

FIRST READING: 11.27.23
SECOND READING: 12.11.23
THIRD READING: 12.18.23

ORDINANCE NO. 102-23

BY: JOHN B. SHEPHERD

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH MACKAY ENGINEERING AND SURVEYING COMPANY A DIVISION OF WALLACE & PANCHER, INC. FOR PROFESSIONAL CONSULTING AND ENGINEERING SERVICES FOR 2024 AND 2025 AS FURTHER DESCRIBED IN EXHIBIT "A"

WHEREAS: a two-year agreement between the City of Rocky River and Mackay Engineering and Surveying Company for personal services in professional engineering was authorized by City Council in Ordinances 8-15, 101-17, 98-19 and 96-21; and,

WHEREAS: Mackay Engineering and Surveying Company has demonstrated the unique, particular and special engineering services to warrant a contract through December 31, 2025; and,

WHEREAS: it is the opinion of the Administration of the City of Rocky River that a new agreement should be executed with Mackay Engineering and Surveying Company a Division of Wallace & Pancher, Inc., 7017 Pearl Road, Middleburg Heights, Ohio 44130, to provide qualified engineering services through 2025 for and on behalf of the City of Rocky River, 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 is hereby authorized to execute the Agreement with Mackay Engineering and Surveying Company a Division of Wallace & Pancher, 7017 Pearl Road, Middleburg Heights, Ohio 44130, for professional engineering services for a two year period through December 31, 2025, as further described in Exhibit "A".

SECTION 2. That the costs for said professional consulting engineering general services shall be paid from the General Fund.

SECTION 3. That the costs for professional consulting engineering specific services, subdivision of land, public improvements-plan preparation, public improvements-construction shall be paid according to the schedule of payments as further described in the Exhibit "A" at the direction of the Director of Public Safety-Service from funds already appropriated.

SECTION 4. 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 the services described in the attached Exhibit are necessary to continue the engineering planned projects for the City and to continue various infrastructure improvement projects for the City, and 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.

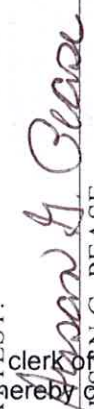
PASSED December 18th, 2023


JAMES W. MORAN
President of Council

APPROVED: December 18th, 2023

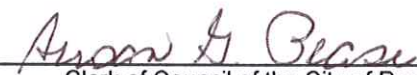
PRESENTED TO THE MAYOR: December 18th, 2023

ATTEST:


SUSAN G. PEASE
Clerk of Council


PAMELA E. BOBST
Mayor

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 18th day of December, 2023.


Clerk of Council of the City of Rocky River, Ohio

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. 102-23 ADOPTED BY THE COUNCIL OF SAID CITY ON THE 18th DAY OF December, 2023 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. 102-23

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND AFFIXED MY OFFICIAL SEAL THIS 18th DAY OF December, 2023

Russell G. Brown
CLERK OF COUNCIL OF THE CITY OF ROCKY RIVER, OHIO

M E M O

TO: Rich Snyder
FROM: Kim Kerber
DATE: November 15, 2023
RE: Renewal of Engineering Consulting Agreement

cc: Mayor Bobst
Maureen Nakonek

As discussed, attached is the new Consulting Agreement between the City and Mackay Engineering and Surveying, A Division of Wallace & Pancher, Inc.

Please let me know if you have any questions or would like to discuss any issues.

We appreciate the opportunity to continue to serve you and the citizens of Rocky River and we appreciate your confidence in us.

Kimberly R. Kerber
Kimberly R. Kerber

THIS AGREEMENT made and entered into as of the 1st day of January 2024 by and between the CITY OF ROCKY RIVER, OHIO, a Municipal Corporation of Ohio, hereinafter referred to as “City,” and MACKAY ENGINEERING AND SURVEYING a Division of Wallace & Pancher, Inc., a Pennsylvania Corporation, hereinafter referred to as “Mackay.”

WITNESSETH

WHEREAS, the City is desirous of obtaining qualified professional consulting engineering services from professional engineers registered in the State of Ohio to perform consulting engineering for and on behalf of the City as hereinafter set forth; and,

WHEREAS, the firm of MACKAY ENGINEERING AND SURVEYING, has officers and employees that are professional engineers duly registered under the laws of the State of Ohio and has expressed a willingness to accept such work for the compensation as hereinafter set forth; and,

WHEREAS, the Council of the City of Rocky River, Ohio by Ordinance No. _____, authorized the Mayor to enter into a two year agreement with Mackay for consulting engineering services.

NOW, THEREFORE, the City and Mackay for the consideration hereinafter stated and the conditions hereinafter specified, agree that Mackay shall be and is hereby employed as Engineer for the City and to serve until a successor is duly appointed.

1. It is mutually agreed between the parties hereto that in consideration of said employment and appointment as Engineer for the City, that Mackay shall furnish the following services to the City:

(a) General Services:

Attend, as requested by the Mayor, such Council meetings, Planning Commission meetings, Board of Zoning and Building Appeals meetings, staff director meetings, Storm Management Committee meetings, meetings with representatives of the Ohio E.P.A., Cuyahoga County Engineer, Ohio Department of Transportation, public and private utility companies and other meetings as requested by the Mayor and/or Council;

Prepare periodic reports, to the Mayor and Council, on the progress of improvements under its charge, stating the conditions of the same, together with any other matters of interest to the Mayor or Council;

Advise and consult with the Mayor, Council and other Officials of the City, reply to correspondence, and receive telephone calls from the general public;

Analyze and tabulate bids received and recommend the lowest and best bidders to Council on those projects for which Mackay provided engineering services; and,

Approve payment requests from contractors for work performed and materials furnished on those projects for which Mackay provided engineering and inspection services.

Kimberly Kerber and Brenda Mockbee will be the contact for the Mayor, Council and other City Officials and such contact will be changed only as requested by the City.

Unless otherwise specifically set forth in (b) to (e) below, all services set forth in Rocky River Codified Ordinances Section 144.02, and any amendments thereto shall be included as General Services.

(b) Specific Services:

Review site plans, review retention / detention basin design and plans;

When requested by the Mayor, perform property, topographic or right-of-way surveys; establish centerlines of streets which are not defined by monuments; review shop drawings; provide resident engineers, and inspectors of construction; and provide legal descriptions; and,

Prepare and recommend to the Mayor and Council a multi-year plan and priority list for the placement, repair and improvement of sewers, waterlines and streets within the City as well as alternatives for the financing of these projects with annual updates to be provided to the Mayor and Council.

(c) Subdivision of Land:

Review and approve plats and improvements plans of subdivisions within the City and submit written reports to the Mayor, Planning Commission, and Council; and,

When requested by the Mayor, provide inspection of the construction of subdivision improvements, including sanitary sewers, storm sewers, water mains, culverts, pavements and grading, and, when such improvements are completed, submit a written report recommending acceptance of the dedicated streets to Council.

(d) Public Improvements – Plan Preparation:

Prepare all necessary plans, profiles, sections, specifications, bid documents and estimates of cost for public improvements as requested by the Mayor and authorized by Council.

(e) Public Improvements – Construction:

Provide control stakes for horizontal and vertical control for such public improvements for which Mackay has provided engineering services; and,

Provide inspection services for the construction of such public improvements.

All plans, reports, estimates and statements related to such projects shall be the property of the City and a complete set of “as-built” drawings of the completed improvements shall be filed with the Director of Public Safety - Service upon completion of the improvement.

2. The City shall pay Mackay for services rendered as follows:

(a) For services set forth in paragraph 1(a) herein as follows:
January 1, 2024 through December 31, 2024 - \$3,926.82 per month,
January 1, 2025 through December 31, 2025 - This rate will be adjusted in accordance with subparagraph 2(c).

(b) For the services as set forth in paragraphs 1(b), 1(c), 1(d), and 1(e), payment shall be made according to the following schedule of hourly rates:

	<u>1/1/24-12/31/24</u>	<u>1/1/25-12/31/25**</u>
Principal Engineer	\$123.85/hour	
Project Manager	\$123.85/hour	
Engineer	\$113.16/hour	
Surveyor	\$ 77.00/hour	
CAD Drafter	\$ 89.07/hour	
Survey Crew (3 person)	\$180.21/hour	
Survey Crew (2 person)	\$152.36/hour	
Inspector (Regular time)	\$ 67.63/hour	
(Overtime)	\$ 82.18/hour	
Transportation	\$ 0.00	
Bid Document Copy Costs	At cost	
Outside Services	At cost + Mackay's Professional Liability Insurance Coverage Cost	

** These rates will be adjusted in accordance with subparagraph 2(c),

(c) The above described retainer and hourly rates shall be increased each year after 2024 on January 1st by the same percentage increases that are received by the non-bargaining City employees.

(d) Payment shall be monthly upon detailed billing by Mackay, setting forth the project, the date, the hours spent by its employees, and expenses incurred.

3. The Engineer shall not render any engineering services of any kind and description or be employed or otherwise retained to perform such engineering services, whether supervisory or otherwise, for any private person, firm or corporation, with respect to any construction, installation, building, improvement, or work to be performed or done by any such private person, firm, or corporation within the confines of the City limits, and which might require its official approval as City Engineer.

4. The City will be responsible for the following and has the following rights:

(a) Provide full information as to its requirements for any project through the Mayor or other duly authorized representative;

- (b) Assist Mackay by placing at its disposal all available information pertinent to all projects, including previous reports and any other data relative to design and construction of the projects;
- (c) Furnish to Mackay services or data outside of Mackay's expertise, such as core borings, probings and subsurface explorations; hydrographic surveys; laboratory tests and inspections of samples, materials and equipment; approximate professional interpretations of all of the foregoing; land title services; and, other special data or consultations, all of which Mackay may rely upon in performing services under this Agreement;
- (d) Provide or assist in providing access to and make all provisions for Mackay to enter upon public and private property as required to perform its services under this Agreement;
- (e) Pay for all costs incident to obtaining bids or proposals from contractors;
- (f) Provide such legal, accounting and insurance counseling services as may be required for the projects, and such auditing services as the City may require to ascertain how or for what purpose any contractor has used the moneys paid to him under the construction contract; and,
- (g) Bear all costs incident to compliance with the requirements of this Section.
- (h) The City reserves the right to retain and pay for services of other engineers for projects within the City.

5. Insurance

Mackay will maintain, during the term of this agreement, general liability insurance in an amount not less than \$1,000,000 each occurrence and automobile liability insurance in an amount not less than \$1,000,000 each occurrence, and umbrella general liability insurance in an amount not less than \$3,000,000 general aggregate limit; and, professional liability insurance in an amount not less than \$1,000,000 in an annual aggregate.

6. Termination

Mackay shall have the right to terminate this agreement upon 30 days prior written notification. The Mayor shall have the right to terminate this agreement upon 30 days prior written notice. The Council shall have the right to terminate this agreement upon 30 days prior written notice with approval of two thirds of the members of Council. In the event of such termination, Mackay shall be reimbursed for all fees and costs incurred in accordance with this Agreement including the costs of orderly termination.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written, the signature of the City of Rocky River being affixed by its Mayor pursuant to Ordinance No. _____ passed by the Council of Rocky River and in accordance with the provisions of said Ordinance.

In the presence of:

CITY OF ROCKY RIVER, OHIO

By: Pamela Bobst, Mayor

MACKAY ENGINEERING AND
SURVEYING a Division of
WALLACE & PANCHER, INC.

By: Daniel Wallace, President

Approved as to legal form:

Michael O'Shea
Director of Law
City of Rocky River