Resolution 2014-27

A RESOLUTION AUTHORIZING AND APPROVING EXECUTION OF A CONTRACT WITH CH2M HILL FOR THE SERVICES OF A VILLAGE ENGINEER

WHEREAS, the Council of the Village of Minerva Park ("Village") deems it necessary to utilize the services a professional engineer to provide planning, advise, and supervision to engineering projects and related activities for the construction, maintenance, repair of roads, bridges, streets, storms and sanitary sewers, waterlines, and other activities that require a person with engineering qualifications;

NOW, THEREFORE, be it resolved by the Council of the Village of Minerva Park, Franklin County, State of Ohio, that:

Section 1. The Mayor and the Fiscal Officer of the Village of Minerva Park are authorized to enter into a contract with CH2M HILL for the services of a Village Engineer in a form substantially similar to the contract attached hereto as Exhibit A and incorporated herein by reference to provide planning advice and supervision to engineering projects and related activities for the construction, maintenance, and/or repair of roads, bridges, streets, storm and sanitary sewers, waterlines, and other activities that require a person with engineering qualifications.

Section 2. The contract period shall be January 1, 2015 to December 31, 2015 and the compensation for the contract shall not exceed $15,000 for 2015, as shown in the attached Exhibit A, made a part hereof as if it were fully written herein.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements of the laws of the State of Ohio.

Section 4. All prior legislation, or any parts thereof, which is/are inconsistent with this Resolution is/are hereby repealed as to the inconsistent parts thereof.

Section 5. This resolution shall take effect and be in full force from the earliest period allowed by law.

Lynn Eisentrout, Mayor, Village of Minerva Park

First Reading: September 8, 2014
Second Reading: October 13, 2014
Third Reading: November 10, 2014
Passed: November 10, 2014

Attest Wade Steen, Fiscal Officer, Village of Minerva Park

Reviewed by Counsel

Approved as is from
STANDARD AGREEMENT FOR PROFESSIONAL SERVICES

CH2M HILL'S OFFICE ADDRESS: 1103 Schrock Road, Suite 400 Columbus, Ohio 43229

CH2M HILL'S PROJECT NO.: 656204

PROJECT NAME: 2015 Village Engineering Services

CLIENT: Village of Minerva Park, Ohio

CLIENT'S ADDRESS: 2829 Minerva Lake Road Columbus, Ohio 43231

CLIENT requests and authorizes CH2M HILL ENGINEERS, INC. (hereinafter "CH2M HILL") to perform the following Services:

Scope of Services

Attend monthly Village Council meetings, attend Village Council Committee meetings, and provide miscellaneous consultation, advice, and services as requested by CLIENT for the period of January 1, 2015, through December 31, 2015.

Compensation

Compensation by CLIENT to CH2M HILL will be on the basis of Attachment A.

Other Terms

Personal Service Contract: The parties agree that this AGREEMENT is, and is intended to be, a "personal service contract" as provided in Section 145.03, Ohio Revised Code and as interpreted in Section 145-1-42 (A) of the Ohio Administrative Code. This AGREEMENT is, and is intended to be, a formal bilateral written contract between the parties as required by Section 145-1-42 (A). The parties further agree that since this is a personal service contract, no Public Employee's Retirement System deductions will be made from CH2M HILL's compensation nor paid to the Public Employee's Retirement System of Ohio on an in accordance with provisions of Section 145-1-42 (C) of the Ohio Administrative Code.

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Services covered by this AGREEMENT will be performed in accordance with the Provisions and any attachments or schedules. This AGREEMENT supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

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<tr>
<th>CLIENT:</th>
<th>CH2M HILL ENGINEERS, INC.:</th>
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<td>Mayor</td>
<td>DESIGNATED MANAGER</td>
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<td>Fiscal Officer</td>
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<td>Date 12-15-14</td>
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1. Authorization to Proceed
   Execution of this AGREEMENT by CLIENT will be authorization for CH2M HILL to proceed with the Services, unless otherwise provided for in this AGREEMENT.

2. Salary Costs
   CH2M HILL's and its affiliated companies' Salary Costs, when the basis of compensation, are the amount of wages or salaries paid CH2M HILL employees for work directly performed on the Project plus a percentage applied to all such wages or salaries to cover all payroll-related taxes, payments, premiums, and benefits.

3. Per-Diem Rates
   CH2M HILL's and its affiliated companies' Per-Diem Rates, when the basis of compensation, are those hourly or daily rates charged for work performed on the Project by CH2M HILL employees. These rates are contained in the COMPENSATION section on Page 1 and are subject to a 4% annual calendar year escalation adjustment.

4. Subcontracts and Direct Expenses
   When Services are performed on a cost reimbursement basis, a markup of ten (10) percent will be applied to subcontracts and outside services and a markup of zero percent will be applied to Direct Expenses. For purposes of this AGREEMENT, Direct Expenses are defined to include all necessary costs and charges incurred for the Project including, but not limited to: (1) the direct costs of transportation, meals, lodging, shipping, equipment and supplies; (2) CH2M HILL's current standard rate charges for direct use of CH2M HILL's vehicles, laboratory test and analysis, and certain field equipment; and (3) CH2M HILL's standard project charges for computing systems, and health and safety requirements of OSHA.
   All sale, use, value added, business transfer, gross receipts, or other similar taxes will be added to CH2M HILL's compensation when invoicing CLIENT.

5. Cost Opinions
   Any cost opinions or Project economic evaluations provided by CH2M HILL will be on a basis of experience and judgment, but, since CH2M HILL has no control over market conditions or bidding procedures, CH2M HILL cannot warrant that bids, ultimate construction cost, or Project economics will not vary from these opinions.

6. Standard of Care
   The standard of care applicable to CH2M HILL's services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services, at the time CH2M HILL's services are performed. CH2M HILL will re-perform any services not meeting this standard without additional compensation.

7. Termination
   This AGREEMENT may be terminated for convenience on 30 days written notice or if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete the correction thereafter. On termination, CH2M HILL will be paid for all authorized work performed up to the termination date plus termination expenses, such as, but not limited to, reassignment of personnel, subcontract termination costs, and related closeout costs.

8. Payment to CH2M HILL
   Monthly invoices will be issued by CH2M HILL for all Services performed under this AGREEMENT. CLIENT shall pay each invoice within 30 days. Interest at a rate of 1-1/2 percent per month will be charged on all past-due amounts.
   In the event of a disputed billing, only that disputed portion will be withheld from payment, and the undisputed portion will be paid. CLIENT will exercise reasonableness in disputing any bill or portion thereof. No interest will accrue on any disputed portion of the billing until mutually resolved.

9. Limitation of Liability
   CH2M HILL's liability for CLIENT's damages will, in the aggregate, not exceed $100,000. This Provision takes precedence over any conflicting Provision of this AGREEMENT or any document incorporated into it or referenced by it.
   This limitation of liability will apply whether CH2M HILL's liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include CH2M HILL's officers, affiliated corporations, employees, and subcontractors.

10. Severability and Survival
    If any of the provisions contained in this AGREEMENT are held illegal, invalid or unenforceable, the other provisions shall remain in full effect. Limitations of liability shall survive termination of this AGREEMENT for any cause.

11. No Third Party Beneficiaries
    This AGREEMENT gives no rights or benefits to anyone other than CLIENT and CH2M HILL and has no third party beneficiaries except as provided in Provision 10.

12. Materials and Samples
    Any items, substances, materials, or samples removed from the Project site for testing, analysis, or other evaluation will be returned to the Project site unless agreed to otherwise. CLIENT recognizes and agrees that CH2M HILL is acting as a bailee and at no time assumes title to said items, substances, materials, or samples. CLIENT recognizes that CH2M HILL assumes no risk and/or liability for a waste or hazardous waste site originated by other than CH2M HILL.

13. Assignments
    Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this AGREEMENT, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable.

14. Integration
    This AGREEMENT incorporates all previous communications and negotiations and constitutes the entire agreement of the parties. If CLIENT issues a Purchase Order in conjunction with performance of the Services, general or standard terms and conditions on the Purchase Order do not apply to this AGREEMENT.

15. Force Majeure
    If performance of the Services is affected by causes beyond CH2M HILL's reasonable control, project schedule and compensation shall be equitably adjusted.

16. Dispute Resolution
    The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options.

17. Changes
    CLIENT may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect CH2M HILL's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT.
ATTACHMENT A – COMPENSATION

COMPENSATION

Compensation by CLIENT to CH2M HILL will be as follows:

A. COST REIMBURSABLE-MULTIPLIER (TIME AND EXPENSE)

For services enumerated in SCOPE OF SERVICES, CH2M HILL’s Direct Salaries multiplied by a factor of 3.10, plus Direct Expenses, plus a service charge of 0.00 percent Direct Expenses and 10.00 percent of subcontracts and outside services, plus applicable sales, use, value added, business transfer, gross receipts, or other similar taxes.

B. BUDGET

A budgetary amount of Fifteen Thousand Dollars ($15,000 USD), excluding taxes, is hereby established for services in SCOPE OF SERVICES. CH2M HILL will make reasonable efforts to complete the work within the budget and will keep CLIENT informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

CH2M HILL is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CLIENT obligated to pay CH2M HILL beyond these limits.

When any budget has been increased, CH2M HILL’s excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase.

C. DIRECT SALARIES

Direct Salaries are the amount of wages or salaries paid CH2M HILL’s employees for work directly performed on the PROJECT, exclusive of all payroll-related taxes, payments, premiums, and benefits.

D. SALARY COSTS

Salary Costs are the amount of wages or salaries paid CH2M HILL’s employees for work directly performed on the PROJECT plus a percentage applied to all such wages or salaries to cover all payroll-related taxes, payment premiums, and benefits.

E. DIRECT EXPENSES

Direct Expenses are those necessary costs and charges incurred for the PROJECT including, but not limited to: (1) the direct costs of transportation, meals and lodging, special OWNER approved PROJECT specific insurance, letters of credit, bonds, and equipment and supplies; (2) CH2M HILL’s current standard rate charges for direct use of CH2M HILL’s vehicles, laboratory test and analysis, and certain field equipment; and (3) CH2M HILL’s standard project charges for special health and safety requirements of OSHA and reproduction services.