

# REQUEST FOR LEGISLATION

**NOTE:** The following must be filled out entirely or it will not be accepted. Requests for legislation to amend/revise the City Code must include an exhibit of regulations proposed for adoption. Attach additional sheets as needed. All requests must be submitted to Council Office by **NOON OF THE WEDNESDAY PRIOR** to a Council meeting.

## LETTER OF TRANSMITTAL

Date of Request: June 29, 2023

Originated By: *(sign your name)*

Councilperson: Mark Casselberry; Allan Divis; Rob Euerle

Administration: Tony Vannello *[Signature]* Title: Service Director

Approved (Department Head): \_\_\_\_\_

By Request (Councilperson): Mark Casselberry (Sponsor)

Title/Reason for Legislation: It is requested that Legislation be prepared Authorizing the Director of Public Service to enter into an Agreement with OHM Advisors for South Park Connector Trail Engineering Services for the City of Parma, Ohio, Cuyahoga County, Ohio in the amount of \$108,000.00, and declaring an emergency.

Emergency *(state reason for emergency)*:

It is necessary for the immediate preservation for public health, safety and welfare of the resident of the City of Parma.

Exhibit Attached *(describe exhibit)*

Form Approved (Law Director): \_\_\_\_\_

## CERTIFICATE OF AUDITOR

Fund No.: 222 - Clean Ohio TRACS Fund Account No. (16 digits): 222-222-62110-0000 v

Unencumbered Balance: \$ 108,000.00

The undersigned public official hereby certifies that the funds specified for expenditure within this legislation request exist in the above referenced Fund/Account and are unencumbered.

*[Signature]* 7/3/23

City Auditor/Deputy Auditor

### For Internal Use Only:

Ordinance/Resolution No.: 106-23

First Reading Committee: \_\_\_\_\_

Suspension

Voice Vote



OK. MAYOR DELBERT



June 29, 2023

Mr. Paul Schley, P.E.  
Assistant Engineer  
6611 Ridge Road  
Parma, OH 44129

**RE: South Park Connector Trail Engineering Services**  
CoPID 10060  
Proposal #23059

Dear Mr. Schley,

OHM Advisors is grateful to be selected to design the South Park Connector Trail segment along South Park Boulevard between Snow Road and Grantwood Drive, as part of the West Creek Greenway Plan. This proposal represents our understanding of the project, with scope of work, deliverables, schedule, and professional services fee to develop construction plans and meet NEPA requirements.

### **Project Understanding**

- An approximately 3,700' long shared use trail will connect from Snow Road to Grantwood Drive, between West Creek and South Park Boulevard.
- The project will be ODOT-let.

### **Scope of Work**

Per the RFQ Project Details and Project Package from March, 2023, OHM Advisors (OHM, Consultant), Lawhon & Associates (Lawhon, Subconsultant), and SME (SME, Subconsultant) will perform the following scope of work for the South Park Connector Trail:

#### **Task #1: Environmental Review – Base Fee**

Lawhon will perform the following scope of work:

- Environmental studies (NEPA)
  - C2 Categorical Exclusion Document (C2) – Includes preparation of the C2 document within EnvironNet based up on the studies below, previous plans, and coordination provided by ODOT.
  - Section 106 Scoping Request Form – Includes cultural resources records search and preparation of the Section 106 Scoping Request for ODOT use in determining whether further studies will be required for cultural resources.
  - Level 1 Ecological Survey Report (ESR) – Includes site visit and preparation of the ESR within EnviroNet.
  - Regulated Materials Review (RMR) Screening – Involves preparation of an RMR Screening per ODOT guidelines. Level of effort assumes “low” per CFEG and the need for file reviews is unlikely. This will be based upon Stage 1 plans.



- Permit Determination Request (PDR) – Includes preparation of the PDR package if the project will impact streams or wetlands. Impacts will be based on Stage 2-level drawings.
- Meetings: None.
- Deliverables: PDF of Level 1 Ecological Survey Report

### **Task #2: Surveying – Base Fee**

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- Limits of Survey: As shown on Exhibit 'A': Project Limits.
- Project Control and Benchmarks:
  - GPS Site Control Points: Ohio State Plane Coordinate System, North Zone, (2011)
  - Vertical Benchmarks: North American Vertical Datum of 1988 (NAVD 88)
- Existing Planimetric and Topographic Features:
  - Curb, walk, and pavement locations and material.
  - Vegetation: Trees (larger than 12" in wooded areas), stumps, shrubs / shrub beds, brush lines, wood lines, and landscaped areas.
- Site Utility Survey:
  - Field observation: Lines marked by OUPS (OHM will contact OUPS), utility poles, overhead wires, valves, hydrants, manholes, pull boxes, cleanouts, drainage structures, and sewer inverts.
  - Record Plan Information
    - Obtained from provided construction or as-built drawings.
    - Obtained from design OUPS ticket.
    - Scaled and "best-fit" into the survey base map.
- Property Line Verification (this work will be performed assuming the current deeds and survey drawings provided by the client are correct. A boundary survey and new legal description as defined by Ohio Administrative Code (OAC) 4733-37 are not required):
  - Review the existing deeds and/or survey drawings provided by the client.
  - Recover the existing boundary monuments noted in the deeds and/or survey drawings. Set wood lath near or on the recovered monuments.
  - Identify and advise the client of any possible encroachments or occupation by adjoining property owners.
- Meetings: None.
- Deliverables: Existing Conditions survey provided in an AutoCAD Civil 3D 2018 and PDF format for use in design.

### **Task #3: Geotechnical Engineering – Base Fee**

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SME will perform the following scope of work:

- Prepare a site-specific safety plan for SME's field work.
- Stake/mark the boring locations and determine their surface elevations.
- Contact OUPS to locate and mark public utilities.
- Mobilize a drill rig to drill 8 Standard Penetration Test (SPT) borings, with 6 borings extending to depths of 10 feet.
- Record groundwater levels in the boring during and immediately after drilling. At completion, the boreholes will be backfilled with auger cuttings.
- Perform laboratory tests including:
  - Visual soil classification.
  - Moisture content and hand penetrometer tests.
  - Up to eight soil index tests.



- Interpret the soil and groundwater conditions, perform engineering calculations, and develop engineering recommendations.
- Meetings: None.
- Deliverables: PDF of Geotechnical Findings and Recommendations Report, including:
  - Descriptions of the site conditions and project information.
  - Descriptions of the field and laboratory testing programs.
  - Descriptions of the soil and groundwater conditions encountered in the borings.
  - Recommendations for site preparation and earthwork.
  - A discussion of geotechnical-related construction considerations.
  - Boring logs and a boring location diagram.

#### **Task #4: Preliminary Design (Stage 1/2) – Base Fee**

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- Preliminary trail alignment and modeling
- Drainage calculations/BMP design, as required
- Plan development including the following plan sheets:
  - Title Sheet
  - Schematic Plan
  - Typical Sections
  - General Notes
  - Maintenance of Traffic
  - Plan and Profiles
  - Cross Sections (50' intervals)
  - Miscellaneous Details (trail crossings at intersections/drives, aesthetic enhancement)
  - Traffic Control (signing & pavement marking)
  - Soil Profile
- Preparation of Preliminary Design level construction cost estimate.
- Internal Review/QAQC.
- Submittal of Preliminary Design Plans to private utility companies for initial coordination of impacts/conflicts with their facilities for purposes of conflict resolution.
- Meetings: (2) in-person design review meetings with the City and (1) public meeting (not including exhibits / handouts).
- Deliverables: Preliminary design drawings and associated cost estimate.

#### **Task #5: Final Design (Stage 3) – Base Fee**

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- Drainage calculations/BMP design
- Final trail alignment and modeling
- Plan development including the following plan sheets:
  - Title Sheet (Standard Construction Drawings, Supplemental Specs, Special Provisions)
  - Schematic Plan
  - Typical Sections
  - General Notes
  - Maintenance of Traffic
  - General Summary
  - Subsummaries



- Project Site Plan
- Plan and Profiles
- Cross Sections
- Miscellaneous Details
- Traffic Control
- Soil Profile
- Plan and Quantity Updates per final comments
- Preparation of Final Design level construction cost estimate and Bid Form.
  - Finalize Estimated Quantities for construction.
  - Final Evaluation and estimate of unit price costs for use with public bidding requirements.
  - Delivery of Engineer's Estimate.
  - Delivery of Official Bid Form.
- Internal Review/QAQC
- Submittal of Final Design Plans to private utility companies for final coordination of impacts/conflicts with their facilities for purposes of potential relocation.
- Meetings: (2) in-person design review meetings with the City.
- Deliverables: 100% construction & bidding drawings for (1) public bid, (bid-build project delivery method.)

#### **Task #6: General Engineering Services, If Authorized**

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OHM will perform the following scope of work using fixed hourly rates, if authorized:

- Bidding Services -
  - Tabulate, review and evaluate bids, confirm bid bonds, and make recommendations to the City of Parma.
  - Pre-award meeting to review all bid items with apparent low bidder, if necessary.
  - The fee provided includes one bidding process only. In the event the project needs re-bid, a contract modification will be submitted for the additional bidding services provided.
  - Attend (1) Pre-Bid Meeting.
- Retaining Wall Design –
  - If a retaining wall is required, OHM will provide retaining wall design assuming an ODOT Prefabricated Modular Retaining Wall System.
  - Provide final retaining wall design, including typical sections, and profiles.
  - Provide slope stability analysis, including rock core strength testing (performed by SME).
- Additional engineering services scope and associated costs shall be agreed upon in writing by the City prior to the commencement of work.

#### **Task #7: Environmental Services, If Authorized**

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Lawhon will perform the following scope of work using fixed hourly rates, if authorized:

- Section 4(f) – If there will be any right-of-way (temporary or permanent) or access restrictions, this task will include documentation with the Officials with Jurisdiction and preparation of the Section 4(f) Determination Request Form (DRF).
- Section 404 Pre-Construction Notification (PCN) – If required based upon ODOT's review of the PDR, a Section 404 PCN will be prepared based upon Stage 3 plans.



**Task #8: Right of Way Services, If Authorized**

OHM will perform the following scope of work using fixed hourly rates, if authorized:

- Preliminary Right of Way Plan, Legal Descriptions, and Closure Calculations, including easements.
- Final Right of Way Plans, Legal Descriptions, and Closure Calculations, including easements.
- Right of Way Tracings.

**Clarifications and Assumptions**

- The plans will be developed using AutoCAD Civil3D software. All deliverables will be submitted in electronic format to the City of Parma.
- Airway/Highway Clearance calculations are not required since the project is not within 20,000' of an airport runway >3,200', nor is within 10,000 feet of an airport runway ≤3,200 feet, nor is within 5,000 feet of a heliport.
- This proposal does not include bidding, pre-construction, or construction services.
- Invoices will be submitted monthly.
- Project status reports will be submitted monthly.
- Force Majeure: In the event either party is delayed or prevented from performing this Agreement due to any cause beyond its reasonable control, including but not limited to, strike, labor or civil unrest or dispute, embargo, blockage, work stoppage, protest, pandemics, or acts of God, such delay shall be excused during the continuance of such delay, and the period of performance shall be extended to such extent as may be reasonable to perform after the cause of delay has been removed. In the event any such delay continues for a period of more than thirty (30) days, either party may terminate the Agreement upon written notice to the other party. In the event of any such termination, The Owner shall pay OHM for work performed through the effective date of termination.

**Compensation**

The Base Fee services will be provided for the following lump sum fees by task, per consultant:

<b>Task #</b>	<b>Consultant</b>	<b>Description</b>	<b>Fee</b>
1	Lawhon	Environmental Review (NEPA)	\$ 17,868
2	OHM	Surveying	\$ 19,500
3	SME	Geotechnical Engineering	\$ 9,000
4	OHM	Preliminary Design (Stage 1/2)	\$ 37,500
5	OHM	Final Design (Stage 3)	\$ 24,000
<b>Total Base Fee:</b>			<b>\$ 107,868</b>





The Hourly, If Authorized services will be provided at the following hourly rates, by task, per consultant:

Task #	Consultant	Description	Fee
6	OHM	General Engineering Services	\$ 10,000 - Hourly
7	Lawhon	Environmental Services	\$ 6,400 - Hourly
8	OHM	Right of Way Services	\$ 2,000 - Hourly

The Hourly, If Authorized services performed by OHM will be provided at the rates shown on Exhibit 'B'. The Hourly, If Authorized services performed by Lawhon will be provided at the rates shown on Exhibit 'C'

**Authorization**

If you find this proposal to be acceptable, your signature on this letter, with a copy returned to us will serve as our authorization to proceed. Upon execution, this Proposal, the attached Exhibit 'D', Standard Terms & Conditions, and the other attachments will form our agreement. This proposal is valid for 30 days.

Sincerely,  
 OHM Advisors

Authorization to Proceed  
 City of Parma:

  
 \_\_\_\_\_  
 Jeremy Hinte, PLA, ASLA, Project Manager  
[Jeremy.hinte@ohm-advisors.com](mailto:Jeremy.hinte@ohm-advisors.com)  
 D: 216.865.1337 C: 216.339.7412

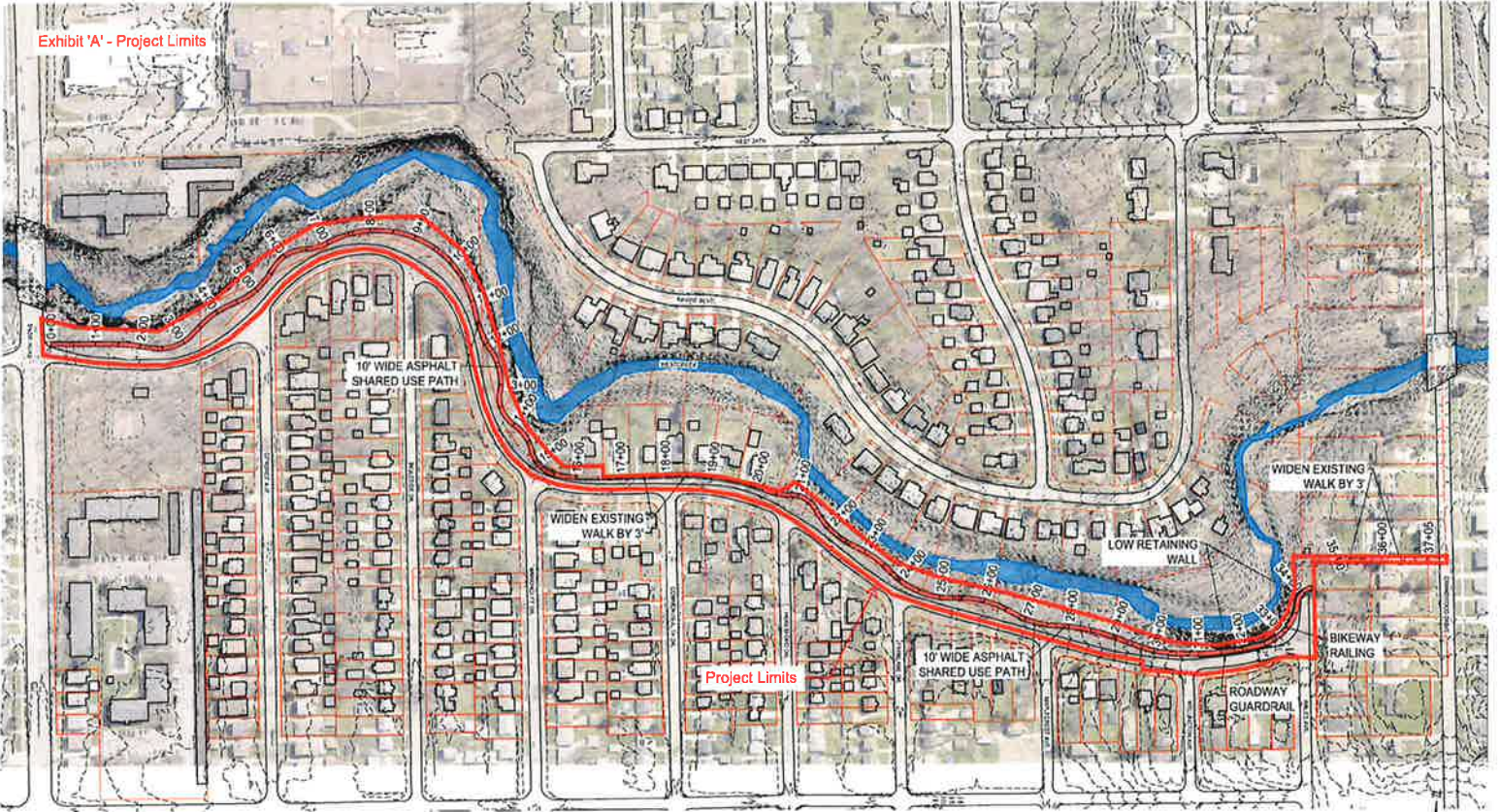
Signature \_\_\_\_\_ Date \_\_\_\_\_

  
 \_\_\_\_\_  
 Matt Hils, PLA, ASLA, Principal  
[Matt.hils@ohm-advisors.com](mailto:Matt.hils@ohm-advisors.com)  
 C: 216.346.2637

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

- Attachments: Exhibit 'A' – Project Limits  
 Exhibit 'B' – OHM Advisors 2023 Hourly Rate Schedule  
 Exhibit 'C' – Lawhon Hourly Rate Schedule  
 Exhibit 'D' – Standard Terms and Conditions

Exhibit 'A' - Project Limits



### SOUTHPARK TRAIL - CONCEPTUAL TRAIL ALIGNMENT

CITY OF PARMA • WESTCREEK CONSERVANCY







## OHM ADVISORS 2023 HOURLY RATE SCHEDULE

Professional Engineer IV / Architect IV / Senior Interior Designer IV	\$195.00
Professional Engineer III / Architect III / Senior Interior Designer III	\$178.00
Professional Engineer II / Architect II / Senior Interior Designer II	\$162.00
Professional Engineer I / Architect I / Senior Interior Designer I	\$152.00
Project Specialist III	\$180.00
Project Specialist II	\$160.00
Project Specialist I	\$135.00
Graduate Engineer IV	\$153.00
Graduate Engineer III	\$145.00
Graduate Engineer II	\$140.00
Graduate Engineer I	\$130.00
Graduate Architect III / Landscape Architect III / Interior Designer III	\$140.00
Graduate Architect II / Landscape Architect II / Interior Designer II	\$122.00
Graduate Architect I / Landscape Architect I / Interior Designer I	\$115.00
Technician IV	\$148.00
Technician III	\$130.00
Technician II	\$115.00
Technician I	\$96.00
Engineering / Architectural / Interior Design Aide	\$75.00
Professional Surveyor III	\$170.00
Professional Surveyor II	\$158.00
Professional Surveyor I	\$142.00
Graduate Surveyor	\$128.00
Surveyor III	\$130.00
Surveyor II	\$115.00
Surveyor I	\$100.00
Surveyor Aide	\$75.00
Planner IV	\$163.00
Planner III	\$150.00
Planner II	\$127.00
Planner I	\$110.00
Planner Aide	\$72.00
Graphic Designer	\$120.00
Administrative Support	\$90.00
Clerical Aide	\$75.00
Principal	\$230.00
Sr. Associate	\$210.00
Associate	\$198.00

Rates as reflected subject to review and adjustment on an annual basis.  
2023 Public Rates 22-1118



# Labor Rates

## Exhibit 'C' - Lawhon Hourly Rate Schedule

Accountant	\$70/hour
Administrative Assistant	\$60/hour
Administrative Manager	\$90/hour
Archaeologist/Historian 1	\$60/hour
Archaeologist/Historian 2	\$70/hour
Archaeologist/Historian 3	\$90/hour
Archaeologist/Historian 4	\$110/hour
Archaeology Field Technician	\$50/hour
Asbestos/Field Technician	\$60/hour
Asbestos/Lead Specialist	\$80/hour
Asbestos/Lead Specialist, Sr.	\$110/hour
CADD/GIS Technician	\$70/hour
CADD/GIS Technician, Sr.	\$90/hour
Engineering Technician	\$70/hour
Engineer	\$90/hour
Engineer, Sr.	\$125/hour
Planner 1	\$60/hour
Planner 2	\$70/hour
Planner 3	\$90/hour
Planner 4	\$110/hour
Principal	\$165/hour
Project Manager	\$100/hour
Project Manager, Sr.	\$125/hour
Program Manager, Sr.	\$150/hour
Scientist 1	\$60/hour
Scientist 2	\$70/hour
Scientist 3	\$90/hour
Scientist 4	\$110/hour

## TERMS &amp; CONDITIONS

1. **THE AGREEMENT.** These Terms and Conditions and the attached Proposal or Scope of Services, upon acceptance by CLIENT, shall constitute the entire Agreement between OHM ADVISORS, a registered Ohio company, and CLIENT. OHM ADVISORS and CLIENT may be referred to individually as a Party or collectively as Parties. This Agreement supersedes all prior negotiations or agreements and may be amended only by written agreement signed by both Parties.
2. **CLIENT RESPONSIBILITIES.** CLIENT, at no cost, shall:
  - a. Provide access to the project site to allow timely performance of the services.
  - b. Provide all information in CLIENT'S possession as required by OHM ADVISORS to perform the services.
  - c. Designate a person to act as CLIENT'S representative who shall transmit instructions, receive information, define CLIENT policies, and have the authority to make decisions related to services under this Agreement.
3. **PROJECT INFORMATION.** OHM ADVISORS shall be entitled to rely on the accuracy and completeness of services and information furnished by CLIENT, other design professionals, or consultants contracted directly to CLIENT.
4. **PERIOD OF SERVICE.** The services shall be completed within the time specified in the Proposal or Scope of Services, or if no time is specified, within a reasonable amount of time. OHM ADVISORS shall not be liable to CLIENT for any loss or damage arising out of any failure or delay in rendering services pursuant to this Agreement that arise out of circumstances that are beyond the control of OHM ADVISORS.
5. **COMPENSATION.** CLIENT shall pay OHM ADVISORS for services performed in accordance with the method of payment, as stated in the Proposal or Scope of Services. CLIENT shall pay OHM ADVISORS for reimbursable expenses for subconsultant services, equipment rental, or other special project related items at a rate of 1.15 times the invoice amount.
6. **TERMS OF PAYMENT.** Invoices shall be submitted to the CLIENT each month for services performed during the preceding period. CLIENT shall pay the full amount of the invoice within thirty days of the invoice date. If payment is not made within thirty days, the amount due to OHM ADVISORS shall include a service fee at the rate of one (1%) percent per month from said thirtieth day.
7. **STANDARD OF CARE.** OHM ADVISORS shall perform their services under this Agreement in a manner consistent with the professional skill and care ordinarily provided by similar professionals practicing in the same or similar locality under the same or similar conditions.
8. **RESTRICTION OF REMEDIES.** OHM ADVISORS is responsible for the work of its employees while they are engaged on OHM ADVISORS' projects. As such, and in order to minimize legal costs and fees related to any dispute, CLIENT agrees to restrict any and all remedies it may have by reason of OHM ADVISORS' breach of this Agreement or negligence in the performance of services under this Agreement, be they in contract, tort, or otherwise, to OHM ADVISORS, and to waive any claims against individual employees.
9. **LIMIT OF LIABILITY.** To the fullest extent permitted by law, CLIENT agrees that, notwithstanding any other provision in this Agreement, the total liability in the aggregate, of OHM ADVISORS to CLIENT, or anyone claiming under CLIENT, for any claims, losses, damages or costs whatsoever arising out of, resulting from, or in any way related to this Agreement or the services provided by OHM ADVISORS pursuant to this Agreement, be limited to \$25,000 or OHM ADVISORS fee, whichever is greater, and irrespective of whether the claim sounds in breach of contract, tort, or otherwise.
10. **ASSIGNMENT.** Neither Party to this Agreement shall transfer, sublet, or assign any duties, rights under or interest in this Agreement without the prior written consent of the other Party.
11. **NO WAIVER.** Failure of either Party to enforce, at anytime, the provisions of this Agreement shall not constitute a waiver of such provisions or the right of either Party at any time to avail themselves of such remedies as either may have for any breach of such provisions.
12. **GOVERNING LAW.** The laws of the State of Ohio will govern the validity of this Agreement, its interpretation and performance.
13. **INSTRUMENTS OF SERVICE.** OHM ADVISORS shall retain ownership of all reports, drawings, plans, specifications, electronic data and files, and other documents (Documents) prepared by OHM ADVISORS as Instruments of Service. OHM ADVISORS shall retain all common law, statutory and other reserved rights, including, without limitation, all copyrights thereto. CLIENT, upon payment in full for OHM's services, shall have an irrevocable license to use OHM's Instruments of Service for or in conjunction with repairs, alterations or maintenance to the project involved but for no other purpose. CLIENT shall not reuse or make any modifications to the Documents without prior written authorization by OHM ADVISORS. In accepting and utilizing any Documents or other data on any electronic media provided by OHM ADVISORS, CLIENT agrees they will perform acceptance tests or procedures on the data within 30 days of receipt of the file.
14. **CERTIFICATIONS.** OHM ADVISORS shall have 14 days to review proposed language prior to the requested dates of execution. OHM ADVISORS shall not be required to execute certificates to which it has a reasonable objection, or that would require knowledge, services, or responsibilities beyond the scope of this Agreement, nor shall any certificates be construed as a warranty or guarantee by OHM ADVISORS.
15. **TERMINATION.** Either Party may at any time terminate this Agreement upon giving the other Party 7 calendar days prior written notice. CLIENT shall within 45 days of termination pay OHM ADVISORS for all services rendered and all costs incurred up to the date of termination in accordance with compensation provisions in this Agreement.
16. **RIGHT TO SUSPEND SERVICES.** In the event CLIENT fails to pay OHM ADVISORS the amount shown on any invoice within 45 days of the date of the invoice, OHM ADVISORS may, after giving 7 days' notice to CLIENT, suspend its services until payment in full for all services and expenses is received.
17. **OPINIONS OF PROBABLE COST.** OHM ADVISORS preparation of Opinions of Probable Cost represents OHM

## EXHIBIT 'D'

ADVISORS' best judgment as a design professional familiar with the industry. CLIENT recognizes that OHM ADVISORS has no control over costs of labor, equipment, materials, or a contractor's pricing. OHM ADVISORS makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual cost.

18. **JOB SITE SAFETY.** Neither the professional activities of OHM ADVISORS, nor the presence of OHM ADVISORS or our employees and subconsultants at a construction site shall relieve the Contractor or any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and the health or safety precautions required by any regulatory agency. OHM ADVISORS has no authority to exercise any control over any construction contractor or any other entity or their employees in connection with their work or any health or safety precautions.
19. **CONTRACTOR SUBMITTALS.** If included in the services to be provided, OHM ADVISORS shall review the contractor's submittals such as shop drawings, product data, and samples for the limited purpose of checking for conformance with information given and the design concept expressed in the construction documents issued by OHM ADVISORS. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the contractor's responsibility. OHM ADVISORS review shall not constitute approval of safety precautions or, unless otherwise specifically stated by OHM ADVISORS, of any construction means, methods, techniques, sequences or procedures. OHM ADVISORS approval of a specific item shall not indicate approval of an assembly of which the item is a component.
20. **CONSTRUCTION OBSERVATION.** If requested, OHM ADVISORS shall visit the project construction site to generally observe the construction work and answer questions that CLIENT may have. OHM ADVISORS shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work, or to determine whether the construction work is being constructed in accordance with the Contract Documents.
21. **HAZARDOUS MATERIALS.** As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site. Both Parties acknowledge that OHM ADVISORS' Scope of Services does not include any services related to the presence of any hazardous or toxic materials. In the event OHM ADVISORS or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to OHM ADVISORS that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of OHM ADVISORS' services, OHM ADVISORS may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until CLIENT retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations. CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless OHM ADVISORS, its officers, partners, employees and subconsultants (collectively, OHM ADVISORS) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of OHM ADVISORS.
22. **WAIVER OF CONSEQUENTIAL DAMAGES.** The Parties waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination of this Agreement.
23. **WAIVER OF SUBROGATION.** The Parties waive all rights against each other and any of their contractors, subcontractors, consultants, agents, and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to a written contract or other property insurance applicable to the construction work.
24. **THIRD PARTIES.** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either CLIENT or OHM ADVISORS.
25. **CODE REVIEW/ACCESSIBILITY.** In providing its services under this Agreement, OHM ADVISORS may have to interpret federal and or state laws, codes, ordinances, regulations and/or statutes. CLIENT understands and agrees that these may be subject to different and possibly contradictory interpretations by relevant governmental officials charged with interpreting same and furthermore understands and agrees that OHM ADVISORS does not warrant or guarantee that their interpretation will be consistent with the interpretation of the relevant governmental officials. OHM ADVISORS shall not be liable for unreasonable or unforeseeable interpretation of federal and or state laws, codes, ordinances, regulations and/or statutes by governmental officials charged with interpreting same.
26. **DISPUTE RESOLUTION.** In an effort to resolve any conflicts that arise during the project or following the completion of the project, the Parties agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation, unless the Parties mutually agree otherwise, as a prerequisite to further legal proceedings. The Parties agree to share the mediator's fee and any filing fees equally, and the mediation shall be held in the place where the project is located, unless another location is mutually agreed upon.