

September 7, 2016

Mr. Rob Priestas, PE  
City of Gahanna  
200 S. Hamilton Rd.  
Gahanna, Ohio 43230

Subject: Revised Proposal for Professional Services: Big Walnut Trail – Section 4 and Section 8

Dear Mr. Priestas,

EMH&T is pleased to provide our fee proposal for professional services related to the Big Walnut Trail – Section 4 and Section 8 multi-use trail improvements. The proposal provided to the City of Gahanna is based on our scope of services planning meeting coordinated with the City and EMH&T on August 10, 2016, and follow up meetings with the City of Gahanna on August 24, 2016 and August 30, 2016.

Please see the following summary for the Project Limits, Project Understanding, and Scope of Services.

**A. Project Limits**

This project involves Section 4 and Section 8 of the master Big Walnut Trail improvement plan. Section 4 of the improvements connects the existing Section 3 trail at Nob Hill Drive to the existing Section 5 trail at Olde Ridenour Road. The alignment of Section 4 generally follows along the east side of Cherry Bottom Road while limiting impacts to right-of-way, utilities, and the environment. The total length of Section 4 is approximately 6,400 linear feet. [Exhibit 1](#) illustrates the general alignment of Section 4.

The purpose of Section 8 is to connect the existing Section 7 trail to Pizzurro Park. The preferred alignment generally follows Big Walnut Creek from Rocky Fork Road to Pizzurro Park as shown on [Exhibit 2](#); however, additional alignments will be studied. Total length of Section 8 is approximately 8,200 linear feet.

**B. Project Understanding**

The purpose of the project is to provide interconnection of existing Big Walnut Trail sections. Limited preliminary engineering services and then final engineering will be performed for Section 4. For Section 8, we will only be performing limited preliminary engineering to analyze and confirm a preferred alignment. Final engineering for Section 4 will include confirming a preferred alignment with the City. Section 8 detailed design will be advanced at a later date and is not part of the proposed contract.

The following improvements are currently proposed as part of the **Section 4** scope:

- Maintain existing sidewalk and street section along Nob Hill Drive
- Maintain existing 5 foot concrete walk between Springbrook Drive and East Johnstown Road

- Provide mid-block pedestrian crossing with rectangular rapid flashing beacons at the intersection of Nob Hill Drive and Cherry Bottom Road
- New timber pedestrian bridge over McKenna Creek within McKenna Park
- New prefabricated pedestrian bridge over Big Walnut Creek
- New prefabricated pedestrian bridge over McKenna Creek to Church property
- Environmental support services for Section 4 and Section 8
- Water resource support services for Section 4 and Section 8

See enclosed Exhibit 1 for a schematic view of the proposed Section 4 alignment.

Additionally, Section 4 will also include the following traffic control improvements:

- New pavement markings and roadway signs
- New accessible curb ramps at all pedestrian crossings
- Traffic signal adjustments at the Cherry Bottom Road and East Johnstown Road intersection.
- New pedestrian crossing countdown timers and push buttons at the Cherry Bottom Road and East Johnstown Road intersection.

The following improvements are currently proposed as part of the **Section 8** scope

- Utilize the existing feasibility study for alignments and structural solutions anticipating the underpass option is feasible.
- Evaluate path alignments using OSIP LiDAR data sets from the State of Ohio only if the underpass option is not feasible.
  - Preliminary Alignment (plan graphics only)
- Preliminary Opinion of Construction Cost
- Coordinate with ODOT and the City of Gahanna for project needs as required
  - The City will coordinate with CRAA as needed
- Provide planning level hydraulic and planning level environmental assessments as required for planning level efforts.
- Provide a planning level technical memorandum summarizing the findings.

Please see the following sections for the detailed scope of services and the associated project deliverables.

## **C. Scope of Services**

EMH&T's professional services will include documentation, design, and coordination to successfully advance the project based on the tasks provided in the following section.

### **Section 4 – Preliminary Engineering**

#### **1. Environmental Services**

##### **Preliminary Environmental Review / GIS Mapping**

A desktop review of available environmental information will be completed. This information will support the delineation, permitting and agency coordination tasks. As part of the preliminary environmental review, the following will be completed:

1. Review existing soil mapping, USGS topography, National Wetland Inventory maps and floodplain maps to determine the location of mapped wetland/stream features along the project corridor.
2. Obtain and review available wetland inventory/mapping from the Gahanna Department of Parks & Recreation Natural Resources Advisory Committee (NRAC).
3. Prepare GIS mapping for inclusion in project base map and use in agency coordination and permit applications.

##### **Stream/Wetland Delineation**

EMH&T will delineate all wetland and stream features within the project corridor, and prepare a delineation report for submittal with the Nationwide Permit. This task will include:

1. Conduct a field investigation in accordance with current U.S. Army Corps of Engineers (USACE) practices to determine the location and extent of Waters of the United States. Identify the boundaries of any wetland areas with flagging tape or other such marker.
2. Identify the Ordinary High Water Mark (OHWM) of all streams within the project corridor with flags, stakes or other such marker.
3. Collect photographs and complete delineation data forms for each wetland feature on the site.
4. Surveying of wetland boundaries, stream centerlines and OHWMs will be performed by EMH&T survey crew as part of the field survey. EMH&T will use this survey data to provide a detailed map showing locations of all identified waters within the project corridor.
5. Prepare a report including research, data and a summary of findings for the property. This report will be for the use of the USACE to identify jurisdictional waters and wetlands on the site. Report submittal to the USACE will be arranged with verbal or written permission of the City.
6. Coordinate with and provide additional data for USACE to evaluate wetlands using Significant Nexus Determination datasheet, if required.
7. Conduct a site visit with a representative of the USACE as needed, to verify the wetland delineation boundaries.

### **Stream/Wetland Habitat Evaluation**

EMH&T will complete an assessment of the existing habitat conditions of each wetland and stream within the project corridor. This assessment will serve to establish the wetland regulatory categories and to support the determination of existing aquatic life uses of the streams, as required by the permitting process. The assessment will involve completion of the following, in accordance with Ohio EPA protocols:

1. Assess the quality and physical characteristics of each wetland using the Ohio Rapid Assessment Method (ORAM) for Wetlands.
2. Assess the physical habitat characteristics of each stream using the Qualitative Habitat Evaluation Index (QHEI) or Headwater Habitat Evaluation Index (HHEI), as appropriate.
3. Assess the biological condition of each stream via biological sampling of fish and macroinvertebrates.

#### **Deliverables:**

- Surface water delineation report and mapping
- Stream habitat (QHEI or HHEI) and biological assessment for all streams
- Rapid wetland habitat assessment (ORAM) for all wetlands

### **2. Water Resource Services**

Please see Section 4 – Detailed Design for the combined efforts as coordinated with the City during the fee proposal process.

### **3. Preliminary Engineering – Multi Use Path**

Preliminary engineering services for the multi-use path have been removed from the fee proposal as coordinated with the City.

### **4. Preliminary Engineering – Structures**

Preliminary engineering services for the structures have been removed from the fee proposal as coordinated with the City.

### **5. Right of Way Acquisition Support Services – If Authorized**

Right of Way Acquisition services have been removed from the fee proposal as coordinated with the City.

## **Section 4 – Detailed Design:**

### **6. Environmental Services**

#### **Threatened/Endangered Species Coordination**

EMH&T will coordinate with the Ohio Department of Natural Resources (ODNR) to request a National Heritage Database search. EMH&T will also review the U.S. Fish and Wildlife Service (USFWS) published list of endangered and threatened species for Ohio to determine what species are listed for Franklin County and evaluate the project corridor's suitability for these species critical habitat (required by the permit application process). Through consultation with the USFWS and USACE it will be determined whether any federally-listed species or potential habitat for such species are present within the project corridor, and whether the project has an adverse effect on any such species. If a summer bat survey is required by USFWS, EMH&T will prepare an additional proposal for this effort.

#### **Mussel Survey and Relocation**

All native mussel species are protected in the State of Ohio per the Ohio Revised Code, Section 1533.324. Methods to determine the presence of native mussels are outlined in the *Ohio Mussel Survey Protocol (OMSP)* (ODNR/USFWS, April 2016). Survey protocols in the OMSP are based on the size of the drainage area and the potential presence of Federally Listed Species (FLS). Big Walnut Creek is listed as a "Group 1" stream, as it is a small to mid-sized stream with the potential for mussels, but where FLS are not expected. As such, based on OMSP guidance, survey protocols for Group 1 streams are required in order to demonstrate that the project will not adversely impact native mussel species.

Accordingly, EMH&T will perform a mussel survey and relocation for the Section 4 bridge over Big Walnut Creek. EMH&T will prepare a mussel survey and relocation study plan, and will work directly with ODNR to receive the necessary authorizations to proceed with the combined survey/relocation effort. The mussel survey will be conducted by EMH&T state qualified mussel surveyors under EMH&T's Wild Animal Collection Permit (Permit Number 17-197 – Scientific Collection) issued by ODNR Division of Wildlife.

EMH&T will request pre-approval from ODNR to conduct the relocation at the same time as the mussel survey. All mussel survey and relocation efforts will follow standard guidelines from the OMSP for a bridge project on a Group 1 stream. Due to the depth of the stream in some locations (greater than an arm's length in depth), it will be necessary to use SCUBA diving equipment to complete the survey. All EMH&T divers are SCUBA certified (Open Water Training) and will follow all applicable safety regulations. If any federally listed mussel species are found, all survey and relocation efforts will be stopped and the U.S. Fish and Wildlife Service (USFWS) will be contacted immediately.

The survey findings will be documented in a mussel survey and relocation report to be prepared by EMH&T. The report will include methodology, results, photographs, field data forms, and maps

showing survey areas, relocation areas, and the original location of any mussels located. EMH&T will work directly with ODNR to obtain the approval of the mussel survey report.

#### **Nationwide Permit #14 Pre-Construction Notification**

It is anticipated that the Section 4 project may qualify for a Nationwide Permit #14 (Linear Transportation Projects), assuming that: (1) temporary or permanent impacts to surface waters will not exceed 0.5 acre; and (2) stream impacts will not exceed 300 linear feet. In order to obtain approval from the USACE for use of NWP 14, a PCN will be prepared in accordance with the requirements on the NWP General Conditions. This task will include the following services:

1. Preparation of project plan views and cross sections for all stream and/or wetland impacts, and a restoration plan showing how all temporary fills will be removed and the area restored to pre-project conditions. These plans are required for the permit submittal.
2. Assembly of all necessary information for and preparation of the PCN in compliance with the requirements for a Section 404 NWP 14 from the USACE.
3. Submittal of the complete PCN package, on behalf of the City as the permit applicant, to the USACE Huntington District.
4. Representation of the City during the permit review process to the regulatory agencies.

Fill of jurisdictional streams or wetlands exceeding one-tenth acre will require mitigation. Mitigation may consist of “permittee-responsible” mitigation (i.e., stream/wetland preservation, enhancement or restoration), or purchase of credits from a mitigation bank or in-lieu fee mitigation program. At this point, it is unknown which method may be selected for mitigation. For the purposes of this proposal, we have assumed that mitigation would be limited to purchasing credits from a mitigation bank or in-lieu fee program. However, if a decision is reached to conduct a “permittee-responsible” mitigation project, i.e., preservation, enhancement or restoration, EMH&T will prepare an additional proposal for the necessary design, renderings and mitigation plans for that effort. The City is responsible for any mitigation fees, if applicable.

If the cumulative stream/wetland impacts associated with Section 4 of the Big Walnut Trail exceed the limits of Nationwide Permit #14 (0.5 acre / 300 linear feet of stream), or if the project otherwise does not meet the limitations and conditions of the Nationwide Permit, then an Individual Section 404 Permit / 401 Water Quality Certification (WQC) may be required. If required, EMH&T will prepare an additional proposal for this effort.

#### **Nationwide Permit #27 Pre-Construction Notification**

It is anticipated that the stream restoration of McKenna Creek may qualify for a Nationwide Permit #27 (Aquatic Habitat Restoration, Establishment and Enhancement Activities), as a separate, single and complete project (with independent utility from the Section 4 trail project). In order to obtain approval from the USACE for use of NWP 27, a PCN will be prepared in accordance with the requirements on the NWP General Conditions. This task will include the following services:

1. Consultation with the USACE and the USFWS to determine whether any listed species or potential habitat for such species are present and whether the project has an adverse effect on any such species. EMH&T will utilize the information gathered as part of the Section 4 endangered species coordination for this effort, but will prepare a separate, stand-alone consultation letter for the stream restoration project.
2. Preparation of project plan views and cross sections for all stream and/or wetland impacts, and a restoration plan showing how the stream and associated wetlands will be restored. These plans are required for the permit submittal.
3. Assembly of all necessary information for and preparation of the PCN in compliance with the requirements for a Section 404 NWP 27 from the USACE.
4. Submittal of the complete PCN package, on behalf of the City as the permit applicant, to the USACE Huntington District.
5. Representation of the City during the permit review process to the regulatory agencies.

It is assumed that the McKenna Creek stream restoration project would be considered “self-mitigating” and will accommodate all potential stream/wetland impacts associated with the restoration project. As such, this proposal assumes no additional mitigation will need to be devised and/or designed as part of the stream restoration project.

If the stream restoration project does not meet the limitations and conditions of Nationwide Permit 27, then an Individual Section 404 Permit and/or 401 WQC may be required. If required, EMH&T will prepare an additional proposal for this effort.

**Deliverables:**

- ODNR National Heritage Database search
- USFWS threatened/endangered species coordination
- Mussel survey and relocation study plan and report
- Nationwide Permit #14 Pre-Construction Notification
- Nationwide Permit #27 Pre-Construction Notification

## 7. Water Resource Services

### Flood Hazard Impact Analysis

Under this task, we will complete a flood hazard impact analysis for the three proposed bridges listed below. The purpose of this analysis is to evaluate alternative bridge alignments and geometries to determine the impact on existing flood hazard conditions and the resulting permitting requirements under Chapter 1191 (Regulatory Flood Hazard Area) of the City's codified ordinances. For this purpose, we will use the best available floodplain modeling for the effected watercourses. Preliminary estimates of scour depths will be calculated following published guidance (FHWA HEC-18) using assumed substrate particle size values.

a. Big Walnut Creek pedestrian bridge at the Stonybrook Church property

At this location, we anticipate considering a single and twin span bridges to cross the channel and adjacent floodplain. A twin span bridge may be less costly and/or may have less overall impact on the existing flood hazard conditions of Big Walnut Creek than a single span structure. This analysis will also consider various approach conditions for the biketrail from the east and west sides of the proposed bridge to minimize flood hazard impacts while also considering the physical limitations of the project corridor.

b. McKenna Creek pedestrian bridge at the Stonybrook Church property

At this location, we anticipate considering a single span bridge to be placed near the existing low-head dam. This flood hazard impact analysis will also consider the removal of the low-head dam and the proposed stream restoration that is also being considered as part of this project. A single bridge configuration will be analyzed and sized as part of this effort.

c. McKenna Creek pedestrian bridge upstream of the Cherry Bottom Road culvert

At this location, we anticipate considering the replacement and relocation of the existing timber bridge along the pedestrian path within McKenna Park. The location of this bridge crossing will be resolved as part of the overall trail alignment evaluation, and it is anticipated this bridge will continue to be a timber structure. In this analysis, we will assume the existing timber bridge will be removed as part of the project. We will also consider any grading along McKenna Creek associated with the realignment of the biketrail through this area. A single bridge configuration will be analyzed as part of this effort.

#### Deliverables:

- The deliverable associated with this work will be a brief summary engineering document describing the technical analysis and presenting the results associated with the various bridge alternatives considered and will be submitted to the City as part of the 30% Plan review.
- This report will include a floodplain workmap for each of the proposed bridge locations demonstrating the bridge alignment and the location of model cross-sections.

### **Floodplain Permit Documentation**

Under this task, we will complete a Floodplain Use Permit application to accompany the final flood hazard impact analysis report as part of a 90% Plan submittal to the City. This permit application will represent all of the proposed improvements within the 100-year floodplain of Big Walnut Creek and McKenna Creek. The fee for this task assumes the flood hazard impact analysis has determined a no-rise in the existing condition 100-year floodplain, and that a Conditional Letter of Map Revision (CLOMR) is not required for the City to approve and issue a Floodplain Use Permit for the proposed project.

#### **Deliverables:**

- The deliverable for this task is a completed Floodplain Use Permit application for the proposed project, including the three bridges and other proposed grading activities within the 100-year floodplain of Big Walnut Creek and McKenna Creek.
- We will also provide the City with a final version of the summary engineering document representing the flood hazard impact analysis for the three bridges.

### **Stream Restoration of McKenna Creek**

Under this task, we will complete a preliminary and final design for the stream restoration project on the Stonybrook Church property. The restoration design will include notes and specifications for the removal of the existing low-head dam; a proposed profile of the restored stream channel; proposed grading for the channel and adjacent wetland shelves; details and specifications for in-stream features, including riffles and channel bank reinforcement; and a detailed planting plan for both riparian and wetland areas along the restored stream channel.

#### **Deliverables:**

- The deliverables for this task will be engineering plan sheets incorporated into the overall plans for the project provided to the City as part of the 30%, 90% and Final Submittals.

### **Stormwater Pollution Prevention Plan (SWPPP) and NOI**

The SWPPP is a Summary Field Manual compliant with the requirements of Ohio EPA General Permit No. OHC000003 authorizing stormwater discharges associated with construction activities. Under this task, a field manual will be prepared for this project consisting of information from the engineering plans, including the erosion and sediment control information, inspection documentation, and Ohio EPA permit applications. This task also includes submitting the Notice of Intent (NOI) application to the Ohio EPA and the associated application fees.

#### **Deliverables:**

- A draft version of the SWPPP will be submitted with the 90% engineering plans for the City's review. The NOI application will be submitted for the City's signature with the final plans and then forwarded to the Ohio EPA.

## **8. Survey and Basemapping**

Topographic and boundary survey will be performed to encompass the limits of the preferred Section 4 alignment including the following services:

- a. Project Control and Benchmarks - recover existing monumentation.
- b. Field Topographic Survey - perform topographic survey of the approved path alignment and 10' beyond edge of proposed path; OUPS request.
  - i. No survey will be provided on Nob Hill Drive; GIS data only.
- c. Boundary Survey – perform boundary work at isolated location where applicable
- d. Record Research – research for boundary need as required.
- e. Hydraulic Survey - perform hydraulic survey within the Big Walnut Creek for the bridge design and hydraulic modeling needs.

## **9. ROW Exhibits and Legal Descriptions**

ROW Exhibits and Legal Descriptions for up to 2 parcels (Church Property) will be provided, if required. During detailed design, the team will coordinate closely with the City to advance a design that has a minimal impact on private property.

## **10. Detailed Design – Multi Use Path**

Construction plans will be developed in accordance with City of Gahanna and ODNR standards including the components listed below.

Plans will be submitted at 30% completion and 100% to Gahanna and ODNR with the anticipated plan components:

- a. Title Sheet
- b. Schematic Plan & Survey Control
- c. Typical Sections
- d. General Notes & Legend
- e. Maintenance of Traffic Notes Only
- f. Abbreviated Project Site Plan
- g. General Summary
- h. Abbreviated Plan and Profile (Main Trail)
- i. Abbreviated Plan and Profile (Church Access Trail)
- j. Cross Sections (Not Provided; Generated for Earthwork Only)
- k. Curb Ramp Details
- l. BMP Notes and Details
- m. Traffic Control Plan
- n. Traffic Signal Plan – Timing Only
- o. Dispositions of comments will be prepared following each review; it is assumed that 4 reviewers will provide comments on each submittal.
- p. Opinions of Construction Cost will be developed at 30% plans and updated with each subsequent submission.

**Deliverables:**

- The deliverable for this task will include 30% and 90% plans, including the final plan package and specifications.

**11. Detailed Design – Structures**

**Bridge Design: Big Walnut Creek @ Stonybrook**

**Bridge Design: McKenna Creek @ Stonybrook**

**Bridge Design: Timber Bridge Replacement**

Once a consensus is reached with the City on bridge types and span configurations, detailed design will begin. In addition to the information received in the preliminary phase, the bridge design will proceed with foundation recommendations received from the geotechnical engineer (Terracon).

**Deliverables:**

- The deliverables associated with this task include abbreviated construction plans and a construction cost estimate for the three structures required for the project. We anticipate that the individual plan sets may include the following sheets, depending on the bridge type and span configuration selected:
  - Site Plan
  - General Notes
  - Abutment Details/Pier Details, where applicable
  - Typical Transverse Section (by supplier)

**12. Drainage Design – Stormwater Management and BMP**

Stormwater and BMP design will be prepared in accordance with City of Gahanna and applicable design standards (i.e. ODOT, etc). The following elements will be evaluated and incorporated into the final design where applicable:

- a. Post-Construction Stormwater BMP Design
  - i. Calculate project treatment requirements
  - ii. Delineate tributary areas
  - iii. Calculate required treatment
- b. Prepare Stormwater and BMP Technical Narrative

**13. Utility Coordination and Documentation**

EMH&T will coordinate with private utility companies on behalf of the City throughout the design phase of the project. We will ask private utility companies to verify that their facilities are shown completely and accurately on the plans and work with their designers to identify conflicts and plan adjustments. Our services will include;

- a. Submit plans to private utility companies and follow-up to confirm receipt.

#### **14. Subsurface Geotechnical Investigations**

Our subconsultant, Terracon will perform geotechnical exploration following the completion of the preliminary engineering. A detailed cost proposal will be requested from Terracon to delineate the work and geotechnical services. The fee proposal provided with this submission includes a place holder to accommodate the future request.

#### **15. Project Coordination and Management**

As the project moves forward into the detailed design phase, project coordination amongst the various stakeholders will become even more critical. Under this proposed scope, we will continue to advocate for the advancement of the project through the following services.

- a. Project Coordination and Oversight

#### **Section 4 – If Authorized:**

#### **16. Environmental Services**

Environmental If Authorized services were removed from the fee proposal as coordinated with the City including:

- Advanced Wetland Habitat Assessment
- Summer Bat Mist Net Survey
- Individual 404/401Permit

#### **17. Water Resource Services**

##### **FEMA Conditional Letter of Map Revision**

Under this task, we will prepare a CLOMR application for the project to account for calculated increases in 100-year flood elevations associated with the proposed project. Under this circumstance, the CLOMR issued by FEMA is necessary in order for the City to issue a Floodplain Use Permit for the construction of the project. The summary engineering document described under the Flood Hazard Impact Analysis scope of services will be revised to include the items described below.

- a. Completed MT-2 application forms and annotated Flood Insurance Study (FIS) materials.
- b. Documentation of the evaluation of project alternatives and a certification that no existing buildings are impacted by the project, as required under Section 65.12 of the National Flood Insurance Program (NFIP) regulations.
- c. Letters notifying individual property owners impacted by any proposed increases in existing flood hazard conditions attributed to the project, also required under Section 65.12 of the NFIP regulations. We will prepare a letter in draft form for the City to finalize

and mail to the impacted property owners. It is anticipated these letters will be mailed only after FEMA has reviewed and accepted the technical analysis associated with the CLOMR application.

**Deliverables:**

- The CLOMR application will be initially submitted to the City for review and approval. Once the Community Acknowledgement form is signed by the City, we will forward the application to FEMA along with the required fee.
- As noted above, we will prepare a draft property owner notification letter for the City to finalize and mail. In support of this effort, we will provide a list of impacted property owners and addresses.
- We will coordinate with FEMA throughout their review process to address comments and questions, and facilitate the issuance of the CLOMR determination.

**18. Right of Way Acquisition Support Services**

Formal Acquisition Services are not included with the fee proposal for temporary easements, work agreements, or permanent acquisition services.

**19. Geotechnical Support Services**

Earth Retaining System:

Our subconsultant, Terracon will provide supplemental geotechnical services if required associated with recommendations for retaining structures or earth reinforced slopes. A detailed cost proposal will be requested from Terracon to delineate the work and geotechnical services. The fee proposal provided with this submission includes a place holder to accommodate the future request if needed.

Multi-Use Path Soil Borings:

Soil borings along the path are not included with the fee proposal.

**20. Public Involvement Meeting**

Public involvement meeting support services are not included with the proposal. Hours are only included for staff to attend the City prepared and coordinated event if required.

**21. Retaining Wall Study**

A retaining wall study has been removed from the fee proposal as coordinated with the City.

## **22. Retaining Wall Design**

If a retaining wall is required along Johnstown Road, EMH&T will provide plan notes and general information for a contractor designed retaining structure. Plan notes will provide general guidelines for the contractor to follow. Final design will be the responsibility of the contractor with final approvals by the City during the construction phase.

## **23. Construction Support Services**

Construction support services have been removed from the fee proposal as coordinated with the City.

## **Section 8 – Preliminary Engineering**

### **24. Environmental Services**

#### **Preliminary Environmental Review / GIS Mapping**

A desktop review of available environmental information for the proposed alignment(s) will be completed. This information will support the preliminary investigation and environmental red flag summary tasks. As part of the preliminary environmental review, the following will be completed:

1. Review existing soil mapping, USGS topography, National Wetland Inventory maps and floodplain maps to determine the location of mapped wetland/stream features along the proposed alignment(s).
2. Obtain and review available wetland inventory/mapping from the Gahanna Department of Parks & Recreation Natural Resources Advisory Committee (NRAC).
3. Prepare GIS mapping for inclusion in project base map and environmental red flag summary.

#### **Environmental Red Flag Summary**

We will prepare an environmental red flag summary, including associated mapping and a photo log exhibit, to cover the following. This information will be included in the overall technical memorandum for the project.

1. Summary of the extent and quality of water resources located within the proposed alignment.
2. Assessment of likely waterway (404/401) permitting requirements.
3. Discussion of potential impacts to threatened and endangered species.
4. Discussion of potential impacts to cultural resources within the proposed alignment. Initial coordination with the Ohio Historic Preservation Office will be conducted to obtain their input and recommendations for the project.
5. Assessment of other National Environmental Policy Act (NEPA) environmental clearance actions that may be required by the Ohio Department of Transportation or grant-funding agencies, including:

- Parks and recreation areas (Section 4(f) and Section 6(f))
  - Hazardous materials
  - Environmental justice
  - Air and noise
  - Public involvement
6. Provision of a general timeline for performance of environmental reviews and permitting.

**Deliverables:**

- Preliminary investigation report and mapping
- Environmental red flag summary

**25. Water Resource Services**

**Preliminary Flood Hazard Impact Analysis – Big Walnut Creek**

Under this task, we will complete a flood hazard impact analysis simulating a proposed biketrail underpass at the I-270 and Hamilton Road bridges over Big Walnut Creek, as well as any other proposed grading within the designated regulatory floodway. The purpose of this analysis is to evaluate alternative concepts which would account for a ‘benched’ trail under the bridge and other improvements which may be required to mitigate any increases in 100-year flood elevations, and to document the resulting permitting requirements under Chapter 1191 (Regulatory Flood Hazard Area) of the City’s codified ordinances. For this purpose, we will use the best available floodplain modeling for Big Walnut Creek, and add cross-sections as necessary to account for the anticipated project improvements. Up to two alignment alternatives will be analyzed as part of this effort.

**Deliverables:**

- The deliverable associated with this work will be a summary engineering report describing the technical analysis and presenting the results associated with the proposed biketrail improvements, including the extension of the biketrail under the I-270 bridge.
- This report will include a floodplain workmap demonstrating the trail alignment and the location of model cross-sections, as well as a discussion of the floodplain permitting requirements associated with Section 8.

**Preliminary Regulatory Coordination with the City of Columbus**

Under this task, we will conduct one meeting with the City of Columbus’ floodplain management staff to discuss the proposed project and any regulatory requirements they would impose specific to compliance with their floodplain development regulations.

**Deliverables:**

- We will prepare meeting minutes which will be included and discussed in the summary engineering report described above.

**26. Preliminary Engineering – Multi Use Path**

The design team will utilize the existing feasibility study previously completed for the underpass evaluation. If the underpass is not feasible following coordination with ODOT and verification with the hydraulic model, the team will evaluate an alternate alignment(s) using plan view graphics for connection options to Pizzuro Park. The following elements will be evaluated and presented to the City in a Technical Memorandum:

- a. Develop Preliminary Alternatives only if the underpass option is not feasible
- b. Preliminary Opinion of Construction Cost
- c. Alternative Analysis and Decision Matrix
- d. Technical Memorandum

### **27. Preliminary Engineering – Structures**

Structural support services have been removed from the fee proposal as coordinated with the City.

### **Section 8 – If Authorized**

### **28. Right of Way Acquisition Support Services**

Planning level ROW Acquisition Services have been removed from the proposal.

### **29. Geotechnical Support Services**

Planning level geotechnical services have been removed from the proposal.

### **30. Agency Coordination**

The design team will provide coordination efforts with the Ohio Department of Transportation as required. The City will coordinate with CRAA as needed.

## **C. COMPENSATION**

EMH&T proposes to provide our professional services as described in the above Scope of Services on an hourly basis, not to exceed the following fee:

### **Section 4: Preliminary Engineering**

Base Services Sub Total:	\$12,890
If Authorized Sub Total:	\$0
Total (Base Services + If Authorized):	\$12,890

### **Section 4: Detailed Design**

Base Services Sub Total:	\$173,090
If Authorized Sub Total:	\$27,290
Total (Base Services + If Authorized):	\$213,270

**Section 8: Preliminary Engineering**

Base Services Sub Total:	\$18,050
If Authorized Sub Total:	\$1,940
Total (Base Services + If Authorized):	\$19,990

**Total Fee (Section 4 and Section 8; Including If Authorized):** **\$233,260**

The fee listed above includes labor and reimbursable expenses as detailed on the attached Detailed Fee Summary. Invoices will be submitted monthly based on the progress of work and are payable upon receipt. Fees will not exceed this budget without prior authorization from your office. Direct costs include mileage, prints, postage, survey supplies, record research, and associated items associated with project development and delivery. All direct costs will be billed separately on the project invoice with a summary provided to the City.

**D. SCHEDULE**

EMH&T will begin work upon notice to proceed. For the purposes of this proposal, we anticipate duration of 8 months for the proposed scope of services based upon the latest project schedule, which is dependent on the project not requiring a CLOMR or an Individual 401/404 Permit.

**E. CLARIFICATIONS AND EXCLUSIONS**

The scope of work identified in this document is based on EMH&T's knowledge of the project requirements at the time when the document was prepared, and serves as the basis for the price proposal and agreed fee. However, changes in work may be required as the project develops and more complete information becomes available. Such changes also may be dictated by revisions to written procedures included in manuals or decisions made by the City or other reviewing agencies. Although EMH&T routinely incorporates minor design changes in our work, we will notify the City in writing of any significant changes in the work that may require modification of the agreement, and will maintain separate cost accounting for each specific issue.

The following services are specifically excluded from our proposal:

1. Design of sanitary sewer extensions
2. Design of water main extensions
3. Detailed design of landscape features, signs, or aesthetics
4. Design of private utility relocations
5. Cross Section Design
6. All fees related to plan review and permitting
7. Layout staking
8. Bidding services
9. Construction inspection
10. Pre-Bid Questions or RFI's unless authorized by the City
11. Shop drawing review
12. Record drawing ("As-Builts") preparation
13. Bridge Load Ratings

14. Cultural Resources Literature Review or Survey(s) (Phase I, II or III)
15. Phase I/II ESA or other hazardous materials assessments
16. NEPA / Categorical Exclusion (CE) Documentation
17. Bat mist net survey or other endangered species surveys, excepting the mussel survey identified as part of the Section 4 detailed design
18. Advanced wetland habitat assessments, such as the Vegetation Index of Biotic Integrity (VIBI)
19. Isolated wetland permits
20. Individual Section 404 Permit and/or Individual Section 401 Water Quality Certification
21. Permit application fees to the USACE and/or Ohio EPA
22. Public notice fees associated with newspaper publication
23. Preparation of mitigation plans, conservation easements or environmental covenants
24. Fees associated with stream and/or wetland mitigation
25. Fulfillment of any permit conditions, such as post-construction monitoring
26. Section 4: Preliminary ROW Acquisition Support Services (OR Colan)
27. Section 4: A CLOMR application unless specifically authorized by the City
28. Section 4: Grant administration and coordination
29. Section 4: Deed of easement document preparation and review unless authorized by the City
30. Section 4: Construction and post-construction phase services unless authorized by the City
31. Section 4: Final ROW Acquisition Services unless authorized by the City under separate fee proposal
32. Section 4: Renderings
33. Section 8: Final hydraulic modeling
34. Section 8: Floodplain permit applications
35. Section 8: CLOMR application
36. Section 8: ROW Acquisition planning services
37. Section 8: Geotechnical planning level services
38. Section 8: Typical sections, profiles, cross sections, structural design
39. Geotechnical soil borings along the path; structures only
40. Geotechnical soil profile sheets (path or structures)

The following clarifications are also provided:

**Environmental Considerations:**

**Nationwide Permit #27 Pre-Construction Notification – Added to Section 4 Final Engineering Base Services**

- The restoration of McKenna Creek at Stonybrook Church will require authorization under a Nationwide Permit #27 for Aquatic Habitat Restoration.
- The restoration project cannot be permitted as part of the Section 4 Trail NWP, as NWP #14 for Linear Transportation Projects has a 300 linear foot limitation for stream impacts. The stream restoration is expected to impact ±400 linear feet of stream, which would trigger an Individual Permit for the trail project.
- Thus, the projects must be kept as two separate “single and complete” projects for the purposes of permitting, requiring two separate Pre-Construction Notification (PCN) packages, one for NWP #14 and one for NWP #27.

- Preparation of the PCN for NWP #27 is a slightly more significant effort than a “typical” NWP, due to the requirement for more extensive documentation of the “functional lift” provided by the restoration. However, we have anticipated that there will be some overlap and cost savings by completing the two PCNs in tandem; thus we have held our cost for the NWP #27 PCN to \$5,100.
- The cost for preparing two NWP permit packages is significantly less than completing an Individual Permit application.
- The timeframe for agency review and approval of two NWPs (3-4 months) is favorable as compared to an Individual Permit application (9-12 months).

**Bat Mist Net Survey / Tree Clearing – Removed as If Authorized Services**

- Coordination with USFWS is required in association with any 404 permit under Section 7 of the Endangered Species Act. The USACE will not process a permit without USFWS consultation.
- USFWS requires a summer bat mist net survey to be conducted for any tree clearing associated with a 404 permit outside the seasonal clearing window (October 1 to March 31).
- A summer bat mist net survey may also be required by USFWS if it is determined that the 404 project may result in adverse effects to listed bat species even with seasonal clearing. Typically this is due to the presence of high quality habitat (such as maternity roost trees), known captures of listed bats in the vicinity of the project, or a large amount of clearing.
- If a mist net survey is not completed, tree clearing will be restricted, at a minimum, to October 1 to March 31 as a permit condition and clearing outside that window would be a permit violation.
- It should also be noted that clearing of forested wetlands prior to the USFWS consultation would be considered an unauthorized conversion impact, requiring an after-the-fact permit. Such action could result in penalties such as fines and/or significant mitigation requirements.

**Advanced Wetland Habitat Assessment – Removed as If Authorized Service**

- Based on information provided by the City, it is likely that the floodplain located west of Big Walnut Creek contains significant, high-quality, forested wetland resources.
- These wetlands are a known resource and will require appropriate review and project coordination with all parties.
- Moderate- to high-quality forested wetlands are typically classified as either Category 2, Category 2 or 3 “gray zone,” or Category 3 based on Ohio Rapid Assessment Method (ORAM) scoring.
- If the wetlands are classified as Category 3 (or within the gray zone), no impacts are allowed under the Nationwide Permit.
- If impacts to a wetland classified as Category 3 by the ORAM are required, it may become necessary to complete a more advanced wetland assessment in order to challenge the ORAM scoring and better determine the wetland category.
- The more advanced methodology would likely include completion of the Vegetation Index of Biotic Integrity (VIBI), which involves detailed sampling and analysis of wetland vegetation.

**Individual 404/401 Permit – Removed as If Authorized Service**

- The Nationwide Permit (NWP) allows for temporary or permanent impacts to surface waters (stream and wetlands) not to exceed 0.5 acre and stream impacts not to exceed 300 linear feet.
- If the NWP limitations are exceeded, an Individual 404 Permit from the US Army Corps of Engineers and Individual 401 Water Quality Certification from the Ohio EPA are required.
- The impacts associated with the Section 4 trail are anticipated to include:
  - Stream impacts due to the bridge crossing over McKenna Creek in McKenna Park
  - Potential stream impacts to McKenna Creek due to the trail alignment along the west side of Johnstown Road, south of Cherry Bottom Road
  - Stream impacts due to the bridge crossing over McKenna Creek to Stonybrook Church
  - Stream impacts due to the bridge crossing over Big Walnut Creek
  - Potential stream and/or wetland impacts due to the trail alignment through the floodplain on the west side of Big Walnut Creek
- EMH&T will make every effort to minimize these impacts, but due to the number of impacts anticipated, it may prove infeasible to keep the impacts under the NWP limits.
- If required, the Individual 404/401 is a significant effort over and above the Nationwide Permit, requiring development of an antidegradation alternatives analysis. The agency review period for the Individual Permit is 9-12 months.

**ROW Acquisition Services:**

All ROW Acquisition services have been removed from the project; with the City advancing the acquisition under separate contract.

**Structure and Pathway Design**

Services reduced to accommodate a streamlined effort with basic plan information for construction only. The product deliverable will replicate a similar format and level of detail provided by the City utilized for the previous phases.

**Phase 8 – Preliminary Engineering**

The effort has been reduced to coordinate with ODOT on the feasibility of advancing the alignment under Hamilton Road and I-270 using the previous alignment study. If the hydraulic modeling does not validate these options as feasible, or if ODOT does not allow this to further advance, the design team will evaluate planning level alignments for an alternate alignment. The work will be limited to plan view exhibits to provide alternate solutions only.

If desired, these services can be provided under a separate authorization.

We look forward to working with you in the successful advancement of this project. If you approve of our proposal, please forward a contract to us for execution. If you have any questions or require additional information, please do not hesitate to contact me at 614-775-4600 or ekagel@emht.com.

Respectfully submitted,

EVANS, MECHWART, HAMBLETON & TILTON, INC.



Edward Kagel, PE  
Principal  
Director of Transportation

Encl: 4 (Exhibit 1 – Big Walnut Trail Section 4, Exhibit 2 – Big Walnut Trail Section 8, Exhibit 3 -Detailed Fee Summary, Exhibit 4 - Terms and Conditions)

Cc: File

Big Walnut Trail – Section 4  
Exhibit 1



Big Walnut Trail – Section 8  
Exhibit 2



Date: 9/7/2016		EXHIBIT 3							Rates (Cost/Hour)			
Project: Big Walnut Trail - Section 4 and Section 8									Proj Mgr	\$180.00		
Client: City of Gahanna									Sr. Eng/ Sr. Env. Sci.	\$120.00		
Project Description:	SECTION 4: FINALIZE THE MULTI-USE PATH PRELIMINARY ALIGNMENT AND PROVIDE DETAIL DESIGN SERVICES FOR WATER RESOURCES, ENVIRONMENTAL, SURVEY, STRUCTURES, ROADWAY, TRAFFIC, AND GEOTECHNICAL SERVICES.											
	SECTION 8: PROVIDE PRELIMINARY ENGINEERING SERVICES FOR THE SECTION 8 ALIGNMENT AS REQUIRED.											
								Eng./Surveyor	\$110.00			
								Designer/Env. Sci	\$90.00			
								Env. Technician	\$70.00			
							Archaeologist	\$100.00				
							Survey Crew	\$150.00				
Reference	Description	Hours by category							Labor Cost	Sub Consultant Cost	Direct Costs	Total Cost
		Proj Mgr	Sr. Eng/ Sr. Env. Sci.	Eng./Surveyor	Designer/ Env. Sci	Env. Technician	Archaeologist	Survey Crew				
<b>Section 4 - Preliminary Engineering (Base Services)</b>												
1	Environmental Services											
	Preliminary Environmental Review / GIS Mapping		3		6	7			16	\$ 1,390		\$ 20.00 \$ 1,410
	Stream/Wetland Delineation		12		28	40			80	\$ 6,760		\$ 50.00 \$ 6,810
	Stream/Wetland Habitat Evaluation		6		20	30			56	\$ 4,620		\$ 50.00 \$ 4,670
	<b>Subtotal</b>		<b>21</b>		<b>54</b>	<b>77</b>			<b>152</b>	<b>\$ 12,770</b>		<b>\$ 120 \$ 12,890</b>
2	Water Resource Services											
	Preliminary Flood Hazard Impact Analysis								0	\$ -		\$ -
	Stream Restoration of McKenna Creek								0	\$ -		\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			<b>0</b>	<b>\$ -</b>		<b>\$ -</b>
3	Preliminary Engineering - Multi Use Path											
	Preferred Alignment Review & Layout								0	\$ -		\$ -
	Preliminary Typical Sections								0	\$ -		\$ -
	Preliminary Profile at Critical Locations								0	\$ -		\$ -
	Preliminary Cross-Sections at Critical Locations								0	\$ -		\$ -
	Preliminary Right-of-way and Easement Review								0	\$ -		\$ -
	Preliminary Traffic Control/MOT/Pedestrian Safety								0	\$ -		\$ -
	Confirm Geotechnical Requirements								0	\$ -		\$ -
	Preliminary Opinion of Construction Cost								0	\$ -		\$ -
	General Meetings (assume 2 staff at 2 meetings)								0	\$ -		\$ -
	Abbreviated Technical Memorandum								0	\$ -		\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			<b>0</b>	<b>\$ -</b>		<b>\$ -</b>
4	Preliminary Engineering - Structures											
	Structure Type Review: Big Walnut Creek @ Stonybrook								0	\$ -		\$ -
	Structure Type Review: McKenna Creek @ Stonybrook								0	\$ -		\$ -
	Structure Type Review: Timber Bridge Replacement								0	\$ -		\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			<b>0</b>	<b>\$ -</b>		<b>\$ -</b>
	<b>Subtotal Base Services</b>	<b>0</b>	<b>21</b>	<b>0</b>	<b>54</b>	<b>77</b>	<b>0</b>	<b>0</b>	<b>152</b>	<b>\$ 12,770</b>	<b>\$ -</b>	<b>\$ 120.00 \$ 12,890</b>
<b>Section 4 - Preliminary Engineering (If Authorized Services)</b>												
5	Right of Way Acquisition Support Services											
	OR Cotin Advisory Services	0	0						0	\$ -	\$ -	\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
	<b>Subtotal If Authorized Services</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
	<b>Total (Base Services + If Authorized Services)</b>	<b>0</b>	<b>21</b>	<b>0</b>	<b>54</b>	<b>77</b>	<b>0</b>	<b>0</b>	<b>152</b>	<b>\$ 12,770</b>	<b>\$ -</b>	<b>\$ 120.00 \$ 12,890</b>

Date: 9/7/2016		EXHIBIT 3							Rates (Cost/Hour)				
Project: Big Walnut Trail - Section 4 and Section 8		Proj Mgr		Sr. Eng/ Sr. Env. Sci.		Eng./Surveyor		Designer/ Env. Sci		Survey Crew		Total Cost	
Client: City of Gahanna												\$180.00	
Project Description: SECTION 4: FINALIZE THE MULTI-USE PATH PRELIMINARY ALIGNMENT AND PROVIDE DETAIL DESIGN SERVICES FOR WATER RESOURCES, ENVIRONMENTAL, SURVEY, STRUCTURES, ROADWAY, TRAFFIC, AND GEOTECHNICAL SERVICES. SECTION 8: PROVIDE PRELIMINARY ENGINEERING SERVICES FOR THE SECTION 8 ALIGNMENT AS REQUIRED.		Proj Mgr		Sr. Eng/ Sr. Env. Sci.		Eng./Surveyor		Designer/ Env. Sci		Survey Crew		\$120.00	
		Eng./Surveyor		Designer/Env. Sci		Env. Technician		Archaeologist		Survey Crew		\$110.00	
		Designer/Env. Sci		Env. Technician		Archaeologist		Survey Crew				\$90.00	
		Env. Technician		Archaeologist		Survey Crew						\$70.00	
		Archaeologist		Survey Crew								\$100.00	
												\$150.00	
Reference	Description	Proj Mgr	Sr. Eng/ Sr. Env. Sci.	Eng./Surveyor	Designer/ Env. Sci	Env. Technician	Archaeologist	Survey Crew	Total Hours	Labor Cost	Sub Consultant Cost	Direct Costs	Total Cost
<b>Section 4 - Final Engineering (Base Services)</b>													
6	Environmental Services												
	Threatened/Endangered Species Coordination		4		9				13	\$ 1,290		\$ 20.00	\$ 1,310
	Mussel Survey and Relocation		4		20	50			74	\$ 5,780		\$ 300.00	\$ 6,080
	Nationwide Permit #14 Pre-Construction Notification		8		20	34			62	\$ 5,140		\$ 100.00	\$ 5,240
	Nationwide Permit #27 Pre-Construction Notification		2		20	20			48	\$ 4,160		\$ 100.00	\$ 4,260
	<b>Subtotal</b>		<b>24</b>		<b>69</b>	<b>104</b>			<b>197</b>	<b>\$ 16,370</b>		<b>\$ 520</b>	<b>\$ 16,890</b>
7	Water Resource Services												
	Final Flood Hazard Impact Analysis and Report Document	6	12	30	130				178	\$ 17,520		\$ 250.00	\$ 17,770
	Floodplain Permit Documentation								0	\$ -		\$ -	\$ -
	Stream Restoration of McKenna Creek	8	24	30	70				132	\$ 13,920		\$ -	\$ 13,920
	Stormwater Pollution Prevention Plan (SWPPP) and NOI	2	6	10	20				38	\$ 3,980		\$ 600.00	\$ 4,580
	<b>Subtotal</b>	<b>16</b>	<b>42</b>	<b>70</b>	<b>220</b>				<b>348</b>	<b>\$ 35,420</b>		<b>\$ 850</b>	<b>\$ 36,270</b>
8	Survey and Basemapping												
	Project Control and Benchmarks			2				32	34	\$ 5,020		\$ 50.00	\$ 5,070
	Field Topographic Survey			8	8			56	72	\$ 10,000		\$ 400.00	\$ 10,400
	Boundary Survey			24				24	48	\$ 6,240		\$ -	\$ 6,240
	Record Research				24				24	\$ 2,160		\$ 300.00	\$ 2,460
	Hydraulic Survey							16	16	\$ 2,400		\$ 100.00	\$ 2,500
	<b>Subtotal</b>			<b>34</b>	<b>32</b>			<b>128</b>	<b>194</b>	<b>\$ 25,820</b>		<b>\$ 850</b>	<b>\$ 26,670</b>
9	ROW Exhibits and Legal Descriptions												
	Legal description and exhibit (up to 2 parcels)			12	22				34	\$ 3,300		\$ 100.00	\$ 3,400
	Right-of-way cost estimating (based on Auditor's values)								0	\$ -		\$ -	\$ -
	<b>Subtotal</b>	<b>0</b>	<b>12</b>	<b>22</b>	<b>22</b>				<b>34</b>	<b>\$ 3,300</b>		<b>\$ 100</b>	<b>\$ 3,400</b>
10	Detailed Design - Multi Use Path												
	Title Sheet		2	4	6				12	\$ 1,220		\$ 10.00	\$ 1,230
	Schematic Plan and Project Control		6	12	16				34	\$ 3,480		\$ 10.00	\$ 3,490
	Typical Sections		4	8	8				20	\$ 2,080		\$ 20.00	\$ 2,100
	General Notes & Legend		4	8	12				24	\$ 2,440		\$ 20.00	\$ 2,460
	Maintenance of Traffic		4	8					10	\$ 1,140		\$ 20.00	\$ 1,160
	Erosion Control Plan		4	8	12				24	\$ 2,440		\$ 20.00	\$ 2,460
	General Summary, Subsummaries, & Quantities			10	30				40	\$ 3,800		\$ 20.00	\$ 3,820
	Plan and Profile (Main Trail)		22	22	36				80	\$ 8,300		\$ 150.00	\$ 8,450
	Plan and Profile (Church Access Trail)		4	6	12				22	\$ 2,220		\$ 10.00	\$ 2,230
	Cross Sections		0	0	0				0	\$ -		\$ -	\$ -
	Curb Ramp Details		8	12	16				36	\$ 3,720		\$ 20.00	\$ 3,740
	Storm Sewer Profiles								0	\$ -		\$ -	\$ -
	Traffic Control Plan - Roadway and Path	2	7	8	12				29	\$ 3,160		\$ 20.00	\$ 3,180
	Traffic Signal Plans	4	14	16	24				58	\$ 6,320		\$ 20.00	\$ 6,340
	Renderings								0	\$ -		\$ -	\$ -
	<b>Subtotal</b>	<b>6</b>	<b>79</b>	<b>120</b>	<b>184</b>				<b>389</b>	<b>\$ 40,320</b>		<b>\$ 340</b>	<b>\$ 40,660</b>
11	Detailed Design - Structures												
	Bridge Design: Big Walnut Creek @ Stonybrook		30	40	44				114	\$ 11,960		\$ 50.00	\$ 12,010
	Bridge Design: McKenna Creek @ Stonybrook		18	40	40				98	\$ 10,160		\$ 50.00	\$ 10,210
	Bridge Design: Timber Bridge Replacement		8	16	26				50	\$ 5,060		\$ 50.00	\$ 5,110
	<b>Subtotal</b>	<b>58</b>	<b>96</b>	<b>110</b>	<b>110</b>				<b>262</b>	<b>\$ 27,180</b>		<b>\$ 150</b>	<b>\$ 27,330</b>
12	Drainage Design - Stormwater Management and BMP												
	Tributary Maps								0	\$ -		\$ -	\$ -
	Storm sewer capacity calculations								0	\$ -		\$ -	\$ -
	Post-Construction stormwater BMP design			8					8	\$ 880		\$ 20.00	\$ 900
	Prepare Stormwater & BMP Memo	4	8						12	\$ 1,360		\$ 20.00	\$ 1,380
	<b>Subtotal</b>	<b>4</b>	<b>16</b>	<b>0</b>	<b>0</b>				<b>20</b>	<b>\$ 2,240</b>		<b>\$ 40</b>	<b>\$ 2,280</b>
13	Utility Coordination and Documentation												
	Submit plans to private utilities			8	8				16	\$ 1,600		\$ 150.00	\$ 1,750
	Assist with utility conflict analysis/identification								0	\$ -		\$ -	\$ -
	<b>Subtotal</b>	<b>0</b>	<b>8</b>	<b>8</b>	<b>8</b>				<b>16</b>	<b>\$ 1,600</b>		<b>\$ 150</b>	<b>\$ 1,750</b>
14	Subsurface Geotechnical Investigations												
	Geotechnical Engineering	2	2						4	\$ 600	\$ 14,000		\$ 14,600
	<b>Subtotal</b>	<b>2</b>	<b>2</b>						<b>4</b>	<b>\$ 600</b>	<b>\$ 14,000</b>		<b>\$ 14,600</b>
15	Project Coordination and Management												
	Project Meetings (assume 2 staff at 2 meetings)								0	\$ -		\$ -	\$ -
	Develop Project Schedule								0	\$ -		\$ -	\$ -
	Project Coordination and Oversight (2 hrs/month x 9 months)	18							18	\$ 3,240		\$ -	\$ 3,240
	<b>Subtotal</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>0</b>				<b>18</b>	<b>\$ 3,240</b>		<b>\$ -</b>	<b>\$ 3,240</b>
	<b>Subtotal Base Services</b>	<b>42</b>	<b>207</b>	<b>356</b>	<b>645</b>	<b>104</b>	<b>0</b>	<b>128</b>	<b>1482</b>	<b>\$ 156,090</b>	<b>\$ 14,000</b>	<b>\$ 3,000.00</b>	<b>\$ 173,090</b>
<b>Section 4 - Final Engineering (If Authorized Services)</b>													
16	Environmental Services												
	Advanced Wetland Habitat Assessment								0	\$ -		\$ -	\$ -
	Summer Bat Mist Net Survey								0	\$ -		\$ -	\$ -
	Individual 404/401 Permit								0	\$ -		\$ -	\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>				<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
17	Water Resource Services												
	FEMA CLOMR	16	30	60	20				126	\$ 14,480		\$ 500.00	\$ 14,980
	McKenna Creek Streambank Stabilization								0	\$ -		\$ -	\$ -
	<b>Subtotal</b>	<b>16</b>	<b>30</b>	<b>60</b>	<b>20</b>				<b>126</b>	<b>\$ 14,480</b>		<b>\$ 500</b>	<b>\$ 14,980</b>
18	Right of Way Acquisition Support Services												
	Church Easements								0	\$ -		\$ -	\$ -
	Aquisition Services - 5 Parcels								0	\$ -	\$ -	\$ -	\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>				<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
19	Geotechnical Support Services												
	Section 4 - Earth Retention System	4	4						8	\$ 1,200	\$ 6,000		\$ 7,200
	Section 4 - Soil Borings								0	\$ -	\$ -		\$ -
	<b>Subtotal</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>				<b>8</b>	<b>\$ 1,200</b>	<b>\$ 6,000</b>	<b>\$ -</b>	<b>\$ 7,200</b>
20	Public Involvement Meeting												
	Notification Letters / Announcements		0						0	\$ -		\$ -	\$ -
	Venue selection and set-up		0						0	\$ -		\$ -	\$ -
	Handouts & Sign-in Sheet			0					0	\$ -		\$ -	\$ -
	Prepare exhibits	0		0					0	\$ -		\$ -	\$ -
	Solicit comments, summarize, and respond		0	0	0				0	\$ -		\$ -	\$ -
	Attend meeting (4 staff)	4	4	0					8	\$ 1,200		\$ 1,200	\$ 2,400
	<b>Subtotal</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>				<b>8</b>	<b>\$ 1,200</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,200</b>
21	Retaining Wall Study												
	Retaining Wall Assessment and Study								0	\$ -		\$ -	\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>				<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
22	Retaining Wall Design												
	Retaining Wall Detailed Design	4	8	18					30	\$ 3,660		\$ 250.00	\$ 3,910
	<b>Subtotal</b>	<b>4</b>	<b>8</b>	<b>18</b>	<b>0</b>				<b>30</b>	<b>\$ 3,660</b>	<b>\$ 250</b>	<b>\$ -</b>	<b>\$ 3,910</b>
23	Construction Support Services												
	Pre-Bid Questions / RFI	0	0	0					0	\$ -		\$ -	\$ -
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>				<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
	<b>Subtotal If Authorized Services</b>	<b>28</b>	<b>46</b>	<b>78</b>	<b>0</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>172</b>	<b>\$ 20,540</b>	<b>\$ 6,000</b>	<b>\$ 750.00</b>	<b>\$ 27,290</b>
	<b>Total (Base Services + If Authorized Services)</b>	<b>70</b>	<b>274</b>	<b>434</b>	<b>699</b>	<b>201</b>	<b>0</b>	<b>128</b>	<b>1806</b>	<b>\$ 189,400</b>	<b>\$ 20,000</b>	<b>\$ 3,870.00</b>	<b>\$ 213,270</b>

Date: 9/7/2016		EXHIBIT 3							Rates (Cost/Hour)						
Project: Big Walnut Trail - Section 4 and Section 8		Proj Mgr		Sr. Eng/ Sr. Env. Sci.		Eng./Surveyor		Designer/ Env. Sci		Env. Technician		Archaeologist		Survey Crew	
Client: City of Gahanna		\$180.00		\$120.00		\$110.00		\$90.00		\$70.00		\$100.00		\$150.00	
Project Description:		<b>SECTION 4:</b> FINALIZE THE MULTI-USE PATH PRELIMINARY ALIGNMENT AND PROVIDE DETAIL DESIGN SERVICES FOR WATER RESOURCES, ENVIRONMENTAL, SURVEY, STRUCTURES, ROADWAY, TRAFFIC, AND GEOTECHNICAL SERVICES. <b>SECTION 8:</b> PROVIDE PRELIMINARY ENGINEERING SERVICES FOR THE SECTION 8 ALIGNMENT AS REQUIRED.													
Reference	Description	Proj Mgr	Sr. Eng/ Sr. Env. Sci.	Eng./Surveyor	Designer/ Env. Sci	Env. Technician	Archaeologist	Survey Crew	Total Hours	Labor Cost	Sub Consultant Cost	Direct Costs	Total Cost		
<b>Section 8 - Preliminary Engineering (Base Services)</b>															
<b>24</b>	<b>Environmental Services</b>														
	Preliminary Environmental Review / GIS Mapping		2		8	6			16	\$ 1,380		\$ 20.00	\$ 1,400		
	Stream/Wetland Preliminary Investigation								0	\$ -			\$ -		
	Stream/Wetland Habitat Evaluation								0	\$ -			\$ -		
	Environmental Red Flag Summary		8		12	8			28	\$ 2,600		\$ 20.00	\$ 2,620		
	<b>Subtotal</b>		<b>10</b>		<b>20</b>	<b>14</b>			<b>44</b>	<b>\$ 3,980</b>		<b>\$ 40</b>	<b>\$ 4,020</b>		
<b>25</b>	<b>Water Resource Services</b>														
	Prelim Flood Hazard Analysis	6	8	16	36				66	\$ 7,040		\$ 250.00	\$ 7,290		
	Prelim Regulatory Coordination with Columbus	4	0						4	\$ 720		\$ 50.00	\$ 770		
	<b>Subtotal</b>	<b>10</b>	<b>8</b>	<b>16</b>	<b>36</b>				<b>70</b>	<b>\$ 7,760</b>		<b>\$ 300</b>	<b>\$ 8,060</b>		
<b>26</b>	<b>Preliminary Engineering - Multi Use Path</b>														
	Develop Preliminary Alternatives		8	8					16	\$ 1,840			\$ 1,840		
	Topographic Survey at Critical Locations								0	\$ -			\$ -		
	Preliminary Typical Sections								0	\$ -			\$ -		
	Preliminary Profiles at Critical Locations								0	\$ -			\$ -		
	Preliminary Cross-Sections at Critical Locations								0	\$ -			\$ -		
	Preliminary Drainage Review								0	\$ -			\$ -		
	Preliminary Traffic Control/MOT/Pedestrian Safety								0	\$ -			\$ -		
	Preliminary Utility Review								0	\$ -			\$ -		
	Preliminary Right-of-way Review								0	\$ -			\$ -		
	Preliminary Opinion of Construction Cost		8						8	\$ 960			\$ 960		
	General Meetings (assume 2 staff at 1 meetings)								0	\$ -			\$ -		
	Alternative Analysis and Decision Matrix		8						8	\$ 960			\$ 960		
	Technical Summary		6						6	\$ 720		\$ 50.00	\$ 770		
	General Management & Oversight (2hrs/month x 6 months)		12						12	\$ 1,440			\$ 1,440		
	<b>Subtotal</b>	<b>0</b>	<b>42</b>	<b>8</b>	<b>0</b>			<b>0</b>	<b>50</b>	<b>\$ 5,920</b>		<b>\$ 50</b>	<b>\$ 5,970</b>		
<b>27</b>	<b>Preliminary Engineering - Structures</b>														
	Feasibility Analysis: Trail Extension under I-270 Bridge								0	\$ -			\$ -		
	Feasibility Analysis: Trail Extension under Hamilton Rd Bridge								0	\$ -			\$ -		
	<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>				<b>0</b>	<b>\$ -</b>			<b>\$ -</b>		
	<b>Subtotal Base Services</b>	<b>10</b>	<b>60</b>	<b>24</b>	<b>56</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>164</b>	<b>\$ 17,660</b>		<b>\$ 390.00</b>	<b>\$ 18,050</b>		
<b>Section 8 - Preliminary Engineering (If Authorized Services)</b>															
<b>28</b>	<b>Right of Way Acquisition Support Services</b>														
	OR Colan Advisory Services	0	0						0	\$ -	\$ -	\$ -	\$ -		
	<b>Subtotal</b>	<b>0</b>	<b>0</b>						<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>		
<b>29</b>	<b>Geotechnical Support Services</b>														
	Geotechnical Advisory Services	0	0						0	\$ -	\$ -	\$ -	\$ -		
	<b>Subtotal</b>	<b>0</b>	<b>0</b>						<b>0</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>		
<b>30</b>	<b>Agency Coordination</b>														
	ODOT Coordination	4	4		8				16	\$ 1,920		\$ 20.00	\$ 1,940		
	FAA Coordination								0	\$ -			\$ -		
	<b>Subtotal</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>16</b>	<b>\$ 1,920</b>		<b>\$ 20</b>	<b>\$ 1,940</b>		
	<b>Subtotal If Authorized Services</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>16</b>	<b>\$ 1,920</b>		<b>\$ 20.00</b>	<b>\$ 1,940</b>		
	<b>Total (Base Services + If Authorized Services)</b>	<b>14</b>	<b>64</b>	<b>24</b>	<b>64</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>180</b>	<b>\$ 19,580</b>		<b>\$ 410.00</b>	<b>\$ 19,990</b>		

## **EVANS, MECHWART, HAMBLETON & TILTON, INC.**

### **Terms and Conditions of Professional Service**

These terms and conditions together with any Proposal attached hereto constitute the entire agreement (hereinafter the "Agreement") between Evans, Mechwart, Hambleton & Tilton, Inc. ("EMH&T") and Client as if they were part of one and the same document.

#### **Definitions:**

"EMH&T" shall refer to Evans, Mechwart, Hambleton, and Tilton, Inc., an Ohio Corporation, and its sub-consultants. "Client" shall refer to the person, firm, or corporation that has entered into a contractual relationship with EMH&T providing for the performance of professional services. "Proposal" shall refer to the written scope of services, unit prices, and/or fixed fee provided by EMH&T to Client describing, if applicable, the nature of the services to be performed by EMH&T or its sub-consultants, and the amount and type of compensation to be paid for those services.

#### **Authorization as Representative**

Client authorizes EMH&T to take all actions on Client's behalf which EMH&T, in its sole discretion, believes to be necessary to perform the services described herein and in the Proposal.

#### **Access to Property/Site Conditions**

Client shall obtain, without cost to EMH&T, free right of access for EMH&T personnel to enter upon any land so long as such entry is reasonably necessary to perform said services. Client understands that services provided by EMH&T commonly require drilling, sampling, and other activities that may disrupt use of the premises and may disturb, alter, or damage terrain, crops and/or vegetation. Client waives all claims against EMH&T for any loss or damage to property that is based on EMH&T's disturbance, alteration, or damage to the terrain, crops and/or vegetation, including, but not limited to, the loss of use of property and the cost to restore property. EMH&T also shall have no obligation to restore the site to its original condition.

Client shall provide accurate information to EMH&T as to the size, condition and location of the project site and the location of any underground utilities, utility services, structures, manholes, and underground storage tanks. EMH&T shall be entitled to rely upon the accuracy and completeness of such information.

#### **Standard of Care and Liability**

EMH&T shall exercise reasonable care in the performance of its duties under this Contract. EMH&T makes no other warranties or representations, whether express or implied, regarding the quality of its work under this Agreement. Client agrees that the liability of EMH&T, and that of its officers, directors, employees, agents and subconsultants, arising out of EMH&T's performance hereunder shall be limited to the lesser of EMH&T's applicable insurance coverage available at the time of settlement or judgment, or the fee amount paid to EMH&T for work performed under this Agreement. Neither party shall be liable to the other for any incidental, indirect, special, punitive or consequential damages. Client must bring any cause of action arising under this Contract within one year from the time the cause of action accrues.

EMH&T shall not be liable for the acts or omissions of any person who is performing work on the project site, nor for any instructions given by Client to any person who is performing work on the project site. EMH&T shall not be responsible for any construction means and methods or job site safety.

#### **Confidentiality of Information**

EMH&T shall utilize reasonable measures to maintain confidentiality of Client information related to services described in the Proposal. Client acknowledges that EMH&T may have past or present contractual relationships with individuals or entities practicing the same or related business in the same geographic area as Client, and/or with government agencies having regulatory authority over Client's project.

#### **Ownership of Documents**

Client agrees that all reports, plans, specifications, logs, calculations, estimates, and test data, including electronic media, are EMH&T's instruments of professional service. All such material is and shall remain the sole and exclusive property of EMH&T. Provided Client meets all of its obligations including prompt payment of EMH&T invoices, Client may make and retain hard (i.e. not electronic) copies of such materials solely for use on the project. Such materials are not to be reused, in whole or in part, by Client on any other projects. Client also shall not permit or authorize a third party to use EMH&T's instruments of service on another project without the express consent of EMH&T. EMH&T shall not be required to provide or deliver electronic copies of documents unless specifically required in the Proposal. In the case of any discrepancy between any electronic files and hard copies of drawings or files, hard copies shall control. Due to the easily alterable nature of electronic files, EMH&T makes no warranties, either express or implied, with respect to electronic files if such files are provided.

#### **Indemnity**

To the fullest extent permitted by law, Client agrees to defend, indemnify, and hold EMH&T harmless, including the payment of reasonable attorney's fees to or on behalf of EMH&T, from and against any and all claims, demands, and causes of action for damages of any kind that arise out of or relate to EMH&T's performance under this Agreement and that were caused or allegedly caused by any of the following:

- a) The Client's negligence;
- b) The Client's breach of this Agreement;
- c) The Client's modification and/or misuse of EMH&T's Instruments of Service;
- d) EMH&T's activities that disturbed, altered, or damaged terrain, crops or vegetation;
- e) EMH&T's reliance on geotechnical data provided by Client or its consultant;
- f) EMH&T's use of Client's standards for non-public improvements;
- g) The construction of any non-public improvements that was not observed and inspected by EMH&T pursuant to a construction phase service contract.

#### **Termination and Suspension**

This Agreement may be terminated by either party providing written notice to the other no less than 10 calendar days in advance of the effective date of the termination. Fees, expenses, and other amounts due EMH&T shall be due and payable immediately upon termination including such amounts reasonably incurred by EMH&T in the process of stopping work after the notice of termination is received. If the project is suspended for more than 30 calendar days in the aggregate, EMH&T shall be compensated for services performed and charges incurred prior to receipt of notice to suspend and, upon resumption, an equitable adjustment in fees to accommodate the resulting

remobilization costs. In addition, there shall be equitable adjustment in the project schedule based on the delay caused by the suspension.

#### **Payment**

By accepting the Proposal, Client agrees to pay EMH&T, in the manner described therein, the full amount set out in the Proposal. In the event the Proposal does not provide for a fixed fee or hourly rate schedule for specific services provided, billing shall be on a value basis in accordance with EMH&T Billing Policy. Client shall be invoiced and all invoices shall be due and payable within 30 days of issuance. Unless prior agreement is made in writing, Client is liable for timely payment of invoiced amounts without regard to whether Client has received financing, payments, or income from any source, including funds related to the project for which services were provided by EMH&T. In the event payment is not made in a timely manner, the overdue balance shall bear interest at a rate of 1.5% per month. If the Client fails to make payments when due or otherwise is in breach of this Agreement, EMH&T may suspend or terminate performance of services immediately upon notice to Client. EMH&T shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension/termination. In the event legal action is necessary to enforce the payment provisions of this Agreement, EMH&T shall be entitled to collect from the Client any judgment or settlement sums due, and reasonable attorney fees, court costs, and other expenses incurred by EMH&T in connection therewith, together with the value of the time of EMH&T employees and expenses spent in connection with such collection action.

#### **Hazardous Materials**

Unless otherwise provided in the Proposal, both EMH&T and Client acknowledge that this Agreement does not contemplate the presence at the project site of any hazardous or regulated substances including asbestos. In the event that the presence becomes known of any hazardous or regulated substances on or near the project site, EMH&T may, at its option and without liability for consequential or any other damages, terminate or suspend performance of services under this Contract.

#### **Soil Conditions**

Unless specifically provided for in the Proposal, EMH&T does not provide geotechnical assessment of soil conditions and shall not be liable to Client for any damage or loss related to the soil condition, design of pavement sections, subgrade, underdrainage, backfill, and related items, whether shown or not shown on a plan prepared by EMH&T.

#### **Americans with Disabilities Act (ADA) Requirements**

Client acknowledges that ADA requirements and implementation guidelines change over time and may vary by jurisdiction. Client further acknowledges that ADA compliance involves fine tolerances that are governed by the means and methods of construction. EMH&T will exercise reasonable care in the specification of ADA compliant facilities subject to local standards and requirements. EMH&T makes no warranty or representation, either express or implied, that either public or non-public improvements will satisfy ADA requirements, implementation guidelines, and/or local requirements, regardless of whether or not said improvements are constructed in accordance with instruments of service prepared under this Agreement. Client shall verify compliance with all applicable ADA requirements and guidelines prior to accepting constructed improvements.

#### **Opinions of Probable Construction Cost**

Opinions of the probable cost of performance in accordance with instruments prepared by EMH&T are not warranted to reflect the actual cost to Client of such work. Unless otherwise specified, the construction cost of an entire project means the probable total cost to Client of those portions of the project designed and specified by EMH&T exclusive of the value and cost of EMH&T services, land, rights of way, interest and financing.

#### **Project Submittals**

EMH&T's review of submittals, substitutions, and proposed changes and modifications shall be solely for the purpose of confirming that the submitted information is in general conformance with the design and the project objectives. EMH&T shall not be responsible for variations proposed or implemented by Contractor. Contractor shall remain responsible for satisfaction of all project objectives, codes and criteria.

#### **Performance, Delay, and Force Majeure**

If a schedule is agreed to in the Proposal then EMH&T shall use reasonable efforts to perform according to said schedule. Client acknowledges that EMH&T's performance often involves public agencies and other parties that can have substantial impact on scheduling. Neither party shall hold the other responsible for damages or delay(s) in performance caused by events beyond the control of either party. Such acts or events shall include but not be limited to unusual weather, floods, epidemics, strikes, lockouts, protest demonstrations, and unanticipated site conditions.

#### **Notice, Jurisdiction and Venue**

Any notice to be given under this Agreement shall be in writing and shall be deemed duly given when delivered personally or by courier, or three business days after transmission by email or deposit in the United States mail with postage prepaid, certified or registered, return receipt requested, addressed to EMH&T or Client agent that signed the Proposal. Disputes that cannot be resolved shall be submitted to mediation prior to the initiation of litigation by either party. Client and EMH&T agree to jurisdiction and venue in Franklin County, Ohio for all actions, proceedings or disputes arising from, relating to, or in connection with this Agreement.

#### **Applicable Law and Survival**

The validity, performance, and interpretation of this Agreement shall be according to the laws of the State of Ohio. All obligations arising prior to the completion or termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between EMH&T and Client shall survive the completion of services and the termination of this Contract.

#### **Assignment and Addendum**

Neither party shall assign or transfer its interest in this Agreement without the written consent of the other party. Consent to such assignment or transfer shall not be unreasonably withheld. This Agreement may not be amended except in a writing executed by both EMH&T and Client. No alterations or modifications to the Proposal or these terms and conditions shall be effective unless affirmatively agreed to in writing by both parties.

#### **Binding Effect of Agreement**

This Agreement shall be binding upon and inure to the benefit of the parties thereto, their successors and assigns. If and to the extent that any court of competent jurisdiction holds any provisions or part thereof of this Agreement to be invalid or unenforceable as a final non-appealable order, then the remainder of the Agreement shall not be affected and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.