



**REQUEST FOR QUALIFICATIONS FOR DESIGN PROFESSIONAL SERVICES
LAKE COUNTY BOARD OF COMMISSIONERS AND LAKE COUNTY SHERIFF'S OFFICE**

Dated June 9, 2023

Deadline to Submit Qualifications: 3:00 p.m. EST on June 23, 2023

Submit Qualifications **via e-mail** to Jason Boyd, at Jason.Boyd@lakecountyohio.gov with copy to Ellis Katz at ellis.katz@aboutpmc.com and one hard copy hand delivered or delivered by mail, addressed to the following:

Individual Name: Jason Boyd, Administrator
Department: Commissioner's Office
105 Main Street
Painesville, Ohio 44077

Pricing proposals shall only be submitted via hard copy in sealed envelopes to the address provided above at 3:00 p.m. on June 28, 2023. Firms shall not provide pricing electronically via e-mail.

I. Project Description and General Information

1. The Lake County Board of Commissioners and Lake County Sheriff's Office (the "County" or "Owner") is soliciting Statements of Qualifications ("Qualifications") from qualified design professionals for the Lake County Corrections Facility Project located in Lake County, Ohio (the "Project") to provide environmental and/or geotechnical services as outlined in Section 2 below. Firms may submit qualifications for one, all, or a combination of services. The Owner may contract with the selected firms for one or any combination of services, at the Owner's sole discretion.
2. The Project is anticipated to include a corrections facility, Sheriff's administration building, and parking at 125 E. Erie St., Painesville, Ohio 44077 to replace the County Sheriff's Office currently located at 104 East Erie Street, Painesville, Ohio 44077. It is anticipated that the new facility will have a rated capacity of up to 505 beds.
3. The Owner anticipates utilizing the Design-Build delivery method to construct the Project.
4. The Owner selected Hellmuth, Obata & Kassabaum, P.C. ("HOK") to serve as the Owner's Criteria Architect for the Project.
5. The Owner selected Project Management Consultants ("PMC") to serve as the Owner's Consultant for the Project.
6. Questions on this RFQ shall be directed in writing only via e-mail to Jason Boyd, at Jason.Boyd@lakecountyohio.gov **by 4:00 p.m. EST on June 16, 2023.**
7. The Owner may issue addenda, as required, to firms which requested an RFQ for the Project.

II. Anticipated Scope of Services

1. Environmental Scope of Services

- a. Review information provided by the County, as outlined in ASTM Practice E 1527-21, to aid in the identification of recognized environmental conditions in connection with the Project site. This information includes, but is not limited to, title documentation, environmental liens or activity and use limitations; including institutional and engineering controls, valuation reduction for environmental issues, owner/occupant issues and previous site assessment documentation.
- b. Review reasonably ascertainable physical setting sources to obtain information related to general topographic, geologic, hydrogeologic and hydrologic conditions in the area of the Project site. These sources may include but are not limited to United States Geological Survey topographic maps, ground water maps, bedrock geology maps, surficial geology maps, hydrologic maps, soil survey maps and oil and gas wells maps
- c. Review the most recent version of the required standard federal, state and tribal environmental record sources (for sites within the specified approximate minimum search distances) as required by ASTM Practice E 1527-21, to aid in the identification of recognized environmental conditions in connection with the Project site. The required federal record sources include the Federal National Priorities Listing (NPL), the Federal Superfund Enterprise Management System (SEMS) list, the SEMS Archive sites list, the Federal Resource Conservation and Recovery Act (RCRA) Corrective Action Sites Lists (CORRACTS), the Federal RCRA non-CORRACTS treatment, storage, and disposal (TSD) facilities list, the Federal RCRA Generators list, and the Federal Emergency Response Notification System (ERNS) list. The required state and tribal record sources include the Ohio Environmental Protection Agency's Master Sites List (MSL)/Division of Emergency and Remedial Response (DERR) database, equivalent of NPL, equivalent of SEMS, Voluntary Cleanup Sites, Brownfield Sites, state landfill/solid waste disposal site list, Bureau of Underground Storage Tank Regulations' (BUSTR's) leaking underground storage tank (LUST) list and BUSTR's registered underground storage tank (RUST) list.
- d. Review required standard historical sources to develop a history of the previous uses of the Project site and the adjacent properties, in order to help identify the likelihood of past uses having led to recognized environmental conditions in connection with the Project site. Historical resources will be reviewed to determine the Project site's first developed use or history dated back to 1940, whichever is earlier. The standard historical sources required by ASTM Practice E 1527-21 include fire insurance maps, aerial photographs, street directories, and topographic maps. In addition, records for the Project site and the adjacent properties must be reviewed, as reasonably ascertainable, from the local building department, the environmental division of the local health department, and local fire department. Any data gaps and/or data failures encountered as part of the Phase I ESA must be clearly identified in a final report.
- e. Perform a site reconnaissance of the Project site to obtain information indicating the likelihood of identifying recognized environmental conditions in connection with the Project site. The site reconnaissance must involve a visual and physical observation of the Project site and any structure(s) located on the Project site to the extent not obscured by bodies of water, adjacent buildings or other obstacles. The site reconnaissance must consist of an evaluation of the following:
 1. Current and past use(s) of the Project site
 2. Current and past use(s) of adjoining properties
 3. General geologic, hydrogeologic, hydrologic and topographic conditions of the Project site and surrounding area
 4. General description of structures or other improvements on the Project site

5. Means of heating and cooling of the buildings on the Project site
 6. Location of adjoining public thoroughfares and any roads, streets and/or parking facilities on the Project site.
 7. Hazardous substances and petroleum products containers/storage
 8. Aboveground storage tanks and/or underground storage tanks
 9. Electrical or hydraulic equipment known to contain polychlorinated biphenyls (PCBs) or likely to contain PCBs
 10. Engineering controls or physical modifications
 11. Strong, pungent or noxious odors
 12. Floor drains, sumps, stains, corrosion, stressed vegetation
 13. Pits, ponds, lagoons, pools of liquid
 14. Solid waste and wastewater
 15. Irrigation wells, injection wells, abandoned wells, oil/gas wells or other wells and septic systems or cesspools.
- f. Conduct interviews with owners, occupants and local government officials to obtain information relative to recognized environmental conditions in connection with the Project site.
- g. Subsequent to completion of task A through F above, prepare and submit a final report to the Owner in an electronic format. This report must document current site conditions and findings, and present information of the historical land use of the Project site. This report must be supplemented by a photographic log, supporting documentation and mapping resources, and must identify any areas that may require additional investigation.
- h. The Consultant shall also provide, or subcontract to a separate company to provide the following to be incorporated into the Phase 1 report:
1. Conduct an environmental cleanup liens and activity and land use limitations records search. Environmental cleanup liens that are on file or recorded against the site (40 CFR 312.25)
 2. Per the ASTM standard, a records search for any environmental cleanup liens against the Project site recorded under federal, tribal, state or local law must be noted.
 3. Activity and land use limitations that are in place on the site or that have been filed or recorded in a registry (40 CFR 312.26)
 4. Any Activity and Use Limitation (AUL) such as engineering controls, land use restrictions or institutional controls that are in place at the site and/or have been filed or recorded in a registry under federal, tribal, state or local law must be noted.
 5. Assist with landowner liability protections (Brownfield Amendments) applications.

2. **Geotechnical Scope of Services**

- a. Prepare a full industry standard geotechnical report for the selected site. See below for "Additional Notes" regarding the specific directions regarding this scope item. Based on preliminary building configuration, assume a total of 10 borings for the proposal. This total must be finalized with the selection and verification of the site and preliminary building configuration.
- b. Additional Notes for Geotechnical Engineering Services. Prepare an industry standard full geotechnical report specific to the project, complete with foundation recommendations to be provided to the selected design team. Geotechnical services shall include, but not be limited to, complete soil borings and testing per notes below. The Geotechnical Engineer shall provide the following:
 1. Recommended foundation types.
 2. Slab on grade design parameters.

3. For shallow foundations (if applicable): allowable bearing pressures, friction coefficients and soil stiffness.
4. For deep foundations: compression and tension capacities, lateral capacity, bending moments and vertical stiffness.
5. Recommendations for alternate foundation systems (aggregate piers/others) if applicable.
6. Lateral earth pressures on retaining and/or subgrade walls for earth at rest, active, and passive.
7. Lateral earth pressures on retaining and/or subgrade walls due to seismic loads.
8. Lateral earth pressure design pressure profiles for retaining and/or subgrade walls including effects of water table.
9. Friction Coefficients (please specify the factor of safety if it is included in the friction coefficient value).
10. Typical soil density and permeability.
11. Frost depth for the site.
12. Subsurface compositions to include locations and compositions of bearing strata and bedrock.
13. Suitability of excavated material to be used as structural fill or backfill to retaining structures.
14. Level of water table and dewatering requirements for the site.
15. Recommendations for drainage systems on the underside of slabs and back of retaining walls.
16. Seismic design criteria including Site Class and Maximum Considered Earthquake (MCE) spectral response accelerations S_s and S_1 .
17. Testing requirements for foundation elements, including if necessary, appropriate pile, pier and/or caisson tests.
18. Recommendations for construction means and methods for foundation and retaining systems used in the project.
19. Backfill recommendations and compaction.
20. Pavement and parking area pavement subgrade requirements.
21. Specification recommendations for deep foundations.
22. Additional recommendations as deemed necessary for proper design and installation of foundation elements.
23. The Geotechnical Engineer's Sealed Fee must include time to coordinate the review of foundation design by the structural engineer, answer their questions and provide feedback on the engineer's specifications

c. Additional Notes on Structural Borings.

1. Depth of structural borings to be determined by the Geotechnical Engineer, deep foundation requirements and depth to bedrock shall be considered.
2. Provide pricing for borings as \$/lineal feet.
3. Structural boring layout and count is a suggestion and shall be verified and adjusted by the geotechnical engineer as required. Geotech shall provide commentary on the boring layout prior to proceeding with boring work. Actual structural boring locations shall be coordinated with the proposed structure's footprint and verified prior to commencing boring work.
4. Coordinate with all utility providers prior to commencing any boring operations
5. Varying environmental conditions should be considered as part of a Health and Safety Plan.
6. Assume individual column loads to be 450 kips based on typical 30' column spacing.

7. Assume wall footings to be 8 klf.

III. Selection Process and Schedule. Selection of the design professional shall be based upon the firm's qualifications and the qualifications and experience of the individuals identified as the firm's proposed team for this Project. Written responses to this RFQ will be evaluated and all or a selection of firms may be requested to discuss clarifications to their Qualifications in an interview. The Owner shall rank and short list firms in accordance with ORC 153.69. Such evaluation and selection shall be subject to the Owner's absolute discretion. Upon selection of the firm determined to be most qualified to provide the requested services for the Project, the Owner reserves the right to negotiate the price for services in accordance with ORC 153.69. Owner may suspend the process at any time or refrain from entering into any contract.

As indicated on the schedule set forth below, statements of Qualifications are due by June 23, 2023. Firms will be shortlisted on June 26, 2023 and shortlisted firms will be asked to provide Sealed Pricing Proposals to the County no later than 3:00 p.m. on June 28, 2023 in order for the Owner to negotiate an agreement upon selection. Firms proposing to provide both environmental and geotechnical services should clearly set forth separate pricing proposals for each. Owner shall open the sealed pricing proposal upon notification of selection and utilize the proposal to negotiate the agreement.

The anticipated schedule is provided below. The Owner reserves the right to revise or modify the schedule as required.

Task	Completed By
Qualifications Due	June 23, 2023
Short Listing of Firms	June 26, 2023
Interviews	To be determined, at County's discretion
Notification of Selection, Contingent Upon Board Approval	Week of June 26, 2023
Sealed Pricing Proposals Due	June 28, 2023
Recommendation to the Board to Select Firm and Contract Execution	June 29, 2023

Qualifications received may be retained in the file maintained by the Owner for use when design fees are estimated to be less than \$50,000. Each firm is requested to provide annual updates to the Qualifications to keep them current.

IV. Required Submissions and Evaluation Criteria. Please submit the following information in response to this RFQ:

1. Point of Contact. Provide the point of contact for your firm with the point of contact's phone number, address, and email.
2. Services. List which services the firm is submitting a qualification for on the cover page of the submission.
3. Business Information.
 - a. Provide the firm's history, including number of years in business.
 - b. Describe your firm and how it is organized, its overall size in number of employees, the number of offices, and number of registered/licensed specialists for the services which your firm is submitting qualifications for, and other technical staff.
 - c. Identify the business form of contracting entity.

- d. If the proposed form of entity is a joint venture, please identify each venturer and their respective percentage of participation.
4. Experience of Firm's Personnel and Consultants. Identify the firm's assigned team of personnel and proposed consultants for the Project.
 - a. Provide a project organizational chart containing the names and titles of your proposed staff for the Project. At a minimum, the chart should include individuals who will work on this Project.
 - b. For every person listed on the chart, provide a one-page resume highlighting relevant experience.
5. Workload. Provide the firm's current workload and the availability of qualified personnel, equipment, and facilities to perform the required professional design competently and expeditiously.
6. Past Performance. Provide examples of projects of similar size and scope. Describe any specific familiarity, if any, with jail projects. Include whether the firm's assigned team members participated in the project. Provide names, addresses, and telephone numbers of references for such projects. Additionally, Owner may consider Owner's past experience with the firm as part of the evaluation of past performance.
7. Insurance. State the limits of liability under your professional liability insurance coverage and include deductible or self-insured retention amounts.
8. Proposed Modifications to the Agreement. The Professional Services Agreement (the "Agreement") is attached as Exhibit A to this RFQ. Identify any proposed deviations from the terms of this Agreement and submit with your Qualifications. Modifications may be accepted in the Owner's sole discretion and may be taken into account by the Owner when ranking the most-qualified firms.
9. Clarifications and Additional Information. The Owner may request additional information from one or more of the design professionals submitting Qualifications to supplement or clarify the Qualifications. Such additional information may be taken into account when ranking the most-qualified firms.

V. Public Records. All documents submitted to Owner in response to this RFQ are public and will be available for inspection under ORC 149.43 at the conclusion of the selection process.

The Owner reserves the right to waive any defect or technicality in any Qualifications received. The Owner may eliminate any firm that submits an incomplete, inadequate, or non-responsive Statement of Qualifications in the Owner's sole discretion.

EXHIBIT A
PROFESSIONAL SERVICES AGREEMENT

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of the [REDACTED] day of [REDACTED], 2023 (the "Effective Date"), by and between the **LAKE COUNTY BOARD OF COMMISSIONERS** ("Owner"), and [INSERT FIRM NAME] ("Consultant"). Owner and Consultant agree as follows:

ARTICLE 1 GENERAL

1.1 Project. The Project consists of designing and constructing a new Lake County Public Safety Center located in Painesville, Ohio (the "Project"). The Owner selected the Consultant to provide [REDACTED] services for the Project in compliance with Ohio Revised Code Sections 153.65, *et seq.*

1.2 Schedule of Performance. Consultant shall promptly commence Services as directed by Owner and diligently pursue completion of the Services. Consultant shall complete the Services by [REDACTED]. Subject to the Standard of Care, time is of the essence for the completion of Services pursuant to this Agreement.

1.3 Consultant's Representative. Consultant designates the following [REDACTED] as the Consultant's representative authorized to act on behalf of the Consultant in the completion of Services for the Project. The Consultant's representative shall not be removed from the Project or reassigned without the prior written consent of the Owner.

1.4 Services. Consultant's Services consist of those described in this Agreement, the Request for Qualifications published on [REDACTED], 2023, and any other services identified in the Consultant's proposal, dated [REDACTED], 20[REDACTED] (as further modified by the parties), attached hereto as Exhibit A (collectively the "Services"). Consultant's proposal is merely to reference the required scope of work for the Project. No legal terms and conditions from the Consultant's proposal are incorporated into this Agreement and all terms, conditions, and exclusions are expressly rejected. In the event of any conflict between the terms of this Agreement and Exhibit A (and any sub-exhibits thereunder), this Agreement shall control unless approved otherwise by Owner in writing.

1.5 Effective Date. This Agreement covers all Services provided by Consultant for the Project, whether provided before or after the Effective Date. Any letters of intent, letter agreements or other existing agreements between the Parties are hereby deemed terminated and supplanted by the terms of this Agreement. Owner shall not be required to pay Consultant for Services paid for by Owner prior to the Effective Date. Owner shall be entitled to credit against the compensation due Consultant hereunder (to the extent applicable) for any amounts paid to Consultant prior to the Effective Date.

1.6 Calculation of Time. Unless otherwise stated, all references to "day" or "days" shall mean calendar days. If any time period set forth in this Agreement expires on other than a business day, such period shall be extended to and through the next succeeding business day.

1.7 Additional Services. Consultant shall notify Owner in writing immediately upon Consultant's determination that changes in the Services ("Additional Services") are required, specifying the scope of the change, the reason for the change, the estimated financial and schedule impacts of the change, and a definitive statement of fees Consultant claims are due for Services

related to such change. Any Services that are provided without the advance written authorization of Owner shall be deemed to be part of the Services provided hereunder and claims for additional compensation shall be waived.

ARTICLE 2 CONSULTANT'S RESPONSIBILITIES

2.1 Standard of Care. Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions (the "Standard of Care").

2.2 Compliance with Law. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including OSHA requirements. If required, Consultant shall assist the Owner, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of Consultant's services or operations performed under this Agreement.

2.3 Licensed to Practice. Consultant represents that all persons and entities who are directly supervising any professional services in the performance of Services provided are duly licensed to practice such professional service under the laws of the state where the Project is located.

2.4 Independent Contractor. Consultant agrees that in the performance of the Services under this Agreement, Consultant shall act as an independent contractor, and all of its agents, employees and subconsultants/professionals shall be subject solely to the control, supervision and authority of Consultant.

2.5 Key Personnel and Subconsultants. Consultant shall provide to Owner a list of the key personnel and subconsultants who will be providing the services under the Agreement, attached hereto as Exhibit C. No substitutions of any key personnel and subconsultants may be made by Consultant without the prior written consent of Owner, which consent shall not be unreasonably withheld. Consultant agrees (a) that in the hiring of employees for the performance of Services under this Agreement or in any subcontract, neither the Consultant, subconsultant, nor any person acting on behalf of either of them, shall by reason of race, creed, sex, handicap, or color, discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform the Services to which the employment relates; (b) that neither the Consultant, subconsultant, nor any person acting on behalf of either of them, shall, in any manner, discriminate against or intimidate any employee hired for the performance of Services under this Agreement on account of race, creed, sex, handicap, or color; (c) that there shall be deducted from the amount payable to the Consultant by the Owner under this Agreement a forfeiture of twenty-five dollars (\$25.00) as required by Ohio Revised Code Section 153.60 for each person who is discriminated against or intimidated in violation of this Agreement; and (d) that this Agreement may be canceled or terminated by the Owner and all money to become due hereunder may be forfeited for a second or subsequent violation of the terms of this section of this Agreement.

2.6 Coordination and Delegation. Consultant shall coordinate the Services hereunder with other third-party service providers (e.g., architect, design consultants, construction contractors and others) as Owner may designate from time to time. Consultant shall not delegate the Services to others unless Owner approves in advance. If Owner approves of a delegation of the Services, such other key personnel shall not be changed, unless Owner approves in advance. Consultant shall still remain responsible for all Services, regardless of Consultant's delegation of such Services to others as permitted by this Agreement. All delegates shall be bound by the provisions of this Agreement to the same extent as Consultant is bound.

ARTICLE 3 COMPENSATION

3.1 Fixed Fee. For the proper completion of the Services, Consultant shall be paid a fixed fee in the lump sum amount of \$ _____ (_____ and ___/100 Dollars), plus Reimbursable Expenses incurred (without markup) by Consultant and subconsultants in the interest of the Project, subject to the terms and conditions hereof (the "Contract Sum"). The Contract Sum includes compensation for all Services provided by Consultant's subconsultants. The Contract Sum shall be prorated as appropriate for any partial months included in the term of Consultant's Services.

3.2 Reimbursable Expenses. Reimbursable expenses shall include only those expenses reimbursed by Owner in accordance with its standard policies and practices ("Reimbursable Expenses"). Reimbursable Expenses include items such as travel, lodging, meals, reasonable printing costs, and similar costs incurred in the performance of Services that are specifically applicable to the Project – but do not include general administrative overhead or other general office expenses. Only the actual cost of the Reimbursable Expense shall be billed to Owner without markup of any kind. Reimbursable Expenses shall not exceed \$ _____ in aggregate, without express prior approval of Owner as described herein, which approval shall not be unreasonably withheld nor delayed. Consultant shall notify Owner in advance and obtain Owner's approval for any planned out-of-town travel. Consultant shall provide a good faith estimate of anticipated travel expenses associated with such trip, in advance for Owner's approval.

3.3 Additional Services. If changes in the work seem merited by Consultant or the Owner, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Owner by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Owner and executed by both Parties before performance of such services, or the Owner will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

3.4 Payment. Consultant will requisition only for the value of that part of each phase and deliverable that has been earned as of the end of the monthly billing cycle, which values may, at Owner's option, be verified by means of an examination of the progress of the Services declared by Consultant to have been earned. Payments are due and payable within thirty (30) days from the date of Consultant's properly-submitted invoice including all required backup. Payments on account of Consultant's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation and approval of Consultant's statement of Additional Services rendered

or Reimbursable Expenses incurred with all backup required by Owner to substantiate the charges.

3.5 Compensation Prior to Execution of Agreement. Compensation for Services under this Agreement rendered by Consultant and provided through a letter of intent or other informal agreement prior to the execution of this Agreement for which Consultant is to be compensated under this Agreement shall be credited as payment for services rendered under this Agreement. Services of the Consultant prior to the Effective Date shall be governed by the terms of this Agreement.

3.6 Consultant's Accounting Records. Records of Consultant's Reimbursable Expenses and hours for all those services performed on an hourly basis on this Project shall be kept in accordance with generally accepted accounting principles, which principles shall be consistently applied. The foregoing records shall be available to Owner or its authorized representatives for inspection and copying upon reasonable notice and during regular business hours during the term of this Agreement and for three (3) years after the date of the Final Completion of the Project. Owner or Owner's authorized representatives shall have the right to conduct an audit or review of Consultant's accounting and financial records, relating to work performed on an hourly basis and invoices tendered for services or Reimbursable Expenses on the Project.

ARTICLE 4 DELAYS IN PERFORMANCE

Neither Owner nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 5 INSURANCE AND INDEMNIFICATION

5.1 Insurance. The Consultant shall comply with the insurance requirements set forth in Exhibit B and shall carry and maintain, at its own cost, all necessary liability insurance, which shall include, at a minimum, the limits and requirements set forth on Exhibit B attached hereto and made part hereof during the term of this Agreement.

5.2 Indemnification.

5.2.1 Indemnity – Generally. To the fullest extent not prohibited by law, for claims resulting from non-professional services, Consultant shall indemnify, protect, defend (with counsel approved by Owner) and hold harmless Owner, the criteria architect, and design-builder (collectively the “Indemnitees”) from all liabilities, damages, losses, settlements, litigation awards, expenses and costs, including reasonable attorneys' fees at both the trial and appellate levels, or claims of losses (collectively, "Losses") made by any third person or third party, that arise out of, or result from, the following: (a) the services of Consultant or Consultant's subconsultants or (b)

any penalties or fines levied or assessed for violation of any applicable law arising out of Consultant's or subconsultant's performance of the services. To the fullest extent not prohibited by law, Consultant's promise of defense and indemnity specifically includes Losses founded in part on the alleged negligence (of any kind) of any Indemnatee. However, to the fullest extent not prohibited by law, if the negligence, gross negligence or intentional misconduct of Indemnatee is the cause of the loss, then such Indemnatee will ultimately bear its proportional share of the loss; in any such instance, the percentage of negligence or intentional misconduct attributable to such Indemnatee, to Consultant, or to any other person or entity, may be determined by a court of competent jurisdiction or otherwise agreed to by such Indemnatee and Consultant in writing. To the fullest extent not prohibited by law, while Consultant shall defend all claims against Indemnatee in the first instance, such Indemnatee shall promptly reimburse Consultant for reasonable costs and expenses of defense (and indemnity paid, if any) to the full extent of Owner's proportional share of negligence, gross negligence or intentional misconduct as determined in accordance with the preceding sentence or otherwise agreed hereunder.

5.2.2 Indemnification – Professional Negligence. For claims and damages resulting from the provision of professional services, consultant agrees to indemnify and hold the Indemnitees harmless from and against Losses, damages and liabilities (including reasonable attorneys' fees) to the extent caused by Consultant's or Consultant's subconsultant's failure to perform all or any portion of the services required hereunder in accordance with the standard of care.

5.2.3 To the fullest extent not prohibited by law, Consultant shall and does agree to indemnify, protect, defend and hold the Indemnitees and their respective affiliates harmless from and against all claims, damages, Losses, liens, causes of action, suits, judgments and expenses, including reasonable attorneys' and other professionals' fees and other costs of defense of any nature, kind or description that result from any claimed infringement of any copyright, patent or other proprietary or intangible property right by Consultant, anyone directly or indirectly employed by Consultant or anyone for whose acts Consultant may be liable.

5.2.4 Consultant shall cause each agreement between it and any of Consultant's subconsultants to contain indemnification provisions for the benefit of Owner in the form contained in this Article 5.

5.2.5 Consultant acknowledges that as an Ohio political subdivision, the Owner does not indemnify any person or entity, and agrees that no provision of this Agreement or any other contract or agreement between Consultant and the Owner may be interpreted to obligate the Owner to indemnify or defend Consultant or any other party.

ARTICLE 6 OWNERSHIP OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

6.1 Ownership. Consultant's common law, statutory and other reserved rights (including copyrights) in all work product of Consultant relating to the performance of Services under this Agreement, including drawings, specifications, preliminary plans, models, renderings and other documents prepared by Consultant or its subconsultants, whether hard copy or on

electronic media (collectively, the "Work Product") shall be the property of Owner. Provided however, Consultant shall retain rights to continue to use its preexisting standard design details and preexisting standard project specifications for other projects, so long as Consultant does not utilize any unique designs, concepts or details developed specifically for the Project on other projects. Upon any termination of this Agreement and the payment of all undisputed amounts for Services properly performed by Consultant, all such Work Product shall be delivered to Owner within ten (10) days of such termination and payment. Except in connection with the further development of the Site, the operation and maintenance of the Site, and/or the ownership of the Site, the Consultant shall not be liable to the Owner arising out of the Owner's reuse or modifications to Work Product unless authorized in writing by the Consultant, which authorization shall not be unreasonably withheld, conditioned or delayed.

6.2 Authorship. Consultant represents that the Work Product (except to the extent that authorized Consultants have been used) are Consultant's own original work and that, in any event, their use in connection with the Project shall not infringe the rights of any third party. Consultant agrees on request at any time and following reasonable prior written notice to give to Owner, or those authorized by Owner, access to the Work Product and to provide copies (including copy negatives and CAD disks) of the Work Product. Consultant shall not grant to any third party the right to use any of the Work Product. Consultant shall ensure that all royalties, fees or similar expenses in respect of all intellectual property used in connection with the Project have been paid and are included in the fee.

6.3 Survival. The provisions of this Article 6 shall survive the termination of this Agreement.

ARTICLE 7 TERMINATION

7.1 Termination By Either Party. This Agreement may be terminated by either Party upon not less than fourteen (14) days' prior written notice should the other Party fail to perform in accordance with the terms of this Agreement through no fault of the Party initiating the termination and the defaulting Party fails to cure or remedy such failure within such fourteen (14)-day period. Any notice of default sent by a Party shall state with reasonable detail the basis for the claimed default or failure of performance. In addition, Owner shall have the right to terminate this Agreement if: (i) Consultant makes a general assignment for the benefits of its creditors, or (ii) a receiver is appointed on account of the insolvency of the Consultant, or (iii) if Consultant otherwise files for bankruptcy. Any of the circumstances stated in this Section 7.1 shall be considered reasons sufficient to terminate Consultant for default. The foregoing right to terminate shall be in addition to all other rights and remedies available under law or in equity.

7.2 Termination For Convenience. This Agreement may be terminated by Owner without cause and for its convenience upon not less than fourteen (14) days' written notice to Consultant.

7.3 Suspension. Owner shall have the right, at any time, to suspend the Project upon written notice to Consultant. If the Project is suspended by Owner for more than ninety (90) consecutive days, Consultant shall be compensated for Services performed prior to Consultant's receipt of written notice of suspension from Owner. When the Project is resumed, Consultant's

compensation shall be equitably adjusted to provide for reasonable expenses incurred in the interruption and resumption of Consultant's Services. Such expenses shall include only direct costs incurred in shutting down the Project and resumption thereof to the extent such expenses would not have been incurred had the Project not been suspended.

7.4 Compensation For Termination. In the event of termination not the fault of Consultant, Consultant shall be compensated for Services performed in accordance with this Agreement prior to termination, together with Reimbursable Expenses then due, if any, but not for lost or anticipated profits on the portion of the Services that were not performed. In the event of termination for default, Consultant shall be compensated for Services performed prior to termination, together with Reimbursable Expenses then due. However, Consultant shall be responsible for all reasonable and actually incurred costs and damages suffered by Owner as a result of such termination for default (including without limitation any increased costs to complete Consultant's Services, but excluding any betterment to the Project), subject to the limitation of liability and waiver of consequential damages set forth in this Agreement. To the extent such costs or damages have been incurred by Owner as of the date of termination, then such amounts may be offset against final amounts due to Consultant, subject to Owner providing reasonable documentation to support the set-off amounts, and subject to Consultant's right to dispute Owner's set-off, pursuant to the dispute resolution provisions of this Agreement. In all events, Owner shall not be responsible for Consultant's lost or anticipated profit on the terminated portion of the Services.

7.5 Work Product. All Work Product produced or developed for the Project shall be furnished to and become the property of the Owner upon termination and payment to Consultant in accordance with Section 7.4.

ARTICLE 8 GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be governed and construed in accordance with the laws of the State of Ohio. Any dispute or claim arising out of or related to this Agreement or the breach thereof shall be settled by litigation in the county where the Project is located. However, if so requested by either party, the Owner and the Consultant agree to submit any dispute between the Owner and Consultant to nonbinding mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association to be conducted in Lake County, Ohio. The Parties agree that if requested by the Owner, any mediation (or any litigation or other dispute resolution proceeding agreed to by the Parties) may include, by consolidation, joinder or other appropriate motion, any additional person or entity not a party to this Agreement, including the Criteria Architect, Design-Builder and any subcontractors or sub-subcontractors on the Project, provided such person or entity is substantially involved in a common question of fact or law arising out of or relating to the same transaction or subject matter involved in such litigation or proceeding

ARTICLE 9 MISCELLANEOUS

9.1 Assignment. Owner and Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other Party to this Agreement and to the partners, successors, assigns and legal representatives of such other Party with respect to all covenants of this Agreement. Consultant shall not assign this Agreement without the prior written

consent of Owner or any such assignment shall be void. Owner may assign this Agreement at any time, without the consent of Consultant.

9.2 Third Party Beneficiaries. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either Owner or Consultant.

9.3 Severability. The invalidity of one or more phrases, sentences, clauses, sections or articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

9.4 Counterparts and Copies of Signatures. This Agreement may be executed in counterparts and may be executed by DocuSign or such other electronic execution program required by Owner. All executed counterparts shall constitute one Agreement, and each counterpart shall be deemed an original. The Parties agree that all documents requiring signatures by the Owner may be executed by electronic means, and that the electronic signatures affixed by the Owner to this Agreement shall have the same legal effect as if that signature was manually affixed to a paper version of this Agreement. The Parties agree to be bound by the provisions of Chapter 304 of the Ohio Revised Code (the "ORC") as it pertains to electronic transactions under Chapter 1306 of the ORC and to comply with the Owner's electronic signature policy.

9.5 Inconsistencies. In the event there are any inconsistencies, conflicts or ambiguities between the terms and provisions of this Agreement and the terms and provisions of any other document, agreement or instrument incorporated herein by reference, the terms and provisions of this Agreement shall control in all respects.

9.6 Headings. The headings and titles to the Articles in this Agreement are inserted for convenience only and shall not be deemed a part hereof or affect the construction or interpretation of any provision hereof.

9.7 Notices. All notices provided for in this Agreement, including notices of default hereunder and termination of this Agreement, shall be in writing and shall be deemed to have been properly given (a) upon receipt if delivered in person or by a nationally recognized overnight courier service or sent by electronic facsimile with receipt confirmed (provided a copy is sent the same day by either overnight courier or certified mail) or (b) as of the third business day after being sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Owner:

Lake County Board of Commissioner's Office
105 Main Street, Suite A513, Painesville, Ohio 44077
Attn: Jason Boyd, Administrator
Email: Jason.Boyd@lakecountyohio.gov

With copies to:

Project Management Consultants
3900 Key Center, 127 Public Square, Cleveland, Ohio 44114
Attn: Ellis Katz
Phone: 216.566.5853
Email: Ellis.Katz@aboutPMC.com

If to Consultant:

[INSERT CONSULTANT'S NAME]

[INSERT ADDRESS]

Attn: [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

With copies to: [NOTE: Insert any other parties to receive copies of Notices sent to the Consultant or delete this notice block]

[INSERT NAME]

[INSERT ADDRESS]

Attn: [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

or such other address as may be furnished in writing by either Party to the other. Either Party may change its address for the purpose of receiving notices under this Agreement by written notice to the other Party in the manner set forth above.

9.8 Survival of Representation and Warranties. The representations, warranties and indemnifications set forth in this Agreement and the exhibits, schedules and other attachments hereto, and in any document, instrument or agreement executed or given in connection herewith, which by their terms are applicable after the term of this Agreement, will survive the expiration or termination of this Agreement.

9.9 Waiver of Consequential Damages. Consultant waives all consequential damages arising out of the Project. This waiver includes but is not limited to damages incurred by Consultant for overhead and compensation of employees, loss of business and reputation, and loss of profit.

9.10 Findings and Recovery. Consultant represents and warrants that it is not subject to an "unresolved" finding for recovery under ORC Section 9.24.

9.11 Public Records. All parties hereto acknowledge that Owner is a political subdivision in the State of Ohio and as such is subject the Ohio Revised Code and other law related to the keeping and access to public records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication with the Owner and any and all documents in any format or media. Consultant and the Owner agree that all records and reports that Consultant provides to the Owner pursuant to this Agreement or that the Owner obtains from Consultant pursuant to this Agreement shall be considered public

records unless exempted from disclosure pursuant to Ohio's public record laws (including ORC. 149.43, ORC. 1333.61(D) and applicable common law), and that the Owner shall have the right to copy and disclose the same.

9.12 Drafting of This Agreement. This Agreement shall be deemed to be drafted by both Parties hereto, and no one Party shall benefit from any claimed ambiguity in this Agreement based on a theory that the other Party drafted this Agreement.

9.13 No Future Commitments. Consultant understands, acknowledges and agrees that the Owner has not made any commitment to Consultant or its subconsultants for any future design services for the Project, and nothing in this Agreement shall be construed or interpreted as a promise or commitment to engage Consultant or its subconsultant for any services beyond the Services provided hereunder. However, execution of this contract does not preclude Consultant from responding to future solicitations for design services for the Project.

9.14 No Apparent Authority/Proper Approvals. Consultant recognizes and agrees that no public official or employee of the Owner may be deemed to have apparent authority to bind the Owner to any contractual obligations not properly authorized pursuant to the County Code.

9.15 Annual Appropriations. All of the Owner's obligations under the Agreement are contingent upon the Owner Board of Commissioners appropriating the funds on an annual basis necessary for the continuation of this Agreement in any Agreement year. In the event the funds necessary for the continuation of this Agreement are not appropriated or approved, the Owner will notify Consultant of such occurrence in writing. This Agreement shall thereafter terminate and be rendered null and void on the last day of the last fiscal period for which appropriations were made. Such termination is made pursuant to and in accordance with the terms of this Agreement and shall not be considered to be a breach or default on the part of the Owner.

9.16 Entire Agreement. This Agreement and all exhibits attached represent the entire and integrated agreement between Owner and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant.

[SIGNATURES ON FOLLOWING PAGE]

This Agreement entered into as of the day and year first written above.

OWNER:

LAKE COUNTY BOARD OF
COMMISSIONER'S OFFICE

CONSULTANT:

[INSERT CONSULTANT'S NAME]

By:

Name:

Title:

Date:

By:

Name:

Title:

Date:

**CERTIFICATE OF AVAILABLE FUNDS
(ORC Section 5705.41)**

The undersigned, Auditor and Chief Fiscal Officer of the Lake County Board of Commissioners, hereby certifies that the amount required to meet the obligations under the contract, obligation, expenditure for the services described in the preceding agreement, has been lawfully appropriated for the purpose, and is in the treasury or in process of collection to the credit of an appropriate fund, free from any outstanding obligation or encumbrance.

By: _____
Name: _____
Its: _____
Date: _____

Exhibit A

SCOPE OF SERVICES

[NOTE: Attach Consultant's proposal, as approved by Owner]

Exhibit B

INSURANCE LIMITS AND REQUIREMENTS

1. Consultant's Insurance. Consultant shall procure and maintain, at its own cost, with companies authorized to do business in the state where the Project is located and having a financial size of VII or higher and a rating of not less than "A-" in the latest version of Best's Insurance Guide, published by A.M. Best & Company, all necessary insurance outlined herein for coverages at not less than the prescribed minimum liability limits for claims caused or contributed to by Consultant. All insurance will be provided through companies authorized to do business in the State where the Project is located and considered acceptable by Owner. Certified copies of all certificates of insurance (and any declarations of insurance and endorsements) evidencing the required insurance will be provided to Owner within five (5) business days of Owner's written request of those copies. The insurance coverages and liability limits to be provided by Consultant shall be as follows:

a. Automobile Liability Insurance. Consultant will maintain Primary Automobile Liability Insurance, covering all owned, non-owned, hired, leased or borrowed vehicles. Such insurance shall have limits of not less than \$1,000,000 combined single limit and shall name Owner, Indemnitees, and any other entities designated by Owner in writing ("Additional Insured") as an additional insured thereon.

b. Workers' Compensation Insurance. Consultant will maintain workers' compensation and employers' liability insurance covering its operations in not less than the following limits: Workers' Compensation- as required by applicable state and federal statutes; Employers' Liability- \$1,000,000 Bodily Injury each Accident; \$1,000,000 Bodily Injury by Disease for Each Employee; and \$1,000,000 Bodily Injury Disease Aggregate. Consultant shall cause, if allowed by law, its workers' compensation carrier to waive insurers' right of subrogation with respect to Owner, its partners, parents and affiliated companies.

c. Commercial General Liability Insurance. Consultant will maintain commercial general liability insurance covering all operations by or on behalf of Consultant on an occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use), naming the Additional Insureds as an additional insured thereon. Such insurance shall have not less than the following limits: \$1,000,000 Each Occurrence; and \$2,000,000 Annual Aggregate.

d. Umbrella/Excess Liability. Consultant shall maintain additional coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance in the amount of \$5,000,000 Each Occurrence; and \$5,000,000 General Aggregate. Excess Umbrella Insurance coverage shall be provided on a follow-form basis and Consultant shall be responsible for any gaps between underlying coverage and such excess coverage in the case of Consultant's policies.

e. Valuable Papers. If applicable, Consultant will purchase valuable papers and records coverage for plans, specifications, drawings, reports, maps, books, blueprints, and

other printed documents in an amount sufficient to cover the cost of recreating or reconstructing valuable papers or records related to this Project.

f. Professional Liability. Consultant shall purchase and maintain insurance to protect against claims arising out of the performance of Consultant's professional services caused by any negligent acts, errors, omissions for which Consultant is legally liable. Such professional liability insurance shall have minimum limits of \$2,000,000 per claim/\$5,000,000 annual aggregate. Consultant shall maintain an insurance program with deductibles or self-insured retention commensurate with industry standards for a corporation of its size and shall be solely responsible for any deductibles or self-insured retention amounts. The professional liability insurance shall have no exclusion for injury to persons or property arising out of the performance of professional services. Consultant shall keep such insurance in effect for a period of not less than five (5) years after the date of completion of its Services for the Project. If such professional liability insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date of this Agreement and shall include a supplemental extended reporting period provision. Consultant shall cause each of the subconsultants providing design or engineering services to maintain separate professional liability insurance to protect against claims arising out of the performance of such Consultant's services with minimum limits as follows: \$1,000,000 per claim/annual aggregate, unless different minimum limits are approved in writing by Owner which approval shall not be unreasonably withheld.

2. Certificates of Insurance. Consultant shall provide Owner with certificates of insurance, completed by a duly authorized representative evidencing that the minimum coverages required of Consultant and its subconsultants herein are in effect and specifying that the liability coverages (except professional liability and employers liability) are written on an occurrence form.

a. All of the required insurance policies may not be cancelled or materially modified from the requirements of this Exhibit B without at least thirty (30) days' prior written notice to Owner from Consultant. Consultant shall maintain the required insurance during the performance of this Agreement and for five (5) years after completion of the Services hereunder.

b. Failure of Owner or Owner's Representative to demand such a certificate or other evidence of full compliance with these requirements or failure of Owner or Owner's Representative to identify a deficiency from evidence provided will not be construed as a waiver of Consultant's obligation to maintain such insurance. The acceptance of delivery by Owner or Owner's Representative of any certificate of insurance evidencing the required coverages and limits does not constitute approval or agreement by Owner that the insurance requirements have been met or that the insurance policies shown in the certificates of insurance are in compliance with the requirements of this Exhibit B.

c. If any of the coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverages will be submitted with Consultant's final invoice.

3. Insurance Primary. All coverages required of Consultant or its subconsultants or professional subcontractors will be primary over any insurance or self-insurance program carried by Owner.
4. Other Requirements. The foregoing policies (other than the workers' compensation and professional liability): (a) shall name Owner as additional insured, (b) shall be primary and non-contributory to any insurance (or self-insurance program) carried by Owner, and (c) shall contain a cross-liability endorsement, a severability of interests endorsement and a waiver of subrogation endorsement in favor of Owner.
5. Waiver of Subrogation. The Owner and the Consultant (and Consultant shall require that all subconsultants) waive all rights against (1) each other and each other's Consultants, contractors, subconsultants, agents, officers, directors, shareholders and employees; (2) the construction contractor and its subcontractors, and separate contractors, if any, and their subcontractors, sub-subcontractors, agents and employees; (3) the architect and its consultants, and (4) any other person or entity using or occupying any portion of the Project with Owner's knowledge and consent for damages caused by fire or other perils but only to the extent actually paid by insurance obtained pursuant to the Construction Agreement or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance. The foregoing waiver afforded the construction contractor, their agents and employees shall not extend to the liability of the construction contractor. The Owner or the Consultant, as appropriate, shall require of the architect, construction contractor, separate contractors, and consultants by appropriate agreements, written where legally required for validity, similar waivers each in favor of all other Parties enumerated in this Exhibit B.
6. No Reduction or Limit of Obligation. By requiring insurance, Owner does not represent that coverage and limits will necessarily be adequate to protect Consultant. Insurance effected or procured by Consultant will not reduce or limit Consultant's contractual obligation to indemnify and defend Owner as may be required by this Agreement for claims or suits which result from or are connected with the performance of this Agreement.
7. Duration of Coverage. All required coverages will be maintained without interruption during the entire term of this Agreement.

Exhibit C

KEY PERSONNEL AND SUBCONSULTANTS

[NOTE: Attach Consultant's list of key personnel and subconsultants, as approved by Owner]