

RESOLUTION NO.: 172-2023
INTRODUCED BY: Mayor Thomas

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A PURCHASE AGREEMENT WITH OHIO CAT THROUGH THE SOURCEWELL COOPERATIVE PURCHASING PROGRAM FOR THE PURCHASE AND INSTALLATION OF A NATURAL GAS GENERATOR.

WHEREAS, the Charter of the City of Richmond Heights provides that this Council may authorize purchases exceeding twenty-five thousand dollars without public competitive bidding where the City is participating in cooperative purchasing programs of political subdivisions, and Sourcewell is a local government unit, corporation and public agency under the laws of the state of Minnesota which awarded a competitively bid contract for Caterpillar natural gas power generators to Ohio Cat;

WHEREAS, the City has obtained a quote from Ohio Cat to provide a Caterpillar Model DG100-100kW natural gas power generator with automatic transfer switch and installation under its Sourcewell contract in the amount of \$138,994.00.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: The Mayor is authorized to enter into a purchase agreement with Ohio Cat for a Caterpillar Model DG100-100kW natural gas power generator with automatic transfer switch and installation as set forth in the quote dated October 14, 2023, a copy of which is attached hereto as Exhibit A, for a total amount not to exceed \$138,994.00;

Section 2: The Director of Finance is authorized to expend funds from ARPA Account #224-7150-54500 in the amount of \$100,000.00 and ARPA Account #221-7150-54500 in the amount of \$38,994.00 to cover the cost of the purchase authorized in Section 1.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: December 19, 2023

APPROVED: December 19, 2023

Kim A. Thomas, Mayor

ATTEST: Donnie Hunter
Donnie L. Hunter
Clerk of Council

Bobby Jordan
Bobby Jordan
President of Council

EXHIBIT A

Sales Quotation

To: *Travian Atkins*
City of Richmond Heights
216-486-3537

Quoted By: *Mark Cronin*

**Travian.atkins@richmondheightsohio.o
rg**

Phone # 440-838-7142
mcronin@ohiocat.com



Ohio CAT

Power Systems Division
900 Ken-Mar Industrial Parkway
Broadview Heights, OH 44147
800-637-5000
440-526-4609 fax
www.ohiocat.com

Quote Number:
31266443

Quote Date:
10/14/23
Expires On: Firm for 30 days

Project:	City of Richmond Heights – Generator supply & installation
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QTY	DESCRIPTION	AMOUNT
1	<p>Caterpillar Model DG100-100kW Natural Gas Power Generator:</p> <ul style="list-style-type: none"> • EPA STATIONARY EMERGENCY • NFPA BUNDLE • 60HZ 120/208 VOLT, 100kW/125kVA - 347 • UL 2200 STANDARD PACKAGE GENSET • STANDARD WARRANTY, 1 YEAR • NATURAL GAS: Volume 1255 / PRESSURE: 7"-11" H2O • PERMANENT MAGNET GENERATOR • 125C TEMP RISE OVER 40C AMBIENT • SOUND ATTENUATED ENCLOSURE, WHITE – 75 dBA (estimated at 7 meter) • 100A LOAD PANEL • GEN RUNNING & FAULT RELAY • GCCP 1.2 CONTROL PANEL WITH LOCAL ANNUNCIATION • WET BATTERY, INSTALLED w/RACKING & CABLES • BATTERY CHARGER 20 AMP, INSTALLED • JACKET WATER HEATER – 1800W,120VAC • STD AIR CLEANER W/ FILTER RESTRICTION INDICATOR • 400A CIRCUIT BREAKER, LSI 100% RATED • STANDARD TEST PACKAGE GENSET, 0.8 PF • REMOTE ANNUNCIATOR PANEL,SHIPPED LOOSE-INSTALL BY OTHERS • REMOTE ANNUNCIATOR PANEL,SHIPPED LOOSE-INSTALL BY OTHERS 	
1	<p>Automatic Transfer Switch: ASCO – 300 Series</p> <ul style="list-style-type: none"> • OPEN TRANSITION, STANDARD – SE RATED, NEMA 3R ENCLOSURE • 600AMPS, 120/208V, 3 PHASE, 4 WIRE, 60HZ, 3 POLES, CONTACTOR • 3-PH EMERGENCY SOURCE SENSING, PHASE ROTATION 	

Continued on next page:

<p>1</p> <p>Installation: Engineered drawings – stamped by Ohio Certified Engineer NG fuel line installation (extended from existing line in electrical room – 1st floor) Rigging/crane of new generator onto concrete pad. Generator to be mounted on rear of building neat electric meter Note: Concrete pad by Richmond Heights Service Department New 600A SE rated ATS (NEMA 3R) – ASCO ATS to be mounted exterior of the building near electric meter New 100kW NG outdoor – sound attenuated generator package All conduits & wire, control wire and AC circuits for generator accessories Note: Permits to be provided by Richmond Heights Drawings for concrete pad to be provided by Ohio Cat – concrete pad by Richmond Heights (per service department request) Concrete side walk removal – adjacent to current electrical meter Note: All site work for concrete pad & repair of lawn in rear of building to be performed by Richmond Heights</p>	
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<p><u>Quotation also includes:</u></p> <p>Delivery to job site (unload by others) Start-up service with 2 hour load bank test - resistive</p> <p><u>Note:</u> Two week notice required for start-up scheduling. Start up to take place during normal business hours Monday- Friday.</p>	<p><u>Terms:</u> Due Upon Receipt FOB: Jobsite Submittals: 2-4 weeks Engineering: 4-6 weeks upon receipt of PO Delivery: ATS: 36-40 weeks after release of order Gen: 40-44 weeks after release of order</p>
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	TOTAL	\$	138,994.00
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Add Sales Tax If Applicable

If you have any questions concerning this quotation contact Mark Cronin at 440-838-7142



POWER SYSTEMS TERMS AND CONDITIONS

CATERPILLAR WARRANTY

If new and remanufactured engines (hereinafter referred to as New Engines) are being quoted on this Quotation/Offer to Sell, or if Ohio CAT is quoting the performance of maintenance, repairs or other work (hereinafter referred to as Work) on Customer's machines, tractors, trucks or other property (hereinafter referred to as Equipment) and the Work to be performed requires the installation of a New Engine of Caterpillar Inc. (Caterpillar), such New Engines of Caterpillar are subject to the following warranty that is given SOLELY BY CATERPILLAR.

Caterpillar warrants New Engines (other than those products listed below) sold by it to be free from defects in material and workmanship subject to certain express User Responsibilities and the following provision. During the first twelve months after purchase by the user, Caterpillar will provide new remanufactured or repaired parts, whichever Caterpillar elects, in place of any parts which are found upon inspection to be defective in material or workmanship. Such parts will be provided without charge to the user at a place of business of a Caterpillar dealer or other establishment authorized by Caterpillar. Caterpillar will provide reasonable and customary labor needed to correct the defect, including labor to disassemble the product from and reassemble the product to its attached equipment, mounting and support systems, and will provide reasonable travel expenses for authorized mechanics when Caterpillar chooses to make the repair on-site. This warranty does not apply to products sold for use in on-highway vehicles, machines or parts manufactured by or for Caterpillar or products sold for use in personal, family or household applications. Such products are covered by other Caterpillar warranties.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Remedies under this warranty are expressly limited to the provision of parts as specified above and any claims for loss arising out of the failure of the parts or exchange components to perform for any period of time, or other economic or moral loss, or direct, immediate, special, indirect or consequential damage are expressly excluded. See CATERPILLAR WARRANTY, which is incorporated herein by reference.

The term "Caterpillar" as used herein means Caterpillar Industrial, Caterpillar Inc. or one of its subsidiaries, whichever last sold the products.

Customer, by accepting this Quotation/Offer to Sell, acknowledges that customer has received, read, understands and accepts the Caterpillar Warranty reproduced immediately above, and any other Caterpillar Warranties which are applicable.

OTHER MANUFACTURER'S WARRANTY

If the New Engines or New Parts quoted herein are products of a MANUFACTURER OR ASSEMBLER OTHER THAN CATERPILLAR ("Manufacturer") they may be subject to certain express warranties of MANUFACTURER. Any MANUFACTURER'S product is subject to a warranty if any, SOLELY BY THE MANUFACTURER. CUSTOMER, BY ACCEPTING THIS QUOTATION/OFFER TO SELL, ACKNOWLEDGES THAT CUSTOMER HAS READ, UNDERSTANDS AND ACCEPTS MANUFACTURER'S WARRANTY (WARRANTIES) APPLICABLE TO THE MANUFACTURER'S NEW PARTS QUOTED HEREIN.

USED PRODUCTS

If engines other than New Engines, as defined above or parts other than New Parts (hereinafter referred to as Used Products), are being quoted on this Quotation/Offer to Sell, such Used Products are sold on an AS-IS basis, without any warranty whatsoever, except as may be expressly stated on the face hereof.

OHIO CAT'S WARRANTIES

Ohio CAT gives, in respect to the New Products of Ohio CAT (i.e., exchange components or assemblies rebuilt by Ohio CAT) sold, and Work performed, under the terms of this Quotation/Offer to Sell – SUBJECT TO CUSTOMER'S ADHERENCE TO CUSTOMER'S RESPONSIBILITIES, AS PROVIDED IN THE PARAGRAPH SO TITLED BELOW – the following express warranties:

- 1) Ohio CAT warrants the labor involved in any Work performed under the terms of the Quotation/Offer to Sell to be free from workmanship deficiency that will cause the Equipment to be defective as follows:
 - a. Flat rate or quoted fixed price Work is warranted for one hundred eighty (180) days from the date such Work is completed.
 - b. Time and material hourly Work is warranted for ninety (90) days from the date such work is completed, and
 - c. Special terms expressly stated on the face hereof;

- 2) OHIO CAT warrants any new products rebuilt by OHIO CAT that are used in any work performed under the terms of this Quotation/Offer to Sell – for one hundred eighty (180) days from the date such work is completed – to be free from defects in materials and workmanship;

- 3) If any Work performed under the terms of this Quotation/Offer to Sell fails to conform to these warranties, Ohio CAT will, at a location of Ohio CAT's choice and during Ohio CAT's normal working hours, replace any defective parts or correct any deficiencies in workmanship if such defects in parts or deficiencies in workmanship are verified by the inspection of an authorized Ohio CAT employee. Such replacement of parts or correction of deficiencies in workmanship will be initiated as soon, after verification, as manpower and necessary parts and equipment are available to Ohio CAT.

DISCLAIMER OF OTHER WARRANTIES

THE WARRANTIES OHIO CAT GIVES IN THE IMMEDIATELY PRECEDING PARAGRAPH ARE EXCLUSIVE. OHIO CAT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR YEAR 2000 COMPLIANCE.

DISCLAIMER OF TORT LIABILITY

Customer specifically understands and agrees that OHIO CAT, and OHIO CAT's officers, agents and employees, shall not be liable in tort, whether based on negligence, strict liability, or any other theory of tort liability – for any action or failure to act in respect to the manufacture, preparation for sale, sale, delivery or service (including the entrance of OHIO CAT personnel onto customer's property for delivery, service or for any other purpose) of the products quoted herein, or for any action or failure to act in respect to the workmanship or quality of Products used in, or any Work performed under the terms of this Quotation/Offer to Sell. IT IS THE PARTIES' INTENT AND THE INTENT OF THIS PROVISION TO ABSOLVE AND PROTECT OHIO CAT AND OHIO CAT'S OFFICERS, AGENTS AND EMPLOYEES FROM ANY AND ALL TORT LIABILITY.

EXCLUSIVE REMEDY AND EXCLUSION OF CONSEQUENTIAL DAMAGES

Customer specifically understands and agrees that customer's sole and exclusive remedy for breach of warranty, defective work, tortious conduct or any other cause of action against OHIO CAT or OHIO CAT's officers, agents and employees, shall be as provided in the express warranties contained in the paragraph above titled "OHIO CAT'S WARRANTIES." CUSTOMER SPECIFICALLY UNDERSTANDS AND AGREES THAT NO OTHER REMEDY (INCLUDING BUT NOT LIMITED TO CLAIMS FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, FOR ANY CAUSE WHATSOEVER, OR INJURY TO PERSONS (INCLUDING DEATH RESULTING THEREFROM) OR PROPERTY OR ANY OTHER CONSEQUENTIAL, ECONOMIC OR INCIDENTAL LOSS) SHALL BE AVAILABLE TO HIM.

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CUSTOMER'S RESPONSIBILITIES

1) Customer will at all times operate and maintain the Equipment and Engine in accordance with the instructions outlined in the Maintenance and Operation Instruction Book furnished at time of purchase.

2) Any damage to the Equipment or Engine that results from Customer's continued operation of the Equipment or Engine after a defect has been recognized by Customer is Customer's sole responsibility and Ohio CAT has no responsibility to repair or correct any damage that results from Customer's continued operation of the Equipment after a defect has been recognized by Customer.

3) Customer shall be liable to Ohio CAT for all expenses incurred by Ohio CAT if servicemen are called to the job by the Customer and Customer refuses to permit the requested Work to be performed.

4) Customer shall make payment for all Products purchased and/or all Work performed under this Quotation/Offer to Sell in accordance with the credit and payment policies of Ohio CAT that are in effect at the time the Products are sold or the Work is performed.

5) Customer grants Ohio CAT the right to operate any Equipment Worked on for purposes of testing or inspecting said Equipment at Ohio CAT's location or at Customer's location.

OTHER TERMS AND CONDITIONS

1) OFFER AND ACCEPTANCE. This Quotation/Offer to Sell is not an acceptance of the terms and conditions of any prior or subsequent offer or order of Customer and any such terms and conditions are expressly rejected. This Quotation/Offer to Sell is an offer by Ohio CAT to Customer. Customer, by accepting this Quotation/Offer to Sell, accepts Ohio CAT's offer contained herein and such acceptance of this offer is expressly limited to its terms. Any subsequent submission of an order or similar document to Ohio CAT covering the Products or Work quoted herein also constitutes an unqualified acceptance of this offer notwithstanding terms and conditions in said order or other document to the contrary. Under no circumstances shall any terms and conditions of Customer's business forms that are inconsistent with the terms and conditions of this Quotation/Offer to Sell become part hereof. Upon acceptance, this Quotation/Offer to Sell shall become the final written expression of agreement between Ohio CAT and Customer, constituting the entire contract between Customer and Ohio CAT and superseding all previous communications, either verbal or written. Notwithstanding the foregoing, Ohio CAT reserves the right to correct minor errors and omissions committed by Ohio CAT's employees while compiling this Quotation/Offer to Sell. This right to correct includes, but is not limited to, sales tax, freight, insurance, filing fees, spelling, serial numbers, payment dates, etc. Such errors will be uniformly corrected by Owner.

This Quotation/Offer to Sell may be modified only by a writing signed by a corporate officer of Ohio CAT. Reference herein to any order or other communication is only for the purpose of identifying the Products or Work ordered.

2) PRICE. The price of the Products and Work quoted herein, as stated above, is subject to change without notice. The actual sales price of the Products and Work shall be Ohio CAT's price in effect at the date of delivery. Transportation charges are not included in the price of the Products and Work, as quoted above, the same shall be paid by Customer upon delivery. Transportation charges shall include all switching, spotting, drayage, demurrage and other transportation charges or taxes incurred at destination. Customer shall pay, in addition to the sales price applicable at the time of delivery, all excise, privilege, occupational, sales, use, personal property and other taxes, whenever due, and in the event the same are paid by Ohio CAT, Customer will reimburse Ohio CAT for the cost thereof forthwith upon demand by Ohio CAT.

3) LATE PAYMENT AND/OR NON-PAYMENT BY CUSTOMER. In the event that the invoice applicable to the products and/or work described herein is not paid by customer by said invoice's due date, customer shall pay a service charge of up to 2% of the total invoice amount for each month that said invoice remains unpaid. In the event of non-payment by customer, the cost incurred by OHIO CAT in collecting the indebtedness, including attorneys' fees and expenses, with interest at the maximum rate allowed by law from date of expenditure, shall be added to the principal amount of the indebtedness owed to OHIO CAT. The remedies provided by this paragraph are not exclusive and OHIO CAT may elect other remedies at law or in equity.

4) RISK OF LOSS. All risk of loss or damage to the Equipment shall pass to Customer upon delivery by Ohio CAT to carrier for shipment.

5) LAWS GOVERNING – EXCLUSIVE VENUE – STATUTE OF LIMITATIONS – AND SEVERABILITY. This Quotation/Offer to Sell shall be governed by and construed under the laws of the State of Ohio notwithstanding delivery by Ohio CAT to another state other than Ohio. Any suit by Ohio CAT may be brought in the United States District Court for the Northern District of Ohio or in the Court of Common Pleas of Cuyahoga County, Ohio. The Customer hereby agrees and for the convenience of the parties, to the jurisdiction of the United States District Court for the Northern District of Ohio at Cleveland or the Court of Common Pleas of Cuyahoga County, Ohio and waives all rights to contest the jurisdiction of these Courts. Any suit by Customer for breach of contract, for any alleged tortious conduct or any claim whatsoever brought in law or equity must be filed within one year from the date the cause of action accrued or be forever barred. Any such suit by Customer must be brought in the United States District Court for the Northern District of Ohio at Cleveland or the Court of Common Pleas of Cuyahoga County, Ohio. If any provision of the Quotation/Offer to Sell shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, but the Quotation/Offer to Sell shall be construed as if such invalid or unenforceable provision had never been contained herein.

6) SECURITY INTEREST. Without waiving any rights to elect to proceed under applicable law, the Customer grants a security interest in the equipment furnished hereunder until the agreed price has been fully paid in United States currency, and in the event of a default in payment, Ohio CAT shall have all rights of repossession and other rights available to a secured party under the applicable laws. Customer will pay all costs of filing any financing, continuation, or termination statement with respect to the purchase money security interest created hereby, and Ohio CAT is hereby irrevocably appointed Customer's attorney in fact to do all acts and things which Ohio CAT may deem necessary to perfect and continue the perfection of its purchase money security interest in the Product.

Customer Initials _____ Date _____