

VILLAGE OF BUCKEYE LAKE, OHIO
ORDINANCE 2012-02

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH JOBES, HENDERSON & ASSOCIATES, INC. FOR ENGINEERING SERVICES RELATED TO PHASE III OF THE HEBRON ROAD SIDEWALK PROJECT AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Buckeye has received a CDBG grant for new sidewalks along a portion of Hebron Rd, and

WHEREAS, the Village is in need of engineering services to be provided related to the grant; and

WHEREAS, the costs will not exceed the state requirements for the Bid process; and

WHEREAS, Jobes, Henderson & Associates Inc. has provided engineering services for phase I and II in the past and the Village Council believes it is in the Villages best interest to have Jobes, Henderson & Associates Inc. provided this engineering service as well;

NOW, THEREFORE, BE IT ORDAINED by Council of the Village of Buckeye Lake, County of Licking, State of Ohio, a majority of the members concurring:

Section 1: That Council hereby waives any RFQ requirements, and that the Mayor is authorized to enter into a contract with Jobes, Henderson & Associates Inc. for engineering services related to Phase III of the Hebron Road Sidewalk CDBG grant, a copy of the contract shall be attached hereto and incorporated herein.

Section 2: That in order to protect the health, safety and welfare of the citizens of the Village of Buckeye Lake this Ordinance is declared to be an emergency measure, and it shall become effective on its passage and signature of the Mayor, such emergency being the time table for funding through the CBDG program and for the paving of State Route 79.

ADOPTED this 23RD day of January, 2012

Attest: Valerie Hans
Council Clerk, Valerie L. Hans

Charlene C. Hayden
Council President, Charlene Hayden

Date filed with Mayor: January 23, 2012

Date Approved by Mayor: January 23, 2012

Richard E. Baker
Mayor, Richard E. Baker

Approved as to Form: _____
Richard S. Bindley, Solicitor



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January 24, 2012

59 Grant Street
Newark, Ohio 43055

Mayor Rick Baker
Village of Buckeye Lake
PO Box 27
5192 Walnut Street, SE
Buckeye Lake, OH 43008

RE: 2012 CDBG Buckeye Lake Sidewalk Extension

Dear Mayor Baker,

Jobs Henderson & Associates, JHA, is very pleased to provide the Village of Buckeye Lake this proposal for the next phase of the curb and sidewalk renovation project utilizing CDBG funds.

We understand the project will begin where the 2011 curb and sidewalk project terminates and will include curb on both sides of the street, sidewalk behind the curb, and curb along the center boulevard. We will provide survey from the face of the buildings on each side of SR 79 and establish the existing right-of-way along the project area.

We are not providing a new roadway as part of this project. It may however become necessary to include new catch basins in areas where water has been pooling. Additionally, yard drains may need to be included behind some of the walks as houses along the route are at a lower elevation than the existing sidewalks and curbs. The project limits begin where the 2011 project stopped, at Myers Avenue on the eastside of SR 79 and at Fourth Street on the westside of SR 79, and extend approximately 300 feet to the north. The project will terminate at Fifth Street on the westside of SR 79 and at Highland Avenue on the eastside. With this understanding, we propose the following scope of services:

1) Survey

Provide a topographic survey of State Route 79 beginning where the 2011 survey terminated (Myers Avenue) north to 6th Street, meeting the survey completed for the OPWC storm sewer project. Collecting survey data to 6th street will save the village money by mobilizing the survey crew one time and processing the basemap data once. Survey limits will be from face of building to face of building. The topographic survey shall consist of locating physical improvements, drainage, and utilities, as observed by aboveground features or as located by OUPS. Right-of-way for SR 79 will be established for this area.

Fee for Survey.....\$4,100

2) Public Meeting

- a. JHA will prepare a preliminary layout of the proposed project improvements for the public meeting.
- b. JHA will attend the meeting and answer any questions posed about the project. The purpose of the meeting is to notify property owners of the up incoming project, present work agreements (prepared by either the village or county) where project limits fall outside the existing right of way, and to collect comments. The village will notify the public and house the meeting.

Fee for Stakeholder Meeting.....\$1,200

3) Engineering

- a. Based on the stakeholder meeting, JHA will make modifications to the construction plans at the village's request.
- b. JHA will provide construction plans suitable for bidding to include:
 - i. Title Sheet
 - ii. Typical Sections
 - iii. General Notes
 - iv. Quantities
 - v. Plan and Profile Sheets
 - vi. Cross Sections
- c. Prepare a construction cost estimate.
- d. Submit plans to the Village of Buckeye Lake for review and comment.
- e. Finalize plans for bidding.

Fee for Engineering.....\$10,950

4) Bidding

- a. Prepare and submit bid documents (bid tab, cost estimate, and final construction plans) as required by the Licking County Planning Commission.
- b. Attend pre-bid meeting, bid opening and pre-construction meeting.

Fee for Bidding.....\$1,650

5) Construction Administration

- a. Review shop drawings and review pay applications.
- b. Visit the site during pertinent construction activities as requested by the village.
- c. Attend the final project walk through.

Fee for Construction Administration.....\$3,200

Jobs Henderson & Associates proposes the above scope of services for a total lump sum fee of the Twenty-one Thousand, One Hundred dollars (\$21,100). JHA's project invoice will show each of the five line items; Survey, Stakeholder Meeting, Engineering, Bidding, and Construction Administration and the

amount charged each month. This will allow the village to easily see where time is being spent each month on the project.

Additional services approved by the client, will be charged hourly according to our rates current at the time the work is completed. All work will be performed in accordance to the attached Jobes Henderson & Associates, Inc., Terms and Conditions dated December 2008, which are a part of this proposal.

By the signing of this agreement the undersigned takes full responsibility for the payment of the fee. This responsibility cannot be assigned to a third party without the written approval of Jobes Henderson and Associates, Inc. The above fee is due and payable upon completion of the work and/or percent of completion on a monthly basis and is not contingent on real estate closings, transfer of property, or any other outside (third party) agreements.

Working with Jobes Henderson & Associates, Inc. on this project will provide an understanding of the project issues as demonstrated in our scope of services, a timely and accurate completion of the work and overall value to your project stemming from our commitment to providing quality, personalized service to both your client and you. Kindly sign and return one of the originals of the proposal to our office and we will provide you with responsive action adding it to our current workload schedule immediately.

Sincerely,
Jobes Henderson and Associates, Inc.

Susan Derwacter

Susan Derwacter, P.E.
Vice President

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We accept, on this 24th day of January, 2012, the above proposal for professional engineering and/or land surveying services.

Richard E. [Signature]
Signature

Exhibit A
Jobes Henderson & Associates, Inc.
Billing Rates by Staff Classification
Effective January 1, 2011

Staff Classification	Rate Per Hour 2011
Survey Crew	\$ 130.00
Intern	\$ 40.00
CADD I	\$ 35.00
CADD II	\$ 45.00
CADD III	\$ 55.00
Technician I	\$ 50.00
Technician II	\$ 60.00
Technician III	\$ 70.00
Technician IV	\$ 80.00
Technician V	\$ 90.00
Engineer/Surveyor I	\$ 75.00
Engineer/Surveyor II	\$ 85.00
Engineer/Surveyor III	\$ 100.00
Engineer/Surveyor IV	\$ 115.00
Engineer/Surveyor V	\$ 125.00
Engineer/Surveyor VI	\$ 140.00
Engineer/Surveyor VII	\$ 150.00
GIS Specialist	\$ 85.00
GIS Technician	\$ 55.00
Clerical	\$ 40.00
Administrative Assistant I	\$ 55.00
Administrative Assistant II	\$ 80.00

JOBES HENDERSON & ASSOCIATES, INC.
TERMS & CONDITIONS
December 2010

1. SCOPE OF SERVICES

JOBES HENDERSON & ASSOCIATES, INC., hereinafter called "JH&A" shall perform the services defined in this proposal and shall invoice the client at the unit prices or fixed fee as specified in this proposal. JH&A shall provide additional services under this agreement as requested by the CLIENT and shall invoice the CLIENT for those additional services at the rates or revised fee as indicated by the proposal. It is understood that the nature and scope of the services set forth in the proposal and the rate or fee agreed upon for performing such services is based upon information provided by the CLIENT. If unexpected site conditions are encountered which increase the cost of JH&A's work beyond that contemplated in the accepted proposal or if such conditions require additional services beyond the defined scope of work, JH&A will make a reasonable effort to promptly contact the CLIENT. Additional work beyond that contained in the accepted proposal shall be performed by JH&A only upon authorization by the CLIENT, and the CLIENT'S agreement to compensate JH&A at its accepted rate for such additional work.

2. RIGHT OF ACCESS

Free right-of-access shall be granted to the personnel of JH&A and its subcontractors. Exploration equipment and/or JH&A company vehicles may unavoidably disturb, alter or damage the existing vegetation and terrain at the site. JH&A and its subcontractors will take reasonable precautions to limit possible damage, but shall not be liable for such damage and will accept no responsibility to restore the site to its original condition. Conditions unless specific arrangements and reimbursement are contractually agreed upon prior to the initiation of our fieldwork.

3. UTILITIES

It is possible that utility lines may exist in the area of the proposed project. The CLIENT shall provide data which the CLIENT reasonably believes to be accurate as to the location of all underground pipes, cables, conduits, tanks or structures. JH&A is not responsible for damaging underground utilities or other man-made objects that were not called to JH&A's attention or which were not properly located on plans furnished to JH&A.

4. CONSTRUCTION MONITORING

Construction monitoring shall consist of visual observation or equipment of construction work for the purpose of ascertaining that the work is in substantial conformance with the contract documents. Such monitoring shall not be construed as relieving the parties under contract in any way from their obligations and responsibilities under the construction contract. Specifically, monitoring shall not require JH&A to assume responsibilities for the means and methods of construction.

5. CONSTRUCTION KEY

It is understood and agreed the JH&A has no constructive use of the Owner's site; has no control or authority over the means, methods, and sequences of construction; and therefore has no ongoing responsibility whatsoever for construction safety, beyond its own personnel.

6. COMPUTER AIDED DRAFTING AND DESIGN LIMITATIONS

Electronic data and drawing files, submitted as part of this agreement are compatible only with AutoCAD Civil 3D and/or Microstation; operating on an IBM-Compatible PC using Windows XP. JH&A makes no representation as to the compatibility of these files beyond the specified release of the above mentioned software. Hard copies are submitted to CLIENT, to review for a 14-day acceptance period. During this period, the CLIENT may review and examine these plans and any errors detected during this time will be corrected by JH&A as part of the scope of services of this agreement. Any changes requested after the acceptance period will be considered additional services to be performed on a unit rate basis, at the JH&A standard hourly rate schedule.

7. CONSTRUCTION COST AND TIME ESTIMATES

JH&A is not a construction cost estimator or construction contractor. JH&A's opinion of probable construction cost will be based solely upon its own experience and familiarity with the construction industry. JH&A is required to make a number of assumptions as to specific site conditions, methods of construction and market conditions over which JH&A has no control. JH&A does not guarantee that proposals, bids, or construction costs will not vary from opinions of probable cost prepared under this agreement.

8. PERMITS AND APPROVALS

When identified in the Scope of Services, JH&A shall assist the CLIENT in applying for and obtaining permits and approvals typically required by law for projects similar to the one for which JH&A's services are being engaged. Jobes Henderson & Associates, Inc. will follow the guidelines set forth by the various agencies and shall make any technical corrections to the plans that are the fault of Jobes Henderson & Associates, Inc. without cost to the client on lump sum contracts only. Assistance in applying for permit applications by JH&A does not guarantee approval of the permits by the jurisdictional regulatory authorities. Payment for the services outlined in the scope of services is not contingent upon the client permit approval. This assistance shall also not extend to the preparation of research studies, special documentation, special tests, development and delivery of testimony, or any other action which may be required to obtain regulatory approval. These services shall be compensated for as additional services. The costs of all such permits shall be paid by the client.

9. LIMITATION OF LIABILITY

JH&A's total aggregate liability to CLIENT, its shareholders, directors, officers, employees and agents, and any subcontractors of CLIENTS, arising from JH&A's acts, errors or omissions, shall not exceed the amount of the current Errors and Omission Policy by JH&A. JH&A cannot take any responsibility for the adequacy of its design, specifications or design recommendations unless its work includes construction monitoring necessary to determine whether or not the work is in substantial compliance with design specifications or design recommendations. In no event shall JH&A be responsible for any special, incidental, consequential or penal losses or damages arising from any act or omission of JH&A under this agreement.

10. OWNERSHIP OF DOCUMENTS

CLIENT acknowledges JH&A's reports, plans specifications, field data, field notes, calculations, and estimates including electronic media, are instruments of professional service, not products. These documents are and shall remain the sole and exclusive property of JH&A. The CLIENT agrees to hold-harmless and indemnify JH&A against all claims arising out of any reuse of these documents without written authorization of JH&A.

JH&A reserves the right to remove all indication of its ownership and/or involvement in the material from each electronic medium not held in its possession. CLIENT shall retain copies of the work performed by JH&A in CADD form only for information and use by the CLIENT for the specific purpose for which JH&A was engaged. Said materials shall not be used by CLIENT, or transferred to another party, for use in other projects, additions to current project, or any other purpose for which the material was not strictly intended by JH&A without JH&A's express written permission. Any unauthorized modification or reuse of materials shall be at CLIENT'S sole risk, and CLIENT agrees to defend, indemnify, and hold JH&A harmless from all claims, arising out of the unauthorized modification or use of these materials.

11. STANDARD OF CARE

JH&A will strive to perform its services consistent with current professional standards for consultants undertaking similar projects under like circumstances. JH&A makes no other warranty, express or implied, concerning any report, data, operation or document provided to CLIENT by JH&A under this Agreement, or concerning the site or the presence of any hazardous substance thereon, and shall not be responsible for consequential or incidental damages sustained by any party in connection therewith.

12. PAYMENT

RETAINER. –Not Applicable

PAYMENT DUE. The CLIENT will be invoiced monthly, and at the end of the project, for services and expenses. Invoices will be due and payable upon receipt. If payment in full is not received by JH&A within thirty (30) calendar days of the due date, invoices shall bear interest at one and one half (1.5) percent (18% per annum) of the PAST DUE amount per month, which shall be calculated from the

invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

JH&A also reserves the right to terminate its services for failure of CLIENT to make payments in accordance with the provisions of this Agreement (any project whose invoices exceed forty-five (45) days past due until payment is received.) The CLIENT'S obligation to pay for Services contracted in this agreement is in no way dependent upon the CLIENT'S ability to obtain financing, payment, approval of governmental or regulatory agencies, or upon the CLIENT'S successful completion of the Project. JH&A reserves the right to retain possession of CLIENT'S documents until payment is made in accordance with the terms of this Agreement. No retainage of payment for services performed by JH&A is to be held by CLIENT.

COLLECTION COSTS. If the CLIENT fails to make payments when due and JH&A incurs any costs in order to collect overdue sums from the CLIENT, the CLIENT agrees that all such collection costs incurred shall immediately become due and payable to JH&A. Collection costs shall include, without limitation, legal fees, collection agency fees, and expenses, court costs, collection bonds and reasonable JH&A staff costs at standard billing rates for JH&A's time spent in efforts to collect. This obligation of the CLIENT to pay JH&A's collection costs shall survive the term of this agreement or any earlier termination by either party.

PAYMENT TO SUBCONSULTANTS. The Subconsultant shall submit invoices monthly to JH&A, who shall review them promptly. JH&A shall either approve these invoices or notify the Subconsultant of any invoices not approved. JH&A and the Subconsultant shall confer and attempt to resolve such disputed invoices. JH&A acts as the CLIENT's agent and not the subconsultant's.

JH&A shall promptly invoice the CLIENT for the Subconsultant's service in accordance with the billing terms of JH&A's agreement with the CLIENT and shall use reasonable and diligent efforts to collect payment from the CLIENT. JH&A shall pay the Subconsultant within 30 calendar days after receiving payment from the CLIENT. When JH&A receives payment for the subconsultant's fees, JH&A shall pay the Subconsultant for all undisputed invoices within a reasonable period of time after the completion of the Subconsultant's services under this agreement. JH&A acts as a conduit with regard to any payments made to subconsultants.

SET-OFFS, BACKCHARGES, DISCOUNTS. Payment of invoices shall not be subject to any discount or set-offs by the CLIENT, unless agreed to in writing by JH&A. Payment to JH&A for services rendered and expenses incurred shall be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

DISPUTED INVOICE. If the client objects to any portion of an invoice, the CLIENT shall notify JH&A in writing within thirty (30) calendar days of receipt of the invoice. The CLIENT shall identify in writing the specific cause of the disagreement and the amount in dispute, and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement. Any dispute over invoiced amounts due that cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved within thirty (30) days in

accordance with the Dispute Resolution provision of this Agreement. Interest as stated above shall be paid by the CLIENT on all disputed invoice amounts that are subsequently resolved in JH&A's favor and shall be calculated on the unpaid balance from the due date of the invoice.

This proposal is good for ninety (90) days from the date of this proposal. After this time Jobes Henderson and Associates, Inc., reserves the right to revise our rates. Unless otherwise specified in writing JHA will send invoices to the address and individual listed at the top of this proposal.

13. SATISFACTION WITH SERVICES

PAYMENT of any invoice by the CLIENT to JH&A shall be taken to mean that the CLIENT is satisfied with our services to the date of payment and is not aware of any deficiencies in those services.

14. INSURANCE

If the owner wishes to be named as an additional insured on a primary and non contributory basis you must notify us in advance and it will be done at the owner's expense.

15. CONFIDENTIALITY

JH&A agrees to maintain the confidentiality of the work performed under this agreement, and shall not disclose any such information to any party other than the CLIENT without the express written or oral authorization of CLIENT.

16. DELAY AND FORCE MAJEURE

In the event that JH&A's work is interrupted due to unusual or unanticipated causes outside of its control, JH&A shall be compensated for the additional labor, equipment, and other costs associated with maintaining its work force and equipment availability during such interruption, or at the option of the CLIENT, for such similar charges that are to be incurred by JH&A for shutting down the project and subsequent re-start up costs.

Except for the foregoing provision, neither party shall hold the other responsible for damages or delays in performance caused by force majeure, acts of GOD, or other events beyond control or either party which could not have been reasonably foreseen or prevented. Such acts or events shall include unusual weather, floods, epidemics, war riots, strikes, lockouts, protest demonstrations, unanticipated site conditions and instability. Any delay within the scope of this provision which cumulatively exceeds 45 days shall, at the option of either party, make the Agreement subject to termination or renegotiation.

17. SUSPENSION OF SERVICES

If the CLIENT fails to make payments when due or otherwise is in breach of this agreement, JH&A may suspend performance of services upon seven (7) calendar days notice to the CLIENT. JH&A shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of this Agreement by the CLIENT. Upon payment in full by the CLIENT,

JH&A shall resume services under this agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for JH&A to resume performance.

18. TERMINATION

Either the CLIENT or JH&A may terminate this agreement for reasons identified elsewhere in this agreement. In the event termination becomes necessary, the party effecting the termination shall so notify the other party in writing, and termination shall become effective within seven calendar days after receipt of the termination notice. The CLIENT shall be obligated pursuant to the terms of the agreement for all services performed by JH&A on the CLIENT's behalf. In the event of termination by CLIENT, JH&A may complete and be compensated for such analyses and records as are necessary to complete its files and may also complete a report on the Services performed to the date of notice of termination.

19. DISPUTE RESOLUTION

All claims, disputes and other matters in controversy between JH&A and CLIENT arising out of this Agreement shall be submitted to mediation before and as a condition precedent to other remedies provided by law.

20. NOTICES

Any notice to be given under this Agreement shall be in writing and shall be deemed given and received when delivered in person, deposited in the United States Mail, or by Courier, to the responsible project manager under this agreement at the appropriate address for JH&A or CLIENT as appropriate.

21. APPLICABLE LAW

The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

22. SEVERABILITY

If any provision of this Agreement shall to any extent be invalid, the remainder of this Agreement shall be valid and enforced to the fullest extent permitted by law.

23. AMENDMENT

This Agreement may not be amended except in a writing executed by both JH&A and CLIENT. No alterations or modifications to these Terms & Conditions shall be effective unless affirmatively contained in the signed proposal.

24. AS-BUILT DRAWINGS

Any "as-built" drawing or record drawing has been prepared based upon information in part by others. While this information is believed to be reliable, Jobes Henderson and Associates, Inc. cannot assure its accuracy, and is thus not responsible for the accuracy of this record drawing or for any error or omission, which may have been