

RESOLUTION ACCEPTING AND AWARDING THE STATEMENT OF QUALIFICATIONS AND AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN ONYX CREATIVE, INC. AND THE BOARD OF ASHTABULA COUNTY COMMISSIONERS FOR THE VETERAN SERVICES BUILDING RENOVATION PROJECT

WHEREAS, on October 31, 2023 by Resolution Number 2023-540, Statements of Qualifications were ordered to pre-qualify architectural/engineering services for the Ashtabula County Veterans Service Commission Building Renovation; and

WHEREAS, three Request for Qualifications were received, as follows:

- Onyx Creative Inc., 25001 Emery Rd., #400, Cleveland, OH 44128
- Ziska Architecture, 3047 Prospect Ave., Cleveland, OH 44115
- BSHM Architects, Inc., 15 Central Square, Ste. 300, Youngstown, OH 44503

WHEREAS, a recommendation has been received from Benjamin Schwartfigure, Director of Veterans Services Commission to utilize the services of Onyx Creative as the best suited to see the project to fruition; and

WHEREAS, this Board of Commissioners would concur with that recommendation and a Professional Services Agreement has been presented for the approval of the Board, to-wit:

Scope: Preliminary, design, construction drawing, construction administration, permit submission and project observation services related to the renovation of property located at 1709 East Prospect Rd., Ashtabula, OH 44004

Parties: Onyx Creative, Inc., 25001 Emery Rd., #400, Cleveland, OH 44128
Ashtabula County Commissioners, 25 West Jefferson St, Jefferson, OH 44047
FBO: Veteran Services Commission, 1212 Lake Ave., Ashtabula, OH 44004

Cost:

Preliminary/Design Services:	\$10,000.00
Design Development	\$ 7,000.00
Construction Documents	\$31,000.00
Construction Administration	<u>\$ 8,000.00</u>
Not to Exceed:	\$58,000.00

fees are based on a base fee of 7% of \$832,000 current budget

Term: retroactive to one year from November 30, 2023; now

THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Ashtabula County, Ohio that the Qualifications is accepted and awarded to Onyx Creative, Inc. and the Professional Services Agreement as noted above is approved in accordance with a copy now on file in this office.

BE IT FURTHER RESOLVED, that the President of the Board, on behalf of the Board of Commissioners of Ashtabula County, is authorized to execute any and all necessary documents.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2023-594

December 05, 2023

**RESOLUTION ACCEPTING AND AWARDING THE STATEMENT OF
QUALIFICATIONS AND AUTHORIZING A PROFESSIONAL SERVICES
AGREEMENT BY AND BETWEEN ONYX CREATIVE, INC. AND THE BOARD OF
ASHTABULA COUNTY COMMISSIONERS FOR THE VETERAN SERVICES
BUILDING RENOVATION PROJECT**

Upon the motion of J.P. Ducro IV, seconded by Kathryn L. Whittington.

VOTE:

Casey R. Kozlowski	Aye
Kathryn L. Whittington	Aye
J.P. Ducro IV	Aye

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into this 30th day of November 30, 2023, by and between Onyx Creative, Inc ("CONSULTANT") and Ashtabula County Board of County Commissioners ("ASHTABULA COUNTY"), for professional and related services to be provided to ASHTABULA COUNTY for the renovation of the Veteran's Service Commission Building.

I. SCOPE OF SERVICES

CONSULTANT shall provide to ASHTABULA COUNTY services as set forth in Exhibit A, "Scope of Services," attached hereto (the "Services"), which upon acceptance by ASHTABULA COUNTY shall be governed by the terms of this agreement.

II. FEES FOR SERVICES

For services provided by CONSULTANT to ASHTABULA COUNTY pursuant to this Agreement, ASHTABULA COUNTY shall pay CONSULTANT in accordance with the rates and charges set forth in Exhibit B, "Fees for Services," attached hereto.

III. BILLING AND PAYMENT

CONSULTANT shall submit a monthly statement to ASHTABULA COUNTY setting forth the amount due for services and itemizing amounts due for expenses. ASHTABULA COUNTY shall pay the full amount of such statement within thirty (30) days after receipt.

IV. INDEPENDENT CONTRACTOR

CONSULTANT shall provide services to ASHTABULA COUNTY as an independent contractor, not as an employee of ASHTABULA COUNTY. CONSULTANT shall not have or claim any right arising from employee status.

V. TERM

The term of this Agreement shall be for one year from the date set forth above.

VI. TERMINATION OF AGREEMENT

Notwithstanding any other provision of this Agreement, ASHTABULA COUNTY may terminate this Agreement at any time with or without cause by giving thirty days' written notice to CONSULTANT.

Upon termination of this Agreement, CONSULTANT shall have no further obligation to provide services to ASHTABULA COUNTY. If the Agreement is terminated prior to

completion of the services to be provided hereunder, CONSULTANT immediately shall cease incurring project costs and shall render a final bill for services to ASHTABULA COUNTY.

VII. WARRANTY

CONSULTANT warrants that (a) it and each of its employees, consultants and subcontractors, if any, that it uses to provide and perform the Services has the necessary knowledge, skills, experience, qualifications, and resources to provide and perform the Services in accordance with this Agreement; and (b) the Services will be performed in a good, diligent, workmanlike manner in accordance with industry standards.

VIII. INSURANCE

(a) **General Liability Coverage.** CONSULTANT shall maintain commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence.

ASHTABULA COUNTY, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement.

(b) **Automobile Liability Coverage.** CONSULTANT shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) **Workers' Compensation.** CONSULTANT shall maintain workers' compensation coverage as required by Ohio law.

(d) **Professional Liability.** CONSULTANT shall maintain professional errors and omissions liability insurance with a limit of not less than \$2,000,000 each occurrence.

(e) **Proof of Insurance.** Prior to the commencement of any work under this Agreement, CONSULTANT shall furnish the ASHTABULA COUNTY with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without 30 days' prior written notice to ASHTABULA COUNTY. CONSULTANT will replace certificates for any insurance expiring prior to completion of work under this Agreement.

IX. LIABILITY

(a) CONSULTANT shall indemnify and hold harmless ASHTABULA COUNTY, its directors, officers, partners, agents, and employees from and against any and all liability, claims, demands, damages, losses, and expenses, including but not limited to attorney's fees, for which CONSULTANT is determined to be legally liable resulting from negligent acts, errors, or omissions by CONSULTANT, its directors, officers, agents, and employees in performance of services pursuant to this Agreement.

X. CONFIDENTIALITY

Any information and materials disclosed by or on behalf of ASHTABULA COUNTY to CONSULTANT in connection with this Agreement that is reasonably considered to be confidential ("Confidential Information") should be kept in confidence and used by the CONSULTANT only for the purpose of this Agreement. Unless required by court order, law or regulation, CONSULTANT agrees not to disclose the ASHTABULA COUNTY's Confidential Information to third parties except as necessary for the performance of this Agreement and under an agreement by which the third party is to be bound by the obligations of this confidentiality clause. This provision shall survive termination of this Agreement.

XI. AMENDMENT

All changes or modifications to this Agreement shall be in writing and signed by both parties.

XII. GOVERNING LAW

This Agreement shall be construed and interpreted according to, and the rights of the parties shall be governed by, the laws of the State of Ohio.

XIII. DISPUTE RESOLUTION

If any dispute or difference of any kind (a "Dispute") arises between the Parties in connection with, or arising out of, this Agreement, the Seller and Purchaser within 30 days shall attempt to settle such Dispute in the first instance through discussions. The designated representatives of CONSULTANT and ASHTABULA COUNTY shall promptly confer and exert their best efforts in good faith to reach a reasonable and equitable resolution of such Dispute. If the representatives are unable to resolve the Dispute within fifteen (15) Business Days, the Dispute shall be referred within two (2) Business Days of the lapse of the fifteen (15) Business Day period to the responsible senior management of each party for resolution. Neither party shall seek any other means of resolving any Dispute arising in connection with this Agreement until the responsible senior management of Parties have had at least an additional fifteen (15) Business Days to resolve the Dispute following referral of the Dispute to them. The Courts of Ashtabula County shall retain exclusive jurisdiction to resolve any disputes between the parties to the extent in which the parties cannot resolve their disputes within a reasonable amount of time. This agreement does not prohibit the parties from seeking mediation before litigation. During the pendency of any mediation or litigation the Parties shall continue to perform their obligations under this Agreement subject to Court Order.

XIV. ENTIRE AGREEMENT

This Agreement constitutes the complete and final expression of the agreement of the parties and is intended as a complete and exclusive statement of the terms of their agreements and supersedes all prior and contemporaneous offers, promises, representations, negotiations, discussions, communications, and agreements which may have been made in connection with the subject matter hereof.

XV. MISCELLANEOUS

This Agreement shall be binding on, and inure to the benefit of, each party's successors in interest, including their heirs, legatees, assignees, and legal representatives. Any waiver at any time by either party of its rights with respect to a default under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matter. Except where specifically stated in this Agreement to be otherwise, the duties, obligations, and liabilities of the parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation, or liability on or with regard to either party. Each party shall be individually and severally liable for its own obligations under this Agreement. If any provision of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, it shall be considered severable from the remainder of this Agreement and shall not cause the remainder to be invalid or unenforceable. In such event, the parties shall reform this Agreement to replace such stricken provision with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

XVI. NOTICES

(a) Any notice, demand, information, invoice, report, or item otherwise required, authorized, or provided for in this Agreement, unless otherwise specified herein, shall be deemed properly given if delivered in person, sent by United States Mail, First Class postage prepaid, or delivered by commercial delivery service:

To CONSULTANT: Oynx Creative, Inc.
 25001 Emery Road #400
 Cleveland, Ohio 44128

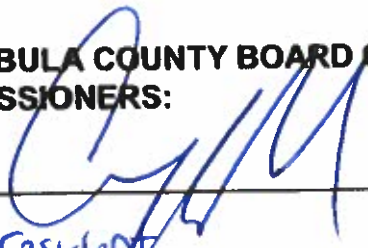
To ASHTABULA COUNTY: Ashtabula County Commissioners
 Attn: Lisa Hawkins, Clerk
 25 W. Jefferson St.
 Jefferson, OH 44047

(b) All notices shall be deemed effective upon receipt by the party to whom such notice is given.

XVII. SIGNATURE CLAUSE

The signatories hereto represent that they are authorized to enter into this Agreement on behalf of the party for whom they sign.

ASHTABULA COUNTY BOARD OF COUNTY COMMISSIONERS:

By:  Date: 12-5-23
Its: President

ONYX CREATIVE, INC.

By:  Date: 12/1/23
Its: President

Exhibit A

Scope of Services

The Services shall consist of interior renovation of existing 5,500 sf single-story building pursuant to the master plan and request for proposals, both attached hereto and incorporated herein by reference. In the event of inconsistencies within or between the Agreement, the Scope of Services, the master plan, or request for proposals, CONSULTANT shall provide the better quality or greater quantity of Services and shall comply with the more-strict requirement.

CONSULTANT shall provide the Services as follows:

Preliminary Services

1. Review the project requirements and schedules with the client.
2. Meet with consultants to establish project parameters and submission dates.
3. Review criteria, exhibits, record information or other pertinent project information.
4. The architect/engineer will visit the site to document existing conditions.
5. Meet with local authorities (building and fire) to review the proposed project.

Design Services

1. Prepare design studies that will indicate the character, size, scale and relationship of the project elements.
2. Prepare preliminary design drawings (floor plan concepts) for client's review and comment.
3. Select materials to be used in the construction.
4. Submit design drawings and material to the client for review and comment.
5. Prepare sample finish presentation for review by client.
6. Meet with client to discuss and review design documents.
7. Based upon approved preliminary drawings, CONSULTANT will make minor revisions to the design and prepare design development drawings (plans, elevations, structural, mechanical and electrical system selections, material selections and miscellaneous details) for client's review and comment.

Construction Drawing Services

1. Upon approval of the design package and authorization to proceed with this phase of service, prepare construction documents (architectural, electrical and mechanical/plumbing) in AutoCAD format that will set forth the size, relationship and requirements for the construction including drawings and specifications.
2. Allow the client to review the construction documents prior to issuing for construction and permit and make minor revisions to the project documents.
3. Provide Ohio seal.
4. Coordinate engineering required for the project (structural/MEP).

Construction Administration Services

1. Submit bid documents as approved by Ashtabula County Prosecutor's Office to public bidding.
2. Collect and evaluate contractor bids.
3. Assist client in preparation of required contract documents.
4. Provide bid consultation to respond to inquiries regarding the work.
5. Assist client in selection of contractor.
6. Assist the client in contract negotiation using contract forms provided by Ashtabula County Prosecutor's Office and notify contractor of contract award.
7. Upon award of the contract and commencement of construction, CONSULTANT shall:
 - a. Review required shop drawings and submissions.
 - b. Provide consultation to answer questions, respond to inquiries and assist in resolving issues arising from the work.
 - c. Review and comment upon payment applications and change order requests.

Permit Submission Services

1. Permitting Due Diligence based on known project parameters/scope.
2. Assist the client in initial submission for Basic Building Permit through preparation of forms and applications including on-line submittal.
3. Assist the client in review of building department/third party review comments.
4. Respond to issues raised in the review by the city/state.

Project Observation Services

1. Upon award of the contract, CONSULTANT will attend eight project meetings during the course of the work to observe progress, answer questions and assist in resolving issues arising from the work.
2. Upon substantial completion of the work, CONSULTANT shall visit the site and review a punch list of work to be completed or corrected prior to final closeout and release of retainage.

ASHTABULA COUNTY's Responsibilities/Requirements

1. Provide full information in a timely manner describing the project's program, time schedule, limitations, budget and legal description.
2. Designate a representative with authority to act on client's behalf.
3. Furnish tests, inspections and reports required by law or contract documents, including structural, soils, mechanical, chemical test, air and water pollution tests, and hazardous material tests.
4. Furnish record surveys of the property.
5. Furnish record drawings of the building/site.
6. Furnish site utility plans with rough-in locations.
7. Furnish information required for the project that may include but not be limited to: exhibits, criteria, equipment and client provided systems.

Provide information regarding client's proposed budget, financing, and construction method.

Exhibit B

Fees for Services

ASHTABULA COUNTY shall pay for the Services as follows:

Preliminary/Design Services	\$10,000.00
Design Development	\$ 7,000.00
Construction Documents	\$31,000.00
Construction Administration	\$ 8,000.00

Reimbursable expenses: All expenses incurred such as mail and delivery, shipping, reprographics, use of FTP site, permit submission fees, travel, currency conversion fees, equipment rental, consultant costs not in contract, and approved out-of-pocket expenses will be invoiced at direct cost up to \$2,000.

Total fees	\$58,000.00
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Above fees are based on a base fee of 7% of the current budget of \$832,000. If the budget is increased via scope or actual cost, the parties agree to amend this agreement accordingly. Scope and fee do not include any civil or site engineering (specifically for changes to the drives or parking lot or any building addition), structural engineering or any building additions.

Signature Page

Agreement Title: Contract for renovation of VSC building (Onyx + BOCC)

Approved as to Legal Form Only:

By:  _____
Colleen M. O'Toole,
Ashtabula County Prosecutor

Contact: Lisa Hawkins, Clerk

Dated: _____, 2023

FISCAL OFFICER'S CERTIFICATE

5705.41 O.R.C.

The undersigned, County Auditor of Ashtabula County, hereby certifies that the amount required to meet the obligations of the County during the year 2023 under the Agreement has been lawfully appropriated for that purpose, and is in the Treasury of the County or in the process of collection to the credit of:

4016.205.100 – Capital Projects \$58,000.00

Agreement Title: Professional Architectural Services Agreement for Property Located at 1709 E. Prospect Rd, Ashtabula, Ohio 44004

Between: Onyx Creative Inc. and Ashtabula County Commissioners



David Thomas
Ashtabula County Auditor

Date: 12/1/23