

RESOLUTION NO. 2024-67
INTRODUCED BY: Mayor Bodnar

**AN EMERGENCY RESOLUTION
PROVIDING FOR THE REAPPOINTMENT OF
THOMAS CAPPELLO AND STEPHEN HOVANCSEK & ASSOCIATES, INC.
AS ENGINEER FOR MAYFIELD VILLAGE, OHIO**

BE IT RESOLVED BY THE COUNCIL OF MAYFIELD VILLAGE, OHIO, THAT:

SECTION 1. The Mayor's reappointment of Thomas Cappello and Stephen Hovancsek & Associates, Inc. as Engineer for Mayfield Village, Ohio, is hereby confirmed subject to the terms, conditions and compensation hereinafter established. All other ordinances or resolutions inconsistent herewith are hereby and herein repealed.

SECTION 2. Thomas Cappello and Stephen Hovancsek & Associates, Inc. (hereinafter "Engineer") is hereby appointed as Engineer for Mayfield Village, Ohio, effective January 1, 2025, until December 31, 2025, or until his successor is appointed by the Mayor and confirmed by not less than four (4) members of Council, such appointment to be terminable by either Mayfield Village or the Engineer upon sixty (60) days written notice to the other.

SECTION 3. The services to be provided by the Engineer shall be as follows:

(a) Design and bidding services, including the preparation of detailed plans, profiles, specifications and cost estimates for all public improvements and furnishing of same to the Mayor and Council;

(b) Serving as the authorized representative of Mayfield Village and reviewing the execution of all public improvements or work undertaken by Mayfield Village and as approved by Council, including evaluating, summarizing and making recommendations on all public work and improvements under the Engineer's supervision or direction, assistance in securing, tabulating and evaluating construction bids and furnishing an engineering assessment of the capability of the bidders to perform such public improvement;

(c) Supervising and directing all inspectors of public work and improvements; and

(d) Any additional services as may be required by the Mayor and Council.

SECTION 4. The Engineer shall be compensated as follows:

(a) Percentage Fee Schedule. For services rendered in connection with construction of a public improvement, the Engineer shall receive compensation based on a percentage of the actual cost of construction of the improvement, as set forth below:

Percentage Fee Schedule – Complex Projects

- Bridges and Culverts
- New Highway and City Streets
- Street Reconstructions
- Sanitary and Storm Sewers
- Pumping Stations
- Storm Water Detention/Retention Facilities
- Storm Water Quality Structures/Best Management Practices

Minimum Fees – Complex Projects

<u>Cost of Construction</u>	<u>Percentage Fee</u>
Below \$100,000	12% of actual cost
\$100,000 to \$500,000	Base fee of 12% of \$100,000 Plus 7.5% of amount over \$100,000
\$500,000 to \$1,000,000	Base Fee of 8.4% of \$500,000 plus 6% of the amount over \$500,000
Over \$1,000,000	Base Fee of 7.2% of \$1,000,000 Plus 5.8% of amount over \$1,000,000

Percentage Fee Schedule – Non-Complex Projects

- Street Resurfacing
- Drainage Ditches and Swales
- Off-Street Parking Lots
- Retaining Walls
- Sidewalks
- Water Distribution Systems
- Parks and Athletic Fields
- Traffic Signalization

Minimum Fees – Non-Complex Projects

<u>Cost of Construction</u>	<u>Percentage Fee</u>
Below \$100,000	9% of actual cost
\$100,000 to \$500,000	Base fee of 9% of \$100,000 Plus 6% of amount over \$100,000

\$500,000 to \$1,000,000	Base Fee of 6.6% of \$500,000 plus 5% of the amount over \$500,000
Over \$1,000,000	Base Fee of 6% of \$1,000,000 Plus 4.9% of amount over \$1,000,000

(b) If the proceedings for any improvement are completed according to the usual schedule, as provided by law, so that the bids are received and a Contract is awarded, the Engineer shall be paid a sum not to exceed 75 percent of the amount listed in the Percentage Fee Schedule above. As the work progresses, the Engineer shall receive additional compensation equal to the balance of the fee in the Percentage Fee Schedule, said compensation to be paid at the time the contractor's estimates, upon which the Engineer's payment is based, are presented for payment. Before the final estimate for the work is issued, any necessary adjustments will be made so that the total fee paid to the Engineer shall be equal to the percentages listed in the Percentage Fee Schedule.

(c) If the plans, profiles, specifications and estimates of costs for work authorized and approved by the Council have been prepared by the Engineer and the proceedings for such work are abandoned or are postponed for a period of more than six (6) months, or the actual construction of such work is not commenced within nine (9) months after the date of delivery of said plans, profiles, specifications and estimates of costs, then the Engineer shall be paid a sum equal to 75 percent of the fee set forth in the Percentage Fee Schedule, based on the total estimated cost of said improvements, as full compensation for all work completed on the subject project. In the event the proceedings for such abandoned or postponed work are revived and actively pursued by the Village, the Engineer shall perform the balance of the services not previously performed, and he shall credit against the total compensation due any payments previously received.

(d) The fee provided in the Percentage Fee Schedule shall cover engineering services including preliminary estimates and reports, complete detailed plans and specifications, preparation of monthly and final estimates for contractor payments. The above schedule of fees does not include property, topographic, boundary or right-of-way surveys, right-of-way plans and legal descriptions, line and grade stakes, construction observer, inspection of materials, cost of test borings, or other subsurface explorations, or calculation of special assessments. These latter services may be provided by the Engineer on an hourly basis in accordance with the schedule of rates hereinafter set forth in Section 3(e). Specialized services such as subsurface exploration, test borings, preparation of electrical plans, etc. shall be performed by sub-consultants and their fees shall be approved by the Mayor and Council prior to performing the work.

(e) Hourly Rate Schedule. For additional services for which the Engineer shall have been authorized by the Mayor to prepare material or work not let by Contract, compensation shall be made on the basis of time spent by the Engineer at the rates set forth below:

Registered Engineer	\$110.00
Engineer	\$ 85.00
Draftsman/Auto CAD	\$ 57.50
Construction Observation	\$ 46.50
Survey Crew	\$120.00

Registered Surveyor

\$87.50

Payment shall be made under this Section at the completion of each service and upon billing by the Engineer and approval by the Mayor and Finance Director. The Engineer shall provide such documentation as the Finance Director deems necessary to substantiate such bills. Prints, materials, supplies and services by others shall be billed at actual cost.

(f) The Engineer shall be compensated at the rate of Fifteen Thousand Dollars (\$15,000.00) per calendar year during the term of this contract for the following additional services:

- Attendance at the Caucus and Regular Meetings of Council;
- Attendance at the Planning and Zoning Commission Workshop Session and Voting Meeting;
- Attendance at Department Head meetings; and
- Attendance at other meetings regarding engineering issues, whether in or out of Mayfield Village as the Mayor shall determine, including consultation with authorized representatives of Mayfield Village, provided that such consultations require no preparation of detailed plans.

(g) Public work or improvements within Mayfield Village shall be awarded using the qualifications-based selection procedures mandated by the Ohio Revised Code.

SECTION 5. The Engineer shall not, without the consent of the Mayor and Council, accept any private engineering or surveying work from any person, firm, or corporation seeking approval for a development, establishing an allotment, or erecting a building within Mayfield Village.

SECTION 6. The Engineer will hold harmless and indemnify Mayfield Village from any and all claims, demands, causes of action, costs, legal expenses, or any other costs or expenses, of or from contractors or any person or entity arising from Engineer's negligence, error or omission, when said contractor, person or entity has faithfully observed the plans and specifications prepared by the Engineer, unless the responsibility therefor shall be clearly that of Mayfield Village or another third party.

SECTION 7. This Resolution shall be executed as a Contract in lieu of the preparation of special contract documents since this Resolution contains the understanding and agreement between the Engineer and Mayfield Village.

SECTION 8. The Council finds and determines that all formal actions of the Council relating to the adoption of this Resolution have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 9. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of Mayfield

Village for the reason that the appointment of an Engineer is necessary for the orderly development of the community. It shall, therefore, take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.

STEPHEN SCHUTT, Council President

First Reading: _____, 2024

Second Reading: _____, 2024

Third Reading: _____, 2024

PASSED: _____, 2024

BRENDA T. BODNAR, Mayor

APPROVED AS TO FORM:

DIANE A. CALTA, Director of Law

ATTEST:

MARY E. BETSA, Clerk of Council