

RESOLUTION NO. 23-14

**A RESOLUTION ACCEPTING JUTTE EXCAVATING INC. BID FOR WWTP
IMPROVEMENTS FOR THE VILLAGE OF NEW MADISON**

BE IT RESOLVED by the Council for the Village of New Madison, County of Darke and State of Ohio that the Mayor is hereby authorized to accept the bid of Jutte Excavating Inc. for WWTP Improvements, in accordance with the attached specifications identified as Exhibit A and execute the contract in Exhibit B based upon the recommendation of Access Engineering in the Exhibit C. Further, the Mayor is authorized to sign any other documents or award authorization needed by any government agency to facilitate any grants or loans that go with the project.

Passed this 17th day of July, 2023.

Caril A. Looney
President of Council

ATTEST:

Roberta Harker
Fiscal Officer

APPROVED by the Mayor this
17th day of July, 2023.

Monica L. Sedberry
Mayor



July 17, 2023

Matthew E. McCoppin, P.E.
State Engineer Rural Development
United States Department of Agriculture
Federal Building
200 North High Street Room 507
Columbus, OH 43215

Re: New Madison WWTP Improvements; CFDA Project No. 10.760 Water and Waste Disposal

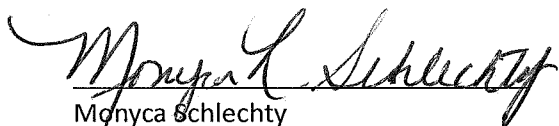
Dear Mr. McCoppin:

Attached to this letter, please find copies of the New Madison Recommendation of Award Letter and Exhibits, dated May 16, 2023, prepared by Wessler Engineering, along with copies of the bids submitted by Jutte Excavating, Inc., for the New Madison WWTP Improvements project.

Following our own review, the Village is in agreement with and approves of Wessler Engineering's recommendation of award of the New Madison WWTP project to Jutte Excavating, Inc., for their lowest and best bid of \$2,737,000.00 and requests USDA concurrence and permission to award these projects.

If you should have any questions, please contact me mayor@villageofnewmadison.com or 937-423-3962.

Sincerely,



Monyca Schlechty
Mayor, New Madison

Cc: Cindy Cameron
Ryan Brauen, Wessler Engineering
Michael Rieman, Village Attorney



NOTICE OF AWARD

Date of Issuance: July 17, 2023
Owner: Village of New Madison, OH Owner's Project No.: N/A
Engineer: Wessler Engineering, Inc. Engineer's Project No.: 702722
Project: WWTP Improvements
Contract Name: WWTP Improvements
Bidder: Jutte Excavating, Inc.
Bidder's Address: 1140 Fort Recovery-Minster Road, Fort Recovery, Ohio 45846

You are notified that Owner has accepted your Bid dated **May 11, 2023** for the above Contract, and that you are the Successful Bidder and are awarded a Contract for the:

Wastewater Treatment Plant (WWTP) Improvements

The Contract Price of the awarded Contract is **\$2,737,000**. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

Two unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of **Notice of Award**

1. Deliver to Owner **two** counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any): **None**

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: Village of New Madison

By (signature): Monica L. Schleckty
Name (printed): Monica L. Schleckty
Title: Mayor

Copy: Wessler Engineering (Engineer)



AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between the Village of New Madison ("Owner") and **Jutte Excavating, Inc.** ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 CONTRACTOR SHALL COMPLETE ALL WORK AS SPECIFIED OR INDICATED IN THE CONTRACT DOCUMENTS. THE WORK IS GENERALLY DESCRIBED AS FOLLOWS:

- Replacing the Rush Road Lift Station pumps with larger pumps, coating the existing wet-well and upstream manhole, and miscellaneous repairs to address corrosion in the control's enclosure.
- Replacing the influent fine screen and replacing grit tank baffles at the Headworks structure. Coating the existing channels, installing windows, replacing the overhead coiling door, installing a radiant heater and associated propane tank, and installing new fan and louver in existing building that houses the screen.
- Recoating steel components on the oxidation ditches with internal clarifiers as noted on project drawings. Replacing steel supports for the rotor covers and replacing the rotor motors, drives, and bearings in the oxidation ditches, and replacing the clarifier drives and surface scum scrapers in the clarifiers.
- Replacing the UV disinfection system.
- Replacing the WAS/scum lift station pumps in kind.
- Building two additional aerated sludge storage tanks to ensure that 30 days of retention are provided and replacing the three-sludge storage/ post aeration blowers with larger units.
- Building three additional sludge drying beds and extending the dried sludge storage area, with concrete pad. Installing new polymer mixing unit and polymer mixing vault with manifold associated with sludge drying.
- Replacing the plant drain lift station pumps in kind.
- Upgrading the site's electrical system as required to install the new equipment and installing a new telemetry system to replace the existing dialer.
- The work also includes yard piping, process piping, demolition, excavation, dewatering, regrading, crushed stone access area and sidewalk, landscaping, coatings, electrical, instrumentation and control, clean up, and all other appurtenances necessary to complete the work shown on the project drawings and included in the project manual.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **New Madison Wastewater Treatment Plant Improvements (702722)**

ARTICLE 3—ENGINEER

- 3.01 The Owner has retained Wessler Engineering (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by Engineer.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

- ~~A. The Work will be substantially complete on or before [date], and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before [date].~~

4.03 *Contract Times: Days*

- A. The Work will be substantially complete within **365** days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **420** days after the date when the Contract Times commence to run.

4.04 *Milestones*

- A. Parts of the Work must be substantially completed on or before the following Milestone(s):
1. Milestone 1: Area 5, UV Disinfection shall be completed, tested and started a minimum of two-weeks prior to the start of the disinfection season.

4.05 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion:* Contractor shall pay Owner **\$1,400** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,400** for each day that expires after such time until the Work is completed and ready for final payment.

3. *Milestones*: Contractor shall pay Owner **\$500** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial Completion is reached, at which time the rate indicated in Paragraph 4.05.A.1 will apply, rather than the Milestone rate.
 4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.
 - C. ~~*Bonus*: Contractor and Owner further recognize the Owner will realize financial and other benefits if the Work is completed prior to the time specified for Substantial Completion. Accordingly, Owner and Contractor agree that as a bonus for early completion, Owner shall pay Contractor ~~\$(number)~~ for each day prior to the time specified above for Substantial Completion (as duly adjusted pursuant to the Contract) that the Work is substantially complete. The maximum value of the bonus will be limited to ~~\$(number)~~.~~

Deleted

4.06 *Special Damages*

- A. ~~Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.~~
- B. ~~After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.~~
- C. ~~The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.~~

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For all Work other than Unit Price Work, a lump sum of **\$2,737,000.00 (Two Million, Seven Hundred Thirty-Seven Dollars and Zero Cents)**.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

- B. ~~For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).~~

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

- C. ~~Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$[number].~~
- D. ~~For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.~~

ARTICLE 6—PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the **5th** day of each month during performance of the Work as provided in Paragraph 6.02.A.1 and **6.02.A.2** below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.

a. ~~{number}~~95 percent of the value of the Work completed (with the balance being retainage).

1) ~~If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and~~

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b. ~~{number}~~95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. **Retainage:**

a. **No payments will be made that would deplete the retainage nor place in escrow any funds that are required for retainage nor invest the retainage for the benefit of the Contractor.**

b. **Additional amounts may be retained if the job is not proceeding satisfactorily.**

B. Upon Substantial Completion of the entire construction to be provided under the **construction Contract Documents**, Owner shall pay an amount sufficient to increase total payments to Contractor to **100** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **200** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

A. All amounts not paid when due will bear interest at the rate of **0%** percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of all of the following:

1. This Agreement.
2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).

3. General Conditions.
4. Supplementary Conditions.
5. Specifications as listed in the table of contents of the project manual, titled: **Project Manual for Wastewater Treatment Plant Improvements for the Village of New Madison Ohio, March 2023** (not attached but incorporated by reference). A copy of the table of contents is attached.
6. Drawings (not attached but incorporated by reference) consisting of **56** sheets with each sheet bearing the following general title: **Wastewater Treatment Plant Improvements, for the Village of New Madison, Darke County, Ohio.**
7. Drawings listed on the attached sheet index.
8. Addenda (numbers **1** to **3**, inclusive).
9. Exhibits to this Agreement (enumerated as follows):
 - a. **None.**
10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.

4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner,

(b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

Owner:

Village of New Madison, Ohio
(typed or printed name of organization)

By: Maryea L. Schlecty
(individual's signature)

Date: 07-17-2023
(date signed)

Name: Maryea L. Schlecty
(typed or printed)

Title: Mayor
(typed or printed)

Attest: Roberta Hacker
(individual's signature)

Title: Fiscal Officer
(typed or printed)

Address for giving notices:

124 S. Harrison Po Box 15
New Madison, OH
45346

Designated Representative:

Name: GAIL A FARMER
(typed or printed)

Title: PRESIDENT
(typed or printed)

Address:

Village of New Madison
P.O. Box 15
New Madison, Oh 45346

Phone: (937) 996-0298

Email: fiscalofficer@villageofnewmadison.com
(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

Jutte Excavating, Inc.
(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

License No.: _____
(where applicable)

State: _____

Village of New Madison
P.O. Box 12
New Madison, OH 43046