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Rochester Fire Protection District  
700 E Main St.  
Rochester, IL 62563

Re: Procurement Question

Dear Trustees:

This letter follows Mr. Leonard's request that we review transactions between the District and A.E.C. Fire Safety Security, a vendor of the District, since May 2018. This corresponds to the tenure of Chief Archer, who we understand to be a principal of A.E.C., with the District.

As we have previously advised, Section 4 of the Illinois Fire Protection District Act (70 ILCS 705/4) as well as the Public Officers Prohibited Activities Act (50 ILCS 105) place very stringent limitations on any transaction between the district and an employee (or trustee) of the District. I have laid this out in previous emails in May 2018 and November 2019. The basic rule under Section 4 is that "no trustee or employee of such District shall be directly or indirectly interested financially in any contract work or business or the sale of any article, the expense, price or consideration of which is paid by the District; ...." This is the general rule. For an employee of the District there is an exception to the general rule in Section 4(c) which provides that:

(c) in addition to the above exception, any trustee or employee may provide materials, merchandise, property, services or labor if:

A. the award of the contract is approved by a majority vote of the Board of Trustees of the Fire Protection District provided that any such interested member shall abstain from voting; and

B. the amount of the contract does not exceed \$1,000; and

C. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association partnership, corporation, or cooperative association in the same fiscal year to exceed \$2,000; and

D. such interested member publicly discloses the nature and extent of his

interest prior to or during deliberations concerning the proposed award of the contract;  
and

E. such interested member abstains from voting on the award of the contract, though he shall be considered present for purposes of establishing a quorum.

Based on review of the invoices from May 2018, it appears that the District has made purchases from A.E.C. which total \$25,279.37. It also appears that all but three of these purchases were below the \$1,000.00 per transaction limitation contained in section 4(c), and, except as to those three purchases, the transactions would be within the allowable limit. However, the combined total of the invoices exceeds the allowable \$2,000.00 per fiscal year limitation of section 4(c) C. This means that the purchases in the period from May 2018 would not be in compliance with the statute.

The statute does not contain any sort of additional exception. Because there is the potential of criminal penalties associated with the failure to comply with the provisions of Section 4 concerning transactions within the scope of the statute, it is important to maintain compliance with the statute.

Accordingly, it would be our recommendation that the District discontinue making any purchases from A.E.C. Fire Safety Security at this time and going forward except to the extent that such purchases fall clearly within the allowable exception of Section 4(c).

I will be happy to discuss this matter further with the Board at a meeting at any mutually agreeable time. If, in the meantime, there are any questions, please contact me.

Sincerely,

STOBBS, SINCLAIR & LIVINGSTONE, LTD.

BY:

James S. Sinclair

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