



MONTGOMERY COUNTY

Purchasing Department

451 W. Third St., P.O. Box 972, Dayton, Ohio 45422-1375

Kyle Kolopanis

Purchasing and Central Services Director

ITEM: RFP900029
TITLE: **Public Relations and Marketing Communications Services**
DEPARTMENT: Montgomery County Business Services
DELIVERY: 451 W. Third St.
Dayton, OH 45422
BID SUBMISSION: Montgomery County Purchasing Department
PO Box 972
451 W. Third Street, 9th Floor
Dayton, OH 45422-1375
DUE DATE: **December 4, 2019**
DUE TIME: **1:30 p.m., LOCAL TIME**
CONTACT: **Denise Burris, Buyer (937) 225-4675**
PRE BID: None
BOND REQUIREMENTS: Bid NONE
Performance* NONE

*Bond, Certified or Cashier's Check ONLY, **NO COMPANY CHECKS** Accepted.*

Performance Bond is required **AFTER contract award.*

FORM REQUIREMENTS: Form 3 Disclosure Policy
 Form 4 Personal Property Taxes

SUBMISSION REQUIREMENTS:

1. Two (2) **COMPLETE PACKETS** and one (1) **PDF** on electronic media (flash drive) of all documents submitted are required for the complete evaluation of the product or services being offered. **Failure to provide required number of copies may be cause to reject your bid.**
2. ONE (1) of the complete packets **MUST BE THE ORIGINAL** and **SIGNED IN BLUE INK.**
3. All items noted by CHECK MARK above, **MUST BE SUBMITTED** with bid. **Failure to submit the REQUIRED Bond, Forms or Number of Copies MAY BE CAUSE for REJECTION of your bid.**
4. All bids **MUST BE** submitted by the **TIME** and **DATE** above. **NO BIDS** will be accepted after the listed time.
5. Bids shall be in a **SEALED** envelope or package with the **BID Information** on the **OUTSIDE** of the package.
6. **ALL Spaces** of the Bid Document shall be filled in clearly.
7. It is the **BIDDER'S Responsibility** to check for Addendum's **PRIOR** to submitting bids. This can be done by going www.mcoho.org/onlinebids and reviewing the Bid List.
8. It is the **BIDDER'S Responsibility** to read all General Terms & Conditions.
9. A copy of the Bid Tabulation will be provided upon request. Please allow two weeks before a request is made.

GENERAL CONDITIONS

●●●●THESE GENERAL CONDITIONS MAY NOT BE ALTERED OR TAKEN EXCEPTION TO BY BIDDERS.●●●●

●●●●●INSTRUCTIONS TO BIDDERS. Please be certain that you have seen and understand all pages of these general conditions, as you will be responsible for doing so. To insure the acceptance of your Bid, please read and follow these directions:

1. **Special Conditions:** All of the conditions applicable to the Bid shall be read so as to give meaning to all of such provisions. However, when there is a conflict in the interpretation between a special condition in the Bid Document and a general condition, the special condition in the Bid Document shall take precedence.

2. **Applicable Laws:** The Revised Code of the State of Ohio, and the applicable resolutions of the Board of County Commissioners for Montgomery County, Ohio (the "Board") insofar as they apply to the laws of competitive bidding, contracts, and purchases are made a part hereof as if fully restated herein. All laws of the United States of America, the State of Ohio, and Montgomery County, Ohio applicable to the products or services discussed herein or to be provided hereby, are also made a part hereof.

3. **Pre-bid Conference:** There will be a mandatory pre-bid conference unless otherwise provided in the Bid Document. The pre-bid conference will be held at a time and place provided for in the Bid Document to answer any questions the prospective Bidders may have concerning this document, the bidding/selection/contracting process, and the usage of particular services/materials being procured through this specification. The Board, and any officers, employees, successors, administrators or agents of same, will not be responsible for mistakes made by Bidders due to their failure to attend the pre-bid conference. Failure to attend the pre-bid conference may be cause to reject your Bid.

Questions and inquiries concerning this Bid shall be directed to the person designated in the Bid Documents for receipt of such questions or, if no such person is designated, to Director, Montgomery County Purchasing Department, 451 West Third Street, Eleventh Floor, Dayton, Ohio 45422. Questions should be submitted in writing ten days prior to the pre-bid conference. All questions and answers covered at the pre-bid conference will be mailed to those in attendance at that conference. While every effort will be made to answer all questions at the pre-bid conference, the written response to any such questions shall be controlling in the event of a conflict with an oral response given at the pre-bid conference.

4. **Conflict of Interest:** Prospective Bidders shall not contact any public employee by any means or method, including by telephone, regarding this specification and the procurement it represents except in the manner indicated above. Failure to comply with this requirement shall result in the disqualification of the Bidder.

5. **Workers Compensation:** When required by the Bid Document, the successful Bidder agrees to take out and maintain Workers Compensation Insurance upon its employees throughout the term of the contract. The Bidder also agrees to furnish an official certification from the Industrial Commission of Ohio, showing that the successful Bidder has paid the necessary premiums for Workers Compensation insurance, whenever the Bid Document requires Workers Compensation. If such certification is required in the Bid Document, no contract between the Board and the Bidder shall be created until a fully executed copy of such certification has been served upon the Board.

6. **Infringements and Indemnifications:** To the fullest extent permitted by law, the successful Bidder shall protect, defend, indemnify and hold free and harmless the Board, and any officers, employees, successors, administrators or agents of same, from and against any and all claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities and expenses of any kind, including but not limited to attorney fees, arising out of or resulting from any acts or omissions of the successful Bidder, its officers, employees, consultants, agents, subcontractors, sub-subcontractors, successors or administrators, negligent or otherwise, and regardless of whether such claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities or expense is caused in part by any party indemnified hereunder. The successful Bidder also agrees to be responsible for the payment of all damages, settlements, costs and expenses of any kind, including attorney fees, incurred by the Board while the Board defends or pursues any action, cause of action, or claim which arises out the aforementioned acts or omissions. Such obligations include any claims arising out of the use of any patented material, process, article, or device that may enter into the manufacture, construction, or form a part of the work covered by either the order or contract. Such obligations shall not be construed to negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist as to a party or person described herein.

7. **Default Provisions:** In case of default by the successful Bidder, the Board may procure the articles or services provided for herein from any other source or sources and hold the successful Bidder responsible for any excess costs occasioned thereby.

8. **Termination of Contract:** The contract stemming from this Bid shall contain a provision that it may be terminated by either party upon written notice provided to the other party within such time period as the Board may determine therein.

9. **Pricing:** Prices should be stated in the units of quantity specified in the Bid Document. If the unit quantities requested are not available, include both the prices for the units that are available and a breakdown of those prices for the quantities requested. In case of a discrepancy in computing the amount of the Bid, quoted unit prices for requested quantities will govern.

10. **Delivery:** Quotations should include all charges for delivery, packing, crating, containers, etc. Unless otherwise stated by the Bidder, prices quoted will be considered as being based on delivery to the destination designated in the Bid Document and to include all delivery and packing charges.

11. **Makes:** References to a particular trade name, manufacturer's catalog, or model number, are made for descriptive purposes to guide the Bidder in interpreting the Bid requirements. They should not be construed as excluding proposals on other types of materials, equipment and supplies. However, the successful Bidder will be required to furnish the particular item referred to in the Bid specifications unless a departure or substitution is clearly noted and described in the proposal shown to be compatible with the specifications and accepted by the Board.

12. **Samples:** Samples, when requested, must be furnished free of expense to the Board, and if not destroyed, will upon request be returned at the Bidder's expense.

13. **Cash Discounts:** Time in connection with any cash discount offered would be computed from the date of delivery and acceptance at the final destination or from the date at which a properly executed claim voucher is received if the latter date is later than the date of delivery and acceptance at the final destination.

14. **Taxes:** The Board is generally exempt from Federal Excise Tax and Ohio State Sales Tax. The County's Federal Tax Exemption Registry number is A284670. The Bidder shall be responsible for payment of any and all taxes, which might otherwise apply.

15. **Bid Informalities, Rejection and Award:** The Board reserves the right to reject any or all Bids. The Board further reserves the right to waive any irregularities or clerical error in a Bid and to accept that Bid where, in the judgment of the Board or its agents, it is in the best interest of the Board to do so. The Board also reserves the right to accept a part or parts of a Bid unless otherwise restricted in the Bid Document.

16. **Payments:** Partial payments may be made upon presentation of a properly executed claim voucher to the Montgomery County, Ohio Purchasing Department, unless otherwise stated in the Bid Document. The final payment will be made when the materials, supplies, services, or equipment has been fully delivered and accepted or the work completed to the full satisfaction of the Board. All invoices must show the properly assigned Montgomery County, Ohio Purchase Order Number.

17. **Bidder's Signature:** Each Bid proposal form must be signed by the person or entity who is making the Bid or by the Bidder's duly authorized agent, using the full and usual signature of the person or entity wherever the Bidder's name is requested in the Bid Document. The following signature forms must be followed:

Individuals: Wherever signatures are requested, the individual bidding shall sign in his or her full legal name.

Example: John James Smith.

Sole Proprietors: Wherever signatures are requested, the sole proprietor bidding shall sign in his or her full legal name and any applicable fictitious business name (a "doing business as" name or a "dba" name) should appear after that name.

Example: John James Smith dba Goop Co.

Partnerships: Wherever signatures are requested, a partnership bidding shall include the full legal names of the partners composing the partnership, any applicable fictitious business name of the partnership (a "doing business as" name or a "dba" name), and the name of one or more of the general partners signing the Bid.

Example: John James Smith and Kevin Klondike Jones, dba Goop Co., by John James Smith, partner.

Corporations: Every corporate Bidder must be licensed to do business in the State of Ohio and must be in good standing with the Ohio Secretary of State at the time for opening Bids. Wherever signatures are requested, corporations bidding shall include the full name of the corporation as registered with the Ohio Secretary of State, any applicable fictitious business name of the corporation (a "doing business as" name or a "dba" name), and the name of the authorized corporate officer signing the Bid.

Example: Smith-Jones, Inc. dba Goop Co. by John James Smith, president.

18. **Submission and Receipt of Bids:**

- a) Bidders must use the Bid Document proposal form furnished by the Board or a copy thereof.
- b) Bidders must use the Bid Envelope furnished by the Board or other similarly identified envelope to assure proper handling. If the Bid proposal does not fit into the Bid Envelope furnished by the Board or into another similarly identified envelope, such envelope or similarly identified envelope shall be firmly and prominently attached to the Bid upon submission. All bids must be sealed in an envelope, box or other container.
- c) Separate proposals must be submitted on each reference number.
- d) Proposals having any erasures or corrections thereon may be rejected unless explained or noted over the signature of the Bidder.
- e) Fill in all spaces on the Bid Document. Leaving blank spaces may make your Bid unresponsive. If a particular space in the Bid Document is not applicable to your Bid, indicate "Not applicable," "n/a" or some other similar designation.
- f) All documents requiring signatures must have original signatures. No facsimiles will be accepted.

19. **Correction of Errors:** Corrections of errors in a Bid after the Bid opening shall not be allowed except for extension and/or addition errors which are clearly evident in the Board's sole discretion. Correction of such errors shall only be allowed if accomplished by 4:00 p.m. on the second working day after the Bid opening not counting the day of the Bid opening.

20. **Official Clock:** The official clock to determine whether Bids are submitted before the time at which all Bids are due shall be the clock located in the Purchasing Department Office where the Bids are received.

21. **Bid Evaluation:** All Bids received shall be evaluated using the following three (3) procedures:

- a) **Bid Document Evaluation** - the submitted Bid is compared to the requirements found herein and in the Bid Document for Bid form and content. Failure to meet any of the requirements specified in the Bid Document may result in disqualification of the Bid.
- b) **Bid Specification Evaluation** - the submitted Bid is compared to the specification in the Bid Document. Failure to meet any of the requirements specified in the Bid Document may result in disqualification of the Bid.
- c) **Price Evaluation** - The price proposals in a submitted Bid shall be evaluated on the basis of the lowest and best bid pursuant to Ohio Revised Code §307.86. Bids, which are not lowest and best pursuant to Ohio Revised Code §307.86 will be disqualified.

The Bid award shall be made to the Bidder(s) whose Bid(s):

- i) Has not been disqualified through the Bid Document Evaluation.
- ii) Has not been disqualified through the Bid Specification Evaluation.
- iii) Has not been disqualified through the Bid Price Evaluation.

22. **Responsible Bidders:** The Board reserves the right to consider all elements entering into the question of determining the responsibility of a Bidder.

23. **Intent:** The intent of the Bid Document and the agreement stemming there from is to include all items necessary for the proper execution and completion of the Work by the successful Bidder. The entire Bid Document and the agreement stemming there from are complementary, and what is required by one shall be as binding as if required by all. Performance by the successful Bidder shall be required only to the extent consistent with the Bid Document and the agreement stemming there from and reasonably inferable from them all as being necessary to produce the intended results.

24. **Equal Employment Opportunity:** The successful Bidder will be required to certify that they comply with the Board's anti-discrimination policy and the contract evidencing such successful Bid will contain a term requiring continued compliance with such policy.

25. **Disclosure:** In addition any requirement in the Bid Document, the contract evidencing the successful Bid will contain a covenant to be agreed to by the successful Bidder that it has complied with the Board's disclosure policy adopted pursuant to Resolution No. 83-112, dated January 18, 1983, which requires anyone contracting with the Board to disclose to the Board any business relationship or financial interest that it has with a Montgomery County, Ohio employee or employee's business, or any business relationship or financial interest that a Montgomery County, Ohio employee has with the contracting party or in the contracting party's business. That contract will also create a continuing obligation to disclose such information to the Board.

26. **Offer to Contract:** The contract document to be executed by the successful Bidder shall constitute an offer by the successful Bidder to contract with the Board to supply the Work subject to the Bid Documents. Such contract document shall be neither accepted nor binding until (1) returned to the Montgomery County, Ohio Purchasing Department within ten (10) days of receipt for signature (unless such time is otherwise extended in writing by the Board or its duly authorized agent), (2) certificated by the Auditor of Montgomery County, Ohio, (3) approved by a resolution of the Board, and (4) signed by the Board or the Montgomery County, Ohio Administrator. Such offer to contract shall not be revocable by the Bidder, except as provided by law. In the event no contract document is to be executed by the successful Bidder, the Bid proposal shall constitute an irrevocable offer to enter into a contract and the receipt of the purchase order from the Board pursuant to such contract shall signify the Board's acceptance of the Bidder's offer to contract pursuant to the terms of the Bid Document.

27. **Bid Proposal Embellishment:** Each Bidder may describe its proposed service by responding, point-by-point, to the functional requirements of the Bid Document and shall so respond to the information requirements of the Bid Document. Such responses shall be tailored to specifically answer or clarify those portions of the Bid Document necessitating an answer or clarification. Regardless of the nature of the Bid Proposal as an "Offer," the addition of or reference to "boiler-plate" language, material or conditions shall not be used in the body of such a response and will be discarded and treated as if not part of the Bid Proposal and inclusion thereof may be grounds for rejecting the Bid. Additionally, regardless of the nature of the Bid Proposal as an "Offer," any language in the Bid Proposal altering any portion of these General Conditions, particularly, but not limited to, the sections of these General Conditions titled "Infringements and Indemnifications," "Termination of Contract," "Equal Employment Opportunity," and "Disclosure," will be discarded and treated as if not part of the Bid Proposal and inclusion thereof may be grounds for rejecting the Bid.

28. **Insurance:** Unless otherwise provided in the Bid Document, the contract stemming from this Bid solicitation shall require that the successful Bidder purchase and maintain a policy of insurance to protect the successful Bidder and the Board from claims which may arise out of the contract stemming from this Bid solicitation. Unless otherwise provided in the Bid Document, such insurance policy shall be written for not less than one million dollars (\$1,000,000.00) for any person injured in any accident and with a total liability of two million dollars (\$2,000,000.00) for all persons injured in any one accident and in the amount of one million dollars (\$1,000,000.00) for each accident or occurrence as compensation for damage caused to property of others.

29. **Performance or Payment Bond:** The successful Bidder shall furnish a bond to the Board covering faithful performance of the contract arising out of that Bid and payment of obligations arising there under in an amount equal to one hundred percent (100%) of the full sum provided for under the contract and that bond shall be conditioned upon the faithful performance of that contract and shall remain in effect for the duration of the contract term. This requirement may be satisfied by the successful Bidder posting a bond, or by providing a letter of credit or a cashier's check in the amount specified. If a bond satisfies the requirement, the surety for such bond shall be a surety company authorized to do business in the State of Ohio.

30. **Liability for Bid Preparation:** The Board, and any officers, employees, successors, administrators or agents of same, assume no responsibility nor liability for costs incurred in the preparation and/or submission of any Bid.

31. **Bid Proposal Duration:** No Bid shall be withdrawn after it has been deposited with the Board. By submitting your Bid you agree to leave your Bid proposal firm for sixty (60) days after the Bid opening date unless some other duration is specified in the Bid Document.

32. **Sample Contract:** The Bid Document may contain a sample contract document. If so, such contract document is an example of the contract document that the successful Bidder will be required to sign to evidence the Agreement between that successful Bidder and the Board stemming from this Bid solicitation. Alternative contract documents submitted by the bidder will not be accepted. The Board shall fill in all blanks contained in the sample before such document is presented to the successful Bidder for signature. Additionally, only one version of any multiple version paragraphs appearing in the sample shall be in the contract document presented to the successful Bidder for signature. In the rare case of an error in the Bid Document, the actual contract document presented to the successful Bidder may differ from the sample.

--- End Instructions to Bidders ---

REQUIRED INFORMATION FOR BIDDERS

Bidders are required to enter prices in the following pricing pages and complete the attached checklist. Prices are to be FOB Delivered, all freight and delivery charges paid by the contractor. All charges are to be included in the prices entered and Montgomery County is not liable for any additional charges including sales or use taxes. Prices are firm for the initial contract period. By signing the bid documents the bidder agrees to all the included terms and conditions unless written exceptions are taken. Any exceptions may deem your bid as unresponsive and may be disqualified unless accepted by Montgomery County. The County shall be the sole judge in determining which product(s) best meets the needs of the organization.

Bidders shall complete and sign enclosed Forms #3, #4, and all other requested information. Failure to provide requested information may cause your bid to be disqualified.

Two (2) complete copies of the bid documents and (1) electronic copy (flash drive) that contain information on the items that you are bidding on and all submittals, including technical, illustrative, descriptive literature and/or brochures must be supplied. If the proposal and submittals are large, place the bid package in a larger envelope or box and CLEARLY identify the OUTERMOST Package with the BID NUMBER & Information. Failure to provide the required number of copies may cause to reject your bid.

A copy of the Supply or Service Agreement is attached. The Supply or Service Agreement will be signed and executed by the successful bidder as part of the award process.

If your company is equipped to handle documents electronically please provide an acceptable email address to receive documents electronically on the final bidding page. Email addresses will be used solely for the purposes of providing documentation related to bids, contracts or other purchasing requirements. Bids can be viewed electronically at <http://www.mcoho.org/services/purchasing/bids/>

Montgomery County is requesting competitive sealed proposals for a marketing consultant to develop traditional and online marketing materials, coordinate a social media marketing strategy, create new materials to attract economic development projects and develop materials that promote Montgomery County Economic Development initiatives. The marketing consultant will work closely with the Montgomery County Community & Economic Development Department to globally market Montgomery County. This Request for Proposals (RFP) process will be used to select the consultant. Montgomery County reserves the right to make multiple awards as a result of this request for proposal.

Competition for economic development projects among local and regional governments has intensified in recent years. To gain a competitive advantage, communities need to differentiate themselves with innovative marketing strategies that are targeted to site selectors, commercial real estate professionals, and companies in targeted growth sectors.

The Montgomery County Economic Development Department began developing the “More Speed, Less Risk, Lower Cost” messaging campaign in 2016, which has been a consistent theme used in case studies, postcards, video testimonials, and the Virtual Reality 360 Familiarization Video. Those materials can be found at www.SelectMCOhio.com.

Competitive Sealed Proposals

Proposers must complete and return the entire Request for Competitive Proposal package. Once all proposals have been received, opened, and recorded, the County shall evaluate and select Proposers to provide the required services based on the completed proposal responses. The County shall be the sole judge in determining how the evaluation process shall be conducted and what contractor shall be considered for award as deemed to be in the best interest of the County.

The County may conduct such investigations, as the County considers necessary to assist in the evaluation of any proposal to establish the responsibility, qualifications and financial ability of any potential contractor to perform the services specified in the request for proposal. The County shall determine whether the contractor’s proposal with the highest ranking can be accepted as is without negotiations. In the event the County determines that negotiation of the contractor’s proposal is necessary, the contractor shall be notified, and the negotiation process will begin. Should the County be unable to negotiate an acceptable agreement with the highest ranked contractor, then negotiations will begin with the second highest ranked contractor. This process shall continue until a satisfactory contract is negotiated or until all negotiations with qualified ranked contractors is exhausted. The County shall be the sole judge in determining, either prior to or after negotiations, when a proposal is deemed acceptable. Further, the County shall be the sole judge in determining when negotiations are to be concluded. The County also reserves the right not to enter into a contract.

Pursuant to Ohio Revised Code 307.862, Montgomery County reserves the right to reject any proposal in which the provider takes exception to the terms and conditions of the request for proposals; fails to meet the terms and conditions of the request for proposal, including but not

limited to, the standards, specifications, and requirements specified in the request for proposals; or submits prices that the contracting authority considers to be excessive, compared to existing market conditions, or determines exceed the available funds of the contracting authority. Montgomery County reserves the right to reject, in whole or in part, any proposal that the County has determined, using the factors and criteria developed, would not be in the best interest of the County. Montgomery County may conduct discussions with providers who submit proposals for the purpose of clarifications or corrections regarding a proposal to ensure full understanding of, and responsiveness to, the requirements specified in the request for proposal.

Schedule

RFP Release	11/01/2019
Deadline to submit written questions	11/08/2019 at 4:00 pm
Response to Questions via Addendum	11/15/2019
Proposal Due	12/04/2019 at 1:30 pm
Contract Award	01/14/2020*

**estimated date*

Scope of Work

Montgomery County will select the best-qualified consultant to continue developing original material in the form of case studies, postcards, testimonials, videos, social media posts, and other physical and digital materials that highlight Montgomery County and propose a succinct message that attracts businesses to the region.

- The new marketing materials shall be built with the same color scheme and similar branding as previous Montgomery County Economic Development marketing materials to create a consistent look.
- New marketing materials shall build off the successful “More Speed, Less Risk, Lower Cost” theme.
- The company will meet with Montgomery County Economic Development to learn about the local economic development landscape and familiarize themselves with Montgomery County’s target industries: transportation and logistics, advanced manufacturing, aerospace and defense, bioscience and medical, research and technology, startups and entrepreneurship, food and beverage, and foreign direct investment.
- The company shall continue development of case studies which showcase recent economic development wins or highlight companies in target sectors that have continued to grow or expand with the help of Montgomery County. Case Studies shall include interviews with appropriate parties at the companies when possible.

- The company shall continue development of postcards which build on the case studies and target industries previously mentioned. Postcards are either sent out via traditional mail marketing methods or packaged for social media and electronic distribution.
- The company shall work with Montgomery County Economic Development and Public Information on development of video testimonials that build on the case studies and postcards.
- The company shall develop general promotional pieces about Montgomery County and the Dayton region.
- The company shall develop marketing and promotional pieces for various Economic Development led initiatives like the Global Dayton Report.
- The company shall participate in monthly conference calls with Golden Shovel Agency, the SelectMCOhio.com website developer and Montgomery County Public Information Officer, to be apprised of social media and website discussions.
- The company shall coordinate with Golden Shovel Agency on posting new materials to the www.SelectMCOhio.com website, and coordinate with Montgomery County on promoting those new materials on social media.
- The company shall create various marketing materials on an as needed basis for specific trade shows and market visits when appropriate.
- The company shall be cognizant of incorporation of other websites, County programs and facilities associated with business development like OhioMeansJobs | Montgomery County (www.thejobcenter.org), BusinessFirst! For a Greater Dayton Region (www.businessfirstdaytonregion.com), Dayton Regional Israeli Trade Alliance (DRITA) (www.daytonregionisraeltrade.com), the Business Solutions Center (www.mcobiz.com), and more.
- Company will provide periodic campaign summaries, reporting on outreach methods, and a variety of analytics, including, but not limited to, individuals reached, click-through rates for digital campaigns, cost-per-mille (CPM) and/or cost-per-click (CPC) campaigns. Company will also develop digital re-targeting campaigns aimed at visitors to Economic Development's variety of websites. Company will develop conversion metrics to measure marketing efforts against real-life results (i.e.: businesses moving to the area, increase in workforce areas, business expansions).

Proposal Project Timing

The County desires to begin the planning process as soon as a consultant is selected, and a contract executed and to begin developing new materials approximately January 14, 2020.

Proposal Requirements

At a minimum, the proposal in written form shall include the information outlined below and address the needs expressed in the Scope of Work. Providers who are unable to complete any items included in this RFP shall identify any exceptions in their response and how they propose to address the deficits.

- An overall introduction to the proposal, including a statement of the consultant's understanding of the scope of work and a description of the proposed project approach, planning, and execution philosophy.
- Qualifications of the consultant to perform the work with a minimum list of six (6) clients for whom the firm has provided similar services in the recent past. Detailed description of experience in planning projects of a similar nature is also requested, along with any national awards or recognitions earned with those projects.
- Critical comments on the scope of work and responsibilities of the consultant in the planning process to include recommendations for additions, subtractions or modifications of the deliverables or timing of the deliverables will be considered. Please feel free to suggest alternative elements to the scope of work, based on consultant's understanding of the desired end product. Consultant will need to provide justification in the proposal for any modification of the scope of work and responsibilities.
- Names of principals and key personnel of the firm and their relevant experience and qualifications, as well as their role in this project. Identify the primary point of contact between the company and Montgomery County.
- Compensation requirements, including expenses. A maximum not-to-exceed compensation amount shall be included in the final negotiated contract.
- Proposed timeline for the project, including any suggested modifications of the proposed timelines.
- The consultant's expectations of Montgomery County Economic Development throughout this process.

- The proposal shall be signed by an individual authorized to bind the consultant and shall contain a statement to the effect that the proposal is a firm offer for a sixty (60) day period. It shall include the name, title, address and telephone number of individuals with authority to negotiate and execute contracts and who may be contacted during the proposal evaluation.

GENERAL CONTRACT REQUIREMENTS

The selected consultant shall be required to sign a contract with the County that meets all requirements within this RFP. The contract will be for up to two (2) years, renewable at the end of the contract period for an amount not to exceed the original contracted amount. In the event the County and consultant cannot agree on a contract within a reasonable period of time as determined by County, the County shall be free to select and negotiate a contract with another consultant.

The consultant agrees to hold the County harmless from any and all liabilities or claims caused by or resulting from consultant's obligations or activities in furtherance of work described herein. Consultant will reimburse the County for any judgments which may be obtained against the County resulting from the work hereunder or the use of any work product of consultant including judgments for infringement of patent or copyright rights. Consultant agrees to defend against any such claims or legal actions if called upon by the County to do so. If the consultant is unable or unwilling to comply with such additional conditions as may be lawfully applied by the County, the consultant shall terminate the contract by giving reasonable written notice to the County, signifying the effective date of termination no later than fifteen (15) calendar days from the date of notice. In such event the County may require consultant to ensure that adequate arrangements have been made for the transfer of the consultant's activities to another delegate or to the County. The County shall retain all designs, images, videos, audio, written content and contents of the website.

The evaluation of proposals shall be the sole responsibility of the County and will be based on information furnished by the consultant as well as on other information available to the County. Montgomery County reserves the right to reject the proposal of any consultant who previously failed to perform properly to the satisfaction of County, or complete on-time agreements of a similar nature, or to reject the proposal of a consultant who is not in a position to perform such an agreement satisfactorily as determined by County.

SELECTION PROCESS

The County will select a consultant whose proposal would be most advantageous to the County. The proposals will be reviewed and evaluated by an established RFP Review Committee, based upon the criteria below. Less weight may be given to the proposed costs than the other criteria. Evaluations and decisions will be based on the following:

- A demonstrated understanding of the project and favorable project approach and planning philosophy.
- Thoroughness of the proposal.
- Knowledge and experience of key personnel with projects of a similar scope and nature.
- Availability of key personnel and demonstrated ability to meet the proposed work schedule.
- Cost of services to be performed.
- Performance history on past projects for public and private clients including, but not limited to, quality of work, ability to meet schedules, cost control, and working relationship with clients, advisory groups and public.
- Reference responses.
- Ability to perform the services being considered.
- Determination of which consultant and proposal best meets the needs of the County for this project.

SUBMISSION REQUIREMENTS

Two (2) Complete Packets and (1) PDF on electronic media (flash drive) of all documents submitted are required for the complete evaluation of the product or services being offered. A redacted version is required for all confidential information.

INVOICES

Invoices shall be submitted at the end of each calendar month to:

Dan Bish
Montgomery County Community Economic & Development
451 W. Third St., 10th Floor
Dayton, OH 45422

EVALUATION AND SELECTION SCHEDULE

During the review and evaluation process, the County reserves the right to require any clarification or additional information on submissions from any or all consultants in order to understand any or all consultants' approach to the project and their view of the scope of work.

INQUIRIES AND QUESTIONS

- For questions, please contact Denise Burris at burrisd@mcOhio.org. Only questions answered in writing via an addendum will be binding. The deadline for inquiries and questions is November 8, 2019 at 4:00 pm.

LIMITATION

Montgomery County reserves the right to accept or reject any or all proposals received as a result of this request, to modify the RFP requirements by written addendum, to negotiate a final agreement with modifications with the selected consultants, or to cancel, in part or in its entirety, the request for proposals if it is in the best interest of the County to do so.

Under no circumstances will Montgomery County be responsible for any consultant's costs and expenses incurred in submitting responses to this solicitation, which includes any costs for site visits or interviews required by Consultant. Consultants responding to this solicitation do so solely at their own cost and expense.

Insurance Requirements

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees, or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

- A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

- | | |
|---|-------------|
| • General Aggregate | \$2,000,000 |
| • Products – Completed Operations Aggregate | \$1,000,000 |
| • Personal and Advertising Injury | \$1,000,000 |
| • Each Occurrence | \$1,000,000 |

- a. The policy shall be endorsed to include the following additional insured language: "The Board of Montgomery County Commissioners and **Montgomery County Business Services** shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including completed operations".
- b. Coverage shall be primary and non-contributory.
- c. Associated bid number, job number, or project number should be referenced on the certificate.
- d. The Policy should contain an unintentional failure to disclose endorsement.
- e. The policy should include a notice of occurrence endorsement – CEO, President, CFO, Risk Manager, or General Counsel.
- f. Contractor's subcontractor shall be subject to the same minimum requirements identified above.

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. Coverage shall be primary and non-contributory.
- b. Policy should be endorsed with an unintentional failure to disclose wording.
- c. The policy should include a notice of occurrence endorsement – CEO, President, CFO, Risk Manager, or General Counsel.
- d. Associated bid number, job number, or project number should be referenced on the certificate.
- e. Contractor's subcontractor shall be subject to the same minimum requirements identified above.

3. **Workers' Compensation and Employers' Liability**

Workers' Compensation	Statutory
Ohio Employers' Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation in favor of The Board of Montgomery County Commissioners and **Montgomery County Business Services**.
- b. Contractor's subcontractor shall be subject to the same minimum requirements identified in this section.

4. **Professional Liability (Errors and Omissions Liability)**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim/Aggregate	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that continuous coverage will be maintained for a period of two (2) years beginning at the time work under this Contract until it is completed.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the Board of Montgomery County Commissioners and **Montgomery County Business Services** are named as an additional insured, the Board of Montgomery County Commissioners and **Montgomery County Business Services** shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, or canceled except after sixty (60) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to **Denise Burris, Buyer, Montgomery County, 451 W. Third St., Dayton, OH 45422.**

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business with the Board of Montgomery County Commissioners and **Montgomery County Business Services** with an "A.M. Best" rating of not less than A IX. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the County before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to Denise Burris, Buyer, Montgomery County, 451 W. Third St., Dayton, OH 45422. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE COUNTY'S RISK MANAGEMENT DEPARTMENT.**

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Department or the Prosecutor's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

PRICING PAGE

Job Classification

Hourly Rate

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Proposer Name _____

Complete the following questions and check off (☑) the appropriate response. Failure to answer all questions on the following page(s) may be cause to reject your bid as non-responsive. It is the responsibility of the bidder to identify and explain all exceptions to these specifications.

Montgomery County will not accept any deviation from the specifications, which is not identified and explained in the bidder's proposal.

1. Exceptions to specifications?

Yes No (If yes, a complete list of any and all exceptions **MUST** be attached to your bid to receive consideration)

2. Proposer has completed and is submitting forms #3 and #4?

Yes No

3. The ORIGINAL BID COPY is the first or top copy in your envelope or package?

Yes No

4. Contractor has read, understands and accepts the attached GENERAL CONDITIONS (pages 2 thru 5)?

Yes No

5. Proposer has read and understands the attached Supply/Service Agreement?

Yes No

6. Are references included as required?

Yes No

7. Proposer has submitted all requested information?

Yes No

SIGNATURE SECTION:

The undersigned hereby certifies that any services, materials and/or equipment furnished as a result of this bid will be in full accordance with Montgomery County Specifications applying thereto, unless exceptions are stated above.

Bidding Company _____

Address _____

City _____ State _____ Zip Code _____

Phone _____

Email _____

Print or Type Name _____

Title _____

Signature _____ (Blue Ink)

With this signature I hereby certify that I am authorized as an agent for the above named company and offer this Bid with intention to enter into a contract with Montgomery County if awarded.

DISCLOSURE POLICY

The Board of County Commissioners of Montgomery County, Ohio, has adopted a disclosure policy which requires persons or business contracting with the Board of County Commissioners of Montgomery County, Ohio, to disclose to the Board any business and/or family relationship which the contracting party has with any public official, or person employed by any public official in Montgomery County, Ohio. Immediate family relationships, for disclosure purposes, are defined as spouse; children; parents (natural and by-law); and siblings (natural and by-law). Disclosure of this information will not necessarily preclude the award of a contract to the undersigned. The undersigned party, in accordance with intent of resolution No. 83-112 agrees to disclose, to the best of its knowledge and ability, the following information.

CORPORATION

The identity of any county Official, County employee, or member of a county official or county employee's immediate family, who hold(s) a position of responsibility being defined as a position having decision making capacities including but not limited to a member of the board of directors, officer of the corporation, or trustee;

PARTNERSHIP

The identification of person(s) employed by the partnership and or the name(s) of any of the immediate family who is, or who are, also simultaneously employed by any public official of Montgomery County, Ohio, or public office or agency of Montgomery County, Ohio;

CONSULTANT

The identification of person(s) employed by the consultant and or the name(s) of the consultant's immediate family who is, or who are, also simultaneously employed by any official of Montgomery County, Ohio, or public office or agency of Montgomery County, Ohio;

Should the undersigned party have knowledge or information concerning the above categories, the undersigned party is to submit this acknowledgement form with a detailed explanation of the names of the parties involved and the particular relationship. Please check the appropriate box.

DOES NOT APPLY

DOES APPLY WITH EXPLANATION
ATTACHED

SIGNATURE _____

TITLE _____

NOTE: This form only pertains to companies or businesses having property within Montgomery County, and possible delinquent personal property taxes owed by them to Montgomery County. Bidders who do not have property within Montgomery County are to mark this form as **N/A (Not Applicable), sign it, have it notarized**, and return it with the bid documents. **This form must be completed and returned.**

STATE OF OHIO:
COUNTY OF _____:

FORM NO. 4

To the Auditor of Montgomery County:

The affiant, _____
(name of person, organization, or company)

located at _____
(address)

After being duly sworn, states the following: The affiant, at the time the bid for

was submitted (check one):

- Was not charged with any delinquent personal property taxes on the general tax list of Montgomery County, Ohio
- Was charged with delinquent personal property taxes on the general tax list of Montgomery County, Ohio in the principal amount of \$ _____ with the sum of \$ _____ added for due and unpaid penalties and interest.

Further the affiant sayeth naught,
Sworn to and subscribed by _____
(name of person, organization, or company)

on this _____ day of _____ 20_____.

Signature of person or authorized representative of affiant

STATE OF OHIO:
COUNTY OF _____:

Before me, a notary public, on this _____ day of _____ 20_____.

Personally appeared _____

the affiant in the foregoing affidavit, who acknowledged the signing thereof to be _____ voluntary act and deed.

In testimony whereof, I have hereto subscribed by name and affixed my seal on this day and year aforesaid.

Notary Public

SAMPLE SERVICE CONTRACT

AN AGREEMENT IS REQUIRED FOR ALL PURCHASE CONTRACTS WHERE A SERVICE OR SERVICES WILL BE CONTRACTED FOR, OVER A PERIOD OF TIME. THIS CONTRACT DOCUMENT IS FORMATTED TO INCLUDE SEVERAL POSSIBLE TYPES OF BID FORMATS AND WILL BE REVISED TO RESPOND TO THE REQUIREMENTS OF THIS PARTICULAR BID SPECIFICATION. THE DOCUMENT IS ENCLOSED FOR THE PURPOSE OF MAKING YOU AWARE OF THE GENERAL CONTENT AND IS NOT TO BE FILLED IN OR RETURNED AT THIS TIME.

SERVICE AGREEMENT

THIS AGREEMENT is made and entered into at Dayton, Ohio, on the date(s) set forth at the end hereof, by and between the **BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO**, Montgomery County Administration Building, 451 West Third Street, Dayton, Ohio 45422, hereinafter referred to as the "Board," and _____ of _____

_____ hereinafter referred to as the "Contractor." In consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

WITNESSETH:

WHEREAS, the Board is desirous of securing the Work referred to in Exhibits "A" and "B;" and

WHEREAS, the Contractor is qualified, experienced and willing to perform Work as described herein, when there is an Agreement specifying the rights and duties of each party; and

WHEREAS, the Board and the Contractor mutually desire to perform the obligation embodied in Exhibits "A" and "B."

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties to this Agreement, with intent to be legally bound, agree as follows:

ARTICLE ONE: THE WORK

The Contractor agrees to perform the services and furnish all labor, equipment, materials and supplies as delineated in the Board's Bid Specifications for Bid No. _____, said documents being identified as Exhibit "A" which is made a part hereof as if fully rewritten herein. The Contractor shall conduct the Work in accordance with Exhibit "A," and the Bid Quotation of the Contractor, which Bid Quotation is found attached hereto and identified as Exhibit "B," and which is made a part hereof as if fully rewritten herein and the Contractor agrees to supply the Board with those items which are

identified in Exhibits "A" and "B." The term "Work" as used herein means the performance of all services and the provision of all labor, materials, equipment or supplies as required in Exhibits "A" and "B" attached hereto.

ARTICLE TWO: SCHEDULE OF PAYMENTS (No Option)

The Board agrees to pay the Contractor in exchange for the Work a sum not to exceed _____ and ___/100 DOLLARS (\$_____), for the Term of this Agreement. The Contractor agrees to supply the Montgomery County Purchasing Department, Montgomery County Administration Building, 451 West Third Street, Dayton, Ohio 45422, with its respective monthly invoices indicating therein the amount due for services rendered and materials supplied for the preceding month, it being specifically understood that compensation shall not accrue until services are rendered and all labor, equipment, materials and supplies are provided to the Board pursuant to this Agreement. The Contractor agrees that the above referenced invoices shall be supplied the Purchasing Department within five (5) calendar days of the first (1st) day of the month. Such invoices shall be accompanied by waivers, releases or other such documentation as would indicate that any claims, liens or claims of liens of any subcontractors of any tier, laborers or material suppliers, from any source used by the Contractor, to the extent applicable, have been satisfied. The Board shall have no obligation to pay or to see to the payment of money to any subcontractor of any tier except as may otherwise be required by law.

ARTICLE TWO: SCHEDULE OF PAYMENTS (With One Term Option)

The Board agrees to pay the Contractor in exchange for the Work a sum not to exceed _____ and ___/100 DOLLARS (\$_____), for the Term of this Agreement. The Board further agrees to pay the Contractor in exchange for the Work for the option term of this Agreement, which runs from

_____ through _____ a sum not to exceed a _____ percent (____%) increase over the compensation for initial Term of this Agreement. The Contractor further agrees that should the Board fail to provide for a sufficient appropriation of funds for calendar year _____ for the Work called for herein, the Board shall terminate this Agreement for insufficient funding. The Contractor agrees to supply the Montgomery County Purchasing Department, Montgomery County Administration Building, 451 West Third Street, Dayton, Ohio 45422, with its respective monthly invoices indicating therein the amount due for services rendered and materials supplied for the preceding month, it being specifically understood that compensation shall not accrue until services are rendered and all labor, equipment, materials and supplies are provided to the Board pursuant to this Agreement. The Contractor agrees that the above referenced invoices shall be supplied the Purchasing Department within five (5) calendar days of the first (1st) day of the month. Such invoices shall be accompanied by waivers, releases or other such documentation as would indicate that any claims, liens or claims of liens of any subcontractors of any tier, laborers or material suppliers, from any source used by the Contractor, to the extent applicable, have been satisfied. The Board shall have no obligation to pay or to see to the payment of money to any subcontractor of any tier except as may otherwise be required by law.

ARTICLE TWO: SCHEDULE OF PAYMENTS (With Two Term Option)

The Board agrees to pay the Contractor in exchange for the Work a sum not to exceed _____ and ___/100 DOLLARS (\$_____), for the Term of this Agreement. The Board further agrees to pay the Contractor in exchange for the Work for the first option term of this Agreement, which runs from _____ through _____ a sum not to exceed a _____ percent (____%) increase over the compensation for initial Term of this Agreement. The Board further agrees to pay the Contractor in exchange for the Work for the second option term of this Agreement

which runs from _____ through _____ a sum not to exceed a _____ percent (____%) increase over the compensation for initial Term of this Agreement. The Contractor further agrees that should the Board fail to provide for a sufficient appropriation of funds for calendar years _____ or _____ for the Work called for herein, the Board shall terminate this Agreement for insufficient funding. The Contractor agrees to supply the Montgomery County Purchasing Department, Montgomery County Administration Building, 451 West Third Street, Dayton, Ohio 45422, with its respective monthly invoices indicating therein the amount due for services rendered and materials supplied for the preceding month, it being specifically understood that compensation shall not accrue until services are rendered and all labor, equipment, materials and supplies are provided to the Board pursuant to this Agreement. The Contractor agrees that the above referenced invoices shall be supplied the Purchasing Department within five (5) calendar days of the first (1st) day of the month. Such invoices shall be accompanied by waivers, releases or other such documentation as would indicate that any claims, liens or claims of liens of any subcontractors of any tier, laborers or material suppliers, from any source used by the Contractor, to the extent applicable, have been satisfied. The Board shall have no obligation to pay or to see to the payment of money to any subcontractor of any tier except as may otherwise be required by law.

ARTICLE THREE: TERM (No Option)

The Term of this Agreement shall be from date of last execution by all parties, the date upon which the Agreement is certified by the Montgomery County Auditor or the date upon which Resolutions of the Board pass authorizing and awarding this Agreement, whichever event occurs last, and shall terminate on _____. The parties agree that any additional periods for which the Work is undertaken shall be subject to competitive bidding and that this Agreement in no way may be extended beyond the Term.

ARTICLE THREE: TERM (With One Term Option)

The Term of this Agreement shall be from date of last execution by all parties, the date upon which the Agreement is certified by the Montgomery County Auditor or the date upon which Resolutions of the Board pass authorizing and awarding this Agreement, whichever event occurs last, and shall terminate on _____ with an option to renew for one additional term running from _____ through _____ such option to be exercised only upon written notice submitted to the Board at least sixty (60) days prior to the expiration of the initial term. The parties agree that any additional periods for which the Work is undertaken shall be subject to competitive bidding and that this Agreement in no way may be extended beyond the initial Term and the option term.

ARTICLE THREE: TERM (With Two Term Option)

The Term of this Agreement shall be from date of last execution by all parties, the date upon which the Agreement is certified by the Montgomery County Auditor or the date upon which Resolutions of the Board pass authorizing and awarding this Agreement, whichever event occurs last, and shall terminate on _____ with an option to renew for two additional terms, the first running from _____ through _____ and the second running from _____ through _____ such options to be exercised only upon written notice submitted to the Board at least sixty (60) days prior to the expiration of the current term. The parties agree that any additional periods for which the Work is undertaken shall be subject to competitive bidding and that this Agreement in no way may be extended beyond the initial Term and the option terms.

ARTICLE FOUR: CONFLICT OF INTEREST

This Agreement in no way precludes, prevents, or restricts the Contractor from obtaining and working under an additional contractual arrangement(s) with other parties aside from the Board, assuming that such other contractual work in no way impedes the Contractor's ability to perform the services required under this Agreement. The Contractor hereby represents warrants and agrees that at the time of entering into this Agreement, it has no interest in nor shall it acquire any interest, direct or indirect, in any agreement which will impede its ability to perform the required services under this Agreement.

ARTICLE FIVE: ASSIGNMENTS

The parties expressly agree that this Agreement shall not be assigned by the Contractor without the prior written approval of the Board, which approval may be withheld in the sole discretion of the Board.

ARTICLE SIX: GOVERNING LAW

This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of The State of Ohio.

ARTICLE SEVEN: INTEGRATION AND MODIFICATION

This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement.

ARTICLE EIGHT: SEVERABILITY

If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE NINE: TERMINATION

This Agreement may be terminated by either party only upon notice, in writing, upon the other party no later than at least sixty (60) days in advance of the effective date of the termination. The Board may also terminate this Agreement in the event that the Board is of the opinion that the Contractor is carrying out the terms of this Agreement in an unreasonable, unprofessional, or unworkmanlike manner. Said termination for this particular reason shall occur upon the provision of a written notice of termination to the Contractor at least thirty (30) calendar days in advance of the date of the proposed termination, stating in the termination notice the reason for said termination. The Board, in its sole discretion, may allow the Contractor to cure the reason for the termination provided the cure of the reason is accomplished within thirty (30) days of the date of the forwarding of the termination notice. The parties further agree that should the Contractor become unable for any reason to complete the work called for by virtue of this Agreement, that to the extent applicable, such work as the Contractor has completed upon the date of its inability to continue the terms of this Agreement shall become the property of the Board, and further the Board shall not be liable to tender and/or pay to the Contractor any further compensation after the date of the Contractor's inability to complete the terms hereof, which date shall be the date of termination unless extended by the Board. Notwithstanding the above, the Contractor shall not be relieved of liability to the Board for damages sustained by the Board by virtue of any breach of the Agreement by the Contractor; and the Board may withhold any

compensation to the Contractor for the purpose of set-off until such time as the amount of damages due the Board from the Contractor is agreed upon or otherwise determined. Additionally, the parties further agree that should the Contractor become unable for any reason to complete the work called for by virtue of this Agreement, the Board may, in its sole discretion, call the performance bond due, in full, if any, as and for such non-performance, and/or as liquidated damages.

ARTICLE TEN: COMPLIANCE

The Contractor, at its sole cost, agrees to comply with all applicable federal, state, and local laws in the conduct of work hereunder. The Contractor accepts full responsibility for payment of all unemployment compensation insurance premiums, worker's compensation premiums, benefits as mandated by the Patient Protection and Affordable Care Act (PPACA), all income tax deductions, pension deductions, prevailing wages, if applicable, and any and all other taxes or payroll deductions required for the Contractor and all employees engaged by the Contractor for the performance of the work authorized by this Agreement. The costs of any health insurance benefits required by the PPACA shall be the responsibility of the Contractor and shall not be billed directly to the County. The Contractor shall comply with the requirements of the PPACA and any and all associated costs and/or penalties. It shall be the responsibility of the Contractor to report, track and determine employee hours that are eligible to be offered insurance benefits.

ARTICLE ELEVEN: PERFORMANCE AND DISCIPLINE

Unless otherwise provided in this Agreement or the exhibits attached hereto, the Contractor shall provide and pay for, to the extent applicable, all labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. The Contractor shall enforce strict discipline and good

order among the Contractor's employees and other persons carrying out this Agreement. The Contractor shall not permit employment of persons not skilled in tasks assigned to them. The Contractor shall perform all Work in a reasonable, professional and workmanlike manner and all Work shall be of at least the quality provided for in this Agreement.

ARTICLE TWELVE: DAMAGE AND LOSS

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required elsewhere in this Agreement) to property referred to in this Section caused in whole or in part by the Contractor, a subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under this Article except damage or loss attributable to acts or omissions of the Board or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations hereunder. In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. The Contractor shall notify the Board or a security arm of the Board as soon as possible after such emergency arises.

ARTICLE THIRTEEN: WORKER'S COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this Agreement Workers' Compensation Insurance for its employees and shall furnish a certificate of Workers' Compensation Insurance for its employees before the execution of this Agreement. No contract between the Board and the Contractor shall be created hereby or otherwise exist until a fully executed copy thereof has been served upon the Board.

ARTICLE FOURTEEN: NON-DISCRIMINATION

During the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual preference, national origin, ancestry, handicap, age, political belief or place of birth. The Contractor will ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, sexual preference, national origin, ancestry, handicap, age, political belief or place of birth. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Contractor, or any person claiming through the Contractor, agree not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Contractor.

ARTICLE FIFTEEN: INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall protect, defend, indemnify and hold free and harmless the Board, its agents and employees, and shall protect, defend, indemnify and hold free and harmless any officers, employees, successors, administrators assigns or agents of same, from and against any and all claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities and expenses of any kind, including but not limited to attorney fees, arising out of or resulting from any acts or omissions of the Contractor, its officers, employees, consultants, agents, subcontractors of any tier, successors, assigns or administrators, negligent or otherwise, and regardless of whether such claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities or expenses are caused in part by any party indemnified hereunder. The Contractor agrees to be responsible for the payment of all damages, settlements, costs and expenses

of any kind, including attorney fees, incurred by the Board while the Board defends or pursues any action, cause of action, or claim which arises out the aforementioned acts or omissions of this contract. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article.

In claims against any person or entity indemnified under this Article by an employee of the Contractor, a subcontractor of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Article shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or any such subcontractor of any tier under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE SIXTEEN: INDEMNIFICATION

Contractor shall indemnify, hold harmless and, not excluding the County's right to participate, defend the County, its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees, or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this

indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the County.

ARTICLE SEVENTEEN: RELATIONSHIP

Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership, association or joint venture with the Contractor in the conduct of the provisions of this Agreement. The Contractor shall at all times have the status of an independent contractor without the right or authority to impose tort, contractual or any other liability on the Board.

ARTICLE EIGHTEEN: DISCLOSURE

The Contractor hereby covenants that it has complied with the Board's disclosure policy adopted pursuant to Resolution No. 83-112, dated January 18, 1983, which requires anyone contracting with the Board to disclose to the Board any business relationship or financial interest that said Contractor has with an employee of the Board or of any other board, agency, elected official or commission of Montgomery County, Ohio, such an employee's business, or any business relationship or financial interest that a Montgomery County, Ohio elected official, board, agency or commission employee has with the Contractor or in the Contractor's business.

ARTICLE NINETEEN: LIABILITY INSURANCE

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit

the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees, or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

- g. The policy shall be endorsed to include the following additional insured language: “The Board of Montgomery County Commissioners and **(enter the appropriate elected officials, departments, and agencies)** shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including completed operations”.
- h. Coverage shall be primary and non-contributory.
- i. Associated bid number, job number, or project number should be referenced on the certificate.
- j. The Policy should contain an unintentional failure to disclose endorsement.
- k. The policy should include a notice of occurrence endorsement – CEO, President, CFO, Risk Manager, or General Counsel.
- l. Contractor’s subcontractor shall be subject to the same minimum requirements identified above.

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- d. Coverage shall be primary and non-contributory.
- e. Policy should be endorsed with an unintentional failure to disclose wording.
- f. The policy should include a notice of occurrence endorsement – CEO, President, CFO, Risk Manager, or General Counsel.
- f. Associated bid number, job number, or project number should be referenced on the certificate.
- g. Contractor’s subcontractor shall be subject to the same minimum requirements identified above.

3. **Workers' Compensation and Employers' Liability**

Workers' Compensation	Statutory
Ohio Employers' Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000

Disease – Policy Limit

\$1,000,000

- c. Policy shall contain a waiver of subrogation in favor of The Board of Montgomery County Commissioners and **(enter the appropriate elected officials, departments, and agencies)**.
- d. Contractor's subcontractor shall be subject to the same minimum requirements identified in this section.

5. Professional Liability (Errors and Omissions Liability)

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim/Aggregate
Annual Aggregate

\$1,000,000
\$2,000,000

- b. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that continuous coverage will be maintained for a period of two (2) years beginning at the time work under this Contract is completed.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

- 1. On insurance policies where the Board of Montgomery County Commissioners and **(enter the appropriate elected officials, departments, and agencies)** are named as an additional insured, the Board of Montgomery County Commissioners and **(enter the appropriate elected officials, departments, and agencies)** shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
- 2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, or canceled except after sixty (60) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to **(County agency Representative's Name & Address)**.

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business with the Board of Montgomery County Commissioners and **(enter the appropriate elected officials, departments, and agencies)** with an "A.M. Best" rating of not less than A IX. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Contractor shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the County before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to **(County's Representative's Name and Address)**. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE COUNTY'S RISK MANAGEMENT DEPARTMENT.**

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Department or the Prosecutor's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

ARTICLE TWENTY: PERFORMANCE BOND

The Contractor shall furnish a bond to the Board covering faithful performance of this Agreement and payment of obligations arising thereunder in the amount equal to one hundred percent (100%) of the full sum provided for under this Agreement. Said bond shall be conditioned upon the faithful performance of the Agreement. The surety for said bond shall be a surety company authorized to do business in the State of Ohio. Upon the request of any person or entity appearing to be a potential beneficiary of any bond covering payment of obligations arising under this Agreement, the Contractor shall promptly furnish a copy of such bonds or shall permit a copy to be made.

The Board, in its sole discretion, may reduce any bond filed by the Contractor by twenty-five per cent of the total amount of the bond upon demonstration satisfactory to the Board that at least fifty per cent of the services have been rendered or materials have been supplied in accordance with the terms of the Agreement, and by fifty per cent of the total amount of the bond upon demonstration satisfactory to the Board that at least seventy-five per cent of the services have been rendered or materials have been supplied in accordance with the terms of the Agreement.

ARTICLE TWENTY-ONE: NOTICES

Any notices required or authorized to be given shall be deemed to be given when mailed by certified or registered mail, postage prepaid, as follows: if to the Board, to the Board's address as shown on the face of this Agreement; if to the Contractor, to the Contractor's address as shown on the face of this Agreement.

ARTICLE TWENTY-TWO: HEADINGS

Organization of the Specifications into divisions, sections and articles and arrangement of Drawings shall not control the Contractor in dividing the Work among subcontractors or in establishing the extent of Work to be performed by any trade. Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms thereof.

ARTICLE TWENTY-THREE: AUTHORITY TO BIND PRINCIPAL

Signatures hereon shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.

NOTICE: THIS AGREEMENT MUST BE SIGNED AND RETURNED TO THE PURCHASING DEPARTMENT FOR MONTGOMERY COUNTY, OHIO WITHIN THIRTY (30) DAYS OF NOTIFICATION OR THE OFFER TO ENTER INTO THIS AGREEMENT SHALL BE WITHDRAWN AND THIS AGREEMENT SHALL BE VOID.

(Continuation of Service Contract Agreement with _____, for the
_____)

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of
_____, 20____.

Signed and acknowledged
in the presence of:

**BOARD OF COUNTY COMMISSIONERS OF
MONTGOMERY COUNTY, OHIO (Board)**

Witness BY: _____
Judy Dodge, Commissioner

Witness BY: _____
Deborah A. Lieberman, Commissioner

Witness BY: _____
Carolyn Rice, Commissioner

OR

Witness BY: _____
Michael B. Colbert, Administrator

Witness

_____ (Contractor)

Witness BY: (Sign) _____

Witness (Print) _____

TITLE: _____

APPROVED AS TO FORM BY:
MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY OF
MONTGOMERY COUNTY, OHIO

BY: _____
Mary Montgomery
Assistant Prosecuting Attorney

Date: _____