

ORDINANCE NO. 18-22

FIRST READING: 3-28-22
SECOND READING: 4-11-22
THIRD READING: 4-25-22

BY: THOMAS J. HUNT

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A SUPPLEMENTAL AGREEMENT WITH ZENITH ELECTRIC, INC. FOR ADDITIONAL ELECTRICAL WORK AT THE NEW CITY OF ROCKY RIVER POLICE STATION PROJECT IN AN AMOUNT NOT TO EXCEED \$95,408.54, AS FURTHER DESCRIBED IN EXHIBITS "A"

WHEREAS: as detailed in Ordinance 15-20, the City entered into an agreement with Zenith Systems, Inc., as the electrical contractor for the Police Station in an amount not to exceed One Million Three Hundred Twenty Eight Thousand Eight Hundred Eight Dollars and 00/100 (\$1,328,808.00); and

WHEREAS: the City of Rocky River recognizes the need to modify the original contract to accommodate a modification of Ninety Five Thousand Four Hundred Eight Dollars and 54/100 (\$95,408.54), as further described in Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROCKY RIVER, COUNTY OF CUYAHOGA, STATE OF OHIO:

SECTION 1. That the Mayor of the City of Rocky River is hereby authorized to enter into contract modification with Zenith Systems, Inc., 5055 Corbin Drive, Bedford Heights, OH 44128, in an amount not to exceed Ninety Five Thousand Four Hundred Eight Dollars and 54/100 (\$95,408.54), as further described in Exhibit "A".

SECTION 2. That funds for said additional electrical work shall be paid from the Capital Improvement Fund – Capital Improvement Building account.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health and safety, and for the further reason that it is necessary to finalize electrical installation, provided it receives the affirmative vote of two-thirds (2/3) of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: April 25th, 2022


JAMES W. MORAN
President of Council

PRESENTED

TO MAYOR: April 25th, 2022 APPROVED, April 25th, 2022

ATTEST:


SUSAN G. PEASE
Clerk of Council


PAMELA E. BOBST
Mayor

It is hereby certified that the amount required for the execution of this Ordinance has been lawfully appropriated or authorized or directed for such purpose and is in the treasury or in the process of collection to the credit of the fund described herein free from any obligation or certification now outstanding.



MICHAEL THOMAS, CPA, Director of Finance

City of Rocky River } ss
County of Cuyahoga }

THE UNDERSIGNED CLERK OF THE COUNCIL OF THE CITY OF ROCKY RIVER, OHIO DOES HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 18-22 ADOPTED BY THE COUNCIL OF SAID CITY ON THE 25th DAY OF April, 2022 THAT THE PUBLICATION OF SUCH ORDINANCE HAS BEEN MADE AND CERTIFIED OF RECORD ACCORDING TO LAW; THAT NO PROCEEDINGS LOOKING TO A REFERENDUM UPON SUCH ORDINANCE HAVE BEEN TAKEN; THAT SUCH ORDINANCE AND THE CERTIFICATE OF PUBLICATION THEREOF, ARE OF RECORD IN ORDINANCE RECORD NO. 18-22

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND AFFIXED MY OFFICIAL SEAL THIS 25th DAY OF April, 2022.


SUSAN G. PEASE
CLERK OF COUNCIL OF THE CITY OF ROCKY RIVER, OHIO

I, the undersigned clerk of council of the city of Rocky River, State of Ohio, do hereby certify that publication of the foregoing ordinance was duly made by posting a true copy thereof in the lobby of the Rocky River City Hall, in accordance with the charter of Rocky River, commencing on the 25th day of April, 2022.


Clerk of Council of the City of Rocky River, Ohio

AGREEMENT & RELEASE

This Agreement & Release (the "Agreement") is entered into March ____, 2022 by and between the City of Rocky River ("City"), Richard L. Bowen & Associates, Inc. ("Bowen") and Zenith Electric, Inc. ("Zenith"), the City, Bowen and Zenith being hereinafter jointly referred to as the "Parties."

Whereas, Rocky River contracted for the construction of a new police station ("Project") at its City Hall Campus, located at 21012 Hilliard Blvd., Rocky River, Ohio; and

Whereas, Rocky River and Bowen entered into a contract wherein Bowen performed services to Rocky River as the Architect-of-Record and Owner's Representative of the Project; and

Whereas, Rocky River entered into a contract with Zenith wherein Zenith performed work as electrical contractor for the Project; and

Whereas, a dispute exists between the Parties regarding the City's request for reimbursement from Bowen for change order costs associated with alleged design errors and/or omissions and the City's nonpayment of invoices and/or change orders to Bowen and/or Zenith (those disputes and issues being collectively referred to as the "Dispute"), and the Parties desire to resolve the Dispute pursuant to this Agreement,

Therefore, in consideration of the mutual terms and conditions stated herein, the Parties agree as follows:

1. The City will pay Bowen for unpaid base contract design services rendered on the Project in the amount of \$109,891.77 as final payment in full.
2. Bowen waives all claims against the City for the remaining balance of unpaid base contract design services in the approximate amount of \$45,408.54.
3. Bowen waives all claims against the City for unpaid additional design services in the approximate amount of \$94,152.50; and
4. The City will directly pay Zenith in the amount of \$95,408.54 as final payment in full.
5. A change order will be issued by Bowen and executed by all Parties containing the pertinent terms of this Agreement.
6. The Parties mutually release any and all claims each may have against any other party arising from or in any way related to the Dispute, except for any ongoing warranty obligations under the Project contract documents.

The undersigned parties are authorized to bind their respective entities to the terms and conditions of this Agreement:

City of Rocky River

Print Name: _____
Title: _____
Date: _____

Richard L. Bowen & Associates, Inc.



Print Name: Allan L. Renzi
Title: President
Date: March 15, 2022

Zenith Electric, Inc.

Print Name: _____
Title: _____
Date: _____