

STATE OF OHIO,
COUNTY OF FRANKLIN, SS:

Now comes Michael W. Currie, having first been duly cautioned and sworn, states as follows:

1. My name is Michael W. Currie. I make this affidavit on the basis of my personal knowledge. At all relevant times, I have been employed as General Counsel for Kokosing Construction Company, Inc.

2. On September 23, 2011, I made a request for records via a letter to counsel for The City of Zanesville. A true and accurate copy of my request for production of public records is attached hereto as Exhibit A.

3. The City of Zanesville claims that the requests are overbroad, in violation of Ohio's Public Records Act and the City of Zanesville's Public Records Policy, and further, The City of Zanesville has redacted much of the correspondence between the City of Zanesville's counsel and the City of Zanesville's third-party engineer.

FURTHER AFFIANT SAYETH NAUGHT.



Michael W. Currie

Sworn to before me and subscribed in my presence this 10th day of March, 2012, by Michael W. Currie.



Notary Public



RHONDA G. VAN ARSDALE
Notary Public, State of Ohio
My Commission Expires July 4, 2014

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing document has been served upon the following by regular U.S. Mail, postage prepaid, this 19th day of March, 2012:

Jack R. Rosati, Jr., Esq.
Mark E. Evans, Esq.
Benjamin B. Hyden, Esq.
Bricker & Eckler
100 South Third Street
Columbus, Ohio 43215

Counsel for Respondent, The City of Zanesville, Ohio

Jeffrey W. Hutson, Esq.
Lane, Alton & Horst
Two Miranova Place, Suite 500
Columbus, Ohio 43215-7032

Counsel for Respondent, CH2M Hill



Matthew R. Wushinske

GENERAL CONTRACTORS



6235 Westerville Road, Suite 200, Westerville, OH 43081-4074
Phone 614-212-5700 Fax 614-212-5711

September 23, 2011

Via Email and Regular Mail

Mr. Gary R. Long, PE
CH2M Hill
1103 Schrock Road, Suite 400
Columbus, OH 43229

Benjamin B. Hyden, Esq.
Bricker & Eckler LLP
9277 Centre Pointe Drive
Suite 100
West Chester, OH 45069

RE: Zanesville Water Treatment Plant

Dear Messrs. Long and Hyden:

As you are aware, by letter dated September 8, 2011, Kokosing requested that certain records in the possession of the City and CH2M Hill be made available for our review. We are in receipt of Mr. Long's letter dated September 16, 2011, in which he responds on behalf of the City and CH2M Hill with the statement that a subpoena would be necessary in order for the requested documents to be made available.

As an initial matter, we must note the complete lack of cooperation by CH2M Hill and the City with respect to this request. As you are well aware, the City has entered into an agreement to mediate the disputes on this project. There should be little doubt in anyone's mind that the mediator will order the production of the requested documents. Moreover, it is equally obvious that, in the event the mediation is not successful, the court will order the production of all requested documents. Given these facts, it appears that the response that has been made by CH2M Hill on behalf of the City and CH2M Hill is made in an effort to unduly obstruct Kokosing's efforts to adequately prepare and evaluate its claims relating to the project.

Please consider this to be a request pursuant to the Ohio Records Act, R.C. 149.43, that the following records in the possession of the City and CH2M Hill be made available for our inspection and copying. In regard to the records in the possession of CH2M Hill, please note that the Ohio Supreme Court has clearly held that all records of third parties under contract with a public owner are subject to production under the Ohio Records Act. See *State, ex rel. Cincinnati Enquirer v. Krings*, (2001) 93 Ohio St. 3d 654.

For the purpose of these requests, the Project shall be defined as the funding, design and construction of the Zanesville Water Treatment Plant. We request that the following information, whether in electronic media or hard copy, from the City of Zanesville be made available to us for our review:

Corporate Office: P.O. Box 226, Fredericktown, Ohio 43019-0226 Phone 740-694-6315



AN EQUAL
OPPORTUNITY
EMPLOYER



September 23, 2011

Page 2

- 1) All design files produced by CH2M Hill related to the design of the project.
- 2) All correspondence (including email) between the City of Zanesville and CH2M Hill related to the design of the project.
- 3) All correspondence (including email) between the City of Zanesville and CH2M Hill related to the construction of the project.
- 4) All minutes of meetings attended by any representative of the City relating in any way to the funding, design or the construction of the project.
- 5) All documents relating in any way to the funding for the project.
- 6) All payment applications from CH2M Hill relating to the project.
- 7) All contracts between the City and CH2M Hill relating to the project, including any amendments thereto.
- 8) All documents relating to any financial contingencies established for the project.
- 9) All reports of any nature relating to the project.
- 10) All financial information relating to the project.
- 11) All documents relating to the sources and uses of funds for the project.

We request that CH2M Hill make the following records, whether in electronic media or hard copy, available:

- 1) All design files produced by CH2M Hill related to the design of the project.
- 2) All correspondence (including email) between the City of Zanesville and CH2M Hill related to the design of the project.
- 3) All correspondence (including email) between the City of Zanesville and CH2M Hill related to the construction of the project.
- 4) All minutes of meetings attended by any representative of CH2M Hill relating in any way to the design or the construction of the project.
- 5) All documents relating in any way to the funding for the project.
- 6) All payment applications from CH2M Hill relating to the project.

KOKOSING CONSTRUCTION COMPANY INC.

September 23, 2011
Page 3

- 7) All contracts between the City and CH2M Hill relating to the project, including any amendments thereto.
- 8) All documents relating to any contingencies established for the project.
- 9) All correspondence (including email) between CH2M Hill and the City of Zanesville's counsel regarding the project.
- 10) All internal memoranda (including email) relating in any way to the project.
- 11) All reports or analyses relating in any way to the project.
- 12) All budgets established for the design services for the project.
- 13) All periodic cost reports relating to the design services for the project.
- 14) All time sheets generated for design services relating to the project.
- 15) All records of telephone conversations or meetings relating to the project.
- 16) All insurance policies applicable to the design services provided for the project.
- 17) All bid tabulations, bid evaluations, bid evaluation data, or other documents relating to the bidding for the project.
- 18) All contracts, including drafts thereof, between the City of Zanesville and CH2M Hill, including all change orders or amendments thereto, relating to the project.

Obviously, CH2M Hill and the City each felt that ten days was an adequate time within which to respond to a request for such documents. Accordingly, we request that you make all requested files available to Kokosing for our review within ten (10) days from the date of this letter.

Very truly yours,

KOKOSING CONSTRUCTION COMPANY, INC.



Michael W. Currie
General Counsel

cc: Project File