

Invitation to Bid

City of Canton, Ohio
Purchasing Department
218 Cleveland Ave. SW, 4th floor
Canton, Ohio 44702

Lease of Approximately 35 Acres of Land for Farming in Pike Township

Item/Project

Purchasing Department

Responsible Department

February 14, 2024 on or before 2:00 PM local time

Bids Due

Bid Proposal Submitted By:

Company Name

Street Address

City

State

Zip

Contact Person

Phone No.

Email Address

Lease of Approximately 35 Acres of Land for Farming in Pike Township

LEGAL NOTICE

Ordinance TBD

The Director of Public Service of the City of Canton, Ohio will accept sealed bids on or before **2:00 PM local time Wednesday, February 14, 2024**, for the purpose of purchasing a:

Lease of Approximately 35 Acres of Land for Farming in Pike Township

The City will disqualify any bid not received on or before 2:00 PM local time on Wednesday, February 14, 2024. Shortly after the deadline for the submission of bids, bids received on time will be publicly opened and read aloud. The Sixth Floor Conference Room of Canton City Hall is the location for the bid opening.

Submit all bids to the City of Canton Purchasing Department, 218 Cleveland Avenue SW, Purchasing Department/Fourth Floor, Canton, Ohio 44702 according to the instructions in the Invitation to Bid posted on the City of Canton Purchasing Department website at <https://cantonohio.gov/448/Purchasing-Procurement>.

A certified check, cashier's check or surety bond made payable to the City of Canton must accompany the bid. Draw this check or bond from a solvent bank or bonding company satisfactory to the Director of Public Service as a guaranty the contract and its performance are properly secured if the bid is accepted. The Bidder shall verify the certified check, cashier's check or bid bond for five hundred dollars (\$500.00). The City of Canton will only accept original checks and bid bonds. Therefore, if any company and/or bidder submits a copy (including faxed copies) of his \$500.00 security, the City will disqualify the bid. The Director of Public Service reserves the right to waive any technical defects in any bid bond submitted so long as the bond is in substantial compliance with State law. Should any bid not be awarded or be rejected, such check or bond will be returned to the bidder or bidders after the execution of the contract.

Any bidder may withdraw his bid, by written request, at any time prior to the deadline set for the bid opening. Please be advised, the City of Canton may impose a \$500.00 penalty to any bidder that withdraws his bid after the bid opening and prior to a contract award(s).

Each bid must contain the full name of every person or company participating in the bid.

The Board of Control reserves the right to reject any or all bids and to accept the bid(s) deemed most beneficial to the City of Canton.

All companies must submit their Federal ID Number for IRS purposes.

The bidder is responsible for monitoring the above named website for any official addenda.

It is requested that the bidder print the entire Invitation to Bid and submit an original bid packet in its entirety.

Please contact Assistant Director of Purchasing Katie Wise at purchasing@cantonohio.gov if you have any questions regarding this bid.

By order of the Director of Public Service: John M. Highman, Jr.

Published in the Canton Repository: January 9, January 16, January 23, January 30 and February 6, 2024.

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Section I: Table of Contents and Bidder's Checklist

A complete bid packet will consist of the items listed below.

Complete this checklist to confirm the items required in your bid. Place a checkmark or "X" next to each item that you are submitting to the City of Canton. Failure to submit the listed documents may be cause for rejection of your bid. This checklist should be returned with your bid.

- _____ Cover sheet
- _____ Legal Notice
- _____ Section I: Table of Contents and Bidder's Checklist
- _____ Section II: Bid Forms and Instructions
 - _____ Bid Form Instructions
 - _____ Bid Form 1: Bidder and Contractor Employment Practices Report
 - _____ Bid Form 2: Authority of Signatory
 - _____ Bid Form 3: Bid Guaranty
 - _____ Bid Form 4: Bidder Information
 - _____ Bid Form 5: Non-Collusion Affidavit
 - _____ Bid Form 6: Insurance Requirements
 - _____ Bid Form 7: Affidavit for Foreign Corporations
 - _____ Bid Form 8: Personal Property Tax Certification (ORC 5719.042)
 - _____ Bid Form 9: Certification – Auditor of the State of Ohio
 - _____ Bid Form 10: Articles of Incorporation
 - _____ Bid Form 11: W9 Tax From
- _____ Section III: City of Canton Income Tax Information
- _____ Section IV: Canton Codified Ordinances
- _____ Section V: Bid Specifications
- _____ Section VI: Proposal and Signature Pages

Section II: Bid Forms and Instructions

Bid Form Instructions

Failure to submit bid forms 1 through 6 with the bid may cause the bid to be deemed non-responsive, and therefore it may not be considered.

Bid forms 7 through 11 will be required of the successful bidder but may be submitted after the awarding of the contract.

*****The City of Canton does encourage bidders to submit all bid forms with their bids*****

Bid Form 1: Bidder and Contractor Employment Practices Report

This form is designed to provide an evaluation of a bidder's policies and practices relating to the extension of equal employment opportunity to all persons without regard to race, religion, color, sex or national origin. The successful bidder will be required to complete and submit the Bidder and Contractor Employment Practices Report. Additionally, the successful bidder will be required to submit an "affirmative action plan" and/or "EEO policy." If the successful bidder does not have a formal EEO policy, it will be required to complete and submit the provided EEO policy statement.

Bid Form 2: Authority of Signatory

The authority of the bid signatory must be established. Bid Form 2 provides the means by which the bidder can identify the type of business organization it is (corporation, partnership, etc.) and instructions as to how signature authority is commonly established.

Bid Form 3: Bid Guaranty

A **certified check, cashier's check or surety bond** made payable to the City of Canton must accompany the bid. Draw this check or bond from a solvent bank or bonding company satisfactory to the Director of Public Service as a guaranty the contract and its performance are properly secured if the bid is accepted.

Bid Form 4: Bidder Information

The bidder shall submit the required information on the included form and shall supplement the information there given as may be required by the City after the receipt of bids. Low bidders may be interviewed by the City and shall furnish such information as the City may deem necessary to consider prior to making an award.

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Bid Form 5: Non-Collusion Affidavit

Each bidder is required to submit with the bid an affidavit stating that neither he nor his agents, nor any other party for him, has paid or agreed to pay, directly or indirectly, any person, firm or corporation any money or valuable consideration for assistance in procuring or attempting to procure the contract herein referred to, and further agreeing that no such money or reward will be hereafter paid. This affidavit must be on the form provided.

Bid Form 6: Insurance Requirements

The successful bidder will be required to have the required insurance as outlined in Bid Form 6 and should be prepared to submit proof thereof.

All bidders would be well advised to consult their insurance agents as soon as possible so that all questions and concerns can be given due consideration.

Bid Form 7: Affidavit for Foreign Corporations

A successful bidder who is a foreign corporation, (**a corporation not chartered in the State of Ohio**), will be required to submit an affidavit duly executed by the authorized bid signatory stating in said affidavit that said foreign corporation has, in accordance with the provisions of the laws of the State of Ohio, obtained a certificate authorizing it to do business in the State of Ohio.

Bid Form 8: Personal Property Tax Certification (ORC 5719.042)

This form/certification must be retyped on the successful bidder's letterhead and notarized utilizing either paragraph (A) or (B) as it applies to the successful bidder's company.

Bid Form 9: Certification – Auditor of the State Of Ohio

This form is used to certify that the bidder does not have outstanding unresolved finding for recovery issued by the Auditor of the State of Ohio.

Bid Form 10: Articles of Incorporation

The successful bidder may be required to submit a copy of the company's articles of incorporation.

Bid Form 11: W9 Tax Form

Please provide an up to date copy of your Company's W9.

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Bid Form 1: Bidder and Contractor Employment Practices Report

Bidder and Contractor Employment Practices Report City of Canton Office of Compliance

I. INSTRUCTIONS

- A. This form is designed to provide an evaluation of your policies and practices as they relate to the extension of equal employment opportunity to all persons regardless to race, religion, color, sex, age, national origin, disability, sexual orientation, or sexual identity.
- B. City of Canton Codified Ordinance 507 and rules and regulations pursuant thereto provide for a contract compliance inspection of personnel policies and practices related to any contract with the City including contracts for work, labor, services, supplies, equipment, materials, leases, concession agreements, and permits.
- C. Completion of this Contractor and Bidder Employment Practices Report is one of the steps which demonstrate compliance with the City's Equal Employment Opportunity Program. Responsibility for demonstrating compliance with the Program by the vendor and its subcontractors rests with the vendor or subcontractor. Such demonstration is a prerequisite for continued eligibility for the award City contracts.

II. VENDOR OR BIDDER INFORMATION

1. Reporting Status
A. Prime Contractor B. Prime Subcontractor C. Supplier D. Other (Specify)
2. Name, Address and Telephone Number of Bidder Covered by This Report
3. Name, Address and Telephone Number of Principal Official or Manager of Bidder
4. Name, Address and Telephone Number of Principal Office of Bidder

Evaluation (Office Use Only)

- ☐ Compliant
- ☐ Non-Compliant
- ☐ Follow up needed _____

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III. POLICIES AND PRACTICES

The bidder and the Contractor will indicate his willingness or unwillingness to comply with the requirements of the Equal Employment Opportunity Program of the City of Canton by encircling the applicable letter associated with each item below. The letters are interpreted as follows:

A – Current Practice **B** – Company will immediately adopt this policy **C** – Company is unwilling or is unable to adopt policy.

Circle One	Items	State Reason if (C) is checked
A B C	1. The company will adopt a policy of non-discrimination on the basis of race, religion, color, sex, age, national origin, disability, sexual orientation, or sexual identity, with regard to recruitment, hiring, training, upgrading, promotion and discipline of employees or applicants for employment. This policy will be communicated in writing to all employees, subcontractors, recruitment sources and all relevant labor organizations and unions.	
A B C	2. The Company will develop procedures which will assure that this policy is understood and carried out by managerial, administrative, supervisory personnel.	
A B C	3. The company will use recruitment sources such as employment agencies, unions, and schools which have a policy of referring applicants on a non-discriminatory basis.	
A B C	4. The company will participate in training programs for the benefit of employees or prospective employees, according to the intent of City Codified Ordinance 507.	
A B C	5. Company recruiters will seek a broad recruitment base in order that a representative cross-section of applications might be obtained, and will refrain from a hiring policy which limits job applicants to persons recommended by company personnel.	
A B C	6. Company will take steps to integrate any position, departments, or plant locations which have no minority persons, or are almost completely staffed with one particular ethnic or racial group.	
A B C	7. The Company will review its qualifications for each job to determine whether such standards eliminate unemployed persons who could, if hired, perform the duties of the job adequately. The following qualifications should be reviewed: Education, Experience, Tests, and Criminal Records.	
A B C	8. Residence in a particular geographical area will not be a qualifying or disqualifying criterion for employment with the Company.	
A B C	9. The Company will provide that all bargaining agreements with employee organizations, including labor unions, have non-discrimination clauses requiring equal employment opportunity.	

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IV. EMPLOYMENT DATA

Please note that this data may be obtained by visual survey or post-employment records. Neither visual surveys nor post-employment records are prohibited by any Federal, State or local law. All specified data are required to be filled in by law. Please provide truthful and accurate information. If information provided is found to be false, bidder/contractor will be subject to the loss of all future awards.

Categories	Overall Total	MALE:				FEMALE:				Total Male	Total Female
		African American	Asian American	Native American	Hispanic	African American	Asian American	Native American	Hispanic		
Officials, Managers and Supervisors											
Professionals											
Technicians											
Part-Time Seasonal											
Office & Clerical											
Craftsman (skilled)											
Operatives (semi-skilled)											
Laborers (un-skilled)											
Service Workers											
Total:											

REMARKS: Please explain any identification data appearing on the last report which differs from that given above. This includes major changes in employment, changes in composition of reporting units, and other pertinent information. Use a separate sheet if additional space is required.

V. ADDITIONAL INFORMATION (Optional)

Describe any other actions taken which show that all employees are recruited, hired, trained, and promoted without regard to their race, religion, color, sex, age, national origin, disability, sexual orientation, or sexual identity. Use a separate sheet if additional space is required.

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VI. POLICY STATEMENT

The City of Canton, Ohio in conformance with local, state, and federal regulations requires each vendor, contractor, and material suppliers working on City projects or awarded City contracts be signatures of the following statements:

- 1) It is the policy of _____ that equal employment opportunities be afforded to all qualified persons without regard to race, religion, color, sex, age, national origin, disability, sexual orientation, or sexual identity.
- 2) In support of this document _____ will not discriminate against any employee or applicant because of race, religion, color, sex, age, national origin, disability, sexual orientation, or sexual identity.
- 3) _____ will take affirmative action to ensure that applicants for employment and current employees are treated fairly without regard to race, religion, color, sex, age, national origin, disability, sexual orientation, or sexual identity. Such action will include but not be limited to recruitment, advertising, or solicitation for employment, hiring, placement, upgrading, transfer or demotion, selection for training including apprenticeship rates of pay or other forms of compensation, layoffs or termination.
- 4) _____ will make every effort to comply with minority utilization goals as follows: (9%) nine percent minorities in your workforce on the job, (6.9%) six point nine percent female utilization on this job, and (10%) ten percent of contract amount expended with minority business enterprises, women-owned business enterprises or a combination of both.
- 5) _____ shall require each sub-contractor hired for this project to adhere to this statement.

VII. SIGNATURE

The undersigned certifies that he/she is legally authorized by the vendor/bidder to affirm all information and statements included in this employment practices report. That he/she has read all of the foregoing statements, representations, and affirmations and that they are true and correct to the best of his/her knowledge and belief. The undersigned, understands that if any of the statements and representations are made knowing them to be false or there is a failure to implement any of the stated intentions or objectives, set forth herein, without prior notice to the Office of Compliance, the bidder/contractor could be subject to loss of current and future awards.

Firm or Corporation Name:

Signature:

Title:

Date of Signing:

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Bid Form 2: Authority of Bid Signatory

The bidder shall indicate which of the following is the source of the bid signatory's authority to sign the bid on behalf of the bidder. The bidder shall follow the instructions noted.

_____ The party bidding is a sole partnership.

_____ The party bidding is a partnership and the party signing is one of the partners.

_____ The party is a corporation. The party signing is authorized to sign on behalf of the corporation. A copy of the resolution of the corporation's board of directors which delegates signatory authority to the individual signing is to be attached to this bid form. This resolution can be a general delegation of authority for signing bids or can be a specific authorization for this project. The secretary of the corporation shall authenticate the resolution as currently being in full force and effect.

_____ Signatory authority is evidenced by other means noted below:

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Bid Form 3: Bid Guaranty

A **certified check, cashier's check or surety bond** made payable to the City of Canton must accompany the bid. Draw this check or bond from a solvent bank or bonding company satisfactory to the Director of Public Service as a guaranty the contract and its performance are properly secured if the bid is accepted.

The Bidder shall verify the **certified check, cashier's check or bid bond for five hundred (\$500.00) dollars**. The City of Canton will **only accept original checks and bid bonds**. Therefore, if any company and/or bidder submits a copy (including faxed copies) of his/her \$500.00 security, the City will disqualify the bid.

The Director of Public Service reserves the right to waive any technical defects in any bid bond submitted so long as the bond is in substantial compliance with State Law.

Any bidder may withdraw his bid, by written request, at any time prior to the deadline set for the bid opening. Please be advised, the City of Canton may impose a \$500.00 penalty to any bidder that withdraws his bid after the bid opening and prior to a contract award(s).

Should any bid not be awarded or be rejected, such check or bond will be returned to the bidder or bidders after the execution of the contract.

Please place your bid guaranty at the front of your submitted bid.

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Bid Form 4: Bidder Information, Page 1

1. The Bidder shall provide the following information as part of its bid.

a. Name of Bidder _____

b. Business Address _____

City

State

Zip

c. Business Telephone Number (____) _____

d. Person, address, email and
telephone to whom official
notices are to be sent

e. Person, address, email and
telephone for further
information regarding
this proposal

f. State(s) of incorporation
(w/dates of incorporation)

g. Principal place of business

h. Federal I.D. Number

i. Amount of Certified Check,
Cashier's Check, Bid Bond

\$ _____

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Bid Form 4: Page 2

2. Form of Business Organization.

____ Corporation

____ Partnership

____ Other

3. The bidder shall provide the names and addresses of all persons interested as principals (officers, partners, and associates) in this proposal. Write first name in full, and give titles for offices.

_____	_____
_____	_____
_____	_____
_____	_____

All of the above, including the signatory to this bid, are citizens of the United States, except the following. (Provide names and addresses of those not a citizen of the United States.)

_____	_____
_____	_____
_____	_____
_____	_____

4. Name and address of other person, firms or companies interested in this contract.

_____	_____
_____	_____
_____	_____
_____	_____

5. Local Bidder Preference Information: Does your company have a headquarters, division, sales office, sales outlet, manufacturing facility, or similar significant business-related location in Stark County, Ohio? If yes, please provide the name and address of the location below.

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Bid Form 5: Page 2

statements contained in said proposal or bid are true; that such bidder has not, directly or indirectly submitted this bid, or the contents thereof, or divulged information or data relative thereto any association or to any member or agent thereof; and further says that all the statements made by him in said proposal or bid are true.

Affiant

Sworn to and subscribed before me this _____ day of

_____, 20 ____.

Notary Public in and for

_____ County,

My Commission Expires:

_____, 20 ____.

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Bid Form 6: Insurance Requirements, Page 1

Instructions

All successful bidders will be required to possess the following items per the requirements below and should be prepared to submit proof thereof:

1. Liability Insurance Certificate
2. Worker's Compensation Certificate

Insurance Requirements

The following standard indemnity agreement and minimum insurance requirements are incorporated in the specifications for all work performed by the Contractor for the Owner, its affiliated and associated organizations or subsidiaries, hereinafter referred to as Owner.

I. The Contractor agrees to indemnify and save the Owner harmless from and against any and all costs, loss and expense, liability damages, or claims for damages, including cost for defending any action, on account of any injury to persons (including death) or damage to or destruction of property of the Owner, arising or resulting from the work provided for or performed, or from any act, omission, or negligence of the Contractor, Subcontractor and his or their agents or employees. The foregoing provisions shall in no way be deemed released, waived or modified in any respect by reason of any insurance or surety provided by the Contractor.

II. The Contractor shall maintain liability insurance and furnish the Owner with Certificates of Insurance as evidence thereof in the prescribed form. If any work provided for or to be performed under any Specifications is sublet (as otherwise permitted by the terms of such Specifications), the Contractor shall require the sub-contractors to maintain and furnish him with satisfactory evidence of Worker's Compensation, Employer's Liability and such other forms and amounts of insurance which Contractor deems reasonably adequate.

III. In accordance with Item II, the Contractor shall maintain the following insurance:

1. Worker's Compensation and Employer's Liability Insurance affording,
 - a. Protection under the Worker's Compensation Law in the State of Ohio.
 - b. Employer's Liability protection subject to a minimum limit of \$100,000.00.
2. General Liability Insurance in amounts not less than:

a. General Aggregate Limit	\$2,000,000.00
b. Personal and Advertising Injury Limit	\$1,000,000.00
c. Each Occurrence Limit	\$1,000,000.00
d. Fire Damage	\$ 100,000.00
e. Medical Expense Limit	\$ 5,000.00

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Bid Form 6: Page 2

3. Commercial Automobile Liability Insurance in the following minimum amounts:
 - a. Bodily Injury and Property Damage
any one accident or loss: \$1,000,000.00

VI. This insurance shall:

1. include coverage for the liability assumed by Contractor under Item I (Indemnity);
2. be evidenced by Certificates of Insurance furnished by the Contractor that show by specific reference that each of the foregoing items have been provided for;
3. not be subject to any of the special property damage liability exclusions commonly referred to as the XCU exclusions pertaining to blasting or explosion, collapse or structural damage and underground property;
4. provide the City of Canton **“additional insured status”** and shall **contain an endorsement by the insurance carrier providing thirty (30) days’ notice to both the City and insured in the event of any change in coverage under the policy.** No less than thirty (30) days advance notice of cancellation of the insurance policy shall be given to the City by the insurer.

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Bid Form 7: Bidder's Affidavit: Foreign Corporation

***Any corporation that is not incorporated in the State of Ohio is a foreign corporation.**

The undersigned certifies that _____ is a foreign corporation incorporated in the State of _____, whose principal place of business is _____ and is required to obtain authorization to transact business in the State of Ohio.

The undersigned bidder further certifies that said authorization has been obtained and is in effect and the bidder has a designated statutory agent upon whom process against bidder corporation may be served within the State of Ohio. The designated

statutory agent is _____
(name and address)

Process served upon the designated statutory agent named above shall be effective service, unless the Owner has been informed, by certified mail or its equivalent (return receipt), of a change in the agent upon whom process can be served.

Date

Signed

Title

Note: This statement is to be reproduced on the bidder's letterhead, signed by the authorized bid signatory, notarized and submitted with the bid.

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Bid Form 8: Personal Property Tax Certification (ORC 5719.042)

NOTE: The below form and/or certification must be retyped on the bidder's letterhead and notarized utilizing either paragraph (A) or (B), and paragraph (C) as it applies to your company.

Office of the Auditor
City of Canton
218 Cleveland Avenue S.W., 2nd floor
Canton, OH 44702

To Whom It May Concern:

(A) The undersigned hereby certifies that the party for whom the contract award is being considered was not charged with any delinquent personal property tax at the time of the bid opening for the project nor is said party currently charged with such a delinquency on the general tax list of personal property for Stark County, Ohio.

Or

(B) The undersigned hereby certifies that the party for whom the contract award is being considered has been charged with a delinquency regarding personal property tax on the general tax list of personal property for Stark County, Ohio, either currently, or at the time of bid opening for the project. The amount of the due and unpaid delinquent taxes, including any due and unpaid penalties and interest thereon is _____.

and

(C) It is understood that, under Ohio law, this statement is to be signed by the party whose bid has been tentatively accepted, and must be affirmed under oath. The law also requires that his statement is to be submitted to the City Auditor and this statement must be incorporated into the pending contract before any payment can be made under the subject contract.

Name of Company

Signatory

Secretary

Sworn to and subscribed in my presence this _____ day of _____, 20 _____

(Notary Public)

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Bid Form 9: Certification: Auditor of the State of Ohio

I, _____
(Name of person signing affidavit) (Title)

do hereby certify that _____ does not have an
(Company or Individual Name)

outstanding unresolved finding for recovery issued by the Auditor of the State of Ohio as defined

by Ohio Revised Code (ORC) Section 9.24 as of _____.
(Current date)

Signature of Officer or Agent

Name (Print)

Sworn to and subscribed in my presence this _____ day of _____, 20 _____

(Notary Public)

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Bid Form 10: Articles of Incorporation

Please provide a copy of the company's articles of incorporation. The City of Canton may request this information if it is not provided.

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Bid Form 11: W9 Tax Form

Please provide an up to date copy of your Company's W9.

Section III: City of Canton Income Tax Information

1. All successful bidders shall be required to comply with all City of Canton income tax ordinances including the following:
 - a. No person, partnership, corporation or unincorporated association may be awarded a contract with the City under Sections 105.09 or 105.10, unless the vendor is paid in full or is current and not otherwise delinquent in the payment of City income taxes, including any obligation to pay taxes withheld from employees under Section 182.05 and any payment on net profits under Section 182.06.
 - b. Falsification of any information related to or any post-contractual violation of the requirement to pay City income taxes set forth in subsection (a) shall constitute cause for the rescission of the balance of the contract at the City's discretion.
 - c. No partnership, corporation or unincorporated association which has as one of its partners, shareholders or owners a person who is a twenty percent (20%) or greater equity owner in such partnership, corporation or unincorporated association and who is delinquent in the payment of City income taxes as set forth in subsection (a), may be awarded a contract with the City under Sections 105.09 or 105.10.
 - d. A person who is a twenty percent (20%) or greater equity owner in any partnership, corporation or unincorporated association which is delinquent in the payment of City income taxes as set forth in subsection (a) may not be awarded a contract with the City under Sections 105.09 or 105.10.
 - e. By entering into contract with the City of Canton the vendor agrees with the City regarding the manner of withholding of City income taxes as provided in Section 718.011(F) of the Ohio Revised Code including the following:
 - i. Municipal income tax withholding provisions of Sections 718.011(B)(1) and 718.011(D) ORC shall not apply to qualifying wages paid to employees for work done or services performed or rendered inside the City or on City property.
 - ii. The vendor agrees to withhold income tax for the City from employees' qualifying wages earned inside the City or on City property, beginning with the first day of work done or services performed or rendered inside the City.
2. Vendors will be registered with the City of Canton Income Tax Department to ensure that the above qualifications are met. Vendors are encouraged to contact the City of Canton Income Tax Department prior to bidding with any questions regarding these provisions and for registration. Please use the contact information on the following page.

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City of Canton Income Tax Department

Office Address

424 Market Ave. N
Canton OH 44702

Correspondence Address

P.O. Box 9940
Canton, OH 44711

Phone: (330) 430-7900

Fax: (330) 430-7944

Email: cantontax@cantonohio.gov

3. Additionally, all public improvement, professional services, and services contracts shall also contain the following provisions:

Provision 1

Said _____ hereby further agrees to withhold all City income taxes due or payable under Chapter 182 of the Codified Ordinances for wages, salaries, fees and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due for services performed under this contract. Furthermore, any person, firm or agency that has a contract or agreement with the City shall be subject to City income tax whether a resident or nonresident in the City, and whether the work being done is in the City or out of the City. In addition to the tax withheld for employees, the net profits on the contract shall be subject to City income tax.

Provision 2

By entering into contract with the City of Canton _____ agrees with the City regarding the manner of withholding of City income taxes as provided in Section 718.011(F) of the Ohio Revised Code.

- i. Municipal income tax withholding provisions of Sections 718.011(B)(1) and 718.011(D) ORC shall not apply to qualifying wages paid to employees for work done or services performed or rendered inside the City or on City property.
- ii. _____ agrees to withhold income tax for the City from employees' qualifying wages earned inside the City or on City property, beginning with the first day of work done or services performed or rendered inside the City.

(Ord. 238-2015. Passed 11-30-15.)

Section IV: City of Canton Codified Ordinances

Bidders shall take notice that they are to comply with the Codified Ordinances of the City of Canton including but not limited to the following:

1. Chapter 105.06 – Minority contract provision.

a. All contracts with the City shall include the following clause:

The bidder agrees to expend at least \$_____ of the Contract in the event the contract is awarded to such bidder for minority/women's business enterprises. For purposes of this pledge, the term "minority/women's business enterprise" means a bona fide business established as a sole proprietorship, partnership or corporation owned, operated and controlled by one or more minority persons or women who have at least fifty-one percent (51%) ownership. "Minority" includes African Americans, Asian/Pacific Islanders, Hispanic/Latino Americans and Native American Indians. The minority or woman must have operational and managerial control, interest in capital, and earnings commensurate with the percentage of ownership. Minority/women's business enterprises may be employed as construction contractors, subcontractors, vendors or suppliers.

(Ord.185-2011. Passed 10-31-11.)

2. Chapter 105.12 – Local Bidder Preference.

a. The Board of Control, in determining the lowest and best bidder in the award of contracts to which this section is applicable, is authorized to award contracts to local bidders as hereinafter defined, whose bid is not more than five percent (5%) higher, subject to a maximum amount of twenty thousand dollars (\$20,000.00), than the lowest dollar bid submitted by non-local bidders. The Board of Control's decision in making such an award shall be final.

b. For purposes of this section, "local bidder" means an individual or business entity which at the time of the award of the contract has a headquarters, division, sales office, sales outlet, manufacturing facility, or similar significant business-related location in Stark County, Ohio.

c. All contract specifications and/or bid documents that are distributed by Canton for the purpose of soliciting bids for goods and/or services shall contain the following notice:

Prospective bidders will take notice that the City of Canton, in determining the lowest and best bidder in the award of this contract, may award a local bidder preference to any qualified bidder pursuant to Section 105.12 of the Codified Ordinances of the City of Canton. The determination of whether a bidder qualifies for the local preference shall be made by Board of Control. The Board's decision shall be final. A copy of Section 105.12 is attached.

d. This section shall be applicable to all contracts for equipment, goods, machinery, materials, supplies, vehicles and/or services, which are purchased, leased and/or constructed and which require bidding pursuant to Ohio R.C. 735.05 through 735.09 and Ohio R.C. 737.03.
(Ord. 137-2023. Passed 9-25-2023.)

Lease of Approximately 35 Acres of Land for Farming in Pike Township

3. Chapter 105.15 – City Income Tax

- a. No person, partnership, corporation or unincorporated association may be awarded a contract with the City under Sections 105.09 or 105.10, unless the bidder is paid in full or is current and not otherwise delinquent in the payment of City income taxes, including any obligation to pay taxes withheld from employees under Section 182.05 and any payment on net profits under Section 182.06.
- b. Falsification of any information related to or any post-contractual violation of the requirement to pay City income taxes set forth in subsection (a) shall constitute cause for the rescission of the balance of the contract at the City's discretion.
- c. No partnership, corporation or unincorporated association which has as one of its partners, shareholders or owners a person who is a twenty percent (20%) or greater equity owner in such partnership, corporation or unincorporated association and who is delinquent in the payment of City income taxes as set forth in subsection (a), may be awarded a contract with the City under Sections 105.09 or 105.10.
- d. A person who is a twenty percent (20%) or greater equity owner in any partnership, corporation or unincorporated association which is delinquent in the payment of City income taxes as set forth in subsection (a) may not be awarded a contract with the City under Sections 105.09 or 105.10.
- e. A contract awarded under Sections 105.09 or 105.10 for a public improvement project, services other than personal or professional services, and personal or professional services shall not be binding or valid unless such contract contains the following provisions:

Said _____ hereby further agrees to withhold all City income taxes due or payable under Chapter 182 of the Codified Ordinances for wages, salaries, fees and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due for services performed under this contract. Furthermore, any person, firm or agency that has a contract or agreement with the City shall be subject to City income tax whether a resident or nonresident in the City, and whether the work being done is in the City or out of the City. In addition to the tax withheld for employees, the net profits on the contract shall be subject to City income tax.

(Ord. 238-2015. Passed 11-30-15.)

4. Chapter 182.30 – Contract Provisions

- a. No contract on behalf of the City under Sections 105.09 or 105.10 of the Codified Ordinances of Canton for a public improvement project, services other than personal or professional services, and personal or professional

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services shall be binding or valid unless such contract contains the following provisions:

Said _____ hereby further agrees to withhold all City income taxes due or payable under Chapter 182 of the Codified Ordinances for wages, salaries, fees and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due for services performed under this contract. Furthermore, any person, firm or agency that has a contract or agreement with the City shall be subject to City income tax whether a resident or nonresident in the City, and whether the work being done is in the City or out of the City. In addition to the tax withheld for employees, the net profits on the contract shall be subject to City income tax.

- b. By entering into contract with the City of Canton _____ agrees with the City regarding the manner of withholding of City income taxes as provided in Section 718.011(F) of the Ohio Revised Code.
 - i. Municipal income tax withholding provisions of Sections 718.011(B)(1) and 718.011(D) ORC shall not apply to qualifying wages paid to employees for work done or services performed or rendered inside the City or on City property.
 - ii. _____ agrees to withhold income tax for the City from employees' qualifying wages earned inside the City or on City property, beginning with the first day of work done or services performed or rendered inside the City.

(Ord. 238-2015. Passed 11-30-15.)

5. **Chapter 507.03 – Equal Employment Opportunity clause.**

- b. During the performance of this contract, the contractor agrees as follows:
 - 1. The contractor shall not discriminate against any employee or applicant for employment because of race, age, handicap, religion, color, sex, national origin, sexual orientation or gender identity. The contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to race, religion, color, sex, national origin, military status, sexual orientation or gender identity. As used herein, the word "treated" shall mean and include without limitation the following: recruited, whether by advertising or other means; compensation, whether in the form of rates or pay or other forms of compensation; selected for training, including apprenticeship; promoted; demoted; upgraded; downgraded; transferred; laid off; and terminated. The contractor agrees to and shall post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officers setting forth the provisions of this nondiscrimination clause.
 - 2. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor; state that all qualified applicants will receive consideration for employment without regard to

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race, age, handicap, religion, color, sex, national origin, military status, sexual orientation or gender identity.

(Ord. 153-2012. Passed 9-24-12.)

3. The contractor shall send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the contractor's commitments under the equal opportunity clause of the City; and he shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor shall submit in writing to the City his affirmative action plan, and each subcontractor and supplier of equipment or supplies shall submit to the general contractor his affirmative action plan. The responsibility for securing these affirmative action plans falls upon the general contractor and shall be on file at the office of the general contractor. The contractor shall furnish all information and reports required by the City or its representative pursuant to this chapter, and shall permit access to his books, records, and accounts by the contracting agency and by the Executive Secretary for purposes of investigation to ascertain compliance with the program.
5. The contractor shall take such action with respect to any subcontractor as the City may direct as a means of enforcing the provisions of this equal opportunity clause, including penalties and sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in or is threatened with litigation as the result of such direction by the City, the City will enter into such litigation as is necessary to protect the interests of the City and to effectuate the City's equal opportunity program and, in the case of contracts receiving Federal assistance, the contractor or the City may request the United States to enter into such litigation to protect the interests of the United States.
6. The contractor shall file and shall cause his subcontractors, if any, to file compliance reports with the City in the form and to the extent prescribed by the City or its representative. Compliance reports filed at such times as directed shall contain information as to the employment practices, policies, programs and statistics of the contractor and his subcontractors.
7. The contractor shall include the provisions of this equal employment opportunity clause in every subcontract or purchase order, so that such provisions will be binding upon each subcontractor or vendor.
8. Refusal by the contractor or subcontractor to comply with any portion of this program as herein stated and described will subject the offending party to any or all of the following penalties:

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- A. Withholding of all future payments under the involved public contract to the contractor in violation, until it is determined that the contractor or subcontractor is in compliance with the provisions of this contract.
- B. Refusal of all future bids for any public contract with the City or any of its departments or divisions, until such time as the contractor or subcontractor demonstrates that he has established and shall carry out the policies of the program as herein outlined.
- C. Cancellation of the public contract and declaration of forfeiture of the performance bond.
- D. In cases in which there is substantial or material violation or the threat of substantial or material violation of the compliance procedure or as may be provided by contract, appropriate proceedings may be brought to enforce these provisions, including the enjoining within applicable laws of contractors, subcontractors or other organizations, individuals or groups who prevent, directly or indirectly, or seek to prevent, directly or indirectly, compliance with the policy as herein outlined.

(Ord. 179-74. Passed 6-17-74.)

Section V: Bid Specifications

SPECIFICATIONS

1.0 SCOPE AND CLASSIFICATION

- 1.1 **Scope:** The City of Canton is seeking bids for a five (5) year lease, with the option of two (2) 5-year renewals if mutually agreed upon by both parties, of approximately 35 acres of property in Pike Township, for the purposes of farming.
- 1.1.1 The approximately 35 acres that make up this farm lease is spread out over eight (8) separate fields, as noted in Exhibit A.
- 1.2 **Classification:** The successful bidder will lease said space pursuant to all terms and conditions in this bid and the resulting contract.

2.0 APPLICABLE PUBLICATIONS & STANDARDS

- 2.1 N/A

3.0 REQUIREMENTS

- 3.1 General Requirements
 - 3.1.1 Bidders shall provide firm and fixed per-year lease pricing for the property on the proposal pages provided.
 - 3.1.2 The lease agreement shall be for five (5) years, with the option to extend the lease for two (2) additional 5-year periods if mutually agreed upon by both parties.
 - 3.1.3 The specific start date of the lease will be the date of the signature by the Director of Public Service on the fully executed and finalized contract.
 - 3.1.4 No security deposit shall be required.
 - 3.1.5 Lessee shall indemnify and save harmless Stark Parks (the Lessor), its employees, servants and officials from any and all expenses, debts, obligations, causes of action, liabilities or suit arriving from the use and occupancy of the subject property by the Lessee. The Lessee further agrees that Lessor shall be held harmless from all claims, demands, actions, causes of action, and from all liabilities for damages, loss or injury of whatever kind, nature, or description that may arise as a result of his use of the subject property; the Lessee further agrees to hold the Lessor harmless for any and all liability which may be incurred by him or third parties as a result of his use of the subject property.

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- 3.1.6 The Lessee agrees not to use or occupy the said subject property for any unlawful purpose; to conform to and obey all present and future laws, ordinances, rules, regulations, requirements and orders of the United States of America, the State of Ohio, the City of Canton, and of all governmental authorities or agencies, and of all municipal departments, bureaus, boards or officials of said city, respecting said subject property in the use and occupation thereof.
- 3.1.7 The Lessee agrees not to use or keep intoxicants on the subject property, and not to permit intoxicants to be used on the subject property.
- 3.2. Lease Requirements and Information
- 3.2.1 The lease will be for approximately 35 acres of property in Pike Township. The specific property to be leased is marked in Exhibit A and will hereinafter be referred to as the “Leased Premises.” By submitting a bid, the bidder acknowledges that there is not a legal description for the bid property.
- 3.2.2 The Lessee may use the subject property only for farming purposes to raise such crops as the Lessee shall determine. In the event the Lessee makes any other use of the subject property, this Lease Agreement shall immediately terminate at the option of the Lessor who shall give thirty (30) days written notice of termination to Lessee.
- 3.2.2.1 When not farming said subject property, Lessee shall keep said subject property in a safe and reasonably well mowed condition (no more than 18 inches) and free of debris and trash. Trees and brush that have grown on the subject property may be removed by the Lessee, subject to approval of the Lessor.
- 3.2.2.2 The lease shall not be assigned nor shall the Lessee enter into any agreement of sublease with respect to the leased premises.
- 3.2.2.3 The leased premises may not be used for livestock or other purposes.
- 3.2.2.4 The Lessee **cannot** cut standing timber **nor** expand the existing tillable land without the express written permission of the City of Canton.
- 3.2.3 Lessee must provide proof of all applicable licenses required by law or requested by the City of Canton or City for its proposed operation.
- 3.2.4 Lessee shall use the Leased Premises in a manner consistent with its current use and for no other purpose. Lessee shall not use the Leased Premises for any unlawful purpose or for any purpose that will create a nuisance at the Leased Premises. Lessee agrees, at its sole expense, to comply with all laws, orders and

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regulations of federal, state, county and municipal authorities applicable to the Lessee's business and use of the Leased Premises.

3.2.5 Lessee shall be responsible for any damage to the Leased Premises caused by any negligent or intentional act of Lessee or its agents, employees, invitees, etc. Further, Lessee shall not do or commit to be done any act or thing upon the Leased Premises which would jeopardize the ability of Lessee and/or Lessor to obtain insurance coverage on the Leased Premises.

3.2.6 Quiet Enjoyment: Lessee shall peaceably and quietly have, hold, occupy, possess and enjoy the Leased Premises during the lease term, or any legitimate extension thereof, provided, however, that Lessee promptly pays the rental due and keeps, observes and performs all of the terms and conditions as set forth in this Lease.

3.2.7 Please refer to the attached Exhibit B, which is the Joint Facility Development and Use Agreement between the City of Canton and Stark Parks. This agreement details the intention for the use of this leased premises and the surrounding premises, as well as the responsibilities of the City of Canton and Stark Parks.

3.2.8 Taxes

3.2.8.1 Lessee shall be responsible for all federal, state and local income taxes associated with the operation of Lessee.

3.2.8.2 **Lessee shall be responsible for any and all real estate taxes associated with the leased property. The City of Canton will invoice the Lessee for these taxes when they come due, and said taxes must be paid within 30 days of said invoice.**

3.2.8.2.1 Since real estate taxes are one (1) year behind, the final year of taxes will be invoiced at the termination of the lease within 30 days of said termination. The taxes will be estimated using the previous year's tax amount.

3.2.8.3 Per the attached Exhibit A, the parcel information per the eight fields that make up this farm lease is as follows:

PARCEL NO.
4880032
4880033
4880024

3.2.9 Termination

3.2.9.1 Lessee will deliver and surrender to Lessor possession of the Leased Premises upon the expiration of this Lease, or any legitimate extension thereof, in as a good condition and repair as the Lessee received the

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Leased Premises at the initial commencement of this Lease, normal wear and tear excepted.

3.2.9.2 Lessor shall have the right to terminate the entire lease, or any portion of the lease, for convenience upon thirty (30) days written notice to Lessee.

3.2.10 Damage to Premises: If the Leased Premises shall, during the term of this Lease Agreement or any extension hereof, be damaged or destroyed by fire or any other cause whatsoever, both the Lessee and the Lessor may cancel said lease at any time. The intent to cancel must be indicated in writing within thirty (30) days of the damage or destruction.

3.2.11 Mechanic's Liens: Lessee agrees not to do, and shall not permit to be done, any act or thing to create any mechanic's or materialmen's liens or claim for lien to be placed on the Leased Premises, and Lessee, for itself, its successors and assigns, and its contractors, subcontractors, materialmen and all persons whosoever, hereby waives and disclaims any and all claims and all right to any mechanic's lien for work, labor or materials for the furnishing or doing of any matter or thing permitted or required by law, ordinances, or regulations or by the terms of this Agreement or otherwise and Lessee shall indemnify and hold harmless Lessor and its successors and/or assigns from any and all liabilities, damages and claims arising from any such liens. Any such liens placed on the Leased Premises shall be immediately discharged by Lessee, or Lessee may post a bond with Lessor in a form approved by Lessor for the full amount of the lien.

3.3 Default: In the event that Lessee shall fail or neglect to keep, perform and observe Lessee's obligations under the terms of this Lease or any legitimate extension thereof and such default shall not have been cured within thirty (30) days after the date of such default, then in such event the Lessor may exercise all remedies available to Lessor at law or equity; provided, however, that if the default involves the non-payment of rent, in such event the period to cure shall be fifteen (15) days.

In the event that Lessor shall fail or neglect to keep, perform and observe Lessor's obligations under the terms of this Lease and such default shall not have been cured within thirty (30) days after the date of such default, then in such event the Lessee may exercise all remedies available to Lessee at law or equity.

3.4 If it is determined that the Lessee has violated any federal, state, or local law, the Lessor reserves the right to immediately terminate the lease.

3.5 If the Lessee would like to build a fence or fences on the Leased premises, it may, but only with the prior written approval of the City of Canton. At the termination of the lease, the Lessee is responsible for removing the fence.

4.0 INSPECTIONS, TESTING, PROPERTY ACCESS, AND CANCELLATION

- 4.1 Bidders shall have the opportunity to inspect the premises both during the bid process and prior to accepting the award of the contract. Contact the City of Canton Director of Public Service at 330-489-3283, if you would like to set up a time for viewing. An inspection will time will be set up with the Director or his designee.
- 4.2 At any time during the term of the Lease, the City of Canton shall have access to the premises for purposes of inspection. The Lessee shall permit the City of Canton access to the property for inspection or repairs at all times requested by the City of Canton. Unless otherwise agreed upon in advance, the City of Canton will give twenty-four (24) hours' notice for these inspections and/or repairs unless there is an emergency. The Lessor shall have immediate access to the leased premises in said emergency situations.
- 4.3 The parties acknowledge this Lease Agreement shall not in any way entitle Lessee to any proceeds from gas and/or oil wells located on the subject property. Further, Lessor does not relinquish any mineral rights to said subject property by reason of execution of this Lease Agreement. The Lessor retains the right to cancel or change all or any part of this Lease Agreement as it deems necessary only upon thirty (30) days written notice to Lessee. Lessee shall not in any way interfere with Lessor's right to enter and possess the subject property and to exercise any of its rights with respect to any oil, gas or other mineral exploration on the subject property. Lessee shall be reimbursed for the actual expenses according to the portion of the Lease Agreement that is canceled or changed.

5.0 BILLING AND INVOICING

- 5.1 Rent
 - 5.1.1 Lessee shall pay all rent as bid to Stark Park (the Lessor) on an annual basis.
 - 5.1.2 Stark Parks will invoice Lessee for said annual rent.
 - 5.1.3 Annual rent is due within 30 days of the invoice date except the initial rent payment which is due prior the City of Canton signing and finalizing said lease.
 - 5.1.4 Please see specification 3.2.8.2 regarding the payment of all applicable property tax.
 - 5.1.5 In the event that any payments are greater than ten (10) days late, Lessee shall pay a late payment fee equal to 10% of the late rent payment.
 - 5.1.6 The lease rate amount shall be a minimum of \$5,000.00 per year.

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6.0 NOTES AND AWARD PROCESS

- 6.1 Prospective bidders will take notice that the City of Canton will award the contract to the highest bidder who is able to meet all of the desired outcomes and listed requirements contained herein.
- 6.1.1 The City of Canton Board of Control reserves the right to reject any and all bids.
- 6.1.2 The Board of Control reserves the right to reject any or all bids and to accept the bid(s) deemed most beneficial to the City of Canton.
- 6.1.3 Contracts will be awarded in accordance with Section 105.09 of the City of Canton Codified Ordinances using the standard of highest and best bidder.
- 6.2 Questions and Addenda
 - 6.2.1 All questions should be submitted in writing at least five (5) business days prior to the bid opening. Answers to questions will be issued in writing as official addenda no later than seventy two (72) business hours prior to the time of the bid opening. Said addenda will become a component of the invitation to bid and should be acknowledged as received on the proposal page. Failure to acknowledge all official addenda in this manner may result in your bid being disqualified.
 - 6.2.2 All questions should be directed to:
City of Canton Purchasing Department
Email: purchasing@cantonohio.gov
 - 6.2.3 Bidders are expected to and responsible for monitoring the City's website for all official addenda.
 - 6.2.4 Oral instructions or decisions, unless confirmed by addenda, will not be considered valid, legal or binding.
- 6.3 Proposal Page Instructions:
 - 6.3.1 Bidders are required to fill out the proposal page completely. Failure to do so may result in your bid being disqualified.
 - 6.3.2 Bidders must provide fixed firm annual rent pricing.
- 6.4 Please be advised that when you submit a bid to the City of Canton, it will assume that an authorized representative of your company reviewed said bid to assure that the bid is correct and/or accurate.

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- 6.5 Any bidder may withdraw a bid, by written request, at any time prior to the time set for the bid opening. This request must be made to Katie Wise, Assistant Director of Purchasing at purchasing@cantonohio.gov. If there is no withdrawal of the bid, in accordance to this procedure, the City of Canton reserves the right to enforce said bid prices(s) and/or contract(s).
- 6.6 If a bidder attempts to alter any of the terms and/or conditions of these bid specifications or the proposal page, the City of Canton may reject said bid.
- 6.7 The Purchasing Department time stamp clock is the official time used for the deadline of the submission of bids.

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Section IV: Proposal and Signature Pages

Proposal Page

Lease of Approximately 35 Acres of Land for Farming in Pike Township

We (I), the below signed hereby propose to furnish the following article(s) and/or service(s) at the price(s) and terms stated subject to all instructions, conditions, specifications, and all attachments hereto. We (I) have read all attachments including the specifications and fully understand what is required.

The lease amount shall be a minimum of \$5,000.00 per year.

Bid Item 1

Description	Total Price (In Figures)	Total Price (In Words)
Total Annual Lease Amount		

Addenda Acknowledgement

I hereby acknowledge the following official addenda (leave blank if no addenda were issued)

Addenda Number(s) _____

Lease of Approximately 35 Acres of Land for Farming in Pike Township

Signature Page

Lease of Approximately 35 Acres of Land for Farming in Pike Township

To the Director of Public Service of the City of Canton:

The undersigned, having carefully examined the complete invitation to bid, herewith proposes to lease the outlined space pursuant to all terms and conditions outlined herein and required by the City of Canton Law Department in the resulting contract.

The bidder hereby agrees that the City of Canton has the right to reject any and all bids and to accept the bid(s) deemed most beneficial to the City of Canton.

The bidder herewith encloses a _____ **(Bid Bond, Certified/Cashier's Check)** in the sum of \$ _____ dollars made payable to the CITY OF CANTON as a guaranty that if awarded the contract _____ will enter into contract therefore, within the prescribed time of ten (10) days from the date of service of notice of award, otherwise such bond or checks shall become the property of said City.

The bidder acknowledges receipt of Addenda Numbers: _____

SIGNATURE OF BIDDER: _____

NOTE: If bidder is a corporation, set forth the legal name of the corporation, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If bidder is a partnership, set forth the name of the firm, together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership.

Please have this page Notarize

EXHIBIT A - PARCEL INFORMATION

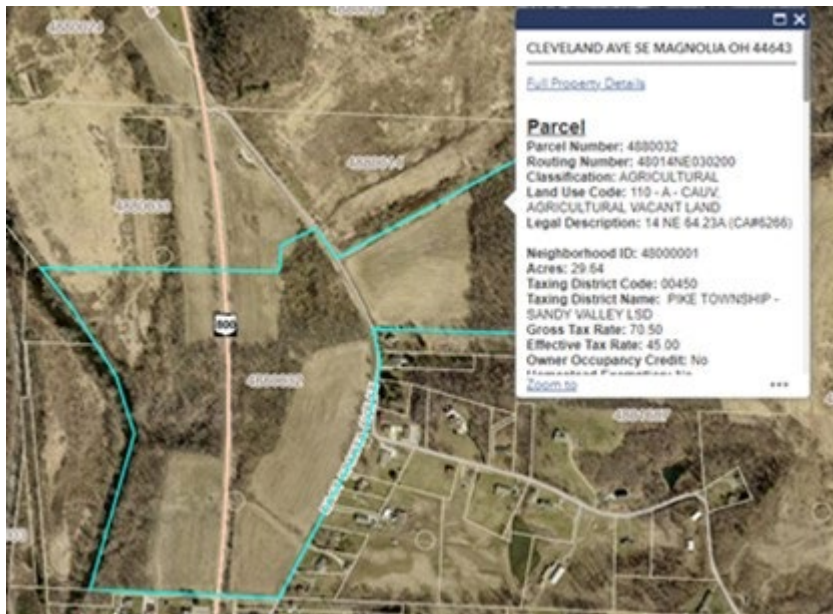
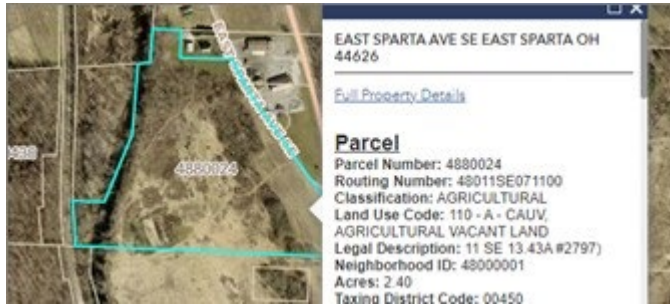


EXHIBIT A

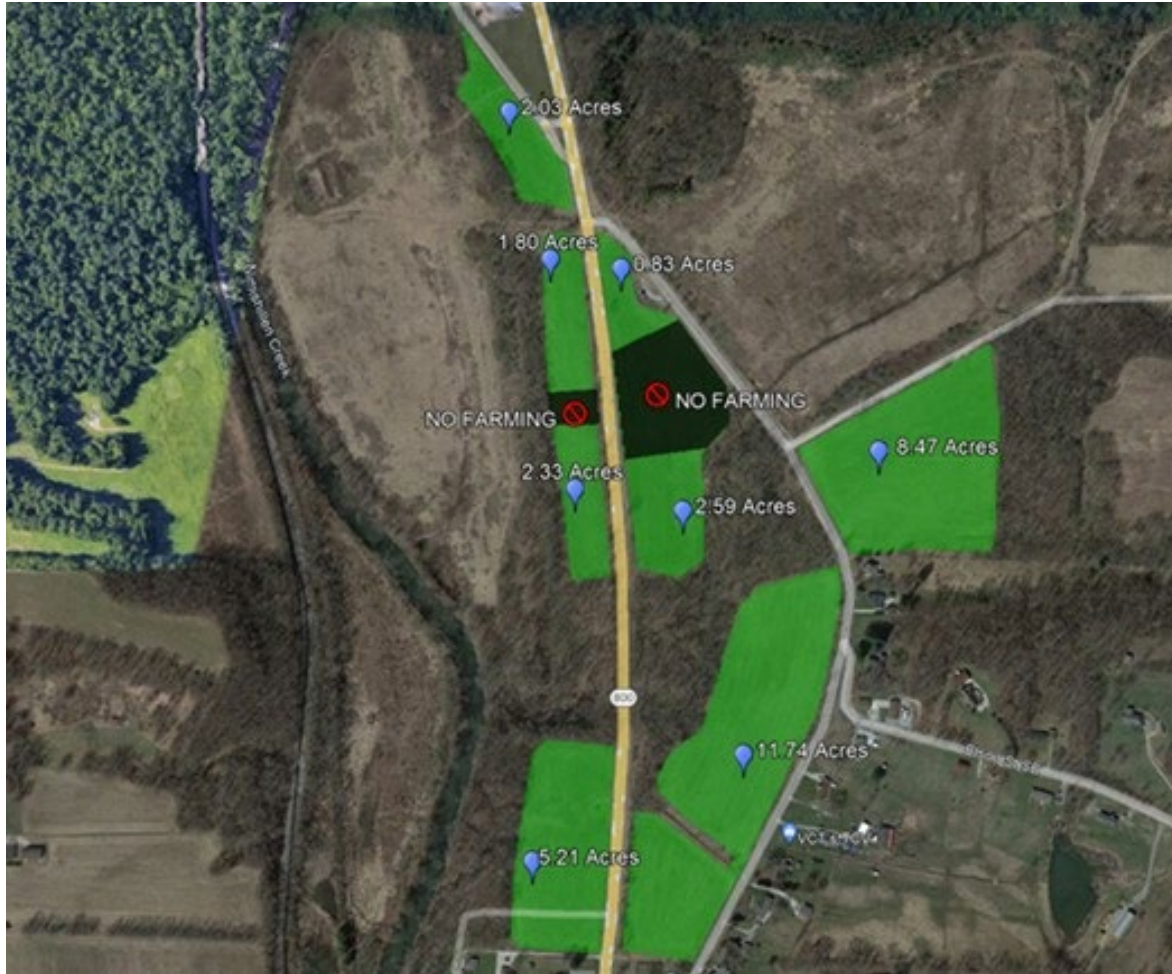


EXHIBIT B

JOINT FACILITY DEVELOPMENT AND USE AGREEMENT

This JOINT FACILITY DEVELOPMENT AND USE AGREEMENT (the "Agreement"), is made and entered into as of October 16, 2023 ("Effective Date") by and between the City of Canton ("CITY"), Canton Board of Park Commissioners ("CANTON PARKS") and the Stark County Park District ("STARK PARKS").

RECITALS

WHEREAS, CITY is a political subdivision in the State of Ohio empowered to enter into agreements pursuant to Chapter 715 of the Ohio Revised Code; and

WHEREAS, STARK PARKS is political subdivision in the State of Ohio empowered to enter into agreements pursuant to Chapter 1545 of the Ohio Revised Code; and

WHEREAS, CITY owns property located in Pike Township consisting of approximately 506 acres and having the following permanent parcel numbers: 4880024, 4880032, 4880033, 4880013, 4880010, 4880031, 4880011, and 4880014 (the "Premises"); and

WHEREAS, portions of the Premises are subject to City-bid and pre-existing or future leases for farming and oil/gas recovery. The records of portions and acreage that are subject to leases are available for inspection at the Canton City Engineer's Office; and

WHEREAS, On September 18, 2023, CITY passed Ordinance 127/2023 which dedicated the Premises as a City park known as the Nimishillen Creek Park; and

WHEREAS, pursuant to Ohio Revised Code §755.16 the CITY and the STARK PARKS wish to enter into a joint project to operate and maintain the Premises as generally depicted in Exhibit A; and

WHEREAS, STARK PARKS desires to utilize the Premises for the establishment of walking trails, equestrian trails, archery and general park activities.

WHEREAS, CANTON PARKS desires to delegate the maintenance and management of Nimishillen Creek Park to STARK PARKS subject to terms of this Agreement.

NOW, THEREFORE, the parties hereby agree to the following:

1) PERMITTED USES OF STARK PARKS AND LIMITATIONS

- a. STARK PARKS shall use the Premises for the Permitted Use which shall be the establishment of walking trails, equestrian trails, archery, canoe & kayak launching concession, shelters, weddings, park roads & parking, habitat restoration and general park activities, all in conformity with Concept Plan attached hereto as "Exhibit B". STARK PARKS may also use the Premises for other STARK PARK sponsored activities with approval by the CITY as in conformance with applicable township zoning. Said approval shall not be unreasonably denied.

- b. At its sole discretion the STARK PARKS may elect to charge and solely retain admittance fees to the Premises in connection with the Permitted Use.
- c. STARK PARKS recognizes that the Permitted Use is non-exclusive, and that the property may be used by others as deemed appropriate by the CITY so long as not in conflict with the Permitted Use by the STARK PARKS. Furthermore, STARK PARKS use of the Premises shall not impede or conflict with existing or future easements, leases, licenses or other agreements encumbering the Premises; to include but not limited to, a Farming Lease to Bowling recorded in City Contract 2017-89; any future Farming Leases (provided those leases do not interfere with an existing STARK PARKS use); a Gas Main Easement to The East Ohio Gas Company recorded in Stark County Recorder Instrument No. 200210100081530; a Drive Easement to Malott recorded in Stark County Recorder Instrument No. 200908310035635; a Drive License to Malott recorded in Stark County Recorder Instrument No. 200908310035636; and an Oil & Gas Lease to Markley recorded in Stark County Recorder Lease Book 85, Page 449.
- d. The parties acknowledge this Agreement shall not in any way entitle STARK PARKS to any proceeds from gas and/or oil wells located on the Premises. Further, the CITY does not relinquish any mineral rights or timber rights from the Premises by execution of this agreement.
- e. CITY retains the right to enter the Premises at any time, and on any occasion without restrictions whatsoever. CITY retains the right to direct the interruption of any event in the interest of public safety and to terminate such event when, in the sole judgment of CITY or its designees, such act is in the interest of public safety. STARK PARKS hereby waives any claims for damages or compensation should the event be so interrupted or terminated, unless said event cancellation, interruption or termination was wrongfully performed by CITY pursuant to the terms of this Agreement.
- f. STARK PARKS shall take reasonable efforts to ensure that no illegal drugs or tobacco products are brought onto the Premises, or any part of the Premises, including parking lots. STARK PARKS shall make reasonable efforts to ensure that alcoholic beverages are not brought onto the Premises, or any part of the Premises, including parking lots. STARK PARKS shall take reasonable efforts to ensure that no hunting or trapping is taking place on the Premises.
- g. The STARK PARKS recognizes that the Premises is in an AS-IS condition; and that the Premises was formerly occupied by a sewage treatment facility. The CITY makes no warranties or guarantees whatsoever as to the condition of the property or the suitability of the Premises for the Permitted Use.
- h. The CITY, CITY PARKS and STARK PARKS shall cooperate in securing future conservation easements over portions of the Premises.

2) CITY RESPONSIBILITIES

- a. CITY shall assist with marketing and programming regarding the Premises.

- b. The CITY agrees to sign and/or consent, as Property Owner, to grant applications, building permit applications, and other such documents by STARK PARKS which may require the signature or consent of the Property Owner, from time to time. The CITY's consent may be subject to authorization by the CITY's Mayor, Public Service Director, Public Safety Director, CITY PARKS, Law Director, and/or City Council. Said consent shall not be unreasonably denied.

3) STARK PARKS RESPONSIBILITIES

- a. STARK PARKS shall be solely responsible, at its sole cost, for all park maintenance and build outs. Said build outs include, but are not limited to, a boat launch, shelters, roads and parking surfaces. All plans for build outs must first be submitted, in writing, to CITY for CITY's approval which shall not be unreasonably withheld. STARK PARKS shall only use contractors or other third parties who will perform work at the Premises that are bonded and insured.
- b. STARK PARKS agrees pay any taxes assessed to the Premises as a result of their use of the Premises.
- c. STARK PARKS agrees to review notices from the CITY of proposed easements, leases and/or licenses which may affect the premises and respond within fifteen (15) business days with comments or concurrence. Said concurrence shall not be unreasonably denied.
- d. STARK PARKS agrees to maintain, at their sole expense, all of the Premises, in a safe and reasonably clean and orderly manner; excepting, those areas rightfully used by others.
- e. STARK PARKS agrees to rectify issue(s) regarding operation and maintenance of the Premises reported by the CITY; with the response and rectification being reasonable to the urgency of the issue(s) reported.
- f. STARK PARKS shall, in coordination with the CITY, be responsible for scheduling of events within the park.
- g. STARK PARKS shall restrict public access to any areas identified with the presence of known environmentally hazardous materials.
- h. STARK PARKS shall restrict public access to the areas within 300' of the south property line of Parcel No. 4880031.
- i. STARK PARKS shall be responsible for the development and enforcement of Park Rules and Regulations and Ohio State Statutes.

4) REVENUES

- a. All money received by the City derived from the Premises from farming operations or conservation easements shall be considered Revenues.

b. All Revenues shall be given to STARK PARKS and used in connection with its rights and responsibilities under this Agreement as they pertain to the Premises including, but not limited to, Sections 3.

5) TERMINATION

- a. This Agreement shall be binding upon the parties for an initial term of twenty-five (25) years from the Effective Date and thereafter shall automatically renew for successive one (1) year terms unless either party provides 90-days written notice of termination (such initial term and any renewal term shall be referred to herein, collectively as the "Term").
- b. Notwithstanding the foregoing, this Agreement may be terminated as follows: (i) if both parties agree, in writing, to terminate this Agreement, then this Agreement shall so terminate according to the terms of said writing when fully executed; or (ii) if either party breaches this Agreement, then the non-breaching party may terminate this Agreement effective thirty (30) days following receipt by the breaching party of a written notice from the non-breaching party detailing said breach and providing the breaching party the opportunity to cure said breach to the reasonable satisfaction of the non-breaching party, provided that such breach is reasonably susceptible to cure within said thirty (30) day period. Any such termination shall be without prejudice to any other rights or remedies available to a non-breaching party, including without limitation, the right to seek injunctive relief, specific performance, or to recover damages arising out of the breach.

6) SIGNAGE

- a) STARK PARKS shall be permitted to erect signs annually throughout the Premises. STARK PARKS shall submit to CITY drawings of signage for review and approval by CITY prior to erecting any signage on the Premises. CITY's approval hereunder shall not be unreasonably delayed, conditioned or withheld. STARK PARKS shall maintain signage in good condition, repair and operating condition at all times.
- b) STARK PARKS may also elect to erect temporary signage during times of Permitted Use. Said temporary signage shall be removed by the STARK PARKS after completion of the Permitted Use. The CITY may request the removal of the annual signage or the temporary signage at any time. The granting of such request by the STARK PARKS shall not be unreasonably withheld.

7) LIABILITY

- a. STARK PARKS assumes all responsibility, risk and liability for those activities of STARK PARKS, its employees, agents, invitees, guests, contractors, or subcontractors ("STARK PARKS's Indemnites"), directly conducted in connection with this Agreement, which occurred directly by STARK PARKS's Indemnites during the Term of this Agreement. CITY assumes all responsibility, risk, and liability for the CITY Services or such other services and/or activities of CITY, its employees, agents, contractors, invitees, subcontractors, or concessionaries, as conducted in connection with this Agreement.

- b. CITY and/or CITY PARKS is not liable or responsible for any financial loss incurred by the STARK PARKS due to unforeseen, extenuating or uncontrollable events, which cause the failure of any or all of the Premises to operate or function during the Term of this Agreement.
- c. STARK PARKS, for itself, its affiliates and its and their successors and assigns, hereby releases CITY and CITY PARKS from any claims it or they may have for environmental conditions that exist or may exist on the Premises.

8) INSURANCE

STARK PARKS and CITY shall, as a condition of this Agreement, obtain and keep in force at all times during the Term of this Agreement, the following insurance coverage with respect to the Premises: (i) Commercial General Liability Insurance, broad form policy with contractual liability endorsement, relating to the Premises and its appurtenances on an occurrence basis with a minimum general aggregate limit of One Million Dollars (\$1,000,000.00); and (ii) Worker's Compensation Insurance covering all persons employed with respect to whom death or bodily injury claims could be asserted against either party, as required by the laws of Ohio. In addition, CITY, as a condition of this Agreement, shall obtain and keep in full force at all times during the Term of this Agreement, Fire and Lightning, Extended Coverage, Vandalism and Malicious Mischief, in an amount adequate to cover the full replacement cost of all personal property, decorations, trade fixtures, furnishings, equipment, and all contents therein. All of the aforesaid insurance except the Workmen's Compensation Insurance shall name the other party as an additional insured and shall be written by one or more licensed and reputable insurance companies licensed in the State of Ohio, as approved by both parties, in their sole discretion. Both parties agree to provide a certificate evidencing the existence of said insurance at least two (2) weeks prior to the Effective Date. The additional insured coverage shall be primary and noncontributory to any insurance or self-insurance purchased by either party.

9) EQUIPMENT.

Generally, the STARK PARKS may provide all equipment needed by STARK PARKS. Storage space will be provided for the storage of said equipment at the Premises. STARK PARKS shall be responsible for repairing or replacing any equipment or other property owned by STARK PARKS that is lost, damaged by STARK PARKS or otherwise rendered unfit by STARK PARKS, other than reasonable wear and tear and casualty expected. Any and all damages that result from STARK PARKS's failure to maintain its equipment in proper working order are the responsibility of the STARK PARKS and will be repaired at the STARK PARKS's expense.

10) GENERAL.

- a. ASSIGNMENT. No benefit under this Agreement may be assigned by either party, nor may any duty under this Agreement be delegated by either party, without first obtaining the express written consent of the non-assigning or delegating party.
- b. AMENDMENTS. This Agreement may not be amended, modified, or changed in any way except by written agreement signed by both parties.

- c. NO WAIVER. The failure of either party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach thereof shall not constitute a waiver by the non-breaching party of any such provision, breach or subsequent breach of the same or any other provision.
- d. COOPERATION. Each party shall reasonably cooperate with the others, and promptly obtain, execute and deliver such documents as are in its possession or control and are reasonably necessary in order to effectuate or confirm any provisions of the Agreement.
- e. GOVERNING LAW; VENUE. Any claim, dispute or other matter in question relating to this Agreement shall be governed by the laws of the state of Ohio. Should either party elect to litigate any disputes, venue for any litigation between CITY and STARK PARKS which relates to or arises out of this Agreement, or use of the Premises will be exclusively in state courts located in Stark County, State of Ohio.
- f. ENTIRE AGREEMENT. This Agreement contains all the understandings and representations between the parties hereto pertaining to the subject matter hereof and supersedes all undertakings and agreements, whether oral or in writing, if any there be, previously entered into by them with respect thereto.
- g. NOTICES. Any notice, demand or other communication (collectively, a "Notice") required or permitted to be given hereunder, shall be in writing and shall be sent by United States Postal Service, postage prepaid or by a nationally recognized overnight courier service which provides receipts of service, or by electronic mail transmission (with the hard copy thereof sent by one of the other methods of delivery authorized by this subparagraph), addressed to the party to be so notified as follows (or to such other address or person as either party or person entitled to Notice may, by Notice to the other, specify):

To CITY:

Director of Public Service
Canton City Hall
218 Cleveland Avenue S.W., 8th floor
Canton, Ohio 44702

To CITY PARKS:

Canton Parks and Recreation
c/o President
1615 Stadium Park Dr. N.W.
Canton, Ohio 44718

To STARK PARKS:

Executive Director
Stark County Park District
5300 Tyner Street NW

- h. SEVERABILITY. In the event that any provision or portion of this Agreement shall be determined to be invalid or unenforceable for any reason, the remaining provisions or portions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law.
- i. SURVIVORSHIP. The respective rights and obligations of the parties hereunder shall survive any termination of this Agreement to the extent necessary to the intended preservation of such rights and obligations.
- j. REFERENCES. References in this Agreement to the STARK PARKS shall be deemed, where appropriate, to refer to his legal representatives. Whenever the context so requires, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders.
- k. TITLES. Titles to the sections in this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the title of any section.
- l. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile or other electronic means (such as email delivery of .pdf or similar files) with the same effect as physical delivery of manually signed originals.
- m. AUTHORITY TO BIND. The person or persons executing this Agreement as a representative of STARK PARKS and/or CITY does hereby represent and warrant that they have the full power and authority to execute and deliver this Agreement, that such execution and delivery legally binds them to the terms and conditions of this Agreement.
- n. RULES OF CONSTRUCTION. The parties acknowledge that each party and its counsel have had an opportunity to review and revise this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.
- o. EXHIBITS. All the exhibits attached hereto are made a part of this Agreement and the terms thereof are incorporated into this Agreement by reference

Signatures on the following page

Signed as of this 16 day of October, 2023

STARK COUNTY PARK DISTRICT

CITY OF CANTON

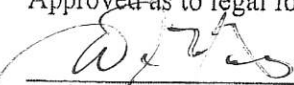
By: 

By: 

CANTON BOARD OF PARK COMMISSIONERS

By: 

Approved as to legal form and sufficiency:


William F. Morris
Counsel for Stark County Park District

Approved as to Form:

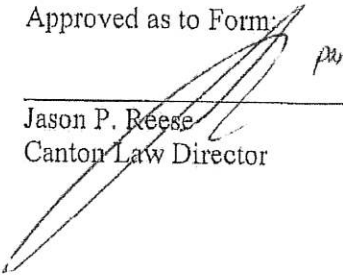

Jason P. Reese
Canton Law Director

EXHIBIT A

Premises Description

Located in the Township of Pike, County of Stark, and State of Ohio:

Known as and being 506.56 acres of land, more or less, located in and being all the Southeast and Southwest Quarter Sections of Section 12, Pike Township (T-9, R-8) and part of the Southeast and Southwest Quarter Sections of Section 11, Pike Township (T-9, R-8) and part of the Northeast and Northwest Quarter Sections of Section 14, Pike Township (T-9, R-8).

The parcels of land comprising of the Premises, are described in the deeds listed below and recorded with the Stark County Recorder's Office:

- P-1. Deed Volume 548, Page 200; Steinmetz to City of Canton; 30.77 Ac.
- P-2. Deed Volume 550, Page 286; Steinmetz to City of Canton; 3.7 Ac.
- P-3. Deed Volume 550, Page 287; Hoverland to City of Canton; 5.07 Ac.
- P-4. Deed Volume 582, Page 271; Martin to City of Canton; 0.5 Ac.
- P-5. Deed Volume 683, Page 531; Hoverland to City of Canton; 68.49 Ac.
- P-6. Deed Volume 789, Page 532; Steinmetz to City of Canton; 64.23 Ac.
- P-7. Deed Volume 843, Page 236; Lerch to City of Canton; 339.23 Ac.

Excepting from the above the parcels and Premises, the parcels described in the deeds listed below and recorded with the Stark County Recorder's Office:

- E-1. Deed Volume 3712, Page 819; City of Canton to Pike Township; 2.039 Ac.
- E-2. Deed Volume 3754, Page 470; City of Canton to Els; 0.69 Ac.
- E-3. Deed Volume 4292, Page 692; City of Canton to Pike Township; 2.700 Ac.

Subject to easements, covenants, conditions, restrictions and other matters of record, if any.

Exhibit prepared by the Canton City Engineer's Office on October 4, 2023.



EXHIBIT

B