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Prevailing Wage Law

ORC Chapter 4115: Wages And Hours On Public Works (Prevailing Wage)

If you are a public authority and wish this division to issue to you a determination as to the prevailing rates of wages called for by the public improvement in the locality where the work is to be performed, you may fill-out a request form on line here: [Prevailing Wage Request Form](#) .

Remember: Filling out and submitting the Prevailing Wage Request Form informs us of your project information. Print this document out for your files prior to clicking the "Submit" button on the on-line form. The current date is automatically generated by the form and is in the upper right hand corner. If you mark the "Internet" choice in the "Method of delivery" box, no mailing will be sent to you as this indicates that you have or will download the wage rates from the web site.

Accessing Prevailing Wage Rates

To gain free access to our Prevailing Wage Rate Database click on this link. You must enter information requested prior to gaining access. This database is primarily for Public Authorities, Unions, Contractors, and others who are in the process of complying with Ohio's prevailing wage laws on public projects

[Access Registration for Prevailing Wage Rates](#)

The following information regarding Ohio's prevailing wage is supplied only as a guide. We suggest that for indepth questions that you consult Ohio's prevailing wage law, codified in **ORC Chapter 4115: Wages And Hours On Public Works (Prevailing Wage)**.

Ohio's prevailing wage law applies to construction projects undertaken by public authorities and requires that the public authorities pay the locally prevailing rate of wages to workers on the project.

Ohio's prevailing wage rate is determined by the Director of the Ohio Department of Commerce (DOC) and is the sum of the basic hourly rate of pay; the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or third person pursuant to a fund, plan or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing fringe benefits. These rates vary from locality to locality, and are based on collective bargaining agreements.

Public authorities are required to pay the prevailing rate of wages for the locality where a construction project is being constructed. These rates apply to any new construction of any public improvement, the total overall project cost of which is fairly estimated to be more than \$62,549.00. Public authorities must also pay the prevailing rate of wages on any reconstruction, enlargement, alteration, repair, remodeling, renovation or painting of any public improvement, the total overall project cost of which is fairly estimated to be more than \$18,764.00. (These so called **Prevailing Wage Threshold Levels** are adjusted effective the first day of January of every even numbered year based upon the average change for each of the two years immediately proceeding the adjustment as set forth in the United States Department of Commerce, Bureau of the Census implicit price deflator for construction.)

Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the Department of Commerce determine the prevailing rates of wages for the classes of work called for by the public improvement in the locality where such work is to be performed. This schedule of wages is to be attached to and made a part of the specifications for the work and shall be printed on the bidding blanks when the work is done by contract. Click on this link for more information regarding the duties of [Public Authorities and Prevailing Wage Coordinators](#).

ARTICLE 1. *Agreement Between Vendee And Vendor*

THIS AGREEMENT is dated as of the _____ day of _____, 2003 by and between the City of Napoleon, Ohio, (hereinafter referred to as Vendee) and **Vernon Nagel, Inc.** (hereinafter called Vendor). Vendee and Vendor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

1.1. Contract Components; Entirely; Changes; Interpretation.

Contract Components. If this contract is a result of a competitive bid, then this Contract consists of the terms and conditions of this document, the complete invitation to bid, including the instruction to bidders, the bid specifications, any written amendments to the invitation to bid or the contract documents, any supplemental or special conditions, the delinquent personal property tax affidavit, the non collusion affidavit, the completed competitive sealed bid, including proper modifications and, clarifications and samples ("Contract"); however, if this Contract is a result of means other than competitive bid, then this Contract shall consist only of the terms and conditions of this document, the specifications, supplementary and special conditions and, any written amendments to the contract documents ("Contract").

Entire Agreement; Parties to the Contract. This Contract is the entire agreement between the Vendor and the Vendee.

Contract Changes; Waiver. Changes or modification to this Contract must be made in writing and signed by both parties. If a party to this Contract does not demand strict performance of any term of this Contract, the party has not waived or been relinquished of any of its rights; the party may at any later time demand strict and complete performance of the term.

Headings. The headings used throughout this Contract are for convenience only; they are not to be used to interpret the terms or conditions of this Contract.

Compensation. **In consideration for Vendor's performance, Vendee will pay Vendor the Lump Sum Payment of Seventeen Thousand One Hundred Ninety-Three Dollars and 20/100 (\$17,193.20),** for the product, supplies, materials, machinery and/or equipment or services that is the subject of this Contract, subject to adjustment by any approved change orders as may be issued during the performance of the contract. Payments may be made by the Vendee's Finance Director by warrant or by electronic fund transfer. Price includes any and all delivery costs.

Payment Due Date. Vendee must make payment under this Contract no later than the thirtieth (30th) calendar day from the day it receives an invoice that conforms to Vendee's current policy, for the supplies or services it has accepted.

Interest on Overdue Payments. Vendee will determine and pay interest for overdue payments on proper invoices in accordance with law or its policy and procedures, whichever is deemed appropriate by the Vendee's Finance Director.

Taxes. Vendee is exempt from all federal, state and local taxes. Vendee will not pay any taxes on supplies or services purchased from Vendor, unless the Special Contract Terms and Conditions specifications specifically state otherwise.

1.2. Time of Performance.

Term of Contract. This Contract is effective upon the signature of Vendee's City Manager. This Contract will remain in effect until the Contract is fully performed by both parties or until it terminates in accordance with law, or until it is canceled or terminated in accordance with this Article 1.4 or Article 1.5 of this Contract, whichever occurs first.

Contract Limitations:

- A. Applicable Law. Any contract limitation provided for in law applicable to Vendee shall control where it has the authority to supersede state law.
- B. Appropriation of Funds. Vendee's funds are contingent upon the availability of lawful appropriations by the legislative council of Vendee. If the legislative council fails at any time to continue funding for the payments or any other obligations due by the Vendee under this Contract, the Vendee will be released from its obligations on the date funding expires, except for payment of product, supplies, materials, machinery and/or equipment or services already rendered.
- C. Certification of Funds/Attorney Approval. This Contract is not valid unless and until the Vendee's Finance Director certifies the funds and the contract is approved as to form and correctness by the Vendee's Law Director.

1.3. Delivery.

F.O.B. The Place Of Destination. Vendor must provide product, supplies, materials, machinery and/or equipment under this contract F.O.B. the place of destination. The place of delivery will be specified by the Vendee on the Vendee's purchase order or other ordering document, unless otherwise specified in the specifications, or other contract documents.

Time Of Delivery. If Vendor is not able to deliver the product, supplies, materials, machinery and/or equipment or services on the date and time specified by the Vendee on the Vendee's ordering document, specifications or other contract documents, Vendor must coordinate an acceptable date and time for delivery with the Vendee. If Vendor is not able to or does not provide the product, supplies, materials, machinery and/or equipment or services to Vendee by the date and time provided on the Vendee's documents or by the date and time later agreed upon, the Vendee may obtain any remedy under Article 1.4 of this Contract or any other remedy at law.

1.4. Contract Cancellation; Termination; Remedies.

Contract Cancellation. If Vendor fails to perform any one of its obligations under this Contract it will be in default and Vendee may cancel this Contract, in accordance with this section. The cancellation will be effective when Vendee sends it.

- A. Contract Performance Substantially Endangered. If Vendor's default is so substantial that it may not be able to be cured within a reasonable time or if Vendee determines that the performance of the Contract is substantially endangered through no fault of the Vendee, Vendee may cancel this contract by written notice to Vendor.
- B. Cancellation For Unremedied Default. If Vendor's default may be cured within a reasonable time, Vendee will provide written notice to Vendor specifying the default and the time within which Vendor must correct the default. If Vendor fails to cure its default within the time required by Vendee, Vendee may cancel this contract by written notice to Vendor. If Vendee does not give timely notice of a default to Vendor, Vendee has not waived any of the Vendee's rights or remedies concerning the default.

- C. Cancellation For Persistent Default. Vendee may cancel this Contract by written notice to Vendor for defaults that are cured but are persistent. "Persistent" means three (3) or more defaults. After Vendee has notified Vendor of its third (3rd) default, Vendee may cancel this Contract without providing Vendor with an opportunity to cure, if Vendor defaults for a fourth (4th) time. The four (4) defaults are not required to be related in any way.
- D. Cancellation For Financial Instability. Vendee may cancel this contract by written notice to Vendor if a petition in bankruptcy or similar proceeding has been filed by or against the Vendor.
- E. Cancellation For Delinquency; Violation Of Law. Vendee may cancel this Contract by written notice, if it determines that Vendor is delinquent in its payment of federal, state or local taxes, workers compensation, insurance premiums, unemployment compensation contributions, child support, court costs, or any other obligation owed to a state agency or political subdivision. However, Vendee may not cancel this Contract if Vendor has entered into a repayment agreement with which Vendor is current. Vendee also may cancel this Contract, if it determines that Vendor has violated any law during the performance of this Contract.

1.5. **Contract Termination.**

Vendee may terminate this contract for convenience with thirty (30) days written notice to Vendor.

1.6. **Remedies for Default.**

- A. Actual Damages. Vendor is liable to the Vendee for all actual and direct damages caused by Vendor's default. The Vendee may buy substitute product, supplies, materials, machinery and/or equipment or services from a third (3rd) party, for those that were to be provided by Vendor. The Vendee may recover the costs associated with acquiring substitute product, supplies, materials, machinery and/or equipment or services, less any expenses or costs saved by Vendor's default, from Vendor.
- B. Liquidated Damages. If actual and direct damages are uncertain or difficult to determine, the Vendee may recover liquidated damages in the amount of one percent (1%) of the value of the order, or Fifty Dollars (\$50.00) per day, whichever is less, for every day the default is not cured by Vendor or by substitute performance.
- C. Deduction of Damages from Contract Price. The Vendee may deduct all or any part of the damages resulting from Vendor's default from any part of the price still due on the Contract, with Vendee's prior written notice to Vendor.

1.7. **Force Majeure.**

If the Vendee or Vendor is unable to perform any part of its obligations under this Contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this contract. The term "force majeure" means without limitation: acts of God, such as epidemics; lightning; earthquakes, fires; storms; hurricanes; tornadoes; floods; washouts; droughts; and other severe weather; explosions; arrests; restraint of government and people; war; strikes; and other like events; or any other cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond control of the party.

1.8. Delegation of Duty and Assignment of Rights.

Vendee Consent to Delegate. Vendor may not delegate any of its duties under this Contract unless Vendee consents to the delegation in writing. Vendee consent to the delegation is not Vendee's agreement to release Vendor from its duties under this Contract.

Vendee Consent to Assign. Vendor may not assign any of its rights under this Contract unless Vendee consents to the assignment in writing. Any purported assignment made without Vendee's written consent is void. Vendee may assert against an assignee any claim or defense Vendee may have against the assignor.

Antitrust Assignment to Vendee. Vendor assigns to Vendee all of its rights to any claims and causes of action the Vendor now has or may acquire under state or federal antitrust laws if the claims or causes of action relate to the product, supplies, materials, machinery and/or equipment or services provided under this Contract. Additionally, the Vendee will not pay excess charges resulting from antitrust violations by Vendor's suppliers and subcontractors.

1.9. Requirements Contract.

The quantity of product, supplies, materials, machinery and/or equipment or services to be provided under this Contract is the quantity determined by the actual, good faith requirements of the Vendee. Vendee may purchase product, supplies, materials, machinery and/or equipment or services identical to those provided under this Contract from a supplier other than Vendor, if one (1) of the following conditions apply:

Large Quantities. The product, supplies, materials, machinery and/or equipment or services to be purchased were not anticipated by Vendee at the time this Contract was let and the product, supplies, materials, machinery and/or equipment or services are required in a large quantity.

Unique Or Unusual Nature. The product, supplies, materials, machinery and/or equipment or services to be purchased are unique or unusual from the supplies or services provided under this Contract.

Emergency Purchase. Vendee requires the product, supplies, materials, machinery and/or equipment or services to remedy an emergency and Vendor is not able to provide product, supplies, materials, machinery and/or equipment or services, as the emergency requires.

Other Cause. Any other cause as required by law, policy or as determined in the sole discretion of Vendee's City Manager or the quantity of this Contract is quantity specific.

1.10. Subcontracting.

Vendor must identify its subcontractors, suppliers and joint venturers for the performance of this Contract. Vendor must supplement its lists of subcontractors suppliers or joint venturers, if Vendor's subcontractors, suppliers or joint venturers change during the term of this Contract.

1.11. Price Adjustments.

Price Increases. If the Special Contract Terms and Conditions provide for a price increase, Vendor may request a price increase in accordance with the Special Contract Terms and Conditions.

Price Decreases. If Vendor experiences a decrease in its cost to provide the product, supplies, materials, machinery and/or equipment or services to Vendee, Vendor may provide a price decrease to the Vendee.

1.12. Security

Unless otherwise specified in the specifications, a Certified Check, Cashier's Check, Irrevocable Letter of Credit or Performance Bond that is approved by the Vendee's Law Director, written to the City of Napoleon in the amount of ten percent (10%) shall be deposited as security to assure performance of this Agreement when the Contract is for delivery of product, supply, material, machinery and/or equipment; however, when the Contract is for services, then the security amount shall be in like form for the full Contract price, no ten percent (10%) permitted. Such security shall be forfeited for failing to fully or partially perform. Any check posted as a Bid Bond may be considered by the Vendee as Security for Performance of this Agreement. This Article 1.12 may be waived in writing by Vendee's City Manager when no competitive bid is involved.

1.13. Miscellaneous Terms

Assignment. No assignment by a party hereto of any rights or interests in the contract documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the contract documents.

Binding Parties. Vendee and Vendor each binds itself, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the contract documents.

Equal Employment Opportunity. Vendor must comply with all federal and state laws pertaining to equal employment opportunity, including federal and state executive orders. Vendor will not by reason of race, color, religion, sex, age, handicap, national origin, or ancestry discriminate against any person in the hiring of employees for the performance of work under this Contract. Vendor, and any other agent acting on behalf of Vendor may not discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race, color, religion, sex, age, handicap, national origin, or ancestry.

Drug Free Work Place. Vendor must comply with all applicable state and federal laws regarding a drug free workplace. Vendor must exert good faith efforts to ensure that its employees do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs, in any way, while working on Vendee's property.

Survivorship. In addition to the section titled "Remedies for Default" (Article 1.6), of this Contract, the below provisions contained in this Article entitled: Indemnification, Confidentiality, Publicity, Governing Law/Severability, Construction, and No Waiver shall survive expiration of this contract.

Indemnification. Vendor will indemnify Vendee, including its public officials, officers, and employees for any and all claims, damages, lawsuits, costs, judgments, expenses, and any other liabilities that may arise out of or are related to Vendor's, including Vendor's employees and agents, performance under this Contract.

Confidentiality. Vendor may learn of information, documents, data, records, or other material that is confidential in the performance of this Contract. Vendor may not disclose any information obtained by it as a result of the Contract, without written permission from Vendee. Vendor must assume that all Vendee information, documents, data, records or other material is confidential.

Publicity. Vendor may not use or refer to this Contract to promote or solicit Vendor's or subcontractor's supplies or services. Vendor and its subcontractors may not disseminate information regarding this Contract, unless agreed to in writing by Vendee.

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PROJECT: Demolition of Building & Other Structure at 307 – 311½ South Perry

Governing Law; Severability. The laws of the State of Ohio govern this Contract, and venue for any dispute will be exclusively with the appropriate court in Henry County, Ohio. If any provision of the Contract or application of any provision is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Contract will remain in full force and effect to the extent that the remaining provisions continue to make sense.

Construction. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

No Waiver. No failures by Vendee to insist upon strict performance by Vendor of any provision of this agreement or to exercise any right or remedy consequent upon a violation of this agreement shall constitute a waiver of any such provision, right, remedy or violation. No waiver of any violation shall affect or amend this agreement, but every agreement, term and condition of this agreement shall continue in full force and effect with respect to any other existing or subsequent violation.

In Witness Whereof, Vendee and Vendor have signed this agreement in duplicate. One (1) counterpart of each has been delivered to Vendor, and Finance Director. All portions of the contract documents have been signed or identified by Vendee and Vendor.

This agreement will be effective on _____, 2003.

VENDEE: City of Napoleon, Ohio

By _____
Dr. Jon A. Bisher; City Manager

Attest :

I, Gregory J. Heath, Finance Director of the City of Napoleon, Ohio hereby certify that the money to meet this contract has been lawfully appropriated for the purpose of the contract and is in the treasury of the City of Napoleon, Ohio or is in the process of collection to the credit of the appropriate fund free from prior encumbrance.

Gregory J. Heath, Finance Director

Address for giving notices:

255 West Riverview Avenue
P.O. Box 151
Napoleon, Ohio, 43545

ARTICLE 2. *Specifications*

Indemnification. Vendor will defend, indemnify and hold harmless the City of Napoleon, Ohio, including its public officials, officers, employees, boards, and volunteers for any and all claims, damages, lawsuits, costs, judgments, expenses, and any other liabilities that may arise out of or are related to Vendor's (including Vendor's employees, agents or subcontractors) furnishing or delivery of product, supplies, materials, machinery and/or equipment or services, or operation, or general performance under this Contract.

Insurance. The Vendor shall not commence work under the contract prior to obtaining all the insurance required hereunder and obtaining the Authorized Representative's approval of such insurance, nor shall the Vendor allow any Subcontractor to commence work on any subcontract until all similar insurance required of the Subcontractor has been so obtained and approved. Approval of the insurance by the City shall not relieve or decrease the liability of the Vendor hereunder. The Vendee, including its officials, officers, employees Boards, Commission and Volunteers are to be named as additional insured for all insurance provided in accordance herewith. All such insurance shall be maintained by the Vendor for at least two (2) years after substantial completion of the Work.

Vendor's Liability Insurance. The Vendor is required to carry Commercial General Liability, Automobile Liability, Workers' Compensation and Employer's Liability insurance as provided below. Completed Operations must be maintained for three (3) years following substantial completion of the Work. The Automobile Liability insurance shall provide coverage for any automobile used in trade or business whether owned, non-owned, or rental. All insurance policies shall name the Vendee, its officials, officers, employees, boards, commissions and volunteers as additional insured.

The amounts of coverage, extended to include the Vendee's peril, shall be as follows:

Worker's Compensation - (Ohio) State Insurance Fund or evidence as a qualified self-insurer in the State of Ohio.

Ohio "Stop-Gap" Coverage - \$500,000 Limit

NOTE: Coverage may be written singly or endorsed to a Commercial General Liability Policy.

Commercial General Liability - \$1,000,000 Combined Single Limit - including:

(a) ISO Broadening Endorsement (or equivalent)

*Coverage to remain in effect for three (3) years after date of completion of contract.

Umbrella/Excess Liability - \$1,000,000 per occurrence and in the aggregate.
including:

General Insurance Provisions. Policies for insurance described above shall all contain the following special provisions: The insurance company agrees that thirty (30) days prior to cancellation or reduction of the insurance afforded by the policy, written notice shall be mailed to the Vendee.

The maintenance of the insurance as described herein shall not constitute a waiver of the Vendor's liability for damage to any adjoining building or its contents or the work and property of

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others on the site in excess of the limits of such insurance. The Vendor shall hold the Vendee free and harmless from any injury, including death, and any damage resulting from the negligent or faulty performance or omission of or from the contract by the Vendor or any Subcontractors with whom the Vendor has entered into a contract.

The Vendor shall hold the Vendee harmless from all payments for patents, either as royalty or otherwise, in the use of materials, methods, appliances, etc., that may be in any way involved in or connected with any part of the Work or the Work of any Subcontractors with whom the Vendor has entered into a contract.

Claims Made Insurance. If any coverage of Insurance is on a "Claims Made" form, there shall be continued coverage for at least three (3) years after services are completed.

Insurance Rating. All insurance shall have a Best's rating of A- or higher and VI or higher plus approved in Ohio. Cross liability shall not be restricted.

Insurance Survivorship Incorporation. Any Insurance provision or Indemnification provision contained in these specifications shall be incorporated into the survivorship provision of this Contract by reference.

NOTICE TO VENDOR, PERFORMANCE AGREEMENT:

If the Vendor finds it impossible for reasons beyond his control to complete the requirements of the contract by the date specified or as extended in accordance with this provision, the Vendor may, at any time prior to the expiration of the contract time as extended, make a written request to the City Manager, 255 West Riverview Avenue, Napoleon, Ohio 43545, for an extension of time setting forth therein the reasons that will justify the granting of this request. The Vendor's plea that insufficient time as specified is not a valid reason for extension of time.

If the City Manager finds that the delay was caused because of conditions beyond the control and without the fault of the Vendor, the Manager may extend the time for delivery in such amount as the conditions justify. The extended time for delivery shall then be in full force and effective the same as though it were the original time for delivery.

Labor, Materials and Equipment/Price. Vendor to provide labor, materials and equipment for the total contract price as stated in Article 1.1 of the contract. The Vendor shall provide and pay for all labor, materials and equipment to demolish house, haul wood away and backfill with clay; including removal of all wood, breakup basement floor for drainage, asbestos removal and backfill with clay. Block, brick and all material other than wood will remain on site. Trees and sidewalks are to remain in place.

Asbestos Disposal. The Vendor shall be required to provide the City of Napoleon, Ohio with all manifest for the removal and disposal of the asbestos. The items are as follows:

- 1.) Asbestos – Concrete (Transite) Siding. This is non-friable Category II Material.
- 2.) Asbestos Containing Tape on the Furnace Duct. This is friable R.A.C.M.

Work to be Completed No Later Than_____.

ARTICLE 3. *Certified Copy Of Corporate Resolution*

(Name of Company)

I hereby certify that I am duly elected and acting Secretary of the above named company, a corporation duly organized and existing under the laws of the State of _____ that on _____ day of _____, _____, the board of said corporation authorized and approved a certain proposal to the City of Napoleon for the delivery of certain product/supplies/materials/ equipment or services by said corporation and any contract resulting therefrom and empowered the _____ of said corporation to _____ execute said (captioned) proposal
(title of Officer)

and contract with the City of Napoleon, Ohio, and in behalf of said corporation; that said authority is not contrary to any provision in the Articles of Incorporation or Code of Regulations or Code of Bylaws of said corporation; that said authority has not been rescinded or modified; and that _____ is duly elected and acting in the
(Name of Officer)

above official capacity of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name on _____
200____.

Secretary