

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2016 – 074

By: Mayor Perciak and Mr. Daymut

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES IN CONNECTION WITH THE 2016 PEARL ROAD REPAIR AND RESURFACE PROJECT (Cuy.-42-1.98 and PID No. 100240), AND DECLARING AN EMERGENCY.

WHEREAS, by and through Resolution No. 2015-188, the Mayor advertised a request for qualifications and proposals for construction management services, including construction contract administration and inspection services for the construction of the City's 2016 Pearl Road Repair and Resurface Project (Cuy.-42-1-98 and PID No. 100240) (the "Project"); and

WHEREAS, Council previously, through Ordinance No. 2015-164, approved and authorized the Mayor to enter into a LPA Federal Local-LET Project Agreement with the Ohio Department of Transportation for funding of a portion of the Project; and

WHEREAS, pursuant to Revised Code Section 9.332, the Mayor and City Engineer have evaluated the various proposals received for construction management services, have determined the most qualified proposal, and the City has selected and ranked no fewer than three firms which it considered to be most qualified to provide the required professional construction management services; and

WHEREAS, the City has negotiated a contract with **GREENMAN-PEDERSEN, INC.**, the firm ranked most qualified to perform the required services in accordance with law, which has been approved by the Ohio Department of Transportation as Agreement No. 19543, and which is now subject to approval by Council; and

WHEREAS, the City is desirous of proceeding to award and enter into a contract for such services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA, AND STATE OF OHIO:

Section 1. That this Council hereby finds and determines that the proposal submitted by **GREENMAN-PEDERSEN, INC.** for professional construction management and related services in connection with the 2016 Pearl Road Repair and Resurface Project (Cuy.-42-1.98 and ODOT PID No. 100240), is in compliance with the applicable requirements for proposals and contracts established by the laws of the City and the State of Ohio, as well as those requirements set forth in the City's Request for Qualifications and Proposals; that said firm is the most qualified firm to perform the construction management services in connection with the Project; that the proposal is

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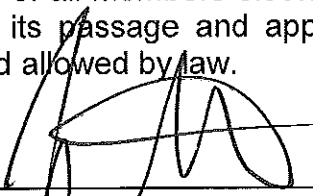
the best proposal; that after negotiations, the compensation being requested is deemed to be fair and reasonable; and that the criteria set forth in Ohio Revised Code Sections 9.33 and 9.331–.333 for the selection of professional construction management services and negotiation of a contract have been met. All other proposals for this contract are hereby rejected; and any informalities or minor defects in the proposal process are hereby waived.

Section 2. That, therefore, the Mayor be and is hereby authorized and directed to enter into a contract with **GREENMAN-PEDERSEN, INC.** to provide construction management and related services in connection with the 2016 Pearl Road Repair and Resurface Project, in accordance with the terms and conditions set forth in the firm's proposal on file with the City Engineer and the contract attached hereto as Exhibit "1" and incorporated herein by reference, which in all respects is hereby approved, and in an amount not to exceed One Hundred Seventy-Nine Thousand Nine Hundred Seventeen Dollars and 00/100 (\$179,917.00).

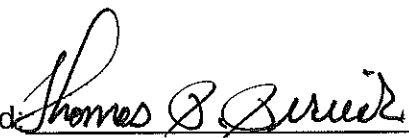
Section 3. That the funds necessary for this Ordinance have been appropriated and shall be paid from the General Capital Improvement Fund and any other Federal, State or local funds which are available for this purpose.

Section 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that it is immediately necessary to enter into said Agreement in order to commence the aforesaid road improvement Project in a timely manner, meet the obligations imposed for any State and Federal grant funding, to improve City roadways and promote highway safety, and conserve public funds. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.



President of Council

Approved: 

Mayor

Date Passed: April 4, 2016

Date Approved: April 5, 2016

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	<u>Yea</u>	<u>Nay</u>
Carbone	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Daymut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DeMio	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dooner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schonhut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Short	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Southworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attest: Aimee Pientka
Clerk of Council

ORD. No. 2016-074 Amended: _____
1st Rdg. 04-04-16 Ref: _____
2nd Rdg. Suspended Ref: _____
3rd Rdg. Suspended Ref: _____

Pub Hrg. _____ Ref: _____
Adopted: 04-04-16 Defeated: _____

CITY OF STRONGSVILLE
AGREEMENT NO. 19543

This Agreement No. 19543 entered into this _____ day of _____, 2016, by and between City of Strongsville, acting by and through the Mayor, hereinafter referred to as the City, and Greenman-Pedersen, Incorporated, hereinafter referred to as the Consultant, with an office located at 601 West Bagley Road, Berea, Ohio 44107.

WITNESSETH:

That the City and the Consultant, for the mutual considerations herein contained and specified, have agreed and do hereby agree as follows:

CLAUSE I - WORK DESCRIPTION

The Consultant agrees to perform construction contract administration, inspection and testing services as may be authorized by the City for the repair and resurfacing of Pearl Road (US-42) in the City of Strongsville in Cuyahoga County, Ohio, identified as CUY-42-1.98.

CLAUSE II - INVOICE & PROJECT SCHEDULE

The City and the Consultant agree to the attached Invoice and Project Schedule including the overall Agreement length, and Scheduled Submittal dates and Review Times set out in the Project Schedule.

The Consultant agrees to submit the completed Invoice and Project Schedule transmittal letter together with the updated Invoice and Project Schedule for all billing purposes for all Parts of this Agreement every thirty (30) days as follows:

- (a) Signed original transmittal letter and invoice (IPS) and three (3) copies of same.

CLAUSE III - PRIME COMPENSATION

The City agrees to compensate the Consultant for the performance of the Work specified in this Agreement as follows:

Part 1: Construction Contract Administration, Inspection and Testing Services

Rates of Pay Compensation as authorized for each Classification delineated below plus non-salary direct costs. The maximum prime compensation shall not exceed One Hundred Seventy-Nine Thousand Nine Hundred Seventy Dollars (\$179,917.00). All costs shall be included in the maximum prime compensation.

Agreed Rates of Pay are established as follows:

<i>Firm Name</i>	<i>Classification</i>	<i>Hourly Rate</i>	<i>Overtime Premium Rate</i>
Greenman-Pedersen, Inc.	Project Engineer/Manager	\$166.00	N/A
Greenman-Pedersen, Inc.	Project Inspector 1	\$73.00	\$106.00
Greenman-Pedersen, Inc.	Project Inspector 2	\$77.00	\$111.00
Greenman-Pedersen, Inc.	Project Inspector 3	\$83.00	\$120.00
Greenman-Pedersen, Inc.	Scheduler/Const Engineer 1	\$103.00	N/A
Greenman-Pedersen, Inc.	Administrative	\$44.00	\$64.00
ConstructAbility, Inc.	Project Controls	\$87.00	N/A
ConstructAbility, Inc.	Construction Inspector 1	\$61.00	\$74.00
ConstructAbility, Inc.	Construction Inspector 2	\$82.00	\$100.00
ConstructAbility, Inc.	Construction Inspector 3	\$89.00	\$108.00
Geo-Sci Laboratory, Inc.	Project Engineer	\$86.00	N/A
Geo-Sci Laboratory, Inc.	Inspector	\$55.00	\$80.00
Geo-Sci Laboratory, Inc.	Laboratory/Batch Plant Technician	\$49.00	\$72.00
Geo-Sci Laboratory, Inc.	Field Technician	\$41.00	\$60.00

The total maximum prime compensation of all Parts which may be authorized for the subject Agreement is One Hundred Seventy-Nine Thousand Nine Hundred Seventy Dollars (\$179,917.00).

Prime Compensations, only as agreed and by proper modification of this Agreement and authorized in writing by the City, may be added to or subtracted from under the authority of the Department of Transportation's "Specifications for Consulting Services, 2010 Edition".

CLAUSE IV - INCORPORATION BY REFERENCE

The following documents, or specified portions thereof, are hereby incorporated into and made a part of this Agreement as though expressly rewritten herein:

- (a) The Department of Transportation's "Specifications for Consulting Services, 2010 Edition".
- (b) The attached Scope of Services.
- (c) The Invoice & Project Schedule.

- (d) The most current Office of Budget and Management Travel Policy as published on the State of Ohio Website (<http://obm.ohio.gov/MiscPages/TravelRule>).

CLAUSE V - GENERAL PROVISIONS

Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

Additionally, it is expressly understood by the parties that none of the rights, duties and obligations described in this Agreement shall be binding on either party until such time as the expenditure of funds is certified by the Director of Budget and Management, pursuant to Section 126.07 of the Ohio Revised Code.

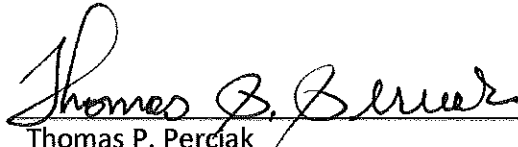
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written by affixing the signature of the duly authorized officer of Consultant and the signature of the Mayor.

GREENMAN-PEDERSEN, INCORPORATED

By: _____

Title: _____

CITY OF STRONGSVILLE



Thomas P. Perciak
Mayor

APPROVED AS TO FORM:

By: 

Title: Neal M. Jamison, Law Director, City of Strongsville

- (e) Professional Liability Insurance (including errors and omissions) in an amount of \$1,000,000 per claim and annual aggregate, provided that such coverage shall be maintained for a period of not less than two (2) years after completion of the construction of the Project.

The foregoing policies shall be with responsible carriers qualified to do business within the State of Ohio, and shall contain a provision that coverage will not be cancelled or failed to be renewed until at least (30) days' prior written notice has been given to the City. Certificates of Insurance showing such coverage to be in force shall be filed with the City through its Director of Finance prior to commencement of the Services and shall be in proper form.

Consultant hereby agrees to maintain the insurances described above during the term hereof. If Consultant fails to furnish and maintain the insurances required, the City may purchase such insurance on behalf of Consultant, and Consultant shall pay the cost thereof to the City upon demand and shall furnish to the City any information needed to obtain such insurance.

5. CONSULTANT'S INDEMNIFICATION. Consultant hereby agrees to defend, indemnify and hold harmless the City and any of its officers or employees from all loss, damage, cost or expense, including but not limited to attorneys fees and expert witness fees, arising out of or in any way caused by:

- (a) Consultant's negligent performance of services under this Agreement;
- (b) Claims, suits or actions of every kind and description when such suits or actions are caused by negligent, willful and/or wanton acts, and/or errors or omissions of Consultant, its officers, employees, consultants, subconsultants, and/or subcontractors; or
- (c) Injury or damages received or sustained by any party because of the negligent willful and/or wanton acts, and/or errors or omissions of Consultant, its officers, employees, consultants, subconsultants, and/or subcontractors.

Consultant shall include a same or similar indemnity provision in each of its contracts with any approved consultant, subconsultant, and subcontractor, which requires that such person or entity defend, indemnify and hold harmless the City, its officers and employees from all loss, damage, cost, or expense to the extent caused by the negligence, error, omission, or willful or wanton misconduct of such person or entity.

6. POWERS OF THE CITY. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of the City, including, but not limited to, the City's authority to enter into a similar agreement with any other entity.

7. NONDISCRIMINATION. Consultant agrees to comply with all applicable federal, state, county and local laws regarding nondiscrimination, and specifically agrees not to discriminate against any employee or applicant for employment because of race, color, religion, creed, gender, national origin, or disability.

8. **NON-WAIVER.** Neither the waiver by either party to this Agreement of any breach of any agreement, condition or provision of this Agreement, nor the failure of either party to seek redress for violation of, or to insist upon strict performance of any agreement, condition or provision, shall be considered to be a waiver of the agreement, condition or provision or of any subsequent breach of any agreement, condition or provision. No provision of this Agreement may be waived except by written agreement of the party to be charged.

9. **NOTICES.** Any notice or other communication required or permitted hereunder shall be deemed to be properly given when sent by certified or registered mail, postage prepaid, return receipt requested, or when hand delivered, and addressed as follows:

If to City:
City Engineer
City of Strongsville
16099 Foltz Parkway
Strongsville, Ohio 44149
with a copy to the Law Director

If to Consultant:
Daniel F. Castrigano, P.E.
Vice President
Greenman-Pedersen, Inc.
601 West Bagley Road
Berea, OH 44017

Either party may at any time, by giving ten (10) days' written notice to the other party, designate any other address in substitution of the foregoing address to which the notice or communication shall be transmitted.

10. **PARAGRAPH HEADINGS.** The paragraph headings contained herein are merely for convenience and reference, and are not intended to be a part of this Agreement, or in any manner to limit or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.

11. **LEGAL RELATIONSHIP OF PARTIES.** It is expressly understood and agreed that during the term of this Agreement, Consultant shall be engaged in the provision of services solely as an independent contractor, and shall have no right to control City's officials, employees, agents, contractors, or representatives. It is further expressly understood that Consultant's officers, employees, agents, contractors, and representatives are acting solely and exclusively under the direction and control of Consultant. Nothing in this Agreement shall be deemed to create or establish a relationship of employment, agency, or representation between the City and Consultant, its officers, employees, agents, contractors or representatives; and Consultant shall have no authority whether express, implied, apparent or otherwise to bind or obligate the City in terms of any third parties.

12. **NO PARTNERSHIP.** Nothing contained herein shall make, or be deemed to make, the City and Consultant a partner of one another, and this Agreement shall not be construed as creating a partnership between the parties.

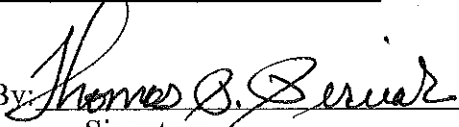
13. **COMPLIANCE WITH CERTAIN STATE LAWS.** Consultant is in compliance with and shall abide by the reporting provisions of O.R.C. Sections 9.23-9.239 regarding reporting obligations with respect to the State Auditor; and also with respect to the amended requirements of O.R.C. Section 3517.13 regarding limitations and restrictions on contributions to the campaign committees of certain City officials.

14. **SINGULAR AND PLURAL.** Wherever the context shall so require, the singular shall include the plural and the plural shall include the singular.

15. **BINDING EFFECT AND SUCCESSORS AND ASSIGNS.** This Agreement and all of the covenants hereof shall be binding upon and inure to the benefit of both the City and Consultant, and their respective partners, successors, permitted assigns and legal representatives. Neither the City nor Consultant shall have the right to assign or transfer its interests or obligations hereunder without the advance written consent of the other party.

Acceptance of the terms of this Addendum to Agreement No. 19543 is acknowledged by both Consultant and City through the following signatures of their respective authorized representatives.

“CITY”
CITY OF STRONGSVILLE

By: 
Signature

Thomas P. Perciak, Mayor
Typed Name/Title

April 5, 2016
Date of Signature

“CONSULTANT”
GREENMAN-PEDERSEN, INC.

By: _____
Signature

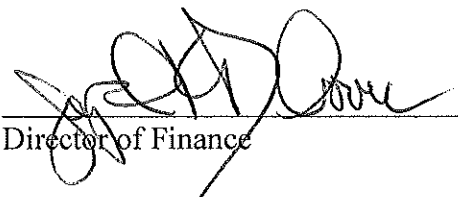
Daniel F. Castrigano, P.E., Vice President
Typed Name/Title

Date of Signature

CERTIFICATION OF FUNDS

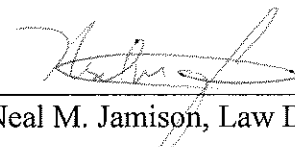
I, Joseph K. Dubovec, Director of Finance of the City of Strongsville, Ohio hereby certify that the money to meet this Agreement has been lawfully appropriated for the purpose of the Agreement and is in the treasury of the City, or is in the process of collection to the credit of the appropriate fund free from prior encumbrance.

April 5, 2016
Date


Director of Finance

CERTIFICATE OF LAW DIRECTOR

I hereby certify that I have reviewed and approved the form of the foregoing Contract this 5th day of April, 2016.


Neal M. Jamison, Law Director