

**VILLAGE OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2020-23**

**A RESOLUTION AUTHORIZING THE MAYOR AND FISCAL OFFICER TO
ENTER INTO AN AGREEMENT WITH CHOICE ONE ENGINEERING FOR
CONSULTING ENGINEERING SERVICES REQUIRED FOR THE FORREST
AVENUE RECONSTRUCTION PROJECT PHASE ONE, AND DECLARING AN
EMERGENCY**

WHEREAS, the Village has submitted an application for funding through the PY36 Ohio Public Works Commission (OPWC) for the reconstruction of a portion of Morrow Road; and,

WHEREAS, the OPWC rating criteria allows for additional rating points for having an engineer under contract; and

WHEREAS, Choice One Engineering was selected by staff as the most qualified and cost-effective; and,

WHEREAS, immediate action is required to show evidence to the OPWC of a contract for engineering services for the Project, and such action is necessary in order to preserve the public peace, health, safety or welfare of the Village.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of South Lebanon, Ohio, at least two-thirds of all members elected thereto concurring:

Section 1. That the Council authorizes the Mayor and Fiscal Officer to enter into a contract with Choice One Engineering for consulting engineer services in the Village of South Lebanon required for the Forrest Avenue Reconstruction Project Phase One for the total fee of \$38,000.00, as attached hereto.

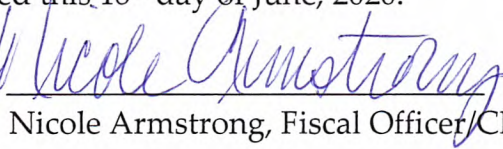
Section 2. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

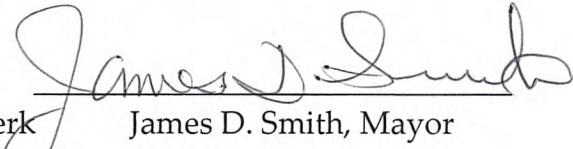
Section 3. That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

Section 4. That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 18th day of June, 2020.

Attest:


Nicole Armstrong, Fiscal Officer/Clerk


James D. Smith, Mayor

Rules Suspended: / /2020 (if applicable)

Effective Date – / /2020

Vote - 5 Yeas
 ___ Nays

First Reading – / /2020

Effective Date – / /2020

Second Reading – / /2020

Third Reading – / /2020

Vote - ___ Yeas
 ___ Nays

Prepared by and approved as to form:

PAUL R. REVELSON
VILLAGE SOLICITOR
SOUTH LEBANON, OHIO

By: 

Date: 6/19/2020

MASTER AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This MASTER AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES (the "Agreement") made as of the date stated below, between the Village of South Lebanon, Ohio, 10 N. High Street, South Lebanon, OH 45065 (the "Village") and Choice One Engineering, organized under the laws of the State of Ohio as a Corporation, whose address is 8956 Glendale0-Milford Road, Suite 1, Loveland, Ohio 45140 ("Consultant").

The Village and the Consultant in consideration of their mutual covenants herein agree, in respect of the performance of professional consulting services by Consultant and the payment for those services by the Village, to the following terms, conditions and obligations.

SECTION 1 - BASIC SERVICES OF CONSULTANT

- 1.1 The Consultant agrees to provide consulting engineering products and/or services (the "Basic Services") relative to design and engineering for the Forrest Avenue Reconstruction Project Phase One, all in accordance with the scope of work described in Exhibit 1 herein.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

- 2.1 If authorized in writing by the Village and Consultant, Consultant shall furnish or obtain from others Additional Services of certain types, which are not considered normal or customary Basic Services. Such additional services are particularly set forth, defined and identified, in the attachment hereto, and made a part of this Agreement as Exhibit 1-A.

SECTION 3 - THE VILLAGE'S RESPONSIBILITIES

The Village shall:

- 3.1. Provide all criteria and full information for the Project, including objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations.
- 3.2. Assist Consultant by providing all available information pertinent to the Basic Services in the possession of the Village including any previous reports and any other data relative to the Project.
- 3.3. Furnish Consultant, as required for performance of Consultant's Basic Services, data prepared by or services of others, as applicable.
- 3.4. Arrange for access to and make all provisions for Consultant to enter upon public and private property as required for Consultant to perform the scope of services.
- 3.5. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by Consultant, obtain advice of an attorney, insurance

counselor and other Consultants as the Village deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of Consultant.

- 3.6. Furnish approvals and permits from all governmental authorities having jurisdiction over the Basic Services and such approvals and consents from others as may be necessary for completion of the Basic Services.
- 3.7. Provide such accounting, insurance counseling and such legal services as may be required for the Basic Services, such legal services as the Village and Consultant may require or Consultant may reasonably request with regards to legal issues pertaining to the Basic Services.
- 3.8. Designate in writing the person or persons to act as the Village's representative with respect to the services to be rendered under this Agreement. Such person shall have authority to transmit instructions, receive information, interpret and define the Village's policies and decisions with respect to materials, equipment, elements and systems pertinent to Consultant's services.
- 3.9. Give prompt written notice to Consultant whenever the Village observes or otherwise becomes aware of any development that affects the scope or timing of Consultant's services, or any defect in the work of any third party.
- 3.10. Furnish, or direct Consultant to provide, upon approval of the Village, necessary Additional Services as stipulated in accordance with Section 2 of this Agreement or other services as required. (Intentionally Omitted)
- 3.11. Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 - PERIOD OF SERVICE

- 4.1. The provisions of this Section 4 and the various rates of compensation for Consultant's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Basic Services.
- 4.2. Upon receipt of a written notice to proceed from the Village, Consultant shall proceed with the performance of the services called for in a task order to be issued at a future date.
- 4.3. Consultant's services to be rendered thereunto shall be considered complete upon final payment issued by Village.
- 4.4. If the Village has requested significant modifications or changes in the extent of the Project, the time of performance of Consultant's services and his/her/its various rates of compensation shall be adjusted appropriately, upon approval of the Village and the Consultant of a written Schedule.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 Methods of Payment for Services and Expenses of CONSULTANT

- 5.1.1. For Basic Services. The Village shall pay Consultant for Basic Services rendered under Section 1 as follows:

The price for the products and/or services provided herein and the method of payment thereto shall be on a time-and-materials basis in accordance with the hourly rate established in Exhibit "1". **THE TOTAL PRICE FOR THE BASIC SERVICES SHALL NOT EXCEED \$38,000.00.** The Village shall not be responsible for the cost of any Basic Services that exceeds the aforementioned not-to-exceed price without prior written authorization from the Village.

- 5.1.2 For Additional Services. The Village shall pay Consultant for Additional Services rendered set forth in Exhibit 1 based on the hourly rates for Professional Consulting Services, as particularly set forth, defined and identified, in the attachment hereto, and made a part of this Agreement as Exhibit 1.

5.2 Times of Payments.

- 5.2.1. Consultant shall submit itemized statements for Basic and Additional Services rendered. The Village shall make prompt payments in response to Consultant's itemized statements by mailing via ordinary U.S. mail such payment no later than five (5) business days after the Village Council's regularly scheduled Council Meeting on the 3rd Thursday of each month.

5.3 Other Provisions Concerning Payments.

- 5.3.1. If the Village fails to make any payment due Consultant for services and expenses within forty-five (45) days after receipt of Consultant's itemized statement therefore, the amounts due Consultant shall include a charge at the rate of 1% per month from said 45th day, and in addition, Consultant may, after giving seven days, written notice to the Village, suspend services under this Agreement until he/she has been paid in full all amounts due for services and expenses.
- 5.3.2. In the event of termination by the Village under paragraph 6.1 upon the completion of any phase of the Basic Services, progress payments due Consultant for all services satisfactorily rendered through such phase shall constitute total payment for such services.
- 5.3.3. Records of Consultant's Salary Costs pertinent to Consultant's compensation under this Agreement will be kept in accordance with generally accepted accounting practices. Copies will be made available to the Village upon request prior to final payment for Consultant's services.

5.4 Definitions

- 5.4.1. The Payroll Costs used as a basis for payment means salaries and wages (basic and incentive) paid to all personnel engaged directly on the Project, including, but not limited to the following; Consultant's architects, surveyors, designers, draftsmen, specification writers, estimators, all other technical personnel, stenographers, typists and clerks; plus the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes,

workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Termination.

The obligation to provide services under this Agreement may be terminated by either party for no cause upon seven (7) days' written notice by certified mail, return receipt requested.

6.2 Reuse of Documents.

All documents prepared by Consultant pursuant to this Agreement are instruments of service as part of the Project. They are not intended or represented to be suitable for reuse by the Village or others on extensions of the Project or any other project. Any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at the Village's risk and without liability or legal exposure to Consultant. Any verification or adaptation requested by the Village to be performed by Consultant will entitle Consultant to further compensation at rates to be agreed upon by the Village and Consultant.

6.3 Controlling Law and Venue

This Agreement is to be governed by the law of the State of Ohio. The venue for any disputes hereunder shall exclusively be the Warren County, Ohio Court of Common Pleas.

6.4 Successors and Assigns.

- 6.4.1. The Village and Consultant each binds himself/herself and his/her partners, successors, executors, administrators, assigns and legal representatives to the other party, to this Agreement and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this Agreement.
- 6.4.2. Neither the Village nor Consultant shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except as stated in paragraph 6.4.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Consultant from employing such independent consultants, associates and subcontractors, as he/she may deem appropriate to assist him/her in the performance of services hereunder.
- 6.4.3. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than the Village and Consultant.

6.5 Modification or Amendment

No modification or amendment of any provisions of this Agreement shall be effective unless made by a written instrument, duly executed by the party to be bound thereby, which refers specifically to this Agreement and states that an amendment or modification is being made in the respects as set forth in such amendment.

6.6 Construction

Should any portion of this Agreement be deemed unenforceable by any administrative or judicial officer or tribunal of competent jurisdiction, the balance of this Agreement shall remain in full force and effect unless revised or terminated pursuant to any other section of this Agreement.

6.7 Waiver

No waiver by either party of any breach of any provision of this Agreement shall be deemed to be a further or continuing waiver of any breach of any other provision of this Agreement. The failure of either party at any time or times to require performance of any provision of this Agreement shall in no manner affect such party's right to enforce the same at a later time.

6.8 Relationship of Parties

The parties shall be independent contractors to each other in connection with the performance of their respective obligations under this Agreement.

6.9 Parties

Whenever the terms "the Village" and "Consultant" are used herein, these terms shall include without exception the employees, agents, successors, assigns, and/or authorized representatives of the Village and the Consultant.

6.10 Headings

Paragraph headings in this Agreement are for the purposes of convenience and identification and shall not be used to interpret or construe this Agreement.

6.11 Notices

All notices required to be given herein shall be in writing and shall be sent certified mail return receipt to the following respective addresses:

TO: The Village of South Lebanon, Ohio
Attn. Village Administrator
10 N. High Street
South Lebanon, OH 45065

Consultant: Choice One Engineering
Attn. Nicolas J. Selhorst, P.E.
Address: 8956 Glendale-Milford Road, Suite 1
Address: Loveland, Ohio 45140

6.12 Insurance

Consultant shall carry comprehensive general and professional liability insurance, with no interruption of coverage during the entire term of this Agreement. Consultant further agrees that in the event that its comprehensive general or professional liability policy is maintained on a "claims made" basis, and in the event that this Agreement is terminated, Consultant shall continue such policy in effect for the period of any statute or statutes of limitation applicable to claims thereby insured, notwithstanding the termination of the Agreement. Consultant shall provide the Village with a certificate of insurance evidencing such coverage, and shall provide thirty (30) days notice of cancellation or non-renewal to the Village. Cancellation or non-renewal of insurance shall be grounds to terminate this Agreement. The insurance shall comply with all of the following provisions:

(a) The insurer shall have an AM Best rating of A- or better, unless otherwise agreed by the Village in writing;

(b) The insurance coverage must have commercial general liability limit of \$1,000,000 per occurrence for bodily injury, personal injury and property damage and the minimum general aggregate shall be \$2,000,000;

(c) The insurance coverage must have professional liability (i.e. errors and omissions) limit of \$1,000,000 per occurrence.

(d) The automobile liability limit shall be at least \$500,000 per accident for bodily injury and property damage where applicable;

(e) The insurance coverage shall have Ohio stop gap employer's liability with a \$2,000,000 limit;

(f) The Consultant shall name the Village, its elected and appointed officials, agents, employees and volunteers as additional insureds to all insurance policies with waiver of subrogation against the Village, and shall furnish the Village with certificates of insurance naming such individuals and entities as additional insureds. The coverage shall be primary to the additional insureds and not contributing with any other insurance or similar protection available to the additional insured's, whether available coverage is primary, contributing or excess, and shall provide the Village with the same coverage and duty to defend as the primary coverage provides for Consultant;

The Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor; provided that all coverages for subcontractors shall be subject to all requirements stated herein; and

(g) Consultant shall carry statutory worker's compensation insurance and statutory employer's liability insurance as required by law and shall provide the Village with certificates of insurance evidencing such coverage simultaneous with the execution of this Agreement.

SECTION 7 - SPECIAL PROVISIONS, EXHIBITS and SCHEDULES

7.1 This Agreement is subject to the following special provisions, if any:

7.1.1 None

7.2. The following Exhibits are attached to and made a part of this Agreement:

Exhibit "1"

SECTION 8 – DISPUTE RESOLUTION

Any and all controversies, disputes, disagreements, claims and demands of whatsoever kind or nature arising out of or relating in any way to this Agreement, alleged breaches thereof, and/or the parties' relationship shall: (i) first be submitted to mediation before a mediator mutually agreed upon, and if mediation is not successful, then; (ii) the parties may litigate the dispute subject to the jurisdiction and venue stipulation in Section 6, Paragraph 6.2 herein.

SECTION 9 – ENTIRE AGREEMENT

This Agreement, together with the Exhibits and schedules identified above constitute the entire agreement between the Village and Consultant, and supersede all prior written or oral understandings. This Agreement and said Exhibits and schedules may only be amended, supplemented, modified or canceled by a duly executed written instrument, signed by all parties.

SECTION 10 – INDEMNIFICATION

Consultant will indemnify and save the Village harmless from loss, claims, expenses, causes of action, costs, damages, and other obligations including but not limited to the Village's reasonable attorney fees, financial or otherwise, to the extent arising from (a) negligent, reckless, and errors or omissions by Consultant, its agents, employees, licensees, contractors, or subcontractors; and, (b) the failure of Consultant, its agents, employees, licensees, contractors, or subcontractors, to observe the applicable standard of care in providing services pursuant to this Agreement

[the remainder of this page is blank]

SECTION 11 – EXECUTION

CONSULTANT :

IN EXECUTION WHEREOF, Choice One Engineering, the Consultant herein, has caused this Agreement to be executed on the date stated below by Nick Selhorst whose title is Project Manager, pursuant to a Resolution or Consent Action authorizing such act.

SIGNATURE: _____

PRINTED NAME: Nick Selhorst

TITLE: Project Manager

DATE: 6/19/2020

VILLAGE:

IN EXECUTION WHEREOF, the Council of the Village of South Lebanon, Ohio, has caused this Agreement to be executed on the date stated below by its Mayor and its Fiscal Officer, pursuant to Resolution No. 2020 -23.

SIGNATURE: James D. Smith

PRINTED NAME: James D. Smith

TITLE: Mayor

DATE: 6/18/20

SIGNATURE: Nicole Armstrong

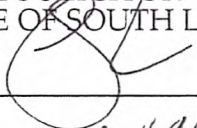
PRINTED NAME: Nicole Armstrong

TITLE: Fiscal Officer

DATE: 6/18/20

APPROVED AS TO FORM:

PAUL R. REVELSON
VILLAGE SOLICITOR
VILLAGE OF SOUTH LEBANON, OHIO

By: 

Date: 6/19/20

Scope of Services

Project Snapshot

Choice One intends to provide construction plans for the reconstruction of Forest Avenue between High Street and Section Street.

Project Details

- The approximate project length is 630'.
- Plans will be designed to ODOT and Village of South Lebanon Standards.
- A topographic survey will be needed along the project route.
- Type 2 curb and gutter will be installed as part of this project. The back-of-curb to back-of-curb dimension will be 32'.
- Sidewalks will be replaced on both sides of the street. A 3' wide curb lawn will be added as well.
- Parking will be allowed on one side of the street (south side).
- Maintenance of traffic will be covered by general notes. Only local traffic will be maintained. A detour plan will be provided.
- The design speed limit is 30 mph.
- Adjustment in profile grade will be investigated to best fit existing features. The entire roadway is planned to be reconstructed.
- Storm sewer will be replaced throughout the project area. Off-site storm sewer design beyond the project limits is not included in this scope.
- Existing 6" water main throughout the project area will be replaced with a new 8" main. Hydrants, valves, and services will be replaced as well.
- No sanitary sewer work is anticipated with this project.
- Additional permanent right-of-way is not anticipated for this project.
- Electric, telephone, cable, and gas will be relocated by the appropriate company, if necessary, with coordination with Choice One.
- Bidding and contract documents will be handled by the Village. Choice One will provide the plans and specifications and answer questions during the bidding process.
- Construction Observation and Administration by Choice One during construction will be done, if requested, as part of a separate contract.
- Choice One will assist the Village with an OPWC application as part of this project.
- The estimated construction cost is approximately \$600,000.

Project Services

1. Topographic Survey

- a. Contact Ohio Utilities Protection Service (OUPS) for underground utility locations.
- b. Perform necessary deed and plat research at Warren County Recorder's Office.
- c. Establish horizontal and vertical survey control for the project area.
- d. Field reconnaissance and traverse of existing monumentation.
- e. Identify visible features from road centerline to 30' beyond right-of-way for both sides including utilities and drainage.
- f. Provide roadway cross-sections every 50', at driveways, and other critical areas.
- g. Inventory manholes and catch basins including type of construction, depth, pipe size, and condition.
- h. Locate underground utilities as marked by the appropriate utility companies.
- i. Property lines will be placed in the drawing utilizing existing monuments, tax maps, deeds, plats, and other readily-available information.
- j. Provide one (1) foot contour intervals.

2. Construction Plans

- a. Title Sheet
- b. Typical Sections
- c. General Notes
- d. General Details
- e. Intersection Details
- f. Quantity Summary and Engineer's Estimate
- g. Plan and Profile (scale 1" = 20' horizontal, 1" = 5' vertical)
- h. Cross-Sections (scale 1" = 5' horizontal, 1" = 5' vertical)
- i. Maintenance of Traffic Notes and Detour Plan
- j. Pavement Marking and Signage Plan
- k. Provide storm calculations for proposed storm sewer in street.
- l. Provide plans to Village for use in bidding documents.
- m. Answer questions during bidding process.
- n. Attend bid opening.
- o. Review and analyze bids prior to award of contract.

Additional Services

We have the skill, experience, and knowledge to provide additional services as listed below. Additional services will be approved by the Client prior to commencement and will be performed on an hourly basis according to our current Standard Hourly Rate Schedule or a mutually negotiated lump sum fee.

1. Traffic Impact Studies
2. Traffic Data Collection
3. Construction Layout Staking
4. Construction Bidding Procedures
5. Record Drawings

Client Responsibilities

- Payment of all agency-related fees.
- Provide Storm Water Notice of Termination.
- Provide property and/or right-of-way information, if available.
- Provide any available existing plans.
- Perform subsurface investigation, if necessary.
- Execute necessary Work Agreements and Easements.
- Provide timely decisions to keep design work on schedule.

Compensation & Schedule

Compensation

Lump Sum Fee Schedule

Topographic Survey	\$4,200.00
--------------------	------------

Construction Plans	\$33,800.00
--------------------	-------------

Total	\$38,000.00
--------------	--------------------

Schedule

After receipt of an executed Agreement, Choice One will have the plans designed and ready to bid by June 30, 2021.

