailing wage rates for projects for the City of Kewanee are updated regularly by the Illinois Department of Labor and may be found at:

<https://www.illinois.gov/idol/Laws-Rules/CONMED/Documents/2016%20Rates/Rock%20Island.pdf>

All contractors, subcontractors, and truckers rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties. All contractors, subcontractors, and truckers shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed by them on this contract, and also showing the actual hourly wages paid to each of such persons and shall preserve their weekly payroll records for a period of three (3) years from the date of completion of the contract. Weekly certified payrolls shall be sent to the City Engineer.

It is further provided that the CONTRACTOR shall upon the sealing of this contract, file with the CITY a Certificate of Insurance meeting the requirements of the City of Kewanee Special Provision for Insurance Requirements.

IN WITNESS WHEREOF, the said Parties have executed these presents on the date above mentioned.

CONTRACTOR:

CITY:

CITY OF KEWANEE, ILLINOIS

By: _____

By: _____

Mayor

Attest:

City Clerk



**Illinois Department
of Transportation**

**Local Public Agency
Formal Contract
Proposal**

PROPOSAL SUBMITTED BY		
Performance Pipelining, Inc.		
1551 W. Norris Dr. Ottawa, IL 61350		
www.ppi-liner.com		
City	State	Zip Code

STATE OF ILLINOIS

COUNTY OF HENRY

CITY OF KEWANEE

(Name of City, Village, Town or Road District)

FOR THE IMPROVEMENT OF

STREET NAME OR ROUTE NO. 2020 CIPP Sewer Program

SECTION NO. 20-02

TYPES OF FUNDS Local

☒ SPECIFICATIONS (required)

☐ PLANS (required)

For Municipal Projects

Submitted/Approved/Passed

☐ Mayor ☐ President of Board of Trustees ☒ Municipal Official

Date

3/23/20

Department of Transportation

☐ Released for bid based on limited review

Regional Engineer

Date

For County and Road District Projects

Submitted/Approved

Highway Commissioner

Date

Submitted/Approved

County Engineer/Superintendent of Highways

Date

Note: All proposal documents, including Proposal Guaranty Checks or Proposal Bid Bonds, should be stapled together to prevent loss when bids are processed.

RETURN WITH BID

NOTICE TO BIDDERS

County HENRY
Local Public Agency CITY OF KEWANEE
Section Number _____
Route 2020 CIPP Sewer

Sealed proposals for the improvement described below will be received at the office of the City Clerk,
401 East Third Street, Kewanee, Illinois 61443 until 11:00 AM on April 21, 2020
Address Time Date

Sealed proposals will be opened and read publicly at the office of the City Clerk
401 East Third Street, Kewanee, Illinois 61443 at 11:00 AM on April 21, 2020
Address Time Date

DESCRIPTION OF WORK

Name 2020 CIPP Sewer Improvements Length: 10000.00 feet (miles)
Location various locations including East St, Central Blvd, Willard St, & Beach St.
Proposed Improvement Relining of approx. 10,000 lf of 8", 10", 12", and 24" Sanitary Sewer and laterals
using the Cured-in-Place Pipe (CIPP) lining method of construction.

1. Plans and proposal forms will be available in the office of the City Engineer
401 East Third Street, Kewanee, Illinois 61443
Address
2. ☐ Prequalification
If checked, the 2 low bidders must file within 24 hours after the letting an "Affidavit of Availability" (Form BC 57), in duplicate, showing all uncompleted contracts awarded to them and all low bids pending award for Federal, State, County, Municipal and private work. One original shall be filed with the Awarding Authority and one original with the IDOT District Office.
3. The Awarding Authority reserves the right to waive technicalities and to reject any or all proposals as provided in BLRS Special Provision for Bidding Requirements and Conditions for Contract Proposals.
4. The following BLR Forms shall be returned by the bidder to the Awarding Authority:
 - a. BLR 12200: Local Public Agency Formal Contract Proposal
 - b. BLR 12200a Schedule of Prices
 - c. BLR 12230: Proposal Bid Bond (if applicable)
5. The quantities appearing in the bid schedule are approximate and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed and accepted or materials furnished according to the contract. The scheduled quantities of work to be done and materials to be furnished may be increased, decreased or omitted as hereinafter provided.
6. Submission of a bid shall be conclusive assurance and warranty the bidder has examined the plans and understands all requirements for the performance of work. The bidder will be responsible for all errors in the proposal resulting from failure or neglect to conduct an in depth examination. The Awarding Authority will, in no case be responsible for any costs, expenses, losses or changes in anticipated profits resulting from such failure or neglect of the bidder.
7. The bidder shall take no advantage of any error or omission in the proposal and advertised contract.
8. If a special envelope is supplied by the Awarding Authority, each proposal should be submitted in that envelope furnished by the Awarding Agency and the blank spaces on the envelope shall be filled in correctly to clearly indicate its contents. When an envelope other than the special one furnished by the Awarding Authority is used, it shall be marked to clearly indicate its contents. When sent by mail, the sealed proposal shall be addressed to the Awarding Authority at the address and in care of the official in whose office the bids are to be received. All proposals shall be filed prior to the time and at the place specified in the Notice to Bidders. Proposals received after the time specified will be returned to the bidder unopened.
9. Permission will be given to a bidder to withdraw a proposal if the bidder makes the request in writing or in person before the time for opening proposals.

PROPOSAL

County HENRY
 Local Public Agency CITY OF KEWANEE
 Section Number _____
 Route 2020 CIPP Sewer

1. Proposal of 2020 CIPP SEWER IMPROVEMENTS

for the improvement of the above section by the construction of installation of approx. 10,000 lf of CIPP, televising, cleaning, reinstating laterals, lining laterals, and other miscellaneous work.

a total distance of 10000.00 feet, of which a distance of 10000.00 feet, (_____ miles) are to be improved.

2. The plans for the proposed work are those prepared by City of Kewanee Engineering Department and approved by the Department of Transportation on _____
3. The specifications referred to herein are those prepared by the Department of Transportation and designated as "Standard Specifications for Road and Bridge Construction" and the "Supplemental Specifications and Recurring Special Provisions" thereto, adopted and in effect on the date of invitation for bids.
4. The undersigned agrees to accept, as part of the contract, the applicable Special Provisions indicated on the "Check Sheet for Recurring Special Provisions" contained in this proposal.
5. The undersigned agrees to complete the work within 45 working days or by _____ unless additional time is granted in accordance with the specifications.
6. A proposal guaranty in the proper amount, as specified in BLRS Special Provision for Bidding Requirements and Conditions for Contract Proposals, will be required. Bid Bonds will be allowed as a proposal guaranty. Accompanying this proposal is either a bid bond if allowed, on Department form BLR 12230 or a proposal guaranty check, complying with the specifications, made payable to:
City of Kewanee Treasurer of _____
 The amount of the check is 5% of the total bid (_____).
7. In the event that one proposal guaranty check is intended to cover two or more proposals, the amount must be equal to the sum of the proposal guaranties, which would be required for each individual proposal. If the proposal guaranty check is placed in another proposal, it will be found in the proposal for: Section Number _____.
8. The successful bidder at the time of execution of the contract will be required to deposit a contract bond for the full amount of the award. When a contract bond is not required, the proposal guaranty check will be held in lieu thereof. If this proposal is accepted and the undersigned fails to execute a contract and contract bond as required, it is hereby agreed that the Bid Bond or check shall be forfeited to the Awarding Authority.
9. Each pay item should have a unit price and a total price. If no total price is shown or if there is a discrepancy between the product of the unit price multiplied by the quantity, the unit price shall govern. If a unit price is omitted, the total price will be divided by the quantity in order to establish a unit price.
10. A bid will be declared unacceptable if neither a unit price nor a total price is shown.
11. The undersigned submits herewith the schedule of prices on BLR 12200a covering the work to be performed under this contract.
12. The undersigned further agrees that if awarded the contract for the sections contained in the combinations on BLR 12200a, the work shall be in accordance with the requirements of each individual proposal for the multiple bid specified in the Schedule for Multiple Bids below.



Illinois Department of Transportation

SCHEDULE OF PRICES

A bid will be declared unacceptable if neither a unit price nor total price is shown.

County HENRY

Local Public Agency CITY OF KEWANEE

Section _____

Route 2020 CIPP Sewer

Schedule for Multiple Bids

Combination Letter	Sections Included in Combinations	Total

Schedule for Single Bid

(For complete information covering these items, see plans and specifications)

Bidder's Proposal for Making Entire Improvements

Item No.	Items	Unit	Quantity	Unit Price	Total
1	Line Sanitary Sewer 8"	LF.	3,577.20	23.75	84,958.50
2	Line Sanitary Sewer 10"	LF.	5,240.40	25.00	131,010.00
3	Line Sanitary Sewer 12"	LF.	1,116.40	32.25	36,003.90
4	Line Sanitary Sewer 24"	LF.	97	157.00	15,229.00
5	Lateral Reinstatement	EA.	180	78.00	14,040.00
6	Lateral Lining	EA.	65	3,200.00	208,000.00
7	Protruding Service Connctions	EA.	20	260.00	5,200.00
8	Dye Testing of Services	EA.	10	416.00	4,160.00
9	Traffic Control Complete	LS	1	1,560.00	1,560.00
				Total	\$500,161.40

five hundred thousand one hundred sixty one dollars and forty cents.

CONTRACTOR CERTIFICATIONS

County	<u>HENRY</u>
Local Public Agency	<u>CITY OF KEWANEE</u>
Section Number	<u></u>
Route	<u>2020 CIPP Sewer</u>

The certifications hereinafter made by the bidder are each a material representation of fact upon which reliance is placed should the Department enter into the contract with the bidder.

1. **Debt Delinquency.** The bidder or contractor or subcontractor, respectively, certifies that it is not delinquent in the payment of any tax administered by the Department of Revenue unless the individual or other entity is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of tax. Making a false statement voids the contract and allows the Department to recover all amounts paid to the individual or entity under the contract in a civil action.
2. **Bid-Rigging or Bid Rotating.** The bidder or contractor or subcontractor, respectively, certifies that it is not barred from contracting with the Department by reason of a violation of either 720 ILCS 5/33E-3 or 720 ILCS 5/33E-4.

A violation of Section 33E-3 would be represented by a conviction of the crime of bid-rigging which, in addition to Class 3 felony sentencing, provides that any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be barred for 5 years from the date of conviction from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation.

A violation of Section 33E-4 would be represented by a conviction of the crime of bid-rotating which, in addition to Class 2 felony sentencing, provides that any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be permanently barred from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation.

3. **Bribery.** The bidder or contractor or subcontractor, respectively, certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or any unit of local government, nor has the firm made an admission of guilt of such conduct which is a matter of record, nor has an official, agent, or employee of the firm committed bribery or attempted bribery on behalf of the firm and pursuant to the direction or authorization of a responsible official of the firm.
4. **Interim Suspension or Suspension.** The bidder or contractor or subcontractor, respectively, certifies that it is not currently under a suspension as defined in Subpart I of Title 44 Subtitle A Chapter III Part 6 of the Illinois Administrative Code. Furthermore, if suspended prior to completion of this work, the contract or contracts executed for the completion of this work may be cancelled.

SIGNATURES

County HENRYLocal Public Agency CITY OF KEWANEE

Section Number _____

Route 2020 CIPP Sewer

(If an individual)

Signature of Bidder _____

Business Address _____

(If a partnership)

Firm Name _____

Signed By _____

Business Address _____

Inset Names and Addressed of All Partners { _____

(If a corporation)

Corporate Name Performance Pipelining, IncSigned By Chad Wilson

President

Business Address 1551 W. Norris DrOttawa, IL 61350

Insert Names of Officers {

President Chad WilsonSecretary Paula CorbinTreasurer Cheryl TaplinAttest: Paula Corbin

Secretary



Illinois Department of Transportation

Local Agency Proposal Bid Bond

RETURN WITH BID

Route 2020 CIPP Sewer Lining
County Henry
Local Agency City of Kewanee
Section 20-02

PAPER BID BOND

WE Performance Pipelining, Inc. as PRINCIPAL,
and Merchants Bonding Company (Mutual) as SURETY,

are held jointly, severally and firmly bound unto the above Local Agency (hereafter referred to as "LA") in the penal sum of 5% of the total bid price, or for the amount specified in the proposal documents in effect on the date of invitation for bids whichever is the lesser sum. We bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly pay to the LA this sum under the conditions of this instrument.

WHEREAS THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that, the said PRINCIPAL is submitting a written proposal to the LA acting through its awarding authority for the construction of the work designated as the above section.

THEREFORE if the proposal is accepted and a contract awarded to the PRINCIPAL by the LA for the above designated section and the PRINCIPAL shall within fifteen (15) days after award enter into a formal contract, furnish surety guaranteeing the faithful performance of the work, and furnish evidence of the required insurance coverage, all as provided in the "Standard Specifications for Road and Bridge Construction" and applicable Supplemental Specifications, then this obligation shall become void; otherwise it shall remain in full force and effect.

IN THE EVENT the LA determines the PRINCIPAL has failed to enter into a formal contract in compliance with any requirements set forth in the preceding paragraph, then the LA acting through its awarding authority shall immediately be entitled to recover the full penal sum set out above, together with all court costs, all attorney fees, and any other expense of recovery.

IN TESTIMONY WHEREOF, the said PRINCIPAL and the said SURETY have caused this instrument to be signed by their respective officers this 6th day of April, 2020

Principal

Performance Pipelining, Inc.

(Company Name)

By: Kenneth P. Corbin, CEO
(Signature and Title)

(If PRINCIPLE is a joint venture of two or more contractors, the company names, and authorized signatures of each contractor must be affixed.)

Surety

By: Dione R. Young, Attorney-in-Fact
(Signature of Attorney-in-Fact)

Merchants Bonding Company (Mutual)

(Name of Surety)

STATE OF ILLINOIS, Jowa

COUNTY OF Dallas

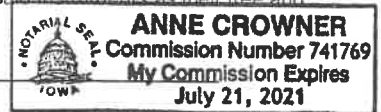
I, Anne Crowner, a Notary Public in and for said county,
do hereby certify that Kenneth P. Corbin and Dione R. Young

(Insert names of individuals signing on behalf of PRINCIPAL & SURETY)

who are each personally known to me to be the same persons whose names are subscribed to the foregoing instrument on behalf of PRINCIPAL and SURETY, appeared before me this day in person and acknowledged respectively, that they signed and delivered said instruments as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 6th day of April, 2020

My commission expires 7/21/2021



Anne Crowner (Notary Public)

ELECTRONIC BID BOND

☐ Electronic bid bond is allowed (box must be checked by LA if electronic bid bond is allowed)

The Principal may submit an electronic bid bond, in lieu of completing the above section of the Proposal Bid Bond Form. By providing an electronic bid bond ID code and signing below, the Principal is ensuring the identified electronic bid bond has been executed and the Principal and Surety are firmly bound unto the LA under the conditions of the bid bond as shown above. (If PRINCIPAL is a joint venture of two or more contractors, an electronic bid bond ID code, company/Bidder name title and date must be affixed for each contractor in the venture.)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Electronic Bid Bond ID Code

(Company/Bidder Name)

(Signature and Title)

Date

MERCHANTS
BONDING COMPANY™
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Dione R. Young

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 5th day of March, 2020.



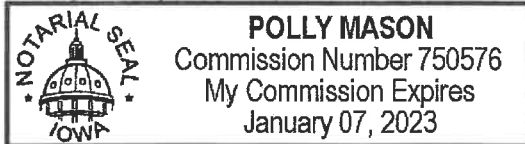
MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By

Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 5th day of March, 2020, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



Polly Mason

Notary Public

(Expiration of notary's commission
does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 6th day of April, 2020.



William Warner Jr.
Secretary

RESOLUTION NO. 5212

A RESOLUTION TO ACCEPT THE BID FROM PERFORMANCE PIPLINING, INC. FOR PROJECT #20-02, 2020 CURED IN PLACE PIPE (CIPP) SEWER PROGRAM, IN THE AMOUNT OF \$500,161.40 AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

WHEREAS, The City Council recognizes that aging sanitary sewers are deteriorating and nearing the end of their useful lives; and,

WHEREAS, Lining the sewers using the CIPP method of trenchless technology is more cost efficient with less public inconvenience than installing new sewers; and,

WHEREAS, Bids were solicited to replace several 8", 10", 12", and 24" sewers and 65 laterals within the right-of-way and those bids received on time were opened and publicly read on April 21, 2020; and,

WHEREAS, Performance Pipelining, Inc. of 1551 W Norris Drive, Ottawa, IL 61350 submitted the lowest responsive and responsible bid of \$500,161.40; and,

WHEREAS, \$610,000.00 is allocated for this work in the proposed FY2021 budget; and,

WHEREAS, Staff recommends the City of Kewanee enter into a contract with Performance Pipelining, Inc. for the \$500,161.40.

NOW THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF KEWANEE THAT:

Section 1 The bid of Performance Pipelining, Inc. is hereby accepted.

Section 2 The Mayor, City Clerk, City Manager, and City Engineer are hereby authorized to execute and attest to all necessary contract documents with Performance Pipelining, Inc. for Project #20-02, 2020 CIPP Sewer Program, in the amount of \$500,161.40; provided, however, that said contract documents are in substantially similar form and content to that attached hereto and incorporated herein.

Section 3 This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

QUAD CITIES DIRECTIONAL BORING, INC.

P.O. BOX 371
COLONA, ILLINOIS 61241

(309) 792-3070
Fax (309) 792-4034

INVOICE

INVOICE NUMBER	INVOICE DATE	ACCOUNT NO.
1849	3/13/2020	

SOLD TO: CITY OF KEWANEE
ATTN: SCOTT HINTON
401 E THIRD ST
KEWANEE IL 61443

SHIP TO: CITY OF KEWANEE
ATTN: SCOTT HINTON
401 E THIRD ST
KEWANEE IL 61443

DATE SHIPPED	SHIP VIA	TERMS	SALESPERSON			CUSTOMER P.O. NUMBER
3/13/2020						
QUANTITY	DESCRIPTION			UNIT PRICE	* CODE	EXTENDED AMOUNT
500	03/04/2020 - KEWANEE, IL WASTE TREATMENT PLANT 500FT BORE - 20" HDPE SDR17 IPS 52-93-870 BORE 20" FORCE MAIN			175.00		87,500.00
MESSAGES / * CODES				SUBTOTAL SHIPPING CHARGES SALES TAX		
				PLEASE PAY▶		\$87,500.00

Thank You !

PRINTED IN U.S.A. B

QUAD CITIES DIRECTIONAL BORING, INC.P.O. BOX 371
COLONA, ILLINOIS 61241**INVOICE**

INVOICE NUMBER	INVOICE DATE	ACCOUNT NO.
1850	3/13/2020	

(309) 792-3070
Fax (309) 792-4034**SOLD TO:** CITY OF KEWANEE
ATTN: SCOTT HINTON
401 E THIRD ST
KEWANEE IL 61443**SHIP TO:** CITY OF KEWANEE
ATTN: SCOTT HINTON
401 E THIRD ST
KEWANEE IL 61443

DATE SHIPPED	SHIP VIA	TERMS	SALESPERSON	CUSTOMER P.O. NUMBER	
3/13/2020					
QUANTITY	DESCRIPTION		UNIT PRICE	* CODE	EXTENDED AMOUNT
	03/05/2020 - WASTE TREATMENT PLANT				
2	20" IPS MJ ADAPTER		786.00		1,572.00
2	20" IPS MJ ACCESSORY KIT		323.00		646.00
1	FUSION & LABOR		900.00		900.00
52-93-870					
ADDITIONAL 20" FORCE MAIN					
FITTINGS					
MESSAGES / * CODES			SUBTOTAL		
			SHIPPING CHARGES		
			SALES TAX		
			PLEASE PAY▶		
					\$3,118.00

Thank You !

52-93-870
PROJECT # 1065
SRH 2/11/20


DOOLEY BROS.
PLUMBING & HEATING INC.
306 N TREMONT ST
P.O. Box 312
KEWANEE, IL 61443

Phone #	(309) 852-2720
Fax #	(309) 852-2810
E-mail	
dooleybrosplumbing@gmail.com	

Bill To
City of Kewanee Attn. Scott Hinton 401 E. Third Street Kewanee, IL 61443

Date of Bill	Service Date	P.O. No.
2/6/2020	1/17/2020	WWTP

Invoice #	Terms	Due Date
820	Net 30	3/7/2020

Quantity	Item Code	Description	Price Each	Amount
40	Labor Hour	Work done at WWTP 1/13/2020-1/17/2020 to install valve, replace pipe, and help camera line. INFLUENT FORCE MAIN REPAIR	90.00	3,600.00

	Subtotal	\$3,600.00
	Sales Tax (8.25%)	\$0.00
	Total	\$3,600.00

All Past Due Accounts are subject to a
2% Monthly Service Charge.

IL PL: 058-104449

Established 1916

RATLIFF BROTHERS & CO., INC.

701 DEWEY AVENUE
PO BOX 431
KEWANEE, IL 61443

Voice: 309-852-2222
Fax: 309-856-6266

INVOICE

Invoice Number: 15711
Invoice Date: Jan 29, 2020
Page: 1

52-93-870**PROJECT #1065****INFLUENT P.S.****FORCE MAIN REPAIR****Bill To:**

CITY OF KEWANEE PUBLIC WORKS
401 E. THIRD STREET
ATTN: SCOTT HINTON, CITY MANAGER
KEWANEE, IL 61443

Customer ID	Customer PO	Payment Terms	Due Date
KEWPUB		Net 10 Days	2/8/20

Quantity	Item	Description	Unit Price	Amount
1.50	MT	1/13/2020 - MACHINERY TRAILER #323 MOVED JD 690 CRAWLER HOE TO SEWAGE PLANT	130.00	195.00
8.00	JD690 ELC	1/13/2020 - DIG AND EXPOSE 20" PIPE AT SEWAGE TREATMENT PLANT	150.00	1,200.00
8.00	JD690 ELC	1/14/2020 - FIND LEAK ON WEST END	150.00	1,200.00
8.00	LABOR PER I	1/14/2020 - WORK ON 20" FORCE MAIN	90.00	720.00
1.00	BLUE SEWEF	1/14/2020 - BLUE SEWER BOX RENTAL	120.00	120.00
8.00	JD690 ELC	1/15/2020 - INSTALL VALVE	150.00	1,200.00
8.00	LABOR PER I	1/15/2020 - WORK ON 20" FORCE MAIN, INSTALL VALVE	90.00	720.00
1.00	BLUE SEWEF	1/15/2020 - BLUE SEWER BOX RENTAL	120.00	120.00
1.00	2" PUMP	1/15/2020 - 2" PUMP	25.00	25.00
8.00	JD690 ELC	1/16/2020 - BACKFILL AND PUT DRESSER ON PIPE WITH DOOLEY	150.00	1,200.00
1.00	BLUE SEWEF	1/16/2020 - BLUE SEWER BOX RENTAL	120.00	120.00
4.00	JD690 ELC	1/17/2020 - BACKFILL	150.00	600.00

Check/Credit Memo No:

Subtotal	7,420.00
Sales Tax	
Total Invoice Amount	7,420.00
Payment/Credit Applied	
TOTAL	7,420.00

A FINANCE CHARGE OF 1.5% PER MONTH WILL BE APPLIED ON ALL INVOICES OVER 30 DAYS

52-93-870

W WTP FORCE MAIN

306 N TREMONT ST

P.O. Box 312

KEWANEE, IL 61443



Phone #	(309) 852-2720
Fax #	(309) 852-2810
E-mail	
dooleybrosplumbing@gmail.com	

Bill To
City of Kewanee 401 E. Third Street Kewanee, IL 61443

Date of Bill	Service Date	P.O. No.
3/18/2020	2/19-3/16	

Invoice #	Terms	Due Date
878	Net 30	4/17/2020

Quantity	Item Code	Description	Price Each	Amount
4	Labor Hour	Labor on 2/19 & 2/20 for meeting and lining up materials for WWTP 20" job	95.00	380.00
3	Labor Hour	2/24/2020 Locating utilities	95.00	285.00
8	Labor Hour	2/25/2020 Pothole at pumphouse	95.00	760.00
8	Labor Hour	2/26/2020 Locate top of hill	95.00	760.00
8	Labor Hour	2/27/2020 Dig out bore hole at pump house	95.00	760.00
8	Labor Hour	2/28/2020 Dig out bore hole at top of hill & pump out	95.00	760.00
8	Labor Hour	3/2/2020 Cut out 20" pipe at pump house	95.00	760.00
8	Labor Hour	3/3/2020 Cut out 24" pipe at pump house	95.00	760.00
8	Labor Hour	3/4/2020 Measure & order Fittings	95.00	760.00
8	Labor Hour	3/5/2020 Dig & expose valve at top of hill to prep for fitting install	95.00	760.00

		Subtotal
		Sales Tax (8.25%)
		Total

All Past Due Accounts are subject to a
2% Monthly Service Charge.

IL PL: 058-104449

Established 1916

52-93-870



306 N TREMONT ST
P.O. Box 312
KEWANEE, IL 61443

Phone #	(309) 852-2720
Fax #	(309) 852-2810
E-mail	
dooleybrosplumbing@gmail.com	

Bill To
City of Kewanee 401 E. Third Street Kewanee, IL 61443

Date of Bill	Service Date	P.O. No.
3/18/2020	2/19-3/16	

Invoice #	Terms	Due Date
878	Net 30	4/17/2020

Quantity	Item Code	Description	Price Each	Amount
16	Labor Hour	3/10/2020-3/11/2020 connecting fittings at top of hill	95.00	1,520.00
16	Labor Hour	3/12/2020-3/13/2020 connecting fittings to pump building	95.00	1,520.00
8	Labor Hour	3/16/2020 Install 24" puug & backfill with sand	95.00	760.00

		Subtotal	\$10,545.00
		Sales Tax (8.25%)	\$0.00
		Total	\$10,545.00

**All Past Due Accounts are subject to a
2% Monthly Service Charge.**

IL PL: 058-104449

Established 1916

RATLIFF BROTHERS & CO., INC.

701 DEWEY AVENUE
PO BOX 431
KEWANEE, IL 61443

INVOICE

Invoice Number: 15742
Invoice Date: Mar 11, 2020
Page: 1

Voice: 309-852-2222
Fax: 309-856-6266

Bill To:

CITY OF KEWANEE PUBLIC WORKS
401 E. THIRD STREET
ATTN: SCOTT HINTON, CITY MANAGER
KEWANEE, IL 61443

Customer ID	Customer PO	Payment Terms	Due Date
KEWPUB	P.O. #	Net 10 Days	3/21/20

Quantity	Item	Description	Unit Price	Amount
2.00	LABOR PER I	2/24/2020 - LOCATE UNDERGROUND CONDUITS AT SEWER PLANT	90.00	180.00
4.00	MT	2/25/2020 - MACHINERY TRAILER #323 MOVED JD690 CRAWLER HOE TO SEWER PLANT & BOX AND PLATES	130.00	520.00
3.00	TANDEM	2/25/2020 -	90.00	270.00
8.00	JD690 ELC	2/25/2020 - SEARCH FOR UTILITIES - DIG UP NEW VALVE	150.00	1,200.00
1.00	BLUE SEWER	2/25/2020 - BLUE SEWER BOX RENTAL & PLATES	120.00	120.00
8.00	JD690 ELC	2/26/2020 - SEARCH FOR UTILITIES	150.00	1,200.00
3.00	LABOR PER I	2/26/2020 - LOCATE 30" FORCE MAIN @ SEWER PLANT	90.00	270.00
7.00	TANDEM	2/26/2020 - HAUL DIRT	90.00	630.00
1.00	MT	2/26/2020 - MACHINERY TRAILER #323 MOVED RED SEWER BOX TO SEWER PLANT	130.00	130.00
8.00	LABOR PER I	2/26/2020 - SEARCH FOR UTILITIES	90.00	720.00
1.00	BLUE SEWER	2/26/2020 - BLUE SEWER BOX RENTAL & PLATES	120.00	120.00
8.00	JD690 ELC	2/27/2020 - SEARCH FOR UTILITIES PREPARE FOR BORING CREW	150.00	1,200.00
8.00	LABOR PER I	2/27/2020 - SEARCH FOR UTILITIES PREPARE FOR BORING CREW	90.00	720.00
1.00	BLUE SEWER	2/27/2020 - BLUE SEWER BOX RENTAL & PLATES	120.00	120.00
1.00	RED SEWER	2/27/2020 - 20 FT. RED SEWER BOX RENTAL	135.00	135.00
8.00	LABOR PER I	2/28/2020 - SEARCH FOR UTILITIES PREPARE FOR BORING CREW	90.00	720.00
8.00	JD690 ELC	2/28/2020 - SEARCH FOR UTILITIES PREPARE FOR BORING CREW	150.00	1,200.00
5.50	TANDEM	2/28/2020 - HAUL DIRT	90.00	495.00
2.00	TRUCK & TR	2/28/2020 - HAUL CRANE MATS TO SEWER PLANT	100.00	200.00

52-~~93~~93-870
WWTP FORCE MAIN

Check/Credit Memo No:

Subtotal	Continued
Sales Tax	Continued
Total Invoice Amount	Continued
Payment/Credit Applied	
TOTAL	Continued

A FINANCE CHARGE OF 1.5% PER MONTH WILL BE APPLIED ON ALL INVOICES OVER 30 DAYS

RATLIFF BROTHERS & CO., INC.

701 DEWEY AVENUE
PO BOX 431
KEWANEE, IL 61443

INVOICE

Invoice Number: 15742

Invoice Date: Mar 11, 2020

Page: 2

52-93-870

W WTP FORCE MAIN

Voice: 309-852-2222

Fax: 309-856-6266

Bill To:

CITY OF KEWANEE PUBLIC WORKS
401 E. THIRD STREET
ATTN: SCOTT HINTON, CITY MANAGER
KEWANEE, IL 61443

Customer ID

KEWPUB

Customer PO

P.O. #

Payment Terms

Net 10 Days

Due Date

3/21/20

Quantity	Item	Description	Unit Price	Amount
1.00	BLUE SEWER	2/28/2020 - BLUE SEWER BOX RENTAL & PLATES	120.00	120.00
1.00	RED SEWER	2/28/2020 - 20 FT. RED SEWER BOX RENTAL	135.00	135.00
12.00	PLASTIC MA	2/28/2020 - PLASTIC CRANE MATS RENTAL	8.00	96.00
5.00	TANDEM	3/02/2020 - HAUL DIRT	90.00	450.00
8.00	JD690 ELC	3/02/2020 - REMOVE OLD FORCE MAIN PIPES	150.00	1,200.00
8.00	LABOR PER I	3/02/2020 - REMOVE OLD FORCE MAIN PIPES	90.00	720.00
12.00	PLASTIC MA	3/02/2020 - PLASTIC CRANE MATS RENTAL	8.00	96.00
1.00	BLUE SEWER	3/02/2020 - BLUE SEWER BOX RENTAL & PLATES	135.00	135.00
1.00	RED SEWER	3/02/2020 - 20 FT. RED SEWER BOX RENTAL	135.00	135.00
8.00	LABOR PER I	3/03/2020 - BORE PREP	90.00	720.00
8.00	TANDEM	3/03/2020 - HAUL MUD	90.00	720.00
12.00	PLASTIC MA	3/03/2020 - PLASTIC CRANE MATS RENTAL	8.00	96.00
1.00	BLUE SEWER	3/03/2020 - BLUE SEWER BOX RENTAL & PLATES	120.00	120.00
1.00	RED SEWER	3/03/2020 - 20 FT. RED SEWER BOX RENTAL	135.00	135.00
8.00	JD690 ELC	3/03/2020 - BORE PREP	150.00	1,200.00
8.00	LABOR PER I	3/04/2020 - ASSIST IN BORE	90.00	720.00
5.00	TANDEM	3/04/2020 - HAUL DIRT	90.00	450.00
8.00	JD690 ELC	3/04/2020 - SUPPORT BORE CREW	150.00	1,200.00
12.00	PLASTIC MA	3/04/2020 - PLASTIC CRANE MATS RENTAL	8.00	96.00
1.00	BLUE SEWER	3/04/2020 - BLUE SEWER BOX RENTAL & PLATES	120.00	120.00
1.00	RED SEWER	3/04/2020 - 20 FT. RED SEWER BOX RENTAL	135.00	135.00

Check/Credit Memo No:

Subtotal	Continued
Sales Tax	Continued
Total Invoice Amount	Continued
Payment/Credit Applied	
TOTAL	Continued

A FINANCE CHARGE OF 1.5% PER MONTH WILL BE APPLIED ON ALL INVOICES OVER 30 DAYS

701 DEWEY AVENUE
PO BOX 431
KEWANEE, IL 61443

Invoice Number: 15742
Invoice Date: Mar 11, 2020
Page: 3

Bill To:

CITY OF KEWANEE PUBLIC WORKS
401 E. THIRD STREET
ATTN: SCOTT HINTON, CITY MANAGER
KEWANEE, IL 61443

Customer ID	Customer PO	Payment Terms	Due Date
KEWPUB	P.O. #	Net 10 Days	3/21/20

Quantity	Item	Description	Unit Price	Amount
8.00	JD690 ELC	3/05/2020 - ASSIST BORE CREW INSTALL ENDS	150.00	1,200.00
8.00	LABOR PER I	3/05/2020 - ASSIST BORE CREW INSTALL ENDS	90.00	720.00
12.00	PLASTIC MA	3/05/2020 - PLASTIC CRANE MATS RENTAL	8.00	96.00
1.00	BLUE SEWER	3/05/2020 - BLUE SEWER BOX RENTAL & PLATES	120.00	120.00
1.00	RED SEWER	3/05/2020 - 20 FT. RED SEWER BOX	135.00	135.00

Subtotal	21,220.00
Sales Tax	
Total Invoice Amount	21,220.00
Payment/Credit Applied	
TOTAL	21,220.00

Check/Credit Memo No:

A FINANCE CHARGE OF 1.5% PER MONTH WILL BE APPLIED ON ALL INVOICES OVER 30 DAYS

RATLIFF BROTHERS & CO., INC.

701 DEWEY AVENUE
PO BOX 431
KEWANEE, IL 61443

INVOICE

Invoice Number: 15783

Invoice Date: Apr 13, 2020

Page: 1

52-93-870**WWTP FORCE MAIN**

Voice: 309-852-2222

Fax: 309-856-6266

Bill To:

CITY OF KEWANEE PUBLIC WORKS
401 E. THIRD STREET
ATTN: SCOTT HINTON, CITY MANAGER
KEWANEE, IL 61443

Customer ID

KEWPUB

Customer PO

WWTP

Payment Terms

Net 10 Days

Due Date

4/23/20

Quantity	Item	Description	Unit Price	Amount
8.00	LABOR PER I	03-10-20 FORCE MAIN	90.00	720.00
8.00	JD 690 RENT	03-10-20 ASSEMBLE EAST HOLE FITTINGS	150.00	1,200.00
1.00	BLUE SEWER	03-10-20 BLUE SEWER BOX AND PLATES RENTAL	120.00	120.00
8.00	LABOR PER I	03-11-20 FORCE MAIN	90.00	720.00
8.00	JD 690 RENT	03-11-20 ASSEMBLE EAST SIDE AND EXPOSE WEST SIDE	150.00	1,200.00
1.00	BLUE SEWER	03-11-20 BLUE SEWER BOX AND PLATE RENTAL	120.00	120.00
8.00	LABOR PER I	03-12-20 FORCE MAIN	90.00	720.00
8.00	JD 690 RENT	03-12-20 WORK ON WEST SIDE	150.00	1,200.00
1.00	BLUE SEWER	03-12-20 BLUE SEWER BOX AND PLATE RENTAL	120.00	120.00
8.00	LABOR PER I	03-13-20 INSTALL PIPE	90.00	720.00
8.00	JD 690 RENT	03-13-20 ASSEMBLE WEST SIDE	150.00	1,200.00
1.00	BLUE SEWER	03-13-20 BLUE SEWER BOX AND PLATE RENTAL	120.00	120.00
88.10	TONS	03-16-20 SAND FOR BEDDING 20" PIPE TICKETS 75288,75297,75290,75299	17.50	1,541.75
8.00	LABOR PER I	03-16-20 BACKFILL	90.00	720.00
8.00	JD 690 RENT	03-16-20 BACKFILL	150.00	1,200.00
5.00	LABOR PER I	03-18-20 BACKFILL	90.00	450.00
5.00	JD 690 RENT	03-18-20 BACKFILL, PULL PLATE, INSTALL VALVE BOX	150.00	750.00
8.00	LABOR PER I	03-30-20 EXCAVATE ELECTRICAL	90.00	720.00
8.00	JD 690 RENT	03-30-20 EXCAVATE ELECTRICAL AND LOAD OUT	150.00	1,200.00
1.00	MT	04-14-20 MACHINERY TRAILER MOVE OUT JD 690	130.00	130.00

Check/Credit Memo No:

Subtotal	14,871.75
Sales Tax	
Total Invoice Amount	14,871.75
Payment/Credit Applied	
TOTAL	14,871.75

A FINANCE CHARGE OF 1.5% PER MONTH WILL BE APPLIED ON ALL INVOICES OVER 30 DAYS



52-93-870
WWTP FOREMAIN
BRITTON
ELECTRONICS & AUTOMATION, INC.

PO Box 872
Pekin, IL 61555-0872

Phone # 309-353-5376
Fax # 309-353-1372

IDHR#: 116050-00
www.go-bea.com

Invoice

Invoice Date 4/17/2020 Invoice No. 2208401

BILL TO:

City of Kewanee
401 East Third Street
Kewanee, Illinois 61443-2365

* * SITE LOCATION * *

KEWANEE WASTEWATER TREATMENT PLANT
194 FISHER AVE.
KEWANEE, IL 61443
ATTN: STAN BOCKEWITZ

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project Name:
Verbal	Net 30	RCB	4/17/2020	On-Site-Ser...	PEKIN, IL	Breakers-031920

Qty	Item Code	Description	Price Each	Amount
10	GEN-ITEM	BUSS FRS-R-15 600V RK TD FUSE	13.81	138.10T
230	GEN-ITEM	SOUT UF-10/3-G-KRWP 10-3 CU UF-B 2G	0.72	165.60T
6	GEN-ITEM	6mm Terminal Blocks	2.15	12.90T
2	GEN-ITEM	6mm Ground Terminal Blocks	6.59	13.18T
2	GEN-ITEM	6mm Terminal Block Dividers	0.68	1.36T
1	GEN-ITEM	Dinrail	4.32	4.32T
		Subtotal on >		335.46
119	Mileage	Mileage; Per Mile to and from customer site Travel Date 03/18/2020	0.75	89.25
4	PW-01	LABOR RATE PER IL Prevailing Wage Act [820 ILCS 130/11a] Service Date: 03/18/2020 Tech: George Hill Description: Troubleshooting issues with west side drain & bar screen.	121.00	484.00
2.5	PW-01	LABOR RATE PER IL Prevailing Wage Act [820 ILCS 130/11a] Service Date: 03/31/2020 Tech: George Hill Description: (ALREADY ONSITE - NO MILEAGE CHARGED) Megged out cable. Determined bad section, ordered replacement.	121.00	302.50
119	Mileage	Mileage; Per Mile to and from customer site Travel Date 04/07/2020	0.75	89.25

Billing Questions: A/R Dept. (309) 353-5376

Subtotal

IL Sales Tax 8.5%...

Invoice is Due by: 5/17/2020

Payments/Credits

A late fee of 1.5% per month will be charged if paid after 5/17/2020

INVOICE TOTAL

Please detach, retain top portion for your records and return bottom portion with your remittance.

Please Remit Payment To:	Customer No.	Invoice No.	Due Date	Payments/Credits	Invoice Total	Amount Remit
BEA OF ILLINOIS P.O. Box 872 Pekin, IL 61555-0872	KWWTP-656	2208401	5/17/2020			
Thank You for Your Business.						

Note: Tax Exempt E9996-5623-07

JOB NAME: Breakers-031920
Page 1

PO# Verbal



BRITTON
ELECTRONICS & AUTOMATION, INC.

PO Box 872
Pekin, IL 61555-0872

Phone # 309-353-5376
Fax # 309-353-1372

IDHR#: 116050-00
www.go-bea.com

Invoice

Invoice Date 4/17/2020 Invoice No. 2208401

BILL TO:

City of Kewanee
401 East Third Street
Kewanee, Illinois 61443-2365

* * SITE LOCATION * *

KEWANEE WASTEWATER TREATMENT PLANT
194 FISHER AVE.
KEWANEE, IL 61443
ATTN: STAN BOCKEWITZ

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project Name:
Verbal	Net 30	RCB	4/17/2020	On-Site-Ser...	PEKIN, IL	Breakers-031920

Qty	Item Code	Description	Price Each	Amount
5	PW-01	LABOR RATE PER IL Prevailing Wage Act [820 ILCS 130/11a] Service Date: 04/07/2020 Tech: George Hill Description: Pulled in wiring. Finished terminations in manhole & building. Tested to verify pump #1 was running. Reworked junction box at the west side drain to clean up wiring.	121.00	605.00

Billing Questions: A/R Dept. (309) 353-5376

Invoice is Due by: **5/17/2020**

A late fee of 1.5% per month will be charged if paid after **5/17/2020**

Subtotal	\$1,905.46
IL Sales Tax 8.5%...	\$0.00
Payments/Credits	\$0.00
INVOICE TOTAL	\$1,905.46

Please detach, retain top portion for your records and return bottom portion with your remittance.

Please Remit Payment To: BEA OF ILLINOIS P.O. Box 872 Pekin, IL 61555-0872	Customer No.	Invoice No.	Due Date	Payments/Credits	Invoice Total	Amount Remit
	KWWTP-656	2208401	5/17/2020	\$0.00	\$1,905.46	
	Thank You for Your Business.					

Note: Tax Exempt E9996-5623-07

JOB NAME: Breakers-031920
Page 2

PO# Verbal



Bid Proposal for Kewanee WWTP Repairs

CITY OF KEWANEE

Bid Date: 01/13/2020

Core & Main 1187064

PO 52049

Core & Main

115 N Cummings Lane

Washington, IL 61571

Phone: 309-444-3183

Fax: 309-444-3644

Seq#	Qty	Description	Units	Price	Ext Price
10		WE ARE PLEASED TO QUOTE YOU:			
30	2	20 MJ L/P SLV C153 IMP	EA	441.00	882.00
40	3	20 3020 DI STARGRIP RESTR. (I) SGDP20	EA	245.00	735.00
50	3	20 EBAA MEGALUG MJ DI 1120 RST F/DI PIPE, BLACK	EA	271.00	813.00
60	6	20 MJ REGULAR GASKET F/DI	EA	14.00	84.00
70	84	3/4X4-1/2 COR-BLUE T-HEAD USA USA	EA	2.75	231.00
90	1	20" MJ PLUG VLV W/BGO 2" OP PEC20MJCINBRCS30SC0GB-12-N	EA	11,750.00	11,750.00
120		THANK YOU!			
140		-JACKSON			
150		CORE AND MAIN			

Branch Terms:

UNLESS OTHERWISE SPECIFIED HEREIN, PRICES QUOTED ARE VALID IF ACCEPTED BY CUSTOMER AND PRODUCTS ARE RELEASED BY CUSTOMER FOR MANUFACTURE WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THIS QUOTATION. CORE & MAIN LP RESERVES THE RIGHT TO INCREASE PRICES UPON THIRTY (30) CALENDAR DAYS' NOTICE TO ADDRESS FACTORS, INCLUDING BUT NOT LIMITED TO, GOVERNMENT REGULATIONS, TARIFFS, TRANSPORTATION, FUEL AND RAW MATERIAL COSTS. DELIVERY WILL COMMENCE BASED UPON MANUFACTURER LEAD TIMES. ANY MATERIAL DELIVERIES DELAYED BEYOND MANUFACTURER LEAD TIMES MAY BE SUBJECT TO PRICE INCREASES AND/OR APPLICABLE STORAGE FEES. THIS BID PROPOSAL IS CONTINGENT UPON BUYER'S ACCEPTANCE OF SELLER'S TERMS AND CONDITIONS OF SALE, AS MODIFIED FROM TIME TO TIME, WHICH CAN BE FOUND AT: <https://coreandmain.com/TandC/>



INVOICE

1830 Craig Park Court
St. Louis, MO 63146

Invoice # M028566
Invoice Date 3/17/20
Account # 076903
Sales Rep RICHARD BROWN
Phone # 309-444-3183
Branch # 421 Washington, IL
Total Amount Due \$4,044.66

52-93-870
WWTP FORCE MAIN

481 1 MB 0.439 E0463 I0660 D5959911799 S2 P7234045 0004:0005

Remit To:
CORE & MAIN LP
PO BOX 28330
ST LOUIS, MO 63146



CITY OF KEWANEE
CITY CLERK'S OFFICE
401 E 3RD ST
KEWANEE IL 61443-2365

Shipped to:
194 FISCHER AVE
CHRIS DOOLEY 309-312-0085
KEWANEE, IL

Thank you for the opportunity to serve you! We appreciate your prompt payment.

Date Ordered	Date Shipped	Customer PO #	Job Name	Job #	Bill of Lading	Shipped Via	Invoice #
3/06/20	3/10/20	SEE BELOW	WWTP REPAIRS			CORE & MAIN LP	M028566

Product Code	Description	Quantity			Price	UM	Extended Price
		Ordered	Shipped	B/O			
	CUSTOMER PO#- WWTP FORCE MAIN						
21I204M	20 MJ 45 C153 IMP	3	3		547.36000	EA	1,642.08
21I202M	20 MJ 22-1/2 C153 IMP	1	1		572.00000	EA	572.00
24I24FB	24 BLIND FLG DI IMP	1	1		874.28000	EA	874.28
24AFBNGF24RAS	24X1/8 FLG ACC RR FF 304SS B&N	1		1	1.00000	EA	.00
24AFBNGF20RAS	20X1/8 FLG ACC RR FF 304SS	1		1	.02000	EA	.00
21AMF8204020	20 PVC 4020 STARGRIP RESTR (I) GLAND ONLY	3	3		295.00000	EA	885.00
21AMB10745CT	3/4X4-1/2 COR-TEN T-HEAD B & N	28	28		1.60000	EA	44.80
21AMG120	20 MJ REGULAR GASKET F/DI	2	2		13.25000	EA	26.50

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- Signed Delivery Receipts

Remit payment to the address shown on this invoice or access your account in Online Advantage to pay online.

Freight	Delivery	Handling	Restock	Misc.
---------	----------	----------	---------	-------

Subtotal:	4,044.66
Other:	0.00
Tax:	0.00
Invoice Total:	\$4,044.66

Terms: NET 30

Ordered By: CHRIS DOOLEY

This transaction is governed by and subject to CORE & MAIN's standard terms and conditions, which are incorporated by reference and accepted.
To review these terms and conditions, please visit: <http://tandc.coreandmain.com/>.



INVOICE

Invoice # M016471
Invoice Date 3/17/20
Account # 076903
Sales Rep RICHARD BROWN
Phone # 309-444-3183
Branch # 421 Washington, IL
Total Amount Due \$821.92

1830 Craig Park Court
St. Louis, MO 63146

Remit To:
CORE & MAIN LP
PO BOX 28330
ST LOUIS, MO 63146

481 1 MB 0.439 E0463 I0659 D5959911797 S2 P7234045 0003:0005



CITY OF KEWANEE
CITY CLERK'S OFFICE
401 E 3RD ST
KEWANEE IL 61443-2365

Shipped to:
194 FISCHER AVE
CHRIS DOOLEY 309.312.0085
KEWANEE, IL

Thank you for the opportunity to serve you! We appreciate your prompt payment.

Date Ordered	Date Shipped	Customer PO #	Job Name	Job #	Bill of Lading	Shipped Via	Invoice #
3/04/20	3/10/20	SEE BELOW	WWTP REPAIRS			CORE & MAIN LP	M016471

Product Code	Description	Quantity		B/O	Price	UM	Extended Price
		Ordered	Shipped				
CUSTOMER PO#- WWTP FORCE MAIN							
/21016036315	20 DI STARFLANGE ADAPT ONLY RAC20G FOR PVC	1	1		821.92000	EA	821.92

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Freight Delivery Handling Restock Misc.

Subtotal: 821.92
Other: 0.00
Tax: 0.00
Invoice Total: \$821.92

Terms: NET 30

Ordered By: ROD

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To review these terms and conditions, please visit: <http://tandc.coreandmain.com/>.



INVOICE

1830 Craig Park Court
St. Louis, MO 63146

Invoice # M014834
Invoice Date 3/17/20
Account # 076903
Sales Rep RICHARD BROWN
Phone # 309-444-3183
Branch # 421 Washington, IL
Total Amount Due \$2,443.30

Remit To:
CORE & MAIN LP
PO BOX 28330
ST LOUIS, MO 63146

481 1 MB 0.439 E0463 I0658 D5959911793 S2 P7234045 0002:0005



CITY OF KEWANEE
CITY CLERK'S OFFICE
401 E 3RD ST
KEWANEE IL 61443-2365

Shipped to:
194 FISCHER AVE
CHRIS DOOLEY 309.312.0085
KEWANEE, IL

Thank you for the opportunity to serve you! We appreciate your prompt payment.

Date Ordered	Date Shipped	Customer PO #	Job Name	Job #	Bill of Lading	Shipped Via	Invoice #
3/04/20	3/10/20	SEE BELOW	WWTP REPAIRS			CORE & MAIN LP	M014834

Product Code	Description	Quantity			Price	UM	Extended Price
		Ordered	Shipped	B/O			
	CUSTOMER PO#- WWTP FORCE MAIN						
022025W	20 C900 DR25 PVC PIPE (G) 20' PC165 BID SEQ# 30	20	20		37.72000	FT	754.40
21AMB10745CT	3/4X4-1/2 COR-TEN T-HEAD B & N BID SEQ# 50	84	84		1.60000	EA	134.40
21AMG120	20 MJ REGULAR GASKET F/DI BID SEQ# 60	6	6		13.25000	EA	79.50
21AMF8204020	20 PVC 4020 STARGRIP RESTR (I) GLAND ONLY BID SEQ# 80	5	5		295.00000	EA	1,475.00

52-93-870

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ADVANTAGE

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- Invoice Reprints
- Signed Delivery Receipts

Remit payment to the address shown on this invoice or access your account in Online Advantage to pay online.

Freight Delivery Handling Restock Misc.

Subtotal: 2,443.30
Other: 0.00
Tax: 0.00
Invoice Total: \$2,443.30

Terms: NET 30

Ordered By: ROD

This transaction is governed by and subject to CORE & MAIN's standard terms and conditions, which are incorporated by reference and accepted.
To review these terms and conditions, please visit: <http://tandc.coreandmain.com/>.



INVOICE

1830 Craig Park Court
St. Louis, MO 63146

Invoice # M056563
Invoice Date 3/17/20
Account # 076903
Sales Rep RICHARD BROWN
Phone # 309-444-3183
Branch # 421 Washington, IL
Total Amount Due \$832.89

Remit To:
CORE & MAIN LP
PO BOX 28330
ST LOUIS, MO 63146

481 1 MB 0.439 E0463 I0661 D5959911803 S2 P7234045 0005:0005



Shipped to:



CITY OF KEWANEE
CITY CLERK'S OFFICE
401 E 3RD ST
KEWANEE IL 61443-2365

CUSTOMER PICK-UP -

Thank you for the opportunity to serve you! We appreciate your prompt payment.

Date Ordered	Date Shipped	Customer PO #	Job Name	Job #	Bill of Lading	Shipped Via	Invoice #
3/12/20	3/16/20	SEE BELOW	WWTP REPAIRS			PICK UP	M056563

Product Code	Description	Quantity		B/O	Price	UM	Extended Price
		Ordered	Shipped				
CUSTOMER PO#- WWTP FORCE MAIN							
21I24PT	24 MJ PLUG C153 IMP	1	1		654.39000	EA	654.39
21AMG124	24 MJ REGULAR GASKET F/DI	1	1		12.90000	EA	12.90
21AMB10745CT	3/4X4-1/2 COR-TEN T-HEAD B & N	16	16		1.60000	EA	25.60

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Online
ADVANTAGE

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- Invoice Reprints
- Signed Delivery Receipts

Remit payment to the address shown on this invoice or access your account in Online Advantage to pay online.

Freight	Delivery	Handling	Restock	Misc.
\$140.00				

Subtotal:	692.89
Other:	140.00
Tax:	0.00
Invoice Total:	\$832.89

Terms: NET 30

Ordered By: CHRIS DOOLEY

This transaction is governed by and subject to CORE & MAIN's standard terms and conditions, which are incorporated by reference and accepted.
To review these terms and conditions, please visit: <http://tandc.coreandmain.com/>.

RESOLUTION NO. 5213

A RESOLUTION TO RATIFY AND AUTHORIZE THE EXPENDED FUNDS USED TO MAKE EMERGENCY REPAIRS TO THE 20" INFLUENT FORCE MAIN AT THE WASTEWATER TREATMENT PLANT AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

WHEREAS, The City Council previously approved a contract with Quad City Directional Boring, Inc. and contracting with Dooley Brothers Plumbing & Heating, Inc. and Ratliff Brothers & Co., Inc. on a cost plus basis to make emergency repairs to 20" ductile iron Influent Force Main piping at the wastewater treatment plant; and,

WHEREAS, The work is complete and all contractor invoices have been submitted; and,

WHEREAS, The total cost of all work performed by Quad City Directional Boring, Inc. is \$90,618.00; and,

WHEREAS, The total cost of all work performed by Dooley Brothers Plumbing & Heating, Inc. is \$14,145.00; and,

WHEREAS, The total cost of all work performed by Ratliff Brothers & Co., Inc is \$43,511.75; and,

WHEREAS, The total cost of all work performed by BEA Britton Electronics & Automation, Inc. is \$1,905.46; and,

WHEREAS, The total cost of all pipe fittings purchased direct by the City from Core & Main is \$21,365.62; and,

WHEREAS, An additional \$1,046.47 was spent on miscellaneous small supplies; and,

WHEREAS, The total aggregate cost of all work performed and materials purchased is \$172,592.30; and,

WHEREAS, This cost is an unbudgeted expense to the FY2020 budget although the Sanitary Sewer Enterprise Fund has sufficient Reserves to cover all costs.

NOW THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF KEWANEE THAT:

Section 1 All funds expended to Quad City Directional Boring, Inc., Dooley Brothers Plumbing & Heating, Inc., Ratliff Brothers & Co, Inc., BEA Britton Electronics & Automation, Inc., Core & Main, and other suppliers to isolate the 20" Influent Force Main line, attempt to patch the existing pipe, then bore in a new 20" HDPE pipe are hereby ratified.

Section 2 This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April 27, 2020	
RESOLUTION OR ORDINANCE NUMBER	Resolution #5214	
AGENDA TITLE	Consideration of a Resolution approving the use of incentives under the small business interest payment program by Midwest Trailer Manufacturing	
REQUESTING DEPARTMENT	Administration	
PRESENTER	Gary Bradley, City Manager	
FISCAL INFORMATION	Cost as recommended:	Not to exceed \$40,000
	Budget Line Item:	02-61-930.2
	Balance Available	TBD
	New Appropriation Required:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
PURPOSE	Authorizes the use of the small business interest payment program by MTM	
BACKGROUND	The City provided a low interest loan to MTM in July 2016 from the Revolving Loan Program. Since that time, the company has restructured its ownership, narrowed its product line, reduced its overhead, and borrowed additional funds to inject capital into its operations. They have continued to grow at a manageable pace and have developed a presence in the marketplace.	
SPECIAL NOTES	N/A	

ANALYSIS	<p>The loan taken out in 2016 was taken with the idea that they would be able to qualify for this program. They sought funding through this program in 2017 and were awarded funding. They failed to request funding through the program the following year, then the council failed to appropriate funding because there were no program participants. If the program continues to be unfunded because there are no applicants and no one applies because there is no funding, we will have created a completely useless program.</p> <p>Making this small commitment helps to ensure the viability of the previous loan and provides a small boost to a growing company.</p> <p>The Goals included in their narrative would serve as good milestones to include for funding under the program.</p>
PUBLIC INFORMATION PROCESS	N/A
BOARD OR COMMISSION RECOMMENDATION	N/A
STAFF RECOMMENDATION	N/A
REFERENCE DOCUMENTS ATTACHED	Application, bank letter



April 24, 2020

Dear City of Kewanee,

Thank you for considering our application to your small business interest reimbursement program. We have several loans with the State Bank of Toulon, and one in particular, which we believe would qualify for your assistance under this program.

We have grown from a facility producing around 75 trailers per year in 2018, to 175 in 2019, and are well on our way to 250 in 2020. We have been able to continue to operate during this pandemic as we support the construction industry. As such, we were able to maintain our staffing level, with plans to increase staffing to support this growth. In order to make that happen we need your financial assistance.

This financial assistance is vital to the continued operation of the company, and we thank you and the City of Kewanee for your support. We hope to boost Kewanee's economy for years to come by providing good jobs to the area, property and sales taxes, and bringing long-term recognition to the city through our marketing and advertising efforts.

Should you have any further questions, please do not hesitate to contact me at 309.238.0101 or steve@mtmbuilt.com.

Respectfully,

A handwritten signature in black ink, appearing to read 'Steve Endress', written in a cursive style.

Steve Endress

CFO & COO

2000 Kentville Rd

Kewanee, IL 61443



SMALL BUSINESS INTEREST PAYMENT PROGRAM

APPLICATION FOR INTEREST PAYMENTS TO PRIVATE ELIGIBLE BUSINESS AND DEVELOPMENT PROJECT COSTS

Pursuant to the Kewanee Small Business Interest Payment Program guidelines existing businesses, located within the City of Kewanee, with a proper business license (if applicable), insurance and required permits per local, state and federal requirements, or corporations in good standing looking to locate or relocate in Kewanee can apply for this program. If an applicant is a new start-up business and does not have proper license or insurance, then these items can be made a condition of approval. The business can be a tenant leasing space or an owner of property where the business is located. The existing business must create or retain three (3) or more permanent full time equivalent (FTE) jobs.

Private developers seeing reimbursement of interest payments for development project costs are required by the municipality to complete this application allowing the municipality to adequately determine the developer's eligibility for assistance from the small business interest payment program.

**Instructions: Complete each section and return via fax (309) 856-6001 or U. S. Mail or in person to:
City of Kewanee, 401 E. Third Street, Kewanee, IL 61443**

PART 1: DEVELOPER INFORMATION

Developer Legal/Business Name: Midwest Trailer Manufacturing, LLC Date: 04/23/2020

Business type: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation (State of Charter: _____)

☒ Other (please describe): Illinois LLC

Developer's Contact Information:

Name Ben Endress Title President/CEO
Steve Endress Title: CFO/COO

Address 2000 Kentville Rd
City Kewanee State Illinois Zip Code 61443

Daytime Phone 309-937-1493 Mobile 309-525-2030, Steve: 309-238-0101
Fax _____ Email ben@mtmbuilt.com, steve@mtmbuilt.com

PART 2: PROJECT INFORMATION

Project Name Steel Trailer Line Operating Costs

Anticipated Start Date 4/24/2020 Anticipated Completion Date 5/24/2021

Project Description Operating costs, including purchase of raw materials, payroll costs, and overhead costs.

Project is classified as: ☒ Industrial ☐ Commercial

Project Street Address 2000 Kentville Rd, Kewanee, IL 61443



FOR ENTIRE PROJECT:

Total Projected Investment \$6,000,000.00 - (annual operating costs for existing steel trailer company)

Total Number of Jobs Created: Retain 53 employees Number of Jobs FTE: Retain 53 employees

Current annual retail sales (if applicable – commercial projects only) \$ 6,000,000

Projected (new) annual retail sales generated by this project \$ 8,000,000

PART 3: SOURCES AND USES OF FUNDS

Source of Funds:

1. Loan #21026- (\$1,000,000 operating loan) We are requesting \$40,000 in interest reimbursement.
2. Owner Investments and Other local and non-local loans
3. _____

Use of Funds:


1. General Operating Purposes
2. _____
3. _____

PART 4: BANKING INFORMATION

Total Loan amount: \$1,000,000.00 Interest Rate: 4 %

Financial Institution: State Bank of Toulon

Contact at Financial Institution: Mark Rewerts Phone No. 309-852-3366

	<u>CFO/COO</u>	<u>04/24/2020</u>
Private Developer	Title	Date

Office Use Only:

Date received: _____ By _____

More details for Line of Credit 21026

Nickname

Line of Credit

Owner **Midwest Trailer MFG LLC****More Options**Type **Loan****ACH Info**Product **Commercial***Full Account Number*Date Opened **3/2/2018***ACH Routing Number*Pay Off Amount **\$1,001,863.00**Interest Rate (ITR) **4%**Amount of Next Payment **\$1.00**Date of Next Payment **3/2/2021**Interest Paid This Year **\$17,547.92**Interest Accrued, Not Yet Paid **\$1,863.00**Maturity Date **3/02/2021**Original Loan Amount **\$1,000,000.00**

Line of Credit 21026

\$0.00

Available Balance

as of 4/24/2020 7:24 PM

Amount of Next Payment
1.00
Due on 3/2/2021

Amount to payoff
1,001,863.00

ACTIVITY no recent	ALERTS Manage Alerts
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Date Range		03/25/2019 - 4/24/2020			
Date	Description	Category	Advances	Payment	Balance
4/21/2020	Daily Ledger Balance ***				1,000,000.00
4/21/2020	TOTAL PAYMENT ***	Select one	▼	4,458.89	1,000,000.00
4/21/2020	INTEREST PAYMENT ***	Select one	▼	4,458.89	1,000,000.00
3/30/2020	Daily Ledger Balance ***				1,000,000.00
3/30/2020	TOTAL PAYMENT ***	Select one	▼	4,171.23	1,000,000.00
3/30/2020	INTEREST PAYMENT ***	Select one	▼	4,171.23	1,000,000.00
2/07/2020	Daily Ledger Balance ***				1,000,000.00
2/04/2020	TOTAL PAYMENT ***	Select one	▼	4,458.90	1,000,000.00
2/04/2020	INTEREST PAYMENT ***	Select one	▼	4,458.90	1,000,000.00

Date	Description	Category	Advances	Payment	Balance
1/10/2020	Daily Ledger Balance ***				1,000,000.00
1/07/2020	TOTAL PAYMENT ***	Select one	▼	4,458.90	1,000,000.00
1/07/2020	INTEREST PAYMENT ***	Select one	▼	4,458.90	1,000,000.00
12/06/2019	Daily Ledger Balance ***				1,000,000.00
12/02/2019	TOTAL PAYMENT ***	Select one	▼	4,301.36	1,000,000.00
12/02/2019	INTEREST PAYMENT ***	Select one	▼	4,301.36	1,000,000.00
11/08/2019	Daily Ledger Balance ***				1,000,000.00
11/04/2019	TOTAL PAYMENT ***	Select one	▼	4,582.18	1,000,000.00
11/04/2019	INTEREST PAYMENT ***	Select one	▼	4,582.18	1,000,000.00
10/18/2019	Daily Ledger Balance ***				1,000,000.00
10/18/2019	TOTAL PAYMENT ***	Select one	▼	4,726.02	1,000,000.00
10/18/2019	INTEREST PAYMENT ***	Select one	▼	4,726.02	1,000,000.00
9/20/2019	Daily Ledger Balance ***				1,000,000.00
9/20/2019	TOTAL PAYMENT ***	Select one	▼	4,876.70	1,000,000.00
9/20/2019	INTEREST PAYMENT ***	Select one	▼	4,876.70	1,000,000.00
8/09/2019	Daily Ledger Balance ***				1,000,000.00
8/09/2019	TOTAL PAYMENT ***	Select one	▼	5,095.89	1,000,000.00
8/09/2019	INTEREST PAYMENT ***	Select one	▼	5,095.89	1,000,000.00
7/19/2019	Daily Ledger Balance ***				1,000,000.00

Date	Description	Category	Advances	Payment	Balance
7/18/2019	TOTAL PAYMENT ***	Select one	▼	4,010.95	1,000,000.00
7/18/2019	INTEREST PAYMENT ***	Select one	▼	4,010.95	1,000,000.00
6/14/2019	Daily Ledger Balance ***				1,000,000.00
6/14/2019	PRINCIPAL ADVANCE N O SCHED ADVAN ***	Select one	▼	200,000.00	1,000,000.00
6/13/2019	TOTAL PAYMENT ***	Select one	▼	5,128.76	800,000.00
6/13/2019	INTEREST PAYMENT ***	Select one	▼	5,128.76	800,000.00
6/04/2019	Daily Ledger Balance ***				800,000.00
5/29/2019	TOTAL PAYMENT ***	Select one	▼	526.02	800,000.00
5/29/2019	INTEREST PAYMENT ***	Select one	▼	526.02	800,000.00
5/14/2019	Daily Ledger Balance ***				800,000.00
5/14/2019	PRINCIPAL ADVANCE N O SCHED ADVAN ***	Select one	▼	200,000.00	800,000.00
4/18/2019	Daily Ledger Balance ***				600,000.00
4/18/2019	PRINCIPAL ADVANCE N O SCHED ADVAN ***	Select one	▼	200,000.00	600,000.00
4/18/2019	PRINCIPAL ADVANCE N O SCHED ADVAN ***	Select one	▼	200,000.00	400,000.00
4/16/2019	Daily Ledger Balance ***				200,000.00

Date	Description	Category	Advances	Payment	Balance
4/16/2019	PRINCIPAL ADVANCE N O SCHED ADVAN ***	Select one ▾	200,000.00		200,000.00
3/29/2019	Daily Ledger Balance ***				0.00

RESOLUTION NO. 5214

A RESOLUTION APPROVING THE USE OF INCENTIVES UNDER THE SMALL BUSINESS INTEREST PAYMENT PROGRAM BY MIDWEST TRAILER MANUFACTURING AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

WHEREAS, The City Council approved Community and Economic Development Incentives for use in the City of Kewanee in September 2016; and,

WHEREAS, Those incentives included the Small Business Interest Payment Program intended to assist existing legal businesses within the City of Kewanee with obtaining financing for certain eligible costs, including operating capital; and,

WHEREAS, Midwest Trailer Manufacturing expressed interest in the program in October 2016, at which time the program had not been funded and participated in the program in 2017; and,

WHEREAS, Midwest Trailer Manufacturing received a low interest loan from the City of Kewanee in July 2016 through the City's Revolving Loan Program; and,

WHEREAS, The City Council finds it in the best interest of the community to continue to support Midwest Trailer Manufacturing in its early stages to ensure the viability of the previous loan and to give a small boost to the company in its work to create and retain good jobs in the community.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KEWANEE IN COUNCIL ASSEMBLED AS FOLLOWS:

Section 1 The City Council of the City of Kewanee accepts the recommendation of staff to authorize the use of the Small Business Interest Payment Program by Midwest Trailer Manufacturing in conjunction with a loan from State Bank of Toulon.

Section 2 The City Council finds it is in the best interests of the City of Kewanee and would promote industrial development; protect current levels of employment, and create new job opportunities in the City of Kewanee. Therefore, the City Council authorizes the use of the Small Business Interest Payment Program by Midwest Trailer Manufacturing for a loan not to exceed \$1.1 with a three year maturity, such maturity date occurring on or before March 2, 2021.

- Section 3** The Mayor, City Attorney, City Manager, and City Clerk are hereby authorized and directed to execute any and all documents necessary to bind the City and to make said authorization to Midwest Trailer Manufacturing, as approved by the City Attorney.
- Section 4** Said authorization, is expressly conditioned upon Midwest Trailer Manufacturing complying with:
- A. All terms and conditions of said Small Business Interest Payment program and said Midwest Trailer Manufacturing providing the City with adequate written documentation of compliance with said terms and conditions, including, but not limited to, the specific retention of FTE 53 jobs, and sales/production of no less than \$7.5 million per year.
 - B. Funds received shall be used exclusively for the payment or reimbursement of interest on the loan stated in the application filed by Midwest Trailer Manufacturing and above referenced in this resolution.
- Section 5** This resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Kornick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

RESOLUTION NO. 5215

A RESOLUTION ESTABLISHING GUIDELINES FOR THE USE OF INCENTIVES FOR A SHORT TERM ECONOMIC DEVELOPMENT PROGRAM INTENDED TO HELP SMALL BUSINESSES RECOVER FROM THE COVID-19 PANDEMIC AND ITS NEGATIVE IMPACTS ON THE LOCAL ECONOMY AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

WHEREAS, The City has made it a priority to develop and implement Economic Development plans, policies, and programs to strengthen the local economic climate, diversify the tax base, and enhance the viability and sustainability of the community's and commercial areas; and

WHEREAS, the City's economic climate has been significantly negatively impacted by the COVID-19 Pandemic and actions taken to slow down the spread of the virus, including but not limited to the complete or partial shutdown of certain business activities;

WHEREAS, the City has a fund balance in its revolving loan fund program and other economic development funds that can greatly assist small businesses in their efforts to survive the current economic climate and remain vital enterprises; and

WHEREAS, it is important for the City to have a streamlined, fast, and efficient program that is responsive to business needs and can quickly come to the aid of the business community; and

WHEREAS, having clearly defined guidelines for the use of incentive programs helps to provide potential beneficiaries with an understanding of what their eligibility, the application and approval processes, the potential uses for such funds, reporting requirements, and other pertinent information about the program.

NOW THEREFORE BE IT RESOLVED, BY THE KEWANEE CITY COUNCIL, IN COUNCIL ASSEMBLED, AS FOLLOWS:

Section 1 The attached guidelines for the Small Business Loan Program are hereby adopted.

Section 2 This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

Loan Programs

SMALL BUSINESS LOAN PROGRAM

PURPOSE

The purpose of the Small Business Loan Program is to assist small businesses in Kewanee affected by the COVID-19 Pandemic to help ensure their survival and the retention of jobs within the community. Loans under the program will be small (under \$20,000) short-term loans (three years or less) with a low-interest rate (2.5%) , extended to self-employed individuals or small businesses with only a few employees..

AUTHORIZATION

The City of Kewanee is the administrator of this program. Budgetary approval for the program rests with the authority of the City Council, while authorization for program implementation is the responsibility of the City Manager and assigned staff.

ELIGIBLE AREAS

Financing under this program is available to all eligible businesses located within the city limits of the City of Kewanee.

ELIGIBLE APPLICANTS

Applicants for the program must be existing legal businesses in good standing with the State of Illinois, located within the City of Kewanee, with a proper local business license (if applicable), insurance, and required permits per local, state and federal requirements. The business can be a tenant leasing space or an owner of property where the business is located.

PROGRAM BENEFITS/ELIGIBLE USES

Eligible use of program funds include but are not limited to:

- Payroll
- Working capital
- Inventory or supplies

FUNDING INFORMATION

The program will operate from May 1, 2020 through June 30, 2020, with applications accepted on a continual basis and funded on a first come, first served basis until budgeted resources are exhausted. The minimum loan under this program is \$2,500 and the maximum loan amount is \$20,000.

APPLICATION/APPROVAL PROCEDURE

Applications are available online through the City's website. The City will evaluate applications based on the information submitted and the project's conformance with adopted goals and desired outcomes of the City.

A completed application form and required submittals shall be submitted to the City, including a detailed description of the intended use of funds and collateral to be pledged as security for the note, if applicable.

Approval of applications, though dependent upon available funding provided by the City from multiple sources, will be provided by the City Council and requires no action from any other body in order to streamline the approval process.

Loans under the program are for a period not to exceed 36 months. Terms and conditions of each loan will vary based on circumstances.

CONTACT

City of Kewanee

Gary Bradley, City Manager
401 E. Third Street,
Kewanee, IL 61443

Phone: (309)853-4200

Email: gbradley@Cityofkewanee.net

Website: www.Cityofkewanee.com

Month	Starting Balance (\$)	Payment Made (\$)	Interest Paid (\$)	Principal Paid (\$)	Ending Balance (\$)
1	20000.00	41.67	41.67	0	20000.00
2	20000.00	41.67	41.67	0	20000.00
3	20000.00	41.67	41.67	0	20000.00
4	20000.00	41.67	41.67	0	20000.00
5	20000.00	41.67	41.67	0	20000.00
6	20000.00	41.67	41.67	0	20000.00
7	20000.00	688.41	41.67	646.74	19353.26
8	19353.26	688.41	40.32	648.09	18705.16
9	18705.16	688.41	38.97	649.44	18055.72
10	18055.72	688.41	37.62	650.79	17404.93
11	17404.93	688.41	36.26	652.15	16752.78
12	16752.78	688.41	34.90	653.51	16099.27
13	16099.27	688.41	33.54	654.87	15444.40
14	15444.40	688.41	32.18	656.24	14788.16

15	14788.16	688.41	30.81	657.60	14130.56
16	14130.56	688.41	29.44	658.97	13471.59
17	13471.59	688.41	28.07	660.35	12811.24
18	12811.24	688.41	26.69	661.72	12149.52
19	12149.52	688.41	25.31	663.10	11486.42
20	11486.42	688.41	23.93	664.48	10821.94
21	10821.94	688.41	22.55	665.87	10156.07
22	10156.07	688.41	21.16	667.25	9488.82
23	9488.82	688.41	19.77	668.64	8820.18
24	8820.18	688.41	18.38	670.04	8150.14
25	8150.14	688.41	16.98	671.43	7478.71
26	7478.71	688.41	15.58	672.83	6805.88
27	6805.88	688.41	14.18	674.23	6131.65
28	6131.65	688.41	12.77	675.64	5456.01
29	5456.01	688.41	11.37	677.04	4778.97
30	4778.97	688.41	9.96	678.45	4100.51

31	4100.51	688.41	8.54	679.87	3420.65
32	3420.65	688.41	7.13	681.28	2739.36
33	2739.36	688.41	5.71	682.70	2056.66
34	2056.66	688.41	4.28	684.13	1372.53
35	1372.53	688.41	2.86	685.55	686.98
36	686.98	688.41	1.43	686.98	0.00

1	20000.00	688.41	41.67	646.74	19353.26
2	19353.26	688.41	40.32	648.09	18705.16
3	18705.16	688.41	38.97	649.44	18055.72
4	18055.72	688.41	37.62	650.79	17404.93
5	17404.93	688.41	36.26	652.15	16752.78
6	16752.78	688.41	34.90	653.51	16099.27
7	16099.27	688.41	33.54	654.87	15444.40
8	15444.40	688.41	32.18	656.24	14788.16
9	14788.16	688.41	30.81	657.60	14130.56
10	14130.56	688.41	29.44	658.97	13471.59
11	13471.59	688.41	28.07	660.35	12811.24
12	12811.24	688.41	26.69	661.72	12149.52
13	12149.52	688.41	25.31	663.10	11486.42
14	11486.42	688.41	23.93	664.48	10821.94
15	10821.94	688.41	22.55	665.87	10156.07

16	10156.07	688.41	21.16	667.25	9488.82
17	9488.82	688.41	19.77	668.64	8820.18
18	8820.18	688.41	18.38	670.04	8150.14
19	8150.14	688.41	16.98	671.43	7478.71
20	7478.71	688.41	15.58	672.83	6805.88
21	6805.88	688.41	14.18	674.23	6131.65
22	6131.65	688.41	12.77	675.64	5456.01
23	5456.01	688.41	11.37	677.04	4778.97
24	4778.97	688.41	9.96	678.45	4100.51
25	4100.51	688.41	8.54	679.87	3420.65
26	3420.65	688.41	7.13	681.28	2739.36
27	2739.36	688.41	5.71	682.70	2056.66
28	2056.66	688.41	4.28	684.13	1372.53
29	1372.53	688.41	2.86	685.55	686.98
30	686.98	688.41	1.43	686.98	0.00

CONSIDERING BUYING A NEW CAR?

RESOLUTION NO. 5216

A RESOLUTION TO AFFIRM THE MAYOR'S RECOMMENDATION FOR APPOINTMENTS TO VARIOUS COMMISSIONS AND BOARDS, AND DECLARING THAT THIS RESOLUTION SHALL BE IN FULL FORCE IMMEDIATELY.

WHEREAS, The Mayor is responsible for the appointment of individuals to serve on various boards and commissions that serve the Council, and the community; and

WHEREAS, The Mayor hereby recommends the following individuals for appointment to serve on a board or commission as delineated, and for a term as indicated.

BE IT RESOLVED, BY THE CITY COUNCIL OF KEWANEE:

Section 1 The following citizens of the City of Kewanee are appointed to the following board or commission, and for the term, indicated:

Board	Expires	City Code Sec.	Name	Address
Board of Zoning Appeals	April 30, 2025	Sec. 33.061	Jim Ensley	1218 W. Prospect Street

Section 2 This Resolution shall be in full force and effect immediately upon its passage and approval as provided by law.

Adopted by the Council of the City of Kewanee, Illinois this 27th day of April 2020.

ATTEST:

Rabecka Jones, City Clerk

Gary Moore, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Gary Moore				
Council Member Mike Komnick				
Council Member Steve Faber				
Council Member Chris Colomer				
Council Member Michael Yaklich				

CITY OF KEWANEE CITY COUNCIL AGENDA ITEM		
MEETING DATE	April, 27, 2020	
RESOLUTION OR ORDINANCE NUMBER	N/A	
AGENDA TITLE	Ambulance Service to Neponset – Discussion Only	
REQUESTING DEPARTMENT	Council Discussion	
PRESENTER	Kevin Shook, Fire Chief	
FISCAL INFORMATION	Cost as recommended:	Revenue of \$28,000
	Budget Line Item:	Revenue 01-22-349.1
	Balance Available	N/A
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
PURPOSE	Discussion on contract with Neponset Fire Protection District for emergency ambulance service.	
BACKGROUND	Following discussion at two consecutive council meetings and the item approved during a third meeting in the spring of 2019 a contract for service was signed for ambulance service to the Neponset Fire Protection District. This contract took effect on June 14, 2019. The contract was written as a one-year contract with the option for both parties to extend with financial increases for cost of service included for the first four years.	
SPECIAL NOTES		

ANALYSIS	The City is currently performing this service. It has not created any reported hardships on staff on responses to local emergencies. The costs of operations for the additional responses were considered in the original contract. As of April 13 th , 2020 while under contract thirty responses to the NFPD service area have been logged with a comparable historical collection rate to local responses.
PUBLIC INFORMATION PROCESS	Standard postings of agenda and current online meeting standards.
BOARD OR COMMISSION RECOMMENDATION	N/A
STAFF RECOMMENDATION	No Recommendation
PROCUREMENT POLICY VERIFICATION	N/A
REFERENCE DOCUMENTS ATTACHED	Neponset response to date 4-13-20 Neponset Contract

Neponset Fire Prtotection District EMS Calls June 14, 2019 through present April 13, 2020)

Date	Complaint	Call received	On scene	Response time in Minutes	Incident closed	Total call time	Incident loc	Transport to:	Run #	Total billed	Insurance Write off	Bad Debt write off	Collected	Balance
7/11/2019 9:06	Abdominal Pain/Problems	7/11/2019 9:06	7/11/2019 9:15	9	7/11/2019 10:04	58	Neponset	OSF St Luke's	190711-0958	\$1,026.00	\$482.35	\$225.00	\$318.65	\$0.00
7/26/2019 10:22	Psychiatric Problem/Abnormal Behavior/Suicide Attempt	7/26/2019 10:22	7/26/2019 10:35	13	7/26/2019 11:50	88	Neponset	OSF St Luke's	190726-1112	\$942.00	\$553.36		\$388.64	\$0.00
7/28/2019 21:49	Falls	7/28/2019 21:49	7/28/2019 21:58	9	7/28/2019 22:39	50	Neponset	OSF St Luke's	190728-2148	\$914.00	\$734.57		\$179.43	\$0.00
8/26/2019 4:54	Sick Person	8/26/2019 4:54	8/26/2019 5:11	17	8/26/2019 6:09	75	Neponset	OSF St Luke's	190826-0555	\$1,026.00	\$544.72		\$434.00	\$0.00
8/29/2019 8:01	Falls	8/29/2019 8:01	8/29/2019 8:09	8	8/29/2019 9:00	59	Neponset	OSF St Luke's	190829-0851	\$916.00	\$442.85		\$473.15	\$0.00
9/8/2019 14:11	Breathing Problem	9/8/2019 14:11	9/8/2019 14:17	6	9/8/2019 15:02	51	Neponset	OSF St Luke's	190908-1455	\$1,014.00	\$442.85		\$473.15	\$0.00
9/16/2019 14:47	Sick Person	9/16/2019 14:47	9/16/2019 14:56	9	9/16/2019 15:50	63	Neponset	OSF St Luke's	190916-1548	\$1,068.00	\$527.77		\$540.23	\$0.00
9/18/2019 10:59	Convulsions/Seizure	9/18/2019 10:59	9/18/2019 11:08	9	9/18/2019 11:55	54	Neponset	OSF St Luke's	190918-1144	\$1,028.00	\$0.00	\$205.60	\$822.40	\$0.00
9/22/2019 0:22	Assault	9/22/2019 0:22	9/22/2019 0:28	6	9/22/2019 0:53	31	Neponset	refusal	190922-0030	\$25.00	\$0.00	\$25.00		\$0.00
9/23/2019 10:50	Unknown Problem/Person Down	9/23/2019 10:50	9/23/2019 11:00	10	9/23/2019 11:13	23	Neponset	refusal	190923-1051	\$25.00	\$0.00		\$25.00	\$0.00
9/29/2019 10:42	Sick Person	9/29/2019 10:42	9/29/2019 10:49	7	9/29/2019 11:42	60	Neponset	OSF St Luke's	190929-1128	\$990.00	\$465.52		\$524.48	\$0.00
10/7/2019 13:41	Sick Person	10/7/2019 13:41	10/7/2019 13:49	8	10/7/2019 14:14	33	Neponset	refusal	191007-0845	\$25.00	\$0.00	\$25.00		\$0.00
10/10/2019 17:47	Unknown Problem/Person Down	10/10/2019 17:47	10/10/2019 17:57	10	10/10/2019 18:20	33	Neponset	refusal	191010-1747	\$0.00	\$0.00		\$0.00	\$0.00
10/25/2019 22:00	Cardiac Arrest/Death	10/25/2019 22:00	10/25/2019 22:09	9	10/25/2019 22:46	46	Neponset	DAS	191025-2214	\$0.00	\$0.00		\$0.00	\$0.00
10/30/2019 1:16	Sick Person	10/30/2019 1:16	10/30/2019 1:24	8	10/30/2019 1:53	37	Neponset	OSF St Luke's	191030-0114	\$926.00	\$747.03		\$178.97	\$0.00
11/17/2019 7:56	Falls	11/17/2019 7:56	11/17/2019 8:08	12	11/17/2019 9:09	73	Neponset	OSF St Luke's	191117-0903	\$1,112.00	\$450.13		\$537.04	\$114.83
11/26/2019 7:31	Breathing Problem	11/26/2019 7:31	11/26/2019 7:38	7	11/26/2019 8:28	57	Neponset	OSF St Luke's	191126-0825	\$1,040.00	\$515.52		\$524.48	\$0.00
12/8/2019 2:51	Sick Person	12/8/2019 2:51	12/8/2019 2:58	7	12/8/2019 3:17	28	Neponset	refusal	191208-0252	\$25.00				\$25.00
12/13/2019 6:02	Traffic Accident	12/13/2019 6:02	12/13/2019 6:12	10	12/13/2019 6:23	19	Neponset	refusal	191213-0625	\$25.00				\$25.00
1/1/2020 11:05	Sick Person	1/1/2020 11:05	1/1/2020 11:13	8	1/1/2020 12:12	67	Neponset	OSF St Luke's	200101-1158	\$773.68	196.59		\$577.09	\$0.00
1/3/2020 10:26	Falls	1/3/2020 10:26	1/3/2020 10:34	8	1/3/2020 10:40	14	Neponset	refusal	200103-0951	\$25.00		\$25.00		\$0.00
2/3/2020 16:39	Falls	2/3/2020 16:39	2/3/2020 16:45	6	2/3/2020 17:36	57	Neponset	OSF St Luke's	200203-1731	\$1,034.00	509.08		\$418.23	\$106.69
2/3/2020 20:03	Altered Mental Status	2/3/2020 20:03	2/3/2020 20:12	9	2/3/2020 21:04	61	Neponset	OSF St Luke's	200203-2051	\$1,056.00				\$1,056.00
2/9/2020 20:10	Psychiatric Problem/Abnormal Behavior/Suicide Attempt	2/9/2020 20:10	2/9/2020 20:19	9	2/9/2020 20:59	49	Neponset	OSF St Luke's	200209-2035	\$854.00	412.5		\$351.77	\$89.73
2/14/2020 17:36	Stroke/CVA	2/14/2020 17:36	2/14/2020 17:48	12	2/14/2020 18:35	47	Neponset	OSF St Luke's	200214-1737	\$1,078.00				\$1,078.00
2/20/2020 17:43	Sick Person	2/20/2020 17:43	2/20/2020 17:50	7	2/20/2020 18:46	56	Neponset	OSF St Luke's	200220-1838	\$1,018.00	473.77		\$544.23	\$0.00
2/22/2020 15:41	Psychiatric Problem/Abnormal Behavior/Suicide Attempt	2/22/2020 15:41	2/22/2020 15:47	6	2/22/2020 16:28	49	Neponset	OSF St Luke's	200222-1550	\$864.00	416.82		\$356.29	\$90.89
3/15/2020 19:02	Sick Person	3/15/2020 19:02	3/15/2020 19:10	8	3/15/2020 20:38	88	Neponset	OSF St Luke's	200315-2027	\$1,018.00				\$1,018.00
3/18/2020 5:27	Falls	3/18/2020 5:27	3/18/2020 5:35	8	3/18/2020 5:50	23	Neponset	refusal	200318-0547	\$25.00				\$25.00
3/30/2020 0:40	Electrocution/Lighting	3/30/2020 0:40	3/30/2020 0:50	10	3/30/2020 1:04	24	Neponset	refusal	200330-0048	\$0.00				\$0.00
30 calls				Avg 8.66 minutes		Avg 49.1 minutes		20 transports/ 9 refusals/ 1 DAS	TOTALS	\$19,872.68	\$7,915.43	\$505.60	\$7,667.23	\$3,629.14