

SERVICE AGREEMENT

THIS SERVICE AGREEMENT ("Agreement") is entered into as of the ___ day of April 2020 ("Effective Date"), by and between The Board of County Commissioner of Lucas County, Ohio ("County") a government agency in the State of Ohio, and Toledo Building Services Co., an Ohio corporation ("TBS") with offices at 2121 Adams Street, Toledo, Ohio 43604.

1. Term. The term of this Agreement shall commence on the Effective Date and, unless terminated earlier as provided herein, continue to and including December 31, 2020.
2. Services.
 - 2.1 Services. TBS shall perform certain services for County as are described in **Schedule A** attached hereto ("Services") at facilities ("Facilities") which will include area hotels that have yet to be identified (each, a "Hotel").

Such Services shall be provided in accordance with the provisions of this Agreement. The Services will be provided for prices as specified in **Schedule B**. If any provisions of **Schedule A** or **B** conflict with any provisions set forth in this Agreement, the provisions of **Schedule A** or **B** shall take precedence.
 - 2.2 Modification of Services. County may at any time request a modification to the Services by written request to TBS specifying the desired modifications to the same degree of specificity as in **Schedule A**. TBS agrees that TBS will perform modifications that are not considered by both parties to be substantial at no additional cost. TBS shall submit to County time and cost estimates for substantial modifications to the Services within five (5) business days following the receipt of such request. If accepted by County, the Services shall be modified as mutually agreed by the parties in writing. The performance of any modified Services by TBS shall be governed by the terms and conditions of this Agreement.
3. Managers. Each party **will** appoint a qualified member of its staff to act as project manager (the "Manager"), whose duties shall be to act as liaison between County and TBS. **TBS "Manager" will be TBS General Manager of Operations, xxxxxx, and will notify County of any change in this assignment.**
4. Payment.
 - 4.1. Fees. In order that there may be complete accounting control of the Services to be performed, TBS will not perform, and County will not be required to pay, for any work other than that which is specified either (i) in **Schedule A**, or (ii) in changes authorized in writing by County. TBS agrees to invoice County monthly for Services provided to County by TBS. Payment is due within thirty (30) days of the date of receipt of each undisputed invoice.
 - 4.2. Expenses. In addition, TBS shall invoice County monthly for extraordinary

expenses incurred as a result of performing Services. Such expenses shall be limited to out-of-pocket expenses that are not reasonable and customary in providing the Services and that are actually incurred by TBS in the performance of its Services hereunder, provided that: (a) County has given its prior written consent for any such expenses; (b) the expenses have been detailed on a form acceptable to County and submitted to the County Manager for review and approval; and (c) if requested by County, TBS submits supporting documentation in addition to the approved expense form.

4.3. Taxes. County agrees to pay the amount of any sales, use, excise or similar taxes applicable to the performance of the Services, if any, or, in lieu thereof, County shall provide TBS with a certificate acceptable to the taxing authorities exempting County from payment of these taxes. In no event shall County be responsible for taxes based on the net income or gross receipts of TBS.

4.4. Maximum Sum Payable. Notwithstanding any provision of this Agreement to the contrary, in no event shall County be responsible for any Fees, Expenses, or other amounts payable to TBS under this Agreement in excess of \$50,000 (the "Agreement Cap") unless and until County, in writing, approves an increase in the Agreement Cap. TBS shall have the responsibility of ceasing all work under this Agreement prior to incurring fees, costs or other amounts payable by County in excess of the Agreement Cap.

5. Representations, Warranties, Covenants and Agreements.

5.1. Authority. Each party represents and warrants to the other that: (i) it has all requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement; and (ii) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all requisite corporate action on the part of such party.

5.2. No Violation. Each party represents and warrants that its execution, delivery and performance of this Agreement will not constitute: a violation of any judgment, order, or decree; a material default under any material contract by which it or any of its material assets are bound; or an event that would, with notice or lapse of time, or both, constitute a default.

5.3. Compliance with Laws. Each party represents and warrants that it will perform its obligations under this Agreement in a manner that complies with all applicable laws, regulations, ordinances and codes, including identifying and procuring required permits, certificates, approvals and inspections. If a charge of noncompliance by either party with any such laws, regulations, ordinances, or codes occurs, such party shall promptly notify the other party of such charges in writing.

5.4. Workmanship.

A. TBS represents and warrants that all of the Services will be performed in a

professional manner in accordance with the practices and high professional standards used in well-managed operations performing services similar to the Services, and it will use adequate numbers of qualified individuals with suitable training, experience and skill to perform the Services.

- B. TBS workers and supervision meet the following requirements:
 - 1. Fully trained in work and accepted cleaning procedures as well as specific requirements of County.
 - 2. Screened by for possible criminal record.
 - 3. Uniformed with I.D.
- C. With or without cause, County may inform TBS that any TBS employee is no longer desired on the premises and such employee shall immediately be removed from the premises.
- D. TBS shall make reasonable and prompt restitution by cash, repair, or replacement subject to County's approval, covering any damage for which TBS is liable.
- E. TBS shall report any maintenance issues it discovers to County including burned out lights, leaks, stopped-up plumbing, broken restroom dispensers, unusual odors, etc.
- F. TBS shall make periodic thorough inspections with a representative of County to ensure the work is being accomplished per the cleaning specifications.
- G. TBS is responsible to see that only those employees assigned to work in the building are allowed in the building.
- H. TBS shall ensure that areas it works in are secure and locked as required by County.

5.5. Materials and Equipment.

- A. Except for materials and equipment provided by the County, TBS shall supply cleaning materials, implements, machinery and supplies for the satisfactory performance of the Services.
- B. County will supply mats, paper products, all restroom expendables, hand soaps and plastic liners. TBS will notify County when inventory gets low.
- C. TBS shall be responsible for all its equipment and supplies stored or used on premises. County will refrain from using TBS equipment and supplies.

- D. County shall provide adequate and secure storage for such equipment and supplies. Should there be losses to such equipment and supplies for any reason not arising from TBS acts or omissions, County will reimburse TBS.
- 5.6. Timeliness. TBS represents and warrants that all of the Services will be performed with promptness and diligence.
- 5.7. Rules. Unless otherwise agreed to by the parties, TBS's personnel and TBS's subcontractors shall observe the rules, and policies of County while on the Facility. There shall be no interruption by TBS of existing operations of the Facility from any cause, unless prior written approval has been obtained from and scheduled with County.
- 5.8. Hazardous Materials. TBS shall not use any toxic or hazardous substances at County's facility, other than commonly used cleaning products, without advance written consent of County. As used herein, the term "toxic or hazardous substances" means any toxic or hazardous substance, material or waste which is or becomes regulated by any local governmental authority, or any state in which County is located or the United States Government. The term "toxic or hazardous substances" includes, without limitation, any material or substance which is (i) defined as a "hazardous substance" under applicable state law, (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. (42 U.S.C. 6903), (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (42 U.S.C. 9601), (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. 6991 et seq., (viii) defined as a "chemical substance" pursuant to Section 3, Toxic Substances Control Act (15 U.S.C. Section 2601 through 2629) or (ix) as a "hazardous air pollutant" pursuant to Section 112, the Clean Air Act (42 U.S.C. Section T401) et seq., as have been amended from time to time.
- 5.9. No Unlawful Inducements. TBS represents and warrants that it has not violated any applicable laws or regulations or any policies of County of which TBS has been given written notice regarding the offering of unlawful inducements in connection with this Agreement. If at any time during the Term, County determines that the foregoing warranty is inaccurate, then, in addition to any other rights County may have at law or in equity, County shall have the right to terminate this Agreement for cause without affording TBS the opportunity to cure.
- 5.10. Solicitation or Hiring Employees. County and TBS each agree that during the term of the Agreement and for a period of ninety (90) days after termination of the Agreement, it shall not directly or indirectly, hire, solicit or encourage the departure or resignation of any employee of the other party, without the express consent of

TBS or County, as applicable. Examples of violations, include, but are not limited to, providing TBS or County employee personal information to internal or external parties for the purposes of discussing employment, arranging for TBS or County employees to meet with potential employers, and providing application forms or other information for the purposes of recruiting TBS or County employees, as applicable.

6. Indemnities and Insurance

6.1. Indemnity. TBS agrees to indemnify, defend and hold harmless County (inclusive of the County Commissioners), and Hotel, and its and their respective subsidiaries and affiliated companies and their respective officers, directors, employees, agents, successors and assigns, from any and all third party losses, liabilities, damages and claims (including taxes) and all related costs and expenses (including reasonable legal fees and disbursements and cost of internal or outside counsel, investigation, litigation, settlement, judgment, interest and penalties) (collectively, "Losses") or third party threatened Losses arising out of or in any way connected with or attributable to the performance or nonperformance of Services hereunder by TBS, its subcontractor(s) and their respective employees and agents, including, without limitation: (a) the death or bodily injury of any agent, employee, business invitee, or business visitor or other person caused by the fault or negligence of TBS, its agents or employees; (b) the damage, loss or destruction of any real or tangible personal property caused by the fault or negligence of TBS, its agents or employees; and (c) any claim, demand, charge, action, cause of action, or other proceeding asserted against County but resulting from an act or omission of TBS in its capacity as an employer of a person. TBS agrees to waive its Worker's Compensation employer immunity granted under Section 35, Article 11 of the Ohio Constitution and all Ohio statutory provisions, including Section 4123.74 of the Ohio Revised Code or any other state's similar statutory or constitutional provisions, to the extent necessary to permit County to be fully indemnified and held harmless hereunder. TBS further agrees that County shall not be liable for and hereby releases County from all liability to TBS's insurance carrier or to anyone claiming under or through TBS by reason of subrogation or otherwise.

6.2. Insurance. TBS shall procure and maintain the following insurance coverage,

- A. Unemployment - State of Ohio
- B. Workers' Compensation – State of Ohio
- C. Automobile Property Damage and Liability – \$1,000,000
- D. Commercial General Liability - \$1,000,000
- E. Excess Liability - \$5,000,000

F. Employee Fidelity Bonding with Third Party Coverage - \$100,000

TBS' commercial general liability Insurance, excess liability insurance, auto liability insurance, and employee fidelity bonding coverage shall each name County and Hotel (as designated by County) as an additional insured. TBS shall furnish County proof of all insurance required.

7. Termination. In the event of a material breach of any provision of this Agreement, the non-breaching party shall notify the breaching party in writing of the specific nature of the breach. If the breaching party does not cure within thirty (30) days of receiving a notice of any material breach, the non-breaching party may immediately terminate this Agreement. County may terminate this Agreement without cause or penalty, first effective after the initial thirty (30) days of this Agreement, upon two (2) weeks written notice to TBS. Either party may terminate this Agreement upon notice to the other party if a party determines that any part of this Agreement is contrary to law or that complying with the terms of this Agreement may expose it to state or federal sanctions, criminal activity, or civil penalty, or jeopardizes its tax-exempt status.
8. Intentionally Omitted.
9. Independent Parties. Neither of the parties hereto nor any of their respective agents, employees, independent contractors, or representatives shall (a) be considered an agent, employee or representative of the other party for any purpose whatsoever, (b) have any authority to make any agreement or commitment for the other party, or to incur liability or obligation in the other party's name or on its behalf, unless specifically authorized and in accordance with this Agreement or (c) represent to third parties that they or any of them has any rights so to bind the other party hereto. Nothing contained in this Agreement shall be construed or interpreted as creating an agency, partnership, co-partnership or joint venture relationship between the parties. TBS is responsible for the payment of any taxes, including without limitation, all federal, state and local personal and business income taxes, payroll taxes, sales and use taxes, other business taxes and license fees arising out of the services of TBS to be provided hereunder.
10. Section Headings. Section headings contained in this Agreement are inserted for reference purposes only and shall not affect the meaning and interpretation of this Agreement.
11. Notices. All notices or other communications required or permitted under this Agreement shall be in writing and shall be sent either (a) through the United States Postal Service, designated as registered or certified mail, return receipt requested and bearing adequate postage, (b) by means of an express delivery service if it obtains a written receipt to confirm delivery, or (c) by hand delivery. Each such notice shall be effective upon the receipt thereof by the addressee. Rejection or refusal to accept or inability to deliver because of change of address of which no notice was given as provided herein shall be deemed to be receipt of the notice sent. By giving the other party hereto at least seven (7) days' notice thereof, any party hereto shall have the right from time to time and at any time while this Agreement is in effect to change its address for purposes of this Section 11, and each party

shall have the right to specify as its address any other address within the continental United States of America. Each notice or other communication shall be addressed as set forth in the first paragraph of this Agreement.

12. Governing Law. The validity, construction, and performance of this Agreement shall be determined in accordance with the substantive laws of the State of Ohio without giving effect to any choice of law or conflicts of law provision or rule that would cause the application of the substantive law of any other jurisdiction.
13. Assignment. Neither party may assign this Agreement in whole or in part to any third party without the prior written consent of the other, and any attempt to do so will be void. Notwithstanding the foregoing, County may freely assign its rights and obligations under this Agreement without TBS's consent to (a) a third party that acquires all or substantially all of the assets of County, (b) any subsidiary or affiliate of County, or (c) a successor in a merger or acquisition of County.
14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.
15. Rights of Third Parties. Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any third party any rights or remedies.
16. Waiver. A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.
17. Complete Agreement. This Agreement and **Schedules A and B** set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by both parties. This Agreement may not be modified or altered except by a written instrument executed by both parties. This Agreement, together with **Schedules A and B** attached hereto, constitute the entire Agreement between the parties with respect to the subject matter hereof and supersede and merge all prior proposals, understandings and all other agreements, oral and written between the parties relating to such subject matter.
18. Severability. In the event any one or more of the provisions of this Agreement or of **Schedules A and B** is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.
19. Confidentiality. TBS agrees to maintain and keep confidential any and all information derived from its relationship with County, and the information will not, without the prior written consent of County, be disclosed by TBS, its officers, directors, partners, employees, affiliates, agents or representatives, in any manner whatsoever. This provision survives the expiration or sooner termination of any agreement.
20. Intentionally Omitted.

21. Execution. This Agreement is effective upon the execution by signing of all of the parties below. This Agreement may be executed by the parties in one or more counterparts, any one or more signature to which may be by facsimile or PDF, each of which copies shall constitute an original copy notwithstanding that the signatures of all parties are not contained on the same copy. A facsimile or PDF of any signature shall have the same force and effect as an original signature and may be relied upon by the parties and any other person as if such signature was an original signature.

**THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY
THE SIGNATURE PAGE FOLLOWS NEXT**

Each of the parties hereto has caused this Agreement to be duly executed as of the Effective Date.

Toledo Building Services Co.

By:  _____
Bruce A. Friedman, President

**THE BOARD OF COUNTY
COMMISSIONERS OF LUCAS
COUNTY, OHIO**

By: _____
Megan Vayhey-Casiere

Its: County Administrator

APPROVED AS TO FORM

By: _____
John A. Borell, Sr.
Lucas County Prosecuting Attorney

Schedule A: Services

Provision of one housekeeper daily, seven days per week, for 8 hours per day, working from 8 a.m. to 4:30 p.m. TBS workers are allotted two fifteen-minute paid breaks during an 8 hour shift, per its agreement with SEIU Local 1.

Provision of additional staff, for a minimum of a 4-hour shift, upon County request. Such requests shall be made on the day prior to service. Requests for additional staffing on the same day may incur an extra fee to compensate TBS for any additional costs due to overtime rules.

Daily service shall include:

- Terminal room cleaning (detailed below)
- Vacuuming hallways
- Removing trash left outside of rooms to designated location
- Removing laundry to designated location
- Assisting in distribution and collection of meals and trays
- Other housekeeping tasks as may reasonably be required by County and with TBS prior agreement that promote the health and safety of residents

Room Cleaning (Note: not all tasks, such as kitchen cleaning, may be applicable.)

Complete cleaning and disinfecting of hotel rooms after vacated by resident, including:

1. Clean and disinfect living room and bedrooms, including all horizontal surfaces, fronts of furniture, inside of drawers and cabinets. Clean and disinfect, as practical, lamps, lights, other fixtures and tabletop items.
2. Clean and disinfect bathroom and shower, including sink, mirror, commode, exterior and interior of cabinets and drawers, bathtub, shower, and shower curtain, if applicable.
3. Vacuum carpeted areas.
4. Dust mop, and damp mop with disinfectant, all hard surface floors.
5. Clean and disinfect kitchen area including sinks, counter tops, stove top, cabinets fronts and interiors, inside of drawers, inside of refrigerator and microwave oven. Operate self-cleaning oven, if applicable.
6. Spot clean walls, doors, switch plates, and glass.
7. Disinfect door handles, light switches and other “touch points” not covered in other cleaning and disinfecting tasks herein.
8. Spray electro-static mist with solution of 3M C Diff tablet disinfectant on all surfaces,

except glass and kitchen appliances, and where not indicated.

9. Cleaners are certified by TBS to have been trained in proper processes for safely doing the job including:
 - a. Right to Know/Hazard Communication
 - b. Bloodborne Pathogen
 - c. Chemical Labeling and SDS
 - d. Standard cleaning processes
 - e. PPE
10. Cleaners will wear PPE, including gloves, shoes covers, head covers, and N95 masks to prevent contamination of rooms and for cleaners' protection. TBS will make a good faith effort to provide all PPE, and will request PPE from County, only if needed.
11. Cleaners will change into freshly laundered "scrubs" – TBS is responsible for furnishing scrubs used by its cleaners.
12. TBS will notify County should a room be found to be abused, or dirty beyond a reasonable expectation of normal tenant use. TBS will document and, if possible, provide photographs of the condition prior to service.
13. TBS will use the following disinfecting agents, which meet the EPA standard for efficacy against the novel corona virus and many other pathogens:
 - a. Virex II for mopping (10 minute dwell time to kill the novel corona virus)
 - b. Betco Fight Bac (2 minute dwell time to kill the novel corona virus)
 - c. 3M C Diff tablets in a solution for electrostatic fogging (two minute dwell time to kill the novel corona virus).

Schedule B: Price

Housekeeping Services

\$48.00/hour

Hot Water Extraction of Carpet

\$50.00/hour
(two hour minimum)