

ORDINANCE NO. 01-18

PASSED: January 8, 2018

ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH BERMEX INC., FOR METER READING SERVICES AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF REYNOLDSBURG, OHIO:

SECTION 1. That the Mayor be and is hereby authorized and directed to enter into an agreement with Bermex Inc., 37244 Groesbeck Highway, Suite A, Clinton Township, Michigan, 48036, for Meter Reading Services for the City of Reynoldsburg beginning January 21, 2018 through December 31, 2019.

See Exhibit "A" attached hereto and incorporated herein.

SECTION 2. That this ordinance is deemed to be an emergency measure necessary for the financial needs of the city and further to allow the city to allow for Bermex to begin services January 21st, wherefore upon adoption by Council this ordinance shall be in effect immediately upon signature by the Mayor.

Doug Joseph
Doug Joseph, President of Council

ATTEST: April L. Beggerow
April L. Beggerow, Clerk of Council

APPROVED: Bradley L. McCloud DATE 1/9/18
Bradley L. McCloud, Mayor

CERTIFICATE

I, April L. Beggerow, Clerk of Council, City of Reynoldsburg, Ohio do hereby certify the foregoing to be a true and correct copy of Ordinance No. 01-18 as passed by Council of said City on the 8th day of January, 2018 and as recorded in the Record of Proceedings of said Council.

April L. Beggerow
April L. Beggerow, Clerk of Council

Filed with Mayor: 1/9/18

Published: _____

AGREEMENT

THIS AGREEMENT is entered this the ____ day of November, 2017 by and between the City of Reynoldsburg (hereinafter referred to as "Reynoldsburg") and Bermex, Inc. (hereinafter referred to as "Bermex").

Recitals

WHEREAS, Reynoldsburg is a Municipal Corporation organized under the laws of the State of Ohio and whose territory lies in Franklin, Licking, and Fairfield Counties. Reynoldsburg operates a water and sanitary sewer utility for the benefit of its residents; and

WHEREAS, Bermex is a Michigan for-profit corporation duly licensed to transact business in the State of Ohio; and

WHEREAS, Bermex is in the business of supplying labor and transportation for meter reading for various utilities; and

WHEREAS, Reynoldsburg is interested in contracting with Bermex for meter reading services; and

WHEREAS, the parties desire to set forth their agreement in writing.

Agreement

NOW THEREFORE, the parties agree as follows:

- 1) Bermex shall read water meters within Reynoldsburg's service area for the period of January 21, 2018 through December 31, 2019. Any extension of this period of service shall be mutually agreed upon in writing by both parties.
- 2) This Agreement and its terms may be terminated, with or without cause, by either party giving sixty (60) days written notice to the other party at the address provided elsewhere in this Agreement.
- 3) Reynoldsburg shall pay Bermex \$0.57 per manual or touchpad read attempt, and \$0.25 per radio read attempt. Bermex shall invoice Reynoldsburg once per month for the services provided, and Reynoldsburg shall remit payment within thirty (30) days after receipt of a correct invoice.
- 4) In addition to remuneration set forth in Paragraph 3, above, Bermex may charge Reynoldsburg a fuel surcharge of two and one-half percent (2.5%) of the total monthly charges when fuel for the vehicle being utilized exceeds \$4.00 per gallon for twenty-one (21) days during a thirty day billing period.

- 5) Bermex' employees shall provide the meter reading services no earlier than 8:00 a.m. and not later than 5:00 p.m., Monday through Friday. The meter reader shall attempt to complete the reading of the entire route on its scheduled day. Reading of meters on a Saturday will be allowed if circumstances so require and prior approval has been obtained from Reynoldsburg. Readings on Sundays and holidays are prohibited. It is understood that certain weather conditions may interrupt the services to be provided under this contract, and all weather-related work stoppages shall be agreed upon by the parties. The Bermex employee(s) shall check-in at the start of their shift and check-out at the end of their shift. An employee of Reynoldsburg may periodically inspect the work being done by Bermex.
- 6) Bermex' meter reader(s) shall be responsible for obtaining complete and accurate meter readings and recording them in hand-held meter reading devices to be provided by Reynoldsburg in accordance with the schedule established. Reynoldsburg shall be responsible for providing electronic meter reading devices which are properly functioning and calibrated for Bermex' use. The electronic meter reading devices shall be programmed on a daily basis by Reynoldsburg and available to Bermex at the beginning of each day. The individual meter reader(s) shall be responsible, on a daily basis, to report damaged and/or broken meters, meter boxes and unreadable meters, etc., observed during the performance of their duties. In the event that such conditions exist, the meter reader will promptly advise Reynoldsburg of same. In no case shall Bermex be liable for not reading a meter due to unforeseen circumstances or circumstances beyond its control.
- 7) The individual(s) performing the service shall, at all times, be properly attired including the use of hard sole shoes. Uniforms which clearly identify Bermex' meter readers must be worn at work at all times. Bermex' vehicles will clearly identify that they are a Contract Meter Reader. Bermex will promptly return all hand held devices to Reynoldsburg upon termination or non-renewal of this Agreement.
- 8) It is expressly understood that the meter readers are employees of Bermex, and not employees of Reynoldsburg. Bermex shall furnish its employees with Workers' Compensation Insurance, Unemployment Insurance, Health Insurance, and the like. Liability Insurance for bodily injury and property damage in the amount of \$500,000 per occurrence shall cover the employees, and documentation of the same shall be supplied to Reynoldsburg upon request. Bermex shall also provide Automobile Insurance in the same coverage amount for all vehicles being used by its employees in performing these services. Bermex shall be responsible for withholding all federal, state, and local taxes from its employees' pay.
- 9) Bermex shall furnish an Insurance Policy in the amount of \$5,000 to cover the complete loss or damage to the handheld unit supplied by Reynoldsburg. Bermex understands that damage resulting from neglect or misuse will be paid by Bermex.

- 10) NOTICES. All notices to be delivered by one party to this Agreement to the other shall be addressed as follows:

Bermex, Inc.
1333 Home Avenue
Akron, Ohio 44310
President : Todd Jones

City of Reynoldsburg Water Dept.
7232 East Main St.
Reynoldsburg, OH 43068
Attn.: Paul Hellman, Water and Wastewater Superintendent

Both parties agree to notify the other in writing if the contact information stated herein changes.

- 11) Neither party may assign its terms or obligations under this contract without previous written consent of the other party.
- 12) If any legal dispute arises out of this Agreement, the parties hereby stipulate that the proper jurisdiction and venue for any legal action is in the Court of Common Pleas of Franklin County, Ohio.
- 13) **BERMEX AGREES THAT REYNOLDSBURG WILL NOT BE LIABLE IN ANY WAY FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER OR DEATH TO ANY PERSON, EMPLOYEE, AGENT, CONTRACTOR, GUEST, INVITEE, OR TO ANY OTHER INDIVIDUAL OR ENTITY FOR ANY PROPERTY LOSS. BERMEX AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS REYNOLDSBURG FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, CAUSES OF ACTION, IN LAW AND EQUITY, LAWSUITS, CHARGES, COSTS (INCLUDING, BUT NOT LIMITED TO COURT COSTS, ATTORNEY'S FEES, AND COSTS OF INVESTIGATION), DAMAGES, EXPENSES, AWARDS, AND/OR JUDGMENTS BY REASON OF ANY LOSS, DAMAGE, INJURY, OR DEATH OR ANY PROPERTY LOSS CAUSED OR CONTRIBUTED (IN WHOLE OR IN PART) BY ANY NEGLIGENT ACT(S) OR OMISSION(S) OF BERMEX, AND ITS OFFICERS, EMPLOYEES, AGENTS, LICENSEES, INVITEES, OR GUESTS. IF ANY PROCEEDING SHALL BE BROUGHT BY OR AGAINST ANY ONE OR MORE PERSON OR ENTITY IN CONNECTION WITH SUCH LIABILITY OR CLAIM, BERMEX, UPON NOTICE FROM REYNOLDSBURG, SHALL DEFEND SUCH ACTION(S) OR PROCEEDING(S) OF ANY KIND AT BERMEX' EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO REYNOLDSBURG. BERMEX' OBLIGATIONS HEREUNDER SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED**

BY BERMEX UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

- 14) FORCE MAJEURE. Performance of this Agreement by each party shall pursued with due diligence in all requirements hereof; however, neither party shall be liable for any loss or damage for delay or for nonperformance due to the causes not reasonably within its control, such as acts of civil, or military authority (including courts or administrative agencies) acts of God, war, riot or insurrection, inability, to obtain required permits or licenses, blockades, embargoes, sabotage, epidemics, fires, unusually severe floods, strikes, lockouts or other labor disputes or difficulties; and provide the party affected shall promptly notify the other in writing of the nature, cause, date of commencement thereof, the anticipated extent of such delay. In the event of any delay resulting from such causes, the time of performance of each the parties hereunder shall be extended for a time period equal to the period of such delay.
- 15) This Agreement is intended as the complete and exclusive statement of the agreement between the parties. This Agreement shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless set forth in a written instrument authorized and executed with the same formality as the Agreement and agreed to by both parties.

WHEREFORE, the parties hereto set their hands in furtherance of this Agreement.

CITY OF REYNOLDSBURG

BERMEX, INC.

Signature _____

Signature _____

Printed _____

Printed _____

Title _____

Title _____

Dated _____

Dated _____

APPROVED AS TO FORM:

James E. Hood, City Attorney

F I S C A L O F F I C E R ' S C E R T I F I C A T E

The undersigned Auditor for the City of Reynoldsburg hereby certifies that the funds necessary to pay this contract are either in the treasury or in the process of being collected.

Richard E. Harris, Auditor