



June 18, 2010

The Honorable Gary Lietzell
Dayton City Commission
P.O. Box 22
Dayton, OH 45401-0022

Dear Gary Lietzell,

Orbit Industrial Group, headquartered in the City of Dayton, is one of the Midwest's oldest and most respected industrial contractors. We have been in business since 1908 and have celebrated more than 100 years of serving customers from our headquarters here in the City of Dayton.

We have paid employees union building-trade wages, enabling thousands of Dayton residents to support their families and the communities in which they live, and we support community events and charities. Our offices in West Dayton have provided stability for the neighborhood and our restoration of property at West Riverview and Paul Lawrence Dunbar has pushed blight back from the neighborhood.

The purpose of this letter to you and other community leaders is to explain the issues underlying my complete frustration in trying to achieve a fair and reasonable business relationship with the City despite our best efforts to be a good and responsible vendor by offering the best levels of service at the lowest bids. The purpose of this letter is also to potentially stir a dialogue among business people about their issues with the City of Dayton management.

Our projects for the City of Dayton have been fraught with controversy.

As an example, we were awarded work on a water treatment project for the City of Dayton in 2004.

On this particular project, the design engineer was also serving as the Construction Manager, which is unusual for this type of project and can lead to a conflict of interest on the part of the design engineering company, as it did in this case. Neither the State of Ohio nor the Federal Government allows any such arrangement, (as they clearly understand that this would be a conflict of interest). Typically, design engineering and Construction Management are services provided by two separate companies.

As often happens, this project required changes after the construction process began due to design flaws. Since the Construction Manager was also the designer, the Construction Manager wanted Orbit to pay for these changes rather than admit to their error. We protested and took the City of Dayton to court over the attempt to make our company the scapegoat. The City made all types of charges and claims against us, but a jury found in our favor and awarded us damages.



We did not want to resort to litigation, but we were treated unfairly and our protests were treated dismissively. We have made numerous attempts to improve our working relationship with the City, including recent meetings with City Manager, Tim Riordan. We appreciate his willingness to meet and talk with us, but despite these attempts it is clear that the City is not willing to work with us.

As you may be aware, the City employs the process of "lowest and best bid" to select vendors and we support that approach. But, "lowest and best bidder" must be applied as an ethical business practice. In several situations, we have been low bidder and we are fully capable of meeting the City's requirements as best bidder demonstrated by our successful track record with a long list of satisfied customers. Yet, despite our low bids and successful history, our bids were rejected.

To the last point, this letter is my appeal to convince the City of Dayton's elected officials and key members of management to adopt new methods of working with local companies and stop counter-productive actions that ultimately, alienate and disenfranchise organizations within the City's own borders.

Why should we be seriously considered as an asset to the City of Dayton and why should our objectives, above, be taken seriously?

- In just the past 12 years – from 1998 through 2009 – we paid more than **\$31 million in wages, most of that to local workers**, and we paid **more than \$1.1 million** in real estate taxes to Dayton Public Schools, and withheld income taxes and corporate income taxes to the City of Dayton.

Our concerns are based upon the fact that the City, including City oversight departments, and the outside engineering firms and construction managers failed to correctly and honestly manage these projects. Honest management, as the term is applied here, also means to avoid hiring vendors where there is an obvious conflict of interest, as in the situation described, above.

As a result, we resorted to legal actions against the City of Dayton, and a judge or jury agreed with Orbit Industrial Group. The fact that we won those decisions is a significant form of proof of the failure to correctly manage the projects in question. Going to court was not the way we prefer to handle these matters. But, the courts were our only alternative because of the unwillingness of the City to be fair or just about their position, along with their refusal to go to binding arbitration. Litigation is a very expensive and time consuming process and the impact is very damaging to our staff and finances.

What I expect of City management are the same things that you and every citizen expect of their government organizations: that they examine their processes and procedures and improve them to the point that they are equitable, reasonable, represent good management, good business ethics and good fiscal stewardship

And, then I would hope that we can partner again on City projects in a fair, reasonable, and honest manner. When we bid and are the lowest and best bidder for future projects, I will gladly volunteer my services and services of my key staff members to offer insights and guidance to assist the City in bringing projects to effective and efficient conclusion.

Respectively,

A handwritten signature in black ink that reads "James R. Arnett". The signature is written in a cursive style.

Jim Arnett