



January 6, 2012

City of Gahanna
200 South Hamilton Road
Gahanna, Ohio 43230

Attn: Mr. Troy Euton
Deputy Director
Department of Parks and Recreation

Re: Proposal for Natural Resource Services
Big Walnut Trail
Gahanna, Ohio
Terracon Proposal No. PN1111048

Dear Mr. Euton:

Terracon Consultants, Inc. (Terracon) is pleased to submit this proposal to the City of Gahanna to conduct natural resources consulting and permitting services for the proposed Big Walnut Trail Project. The purpose of our services will be to conduct an initial site reconnaissance to determine if the presence of potential wetlands on the site warrants further investigation. Based on this survey additional services may include: a formal wetland delineation (with a Threatened and Endangered species review) and necessary permitting services (based on potential impacts).

A. SITE AND PROJECT INFORMATION

Site Location

| ITEM | DESCRIPTION |
|----------------------------------|--|
| Location | The project site is located on the east side of the Big Walnut Creek near Woodside Green Park in Gahanna, Ohio. |
| Total Site Acreage | Approximately 5 acres |
| Existing improvements | Undeveloped primarily forested property. |
| Existing topography/water bodies | The project site is mildly sloped. Elevations range from 795 to 800 feet above mean sea level (msl) throughout the site. The Big Walnut Creek is located on the west side of the site. |

EXHIBIT A



Terracon Consultants, Inc., 611 Lunken Park Drive, Cincinnati, Ohio 45226
P [513] 321-5816 F [513] 321-4540

Geotechnical

Environmental

Construction Materials

Facilities

Should any of the above information or assumptions be inconsistent with site conditions, please let us know so that we may make any necessary modifications to this proposal.

B. SCOPE OF SERVICES

Site Reconnaissance

This will include an office data review of available resource information for the site and a reconnaissance visit. Terracon will visit the site in an effort to identify the potential presence of wetland and/or other jurisdictional waters that may exist on the Site. Terracon understands that the City of Gahanna has a group of persons knowledgeable in natural resource practices that will also take part in this initial reconnaissance visit. Based on the findings of this work, Terracon will make recommendations that are presumed to be necessary in order to move forward with the construction activities for the project.

Terracon will complete necessary field and office activities to conduct this initial review and submit a letter report to the City of Gahanna documenting the results.

Wetland Delineation

The delineation will use mandatory technical criteria, field indicators, and other sources of information to determine whether the project area has jurisdictional waters of the United States (WUS). The classification will be performed by a degreed biologist or environmental scientist. If wetlands are present, the upland boundaries within the project area will be identified.

Terracon will conduct the wetland delineation according to the 1987 *Corps of Engineers Wetlands Delineation Manual* and the 2008 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual*, which are consistent with the USACE "Guidelines for the Submittal of Wetland Delineation Reports". The wetland and stream delineation study will include an office review followed by a field investigation and a report that contains field data sheets, photographs of the site, and all attachments required by the ACOE.

The delineation report will consist of the following components:

- Office Data Review: Terracon will review U.S. Geological Survey topographic maps, county soil survey and hydric soils list, available aerial photographs, flood plain maps, and the National Wetland Inventory map for the project area.
- On-site Inspection: Terracon will perform an onsite inspection across the Property to evaluate areas that could contain potential wetlands and/or other regulated waters (i.e., streams). This will include conducting various test sites and routine data points to evaluate representative areas of the Property for wetland indicators (i.e., hydrophytic

vegetation, hydric soils, and hydrology). These areas will be recorded and flagged in the field. Surveying activities of any potential waters will not be conducted by Terracon as part of this study. Terracon assumes it will be provided a site CAD file with topographic data for this work as well as survey locations of any potential WUS identified during the field reconnaissance.

- Threatened and Endangered (T and E) Species Review: T and E species are conducted in an effort to locate any potentially sensitive areas within the project site. Initial reviews will consist of request letter submittal to the United States Fish and Wildlife (USFW) Service and the Ohio Department of Natural Resources (ODNR) requesting any known occurrences of federally or state listed threatened or endangered species or any areas of designated critical habitat on-site or in the vicinity of the site. These reviews will be required for the federal and state permitting process.

Permitting

Based on findings of the delineation along with potentially unavoidable impacts to jurisdictional waters to meet project needs, regulatory permitting will likely be required. OEPA and the USACE have set thresholds for impacts such as road crossings, piping tributaries, relocating tributaries, and filling or draining wetlands or other water bodies. Commercial, recreational, and or educational facility projects are typically processed under Nationwide Permits (NWP) and allow up to ½ acre of impacts. When cumulative project impacts exceed this threshold (½ acre) a state Water Quality Certification (WQC) and an Individual Permit (IP) with the USACE are required before activities can be completed. Depending on the total impacts deemed necessary, the following scopes have been provided:

Nationwide Permitting/ Pre Construction Notification

If it is determined that this project will not exceed ½ acres of impacts and require an Individual Section 401 water quality certification permit from the OEPA, the general certification conditions listed by the OEPA under Nationwide Permit (NWP) 42 will be followed during development activities. To this end, Terracon will prepare the permit application and pre-construction notification (PCN) to the Army Corps of Engineers (ACOE). This process is expected to generally involve the following steps:

- Complete an ACOE permit application and PCN which will include a copy of Terracon's wetland delineation report and a proposed site development plan. A hypothetical preferred development plan will also need to be presented in order to show that the plan of record minimizes impacts to the extent practical, as required by the ACOE;
- Contact the ACOE and schedule a jurisdictional determination (JD) site visit to verify the delineation findings;

- Attend a site meeting with the ACOE; and,
- Address questions or comments provided by the ACOE during the permit review period.

In order to expedite the process, and based on recent discussions with the ACOE, Terracon recommends that the permit application document (PCN) and the delineation report be submitted concurrently to the Corps. This will expedite the Corps' review of the application document and a jurisdictional determination for the Property. Terracon assumes that the ACOE will request a site meeting to verify the jurisdictional boundaries presented by Terracon in the delineation report, as part of the JD process. Terracon will accompany the ACOE during this site visit, and will address any questions made by the ACOE during the permit review process, as the client's authorized agent. Additionally, the OEPA and the USACE will require mitigation for the wetland that is proposed to be impacted if impacts are greater than 0.1 acres. The methods of how this mitigation will be provided will be described to the agencies in a mitigation plan. Terracon will prepare the mitigation plan for the submittal to the agencies after reviewing alternative choices and mitigation options with the project team.

Water Quality Certification Process Including USACE Permitting

If NWP thresholds will be exceeded, Terracon will provide assistance to the project team during the State Water Quality Certification (401) and the USACE Individual Permit (404) process. Terracon will plan on meeting and discussing the proposed project with the USACE during the initial stages of the project. An on-site "Pre-Application" meeting with OEPA will be conducted to familiarize the agency with the site as well as project needs.

An analysis of alternatives must also be prepared during the WQC and IP process. The analysis needs to describe various developmental alternatives that were explored for the site, including a no impact option. The desired development plan should be proven to the agencies as the best alternative. Terracon will prepare the analysis, with input from the project team.

Additionally, the OEPA and the USACE will require mitigation for the wetland that is proposed to be impacted. The methods of how this mitigation will be provided will be described to the agencies in a mitigation plan. Terracon will prepare the mitigation plan for the submittal to the agencies after reviewing alternative choices and mitigation options with the project team.

Also, other federal, state, or local agencies may require additional information regarding the proposed development. A summary of services that are provided under the WQC/ IP process are listed below:

- Project team meetings to discuss the development plan
- JD meeting with the USACE

- Continuous correspondence/meetings with project team and the agencies throughout permitting process
- Preparation of a Purpose and Need Statement
- Preparation of an Analysis of Alternatives Plan, including engineering design variation assistance with revising the development plan (to be coordinated with the project team)
- Coordination with the US Fish and Wildlife Service (USFWS) to address issues involved with Threatened and Endangered Species on the project site
- Preparation of Response to Public Notice Comments (to be coordinated with input from the project team)
- Mitigation Plan Preparation (to be coordinated with input from the project team)

Considerations

According to the Midwest Supplement, the end of the growing season occurs when woody deciduous species lose their leaves and/or the last herbaceous plants cease flowering and their leaves become dry or brown. The growing season generally begins when two or more different non-evergreen vascular plant species growing in a wetland or surrounding area emerge from the ground, show new growth, bud, or flower. For better classification, the wetland delineations for this type project should be performed when vegetation is actively growing (generally March-November).

Additional Services Beyond Base Services

Fees incorporated in this proposal do not include potentially additional services that may become necessary as the project details become more defined. Tasks such as Mist Net Surveys or compensatory mitigation services are not included in as part of this proposal, as needs for these tasks will be clarified as the project develops. Budget estimates for additional services will be provided as the project scope evolves. The City of Gahanna will be responsible for any additional fees to regulatory agencies required as part of the permitting process, such as OEPA Permit Application Fee.

Schedule

Since coordination for the initial site visit will be required between Terracon scientists and the City of Gahanna representatives, attempts will be made to find a suitable schedule date immediately upon receiving approval of this proposal.

In order to comply with the proposed schedule, the following items are required to be provided by the client at the time of notification to proceed in order to meet the client's required project completion date. Please include the following requested items along with the notification to proceed:

- Right of entry to conduct the field services
- Notification of any restrictions or special requirements (such as safety) regarding accessing the site
- A signed Agreement for Consulting Services evidencing acceptance of this scope of services

C. COMPENSATION

Terracon will invoice services outlined above on a Time and Material basis. We suggest establishing a budget between \$8,100 and \$20,500. This price estimate varies due to the uncertainty of which permitting process will be required, if any. A breakdown of activities and expected costs is presented in the Table below.

FEE ESTIMATE

| Activity | Approximate Cost (\$) |
|---|------------------------------|
| Base Services | Time & Material |
| Initial field review with City of Gahanna Representatives | \$1,200 |
| Wetland Delineation | \$3,300 |
| Nationwide Permit/ Pre- Construction Notification (or) | \$3,600-\$4700 |
| Water Quality Certification (401) and Individual Permit (404) | \$13,000-16,000 |
| Total (Nationwide Permit) | \$8,100 - \$9,200 |
| Total (Water Quality Certification/ IP) | \$17,500- \$20,500 |

The fees presented are based on performing only the services discussed in this proposal. Changes beyond the Scope of Work of this proposal will be charged in accordance with our current unit fee schedule or a revised proposal.

Based on our site knowledge, Terracon does not anticipate additional expenses associated with the current work scope. If changes occur during the project which modifies the current scope, the stated fee is subject to change.

D. AUTHORIZATION

This proposal may be accepted by executing the attached Agreement for Services and returning one copy to Terracon. Services will be initiated upon receipt of the written notice to proceed.

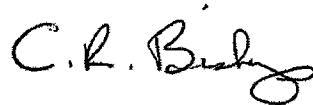
The terms, conditions and limitations stated in the Agreement, and sections of this proposal incorporated therein, shall constitute the exclusive terms and conditions and services to be performed for this project. This proposal is valid only if authorized within ninety days from the proposal date.

Terracon appreciates the opportunity to submit this proposal for natural resources services. If you have any questions or comments regarding this proposal, please contact us at (513) 321-5816.

Very truly yours,
Terracon Consultants, Inc.



Scott West
Environmental Project Scientist II



Randy Bishop, P.G., C.P.
Department Manager/ Environmental Services

Attachment: Agreement for Services

AGREEMENT FOR SERVICES

This **AGREEMENT** is between The City Of Gahanna ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Black Walnut Trail project ("Project"), as described in the Project Information section of Consultant's Proposal dated 1/6/2012 ("Proposal") unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

- Scope of Services.** The scope of Consultant's services is described in the Scope of Services section of the Proposal ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the project.
- Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
- Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Compensation section of the Proposal unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties. For a limited time period not to exceed three months from the date of the report, Consultant will issue additional reports to others agreed upon with Client, however Client understands that such reliance will not be granted until those parties sign and return Consultant's reliance agreement and Consultant receives the agreed-upon reliance fee.
- LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$10,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE INSURANCE COVERAGE, CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of services on the project.
- Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii)

commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client agrees to the level or amount of testing performed and the associated risk. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by services not performed due to a failure to request or schedule Consultant's services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of tests (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Material unless specifically provided in the Services, and that Client is responsible for directing such disposition. In the event that test samples obtained during the performance of Services (i) contain substances hazardous to health, safety, or the environment, or (ii) equipment used during the Services cannot reasonably be decontaminated, Client shall sign documentation (if necessary) required to ensure the equipment and/or samples are transported and disposed of properly, and agrees to pay Consultant the fair market value of this equipment and reasonable disposal costs. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site. Accordingly, Client waives any claim against Consultant and agrees to indemnify and save Consultant, its agents, employees, and related companies harmless from any claim, liability or defense cost, including attorney and expert fees, for injury or loss sustained by any party from such exposures allegedly arising out of Consultant's non-negligent performance of services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site.

Consultant: Scott West
By: _____ Date: 1/6/2012
Name/Title: Scott West
Address: 611 Lunken Park Drive
Cincinnati, Ohio 45226
Phone: 513.321.5816 Fax: 513.321.0294

Client: The City of Gahanna
By: _____ Date: _____
Name/Title: _____
Address: 200 South Hamilton Road
Gahanna, OH 43230
Phone: 614-342-4259 Fax: _____

Reference Number: PN1111048