

RESOLUTION 24 – 09, 2024
COLUMBIA TOWNSHIP, HAMILTON COUNTY, OHIO

**AUTHORIZING THE TOWNSHIP ADMINISTRATOR TO ENTER INTO A CONTRACT
WITH TERRACON FOR CONSTRUCTION MATERIALS TESTING AND INSTALLATION
FOR THE MADISON PLACE FIREHOUSE REDEVELOPMENT PROJECT,
AND DISPENSING WITH THE SECOND READING**

WHEREAS, the Board of Trustees desires to contract for a professional engineering firm to perform construction materials testing and installation services for the Madison Place Firehouse redevelopment into a multi-purpose community, senior, and event center, town hall, and small office space to include township administrative offices (“Project”); and

WHEREAS, the Township’s contractor Perkins & Carmack is constructing improvements to the Project, and commercial construction industry best practices specify that an independent third-party engineering company should inspect materials and installation that are essential to the structure’s safety – primarily concrete, steel, masonry; and

WHEREAS, the Township’s Project Manager sought proposals for construction materials testing and, of the respondents, recommends Terracon, a national engineering consultant with a regional office at 611 Lunken Park Drive, Cincinnati, OH 45226. Terracon specializes in expert engineering for Environmental, Geotechnical, Materials, and Facilities projects; and

WHEREAS, Terracon proposes to perform for the Project: Foundation Monitoring and Testing, Reinforced Cast-In-Place Concrete Observations and Testing, Structural Steel Observations and Testing, and Masonry Installation and Monitoring, and Special Inspection Reporting for \$12,750 as detailed in the attached proposal; and

WHEREAS, the Board of Trustees, upon majority vote, hereby dispenses with the requirement that this Resolution be read on two separate days, and hereby authorizes the adoption of this Resolution upon its first reading.

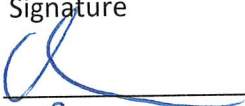
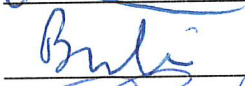
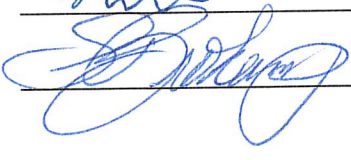
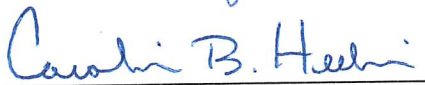
NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees of Columbia Township, Hamilton County, Ohio, for the benefit and welfare of Columbia Township and its citizens hereby authorizes the Township Administrator to sign, on behalf of the Township, an agreement between Terracon and Columbia Township for \$12,750 construction materials and installation testing services for the Madison Place Firehouse Redevelopment Project.

Motion to accept Resolution made by: MR. KUBICKI

Seconded by: MR. BROKAMP

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COLUMBIA TOWNSHIP, HAMILTON COUNTY, OHIO

VOTE:

TRUSTEE	Voting	Signature	Date
David Kubicki, President	<u>yes</u>		04-04-2024
Brian Lamar, Vice President	<u>yes</u>		04-04-2024
Steve Brokamp, Trustee	<u>yes</u>		04-04-2024
ATTEST:			04-04-2024
		Caroline Heekin, Fiscal Office	

Refer to attachment.

Passed April 4, 2024

Columbia Township

Madison Place Fire Station Renovation

PN1241044

January 26, 2024

611 Lunken Park Drive
Cincinnati, OH 45226
P (513) 321 5816

Terracon
Explore with us

Nationwide
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- Facilities
- Environmental
- Geotechnical
- Materials



611 Lunken Park Drive
Cincinnati, OH 45226
Phone (513) 321 5816
FAX (513) 321 0294
Terracon.com

January 30, 2024

Madison Place Fire Station Renovation
6904 Murray Avenue
Cincinnati, OH. 45227

Attn: Mrs. Melissa Taylor
P: 513.561.6046
E: Melissa@columbiatwp.org

**Re: Cost Estimate Proposal for Madison Place Fire Station Renovation
6904 Murray Avenue
Cincinnati, OH. 45227
Terracon Proposal No. PN1231760**

Dear Mrs. Taylor:

Terracon Consultants appreciates the opportunity to provide you with our unit rates and estimated costs for the Construction Materials Testing services for the Madison Place Fire Station Renovation.

Project Information

The project will consist of renovation of the existing building facilitating a change of use, from a fire station to a community hall. The project will include new foundations where needed, concrete slab on grade, masonry, and structural steel observation.

To this estimate, Terracon was provided with the following documents:

- Drawings dated 08/07/2023

Explore with us

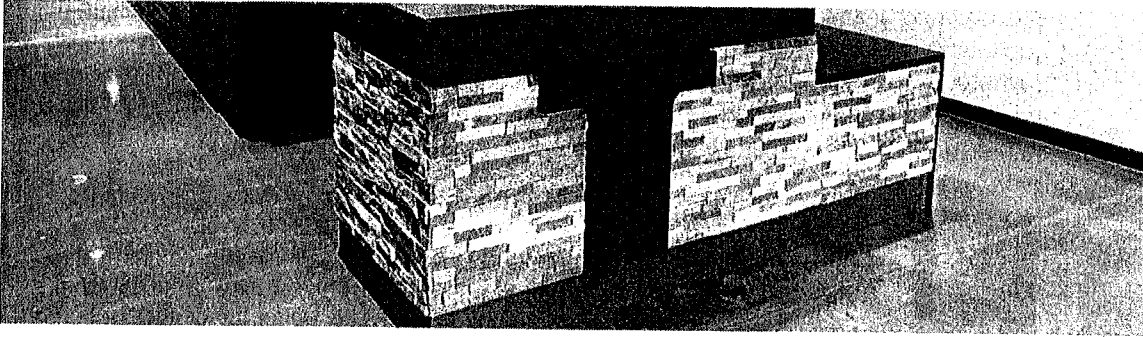
Proposal for Construction Materials Testing

Madison Place Fire Station renovation

January 30, 2024 | Terracon Proposal No. PN1241044



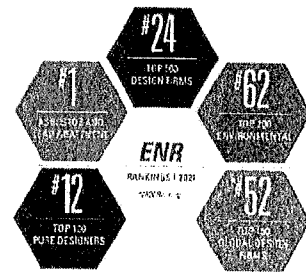
General Firm Information



History

Terracon is a 100% employee-owned consulting engineering firm providing quality services to clients. Since 1965, Terracon has evolved into a successful multi-discipline firm specializing in:

- Environmental
- Geotechnical
- Materials
- Facilities



In January 2007, H.C. Nutting joined Terracon Consultants, one of the nation's largest employee-owned engineering consulting firms.

Over its history, Terracon has achieved significant expansion through both internal growth and acquisitions. Terracon has more than 5,000 employees providing environmental, facilities, geotechnical, and materials services from more than 160 offices nationwide, including three offices in Ohio. Additionally, we partner with our U.S. clients to serve their international needs. The firm's success is further evidenced by a current ranking of 24 in *Engineering News-Record's* 2021 listing of the Top 500 Design Firms, as compared to a ranking of 50 over a decade ago. Terracon's growth is due to dedicated employees who are responsive to clients, provide quality services, and take advantage of opportunities in the marketplace.

Terracon provides services on thousands of projects each year. Our culture, systems, and structure enable us to excel at both small and large projects. By combining our national resources with specific local area expertise, we consistently overcome obstacles and deliver the results our clients expect.

Terracon serves a diverse portfolio of private and public clients. By being responsive, resourceful, and reliable, we strive to exceed our clients' expectations for service, solutions, quality, and speed of delivery. Based on a deep understanding of our client's needs, Terracon's commitment is centered around these key objectives.

Madison Place Fire Station renovation

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Safety

Safety is one of Terracon's core values and our commitment to an "Incident and Injury-Free (IIF)" philosophy is one of the pillars of our culture. Successful execution and delivery include the need to work safely and keep our employees and the public safe every day. Terracon is very much a safety-oriented company. We strive to build health and safety into all aspects of our business and into the thinking of our employees. The culture is continued further in our everyday work culture, with all meetings beginning with an *IIF* moment and safety discussion.



What is Incident and Injury-Free (IIF)?

IIF is about care and concern for people. It is our personal and organizational commitment at all levels of the company to everyone going home safe to their family every day. It is where safety is held as a core value as well as an operational priority. Working safely is an inseparable part of working correctly, just as much as other operational priorities, in particular quality, budget, and schedule. *IIF* is our commitment to our people, who we value for who they are and what they do.

Conducting our work safely means conducting our work in the only acceptable way. Incidents, injuries, and accidents will not be viewed as problems to make go away, but as opportunities to strengthen *IIF*. *IIF* is about developing a mindset intolerant of any incidents or injuries no matter how minor or infrequent.

Our Rules to Live By

IIF is about Our Rules to Live By and is at the foundation of Terracon's *IIF* culture. These give employees clear, specific ways to stay safe on the job, covering essential aspects of safety including personal protective equipment (PPE), equipment and tools, working at heights and depths, motorized vehicle safety, and reporting of injuries. We regularly follow and discuss *Our Rules to Live By* in our offices and on job sites to ensure everyone is following these fundamental rules. Our focus on pre-task planning also serves to reinforce this message every day.

We cannot just tell someone to "be safe." We can request our employees follow *Our Rules to Live By*. These rules include pre-task planning for each task every day, as well as following the safe work practices they have been trained to follow to complete work at a task level. Our Rules to Live By have made a measurable difference in keeping our employees safe and in helping us preserve the trust and business with our clients.

Scope of Services

Our approach to providing Special Inspections & Construction Materials Testing services is to assign qualified engineering technicians to perform the required testing and observations for your project. Field and laboratory testing and observation will be performed in general accordance with site specifications, the criteria outlined in the geotechnical report, specifications, as mentioned below, and our experience with similar projects. The technicians assigned to the project will be qualified and equipped to perform the following field services:

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Foundation Monitoring and Testing:

- Monitor the installation of shallow spread footings and column pads.
- Perform compressive tests of concrete test cylinders cast in the field (ASTM C39) during concrete placement for footings.
- Observe reinforcing steel placement in the footings.

Reinforced Cast-In-Place Concrete Observations and Testing:

- Sample fresh concrete and perform field tests including slump, air content, unit weight, and temperature of structural concrete (ASTM C172, C143, C231, C567, C138, and C1064).
- Cast test specimens during placements at a rate of 1 set of 5 (4"x8") cylinders for each 100 cubic yards of concrete placed (ACI 318) or 1 set per day minimum.
- Perform compressive strength tests of concrete test cylinders cast in the field (ASTM C39).
- Observe reinforcing steel placement in structural concrete.

Structural Steel Observations and Testing:

- Visually check bolted/welded connections in accordance with applicable AISC and AWS specifications at the jobsite for structural framing.
- Testing of welds will be performed in accordance with AWS requirements.

Masonry Installation and Monitoring:

- Observe the construction of concrete masonry walls to document mixing of site mortar and grout, size, location, and positioning of vertical and horizontal reinforcing, hot and cold weather protection of masonry, and grouting of cells.
- Cast test specimens of mortar for compressive strength testing at a rate of 1 set of 3 2" x 2" cubes for each 5000 square foot of wall area (ASTM C109).
- Cast test specimens of grout for compressive strength testing at a rate of 1 set of grout prisms for each 5000 square foot of wall area (ASTM C1019).

Special Inspection Reporting:

- Professional review and preparation of daily field and laboratory test reports for Special Inspection requirements.
- Distribution of Digital Terracon reports to a client specified list, including interim summary letters and the final summary letter at project completion.
- Maintenance and distribution of a bi-weekly deficiency log containing deficiencies, locations, dates noted, and status (corrected or open) of non-conformance items (if requested).

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Benefits of working with Terracon include:

- **Responsiveness:** Acting quickly to meet your deadlines, our **employee-owners** are always available to you. We can quickly mobilize a workforce to respond to accelerated schedules and your changing needs.
- **Resourcefulness:** Applying new processes, methodologies, and techniques allows us to take a proactive approach to communicating test results, tracking deviations, solving project challenges, and delivering your projects better and faster. Our Cincinnati Office contains one of the largest accredited laboratories in the mid-west region.
- **Reliability:** With vast experience working in the region, Terracon is a dependable partner throughout the life of your project. We deliver consistently accurate and timely test results and communication of site findings. Our team of testing engineers offers practical and constructible solutions to construction materials problems that occur while avoiding delays and surprises, and costly mistakes down the road.

REASONS TO SELECT TERRACON AS YOUR PROJECT PARTNER –

- Expedient and Responsive report delivery. Terracon digitally reviews, signs, and distributes the reports as PDF files.
- Vast local experience with various sizes and types of projects performing Special Inspection and Construction Materials Testing services, so we understand that detailed deliverables and communication, and staffing resources are critical to the construction path.
- The Cincinnati Terracon office currently has over sixty (60) technicians with various certifications and in-house training, including ODOT, KYTC, ICC, AWS, ACI, and NICET.
- Terracon is fully committed to the safety of all its employees through our commitment to our Incident and Injury Free® (IIF) safety culture.
- Numerous multi-discipline local staff, and national resources. Our technicians are also trained and certified in other aspects of this project that will require inspection and testing, including reinforced concrete and concrete testing. Using multi-disciplined technicians saves clients' money by utilizing site personnel already on-site thus eliminating the need for additional personnel.
- Completely in-house testing services.
- Terracon's Cincinnati, Ohio laboratory is accredited through AMRL (AASHTO), CCRL, and the US Army Corps of Engineers for soils, concrete, asphalt, steel, and fireproofing all of which require QC testing on this project
- All digital reports will be provided at no additional cost.

CompassSM

Make rock-solid decisions and maintain your project's forward momentum with real-time access to high-quality data and Terracon's responsive partners. Columbia Township gives us the green light to move forward as your consultant, your project is launched through an online collaboration platform that lets you easily view project data, documents, and reports, and interact with your team all in one place!

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Terracon's CompassSM tool connects The Columbia Township team with your project data and our technical team through a highly customized, visual interface. We are continually enhancing this proprietary platform to deliver seamless facilities, environmental, geotechnical, and material services at any point in your project lifecycle, from site selection through construction and asset management.

Columbia Township has real-time digital access to your project information as it becomes available. Our team uses mobile technology to capture and transmit data from the field as it's collected, so you don't have to wait for the final report to make critical decisions to keep your project on schedule.

How does Terracon Compass work?

- Columbia Township receives automated access and secured login credentials.
- Next, the team will be introduced to Compass at our client-engaged kickoff meeting.
- Following that meeting, your team can log in at any time to:
 - Customize notifications.
 - Obtain contact information for key Terracon project team members.
 - Collaborate with the entire team.
 - View the project site overlaid with both public subsurface maps and Terracon's proprietary subsurface data.
 - Monitor project progress.
 - View all Terracon services performed at the site.
 - Track milestone deadlines with completion dates updated in real-time.
 - Download digital data.
 - Receive final, signed deliverables.
 - Build a library of past projects and access the data any time long after projects have been completed.

ADDITIONAL SERVICES:

If you would like us to do additional work, let us know and we will issue a short Supplement to Agreement form, or Supplemental Proposal, that outlines the additional work to be performed and associated fees. To authorize us to begin work, you simply return a signed copy of the Supplement.

Field testing will be provided on an "as requested" basis when scheduled by your representative. A minimum of 24 hours' notice is required to properly schedule our services.

We will only provide testing when called by your on-site representative and are unable to be responsible for required testing if we are not scheduled.



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Compensation

Our services will be provided on a unit-rate basis in accordance with the attached unit-rate schedule. We have developed a budget based on assumptions derived from the project drawings, project specifications, and our experience on similar projects.

Please recognize that this is only an estimate. We will only invoice for the time expended for the above-indicated services on a Time and Expenses basis and factors considered out of our control such as weather and the contractor's schedule, will dictate the final fee for our services. Quantities for re-tests, re-inspection, and stand-by time are not included in our cost estimate.

Based on the above information, we recommend a Special Inspection & Construction Materials Testing budget for **\$12,750.00** as detailed in the cost estimate attached.

We appreciate the opportunity to provide this proposal and look forward to continuing to provide our professional services of your project. Please call us at 513-612-9027 if you have any questions or comments regarding this proposal.

Thank you for your consideration.

Sincerely,

Terracon Consultants, Inc.

Ed Cardosi
Materials Project Manager

Deron Buchanan
Authorized Project Reviewer

Attachments:

Unit Rates

Cost Estimate

Authorization for Services

Proposal for Construction Materials Testing

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UNIT RATE FEE SCHEDULE

Field Personnel Fees

Multi-Discipline Technician	65.00/hour
Material Consultant	125.00/hour
Steel Technician (CWI)	115.00/hour
Technician Supervisor	125.00/hour

Professional Personnel Fees

Project Manager	145.00/hour
Secretarial	70.00/hour
Material Consultant	120.00/hour
Principal Engineer	205.00/hour
Materials Engineer	150.00/hour
Senior Petrographer	150.00/hour

Miscellaneous Fees

Density Test w/Nuclear Meter-Technician Rate Plus	45.00/day
Trip charge / Vehicle	35.00/trip
Ground Penetrating Radar(GPR)-Rebar Locating	300.00/day
Ground Penetrating Radar(GPR)- PT Tendon Locating	300.00/day

Laboratory Fees

Standard Proctor 6-inch Mold (ASTM D698)	195.00/each
Standard 4-Inch proctor	172.00/each

Concrete Cylinders

Sampling and Testing ASTM C-31, C-39, C-143, C-172. Cylinders will be cast and picked up plus all field tests conducted at the technician rate plus mileage charge.

Compression Testing of 4x8 Cylinders	30.00/each
2-Inch Cubes (ASTM C109)	30.00/each
Grout Prisms	30.00/each

Overtime more than 8 hours per day, Saturdays, Sundays & Holidays will be billed at the referenced rates + 50%, as well as services performed between the hours of 8:00 pm and 6:00 am. A 4 four-mininum charge applies to technician services above.

The fees, hourly rates, and other charges for the services furnished under this cost estimate agreement are derived from the customary hourly wages paid to our technical staff. These rates are not formulated to comply with any prevalling wage rates or union-scale wages. In the unlikely event that it is later determined that prevalling wage/union-scale rates are required under this agreement, then a retroactive equitable adjustment in the hourly fees will be made if the current wage rates are less than the wages required to be paid under prevalling wage rates.

Proposal for Construction Materials Testing



Madison Place Fire Station renovation

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ASSUMPTIONS & COST ESTIMATE

Fee Estimate						
Materials Services						
Madison Place Fire Station						
Terracon Proposal No. PN1241044						
DESCRIPTION	RATE	QUANTITY	UNITS	TRIPS	TOTAL QUANTITY	TOTAL
Compressive Strength of 4" x 8" Cylinder	\$ 30.00	20 tests			20	\$ 600.00
Compressive Strength of 3x6 Inch Grout Prism	\$ 30.00	8 tests			8	\$ 240.00
Compressive Strength of 2 inch Mortar Cube or 3 Inch cylinder	\$ 30.00	6 tests			6	\$ 180.00
Nuclear Gauge (Equipment)	\$ 45.00	1 days			1	\$ 45.00
Sub Total						\$ 1,065.00
1.0 DENSITY TESTING						
Multi-Discipline Technician	\$ 65.00	4 hours		1	4	\$ 260.00
Vehicle Mileage (Travel)	\$ 35.00	1 Trip		1	1	\$ 35.00
Sub Total						\$ 295.00
2.0 STRUCTURAL STEEL						
Structural Steel Technician	\$ 115.00	7 hours		7	49	\$ 5,635.00
Vehicle Mileage (Travel)	\$ 35.00	1 Trip		7	7	\$ 245.00
Sub Total						\$ 5,880.00
3.0 FOUNDATION OBSERVATION						
Multi-Discipline Technician	\$ 65.00	2 hours		2	4	\$ 260.00
Vehicle Mileage (Travel)	\$ 35.00	1 Trip		2	2	\$ 70.00
Sub Total						\$ 330.00
4.0 MASONRY						
Multi-Discipline Technician	\$ 65.00	4 hours		5	20	\$ 1,300.00
Vehicle Mileage (Travel)	\$ 35.00	1 Trip		5	5	\$ 175.00
Sub Total						\$ 1,475.00
5.0 ADHESIVE ANCHORS						
Multi-Discipline Technician	\$ 65.00	4 hours		1	4	\$ 260.00
Vehicle Mileage (Travel)	\$ 35.00	1 Trip		1	1	\$ 35.00
Sub Total						\$ 295.00
6.0 SITE-SAFETY CHECK-IN						
Technician Supervisor	\$ 125.00	2 hours		2	4	\$ 500.00
Vehicle Mileage (Travel)	\$ 35.00	1 Trip		2	2	\$ 70.00
Sub Total						\$ 570.00
7.0 CONCRETE COMPRESSIVE STRENGTH						
Multi-Discipline Technician	\$ 65.00	4 hours		4	16	\$ 1,040.00
Vehicle Mileage (Travel)	\$ 35.00	1 Trip		4	4	\$ 140.00
Sub Total						\$ 1,180.00
8.0 ADMINISTRATION						
Project Manager	\$ 145.00	10 hours		1	10	\$ 1,450.00
Secretarial	\$ 70.00	3 hours		1	3	\$ 210.00
Sub Total						\$ 1,660.00
APR						
TOTAL						\$ 12,750.00

The above quantities and total are only an estimate based upon the information given. Actual units used during construction may vary from the estimated above. Due to this, compensation will be only expected for material and equipment used, and time worked. All time is based on a 8 hour a day, 5 day work week

AGREEMENT FOR SERVICES

This **AGREEMENT** is between Columbia Township OH ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Madison Place Fire Station Renovations (special Inspections) project ("Project"), as described in Consultant's Proposal dated 01/26/2024 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

- 1. Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- 2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
- 3. Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
- 4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- 5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
- 6. LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$10,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- 7. Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
- 8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 9. Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$2,000,000 occ / \$4,000,000 agg); (iii) automobile liability insurance (\$2,000,000 B.I. and P.D. combined single limit); (iv) umbrella liability (\$5,000,000 occ / agg); and (v) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to unsafe site conditions. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes.

Consultant: Terracon Consultants, Inc.
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Client: Columbia Township OH
 By: _____ Date: _____
 Name/Title: Melissa Taylor / Township Administrator
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