

CITY OF TRENTON

REQUEST FOR PROPOSALS

FACILITIES CONDITION & NEEDS ASSESSMENT

DATE ISSUED: Friday, September 23, 2022

DATE DUE: Friday, October 21, 2022, 3PM

CONTACT: Rob Leichman

rob@cityoftrenton.com

(513) 428-0157





CITY OF TRENTON

PUBLIC WORKS DEPARTMENT

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DATE DUE: Friday, October 21, 2022, 3PM

CONTACT: Rob Leichman, Service Director

rob@cityoftrenton.com

(513) 428-0157

ALL RESPONSES MUST BE MAILED TO BELOW OR EMAILED TO THE SERVICE DIRECTOR:

CITY OF TRENTON

ATTN: Rob L. - RFP FCNA

SERVICE DEPARTMENT

11 EAST STATE STREET

TRENTON, OH 45067

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I. INTRODUCTION

The City of Trenton, Ohio is located between Hamilton, Middletown, and Oxford, Ohio.

The area was settled in 1816. The City of Trenton was incorporated as a City in 1971.

The City, from its inception, has served as a rural agricultural center. The City also receives many visitors as a result of the local tourist spot, Barn-N-Bunk. The City's goal is to maintain a small-town atmosphere and to provide quality services to its citizens.

The official population of the City of Trenton as of 2017 is 13,021 (2020 Census). Trenton is a full-service city and encompasses an area of four-square miles. The City's General Fund Budget is approximately \$3.2 million.

II. SOLICITATION

The City of Trenton is seeking proposals from qualified consultants to provide comprehensive, professional Facilities Condition and Needs Assessment (FCNA) services for approximately twelve buildings/structures/sites, totaling approximately 65,603 square feet (Exhibit B). The inventory includes municipal government offices, the City Fire Station, law enforcement facilities, corporation yard, storage facilities and one city park.

The purpose of the FCNA is to provide comprehensive documentation and analysis of the City's existing built facilities. This analysis will be utilized for prioritizing capital improvements and maintenance requirements, as well as assisting with allocating operating budgets and potentially establishing sinking funds and on-going maintenance schedules.

Prospective firms will be required to provide team qualification, proposed work plans, proposed schedule, and other related items as part of the proposal submittal (Section V). The deadline for submitting proposals is 3:00PM on Friday, October 21, 2022.

III. SCOPE OF WORK

The City is requesting proposals from qualified consultants for comprehensive FCNA services. Required services shall include, but are not limited to:

1. Identify and document current conditions of all existing City-owned structures (Exhibit B), including the structural integrity, physical state of each building, and compliance with modern building codes.
2. Assess and identify whether each of the buildings are serving their intended role, and if they are under or over-utilized in their current capacity.
3. Assess the ability of each building to serve current needs, including, its ability to accommodate the number of employees housed in each facility, and identify if the building is meeting the overall needs of the City.
4. Identify the replacement and/or renovation costs of each building and make recommendations as to which (if any) buildings should be renovated, replaced, relocated, etc., as needed. Recommend alternative locations and/or civic facility combination as necessary.
5. Provide current market values of City-owned properties based on current zoning as well as highest-and-best use.
6. Recommend corrections for all deficiencies.
7. Provide a suggested priority list and/or timeline for accommodating the recommended replacement and/or reconstruction work.
8. Provide cost estimates for corrections, replacement, and/or reconstruction work for each of these facilities.
9. Forecast future facility renewal/reconstruction costs.
10. Provide an assessment of maintenance efforts to-date as compared to industry standards. Also, provide preventative maintenance recommendations, to include minimum standards of day-to-day upkeep and their associated costs based on industry standards (including but not limited to: on-going building maintenance, equipment replacement, janitorial needs and staffing, basic cleaning/deep cleaning, paint, flooring replacement, lighting replacement, etc.)

Consultant will meet with City staff to identify all reliable sources of existing data such as facility inventory lists, plans, maps, studies, etc. Where applicable, existing studies and reports will be provided to the consultant for incorporation into the FCNA and final report.

The types of building systems surveyed may vary with each building and shall include, but are not limited to, the following systems:

1. **SITE** | topography, drainage, access/egress, paving, curbing, parking, flatwork, utilities
2. **EXTERIOR SYSTEMS** | foundation, roofs, walls, window systems, exterior doors, civil/structural components
3. **INTERIOR SYSTEMS** | walls, doors, flooring, ceiling, hardware, lighting, architectural components
4. **FIRE/LIFE SAFETY ISSUES** | including hazards, alarms, and fire escapes
5. **HEATING, VENTILATION, AND AIR CONDITIONING** | including controls and terminal units
6. **ELECTRICAL** | including internal electrical distribution and back-up generators
7. **PLUMBING SYSTEMS** | fixtures, supply, storm and sanitary sewer drainage, valving, irrigation

- 8. FIRE PROTECTION**
- 9. SPECIALIZED CONSTRUCTION AND OUTBUILDINGS**
- 10. SPECIALIZED EQUIPMENT AND SYSTEMS**
- 11. ELEVATOR SYSTEMS**

Consultant is expected to generally address general hazardous materials (lead, asbestos, etc.) conditions and or concerning environmental considerations, based on known/assumed age and type of construction for each facility. Specialized hazardous material sampling/testing is not in the scope of proposed FCNA.

The consultant shall inspect all identified facilities to produce an accurate analysis that identifies all components and elements requiring maintenance, repair, and/or major capital investment. It is anticipated that the consultant team will be an interdisciplinary team (potentially involving multiple firms) likely to include an Ohio licensed Civil/Structural Engineer, Mechanical Engineer, Electrical Engineer, Architect and Appraiser, as appropriate. The consultant will thoroughly examine building systems using non-destructive, on-site observations to compile a complete understanding of current building conditions and Department needs for each facility. Consultant will ensure that the inspection staff has the appropriate training and equipment to record and produce consistent and accurate data.

INSPECTIONS

The method of the inspection process shall allow for a comprehensive inspection of observable systems, while utilizing input from City staff to complement the assessment of current conditions with details of the facilities' background. This will be augmented with information provided by City staff regarding the current and projected uses of each facility, the current and projected staffing levels for each facility and any known deficiencies currently affecting these needs.

At a minimum, inspectors shall gather the following information on each property:

- 1. PROPERTY CHARACTERISTICS** | An inventory of all building systems with each system component quantified as a count, an area, a length, and/or a height; whichever measurement is most appropriate for each system. Confirmation/validation of building area (square footage) shall be obtained during inspection.
- 2. AGE** | Identification/approximation of the year each system component was installed.
- 3. CURRENT CONDITION** | An assessment of the current condition of each system component and a determination of the level of repair necessary to restore or replace these components to achieve optimal condition.
- 4. FACILITY NEEDS** | A summary of how each facility is being utilized, identifying whether it is over- or under-utilized and an analysis regarding the suitability of the facility to its current use.

For purpose of consistency, system components shall be defined along with a standard list of repairs and action levels for inspectors to choose from in rating each system condition. Action level recommendations and timelines shall be defined for individual components. Standard definitions and systems of actions are intended to provide a more accurate assessment of facilities.

FORMAT

The consultant shall have a thorough understanding knowledge of ASTM Designation E2018, Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process, for each subject of the FCNA (identified in Exhibit B). Format, including individual and summary reports, shall be confirmed by City and consultant prior to commencing assessments. Once format is confirmed, City will require a pilot FCNA be conducted on a facility of its choosing to confirm FCNA deliverable format individually and in summary. Once pilot FCNA format and accuracy is confirmed by the City's project manager, the remainder of the FCNA for each facility in the project will be given authorization to proceed.

Hard copy and digital deliverables will be required.

IV. SCHEDULE

Responses to the RFP must be submitted to the City of Trenton as outlined in this section.

Responses are due no later than
FRIDAY, OCTOBER 21, 2022 AT 3:00 PM
Responses received after this date and time will not be considered.

PROPOSED SCHEDULE FOR THE REVIEW AND SELECTION PROCESS AND DESIRED TIMELINES FOR DELIVERABLES

MILESTONE	DATE	TIME
Release RFP	September 23, 2022	9:00AM
Proposal due date	October 21, 2022	3:00PM
Review and scoring of submittals	October, 2022	TBD
Interviews w/finalists	TBD	TBD
Award of contract	November, 2022	TBD
Execute contract and notice to proceed	Nov./Dec., 2022	TBD
Kickoff meeting	December, 2022	TBD
Pilot building FCNA due	January, 2023	TBD
Draft FCNA due for comment	February, 2023	TBD
Final draft due	March, 2023	TBD

The schedule may be modified and/or extended if necessary.

V. PROPOSAL REQUIREMENTS AND FORMAT

If interested in this RFP, please notify Rob Leichman by email at rob@cityoftrenton.com so you may be added to the notification list for addendums. Failure to notify Mr. Leichman could result in missing important and required information and could result in disqualification.

All submittals must follow the format described in this section. Respondents are encouraged to submit clear and concise responses to the RFP. The City of Trenton reserves the right to include or exclude any part of the submittals in the final agreement with the selected consultant.

Four (4) bound copies of the submittal, and/or one emailed electronic PDF copy must be submitted. Each submittal shall contain no more than 30 double-sided 8½" x 11" pages (not counting dividers, exhibits, and any relevant appendices). Font shall be no less than 10pt. All pages shall be numbered. Drawings provided with the submittal shall not exceed 11" x 17."

To be considered for selection, submittals must arrive at the location shown below by the date and time specified in Section IV. Proposers who mail packages should allow ample delivery time to ensure timely arrival.

Submittals shall be emailed (subject line: Facilities Condition and Needs Assessment RFP Submittal) to Mr. Leichman or placed in a clearly marked envelope, (titled: Facilities Condition and Needs Assessment RFP Submittal) mailed to:

City of Trenton
Service Department
Attention: Rob Leichman
FCNA Proposal
11 East State Street
Trenton, OH 45067

It is the sole responsibility of the Proposer to ensure timely delivery. Late proposals shall not be considered. Proposals will not be accepted at any other location other than the address specified above or emailed to Mr. Leichman.

Submittals must include the following components in the order listed below:

- Part 1: Cover Letter/Executive Summary (5 points)
- Part 2: Experience and Qualifications of Consultant/Team Members (30 points)
- Part 3: Understanding of Project Scope (25 points)
- Part 4: Commitment to Project Budget & Detailed Work Plan (20 points)
- Part 5: Delivery Schedule and Timeline (15 points)
- Part 6: Reference Review (5 points) Total Possible: 100 points

PART 1 | COVER LETTER/EXECUTIVE SUMMARY (5 POINTS)

In no more than three (3) pages, the Cover Letter and Executive Summary shall include:

1. The names of the key members of the consultant team.
2. The mailing address, telephone number, and the name of the main point of contact for the consultant team.

3. A summary of the consultant's Facility Condition Assessment experience and qualifications and the significant advantages to selecting the consultant.
4. An acknowledgement of receiving any addendum(s) to the RFP document sent out by the City.

PART 2 | EXPERIENCE AND QUALIFICATIONS OF CONSULTANT/TEAM MEMBERS (30 POINTS)

Provide detail relating to the experience and qualifications of the members of the team, including an organizational chart showing all key personnel who will be assigned to this project. Submit brief resumes demonstrating the training, experience, and other qualifications of the key personnel who will be assigned to this project.

Consultant should further document expertise by including the information regarding the following:

1. Facility and Property Condition Assessments to include applicable facility inventory use, type, and area (square feet).
2. Experience of proposed consultant team working together as a team on similar scope and type of projects.
3. Understanding of operations, activities, staffing needs and maintenance of public facilities.
4. Experience with the use of life-cycle cost and value engineering.
5. Any other information that would assist the review team in understanding the consultant team's capacity to efficiently and effectively complete the project.

PART 3 | UNDERSTANDING OF PROJECT SCOPE & DETAILED WORK PLAN (25 POINTS)

Each respondent shall demonstrate its capacity to deliver comprehensive, professional, FCNA services. Respondent should outline methodology and logistics capable of meeting the goals outlined in the FCNA scope, as well as provide a proposed work plan for development and implementation of the FCNA as described in the scope of work. Respondents should draw from previous experience and demonstrated competence to articulate how their capabilities are distinct, comprehensive, and add value. Examples of report format (formal hard copy and digital deliverables) are recommended.

PART 4 | COMMITMENT TO PROJECT BUDGET (20 POINTS)

Consultant shall provide a total base fee for the project. Each responding consultant shall include an acknowledgement that it can effectively complete this project within the budget indicated. Each respondent should clearly explain in this section the methods and process it will use to ensure the project is within budget and that the City will be getting the best value within the budgeted amount. Information in this section shall include cost per square foot for additional facilities during the course of the project and an hourly fee schedule shall be submitted for each proposer and any sub-consultants.

PART 5 | DELIVERY SCHEDULE AND TIMELINE (15 POINTS)

Discuss in this section the steps the consultant team proposes to use. Clearly outline the delivery schedule and timeline of each component of the project. Specific dates should be used assuming an award to this RFP and an executed agreement in November 2022. Consultant shall be prepared to begin work within two (2) weeks of the Notice to Proceed. Completion of this assessment in a timely fashion will be a factor in scoring this section. Firms who can commit to an accelerated completion schedule may be given additional deference in the selection process. Indicate in the proposed scheduling the necessary involvement and various decision points required of the City. A Gantt chart or schematic representation of the delivery timeline with pertinent milestones and events is required in this section.

PART 6 | REFERENCE REVIEW (5 POINTS)

The review team will conduct a background reference review of each respondent. Please include the following information for three (3) projects that the proposed consultant team worked on together:

- Name of the project/study
- Location of the project
- Name, title, and contact information for the client
- Project budget
- Date of completion of the project

VI. PROPOSAL TERMS AND CONDITIONS

1. EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the proponent that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. No request for modification of the provisions of the proposal shall be considered after its submission on the grounds the proponent was not fully informed as to any fact or condition.

2. ADDENDA INTERPRETATIONS

If it becomes necessary to revise any part of this RFP, a written addendum will be provided to each firm that requested to be added to the notification list and said addenda will be uploaded to the City website. The City of Trenton is not bound by any oral representations, clarifications, or changes made in the RFP by the City or its agents, unless such clarifications or change is provided in written addendum from the City of Trenton.

3. DESIGNATED CONTACT

For the purposes of this RFP, the City's designated Project Manager is Rob Leichman, Service Director. Any questions concerning the scope of work and the selection process shall be directed to Mr. Leichman, at rob@cityoftrenton.com. All questions and responses concerning this RFP will only be accepted in writing, via email.

Responses to questions will be posted on the City's website and will become part of the RFP. It is the consultant's responsibility to check the website for updates.

4. PUBLIC RECORDS

This RFP document and all submittals in response thereto are public records. Prospective consultants are cautioned not to include any material into the proposal that is strictly proprietary in nature.

5. PROPOSAL COSTS

All costs associated with the preparation of RFP submittals shall be borne by the respondent. This RFP does not constitute any form of offer to contract.

6. RESERVATION OF RIGHTS

The City reserves the right, for any reason, to accept or reject any one or more proposals; to negotiate the terms and specifications of the proposal; to modify any part of the RFP; or issue a new RFP.

7. PRODUCT OWNERSHIP

Any documents resulting from the contract will be the property of the City.

8. PROFESSIONAL SERVICES AGREEMENT

All Proposers must identify in their proposal any terms and conditions of the sample Professional Service Agreement (Exhibit C) that they wish to negotiate. Liability insurance is required as outlined in Section 7 of the sample agreement.

9. CAUSES FOR DISQUALIFICATION

Any of the following may be considered cause to disqualify a proponent without further consideration:

- Evidence of collusion among proponents;
- Any attempt to improperly influence any member of the evaluation panel;
- A proponent's default in any operation of a professional services agreement which resulted in termination of that agreement; and/or
- Existence of any lawsuit, unresolved contractual claim, or dispute between proponent and the City.

EXHIBIT A - CITY OF TRENTON FACILITY INDEX

All City-owned facilities to be included in the Facilities Condition Assessment:

CITY HALL/POLICE STATION/SWOPES STORAGE GARAGE

11 East State Street

Trenton City Hall and the Trenton Police Department are in the same building. City Hall houses the following Departments: City Manager, City Clerk, Planning, Building, Finance, and Tax Department Staff. Fourteen employees currently work out of the City Hall side. The Police Department consists of both Dispatch and Patrol Divisions. It houses four full-time and two part-time dispatchers, seventeen police officers, one administrative assistant, as well as a Police Chief. The Station also contains one prisoner processing/interview room and one jail cell that can house two prisoners. In addition to City Hall is a Storage Garage on site.

FIRE STATION

300 N Miami Street

The Trenton Fire Station includes four offices, full kitchen, workout room, training room, dorm rooms, and an apparatus bay, which houses several fire apparatuses. The Fire Department consists of one part-time Fire Chief, six part-time officers, and up to thirty part-time firefighters. The station is not staffed full-time.

TRENTON HISTORIC SOCIETY

17 East State Street

The Trenton Historic Society houses volunteers on a sporadic basis. It holds all the various items and documents for the historic society. Open Houses are provided on the first Saturday of every month.

PUBLIC WORKS COMPLEX

217 S. Miami Street

The Trenton Public Works Complex is home to the Public Works Field Staff. It currently houses two offices as well as a breakroom/meeting room. Ten full-time staff work from the yard. There is a Salt Barn (used for annual road salt), Woodshop, Christmas Shed, 5 bay heated truck barn (used to store and protect our dump trucks).

OLD LIBRARY BUILDING/SALON

21 East State Street

The "Salon" building is owned by the City of Trenton and is currently leased to a local salon. The upstairs is residential and has been vacant.

PUBLIC WORKS GARAGE

2917 Woodsdale Road

The building located at 2917 Woodsdale Road is owned by the City of Trenton and is currently used for fleet maintenance as well as two offices.

TRENTON RESCUE SQUAD

105 S. Miami Street

The "TRS" building is owned by the City of Trenton and is currently leased with the utilization as a storage facility.

PUBLIC WORKS ANNEX

200 Cypress Avenue

The building located at 200 Cypress Avenue is owned by the City of Trenton and is currently used for vehicle storage as well as two offices. There is also a storage trailer (for storage of Fire Department Items).

WATER TREATMENT PLANT

202 CYPRESS AVENUE

The water treatment plant was built in 2006 and has had minor upgrades to the facility since built. It currently houses three full-time operators.

AMPHITHEATER AND PARK RESTROOMS

440 Dell Drive

Our park restrooms were built in 2000, of which there are four individual restrooms. The amphitheater was built in 2018 and has two dressing rooms with restrooms, and a storage room.

EXHIBIT B – SUMMARY OF INDIVIDUAL CITY FACILITIES TO BE EVALUATED

All City-owned facilities to be included in the Facilities Condition & Needs Assessment:

FACILITY	ADDRESS	APPROXIMATE SQUARE FOOTAGE	FLOORS	# OF EMPLOYEES
CITY HALL/PD	11 East State Street	8,915	2	25 full-time, 3 part-time
SWOPES GARAGE		560	N/A	
FIRE STATION	300 North Miami Street	8,056	2	39 part-time
TRENTON HISTORIC SOCIETY	17 East State Street	3,606	2	N/A
PUBLIC WORKS' COMPLEX	217 South Miami Street	9,722	1	12 full-time
OLD LIBRARY/SALON	21 East State Street	6,774	2	N/A
PW GARAGE	2917 Woodsdale Road	6,000	1	3 full-time, 1 part-time
TRENTON RESCUE SQUAD	105 S. Miami Street	4,800	1	N/A
PW ANNEX	200 Cypress Avenue	2,525	1	1 full-time
WATER TREATMENT PLANT	202 Cypress Avenue	12,000	1	3 full-time
AMPHITHEATER AND PARK RESTROOMS	440 Dell Drive	945	1	N/A
		<u>65,603</u>		

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on _____ by and between the City of Trenton, located in the County of Butler, State of Ohio (“City”), and _____ (“Consultant”).

WHEREAS, The City desires to employ Consultant to furnish professional services in connection with the project described as _____; and

WHEREAS, Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC AND ADDITIONAL SERVICES

A. Consultant agrees to perform the services, and within the time for completion, as set forth in **Exhibit A, “Scope of Services”** and made part of this Agreement (the “Services”).

B. All Services will be performed by the Consultant: (i) in accordance with all applicable laws, rules and regulations; and (ii) with that degree of care and skill ordinarily exercised by others in the Consultant’s industry providing similar services under similar conditions at the same time and in the same locality.

C. The Consultant acknowledges that the City is entering into this Agreement in reliance upon the Consultant’s experience, ability and expertise to perform the Services.

D. The Consultant will be fully responsible to the City for all Services performed under this Agreement, even if the Services are performed by an agent, consultant or subcontractor hired by Consultant.

E. All of the salaries, benefits and compensation owed to the staff and subcontractors hired by Consultant to perform the Services shall be paid by Consultant.

F. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in this Agreement or **Exhibit A, “Scope of Services”**, unless such additional services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 2 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, the City agrees to pay Consultant the amount specified in **Exhibit B, “Compensation,”** attached hereto and made a part hereof. Total compensation shall not exceed \$XX, unless additional compensation is approved in accordance with Section 1(F).

B. Consultant shall furnish to City an original invoice for all work performed and expenses

incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 3 – STANDARD OF PERFORMANCE

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

SECTION 4 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 5 – INSURANCE REQUIRED

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, as indicated:

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$2,000,000 per accident for bodily injury or disease.

C. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under Ohio Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least \$2,000,000 of professional liability insurance.

D. Excess Limits. If Consultant maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

E. Primary Coverage. For any claims related to this contract the Consultants insurance coverage shall be primary insurance as respects to City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Consultants insurance and shall not contribute with it.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions of \$25,000 or greater must be declared to and approved by the City.

G. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that

coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

H. Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

I. The Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

J. Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on forms that conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

SECTION 6 – INDEMNIFICATION

A. Consultant shall indemnify and hold harmless City, its agents, officers, officials, employees, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under Ohio Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor ("design professional"), the provisions of this section regarding Consultant's duty to defend and indemnify apply only to claims that arise out of or relate to the negligence, recklessness, or willful misconduct of the design professional.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure Consultant's obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier

termination of this Agreement.

D. The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence or willful acts or misconduct.

SECTION 7 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of the City. Consultant shall have no authority to bind the City in any manner or to incur an obligation, debt or liability of any kind on behalf of or against the City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by the City.

B. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither the City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of the City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to the City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 8 – CONFLICTS OF INTEREST

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of the City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of the City in the performance of this Agreement.

B. The City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is aware of any stated position of the City relative to such projects. Any future position of the City on such projects shall not be considered a conflict of interest for purposes of this section.

SECTION 9 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by the City without the permission of the Consultant. When requested by the City, but no later than 90 days after project completion,

Consultant shall deliver to the City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing services (collectively the “Work Product”) shall belong exclusively to the City. The Work Product shall be considered a “work made for hire” within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 10 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential to the extent permitted by law, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant’s conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

SECTION 11 – SUSPENSION OF WORK

The City may, at any time, by ten (10) days written notice suspend further performance by

Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 12 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 13 – COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, Consultant agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, gender, gender identity and gender expression as protected categories specifically and expressively in that category, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of 1964. Consultant will comply with all federal regulations relative to nondiscrimination to federally-assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 14 – RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to the City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant's records and design calculations will be available for examination and audit if and as required. The cost of any reproductions shall be paid by the City.

SECTION 15 – COOPERATION BY CITY

All public information, data, reports, records, and maps as are existing and available to the

City as public records, and which are necessary for carrying out the work as outlined in the **Exhibit A, "Scope of Services"**, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 16 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first class mail, addressed as follows:

To the City: City Manager
 11 East State Street
 Trenton, Ohio 45067

To Consultant:

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 17 – TERMINATION

A. The City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or the City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or the City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or the City, all property belonging to the City which is in Consultant's possession shall be delivered to the City. Consultant shall furnish to the City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 18 – ATTORNEY FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 19 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and the City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding

unless in writing duly executed by the parties or their authorized representatives.

SECTION 20 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 21 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement. Consultant shall notify the City of any changes in Consultant's staff assigned to perform the services required under this Agreement, prior to any such performance.

SECTION 22 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 23 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by the City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 24 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of Ohio. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in Butler County. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Southern District of Ohio, in Cincinnati.

SECTION 25 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Consultant:

City of Trenton

By: _____

By: _____

Name: _____

Name: Marcos Nichols

Title: _____

Title: City Manager

Approved as to Form:

By: _____

Name: Nicholas Ziepfel

Title: City Attorney

Exhibit A
“Scope of Services”

Exhibit B
“Compensation”