

RECORD OF ORDINANCES

Dayton Legal Blank Co.

Form No. 30043

Ordinance No. 2001-44

Passed July 17

2001
YEAR

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH M-E COMPANIES, INC. FOR THE PURPOSE OF PROVIDING RIGHT-OF-WAY ACQUISITION SERVICES.

WHEREAS, several properties will need to be acquired, in whole or in part, in order to implement a roadway connection, and

WHEREAS, the City Manager has received several quotes from companies to perform right-of-way acquisition services.

NOW THEREFORE BE IT ORDAINED BY THE MUNICIPALITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

Section 1: That the City Manager is hereby authorized to enter into a contract with M-E Companies, Inc. on behalf of the Municipality for the purpose of providing right-of-way acquisition services pursuant to a contract as attached hereto and incorporated herein by reference.

Section 2: That the City Manager is hereby authorized to pay M-E Companies, Inc. the sum not to exceed Twenty Three Thousand Eight Hundred Fifty Dollars (\$23,850) for cost of services rendered pursuant to the terms of the executed contract.

Section 3: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of the Council and any of the decision making bodies of the Municipality of Powell which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the Municipality of Powell, Delaware County, Ohio.

Section 4: That this Ordinance shall take effect on the earliest possible date permitted by law.

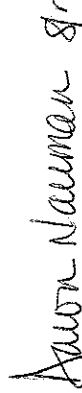
VOTE ON RULE SUSPENSION: Y 5 N 0 (Abstain: Nolan)

VOTE ON ORDINANCE 2001-44: Y 5 N 0 (Abstain: Nolan)



Date

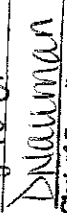
Mark F. Klein
Mayor



Date

Dawn Nauman
Clerk of Council

This ordinance or resolution has been posted in
three (3) public places as defined in ordinance
311-1 dated 4-3-94
on this date 8-10-01



Clerk of Council

RECORD OF ORDINANCES

Dayton Legal Blank Co.

Form No. 30043

Ordinance No.

Passed,

YEAR.....

Attachment : 2001-44

REAL ESTATE SERVICE CONTRACT
VILLAGE OF POWELL

This contract is entered into this _____ day of _____, 2001, by and between the Village of Powell and M-E Companies, Inc. (the "Contractor"), 635 Brookside Blvd., Westerville, Ohio 43081.

ARTICLE I: Statement of Work

1. The Contractor shall undertake the work and activities set forth in the scope of work, attached Exhibit I, which is attached hereto, made a part hereof, and incorporated by reference as if fully written herein.
2. Work under this contract shall commence on _____ 2001 and shall be completed by _____ 2001 with the right of way certified as cleared for highway construction.
3. The Contractor shall also deliver, assign, transfer, and convey to the Village all rights, title, and interest to all documents, data, materials, information, processes, studies, reports, surveys, proposals, plans, codes, scientific information, technological information, regulations, maps, equipment, charts, schedules, photographs, exhibits, software, software source codes, documentation, and other materials and property prepared or developed or created or discovered under or in connection with this contract (the Deliverables").
4. In the event that the activities contemplated herein are to be financed in whole or in part by a gift, grant, loan, or donation from any person, agency, or instrumentality other than the Village, the Contractor shall submit to the Village such reports and information and comply with such other conditions as the Village may require in order to fulfill its obligations under any agreement providing for such financial assistance.
5. The Contractor shall perform professional services in accordance with generally accepted standards necessary for the satisfactory performance of the work hereunder.
6. The Contractor shall furnish its own support staff necessary for the satisfactory performance of the work hereunder.
7. The Village may, from time to time as it deems appropriate, communicate specific instruments and requests to the Contractor concerning the performance of the work described in this contract. Upon such notice and within ten days after receipt of instruction, the Contractor shall comply with such instructions and fulfill such requests to the satisfaction of the Village. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this contract, and are not intended to amend or alter this contract or any part thereof.
8. The Contractor shall consult with the personnel of the Village and other appropriate persons, and instrumentalities as necessary to assure understanding of the work and satisfactory completion thereof.
9. The Contractor shall submit monthly status reports to the Village Service Director.
10. The Contractor shall notify in writing the Village Service Director upon fifty percent (50%) completion of the project and also at eighty percent (80%) completion for a review of the parcel file(s) completeness.
11. All administrative settlements (in house) must have prior approval from the Village Service Director. A verbal approval or disapproval will be made by the Service Director with written documentation to follow.
12. Upon Contractor's completion of all right of way services, he/she shall certify clearance of the right of way for highway construction purposes.

ARTICLE II: TIME OF PERFORMANCE

This contract shall be binding upon both parties upon receipt by the Contractor of a fully executed copy of this contract after which the work described in Article I hereof shall commence. Contractor understands that time is of the essence. This contract shall remain in effect until the work described in Article I is completed to the satisfaction of the Village or until terminated as provided in Article IX, whichever is sooner.

ARTICLE III: COMPENSATION

1. In consideration for the promises and performance of the Contractor as set forth herein, the Village agrees to: Pay to the Contractor, upon submission of invoices, an amount equal to the appropriate percentage of work completed performed in accordance with Article I of this contract. Invoices will be prepared monthly and based on percentage of work complete in each month. Compensation shall not exceed \$23,850 without express authorization of the Village.
2. Unless expressly provided for elsewhere in this contract, Contractor shall be responsible for and assume all office, business, and direct expenses that are incurred as a result of the performance of this contract.

ARTICLE IV: RECORD KEEPING REQUIREMENTS

1. The Contractor shall keep all financial records in a manner consistent with generally accepted accounting procedures. Documentation to support each action shall be filed in a manner allowing it to be readily located.
2. During the period covered by this contract and until the expiration of three years after final payment under this contract, the Contractor agrees to provide the Village duly authorized representatives or any person, agency, or instrumentality providing financial support to the work undertaken hereunder, with access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this contract. The Contractor shall, for each subcontract in excess of Twenty-Five Hundred Dollars (\$2,500.00), require its subcontractors to agree to the same provisions of this Article.

ARTICLE V: RELATED CONTRACTS

1. The work contemplated in this contract is to be performed by the Contractor, who may subcontract without Village's approval for the purchase of articles, supplies, components, special mechanical services, or appraisal services not exceeding \$2,500.00 per parcel that relate to the type of work or services described in Article I, but which are required for its satisfactory completion. The Contractor will not enter into other subcontracts without prior written approval from the Village. All subcontractors under this agreement are required to comply with all Equal Opportunity and Non-Discrimination guidelines that are required of the Contractor as outlined in Article VII of this agreement.

ARTICLE VI: CONFLICTS OF INTEREST

1. No personnel of Contractor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this contract is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall prior to the completion of said work, voluntarily acquire any personal interest direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

2. Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this contract or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the Village in writing. Thereafter, he or she shall not participate in any action affecting the work under this contract, unless the Village shall determine that, in the light of the personal interest disclosed his or her participation in any such action would not be contrary to the public interest.

ARTICLE VII: EQUAL EMPLOYMENT OPPORTUNITY

1. In carrying out this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, handicap, age, or Vietnam-era veteran status. The Contractor will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, sexual orientation, national origin, handicap, age, or Vietnam-era veteran status: Such action shall include, but not be limited to the following: Employment, Upgrading, Demotion or Transfer; Recruitment or Recruitment Advertising Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
2. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, sexual orientation, national origin, handicap, age, or Vietnam-era veteran status. The Contractor shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

ARTICLE VIII: RIGHTS IN DATA PATENTS AND COPYRIGHTS: PUBLIC USE

1. The Deliverables provided by the Contractor under Article I shall become the property of the Village and a public record. The Village and any person, agency, or instrumentality providing financial assistance for the work performed under Article I shall have an unrestricted right to inspect, review, reproduce, distribute, modify, maintain, and use the Deliverables, and the Contractor shall not obtain copyright, patent, or other proprietary protection for the Deliverables. The Contractor relinquishes any and all copyrights, privileges, and proprietary rights to the Deliverables. The Contractor shall not include in any Deliverable any copy righted matter, unless the copyright owner and any person, agency, or instrumentality providing financial assistance to the work hereunder gives prior written approval to use such copyrighted matter in the manner provided herein.
2. Neither the Contractor nor any of the Contractor's employees, agents, subcontractors, or assigns shall make a disclosure for the purpose of securing a patent in the United States or any other country for any of the Deliverables unless such disclosure is approved in writing by the Village prior to application for the patent. In the event that such patent is obtained, the Contractor shall, at the request of the Village provide the Village with written authorization for the Village and any other person, agency, or instrumentality contributing financial support to the work contemplated hereunder to make use of the subject of the said patent disclosure without payment therefore.
3. Contractor agrees that all Deliverables shall be made freely available to the general public.

ARTICLE IX: SUSPENSION AND TERMINATION PROVISIONS

1. This Contract shall terminate _____, 2001. At that time the Village may extend this contract under the same terms and conditions by giving written notice to the contractor by _____, 2001.
2. Upon providing two weeks written notice to the Contractor, the Village may suspend or terminate this contract, in whole or in part, if it appears to the Village that the Contractor has failed to perform any of the requirements of this contract; or that Contractor is in violation of a specific provision of this contract; or that full and satisfactory performance of the contract is substantially endangered or if the Ohio General assembly fails to appropriate funds for any part of the work contemplated under this contract.
3. The Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this contract, suspend or terminate all subcontracts relating to such suspended or terminated activities, take all necessary or appropriate steps to limit disbursement and minimize costs, and furnish a report, as of the date of receipt of notice of suspension or termination describing the status of all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as the Village may require.
4. In the event of suspension or termination under this Article, Contractor shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination or suspension, for which the Contractor charges a flat rate, based on a reasonable percentage of the total services performed, as determined by the Village less any funds previously paid by or on behalf of the Village. The Village shall not be liable for any further claims, and the claims submitted by the Contractor shall not exceed the total amount of consideration stated in this contract. Any hours or percentages of the flat rate involved must, to the satisfaction of the Village be reasonable and in relation to the total anticipated cost of the project and to the amount of work accomplished. In the event of suspension or termination, any payment made by the Village in which services have not been rendered by the Contractor shall be returned to the Village.

ARTICLE X: RESPONSIBILITY FOR CLAIMS

Contractor agrees to hold the Village harmless from any and all claims for injury resulting from activities in furtherance of the work hereunder. Contractor shall reimburse the Village for any judgement for infringement of patent or copyright rights. Contractor agrees to defend against any such claims or legal actions if called upon by the Village to do so.

ARTICLE XI: COMPLIANCE WITH LAW

The Contractor agrees to comply with all applicable federal, state and local laws in the conduct of the work hereunder. Contractor accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Contractor in the performance of the work authorized by this contract. The Village shall not be liable for any taxes under this contract.

ARTICLE XII: CERTIFICATION OF FUNDS

It is expressly understood by the parties that none of the rights, duties, and obligations described in this contract shall be binding on either party until all statutory provisions under the Ohio Revised Code, including but not limited to Section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required. Such expenditure of funds is approved by the General Assembly and by the Controlling Board of the State of Ohio, or in the event that federal funds are used, until such time that the Village gives the Contractor written notice that such funds have been made available to the Village, by the Village's funding source.

ARTICLE XIII: LIMITATION OF LIABILITY

The Village's liability for damages, whether in contract or in tort, shall not exceed the total amount of compensation payable to Contractor under Article III or the amount of direct damages incurred by Contractor, whichever is less. The Contractor's sole and exclusive remedies for the Village's failure to perform under the contract shall be as set forth in this Article. **IN NO EVENT SHALL THE VILLAGE BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES INCLUDING LOSS OF PROFITS, EVEN IF THE VILLAGE KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.**

ARTICLE XIV: CHANGE OR MODIFICATIONS

This contract constitutes the entire agreement between the parties, and any changes or modifications to this contract will be mutually made and agreed to in writing.

ARTICLE XV: ASSIGNMENT

Neither this contract nor any rights, duties, or obligations described herein shall be assigned by either party hereto without prior written consent of the other party.

ARTICLE XVI: CONSTRUCTION

This contract shall be constructed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio.

ARTICLE XVII: DRUG-FREE WORKPLACE

Contractor agrees to comply with all applicable state and federal laws regarding a drug-free workplace. Contractor shall make a good faith effort to ensure that all Contractor employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

ARTICLE XVIII: OHIO ELECTIONS LAW

The M•E Companies, Inc. affirms that, as applicable to the vendor, no party listed in Division (I) or (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.

ARTICLE XIX: LIABILITY INSURANCE

Company shall carry general liability insurance in an amount not less than \$500,000 per person, \$1,000,000 per incident, and Property Damage in an amount not less than \$1,000,000 per occurrence and \$1,000,000 aggregate while performing any services for the Board in accordance with the terms of this contract and shall provide to the Board a Certificate of Insurance, listing the Board of Commissioners as additional insured, as proof of compliance with this condition. Company shall also maintain liability insurance to cover all of its employees and agents for any liability arising out of their conduct while in the employ of the Company.

Company shall maintain throughout the contract term professional liability insurance (errors and omissions) coverage in an amount reasonably commensurate with the level of risk involved in the assigned tasks.

ARTICLE XIX: OHIO ETHICS LAW REQUIREMENTS


1. The Contractor agrees to adhere to the requirements of Ohio Ethics Law as provided by Chapter 102 of the Ohio Revised Code, Ohio Ethics Law prohibits a state official or employee from receiving compensation, other than from his or her own agency, for personal services rendered in a case, proceeding, application, or other matter before any state agency.

IN WITNESS HEREOF, the parties have executed this contract as of the day and year first above written.

Village of _____, Ohio

By _____

Contractor:
M•E Companies, Inc.

By  _____

31-1442777
FEDERAL EMPLOYEE I.D.

EXHIBIT 1

Scope of Work

The Contractor hereby agrees that the scope of work under this contract shall be as follows:

- M•E Preparation of Title Reports where required
- M•E Preparation, Review, and Pre-approval of Legal Descriptions
- M•E Complete uniform legal instruments and agreements
- M•E Preparation of Individual Parcel files
- M•E Preparation of RE-95's, if required
- M•E Preparation or Contracting of Appraisals
- M•E Negotiations with Property Owners with Maximum of Three visits, with potential fourth visit accompanied by Village's representative
- Village Approve all administrative settlements, preferably by phone, with written approval to follow
- M•E Preparation of billing packages (i.e., check requests to the Village)
- M•E Preparation of appropriation packages to Village standards for submission to Village Prosecutor if necessary
- M•E Preparation of closing packages including scheduling and attending closings on real estate purchases
- M•E Recordation of instruments in Delaware County with copies placed in corresponding parcel file
- M•E Delivery of Warrants to Property Owners
- M•E Obtain W-9 forms from all property owners
- M•E Delivery of all finalized project parcel files to the Village Service Director upon completion

