

RESOLUTION NO. 27-03
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Susan W. Limesch ON THE
16th DAY OF June, 2003.

A RESOLUTION RATIFYING THE ACTION TAKEN BY
THE CITY MANAGER TO ENTER INTO AN AGREEMENT
BETWEEN THE CITY OF CENTERVILLE AND TEC
ENGINEERING, INC. FOR A SIGNAGE INVENTORY
STUDY.

WHEREAS, The City recognizes the need to verifiably and correctly place and
maintain signage on a continuing basis and improve the traffic safety and reduce traffic
injuries/deaths in the City of Centerville, and

WHEREAS, An agreement has been executed with TEC Engineering, Inc. to
develop an inventory, update, and plan for traffic signage needs to ensure that all road
signage on the city's streets are identified and meet minimum maintenance and
installation requirements.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY
RESOLVES:

Section 1. That the action taken by the City Manager be and is hereby
ratified to enter into an agreement between the City of Centerville and TEC Engineering,
Inc. for a City-wide Signage Inventory, a copy of which is attached hereto and
incorporated herein as Exhibit "A".

Section 2. That this Resolution shall become effective immediately upon
passage.

PASSED this 16th day of June, 2003.

Sally D. Beals
Mayor of the City of Centerville, Ohio

ATTEST:

Marilene Saugh
Clerk of Council, City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 27-03, passed by the Council of the City of Centerville, Ohio, on the 16th day of June, 2003.

Maureen J. McLaughlin
Clerk of Council

Approved as to form, consistency
with existing Ordinances, the Charter
and Constitutional Provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

PROFESSIONAL SERVICES AGREEMENT

EXHIBIT "A"

THIS AGREEMENT, is made and entered into this 18th day of April 2003 by and between City of Centerville, whose address is 7970 S. Suburban Dr, Centerville, Ohio 45458 ("Centerville") and TEC Engineering, Inc. ("Service Provider").

SECTION 1. GENERAL DESCRIPTION OF PROJECT

Centerville hereby retains Service Provider to perform and Service Provider hereby agrees to perform the professional services described in Section 2 according to the terms and conditions outlined herein. The project for which such services will be provided is generally described as follows: Centerville City-wide Signage Inventory,

SECTION 2. GENERAL DESCRIPTION OF PROFESSIONAL SERVICES

The Professional Services to be provided by Service Provider are identified below and are more fully described in the "Contract" (Attachment 1 to this Agreement), which is incorporated herein by reference (the "Services"):

Provide all services necessary and as described in Attachment in order to provide as-needed engineering services for the City of Centerville.

Any services beyond those identified in this Agreement shall be considered Additional Services as more fully described in Section 6.16 and shall be authorized in writing by an Addendum to this Agreement executed by both parties.

SECTION 3. CONTACT PERSON

Centerville and Service Provider shall each appoint a contact person who shall have the authority to act on behalf of each party, including, by way of illustration and not by way of limitation, to define the scope of the Services, transmit instructions, receive information, and recommend changes in Professional Services. Any additional or revised fees must be approved by City Council. The contact person for Centerville shall be: Mary Lou Pence, City Public Services Operations Manager and the contact for the Service Provider shall be: Frank E. Douglas, Director Northern Operations.

SECTION 4. DATE OF COMMENCEMENT

The Date of Commencement for Services provided pursuant to this Agreement shall be the date on which the Agreement is fully executed or as agreed in writing by the contact persons identified in section 3 above, whichever is later. The Service Provider shall perform its services with due and reasonable diligence consistent with sound professional practice.

SECTION 5. COMPENSATION AND DURATION

This Agreement shall remain in effect and the Service Provider shall provide all services necessary as provided herein on or before September 30, 2003. If services are delayed as a result of actions of the Service Provider beyond the above date, Service Provider shall be considered to be in default of the Agreement. Upon any default by the Service Provider, Centerville may, at its sole discretion, in addition to any other remedies provided at law or in equity, terminate the Agreement, withhold outstanding compensation, and/or seek reimbursement for cost and time lost as a result of the Service Provider's inability to complete the Services by the agreed to completion date. The Service Provider shall be entitled to receive a sum not to exceed \$13,500.00 for providing the all requested Services and Software.

SECTION 6. TERMS AND CONDITIONS

6.1 Delayed Services: If services are delayed as a result of the Service Provider, Centerville may seek remedial action as described in Section 5.

If services are disrupted or delayed as a result of the actions of Centerville, the duration date specified in Section 5 of this Agreement shall be modified. If services are delayed for more than 30 days, the fees may be equitably renegotiated and mutually agreed to be the parties hereto.

If services are delayed as a result of occurrences beyond the control of Centerville or the Service Provider for more than 30 days, this contract and completion date may be extended upon mutual agreement of the parties hereto.

6.2 Invoice Procedures and Payment: Service Provider shall submit invoices to Centerville for Services rendered during each invoicing period, which shall generally be on a monthly basis. The amount of each invoice shall be determined on the actual work performed method whereby the Service Provider will provide the total number of hours or percentage of Services accomplished during the invoicing period. Such invoices shall also separately list reimbursable expenses, if applicable. Such invoices shall be submitted not more frequently than monthly by Service Provider and shall be due and payable by Centerville according to Centerville 's standard billing procedure.

Centerville hereby acknowledges that unpaid invoices shall accrue interest at 1.5 percent per month after such invoices have been outstanding for over 60 days of receipt of the invoice; provided, however, that no interest will be assessed when a valid dispute has arisen between the parties.

6.3 Expert Witness Services: It is understood and agreed that Service Provider's services under this Agreement do not include any participation in any litigation. Should such services be required, a Professional Service Agreement Addendum may be negotiated between Centerville and Service Provider describing the services desired and providing a basis for compensation to Service Provider.

6.4 Opinion of Probable Construction Cost/Cost Estimates: Centerville hereby acknowledges that Service Provider cannot warrant that opinions or estimates of probable construction or operating costs provided by Service Provider will not vary from actual costs incurred by Centerville. However, Service Provider shall be bound by and perform this service consistent with sound professional practice.

6.5 Indemnification: Service Provider agrees to indemnify and hold harmless Centerville, its agents, officials and employees, against any and all suits or claims that may be based on any injury to persons or property to the extent that such suits or claims are a result of an negligent or wrongful error, omission or act of Service Provider or any person employed by Service Provider.

6.6 Insurance: Service Provider shall carry, on all operations hereunder, workers compensation insurance, commercial general liability insurance, professional liability insurance, and automobile liability insurance. Centerville must approve any such insurance and Centerville shall be named as a co-insured under any such policy. Centerville agrees to limit TEC Engineering's liability to Centerville and to all construction contractors and subcontractors on the project, due to TEC Engineering's professional negligent acts, errors, or omissions, such that the total aggregate liability of TEC Engineering to those named shall not exceed One Hundred Thousand (\$100,000) dollars or TEC Engineering's total fee charged for services rendered on this project,

whichever is greater, unless an additional fee based on the liability amount is paid to TEC Engineering prior to commencement of the work by TEC Engineering Inc. Service Provider must provide Centerville a current copy of each insurance policy prior to commencement of Services. Service Provider shall continue to provide current insurance through the duration of this Agreement.

6.7 Assignment/Third Parties: Neither Centerville nor Service Provider will assign or transfer its interest in this Agreement without the written consent of the other. Service Provider, however, does reserve the right to subcontract any portion of the Services with prior written consent of Centerville. Service Provider shall insure and be liable for the work of its subcontractors. Nothing in this Agreement shall be construed as creating any rights, benefits, or causes of actions for any third party against Centerville.

6.8 Suspension, Termination, Cancellation, or Abandonment: Centerville may, upon written notice, terminate this agreement at any time for its convenience. In the event the Project identified in this Agreement is suspended, canceled, or abandoned by Centerville and except as expressly provided otherwise in Section 5, or upon any other default by Service Provider under this agreement, shall be compensated for the Services provided and reimbursable expenses incurred up to the date of suspension, cancellation, or abandonment. If Centerville delays or suspends Service Provider's services for more than 30 days, then Service Provider may terminate this Agreement upon giving fifteen (15) days' written notice. Centerville may terminate this Agreement upon the Service Provider filing for bankruptcy, insolvency, or assignment for the benefit of creditors. Except as expressly provided otherwise in this Agreement, either party may terminate this Agreement for cause upon 30 days' written notice of a substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. The party receiving such termination notice shall have the right to correct its failure within seven days of receiving said notice.

Pursuant to Section 5 of this Agreement, Service Provider shall not be obligated to commence services until this Agreement is fully executed. If Centerville fails to execute this Agreement within 30 days of the date of receipt by Centerville, Service Provider shall have the right to revise fees or revoke any proposal related to the services.

6.9 Disputes: If a dispute between the parties arises out of or relates to this Agreement, or the breach thereof, then the parties agree to make a good faith effort to settle the issue through direct discussion between the parties prior to having recourse to a judicial forum. In the event of any litigation, the prevailing party shall be entitled to recover reasonable attorneys' fees.

6.10 Standard of Care: Service Provider agrees to perform services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Service Provider agrees to perform services in accordance with any applicable federal, state, or local law or regulation.

6.11 Waiver: Any failure by Centerville to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Centerville may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

6.12 Relationship: Service Provider is an independent contractor to Centerville in performing its Services under this Agreement and is not an employee, agent, joint-venturer, or partner of Centerville.

6.13 Centerville's Responsibilities: Centerville shall provide Service Provider all pertinent data, criteria, and information including but not limited to design objectives and constraints, space and use requirements, operational information, budgetary limits, flexibility and expandability requirements, and any other available project data such as sketches, reports, prior designs, soil, tests, surveys, and plans. Service Provider shall be entitled to rely on any and all information provided pursuant to this provision. Centerville shall review Service Provider's work thoroughly and promptly, provide direction as necessary, and, if at any time, Centerville becomes aware of any defect, shall give notice of such defect in the work or services provided. Centerville shall provide access to the project site

6.14 Severability: Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect.

6.15 Electronic Documents: Service Provider shall not make or permit to be made any copies or any modification to electronic media, plans, and specifications without the prior written authorization of Centerville. Centerville hereby authorizes Service Provider to make copies or permit its constituents to make copies as contemplated by or in the attached Scope of Services. Centerville shall not be liable for any erroneous information supplied by Service Provider or third party that Service Provider relies upon and incorporates into an electronic file, or other documents, plans, and specifications.

6.16 Addendum/Additional Services: Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party. The Agreement also may be modified by a formal, written amendment, change order or work change directive.

In addition, the requirements of this Agreement may require minor variations and deviations in the work or services provided. This work shall not be considered to be additional services outside of the scope of Section 2 work by either party and may be authorized by the City Engineer's approval. Notwithstanding the foregoing, items of work and additional materials not included in the estimate of the original Agreement and in an amount in excess of \$13,500.00 shall be authorized only in written modifications to the Agreement.

Centerville may, at its sole discretion, authorize alterations or modifications in the specifications and plans or eliminate from the Project any portion thereof. Before the Service Provider revises any work or service, the change in price for the revised services shall have been agreed upon in writing.

6.17 Governor's Highway Safety Office Provisions (GHSO): The provisions listed below are incorporated into this contract as required by the GHSO for contracts of this type.

Note: For clarification purposes in these provisions, the word contractor is the agency, vendor, individual, etc., that the sub-grantee is contracting with for the desired scope of service.

PROVISION 1 Security Agreement Disclaimer

The sub-grantee warrants that he has not employed or retained any company or person other than a bona fide employee working solely for the Consultant to solicit or secure this agreement, and that he has not paid or has not agreed to pay any fee, commission, percentage, brokerage fee, or other considerations contingent upon or resulting from the awarding or making of this agreement.

For breach or violation of this warrant, the State, in conjunction with the sub-grantee, shall have the right to annul this agreement without liability, or in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

Either party may terminate this agreement by giving the other party written advance notice of its election to do so. If the contract is canceled under this provision, the sub-grantee shall reimburse the Contractor for all work completed and in progress to that date. Upon termination and final payment, all design materials, artwork any other items/products developed by the Contractor shall become the property of the sub-grantee.

PROVISION 2 Reporting Requirements

Performance reports will be required to be submitted by the contractor as required by the sub-grantee. Performance reports shall include brief information on: a comparison of actual accomplishments to the objectives established for the period and can include a computation of the cost per unit of output, the reasons for slippage if established objectives were not met, additional pertinent information including analysis and explanation of cost overruns or high unit cost.

PROVISION 3 Patent Rights/Copyrights

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 or copyright in the United States or any other country for any product resulting from this agreement unless such disclosures approved in writing by the sub-grantee prior to application for the patent/copyright. In the event that such patent/copyright is obtained, the Contractor shall provide the sub-grantee written authorization for the sub-grantee and any other person, agency or instrumentality contributing financial support to the work covered by this agreement to make use of the subject of the said patent/copyright disclosure without payment.

PROVISION 4 Audit Practices

The contractor agrees access by the grantee, the sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

PROVISION 5 Equal Employment Opportunity (E.E.O.)

The sub-grantee and contractor must abide by all E.E.O. regulations, including but not limited to, Executive Order 11264 of September 24, 1965 "Equal Employment Opportunity- as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations. (41 CFR Chapter 60) and. Section - 3(a)(2)(C) of the UMT Act of 1934, as amended, which prohibits the use of exclusionary or discriminatory specifications.

PROVISION 6 Certification Regarding lobbying

None of the funds under this program will be used for any activity specifically designed to urge or influence a Federal, State, or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any Federal, State, or local legislative body. Such activities include both direct and indirect (e.g. "grassroots") lobbying activities, with one exception. This does not preclude an official whose salary is supported with NHTSA funds from engaging in direct

communications with State or local legislative officials, as long as this activity is documented in writing.

PROVISION 7 Labor Relations

The sub-grantee and contractor must comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

PROVISION 8 Energy Policy

The sub-grantee and contractor must imply mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L 94-163).

PROVISION 9 Assurances Regarding the Parent Agreement

The provision of this agreement includes all of the terms and conditions and assurances of the parent agreement between the Ohio Department of Public Safety and the sub-grantee and is attached hereto as an Appendix. (The sub-grantee shall attach the parent agreement.)

PROVISION 10 Record Retention

The sub-grantee and contractor shall retain all required records for three years after grantee or sub-grantees make final payments and all other pending matters are closed.

PROVISION 11 Negligence Disclaimer

The sub-grantee and contractor shall save the Governor's Highway Safety Office, Ohio Department of Public Safety, and the Federal Government (e.g. National Highway Traffic Safety Administration, Federal Highway Administration) from harm from suits, actions, or claims resulting from negligence, acts or omissions by the sub-grantee and/or contractor or their employees. .

PROVISION 12 Liability Disclaimer

With this agreement, the sub-grantee and contractor disclaims the Governor's Highway Safety Office, Ohio Department of Public Safety, and the Federal Government (e.g., National Highway Traffic Safety Administration, Federal Highway Administration) from liability for workman's compensation, F.I.C.A., unemployment compensation, "wages or material liens," or other payment of any employer/employee relationship.

PROVISION 13 Line of Credit

That the sub-grantee or contractor shall carry a credit line on the cover or first page of any report that reads substantially as follows:

Funding provided in part or solely by the: National Highway Traffic Safety Administration Federal Highway Administration Ohio Department of Public Safety Governor's Highway Safety Office

Studies, evaluations, etc., shall also include the following disclaimer. "The opinions, findings, and conclusions expressed in this publication are those of the author and not necessarily those of, the National Highway Traffic Safety Administration, Federal Highway Administration, Ohio Department of Public Safety and the Governor's Highway Safety Office.

6.18 Entirety of Agreement: This Agreement embodies the entire agreement and understanding between the parties, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing and signed by both parties hereto, except that all terms and conditions contained in a client purchase order or other standard or preprinted work authorization issued by Centerville shall be null and void, even if such document is of later date. This Agreement shall be governed by the laws of the state where the services are performed. This Agreement includes this document and, by this reference, incorporates the following as if fully set forth herein:

- Attachment 1: Centerville City-wide Signage Inventory.

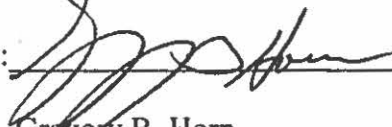
6.19 Notices: Any notice required hereunder shall be sufficiently given when sent to the signatories hereunder or to the above-named contact person via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.

6.20 Confidentiality: Service Provider agrees to hold in confidence and not disclose to anyone other than (i) those of its employees required to know; and (ii) other City Staff any and all information and data provided by Centerville which it knows or has reason to know is confidential, without the prior written consent of Centerville. This provision shall be an ongoing requirement and shall survive the termination and expiration of this Agreement.

IN WITNESS WHEREOF, this Agreement, which is subject to the terms and conditions of Sections 1 through 6 and Attachment (1), is accepted as of the date first written above.

City of Centerville, Ohio

Signed: _____



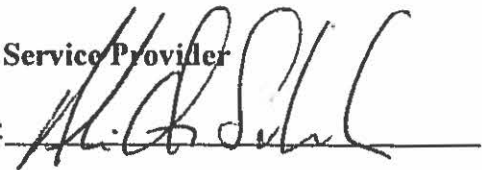
Typed: Gregory B. Horn

Title: City Manager
Centerville, Ohio

Date:

Service Provider

Signed: _____



Typed: Ali A. Saleh

Title: President
TEC Engineering, Inc

Date:

5-28-03

Attachment 1

Project Description Centerville City-wide Signage Inventory City of Centerville

Objective:

The goal of this inventory, update, and plan for traffic signage needs is to acquire information and expertise needed to ensure that all road signage on the city's approximately 75 centerline miles is identified and meet minimum maintenance and installation requirements. The project will include development of a detailed work plan for all identified corrective work and software and training that will allow Centerville to verifiably and correctly install and maintain the traffic control devices on a permanent basis. The results of this project will enable Centerville to verifiably and correctly place and maintain signage on a continuing basis and improve the traffic safety and reduce in traffic injuries/deaths in the City of Centerville.

Scope:

1. Inventory & inspect all agency maintained signage in the city.

-Street Inventory

All streets within the City of Centerville limits will be driven and logged by route number, name, direction, and designation type.

-Control Point Inventory

The following control points will be logged to accuracy of 5 feet:

- Bridge Expansion Joints
- Grade Separated Intersections (center)
- At-Grade Intersections (center)
- Tunnel Endpoints
- Road Ends, Cul de Sacs, Corporation Limits
- School Zone Endpoints
- Railroad Crossings (center)

-Detailed Sign Inventory

Signs on the driven streets will be inventoried and the following data will be collected and recorded for each sign:

- Sign code
- Route, mile point, roadside, and direction
- Quantity of signs per post
- Sign dimensions
- Sign material

- Post material or type
 - Horizontal distance from road edge to near edge of ground mounted signs
 - Mounting height above ground to the bottom edge of ground mounted signs
2. Create a work plan to perform corrective repairs identified during inventory.
 3. Load inventory, inspection and work plan into a management. system
 4. Perform required training to maintain system and implement program.
 5. Quarterly reports and a final report as required by the GHSO

Will be prepared and submitted for review by the client and, after approval by the client, submitted to the GHSO.

Software: TEC will obtain and use “SignMaster” software, Version 5 on this project. TEC will populate and deliver a licensed copy of SignMaster, Version 5 to Centerville upon completion of the project

Schedule: The project will be completed by 30 September 2003 as agreed in a schedule developed by the Centerville City Engineer and TEC Engineering, Inc. The following proposed schedule may be adjusted by the City of Centerville and TEC agreement following signature of a professional services agreement.

1,	Conduct Inventory	5-30 May 2003
2.	Create Work Plan	2-13 June 2003
3.	Load Inventory, Inspection, & Work Plan	16 – 20 June 2003
4.	Perform Training	23-23 June 2003
5.	Quarterly Reports	1 July, 25 Sep 2003