

RESOLUTION NO. 23-02

A RESOLUTION TO APPROVE THE CONTRACT FOR ENGINEERING SERVICES WITH ACCESS ENGINEERING SOLUTIONS, LLC FOR IMPROVEMENTS TO WASHINGTON STREET FOR THE VILLAGE OF NEW MADISON IN THE TOTAL AMOUNT OF \$50,000.00

WHEREAS, the Village of New Madison, Ohio needs to enter into a contract for engineering services for improvements to the Washington Street; and

WHEREAS, the Village of New Madison, Ohio desires to contract with Access Engineering Solutions, LLC for the engineering services based upon the attached contract in an amount not to exceed \$50,000.00;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of New Madison, Darke County, Ohio:

The Mayor is hereby authorized to enter into the attached contract with Access Engineering Solutions, LLC for the engineering services based upon the attached contract in an amount not to exceed \$50,000.00.

Passed this 13th day of February, 2023.

Case Garner
President of Council

ATTEST:

Robertta Harker
Fiscal Officer

APPROVED by the Mayor this
13th day of February, 2023.

Monica L. Silvestro
Mayor

CONTRACT FOR PROFESSIONAL SERVICES

This Contract made and entered into on this 13th day of Feb, 2023 by and between the **VILLAGE OF NEW MADISON**, 124 S. Harrison St., PO Box 15, New Madison, OH 45346 (hereinafter referred to as "Village") and **ACCESS ENGINEERING SOLUTIONS, LLC.**, 1200 Irmscher Boulevard, Suite B, Celina, Ohio 45822, a professional corporation registered in the State of Ohio, (hereinafter referred to as "Consultant")

WITNESSETH:

WHEREAS Consultant is engaged in the business of providing engineering and design services; and

WHEREAS the Village is engaged in **Washington Street Improvements**, the services of a Consultant are necessary for the completion of said project and the Consultant desires to provide these services in exchange for the compensation as set out below;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1: DURATION OF CONTRACT

The Village hereby contracts for the services of Consultant, and Consultant hereby accepts the terms of this contract with the Village, for a period of **Nineteen (19)** months, commencing on **March 1, 2023** and ending on **September 31, 2024** at midnight (hereinafter "contract period"). The duration of this Contract may be extended for additional time by mutual agreement of the parties, and shall be subject to the same terms and provisions set forth herein unless otherwise modified in writing by the parties hereto.

ARTICLE 2: RESPONSIBILITIES OF CONSULTANT

2.1 **Licensure:** Consultant is hereby licensed as professional engineers. Consultant agrees to perform his duties to the best of his ability, at all times maintaining high ethical, moral and professional standards.

2.2 **Hours:** Consultant is expected to work as necessary, the actual time of which

will be established and agreed upon between the Village and Consultant. The Village has discretion to alter the hours of business from time to time as may be necessary or appropriate. In addition to normal business hours, Consultant may also be required to attend meetings and site inspections as may be necessary to complete the project.

2.3 Records: Consultant is required to keep and maintain records relating to all services rendered pursuant to this contract in the form and manner dictated by the Village and consistent with professional standards. Consultant shall also prepare reports, claims, correspondence or other documentation as necessary and required by the Village. All records relating to services rendered, including all proposals, reports, briefs, drawings and site plans are the sole and exclusive property of the Village.

2.4 Restrictions: Consultant expressly acknowledges that he has no right or authority at any time to make any contract or binding agreement of any nature on behalf of the Village, whether oral or written.

2.5. Assumption of Risk: The parties acknowledge that the services agreed to be provided may involve hazardous conditions. Consultant assumes all risk of personal injury to its employees and any property damage to its equipment which may occur as a result of the work performed under this contract and hereby agrees to waive all such claims against the Village, regardless of how the injury or damage was caused, including negligence on the part of the Village.

2.6. Change Orders: The parties acknowledge that changes and deviations from the original plans and specifications may be required or requested in the course of the project. Consultant shall fully cooperate with the execution of Change Orders as requested by the Village in an expedient manner. The Consultant agrees that any Change Order must be approved by the Village in Writing.

2.7. Insurance and Indemnification: Consultant represents to the Village that it has in effect all appropriate liability insurance, including Workers' Compensation Insurance, and shall indemnify and hold the Village harmless for any personal injury or property damage resulting from the performance of its services including but not limited to injuries to its employees incurred during performance of. Consultant shall maintain professional liability insurance coverage sufficient to cover potential loss to the project.

2.8. Scope of Duties: See Attachment "A" for Scope of Work. Any additional work requested by Village shall be in writing to the Consultant and will be billed at a time and expense basis based upon the Consultant's standard hourly rates.

ARTICLE 3: POLICIES AND PROCEDURES

Unless otherwise provided herein, Consultant shall be subject to all policies and procedures governing the Village's offices.

ARTICLE 4: COMPENSATION/BENEFITS

4.1 Compensation: In consideration of the services and duties to be performed by Consultant during the contract period, the Village shall compensate Consultant in an amount not to exceed **Fifty Thousand Dollars (\$50,000.00)** for the Professional Services substantially listed in Attachment "A".

4.2 Payment: Consultant shall issue monthly invoices for services performed under the above stated tasks. The Village shall make payment within 30 days of receipt of the invoice. In the event of a disputed billing, the Village shall withhold payment on the disputed portion of the invoice ONLY.

4.3 Taxes: The Village shall not be responsible for paying withholding taxes on any form of compensation paid to Consultant.

ARTICLE 5: RESPONSIBILITIES OF THE VILLAGE

5.1 Information: The Village agrees to provide Consultant with all available information, and reasonable access to, current and past documentation, including any pertinent information that may be relevant to project, facilities and supplies as is necessary so as to enable Consultant to properly perform his duties under this contract. However, it will be Consultant's responsibility to provide his own transportation and equipment. Consultant shall obtain and maintain a policy of automobile insurance satisfactory to the Village with liability coverage in an amount not less than \$300,000.00.

5.2 Access: The Village shall guarantee access to and make provisions for Consultant to enter upon public and or private lands as required for the Consultant to perform the work under this Agreement.

5.3 Review: The Village agrees to review and examine all studies, reports, sketches, estimates, drawings, specifications, proposal(s) and other documents presented by Consultant and shall render in writing a decision pertaining thereto so as to not delay the work of the Consultant.

5.4 Legal: The Village agrees to provide such legal, accounting, and insurance counseling services as may be required for any work requested. However, legal

representation of Consultant for its work and employees and or its subcontractors is the sole responsibility of the Consultant.

5.5 Contact: The Village agrees to designate, in writing, a person or persons who shall serve as the Village's Representative(s).

ARTICLE 6: TERMINATION OF CONTRACT

6.1 Termination at Will: This contract may be terminated by either party at will and without cause at any time upon not less than Seven (7) days advance written notice thereof to the other party.

6.2 Immediate Termination for Cause: The Village shall have the right to terminate Consultant's contract for services at any time for cause. The Village shall inform Consultant of the reason for such termination and shall advise Consultant of the last day of service. "Cause" shall include, but not be limited to, any of the following:

- (a) Consultant's license or certification in the State of Ohio has been revoked or suspended.
- (b) A good faith determination by the Village that Consultant has committed a material breach of any covenant, provision, term, condition or undertaking contained in this contract.
- (c) Commission by Consultant of a felony or crime of moral turpitude.
- (d) Gross neglect or willful misconduct in the performance of Consultant's duties hereunder that does result or may result in detriment to the Village.

6.3 Compensation Upon Termination: In the event this contract is terminated, the following provisions shall apply:

- (a) If either the Village or Consultant elects to terminate this contract at will, Consultant shall be entitled to receive any compensation which has been earned through the last date of service.
- (b) If the Village elects to terminate this contract for cause, Consultant shall be entitled to receive any compensation which has been earned through the last day of service, but not yet paid, less any expense the breach, misconduct or neglect caused the Village.

ARTICLE 7: GENERAL PROVISIONS

7.1 Severability: If any clause or provision herein is determined to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect. Each of the provisions in this contract shall be enforceable independently of any other provision of this contract and independent of any other claim or cause of action.

7.2 Governing Law: This contract shall be governed by the laws of the State of Ohio.

7.3 Waiver of Breach: The failure of either of the parties at any time to require the performance of the other of any of the provisions herein shall in no way affect the respective rights of either to enforce any condition of this contract nor shall the waiver by either of any breach of any provision hereof be construed to be a waiver of any succeeding breach or as a waiver or modification of the provisions of this contract.

7.4 Complete Agreement: This contract contains all the terms and conditions agreed upon by the Village and Consultant, and no other agreements or understandings regarding the subject matter of this contract shall be deemed to exist or bind either of the parties hereto. This contract may not be amended or modified unless in writing signed by both parties.

IN WITNESS WHEREOF the parties hereto have executed this Contract for Professional Services in duplicate counterparts, either of which may be deemed an original, on the date appearing below their respective signatures.

Access Engineering Solutions, LLC



Signature

Brice Schmitmeyer, PE

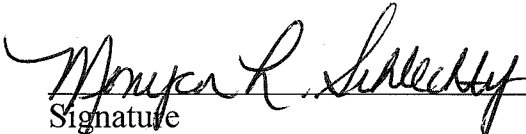
Name

President

Title

Dated: 1/26/23

The Village of New Madison, Ohio



Signature

Maryca L. Schlechty

Name

Mayor

Title

Dated: 02-16-2023

Attachment "A"

Scope of Services

Field Investigation - \$5,000

- Work with the Village to identify & map all existing utilities.
- Perform a topographic survey as needed for project design. The topography will be picked up 20 feet outside of the right-of way lines on both sides of Washington Street from Railroad Street to Main Street. An approximate distance of 1,000 lineal feet.

Preliminary Design – \$2,500

- In consultation with the Village of New Madison, determine the general scope, extent, & character of the Project. It is generally understood that the scope of the project is the roadway reconstruction of the street area along with waterline replacement and needed storm sewer improvements.
- Prepare Preliminary Design Documents consisting of final design criteria, design development drawings & specifications for review by the Village of New Madison.
- Based on information contained in the Preliminary Design Documents, submit an Opinion of Probable Construction Cost.

Design Engineering - \$32,500

- On the basis of the accepted Preliminary Design Documents, prepare final construction drawings to show the general scope, extent and character of the work to be performed and furnished by the contractor.
- Plans will be designed to the Village's Standards and Specifications.
- Provide the necessary technical criteria, written description and design data for the filing of permit applications to obtain any necessary governmental approvals for the Project.
- Advise the Village as to any adjustments or changes to the Opinion of Probable Construction Cost, based on the final drawings and specifications.
- Present and review the Final Drawings and Specifications with the Village.
- Assist the Village in negotiating a price with the contractor that was selected on the Harrison Avenue Reconstruction Project.
- Attend meetings and perform all needed coordination to finalize pricing on the project.

Bidding and Negotiation Phase – \$5,000

- Assist the Village in advertising for and obtaining bids, maintain a record of prospective bidders to whom the Bid Documents have been issued, attend pre-bid conferences and receive and process deposits for Bidding Documents.
- Issue Addenda as appropriate to interpret, clarify, or expand the Bidding Documents.
- Consult with the Village concerning, and to determine, the acceptability of substitute materials and equipment proposed by the contractor.
- Attend the bid opening, prepare bid tabulation sheet, and assist the Village in evaluating the bids.

Construction Administration - \$5,000

- Prepare Construction Contracts for the project.
- Attend all necessary progress meetings between the Village and the Contractor for any interpretation or clarifications that may be necessary throughout the construction process.
- Provide a minimum of two site visits per month and be available to answer any questions from the contractor or the Village representative on the construction site.
- Issue any necessary clarifications and interpretations of the construction plans and specifications as appropriate to the orderly completion of the work.
- Recommend change orders and work change directives to the Village as appropriate. Prepare all change orders and work change directives as required.
- Review applications for payment and make recommendation for payment to the Village. Prepare all required funding payment requests.

Not Included with this Proposal

- Assistance with land acquisitions outside of the existing right-of-way area.
- Geo-technical investigations at the proposed construction site for the purpose of determining sub-base design parameters or existing pavement thickness.
- All needed permit fees.
- Full or part time resident project representation services.
- Permit fees, which are to be paid by the Village
- Construction Layout Staking