13-1692

RESOLUTION NO. 13-1692
DECEMBER 12, 2013

RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH THE OPPORTUNITIES FOR OHIOANS WITH DISABILITIES FOR THE LEASING OF 2,534 SQUARE FEET ON THE SIXTH FLOOR OF THE COUNTY ADMINISTRATION BUILDING, 451 WEST THIRD STREET, DAYTON, OHIO 45422 FOR THE PURPOSE OF OPERATING A FOOD SERVICE FACILITY FOR THE BOARD OF COUNTY COMMISSIONERS. THE INITIAL TERM SHALL COMMENCE ON DECEMBER 12, 2013 AND TERMINATE JUNE 30, 2014 AND SHALL AUTOMATICALLY RENEW EACH JULY 1ST THEREAFTER AT A RATE OF 1.5% OF GROSS MONTHLY SALES TO BE PAID TO THE LESSOR AS RENT EACH MONTH.

WHEREAS, this Lease Agreement shall supersede and terminate any and all prior Lease Agreements, Renewals and/or Amendments including Lease Renewal Agreement authorized by Resolution No. 10-0683 dated April 13, 2010; and

WHEREAS, the Opportunities for Ohioans with Disabilities is desirous of providing food service to the public and county employees; and

WHEREAS, rent for the initial term and each subsequent term will be at the rate of 1.5 percent of gross sales, due and payable by the 15th of each month for sales generated during the previous month; and

WHEREAS, provided the initial term of the Lease Agreement is in full force and effect, the Lease will have the option to renew each July 2st thereafter upon the same terms and conditions as the initial term.

NOW THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Montgomery County, Ohio, that a Lease Agreement with the Opportunities for Ohioans with Disabilities be and is hereby authorized for the leasing of 2,534 square feet on the sixth floor of the County Administration Building, 451 West Third Street, Dayton, Ohio 45422 for the purpose of operating a food service facility for the Board of County Commissioners. The initial term shall commence on December 12, 2013 and terminate June 30th, 2014 and shall automatically renew each July 1st thereafter at a rate of 1.5% of gross monthly sales to be paid to the lessor as rent each month.

BE IT FURTHER RESOLVED that the Clerk of Commission certify this resolution and make an imaged copy of this resolution available on the Montgomery County, Ohio website at http://www.mcohio.org/

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Ms. Dodge moved the adoption of the foregoing resolution. It was seconded by Mrs. Lieberman, and upon call of the roll the following vote resulted:

Ms. Dodge, aye; Mrs. Lieberman, aye; Mr. Foley, aye: Carried.

I hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Board of County Commissioners of Montgomery County, Ohio, the 12th day of December, 2013.

THE BOARD OF COUNTY COMMISSIONERS HEREBY FINDS AND DETERMINES THAT ALL FORMAL ACTIONS RELATIVE TO THE ADOPTION OF THIS RESOLUTION WERE TAKEN IN AN OPEN MEETING OF THIS BOARD OF COUNTY COMMISSIONERS, AND THAT ALL DELIBERATIONS OF THIS BOARD OF COUNTY COMMISSIONERS, AND OF ITS COMMITTEES, IF ANY WHICH RESULTED IN FORMAL ACTION, WERE TAKEN IN MEETINGS OPEN TO THE PUBLIC, IN FULL COMPLIANCE WITH APPLICABLE LEGAL REQUIREMENTS, INCLUDING SECTION 121.22 OF THE REVISED CODE.

Gayle L. Ingram

Gayle L. Ingram, Clerk
Board of County Commissioners
Montgomery County, Ohio

REFER TO RESOLUTION NO. 13-1692
DATED: 12/12/13

Ohio | Opportunities for Ohioans with Disabilities

Bureau-Grantor Agreement Between the Opportunities for Ohioans with Disabilities Agency And Board of Commissioners of Montgomery County, Ohio

THIS AGREEMENT is made and entered into effective on the date of last signature on this Agreement by and between the Opportunities for Ohioans with Disabilities Agency/Bureau of Services for the Visually Impaired Business Enterprise Program hereinafter "OOD/BSVI"), 400 E. Campus View Blvd., Columbus Ohio 43235 and Board of Commissioners of Montgomery County, Ohio (hereinafter "BCC"), 451 West Third Street, PO Box 972, Dayton, Ohio 45422.

In consideration of the mutual promises, covenants, and agreements set forth herein, the parties hereto agree as follows:

ARTICLE I: NATURE OF CONTRACT

1.1 BCC and OOD/BSVI hereby agree that OOD/BSVI, through its Business Enterprise Program (BEP) operator(s), will provide food and vending services as described in Article II of this Agreement. OOD/BSVI shall be solely responsible to assure that the services under this Agreement are performed. BCC shall not hire, supervise, or pay any BE Program operator(s) performing services under this agreement and no legal relationship is created pursuant to this agreement between BCC and any individual BE operator. OOD/BSVI shall be responsible for providing appropriate and trained operator(s), materials, tools, equipment, and other supplies necessary to complete the work under this Agreement, except as may be otherwise stated within this Agreement. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.

1.2 OOD/BSVI agrees to comply with all applicable federal, state, and local laws in performing services under this Agreement and defined BCC policies related to BEP operations.

1.3 BCC enters into this Agreement in reliance upon OOD/BSVI's representations that it has the necessary expertise and experience to perform its obligations hereunder, and OOD/BSVI warrants that it does possess the necessary expertise and experience.

ARTICLE II: SCOPE OF SERVICES

2.1 OOD/BSVI shall:

2.1.1 Assign an operator per Ohio Administrative Code (OAC) 3304:1-21et seq. to provide vending and counter services to the Montgomery County Administration Building, 451 West Third Street, Dayton, OH (reference Exhibit A for location of the Food Service Counter);

2.1.2 Provide vending and counter services. Provide healthy food options including a salad bar. Provide green sustainable food service packaging (no Styrofoam). Hours of operation of the counter service will be mutually agreed upon between OOD/BSVI and BCC, Monday-Friday, except when the particular building is closed;

2.1.3 Comply with all federal, state and local safety or health laws and regulations with respect to sanitation and use of the vending services areas;

2.1.4 Be responsible for maintenance and repair of bureau-owned equipment;

2.1.5 Be responsible for the cleanliness and sanitation of all vending machines;

2.1.6 Maintain and keep the interior of the premises in clean and good order. OOD/BSVI will be responsible for maintaining and cleaning all tables and chairs, service counters, food prep areas, and removal of grease

2.1.7 Reimburse costs for any maintenance and repairs which are attributable to the negligent or reckless use of premises by OOD/BSVI, its employees, agents, invitees or licensees;

2.1.8 Make no alterations, renovations or modifications to the premises without prior written consent of BCC;

2.1.9 Assure that the assigned operator will coordinate with BCC a refund policy that is mutually agreeable;

2.1.10 Assure that the assigned operator is identifiable and that operator and staff attire is appropriate.

2.2 BCC shall:

2.2.1 Grant to OOD/BSVI right to provide exclusive counter food service and vending in the Montgomery County Administration Building;

2.2.2 Provide all utilities necessary to operate vending and food service equipment at no cost to BSVI for the assigned operator;

2.2.3 Provide reasonable, secure and climate controlled storage for food and supplies;

2.2.4 Provide reasonable and proper janitorial services, trash removal, window cleaning, floor care and security in and about the Premises, Saturdays, Sundays and holidays excepted;

2.2.5 Provide pest extermination services. OOD/BSVI will reimburse the Board of County Commissioners for pest extermination services in the event said services are required by the action/inaction of the operator

2.2.6 Provide OOD/BSVI information in a reasonable and timely manner in regard to building renovation;

2.2.7 Provide OOD/BSVI information in a reasonable and timely manner in regard to special events in conference and meeting rooms;

2.2.8 Provide OOD/BSVI a single point of contact for all building and contract related issues;

2.2.9 Provide reasonable and mutually agreeable space in the first floor lobby and other areas of the building for professional quality advertising of counter, catering and vending services;

2.2.10 Permit BEP and its operator to close in observance of all National and County Holidays. Specific closure dates for these timeframes shall be mutually agreed upon between OOD/BSVI and BCC.

ARTICLE III: TIME OF PERFORMANCE

3.1 The services as stated in Article II, Scope of Services, shall be commenced on the date of the last signature on this agreement and shall continue through June 30, 2014 and automatically renew each July 1st thereafter under the same terms and conditions. Any changes to the terms and conditions of this Agreement must be made in writing and executed by each party.

3.2 It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of Ohio Revised Code (O.R.C.) Section 3517.13, O.R.C. Section 127.16, or O.R.C. Chapter 102.

ARTICLE IV: COMPENSATION

Total compensation will be paid monthly to the Board of Commissioners of Montgomery County under this agreement, through its assigned licensed blind operators, and shall be 1.5% of adjusted gross monthly sales. This payment is due the 15th of the month for the preceding reporting period with a copy of the monthly sales report.

ARTICLE V: TERMINATION

Either party may terminate this agreement with thirty days written notice. Notwithstanding this provision, priority vending rights established by Ohio Revised Code 3304.33 and 3304.34, and Federal Statute 20 USC §107 would continue.

ARTICLE VI: NONDISCRIMINATION

OOD/BSVI agrees that neither it nor its licensed operator(s) shall discriminate on account of race, color, religion, sex, age, disability, national origin, ancestry, veteran status, sexual orientation or gender identity.

ARTICLE VII: DRUG FREE WORKPLACE

OOD/BSVI agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its licensed operators, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way when they are engaged in the work being performed hereunder.

ARTICLE VIII: ENTIRE AGREEMENT/WAIVER

8.1 This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto.

8.2 This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

8.3 A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

ARTICLE IX: NOTICES

All notices, consents, and communications hereunder shall be given in writing, shall be deemed to be given upon receipt thereof, and shall be sent to the addresses first set forth above.

ARTICLE X: HEADINGS

The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.

ARTICLE XI: SEVERABILITY

The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

ARTICLE XII: CONTROLLING LAW

This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Agreement and/or performance thereunder.

ARTICLE XIII: EXECUTION

This Agreement is not binding upon the parties unless executed in full.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers, as of the day and year first written above.

Melinda L. Duncan

Commissioner Dan Foley

Melinda Duncan, Deputy Director BSVI
Opportunities for Ohioans with Disabilities

Date

11·20·13
Date

Commissioner Deborah A. Lieberman

Date

Commissioner Judy Dodge

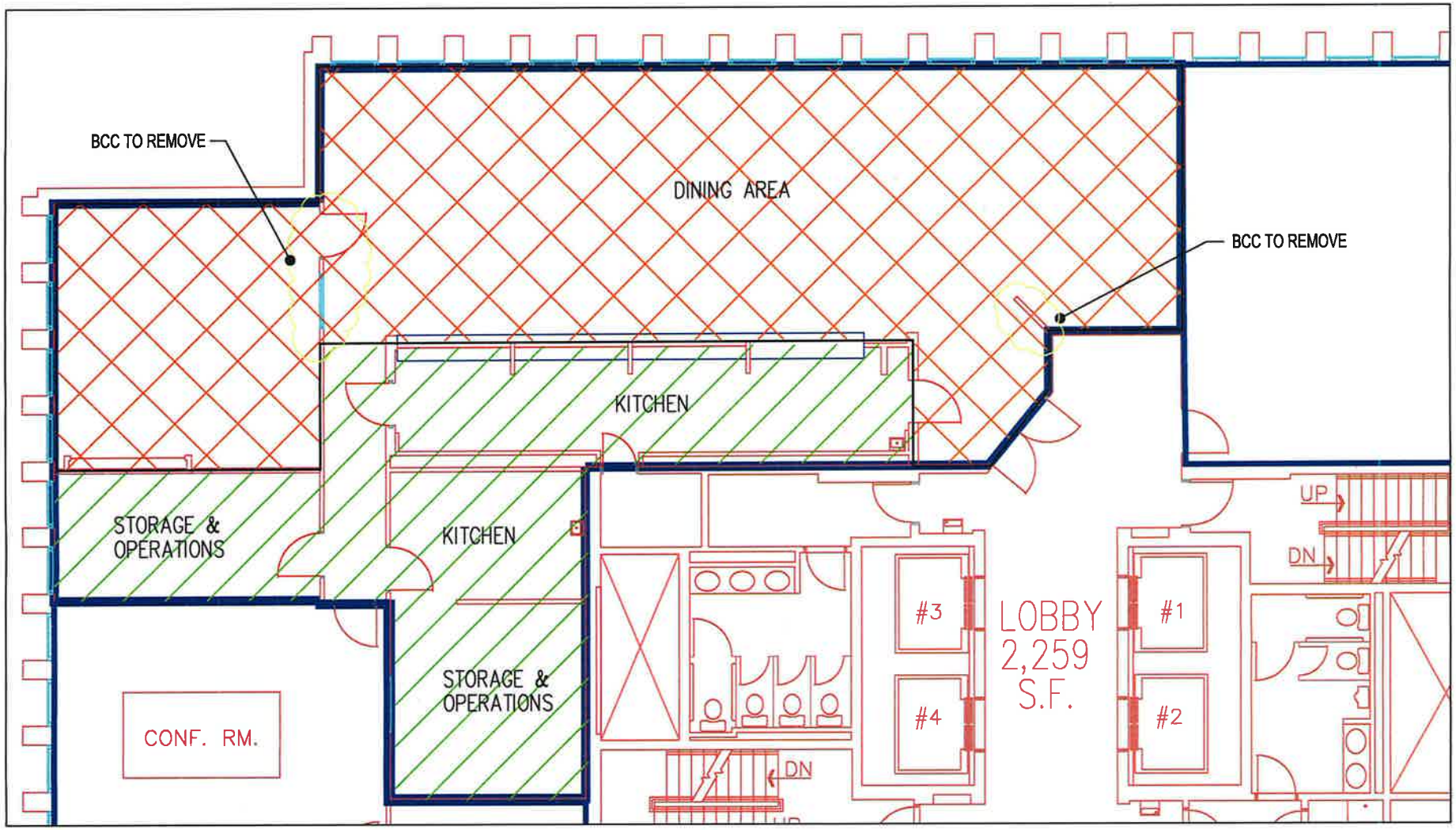
Date

OR

Joseph P. Tuss

Joseph P. Tuss
Montgomery County Administrator

12-12-13
Date



DINING AREA. 1,580 SF

KITCHEN OPERATION. 954 SF

ADMIN. BLDG-6TH FLOOR

SCALE: 3/32" = 1'-0"

NORTH

NOTES:
1. BCC TO PAINT WALLS AND PURCHASE FLOORING FOR RSC/BSYI TO INSTALL.
2. BCC TO HAVE USE OF DINING AREA WHEN KITCHEN IS CLOSED. BCC TO ASSIST RSC/BSYI IN SECURING KITCHEN AREA FROM DINING AREA.

9-24-2013

AREA

PROJECT TITLE:

EXHIBIT "A"

DESIGNED BY:
ADMINISTRATIVE SERVICES
FACILITIES MANAGEMENT
451 WEST THIRD ST. DAYTON, OHIO 45422

MONTGOMERY COUNTY