

RESOLUTION. R3-19

A RESOLUTION AUTHORIZING THE VILLAGE ADMINISTRATOR TO  
CONTRACT FOR BASKETBALL COURT RENOVATION DESIGN SERVICES  
WITH POGGEMEYER DESIGN GROUP INC.

WHEREAS, the Village of Covington intends renovate the Maple Street Basketball Courts;

WHEREAS, the Village of Covington believes that this renovation requires the services of a design engineer;

WHEREAS, Poggemeyer Design Group has submitted a proposal to the village to complete the Maple Street Basketball Court Renovation Design;

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 Poggemeyer Design Group for engineering services to complete the Maple Street Basketball Court Renovation Design as described in attachment A, not to exceed \$ 17,850.00;

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

APPROVED: February 4, 2019:



Edward L. McCord, Mayor



R. Scott Tobias, President of Council



Brenda Carroll, Clerk / Fiscal Officer



November 13, 2018

Mr. Mike Busse, Administrator  
Village of Covington  
1 South High Street  
Covington, OH 45318

Re: Village of Covington Basketball Court Rehabilitation  
Design Services  
PDG Project No. 300214 00005

Dear Mr. Busse:

Poggemeyer Design Group, Inc. (PDG) is providing this letter contract for review and execution. PDG proposes to provide professional engineering services to assist the Village with the Basketball Court Rehabilitation, (hereinafter referred to as the "project").

The Village shall be responsible for providing a detailed summary of the requirements for the project, including any special considerations or services needed. In addition, the Village will provide all pertinent existing data related to this project to PDG.

Basic services provided under this contract will consist of the following:

The fee for providing these basic services is as follows:

- Prepare project scope documents to assist the Village in procuring materials and construction.
- Documents will include general guidelines for the project, specifications, typical sections and general evaluation requirements. Assist the Village with obtaining construction and material bids.
- Construction administration and observation services.

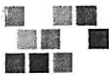
If you believe that revisions and/or additional discussions/clarifications are necessary concerning the scope of this project and the services that our firm will provide, please contact our office as soon as possible.

PDG will complete these services within three (3) months following execution of this agreement.

The fee for providing these services is a lump sum fee of \$17,850.00, including reimbursables.

If work activities are required which are not included in the basic services described above, PDG can provide these based on its current hourly rate schedule.

PDG will provide monthly invoices for services, with payments being due within thirty (30) days of receipt to avoid potential finance charges.



Mr. Mike Busse, Administrator  
November 15, 2018  
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PDG will begin work on the project upon receipt of this executed letter contract and will complete its services within the time frame specified above.

If there are delays beyond two (2) months from the execution of this contract, an equitable adjustment of this fee will be negotiated, taking into consideration the impact of such delay. Changes in price indices and applicable pay scales will be considered in these negotiations.

This letter contract, with Exhibits A (2 pages) and B (1 page), represents the entire agreement between PDG and the Village in respect to the project and may only be modified in writing after agreement by both parties. If this letter contract accurately reflects your understanding of our agreement, please sign the original and enclosed copies of this letter contract in the space provided below and return the original and one copy to PDG, retain the other copy for your files. This contract will be open for acceptance for a period of thirty (30) days, unless adjusted by PDG or the Village in writing.

If there are any questions, please do not hesitate to contact this office.

Sincerely,

POGGEMEYER DESIGN GROUP, INC.

Kenneth A. Maag, P.E.  
Principal Owner

Lee P. Rausch, P.E.  
Senior Project Manager

Accepted this 4th day of February, 2018 by the undersigned who is duly and legally authorized to enter into such legal contracts for the above-referenced entity and their client. (Please specify: Sole Proprietor, Partnership, Corporation, Other.)

VILLAGE OF COVINGTON

By: 

Title: Village Administrator



## EXHIBIT A

### 1. OWNER'S RESPONSIBILITIES

OWNER shall provide all criteria and full information as to OWNER's requirements for the project and shall give prompt written notice to ARCHITECT/ENGINEER whenever OWNER observes or otherwise becomes aware of any defect in the work. The OWNER may designate representatives to act with authority on OWNER's behalf on various aspects of the projects.

### 2. REUSE OF DOCUMENTS

Drawings and Specifications are instruments of service and are and shall remain the property of the ARCHITECT/ENGINEER whether the Project for which they are made is executed or not. The OWNER shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the OWNER's use and occupancy of the Project. The Drawings and Specifications shall not be used by the OWNER on other projects, for additions to this Project, or for completion of this Project by others provided the ARCHITECT/ENGINEER is not in default under this Agreement, except by agreement in writing and with appropriate compensation to the ARCHITECT/ENGINEER.

Any reuse without written verification or adaptation by the ARCHITECT/ENGINEER for other than the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ARCHITECT/ENGINEER.

### 3. REIMBURSABLE EXPENSES

Reimbursable Expenses are included in to the compensation fee for basic and additional services and are the actual expenses incurred by ARCHITECT/ENGINEER or ARCHITECT/ENGINEER's independent professional associates or consultants, directly or indirectly, in connection with the Project. These include expenses for: transportation; obtaining bids or proposals from Contractor(s); toll telephone calls; reproduction of reports, Drawings, Specifications, Bidding Documents; pictures, stakes, monuments, and similar Project-related items.

### 4. TERMINATION

The obligation to provide further services under this Agreement may be terminated by either party (upon seven day's written notice) in the event of substantial failure by the other party to perform in accordance with the terms hereof, through no fault of the terminating party. In the event of any termination, ARCHITECT/ENGINEER will be paid in full for all services rendered to the date of termination, all Reimbursable Expenses and termination expenses.

### 5. SUCCESSORS AND ASSIGNS

OWNER and ARCHITECT/ENGINEER each is hereby bound as are the partners, successors, executors, administrators and legal representatives of OWNER and ARCHITECT/ENGINEER in respect to any covenants, agreements and obligations of this Agreement. Nothing contained in this Agreement shall prevent ARCHITECT/ENGINEER from employing such independent professional associates and consultants as ARCHITECT/ENGINEER may deem appropriate to help in the performance of services hereunder.



**6. HAZARDOUS WASTE AND ASBESTOS INDEMNIFICATION CLAUSE**

In consideration of the unavailability of professional liability insurance for services involving or relating to hazardous waste elements of this Agreement, or the removal or encapsulation of asbestos, it is further agreed that the OWNER shall indemnify and hold harmless ARCHITECT/ENGINEER and their consultants, agents and employees from and against all claims, damages, losses, and expenses, direct and indirect, or consequential damages, including but not limited to, fees and charges of attorneys and court and arbitration costs arising out of or resulting from the performance of the work related to hazardous waste or asbestos activities.

The above indemnification provision extends to claims against ARCHITECT/ ENGINEER which arise out of, are related to, are based upon the dispersal, discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollutant in or into atmosphere or on, onto, upon, in or into the surface or subsurface (a) soil, (b) water or watercourses, (c) objects, or (d) any tangible or intangible matter, whether sudden or not.

**7. SALES TAX ON ENGINEERING DRAWINGS AND PLANS**

OWNER states that the objects of this contract are to obtain ARCHITECT/ENGINEER's professional expertise and skill, as well as ARCHITECT/ENGINEER's professional consultation. OWNER and ARCHITECT/ENGINEER agree that all drawings and plans are an inconsequential portion of the transaction with a reasonable value allocable to those drawings and plans of no more than ten percent of the total compensation earned under this Agreement (estimated cost of the plans and drawings materials including reproduction costs). OWNER and ARCHITECT/ENGINEER each believes that this contract is not taxable under the Ohio sales or use tax laws. However, if a sales tax or use tax should be assessed, then payment of the tax shall be the OWNER's responsibility.

**8. LIMITATION OF LIABILITY CLAUSE**

The ARCHITECT/ENGINEER's liability to the OWNER for any cause or combination of causes is, in the aggregate, limited to an amount no greater than the total compensation earned under this Agreement.



**EXHIBIT B**

**1. CERTIFICATE OF OWNER'S ATTORNEY**

I, Frank J. Patrizio, the undersigned, duly authorized and acting legal representative of the Village of Covington, do hereby certify as follows:

I have examined the attached contract and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have fully power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Date: 2-4-19

Seal:

Signed: Frank J. Patrizio

Title: Law D. Ecobee

**2. CERTIFICATION REGARDING THE AVAILABILITY OF FUNDS**

Attest: I, Brenda Carroll, Fiscal Officer of the Village of Covington, hereby certify that the money to meet this contract has been lawfully appropriated for the purpose of this contract and is in the treasury the Village of Covington, or is in the process of collection to the credit of the appropriate fund, free from prior encumbrance.

Date: 2-4-19

Seal:

Signed: Brenda Carroll

Title: Fiscal Officer