

CUYAHOGA COUNTY LEAD REMEDIATION WINTER CONTRACT

between

CUYAHOGA COUNTY

and

Trademark Industries, LLC.

Property Address: 5697 Longwood Ave. Community: Maple Heights

This Contract, made and entered into this 19th day of December, 2011, by and between **Cuyahoga County, a political subdivision of the State of Ohio, on behalf of the Cuyahoga County Department of Development ("County")**, and Trademark Industries, LLC., an LLC ("Contractor"), located at 18968 Coffinberry Blvd., Fairview Park, Ohio 44126,:

- 1) **SCOPE OF WORK:** The scope of work for this contract is set forth in the completed Cuyahoga County Lead Remediation Specifications, attached hereto and incorporated herein by reference.
- 2) **EFFECTIVE DATE OF CONTRACT:** The Contract shall become binding upon the parties concerned when both parties have properly signed the Contract and a written Proceed Order has been issued. If a Proceed Order is not issued within 90 calendar days of submission of the contractor's proposal, the Contractor may withdraw its proposal.
- 3) **TIME FOR PERFORMANCE:** Winter shall be defined as October 1st through March 1st. Winter contracts executed between October 1st and March 1st shall be completed in full by May 31st, 2012. All work to be performed by the Contractor shall be completed in accordance with the Contract by May 31st, 2012. Notwithstanding the aforesaid, the Contractor is excused from the performance time requirement if, during the progress of the work, an extension for a definite period of time is authorized in writing by the County, or delay is caused by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties, or any other causes completely beyond the Contractor's control.
- 4) **WORK PRACTICES:** The Contractor is to provide all labor, material and equipment necessary to complete all aspects of the work in the Contract. All materials and equipment shall be installed in accordance with the manufacturer's specifications applicable. All labor shall be done by skilled mechanics, qualified and competent to perform the best grade of workmanship as usually recognized in the building industry. The work shall also comply with requirements of all current versions of applicable national, state and local regulations. Where there is a conflict between this Specification and the cited federal, state or local regulations or guidelines, the more restrictive or stringent requirements shall prevail. The County reserves the right to have personnel removed from the job who are not performing their services in a workmanlike manner.

The Contractor will follow all "HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing", found at 24 CFR Parts 35,36,37. All lead remediation work shall be supervised by State of Ohio Licensed Lead Abatement Contractors and carried out by State of Ohio Licensed Lead Abatement Workers. The Contractor will not use open-flame burning, chemical strippers containing methylene chloride, dry scraping, un-contained hydroblasting or hydrowashing, uncontained abrasive blasting, or machine sanding without HEPA attachments or heat stripping above 1100 degrees (F) at any time.

~~abrasive blasting, or machine sanding without HEPA attachments or heat stripping above 1100 degrees (F) at any time.~~ *JK*

WORK PRACTICES (cont'd):

The Contractor will observe the procedures for worker protection established by the Federal Occupational Safety and Health Administration, including but not limited to:

29 CFR 1910 General Industry Standards
29 CFR 1910.1025 Lead Standards for General Industry
29 CFR 1910.134 Respiratory Protections
29 CFR 1910.1200 Hazard Communications
29 CFR 1910.245 Specifications for Accident Prevention (Sign and Tags)
29 CFR 1926 Construction Industry Standards
29 CFR 1926.62 Construction Industry Lead Standard

The contractor will dispose of waste resulting from abatement in accordance with all applicable local, State, and Federal regulations.

The job site must be left clean and must pass final lead clearance inspection by the Cuyahoga County Board of Health prior to payment under this contract.

- 5) **SUBSTITUTIONS/CHANGES:** It is not the desire of the County to exclude any products or materials of equal or greater merit to those specified herein. Trade names are designated to establish the quality desired. Contractors wishing to make substitutions under the provisions of "or equal," will provide the County with complete information and samples where required. All changes in the Contract (material, labor, etc.) shall be approved in advance by the County and Contractor on a written Change Order Document.
- 6) **SAMPLES:** The Contractor shall furnish, for the approval of the County, all samples as directed. The work shall be in accordance with the approved samples.
- 7) **MATERIAL REMOVAL/RETAINAGE:** The Contractor shall keep the premises clean and orderly during the course of the work and remove all debris upon completion of the work. Materials and equipment that have been removed as part of the work shall belong to the Contractor unless otherwise stated in the Contract. New materials remaining after installation shall belong to the Contractor and are given to the property owner solely at the discretion of the Contractor.
- 8) **UTILITIES:** The contract price is based on the Contractor using, at no cost, existing utilities such as light, heat, power and water necessary to the completion of the work.
- 9) **PERMITS/LICENSES:** All permits and licenses necessary for the completion and execution of the work shall be secured and paid for by the Contractor. All work shall be performed in conformance with all applicable federal, State, and local laws, regulations, codes and requirements. If the Contractor performs contrary to such laws, ordinances, etc., he shall bear all costs to correct the work.

- 10) **INSURANCE:** The Contractor shall maintain such insurance as will protect him from claims under worker's compensation acts and other employee benefits acts, from claims for damages to property which may arise both out of and during operations under the Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by either of them. Public liability insurance protecting the Contractor and the County shall be written for not less than \$100,000/\$300,000 one occurrence for injury to persons and not less than \$100,000 for damages to property. Additional pollution liability insurance for the lead remediation work will be required for not less than \$100,000/\$300,000 one occurrence for injury to persons and not less than \$100,000 for damages to property. Certifications of proof of such insurance shall be filed with the County prior to executing the Contract. The Contractor shall defend, indemnify and hold harmless the County, its officers and employees, for liability and claim for damages because of bodily injury, death, property damages, sickness, disease, or loss and expense arising from the Contractor's operations under the Contract.

- 11) **SUPERINTENDENCE:** The Contractor shall furnish the County with the name and telephone number of one State Licensed Lead Abatement Contractor who will represent the Contractor and be responsible for all the Lead Remediation Work under this contract.

Name of State Licensed Abatement Contractor (Person): Michael A. Gus

Daytime Phone Number: (440) 653-3025

- 12) **INSPECTION OF WORK:** The County shall at all times have access to the work. If the Contract plans, instructions, law, ordinances, other applicable assistance program, or any public authority requires any work to be specifically inspected, tested or approved, the Contractor shall give the County timely notice. Hidden work that has not been inspected may be uncovered for examination at the Contractor's own expense. If such work should be found not in accordance with this contract the Contractor shall pay such cost.
- 13) **SUBCONTRACTING:** Because this work requires a State of Ohio Lead Abatement Contractor License, subcontracting of the work is not permitted without prior written consent of the County.
- 14) **ANTI-KICKBACK RULES:** Salaries of architects, draftsmen, technical engineers, and technicians performing work under the Contract shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 STT. 108; Title 18 U.S.C., Section 874; and Title 40 U.S.C., Section 276 c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under the Contract to insure compliance by Subcontractors with such regulations, and shall be responsible for the submission of affidavits required of Subcontractors thereunder except as the Secretary of Labor may specifically provide for variation of or exemption from the requirements thereof.

- 15) **EQUAL EMPLOYMENT OPPORTUNITY:** During the performance of the Contract, the Contractor agrees as follows:
- A. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.
 - B. The Contractor will, 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 race, creed, color, or national origin.
 - C. The Contractor will cause the foregoing provisions to be inserted in all Subcontracts for any work covered by the Contract so that such provisions will be binding upon each Subcontractor provided that the foregoing provisions shall not apply to Contracts or Subcontractors for standard commercial supplies or raw materials.
 - D. The Contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, advising the said labor union or workers' representative of the Contractor's commitments under this section and shall post copies of the notice in conspicuous place available to employees and applicants for employment.
 - E. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor or the Secretary of Housing and Urban Development, or pursuant thereto, and will permit access to his books, records and accounts by the Secretary of Housing and Urban Development, or his designee, and the Secretary of Labor for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of the Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for future Government contractors or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 16) **DEFAULT AND TERMINATION FOR CAUSE:** In case the Contractor fails to furnish materials or execute work in accordance with the provisions of the Contract, or fails to proceed with or complete the work within the time specified in the Contract, or if the provisions of the Contract are otherwise violated by the Contractor, then in any case upon ten (10) days written notice to the Contractor, the County shall have the right to declare Contractor in default in the performance of his obligations under Contract. Said notice shall contain the reason for the County's intent to declare Contractor in default and unless within ten (10) days after service of said notice, the violation shall cease or satisfactory arrangements shall be made for its correction, the Contractor, by written notice, may be declared in default and his right to proceed under the Contract terminated. In the event the Contractor is thus declared to be in default, the County, after notifying the Contractor, will proceed to have the work completed, shall apply to the cost of having the work completed any money due to Contractor under the Contract, and the Contractor shall be responsible for any damages resulting to the County by reason of said default.

- 17) **METHOD OF PAYMENT:** The full amount of this contract will be paid in one lump sum upon completion of all work to the satisfaction of the property owner and the County, and receipt of a satisfactory written clearance examination report from the Cuyahoga County Board of Health. No advances or partial payments will be made.

Payment will be mailed directly to the Contractor at the address of record within 30 days after signature of the Owner Satisfaction Statement by all parties, satisfactory inspection of the work by the County, and receipt of all required permits, lien waivers, clearance inspection reports and any other documents reasonably requested by the County.

- 18) **LIEN WAIVERS AND WARRANTIES REQUIRED:** Before Contractor requests a payment; he shall give the County good and sufficient evidence that the premises are free from liens, damages, or claims against the Contractor. The County shall reserve the right to retain out of the payment then due or thereafter to come due, an amount sufficient to indemnify the County against all such liens, damages, and claims until the same shall be effectually satisfied, discharged and canceled. The invoice requesting Final Payment must also have attached all manufacturers and supplier's written guarantees and warranties covering materials and equipment furnished under this Contract. Neither final certificate nor payment shall relieve the Contractor of responsibility for negligence, faulty materials, or faulty workmanship within the period provided by the Contract.

- 19) **DEFECTS AFTER COMPLETION:** The Contractor shall guarantee the work performed for a period of twelve (12) months from the date of final acceptance of all work required by the Contract. Any defects that appear within this twelve (12) month period and arise out of defective or improper materials or workmanship shall be corrected and made good by the Contractor at his expense.

LEAD REMEDIATION CONTRACT SIGNATURE PAGE

Property Address: 5697 Longwood Ave. Community: Maple Heights

Contract Time of Performance: December 19, 2011 through May 31, 2012


This contract specifically includes all 19 paragraphs of Terms and Conditions listed above. The Contractor's authorized representative has read and is in agreement with this Contract.

Having read the Terms and Conditions and having examined the attached specifications, for the considerations named therein, the Contractor agrees to do the work listed in the Cuyahoga County Lead Remediation Specifications, attached hereto and incorporated herein by reference, at the property address stated above and on the Lead Remediation Specifications, for the lump sum price of \$12,206.00.

Electronic Signature Clause: By entering into this Contract or by submitting a bid or a proposal, I agree on behalf of the contracting or submitting business entity, its officers, employees, subcontractors, sub grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by the county to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons, to be bound by the provisions of chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

Trademark Industries, LLC.

18986 Coffinberry Blvd.
Fairview Park, Ohio 44126

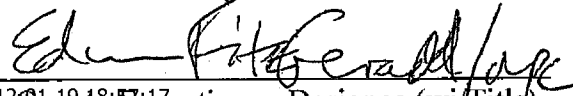

by Owner or Authorized Officer (wi/Title)

Michael A. Gus
Printed Name of Person Signing Above

11/1/11
Signature Date

Cuyahoga County
Department of Development
1701 East 12th Street, 1st Floor
Cleveland, OH 44114

Edward FitzGerald, County Executive


by County Executive or Designee (wi/Title)

Signature Date