

ORDINANCE NO. 69 -91

BY: John H. Offenberg

An Ordinance to authorize the Mayor and Auditor to execute an agreement with Evans, Mechwart, Hambleton & Tilton, Inc. for professional engineering services.

WHEREAS, Section 44 of the Charter of the City of Bexley authorizes Council, by ordinance, to employ engineers to render professional engineering services to the City; and,

WHEREAS, Evans, Mechwart, Hambleton & Tilton, Inc. has been providing such services to the City; and,

WHEREAS, it is in the best interest of the City to contract for such services. NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the agreement with Evans, Mechwart, Hambleton & Tilton, Inc. is hereby approved in the form attached to this Ordinance and that the Mayor and Auditor are hereby authorized and directed to execute said agreement on behalf of the City.

Section 2. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: December 17, 1991

[Signature]
President of Council

Attest: [Signature]
Clerk of Council

Approved: 12/17, 1991

[Signature]
David H. Madison, Mayor

*Nov. 26, 1991 - 1st reading
Dec. 10, 1991 - 2nd reading
Dec. 17, 1991 - 3rd reading*

AGREEMENT

BETWEEN THE CITY OF BEXLEY, OHIO
AND
EVANS, MECHWART, HAMBLETON & TILTON, INC.
CONSULTING ENGINEERS AND SURVEYORS
GAHANNA, OHIO

FOR PROFESSIONAL ENGINEERING SERVICES
FOR THE CITY OF BEXLEY
FOR THE PERIOD BEGINNING *January 1, 1992*
AND ENDING *December 31, 1992*

* * * * *

SECTION I

This Agreement entered into this *1st* day of *January*, 19*92*, and running until the *31st* day of *December* 19*92*, by and between the City of Bexley, Ohio, acting through the Director of Public Service, pursuant to and under authority of Ordinance No. *109-91*, passed by the Council of the City of Bexley, Ohio on *December 17*, 19*91*, Party of the First Part, hereinafter designated as the "CITY", and Evans, Mechwart, Hambleton and Tilton, Inc., Consulting Engineers and Surveyors (Professional Engineers and Surveyors registered in the State of Ohio), Gahanna, Ohio, Party of the Second Part, hereinafter designated as the "ENGINEER".

WITNESSETH, That in consideration of One Dollar and other good and valuable consideration, including the mutual promises and agreement hereinafter set forth, the ENGINEER and CITY do hereby agree as follows:

SECTION II

The ENGINEER shall furnish all personnel, equipment and material necessary to perform engineering services as ordered as follows:

- (a) Make studies of existing engineering data, reports, etc., which have been made previously by the City, County or other agencies and give full consideration to same.

(b) Provide complete detailed plans, including necessary field work, specifications, and estimates of cost and provide contract documents consisting of Advertisement, Information to Bidders, Proposal and Proposal Bond Forms, Contract Performance Bond Forms for the construction of projects as ordered.

(c) Furnish to the CITY at cost, the necessary copies of detailed plans, specifications, estimates and contract documents required by them for contracting for and prosecuting the work. Tracings of plans, field books and field records shall become the property of the CITY if so desired, otherwise, shall remain in the files of the ENGINEER for future reference.

(d) Assist at all lettings, tabulate proposals and bids, and report same to the City Officials.

(e) Present plans to and assist in obtaining approval of such plans from any City, County, State or Federal Department or other political subdivision which may have jurisdiction in the development of the project.

(f) Prepare all current and final pay estimates for the construction contractor's work in conformance with the conditions of each contract.

(g) Provide Land Surveying Field Parties to perform construction layout staking.

(h) Provide Project Representation during construction to be an interpreter and arbitrator of the plans and specifications and make every reasonable effort to protect the CITY against deficiencies in the contractor's work.

(i) Advise and recommend to the CITY in the matter of testing materials and reviewing laboratory results.

(j) Inspect the completed work and submit a final report for the acceptance of the project. However, the issuing of the final report does not make the ENGINEER responsible for any deficiencies in the work not discovered at the time.

(k) Furnish full-time resident inspection personnel as the work requires. The inspection personnel shall spend their full-time on the work beginning when the construction contractor starts construction and ending when all work under their inspection is completed to the satisfaction of the CITY.

(l) Maintain a complete record of the progress of the work and all incidents relative to the construction process.

SECTION III

The CITY agrees to pay the ENGINEER as compensation, for services performed as required by SECTION II, Paragraphs (a) through (l), inclusive a fee in accordance with the following hourly rates:

Principal	-	\$ 80.00/Hr.
Senior Engineer	-	\$ 65.00/Hr.
Engineer	-	\$ 53.00/Hr.
Surveyor	-	\$ 53.00/Hr.
Engineer Aide	-	\$ 40.00/Hr.
Engineer Aide II	-	\$ 48.00/Hr.
Drafter	-	\$ 32.00/Hr.
Stenographer	-	\$ 25.00/Hr.
Two Person Field Party	-	\$ 76.00/Hr.
Three Person Field Party	-	\$ 88.00/Hr.
Four Person Field Party	-	\$ 97.00/Hr.
Inspector	-	\$ 32.00/Hr.
Transportation	-	0.36/Mi.
Stakes, prints, postal, special delivery and miscellaneous items	-	At cost
Filing fees, special consulting, such as soil investigation, etc.	-	Actual fee plus 10%
Fax	-	\$1.00 per sheet

Whenever it is deemed necessary by the CITY, acting through the MAYOR or his designated representative, for employees of the ENGINEER to work more than forty (40) hours per week, overtime compensation of one and one-half (1-1/2) times the regular rate shall be paid for all hours worked over forty (40) hours per week in accordance with the Fair Labor Standards Act of the United States.

It is agreed that all costs for engineering, survey work and inspection services will be invoiced and payments made monthly.

SECTION IV

A representative of the ENGINEER acceptable to the Director of Public Service, shall attend on request all regular and special meetings of Council, Planning Commission or other meetings. The ENGINEER shall receive for this, the sum of \$100.00 per meeting.

SECTION V

(a) PROPERTY OR EASEMENT ACQUISITION

The ENGINEER, when authorized by the CITY, shall furnish personnel to make property surveys, legal descriptions of same, make easement surveys, prepare descriptions, and assist in the acquisition of both property and easements across private property.

For the furnishing of such property and easement personnel, the ENGINEER shall be paid on the basis of the per diem rates as set forth in SECTION III. In addition, the ENGINEER shall be reimbursed for materials and other incidental expense at actual cost. It is agreed that cost of the above will be invoiced and payment made monthly.

(b) OTHER SERVICES

The ENGINEER will arrange for the services of an independent agency to make such test borings, subsurface explorations or other investigations as may be required for the determination of the foundation conditions for streets, sewers, water mains, elevated tanks or other type structures. The services so arranged for shall be subject to approval by the CITY and the CITY shall reimburse the ENGINEER on the basis of the actual cost plus 10% for directing or interpreting the results of such work.

(c) DISCRIMINATION BECAUSE OF RACE, ETC.

In connection with the performance of work under this Contract, the ENGINEER agrees not to discriminate against any employee or applicant for employment because of race, religion, sex, color, Vietnam Era and disabled veterans, age, handicap, or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, up-grading, demotion or transfer, forms of compensation, and selection for training, including apprenticeship. The ENGINEER agrees to post hereafter in conspicuous places, available for employees or applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause. The ENGINEER further agrees to insert the foregoing provisions in all contracts hereunder except sub-contracts for standard commercial supplies or raw materials.

(d) CITY INCOME TAX TO BE WITHHELD

The ENGINEER hereby further agrees to withhold all City Income Taxes due or payable under the provisions of City Ordinances and as subsequently amended, for wages, salaries and

commissions paid to his employees and further agrees that any of his subcontractors shall be required to agree to withhold any such City Income Taxes due under said Ordinance for services performed under this Contract.

(e) The CITY and/or ENGINEER, at any time, prior to the completion of full performance by the ENGINEER of all engineering services under the Engineering Contract, terminate the Engineering Contract or any part thereof by giving written notice not less than fifteen (15) days prior to the effective date by registered mail of its intention to do so. In the event this agreement is terminated, payment to the ENGINEER will be made promptly for the amount of any fees earned to the date of notice of termination, less any payments previously made. The ENGINEER shall make no claim for additional compensation against the CITY by reason of such terminations.

(f) The CITY may, from time to time, request changes in the scope of services of the ENGINEER to be performed hereunder, or, economic conditions may pose a hardship upon the ENGINEER to perform services at fees set hereunder, such changes or conditions, including any increase or decrease in the amount of the ENGINEER'S compensation, which are mutually agreed upon by and between the CITY and ENGINEER, shall be incorporated in written amendments to this Contract.

(g) In the event services to be performed by ENGINEER hereunder require review of engineering plans prepared by ENGINEER for other than CITY, such review shall not be performed by ENGINEER.

SECTION VI

That the CITY, its successors and assigns, and the ENGINEER, a Corporation, its successors and assigns, have bound themselves to the other party of this Agreement. Neither the CITY nor the ENGINEER shall assign, sublet or transfer its or their interest in this Agreement without written consent of the other party hereto. The Agreement shall not be determined to be a grant of a franchise for all future engineering services.

SECTION VII

The ENGINEER, on the basis of on-site observations, shall endeavor to guard the CITY against apparent defects and deficiencies in the permanent work constructed by the Contractor; but does not guarantee the performance of the Contractor and is not responsible for construction means, methods, techniques, sequence or procedures, time of performance, programs, notifications of utilities, or for any safety precautions and/or requirements in connection with the

construction work The ENGINEER is not responsible for the Contractor's failure to execute the work in accordance with the construction contract and shall not be responsible for defects or omissions in the work as a result of the Contractor's or any Sub-Contractor's employees or that of any other person and entities responsible for performing any of the work as contained in the construction contract.

SECTION VIII

It is agreed by the parties that this Contract shall be governed by the laws of the State of Ohio. The ENGINEER and the CITY further agree that they will make every effort to settle claims and disputes without recourse to legal action. However, it is also agreed that any claims or actions arising out of the ENGINEER'S performance of services under the terms of this Contract, including any actions for contribution or indemnity, shall be brought no more than eight (8) years after the performance of furnishing of such services.

SECTION IX

IN WITNESS WHEREOF, The parties hereto have affixed their hands and seals, this 17th day of December, 19 91.

CITY OF BEXLEY, OHIO
Party of the First Part

By: *D. Madis*
Mayor

Arnold J. Herzog
EVANS, MECHWART, HAMBLETON & TILTON, INC.
Party of the Second Part

By: *A.W. Maier*
A.W. Maier, President

I hereby approve the form of this Agreement

APPROVED:

James H. Dean
City Attorney

Arnold J. Herzog
City Auditor

December 17, 19 *91*
Date