

FAIRFIELD TOWNSHIP
RESOLUTION NO. 18-159

**RESOLUTION AUTHORIZING THE COMPLETION OF A TOPOGRAPHIC BASE MAP TO
BE DONE FOR SHAFFERS RUN PARK BY WEBSTER LAND SURVEYING, LLC,
AT A COST OF \$3,750.00.**

WHEREAS: It has been recommended by our Parks Committee that a Topographic Base Map be completed of the entire site for Shaffers Run Park; and

WHEREAS: The Map will be needed to apply for a Park Grant;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of Fairfield Township, Butler County, Ohio, as follows;

SECTION 1: The Board hereby authorizes the Administrator to execute an Agreement for a Topographic Base Map to be done for Shaffers Run Park by Webster Land Surveying, LLC, at a cost of \$3,750.00 as listed on the attached Exhibit "A".

SECTION 2: The Board hereby dispenses with the requirement that this resolution be read on two separate days, pursuant to RC 504.10, and authorizes the adoption of this resolution upon its first reading.

SECTION 3 This resolution is the subject of the general authority granted to the Board of Trustees through the Ohio Revised Code and not the specific authority granted to the Board of Trustees through the status as a Limited Home Rule Township.

SECTION 4: That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in meetings open to the public, in compliance with all legal requirements including §121.22 of the Ohio Revised Code.

SECTION 5: This resolution shall take effect at the earliest period allowed by law.

Adopted: October 10, 2018

Board of Trustees

Vote of Trustees

Susan Berding: _____

Shannon Hartkemeyer: _____

Joe McAbee: _____

AUTHENTICATION

This is to certify that this is a resolution which was duly passed and filed with the Fairfield Township Fiscal Officer this _____ day of _____, 2018.

ATTEST:

Shelly Schultz, Fairfield Township Fiscal Officer

APPROVED AS TO FORM:

Lawrence E. Barbieri, Township Law Director

no motion
was made



WEBSTER LAND SURVEYING, L.L.C.

Surveying the Tri-State Area

Licensed in OH, IN & KY
www.nkylandsurveyor.com

2874 Presidential Dr. Hebron, KY 41048
859.760.7794

August 23, 2018

Fairfield Township Trustees
c/o Parks Advisory Committee
Attention: Carol Oler

RE: 6485 Vonnie Vale Court
Fairfield Township Shaffer's Run Park

Dear Ms. Oler,

Thank you in advance for the opportunity to provide a proposal for surveying services on the above referenced site.

Anticipated tasks include:

BASE SURVEY

1. Establish vertical control on the site using USGS NAVD 88 Datum and set two local benchmarks for the project.
2. Underground utility location marking, by the Ohio Utilities Protection Service (OUPS) of utilities registered with OUPS, will be requested prior to the field portion of the survey. Location markings made by OUPS will be observed in the field. Other existing utility line and structure locations will be made from the observation of visible improvements and/or from information showing on available records. Relevant observed and record information will be shown on the base map. Inverts and rims shall be provided for storm and sanitary tie in connections. Locate and show at least two structures, if any are available, beyond the proposed 14.5 acre project boundary for storm and sanitary main line sewers. Show sizes, (slope if applicable) and lines connecting all utility structures found
 - a. *WLS will be responsible for contacting OUPS for utility marking at least 10 days before the necessary fieldwork is completed. In the event OUPS fails to mark the requested area before the fieldwork is completed or fails to mark the area at all, all future trips to locate the marked area will result in an additional charge based on 2016 WLS Hourly Rates. All reference numbers or relevant information provided by OUPS will be provided to the client or shown on the face of the survey.*
 - b. *Third-party utility location services can be scheduled and coordinated. The client will be responsible for any additional charge based on the additional cost of the added service if said service is requested.*
3. Prepare a topographic base map of the entire site (one foot contours minimum), up to the centerline of Waldon Ponds Circle on the west, 10 feet beyond the property line or edge of woods for the north and east sides, 30 feet into the woods along the west and south sides of the woods, 20 feet beyond the property line to the south, and along the

centerline of the drive around the police station. Also include existing parking lot striping, signs and islands. Shots in open areas shall be on a minimum 50' grid. Provide shots at the top and bottom of curbs.

- a. *All necessary files to include .dwg drawings, .tin files, .txt files & aerial photos to assist the designer for the site development plan will be provided to client.*
4. Set monuments on the boundary in the field as required by State of Ohio minimum standards for a boundary survey located in Chapter 4733-37 of the Ohio Administrative Code .

PROPOSED FEE (Base Survey)..... \$3,750.00

Included in the above mentioned estimates is the printing and mailing of two paper copies of the final survey. The final survey will also be delivered electronically in .pdf format via email to requested recipients. Additional requested items, such as printing and mailing of additional final surveys, not specified in this proposal will be billed on a time and expense basis according to FedEx Office rates unless a separate proposal is agreed upon. This agreement is also subject to the attached Terms & Conditions outlined below.

I am prepared to begin the field survey as soon as authorization is granted and can deliver the Base Survey within three weeks of authorization to proceed. If you need any additional information or have any questions please call me directly at 859-760-7794.

Sincerely,



Brent M. Webster, P.S.

AUTHORIZATION TO PROCEED

Please proceed with the work outlined above in accordance with this proposal.

By: _____ Date: _____
(signature)

(printed name)

(title)

Terms and Conditions

Services Provided. Webster Land Surveying, LLC., the Consultant, agrees to perform the professional services outlined in the preceding paragraphs for Fairfield Township Trustees, the Client.

Client agrees to:

1. Provide full information as to his requirements for the Project prior to commencement of work on the Project;
2. Assist Consultant by placing at his disposal all available information pertinent to the Project;
3. Authorize and guarantee access to and make all provisions for Consultant to enter upon private property as required to perform his services under this Agreement;
4. Provide and pay for all legal, accounting, and insurance counseling services, soil reports, laboratory tests and governmental permits necessary for the Project;
5. Give prompt written notice to Consultant whenever the Client observes or otherwise becomes aware of any defect or problem in the Project or other event that may substantially affect Consultant performance of services under this Agreement;
6. Promptly compensate Consultant for services rendered under this Agreement as set forth in the General Provisions outlined in the subsequent paragraphs; and
7. Client will promptly review and act on all submissions made to him by Consultant.

Time of Completion. Consultant agrees to perform the outlined Scope of Services within the periods specified, exclusive of review time and time to complete review responses, from receipt of Authorization to Proceed. Since neither Consultant nor Client have any control over reviews by third parties, the completion deadlines will be extended to accommodate reviews.

Compensation. For the Scope of Services outlined in the preceding paragraphs, Client agrees to pay Consultant the compensation stated in this Agreement. Clients will be invoiced upon completion of the project for any work performed during the period. For hourly services, invoices will be based on the number of hours expended by the Consultant's personnel in the period multiplied by the hourly rates specified in the agreement. For fixed fee services, invoices will be based on the percentage of the scope of work completed in the period multiplied by the project fee for that scope of work. Payment is due within 30 days of receipt of invoice. Accounts outstanding past 30 days every month thereafter will be subject to a 1.5% service charge on the unpaid balance monthly.

Standard of Care. Consultant agrees to provide professional services to a standard of care that would be reasonably and professionally exercised by reputable design professionals practicing in the same or similar locality and under similar circumstances. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Limitations of Services. All application, review, and permit fees are to be paid by others. Any necessary environmental, geotechnical or archaeological site assessments are excluded from this scope of work.

Additional Services. Changes made by Client after the start of the work will be considered extra work and may negatively impact the stated project timeline. Consultant will notify Client in writing of any changes to the scope of work requiring additional fees and will provide Client with an estimate of those fees prior to proceeding with the work.

Indemnification and Limitation of Liability. The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorneys' fees, and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable.

In addition, the Client agrees that to the fullest extent permitted by law, no shareholder, officer, director, principal or employee of the Consultant shall have personal liability under this Agreement, or for any matter in connection with the professional services provided with the Project.

Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

Notwithstanding the forgoing, in recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant to the Client shall be the remainder of the Consultants insurance proceeds up to the greater of: \$50,000.00 or the Consultant's total fee for services rendered under this agreement. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

Consequential Damages. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

Force Majeure. Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence, such as natural disasters and "Acts of God."

Termination of Contract. In the event of termination of this Agreement by either party, the Client shall within fifteen (15) calendar days of termination pay the Consultant for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions of this Agreement. The Client may terminate this Agreement for the Client's convenience and without cause upon giving the Consultant not less than seven (7) calendar days written notice. Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days written notice for any of the following reasons:

- Substantial failure by the other party to perform in accordance with the terms of this agreement and through no fault of the terminating party;
- Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party;
- Suspension of the Project or the Consultant's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate;
- Material changes in the conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project, and the failure of the parties to reach an agreement on the compensation and schedule adjustments necessitated by such changes;

In the event of any termination that is not the fault of the Consultant, the Client shall pay the Consultant, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by the Consultant in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs and all other expenses directly resulting from the termination.

Dispute Resolution. In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or in relation to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The Client and the Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution.

If mediation should fail, Client and Consultant agree that they shall submit any unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, effective as of the date of this agreement. If a dispute is not resolved after arbitration, the judgment may be entered into any court having jurisdiction thereof. Should litigation or arbitration occur between the two parties relating to the provisions of the Agreement, it is agreed that the prevailing party may be entitled to recover all reasonable costs incurred in the defense/prosecution of the claim, including staff time, court costs, attorney fees and other claim related expenses.

Ownership and Copyright of Documents. All drawings and documents prepared or furnished by Consultant pursuant to this Agreement are the instruments of Consultant's professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a revocable license to use instruments of Consultant's professional service for the purpose of constructing, maintaining, or operating the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages and expenses, including attorney's fees, arising out of such reuse by Client or by others acting through Client.

Free Publicity. Consultant has the right to photograph the Project and to use the photos in the promotion of the professional practice through advertising, public relations, brochures or other marketing materials. Should additional photos be needed in the future, Client agrees to provide reasonable access to the facility. Client also agrees to cite the name of Consultant as the provider of the professional services outlined in this Agreement in all publicity, presentations, and public relations activities that mention the name or depict the facility. Client permits Consultant to place temporary jobsite signs on the site that advertise the consultant.

Use of Electronic Media. Copies of documents that may be relied upon by Client are limited to printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by Consultant to Client are only for the convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

Opinions of Cost. When included in Consultant's scope of services, opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent Consultant's judgment as a professional generally familiar with the industry. However, since the Consultant has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant cannot or does not guarantee that proposals, bids, or actual construction costs will not vary from Consultant's opinions of probable construction cost.

Jobsite Safety Disclaimer. Neither the professional activities of the Consultant, nor the presence of the Consultant or its employees and subconsultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Consultant and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the Client's contract with the General Contractor. The Client also agrees that the Client, the Consultant and the Consultant's subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies or general liability insurance.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

Severability. If any term or provision hereof is illegal or invalid for any reason whatever, such illegality of invalidity shall not affect the validity of the remaining terms of this Agreement.

Assignment of Agreement. Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting to subconsultants normally contemplated by the Consultant shall not be considered an assignment for purposes of this agreement.

Signatures. Should Client be a corporation or governmental entity, the person signing this Agreement represents that he is duly authorized to execute the agreement on behalf of the corporation for the payment of the amounts specified herein. Any agent signing on behalf of a Client represents he/she has full authority to sign on behalf of said Client.

EEO. Webster Land Surveying, LLC supports an Affirmative Action Program. During the performance of this contract (or purchase order), the contractor/vendor agrees to comply with all Federal, state and local laws respecting discrimination in employment and non-segregation of facilities including, but not limited to,

requirements set out at 41 CFR 60 – 1.4, and 60 – 741.5(a) 4, which equal opportunity clauses are hereby incorporated by reference and 60 – 250.46 and 29 CFR Part 471, if applicable.

Innovative Design and Technologies. The Client understands and agrees that state-of-the-art or innovative products, technologies or methods may be used on the project and that these lack a proven history of successful application and performance. The Client acknowledges that these technologies are being incorporated into the project to accomplish recognized objectives, but due to their unproved and innovative nature, there is a significant possibility that those objectives may not be realized and may result in undesirable consequences. The Consultant will conduct a reasonable level of investigation and analysis, and this is the limitation of the Consultant's obligation for the performance of these technologies. The Client has weighed the relative risks and rewards and accepts the risk of incorporating the innovation(s) into the project.