

RESOLUTION. R5-16

A RESOLUTION AUTHORIZING THE VILLAGE ADMINISTRATOR TO
CONTRACT FOR ADDITIONAL SERVICES WITH ACCESS ENGINEERING
SOLUTIONS, LLC.

WHEREAS, the Village of Covington has participated in the safe routes to school program and Access engineering has previously been retained for the engineering services required on said project;


WHEREAS, the Ohio Department of Transportation desires additional sidewalk improvements as part of the project;

NOW THEREFORE, BE IT RESOLVED by the Legislative Authority of the Village of Covington, State of Ohio, that:

SECTION. 1: the Village Administrator is authorized to enter into the attached agreement with Access Engineering Solutions, Inc. for engineering services not to exceed \$10,000.00;

SECTION. 2: this Resolution shall take effect and be in force from and after the earliest period allowed by law.

APPROVED March 7, 2016:



Edward L. McCord, Mayor



R. Scott Tobias, President of Council



Brenda Carroll, Fiscal Officer / Clerk

CONTRACT FOR PROFESSIONAL SERVICES

This Contract made and entered into on this ____ day of _____, 2016 by and between the **VILLAGE OF COVINGTON**, 1 South High Street, Covington, OH 45318 (hereinafter referred to as "City") and **ACCESS ENGINEERING SOLUTIONS, LLC**, 1200 Irmischer 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 City is engaged in **ODOT SRTS Sidewalk Improvements – Additional Services**, 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 City hereby contracts for the services of Consultant, and Consultant hereby accepts the terms of this contract with the City, for a period of **Twenty-Four (24)** months, commencing on **January 1, 2016** and ending on **December 31, 2016** 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 City and Consultant. The City 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 City and consistent with professional standards. Consultant shall also prepare reports, claims, correspondence or other documentation as necessary and required by the City. All records relating to services rendered, including all proposals, reports, briefs, drawings and site plans are the sole and exclusive property of the City.

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 City, 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 City, regardless of how the injury or damage was caused, including negligence on the part of the City.

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 City in an expedient manner. The Consultant agrees that any Change Order must be approved by the City in Writing.

2.7. Insurance and Indemnification: Consultant represents to the City that it has in effect all appropriate liability insurance, including Workers' Compensation Insurance, and shall indemnify and hold the City 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 City 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 City'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 City shall compensate Consultant in an amount not to exceed **Ten Thousand Five Hundred Dollars (\$10,000.00)** 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 City shall make payment within 30 days of receipt of the invoice. In the event of a disputed billing, the City shall withhold payment on the disputed portion of the invoice ONLY.

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

ARTICLE 5: RESPONSIBILITIES OF THE CITY

5.1 Information: The City 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 City with liability coverage in an amount not less than \$300,000.00.

5.2 Access: The City 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 City 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 City 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 City agrees to designate, in writing, a person or persons who shall serve as the City'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 City shall have the right to terminate Consultant's contract for services at any time for cause. The City 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 City 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 City.

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

- (a) If either the City 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 City 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 City.

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 City 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

By: Brice D. Schmitmeyer, PE
President

Dated: _____, 2016

The Village of Covington, Ohio

Signature

Name

Title

Dated: _____, 2016

Attachment "A"

Scope of Services

Additional Services - \$5,000

- On the basis of requested project scope changes by ODOT, prepare required changes to the Final Tracing Submittal to ODOT.
- This requested project scope changes included
 - Additional curb ramps to install on the east side of Ludlow Street and on the north side of Chestnut Street.
 - Additional right-of-way to obtain in these areas

Not Included with this Proposal

- 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.
- Construction Administration
- Bidding Services
- Construction Layout Staking