

May 9, 2018

Mr. Chris Huber, P.E.  
City Engineer  
City of Powell  
47 Hall Street  
Powell, Ohio 43065

Subject: DEL-CR609-2.24 Sawmill Parkway, PID 105806  
*Fee Proposal For Design Services*

Dear Mr. Huber,

EMH&T is pleased to provide our fee proposal for professional services related to the Sawmill Parkway improvements. The proposal provided to the City of Powell is based on the provided scope of services meeting from May 1, 2018 associated with the project, and in compliance with ODOT Design Requirements.

The following summary is provided to detail the project understanding and deliverables:

**A. Project Understanding:**

This purpose of this project is to provide the necessary environmental clearance, right of way clearance, and design plans for the pavement repair, curb repair, multi-use path repair, traffic control (roadway and path), and resurfacing of Sawmill Parkway from Seldom Seen Road to Home Road.

EMH&T will provide engineering and surveying services necessary to; manage the engineering effort (including required ODOT coordination), conduct necessary field surveys and prepare construction plans and specifications for the defined project components. Based upon our understanding and discussions to-date, these efforts will be completed in consideration of the following:

Review of Existing Data:

- a. Record Plans – Sawmill Parkway, 2001
- b. Available GIS data as a supplement

Design Standards:

- a. ODOT Specifications

Plan Format:

- a. ODOT Format

Environmental Clearance - NEPA Documentation - C2 Level CE (including the items below)

- a. Property Owner Notification
- b. Ecological Exempt Form
- c. Temporary No Use Section 4(f) Coordination (i.e. Temporary Occupancy for Powell SUP)
- d. Regulated Materials Review (RMR) Form
  - i. To be completed by ODOT District 6
- e. Section 106 Scoping Request Form (cultural resources review)

- f. Completion of C2 level CE using ODOT's EnviroNet Platform (this will include the preparation and upload of all necessary mapping and forms, including Underserved Populations Form, FEMA Firm Map, and General Project Information/mapping).

ROW Determination:

- a) Verify boundary from 2001 record plan and calculate ROW for Sawmill Parkway
- b) Identify encroachments within the corridor and provide summary to the City
- c) If ROW plans are required, a separate fee proposal will be provided.

Survey Limits

- a) Field locate existing curb ramps, utility castings, limits of pavement repair, limits of curb repair, limits of multi-use path repair, and other pertinent information necessary for plan production and basemapping.

Pavement Resurfacing / Full Depth Repairs / Curb Replacement

- a) Field locate via VRS/Survey where applicable
- b) Quantify Repairs in Tabular Format
- c) Include spot curb and/or structures to adjust to grade

Curb Ramps

- a) ODOT Standard Drawing BP-7.1 and per applicable plan note
- b) Detailed curb ramp design is not included

Pedestrian Path Considerations

- a) Signing/OMUTCD Compliance
- b) City to confirm if ornamental option will be applied
- c) ADA compliance for limits of repairs
- d) Keep work limits within ROW

Traffic Control Considerations

- a) Pedestrian heads only at O'Connell
- b) No other signal items will be addressed

Maintenance of Traffic

- a) MOT phasing will be accommodated with plan notes and details as needed
- b) Formal MOT plan sheets will not be provided

Utility Coordination

- a) Private Utility Coordination
- b) Impacts not anticipated based on the maintenance scope of work
- c) Private castings will be tabulated for adjustment to grade by utility owner
- d) Utility Note

ODOT LPA Quarterly Meeting

- a) Attend ODOT meetings through project development
- b) Four (4) LPA meetings anticipated

**B. Project Submittals:**

- a. Preliminary Engineering:
  - i. Working Meeting with City and ODOT:
    - 1. Conceptual Construction Phasing
      - a. Minimize disruption to existing business owners
      - b. Confirm dates for public events; closure restrictions
    - 2. Conceptual MOT considerations
    - 3. Finalize Paving Limits

4. Confirm Limits of Full Depth Pavement Repairs
  5. Confirm ramp repairs
  6. Confirm ROW (per record plans)
  7. Confirm Signal Upgrades/Modifications
  8. Confirm Pedestrian Needs/Upgrades
  9. Verify all work within existing ROW
  10. Public Involvement Confirmation
- b. Combined Stage I/Stage II
    - i. Develop plan components from PE
    - ii. Provide Quantities and Notes
    - iii. Submission and plan production per ODOT Location and Design Requirements and CADD Standards
  - c. Environmental Clearance - NEPA Documentation - C2 Level CE
    - i. Provide environmental clearance as detailed in the Project Understanding noted in Section A.
  - d. Stage III
    - i. Provide Stage III plans following concurrence of Stage II plan acceptance
    - ii. Submission and plan production per ODOT Location and Design Requirements and CADD Standards
  - e. Final Tracings / PS&E Package
    - i. Final Tracings and Plan, Specification, and Estimate (PS&E) Package plans following concurrence of Stage III plan acceptance
    - ii. Submission and plan production per ODOT Location and Design Requirements and CADD Standards
- C. Assumptions and Exclusions:**
- Based upon the presented project understanding and proposed scope of services, the following items have been assumed to not be included in this proposal. This efforts, if deemed necessary can be added to the proposed scope of services for an additional fee:
- a. Boundary Survey, Courthouse Research, and Title Research for the project limits. Existing ROW for Sawmill Parkway will be calculated from found monumentation in the field and record plans. Right of Way will not be calculated for the intersecting streets or project termini, with the exception of the west intersection of Sawmill Parkway and Dolman Drive (to ensure the existing path work can be completed within the existing ROW).
  - b. Right of Way Plan Development
  - c. Geotechnical Investigation/Pavement Cores will not be performed.
  - d. Drainage Design as it is not anticipated that the project will add any storm drainage features.
  - e. Roadway cross sections and profiles will not be provided as all roadway work is assumed to address repairing, not modifying existing features.
  - f. NOI/SWPPP would not be required as the total EDA of the project would be less than 1.0 acres.
  - g. Construction phase services (e.g. contract administration, inspection, etc.) are not included with this proposal.
  - h. The scope of services assumes a total of four (4) ODOT LPA quarterly at ODOT District 6

**D. Compensation:**

EMH&T proposes to provide our professional services as described in the above Scope of Services for the following hourly, not to exceed fee, including direct costs:

Environmental Services.....	\$16,335
Preliminary Engineering.....	\$10,680
Survey, Basemapping, and ROW Determination .....	\$10,880
Stage I/II Design .....	\$21,750
Stage III Design.....	\$8,670
Final Tracings/PS&E Package .....	\$2,570
Utility Coordination and Documentation .....	\$3,190
Project Coordination and Management .....	\$6,720
<b>Base Services Fee (Including Direct Costs):</b>	<b>\$80,795</b>
Contract Documentation and Bid Book.....	\$2,850
Pre-Bid/RFI Support Services .....	\$1,760
<b>If Authorized Services (Including Direct Costs):</b>	<b>\$4,610</b>
<b>Total (Base Services + If Authorized Services):</b>	<b>\$85,405</b>

**E. Schedule:**

EMH&T will begin work upon notice to proceed in alignment with the schedule presented at the May 1, 2018 scope meeting. Following notice to proceed, EMH&T will coordinate with the City and ODOT District 6 to confirm the ELLIS milestone dates for the project.

**F. Invoicing**

Invoices for the aforementioned services shall be due and payable within thirty (30) days of issuance. In the event that payment is not made in a timely manner, the overdue balance shall bear interest at a rate of 1.5% per month.

**G. Right-of-Entry**

It is understood that the Client hereby grants EMH&T, Inc. or represents and warrants (if the site is not owned by the Client) that permission has been duly granted for a Right-of-Entry by our firm, agents, staff, consultants and subcontractors, for the purpose of obtaining field information pertinent to the subject project.

May 9, 2018

**H. Terms and Conditions of Professional Service**

The attached "Terms and Conditions of Professional Service" shall be considered a part of this proposal, and is incorporated in full into this proposal. Unless expressly modified by the parties in writing, this proposal and the accompanying Terms and Conditions of Professional Service shall constitute the final agreement of the parties. By signing this proposal, you are affirming that you have received and reviewed EMH&T's Terms and Conditions of Professional Service, and agree to be bound by the terms and conditions stated therein.

EMH&T appreciates the opportunity to submit this proposal and looks forward to working with you on this project. We are prepared to commence work upon receipt of your acceptance. If you have any questions or require additional information, please do not hesitate to contact me at 614-775-4635 or nschwartz@emht.com

Respectfully submitted,

EVANS, MECHWART, HAMBLETON & TILTON, INC.



Neil Schwartz, PE  
Project Manager

Encl: Terms and Conditions

Cc: File

Acceptance and Authorization To Proceed:

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Authorized Signature

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Agency Name

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Print Name and Date

## **EVANS, MECHWART, HAMBLETON & TILTON, INC.**

### **Terms and Conditions of Professional Service**

These terms and conditions together with any Proposal attached hereto constitute the entire agreement (hereinafter the "Agreement") between Evans, Mechwart, Hambleton & Tilton, Inc. ("EMH&T") and Client as if they were part of one and the same document.

#### **Definitions:**

"EMH&T" shall refer to Evans, Mechwart, Hambleton, and Tilton, Inc., an Ohio Corporation, and its sub-consultants. "Client" shall refer to the person, firm, or corporation that has entered into a contractual relationship with EMH&T providing for the performance of professional services. "Proposal" shall refer to the written scope of services, unit prices, and/or fixed fee provided by EMH&T to Client describing, if applicable, the nature of the services to be performed by EMH&T or its sub-consultants, and the amount and type of compensation to be paid for those services.

#### **Authorization as Representative**

Client authorizes EMH&T to take all actions on Client's behalf which EMH&T, in its sole discretion, believes to be necessary to perform the services described herein and in the Proposal.

#### **Access to Property/Site Conditions**

Client shall obtain, without cost to EMH&T, free right of access for EMH&T personnel to enter upon any land so long as such entry is reasonably necessary to perform said services. Client understands that services provided by EMH&T commonly require drilling, sampling, and other activities that may disrupt use of the premises and may disturb, alter, or damage terrain, crops and/or vegetation. Client waives all claims against EMH&T for any loss or damage to property that is based on EMH&T's disturbance, alteration, or damage to the terrain, crops and/or vegetation, including, but not limited to, the loss of use of property and the cost to restore property. EMH&T also shall have no obligation to restore the site to its original condition.

Client shall provide accurate information to EMH&T as to the size, condition and location of the project site and the location of any underground utilities, utility services, structures, manholes, and underground storage tanks. EMH&T shall be entitled to rely upon the accuracy and completeness of such information.

#### **Standard of Care and Liability**

EMH&T shall exercise reasonable care in the performance of its duties under this Contract. EMH&T makes no other warranties or representations, whether express or implied, regarding the quality of its work under this Agreement. Client agrees that the liability of EMH&T, and that of its officers, directors, employees, agents and subconsultants, arising out of EMH&T's performance hereunder shall be limited to the lesser of EMH&T's applicable insurance coverage available at the time of settlement or judgment, or the fee amount paid to EMH&T for work performed under this Agreement. Neither party shall be liable to the other for any incidental, indirect, special, punitive or consequential damages. Client must bring any cause of action arising under this Contract within one year from the time the cause of action accrues.

EMH&T shall not be liable for the acts or omissions of any person who is performing work on the project site, nor for any instructions given by Client to any person who is performing work on the project site. EMH&T shall not be responsible for any construction means and methods or job site safety.

#### **Confidentiality of Information**

EMH&T shall utilize reasonable measures to maintain confidentiality of Client information related to services described in the Proposal. Client acknowledges that EMH&T may have past or present contractual relationships with individuals or entities practicing the same or related business in the same geographic area as Client, and/or with government agencies having regulatory authority over Client's project.

#### **Ownership of Documents**

Client agrees that all reports, plans, specifications, logs, calculations, estimates, and test data, including electronic media, are EMH&T's instruments of professional service. All such material is and shall remain the sole and exclusive property of EMH&T. Provided Client meets all of its obligations including prompt payment of EMH&T invoices, Client may make and retain hard (i.e. not electronic) copies of such materials solely for use on the project. Such materials are not to be reused, in whole or in part, by Client on any other projects. Client also shall not permit or authorize a third party to use EMH&T's instruments of service on another project without the express consent of EMH&T. EMH&T shall not be required to provide or deliver electronic copies of documents unless specifically required in the Proposal. In the case of any discrepancy between any electronic files and hard copies of drawings or files, hard copies shall control. Due to the easily alterable nature of electronic files, EMH&T makes no warranties, either express or implied, with respect to electronic files if such files are provided.

#### **Indemnity**

To the fullest extent permitted by law, Client agrees to defend, indemnify, and hold EMH&T harmless, including the payment of reasonable attorney's fees to or on behalf of EMH&T, from and against any and all claims, demands, and causes of action for damages of any kind that arise out of or relate to EMH&T's performance under this Agreement and that were caused or allegedly caused by any of the following:

- a) The Client's negligence;
- b) The Client's breach of this Agreement;
- c) The Client's modification and/or misuse of EMH&T's Instruments of Service;
- d) EMH&T's activities that disturbed, altered, or damaged terrain, crops or vegetation;
- e) EMH&T's reliance on geotechnical data provided by Client or its consultant;
- f) EMH&T's use of Client's standards for non-public improvements;
- g) The construction of any non-public improvements that was not observed and inspected by EMH&T pursuant to a construction phase service contract.

#### **Termination and Suspension**

This Agreement may be terminated by either party providing written notice to the other no less than 10 calendar days in advance of the effective date of the termination. Fees, expenses, and other amounts due EMH&T shall be due and payable immediately upon termination including such amounts reasonably incurred by EMH&T in the process of stopping work after the notice of termination is received. If the project is suspended for more than 30 calendar days in the aggregate, EMH&T shall be compensated for services performed and charges incurred prior to receipt of notice to suspend and, upon resumption, an equitable adjustment in fees to accommodate the resulting



remobilization costs. In addition, there shall be equitable adjustment in the project schedule based on the delay caused by the suspension.

#### **Payment**

By accepting the Proposal, Client agrees to pay EMH&T, in the manner described therein, the full amount set out in the Proposal. In the event the Proposal does not provide for a fixed fee or hourly rate schedule for specific services provided, billing shall be on a value basis in accordance with EMH&T Billing Policy. Client shall be invoiced and all invoices shall be due and payable within 30 days of issuance. Unless prior agreement is made in writing, Client is liable for timely payment of invoiced amounts without regard to whether Client has received financing, payments, or income from any source, including funds related to the project for which services were provided by EMH&T. In the event payment is not made in a timely manner, the overdue balance shall bear interest at a rate of 1.5% per month. If the Client fails to make payments when due or otherwise is in breach of this Agreement, EMH&T may suspend or terminate performance of services immediately upon notice to Client. EMH&T shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension/termination. In the event legal action is necessary to enforce the payment provisions of this Agreement, EMH&T shall be entitled to collect from the Client any judgment or settlement sums due, and reasonable attorney fees, court costs, and other expenses incurred by EMH&T in connection therewith, together with the value of the time of EMH&T employees and expenses spent in connection with such collection action.

#### **Hazardous Materials**

Unless otherwise provided in the Proposal, both EMH&T and Client acknowledge that this Agreement does not contemplate the presence at the project site of any hazardous or regulated substances including asbestos. In the event that the presence becomes known of any hazardous or regulated substances on or near the project site, EMH&T may, at its option and without liability for consequential or any other damages, terminate or suspend performance of services under this Contract.

#### **Soil Conditions**

Unless specifically provided for in the Proposal, EMH&T does not provide geotechnical assessment of soil conditions and shall not be liable to Client for any damage or loss related to the soil condition, design of pavement sections, subgrade, underdrainage, backfill, and related items, whether shown or not shown on a plan prepared by EMH&T.

#### **Americans with Disabilities Act (ADA) Requirements**

Client acknowledges that ADA requirements and implementation guidelines change over time and may vary by jurisdiction. Client further acknowledges that ADA compliance involves fine tolerances that are governed by the means and methods of construction. EMH&T will exercise reasonable care in the specification of ADA compliant facilities subject to local standards and requirements. EMH&T makes no warranty or representation, either express or implied, that either public or non-public improvements will satisfy ADA requirements, implementation guidelines, and/or local requirements, regardless of whether or not said improvements are constructed in accordance with instruments of service prepared under this Agreement. Client shall verify compliance with all applicable ADA requirements and guidelines prior to accepting constructed improvements.

#### **Opinions of Probable Construction Cost**

Opinions of the probable cost of performance in accordance with instruments prepared by EMH&T are not warranted to reflect the actual cost to Client of such work. Unless otherwise specified, the construction cost of an entire project means the probable total cost to Client of those portions of the project designed and specified by EMH&T exclusive of the value and cost of EMH&T services, land, rights of way, interest and financing.

#### **Project Submittals**

EMH&T's review of submittals, substitutions, and proposed changes and modifications shall be solely for the purpose of confirming that the submitted information is in general conformance with the design and the project objectives. EMH&T shall not be responsible for variations proposed or implemented by Contractor. Contractor shall remain responsible for satisfaction of all project objectives, codes and criteria.

#### **Performance, Delay, and Force Majeure**

If a schedule is agreed to in the Proposal then EMH&T shall use reasonable efforts to perform according to said schedule. Client acknowledges that EMH&T's performance often involves public agencies and other parties that can have substantial impact on scheduling. Neither party shall hold the other responsible for damages or delay(s) in performance caused by events beyond the control of either party. Such acts or events shall include but not be limited to unusual weather, floods, epidemics, strikes, lockouts, protest demonstrations, and unanticipated site conditions.

#### **Notice, Jurisdiction and Venue**

Any notice to be given under this Agreement shall be in writing and shall be deemed duly given when delivered personally or by courier, or three business days after transmission by email or deposit in the United States mail with postage prepaid, certified or registered, return receipt requested, addressed to EMH&T or Client agent that signed the Proposal. Disputes that cannot be resolved shall be submitted to mediation prior to the initiation of litigation by either party. Client and EMH&T agree to jurisdiction and venue in Franklin County, Ohio for all actions, proceedings or disputes arising from, relating to, or in connection with this Agreement.

#### **Applicable Law and Survival**

The validity, performance, and interpretation of this Agreement shall be according to the laws of the State of Ohio. All obligations arising prior to the completion or termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between EMH&T and Client shall survive the completion of services and the termination of this Contract.

#### **Assignment and Addendum**

Neither party shall assign or transfer its interest in this Agreement without the written consent of the other party. Consent to such assignment or transfer shall not be unreasonably withheld. This Agreement may not be amended except in a writing executed by both EMH&T and Client. No alterations or modifications to the Proposal or these terms and conditions shall be effective unless affirmatively agreed to in writing by both parties.

#### **Binding Effect of Agreement**

This Agreement shall be binding upon and inure to the benefit of the parties thereto, their successors and assigns. If and to the extent that any court of competent jurisdiction holds any provisions or part thereof of this Agreement to be invalid or unenforceable as a final non-appealable order, then the remainder of the Agreement shall not be affected and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.