

## RESOLUTION NO. 16-2025

### Harrisburg Redevelopment Authority

**RESOLVED** by the Redevelopment Authority of the City of Harrisburg that the Executive Director is hereby authorized to execute a professional services contract with YOST STRODOSKI MEARS, INC., 19 South Newberry Street, York, PA 17401, to provide architectural design, grant compliance, and related services for the construction of the new Swatara Street Park, for the base contract amount of \$21,400, and as more fully detailed on the attached Services Agreement.

5/13/2025  
Date

Alexander P. Mc  
Secretary

# PROFESSIONAL LANDSCAPE DESIGN SERVICES AGREEMENT

Project No. 25HBC-01

## TO ENGAGE THE SERVICES OF YOST STRODOSKI MEARS, INC.

THIS AGREEMENT, on this \_\_\_ day of \_\_\_\_\_, 2025, by and between the Harrisburg Redevelopment Authority, 10 N. Second Street, Suite 405, Harrisburg, PA 17101 hereinafter called "CLIENT" or "HRA" and YOST STRODOSKI MEARS, INC., 19 South Newberry Street, York, PA 17401 hereinafter called "LANDSCAPE ARCHITECT" is as follows:

THE CLIENT INTENDS TO have LANDSCAPE ARCHITECT provide professional services for the construction of a new park known as Swatara Street Park, a community asset, located along the 1400 block of Swatara Street, Harrisburg, PA. Funding for the park includes funds from PA Department of Conservation and Natural Resources (PA DCNR) and local funds - from Dauphin County gaming grant and private donations. The park development will create a public garden with native plantings and pollinator garden. Site amenities will include benches, picnic tables, solar lights, and an accessible on-street parking space will create an inviting public space for visitors. Our services include design and site engineering for the improvements, grant administration, bidding services, and construction phase services – as more fully detailed and incorporated herein, on the attached Proposal dated January 6, 2025, and revised March 20, 2025.

THE CLIENT AND LANDSCAPE ARCHITECT AGREE AS FOLLOWS:

### SECTION 1. CONTRACT AMOUNT

A. Construction Documents .....	\$15,000
B. Grant Administration .....	\$1,800
C. Bidding Services .....	\$4,600
D. Construction Phase Services .....	<u>\$ T&amp;E*</u>

Total Fees (A through C)..... \$21,400

\* The fees above, excluding item D. are lump sum. Task D. will be completed on a time and expense basis.

LANDSCAPE ARCHITECT shall invoice monthly for work completed to date.

SECTION 2. CONTRACT PERIOD shall be twelve months from the date of this Agreement's execution.

### **SECTION 3. SCOPE OF WORK TO BE PROVIDED BY LANDSCAPE ARCHITECT**

#### **A. Construction Documents**

1. Utilize the topographic survey completed by Burget & Associates, Inc. as the base mapping for the construction documents.
2. Design the park improvements based on the March 2024 Swatara Street Park Site Development Drawing.
  - a. Locate and design the park improvements, adjusting as appropriate based on the topographic and existing conditions survey.
  - b. Develop a detailed layout of the accessible trail and plaza area.
  - c. Share the detailed layout with HRA representatives for comments and approval to finalize.
3. Develop construction drawings to include:
  - a. Existing Features/Demolition Plan: Indicating existing features/vegetation to be removed, relocated, and features/vegetation to be preserved and protected.
  - b. Layout Plan: Locating the proposed facilities for stakeout in the field and layout notes. Layout will consider the requirements of the Americans with Disabilities Act and park function.
  - c. Grading Plan: Indicating the proposed final grades, general construction notes, and detail flagging.
  - d. Planting Plan: Planting will be designed to aesthetically enhance the project area and create the pollinator and rain gardens. The Planting Plan will indicate the planting design and include the plant list and planting details.
  - e. Soil Erosion and Sedimentation Control Plans: Indicating erosion control measures and construction sequence. The improvements proposed for Swatara Street Park will disturb less than one acre of land and this minimal disturbance will not require an NPDES Permit submission to the Dauphin County Conservation District.
  - f. Detail Sheet(s): Illustrating the construction and installation details for the proposed facilities.
4. Develop detailed designs for the following:
  - a. Accessible trail.
  - b. Plaza gathering/sitting areas.
  - c. Site amenities (benches, picnic tables, etc.).
  - d. Funding acknowledgement sign.
5. Develop a project schedule to identify design, review timeline, and anticipated bidding schedule.
6. Complete cost estimates of anticipated development costs at 60-percent complete and 90-percent complete construction documents.

7. Provide administration of the project with HRA representatives, including attending up to three meetings in the HRA. Review meetings will be scheduled to kick off the project, and to review the approximately 60-percent complete and 90-percent complete construction documents.
8. Review catalog cut options for site amenities at the 60-percent meeting.
9. Define alternate bid items with client at the 90-percent meeting and complete drawings to clearly communicate alternate bid items as part of the construction documents.
10. Prepare the technical specifications.

## **B. Grant Administration**

1. Participate in a conference call/meeting with you and PA DCNR to kick-off the project, if requested.
2. Prepare PA DCNR forms.
3. Apply and submit a PNDI receipt for the project area, if necessary.
4. Coordinate with HRA staff/solicitor to timely complete required PA DCNR forms.
5. Upload the draft and final construction drawings, specifications, project schedule, cost estimate, and PA DCNR forms to the PA DCNR Grant Portal.
6. Upload the bid recommendation letter, copies of bid documents, bonds, Agreement with the successful contractor to the PA DCNR Grant Portal.
7. Coordinate and attend PA DCNR field review of the completed project and provide the 100-percent complete/paid-in-full letter to PA DCNR via the Grant Portal.
8. Copies of all documents prepared, submitted, or uploaded related to grant administration will be sent to the HRA.

## **C. Bidding Services**

1. Prepare the bidding package to include boiler plate/bidding specifications and technical specifications to comply with the needs of the HRA and Swatara Street Park It is anticipated that one contract will be developed: Site Improvement Contract.
2. Send for the Pennsylvania wage rates that apply to the project.
3. Coordinate the Invitation to Bid, bonds, insurance requirements, and Supplementary Conditions at the 90-percent meeting.
4. Coordinate with and upload the bid package to PennBid.
5. Respond to questions submitted by prospective bidders through PennBid.
6. Schedule and conduct a pre-bid conference for interested contractors. Provide meeting minutes to all attendees.
7. Prepare and upload addendum (as necessary) onto the PennBid website.
8. Review the bids received via PennBid for completeness and required bonds and compliance with all local, state and federal requirements, including a bidders ability to meet the City of



Harrisburg's Participation Construction goals as set forth in Ordinance 2-903 City of Harrisburg, PA Affirmative Action Cooperation Plan: §2-903.9.

9. Check references of the lowest responsible bidders and document findings. Provide a written recommendation letter to HRA regarding the bidding results.
10. Update PennBid with the bid award information.

#### **D. Construction Phase Services (T&E)**

1. Complete the Notices of Award, Agreements, and Notices to Proceed for execution by HRA.
2. Schedule and conduct a pre-construction meeting with the successful contractors. Review submission requirements. Provide meeting minutes to all attendees.
3. Review shop drawings, samples, tests, and submittals required by the contract documents.
4. Review change order requests submitted by the Contractor, make recommendations to the Borough, and process the change orders.
5. Review certificates for payment, determine percent complete of project in the field, and make written recommendation to HRA.
6. Coordinate construction administration with HRA.
7. Attend scheduled job conference meetings at the site with the prime contractors, sub-contractors, and representative of HRA.
8. Review site-related construction activities at critical times beyond the scheduled job conference meetings.
9. Attend City and/or HRA meetings, as requested to report on project progress, construction activities, and certificates for payment.

#### **SECTION 4. REMEDIES**

1. In the event of any material default or breach of this Agreement, or any of its terms and conditions, by the LANDSCAPE ARCHITECT or any of its successors or assigns, as determined by the HRA, the LANDSCAPE ARCHITECT shall, upon written notice from the HRA, proceed to immediate cure such default or breach within forty-five (45) days after receipt of such notice.
2. If such default or breach cannot be cured within forty-five (45) days and the LANDSCAPE ARCHITECT is diligently pursuing such care, as determined by the HRA, the HRA shall extend the time to cure for a reasonable period as necessary.
3. If the LANDSCAPE ARCHITECT fails or refuses to remedy the material default or breach of this Agreement, or if the default or breach cannot be cured or remedied, the HRA may institute any such proceedings as may be necessary or desirable in its sole discretion to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the LANDSCAPE ARCHITECT.

## SECTION 5. TERMINATION

1. This Agreement shall terminate twelve (12) months after the execution of this Agreement, or after completion of all the Agreement's terms and conditions, to the satisfaction of the HRA, whichever is sooner.

## SECTION 6. NOTICE

All notices and documents required by this Agreement shall be mailed or personally delivered as follows:

- (1) To the HRA, addressed as follows:

Executive Director  
Redevelopment Authority of the City of Harrisburg  
10 North Second Street  
P. O. Box 2157  
Harrisburg, Pennsylvania 17105-2157

- (2) HRA Solicitor:  
Catherine E. Rowe  
Strokoff & Cowden  
224 Pine Street  
Harrisburg, PA 17101

- (3) LANDSCAPE ARCHITECT  
YOST STRODOSKI MEARS, INC.  
19 South Newberry Street  
York, PA 17401

D. This AGREEMENT is subject to the attached STANDARD CONTRACT TERMS AND CONDITIONS "EXHIBIT A" and COMPLIANCE items in "EXHIBIT B".

### ACCEPTANCE AND EXECUTION OF THIS AGREEMENT:

HARRISBURG REDEVELOPMENT AUTHORITY

BY: \_\_\_\_\_  
(Client)

Title \_\_\_\_\_

YOST STRODOSKI MEARS, INC.

BY:  \_\_\_\_\_  
(Landscape Architect)

Title President

## **EXHIBIT A: STANDARD CONTRACT TERMS AND CONDITIONS**

### **1. DUTIES AND RESPONSIBILITIES**

1.1 The Landscape Architects, (Yost Strodoski Mears, Inc., its agents, employees and sub-consultants), agrees to provide only those professional services specifically set forth in the Scope of Services portion of this Agreement. Additional services may be performed, if requested, subject to an agreed upon revision in the Scope of Services and authorized fee. Unless specifically set forth in the Scope of Services, Landscape Architects shall not provide any construction phase services including, but not limited to, the construction phase observation of any contractor's work.

1.2 In the event that the Landscape Architect and Client have not executed this Agreement, the Client's authorization to Landscape Architect to proceed with the performance of the services set forth herein shall constitute acceptance by the Client of these Terms and Conditions.

### **2. UNDERGROUND UTILITIES AND STRUCTURES**

2.1 Client agrees to advise Landscape Architect in writing of known or suspected utilities or other underground structures or features which could affect the services to be provided and shall provide all drawings in its possession which identify underground utilities, structures or features.

2.2 Client agrees to release Landscape Architect from any liability to Client and to hold Landscape Architect harmless in accordance with Paragraph 11.1 where subterranean utility lines and other underground structures or features which were not identified to Landscape Architect as required by Paragraph 2.1 have been damaged.

### **3. RESTRICTIONS ON USE OF DOCUMENTS**

3.1 ~~It is understood and agreed that all drawings, sketches, specifications and other documents in any form, including CADD disks, prepared under this Agreement (collectively "Documents") are instruments of Landscape Architect's services and, as such, shall remain the property of Landscape Architect, whether the project for which they are intended is executed or not. Client shall, upon payment of all fees and reimbursable expenses due Landscape Architect under this Agreement, be permitted to retain reproducible copies of those Documents necessary for the execution of the Project and for information and reference in connection with Client's use and occupancy of the Project. The Documents are prepared for use on this Project only and are not appropriate for use on any other project, for additions to this Project, for completion of this Project by others (unless Landscape Architect is adjudged in default) or for any purpose other than as defined by the Scope of Services, except by agreement in writing with the appropriate compensation to Landscape Architect. Any use of the Documents or the information or data contained therein, in violation of this subparagraph or any alteration or modification of such Documents or the information or data contained therein, without the express written consent of Landscape Architect is expressly prohibited. Such prohibited use is at the sole risk of the user and Landscape Architect is released from any liability for damages arising from such use.~~

3.2 Client agrees that any Documents in Client's possession shall not be used and shall be returned promptly to Landscape Architect, if Client is in default under this Agreement. Client agrees that Landscape Architect may obtain injunctive relief to enforce this subparagraph.

### **4. STANDARD OF CARE**

4.1 In performing the services required by this Agreement, Landscape Architect shall use that degree of usual and customary professional skill and care ordinarily exercised by members of its profession under similar circumstances practicing in the same or similar locality. The standard of care shall exclusively be judged as of the time the services are rendered and not according to later standards. Landscape Architect makes no express or implied warranty beyond its commitment to conform to this standard.

### **5. OBSERVATION SERVICES**

5.1 If required under the Scope of Services, Landscape Architect shall visit the site at the intervals set forth in the Scope of Services to become generally familiar with the progress and quality of that portion of the work for which Landscape Architect prepared the Documents to determine in general if such work is being performed in a manner indicating that such work when completed will be in accordance with the Documents. Landscape Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work. On the basis of on-site observations as a design professional, Landscape Architect shall keep client informed of the progress and quality of the work. Landscape Architect's services do not include supervision or direction of the actual work of the contractor, his employees, agents or subcontractors. Client agrees to notify the contractor accordingly. The contractor shall also be informed by Client that neither the presence of Landscape Architect's field representative nor the observation by the Landscape Architect shall excuse the contractor for defects or omissions in his work.

5.2 Under no circumstances shall Landscape Architect have control over, or be in charge of, nor shall it be responsible for, construction means, methods, techniques, sequences or procedures in connection with the Work. Landscape Architect shall not be responsible for any contractor's schedules or failure to carry out the Work in accordance with the Documents. Landscape Architect shall not have control over or charge of acts or omissions of any contractor, subcontractor, or their agents or employees, or of any other persons performing portions of the Work.

5.3 It is further understood that the contractor will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performances of the work, and that these requirements will apply continuously and not be limited to normal working hours. Any monitoring of the contractor's performance conducted by Landscape Architect's personnel is not intended to include review of the adequacy of the contractor safety measures in, on or near the construction site. The Landscape Architect will not be held responsible for any contractor's failure to observe or comply with the Occupational Health and Safety Act of 1970, and regulations or standards promulgated thereunder, or any state, county, or municipal law or regulation of similar import or intent.

## **6. TERMINATION, SUSPENSION**

6.1 This Agreement may be terminated by either party upon seven days written notice should the other party fail substantially to perform in accordance with its terms. This Agreement may be terminated by the Client upon at least seven days written notice to Landscape Architect in the event that the Project is permanently abandoned. In the event of any termination that is not the fault of Landscape Architect, Landscape Architect will be compensated for all services performed up to the time written notice of termination is actually received by Landscape Architect, together with reimbursable expenses then due and reasonable Termination Expenses directly associated with the termination.

6.2 In the event of termination or suspension for more than three (3) months which occurs prior to completion of all services contemplated by the Agreement, the Landscape Architect may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed up to the date of receipt of written notice of termination or suspension. Termination Expenses provided for above shall include all fees and costs incurred by Landscape Architect in reporting, completed data, completing such analyses, records and reports.

## **7. INVOICES, PAYMENTS**

7.1 Landscape Architect will submit invoices to Client every four weeks and a final invoice upon completion of services.

7.2 Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. Client agrees to pay a service charge of one and one-half (1½) percent per month (18% per annum) or fraction thereof on past due payments under this Agreement.

7.3 Timely payment to the Landscape Architect in accordance with the Terms and Conditions of this Agreement is a material consideration of this Agreement. Therefore, the Client's failure to make payments in accordance with this Agreement shall constitute substantial nonperformance and a cause for termination by Landscape Architect.

If the Client fails to make payment when due Landscape Architect for services and expenses, the Landscape Architect may, at its option and without prejudice to its right to terminate as described above, upon seven (7) days written notice to the Client, suspend performance under this Agreement. Unless payment in full is received by the Landscape Architect within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of performance, the Landscape Architect shall have no liability to the Client for delay or damages caused the Client because of such suspension of performance. The Client shall hold harmless, indemnify, and defend the Landscape Architect for claims that arise due to any suspension.

7.4 It is further agreed that in the event a lien or suit is filed to enforce payment under this agreement, the Landscape Architect will be reimbursed by the Client for all court costs and reasonable attorney's fees in addition to accrued service charges.

7.5 Unless the compensation identified in this Agreement is specifically identified as a "Fixed Fee", the amounts set forth as the Total Fee shall constitute the Landscape Architect's best estimate of the effort required to complete the project as the Landscape Architect understands it to be defined. For those projects involving conceptual or process development work, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in direction, additional effort, or suspension of effort, which may alter the scope. The Landscape Architect will inform the Client of such situation so that negotiations relating to a change in scope and an adjustment to the time of performance can be accomplished as required. If such change, additional effort, or suspension of effort results in an increase or decrease in the cost of or time required for performance of the services, whether or not changed by an change order, an equitable adjustment shall be made and this Agreement modified accordingly.

## **8. ASSIGNS**

8.1 Neither the Client nor the Landscape Architect may delegate, assign, or sublet, or transfer his duties or interest in this Agreement without written consent of the other party. Such consent shall not be unreasonably withheld. Under no circumstances may Client assign any claim arising under this Agreement or in connection with Landscape Architect's services.

## **9. LIMITATIONS ON REMEDIES**

9.1 The Client shall promptly report to the Landscape Architect any defects in Landscape Architect's services of which Client becomes aware, so that Landscape Architect may take measures to minimize the consequences of such defect. Client warrants that Client will impose a similar notification requirement on all contractors in Client's General Contract and shall require all subcontracts at any level to contain a like requirement. Failure by Client, and the Client's contractors or subcontractors to notify Landscape Architect shall relieve Landscape Architect of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given.

9.2 If, due to Landscape Architect's error, any required item or component of the Project is omitted from the Documents, Landscape Architect shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the Project or otherwise adds value or betterment to the Project. In no event, will Landscape Architect be responsible for any cost or expense that provides betterment, upgrade or enhancement of the Project. Client's sole and exclusive remedy for such omission by Landscape Architect shall be for Landscape Architect to perform services necessary to correct omission without charge to Client; provided that where Landscape Architect's fees or reimbursable expenses would have been higher had the omitted item or component been included prior to construction, Landscape Architect shall be entitled to such increased fees and reimbursable expenses.

9.3 Notwithstanding any other provision of this Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of the fault or whether it was committed by Client or Landscape Architect, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

9.4 Landscape Architect's liability for damages due to breach of contract, error, omission, professional negligence or any other theory of liability will be limited to an amount not to exceed three times the Landscape Architect's fees under this Agreement. Such limitation shall apply to the aggregate of all claims that may be brought against Landscape Architect. If the Client prefers not to limit the Landscape Architect's professional liability to this sum, the Landscape Architect will waive this limitation upon the Client's request provided that the Client agrees to pay an additional consideration for this waiver equal to the cost of insuring against such risk.

9.5 It is understood that the Landscape Architect shall not be held responsible for any errors or omissions on the part of contractor, including, but not limited to, the contractor's failure to adhere to the plans and specifications regardless of whether or not the Landscape Architect is performing observational services. This provision shall be included in the contract between the Client and his contractor(s) for this project.

#### **10. DISPUTE RESOLUTION**

10.1 All claims, disputes, and other matters in question between the Landscape Architect and the Client, not in excess of \$200,000, arising out of, or relating to, this Agreement or the breach thereof or the services rendered by Landscape Architect ("Dispute"), shall be resolved as follows:

10.2 A written demand for non-binding mediation, which shall specify in detail the facts of the Dispute and the relief requested, shall be submitted, within a reasonable time after the basis for the Dispute has arisen, to the party against whom the claim is brought. If the Dispute cannot be resolved by the parties within ten (10) days, the demand shall be submitted to United States Arbitration and Mediation of the Northeast, Incorporated, or such mediation service as the parties shall otherwise agree to retain, for good faith non-binding mediation. The Mediator's fee shall be shared equally by the parties.

10.3 Any Dispute between the parties that is not fully resolved by mediation within 120 days of submission to the mediation service may be decided by litigation in a court of competent jurisdiction.

10.4 In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

10.5 In the event that Client institutes suit against the Landscape Architect because of any Dispute and if such suit is dropped or dismissed, or if judgment is rendered for the Landscape Architect, Client agrees to reimburse the Landscape Architect, or pay directly, any and all costs and any and all other expenses of defense, immediately following dropping or dismissal of the case or immediately upon judgment being rendered on behalf of the Landscape Architect.

#### **11. INDEMNIFICATION**

11.1 To the fullest extent permitted by law, Client shall indemnify, defend and hold harmless Landscape Architect, their subsidiaries, affiliates, officers, employees and consultants or such others who may have assisted the Landscape Architect in the rendering of its services in connection with the Project from and against any and all manner of demands, claims, liabilities, costs and expenses, including, without limitation, reasonable attorney's fees and any other defense costs arising out of any conduct, including the breach of any provision of this Agreement, by Client or any individual or entity for whose acts Client is responsible.

11.2 In the event the Client is required to defend the Landscape Architect under Paragraph 11.1, the Landscape Architect shall have the right to counsel of its own choosing.

#### **12. WARRANTY OF AUTHORITY TO SIGN**

12.1 The person signing this contract warrants he or she has authority to sign as, or on behalf of, the Client for whom or for whose benefit that Landscape Architect's services are rendered. If such person does not have such authority, he agrees that he or she is personally liable for all breaches of this contract and that in any action for breach of such warranty a reasonable attorney fee shall be included in any judgment rendered.

#### **13. CHOICE OF LAW**

13.1 This contract will be construed in accordance with the laws of the Commonwealth of Pennsylvania.

#### **14. SEVERABILITY**

14.1 In the event that any provisions herein shall be deemed invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and binding upon the parties hereto.

#### **15. REFERENCES**

15.1 Client agrees that Landscape Architect has authority to utilize the name of Client and a general description of the project work or service performed as references to other clients or potential clients.

#### **16. INTEGRATION**

16.1 There are no understandings or agreements concerning the Project except as expressly stated herein.

#### **17. VALIDITY**

17.1 It is understood that if this Agreement is not executed by Client or accepted as set forth in Paragraph 1.2 within sixty (60) days of the date of the Agreement, Landscape Architect reserves the right to revise or withdraw this Agreement.

#### **18. THIRD PARTY BENEFICIARIES**

18.1 Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or the Landscape Architect.

#### **19. WAIVER OF SUBROGATION**

19.1 Except to the extent that such waiver would invalidate the applicable casualty insurance coverage, the Client and Landscape Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent such damages are covered by casualty insurance, the proceeds of which are paid to the claimant. Client and Landscape Architect each shall require similar waivers from their contractors, consultants and agents.

## **EXHIBIT B: COMPLIANCE**

### **A. RIGHTS IN INTELLECTUAL PROPERTY; COPYRIGHT; DISCLOSURE, USE**

- 1) For any copyrightable work created under this AGREEMENT, the LANDSCAPE ARCHITECT expressly and automatically grants to the CLIENT and PA DCNR, a perpetual, non-exclusive, royalty-free, irrevocable license to possess, use, display, reproduce and distribute the work and to create, possess, use, display, reproduce and distribute derivative works. The grant of license to the CLIENT and PA DCNR is binding on successors and assigns of the GRANTEE and any employees, subcontractors, and other persons who create the work.
- 2) Other work-license: For materials, documents, and data delivered pursuant to this AGREEMENT that incorporate pre-existing intellectual property not created under this AGREEMENT, the LANDSCAPE ARCHITECT grants to the CLIENT and PA DCNR a perpetual, non-exclusive, royalty-free, irrevocable license to possess, use, display, reproduce and distribute derivative works.
- 3) Other intellectual property: For property developed under this AGREEMENT that is patentable or that can be subject to trademark or trade secret protection, the CLIENT and PA DCNR shall have the discretion to determine the rights and responsibilities of the parties to the extent permitted by federal law with respect to registration, ownership, and agreements to license, assign, or transfer rights.
- 4) Proprietary rights; right of privacy: In the performance of this AGREEMENT activities, there shall be no violation of the right of privacy or infringement upon the copyright or any other proprietary right of any person or entity.
- 5) Disclosure and use; acknowledgment: The CLIENT and PA DCNR shall have the right to access, possess and use any information or data produced under this AGREEMENT and any information or data used in the development of the intellectual property produced under this AGREEMENT. In the disclosure, release, distribution, display, or use of any intellectual property produced under this AGREEMENT, acknowledgement of PA DCNR assistance shall be included on project signage and in any publications (acknowledgment of PA DCNR assistance).
- 6) Effectuation and implementation of this article: For intellectual property produced under the GRANT AGREEMENT by the GRANTEE or by any employee, subcontractor, or other person, the GRANTEE is responsible for the implementation and effectuation of this article.
- 7) Definition of "Intellectual property": The term "intellectual property" means the type of property to which copyright, trademark, trade secret, or patent laws apply. It also includes any data or information.
- 8) Post-completion responsibilities: The rights and responsibilities under this article with respect to intellectual property developed under this GRANT AGREEMENT continue beyond the grant agreement period.

**B. CONTRACTOR REPRESENTATIONS.** LANDSCAPE ARCHITECT shall comply with Commonwealth of PA Contractor Responsibility Provisions and the City of Harrisburg Responsible Contractor provisions, including but not limited to:

- 1) LANDSCAPE ARCHITECT represents for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this agreement, that neither the LANDSCAPE ARCHITECT, nor any of its subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the LANDSCAPE ARCHITECT cannot make this representation, the LANDSCAPE ARCHITECT shall submit, along with the agreement, a written explanation of why the certification cannot be made.
- 2) LANDSCAPE ARCHITECT represents that, as of the date of its execution of this agreement, it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal, if any liabilities or obligations exist, or is subject to a duly approved deferred payment plan if any liabilities exist.
- 3) Notification. LANDSCAPE ARCHITECT shall notify the CLIENT if, at any time during the term of the agreement, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. LANDSCAPE ARCHITECT shall provide this notification within 15 days of the date of suspension or debarment.
- 4) Default. LANDSCAPE ARCHITECT's failure to notify the CLIENT of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of this AGREEMENT.
- 5) Reimbursement. LANDSCAPE ARCHITECT shall reimburse the CLIENT or Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the LANDSCAPE ARCHITECT's compliance with the terms of this agreement or any other agreement between the LANDSCAPE ARCHITECT and the Commonwealth that results in the suspension or debarment of the LANDSCAPE ARCHITECT. These costs include, but are not limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. LANDSCAPE ARCHITECT shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- 6) Suspension and Debarment List. LANDSCAPE ARCHITECT may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <https://www.emarketplace.state.pa.us> and clicking the Debarment list tab.

**C. CONTRACTOR INTEGRITY PROVISIONS.** LANDSCAPE ARCHITECT shall comply with Commonwealth of PA Grantee Integrity Provisions, including but not limited to:

- 1) **Representations and Warranties.** LANDSCAPE ARCHITECT represents, to the best of its knowledge and belief, and warrants that within the last five years neither the LANDSCAPE ARCHITECT or Related Parties have:
  - a. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
  - b. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;
  - c. had any business license or professional license suspended or revoked;
  - d. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
  - e. been, and are not currently, the subject of a criminal investigation by any federal, state, or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
- 2) **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to the agreement, the LANDSCAPE ARCHITECT further represents that it has not violated any of these Integrity Provisions during the term of the agreement.
- 3) **Notice.** LANDSCAPE ARCHITECT shall immediately notify the CLIENT, in writing, if at any time during the term of the agreement it becomes aware of any event that would cause the LANDSCAPE ARCHITECT 's certification or explanation to change. The LANDSCAPE ARCHITECT acknowledges that the CLIENT may, in its sole discretion, terminate the agreement for cause if it learns that any of the certifications made in these Integrity Provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the agreement.

**D. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE.** LANDSCAPE ARCHITECT shall comply with Commonwealth of PA Nondiscrimination/Sexual Harassment Provisions. LANDSCAPE ARCHITECT shall not:

- 1) in any manner discriminate in the hiring of any employee(s) for the performance of the activities required under this AGREEMENT or any contract, or subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act ("PHRA") and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- 2) in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
- 3) in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under this agreement or any subgrant agreement, contract, or subcontract.
- 4) in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against



any subgrantee, contractor, subcontractor, or supplier who is qualified to perform the work to which this agreement relates.

- 5) in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act, or National Labor Relations Act, as applicable, and to the extent determined by entities charged with the Acts' enforcement and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

#### **E. AMERICANS WITH DISABILITIES ACT.**

- 1) No Exclusion. Pursuant to the Americans with Disabilities Act, 42 U.S. Code §12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this AGREEMENT.
- 2) Compliance. For all goods and services provided pursuant to this AGREEMENT, the LANDSCAPE ARCHITECT shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.
- 3) Indemnification. LANDSCAPE ARCHITECT shall indemnify the CLIENT against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the LANDSCAPE ARCHITECT's failure or its employee's or agent's failure to comply with these provisions, as determined by the CLIENT in its sole discretion.

January 6, 2025 – Revised March 20, 2025

Harrisburg Redevelopment Authority  
Bryan Davis, Executive Director  
10 North Second Street, Suite 405  
PO Box 2157  
Harrisburg, PA 17105-2157

RE: Swatara Street Park— Park Construction Documents  
Project No.: 25HBC-01

Dear Mr. Davis:

YSM Landscape Architects (YSM) appreciates the opportunity to work with the Harrisburg Redevelopment Authority (HRA) to implement the vision of Swatara Street Park as a community asset. The park improvements are funded, in part, by a grant from the Pennsylvania Department of Conservation and Natural Resources (PA DCNR) in the amount of \$218,000. The project total estimated cost is \$358,638, excluding the appraised value of the eight project properties. It is understood that approximately \$140,638 be invested locally for the remainder of the project budget.

The park development will create a public garden with native plantings and pollinator garden. Site amenities to include benches, picnic tables, solar lights, and an accessible on-street parking space will create an inviting public space for visitors. Our services include design and site engineering for the improvements, grant administration, bidding services, and construction phase services. We will work closely with you and HRA representatives to choose park elements. We understand that Burget & Associates, Inc. of New Bloomfield, PA has completed a topographic survey for the project area and that the survey will be made available to YSM in electronic format at no cost.

Following is our scope of services for this project and the fees to perform these services. YSM will meet with HRA representatives to target municipal goals and objectives during the design process. Construction documents will be developed to meet PA DCNR requirements. YSM will coordinate with PA DCNR and upload necessary documents and forms to the PA DCNR Grant Portal.

### Scope of Services

#### **A. Construction Documents**

*YSM will:*

1. Utilize the topographic survey completed by Burget & Associates, Inc. as the base mapping for the construction documents.
2. Design the park improvements based on the March 2024 Swatara Street Park Site Development Drawing.
  - a. Locate and design the park improvements, adjusting as appropriate based on the topographic and existing conditions survey.

- b. Develop a detailed layout of the accessible trail and plaza area.
  - c. Share the detailed layout with HRA representatives for comments and approval to finalize.
- 3. Develop construction drawings to include:
  - a. Existing Features/Demolition Plan: Indicating existing features/vegetation to be removed, relocated, and features/vegetation to be preserved and protected.
  - b. Layout Plan: Locating the proposed facilities for stakeout in the field and layout notes. Layout will consider the requirements of the Americans with Disabilities Act and park function.
  - c. Grading Plan: Indicating the proposed final grades, general construction notes, and detail flagging.
  - d. Planting Plan: Planting will be designed to aesthetically enhance the project area and create the pollinator and rain gardens. The Planting Plan will indicate the planting design and include the plant list and planting details.
  - e. Soil Erosion and Sedimentation Control Plans: Indicating erosion control measures and construction sequence. The improvements proposed for Swatara Street Park will disturb less than one acre of land and this minimal disturbance will not require an NPDES Permit submission to the Dauphin County Conservation District.
  - f. Detail Sheet(s): Illustrating the construction and installation details for the proposed facilities.
- 4. Develop detailed designs for the following:
  - a. Accessible trail.
  - b. Plaza gathering/sitting areas.
  - c. Site amenities (benches, picnic tables, etc.).
  - d. Funding acknowledgement sign.
- 5. Develop a project schedule to identify design, review timeline, and anticipated bidding schedule.
- 6. Complete cost estimates of anticipated development costs at 60-percent complete and 90-percent complete construction documents.
- 7. Provide administration of the project with HRA representatives, including attending up to three meetings in the City. Review meetings will be scheduled to kick off the project, and to review the approximately 60-percent complete and 90-percent complete construction documents.
- 8. Review catalog cut options for site amenities at the 60-percent meeting.
- 9. Define alternate bid items with client at the 90-percent meeting and complete drawings to clearly communicate alternate bid items as part of the construction documents.
- 10. Prepare the technical specifications.

**B. Grant Administration**

*YSM will:*

1. Participate in a conference call/meeting with you and PA DCNR to kick-off the project, if requested.
2. Prepare PA DCNR forms.
3. Apply and submit a PNDI receipt for the project area, if necessary.
4. Coordinate with HRA staff/solicitor to complete required PA DCNR forms.
5. Upload the draft and final construction drawings, specifications, project schedule, cost estimate, and PA DCNR forms to the PA DCNR Grant Portal.
6. Upload the bid recommendation letter, copies of bid documents, bonds, Agreement with the successful contractor to the PA DCNR Grant Portal.
7. Coordinate and attend PA DCNR field review of the completed project and provide the 100-percent complete/paid-in-full letter to PA DCNR via the Grant Portal.

#### **C. Bidding Services**

*YSM will:*

1. Prepare the bidding package to include boiler plate/bidding specifications and technical specifications. It is anticipated that one contract will be developed: Site Improvement Contract.
2. Send for the Pennsylvania wage rates that apply to the project.
3. Coordinate the Invitation to Bid, bonds, insurance requirements, and Supplementary Conditions at the 90-percent meeting.
4. Coordinate with and upload the bid information to PennBid.
5. Respond to questions submitted by prospective bidders through PennBid.
6. Schedule and conduct a pre-bid conference for interested contractors. Provide meeting minutes to all attendees.
7. Prepare and upload addendum (as necessary) onto the PennBid website.
8. Review the bids received via PennBid for completeness and required bonds. Check references of the lowest responsible bidders and document findings. Provide a written recommendation letter to HRA regarding the bidding results.
9. Update PennBid with the bid award information.

#### **D. Construction Phase Services (T&E)**

*YSM will:*

1. Complete the Notices of Award, Agreements, and Notices to Proceed for execution by HRA.
2. Schedule and conduct a pre-construction meeting with the successful contractors. Review submission requirements. Provide meeting minutes to all attendees.
3. Review shop drawings, samples, tests, and submittals required by the contract documents.
4. Review change order requests submitted by the Contractor, make recommendations to the Borough, and process the change orders.

5. Review certificates for payment, determine percent complete of project in the field, and make written recommendation to HRA.
6. Coordinate construction administration with HRA.
7. Attend scheduled job conference meetings at the site with the prime contractors, sub-contractors, and representative of HRA.
8. Review site-related construction activities at critical times beyond the scheduled job conference meetings.
9. Attend HRA meetings, as requested to report on project progress, construction activities, and certificates for payment.

### Compensation

#### PROFESSIONAL FEES

A. Construction Documents .....	\$15,000
B. Grant Administration .....	\$1,800
C. Bidding Services .....	\$4,600
D. Construction Phase Services .....	\$ T&E*
Total Fees (A through C).....	\$21,400

\* The fees above, excluding item D, are lump sum. The fees for task D, will be completed on a time and expense basis. YSM's hourly rate schedule is attached.

#### EXPENSES

Expenses such as reprographic services, photocopies, and mileage that are directly incidental to our professional services shall be invoiced to you at 1.10 times our cost.

### Project Work and Billing Schedule

YSM will request the electronic survey upon receipt of an original of the signed contract agreement. Work on other tasks outlined in the scope of service will begin upon receipt of the survey.

YSM will invoice you at the end of each 4-week billing period for work performed during this period. Invoices are payable within 30 days per the terms of the attached contract agreement. Work will be stopped if invoices are not paid within 30 days and production schedules will be adjusted accordingly until unpaid invoices are brought current. YSM will notify the client in writing if a work stoppage is to occur.

### Assumptions and Additional Services

The following Assumptions were made to prepare the proposal. The Additional Services are not included in the scope and fee as described above, however may be provided by YSM upon your request. These services will be performed under an addenda should they prove to be necessary.

#### ASSUMPTIONS

1. Design work will occur in 2025. Construction schedule to be determined.

2. Land development plan processing and approval will not be required. A waiver of land development plan processing and approval will not be required.
3. The project area is estimated at 0.33 acres and will not require an NPDES permit.
4. Stormwater management controls will not be required based on the minimal impervious pavement proposed and the infiltration properties of the garden areas.
5. Existing utilities on site will be maintained and avoided during construction. Relocation and/or changes to sanitary sewer, water, electric or other utility service is not included in the fees outline above.
6. All submissions will be in PDF format. All drawings will be in CAD.

#### ADDITIONAL SERVICES

1. If the project's Pennsylvania Natural Diversity Inventory (PNDI) application yields the need for any agency clearances, the response and required studies fall outside the scope of this contract and will be completed on a time and expense basis.
2. Additional meetings beyond those indicated above.
3. Hydrogeologic studies, geotechnical or other subsurface investigations.
4. Preparation of Record Drawings, As-Built Surveys, and related computations and certifications.
5. Erosion control plans and NPDES Permits for submission to the Dauphin County Conservation District and the PA DEP.
6. Design of public sanitary sewer, water, and electric facilities.
7. Construction stakeout services.
8. Any offsite engineering or surveying for storm drainage, sewer, water, roads, etc.
9. Changes, modifications or revisions to any plans or data that are requested by the owner, the owner's agent, or any regulatory agency when such revisions are not due to noncompliance with applicable zoning, subdivision and/or stormwater management regulations.
7. Any changes to regulations in effect as of the date of this proposal.
8. Any services not specifically described within the scope of services and fees stated herein.

If the scope of work as outlined changes or unforeseen circumstances arise, or if our services are not completed within one year from the date of this proposal, there may be an adjustment to the fees noted above. This proposal will be null and void if not accepted within 60 days of the date of this proposal.

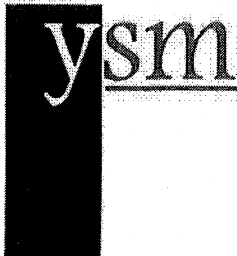
If this proposal is satisfactory and acceptable, and fully sets forth all the items of our understanding, please signify your acceptance by signing the attached service agreements and returning one copy to our office. This document will then constitute our completed agreement.

Sincerely,



Ann E. Yost, RLA  
Landscape Architect

Attachments



Landscape Architects

## SERVICE AGREEMENT

Project No. 25HBC-01

### TO ENGAGE THE SERVICES OF YOST STRODOSKI MEARS, INC.

THIS AGREEMENT entered into at 19 South Newberry Street, York, PA 17401, on this      day of      2025 by and between the Harrisburg Redevelopment Authority hereinafter called "CLIENT" and YOST STRODOSKI MEARS, INC., hereinafter called "LANDSCAPE ARCHITECT" is as follows:

THE CLIENT INTENDS TO have YSM provide services as outlined in proposal dated January 6, 2025, and revised on March 20, 2025.

THE CLIENT AND LANDSCAPE ARCHITECT AGREE AS FOLLOWS:

A. Scope and Services:

As outlined in proposal dated January 6, 2025, and revised on March 20, 2025.

B. Total Fee:

As outlined in proposal dated January 6, 2025, and revised on March 20, 2025.

C. Schedule for the Work:

As outlined in proposal dated January 6, 2025, and revised on March 20, 2025.

D. This AGREEMENT shall include the STANDARD TERMS AND CONDITIONS attached hereto.

#### ACCEPTANCE AND EXECUTION OF THIS AGREEMENT:

HARRISBURG REDEVELOPMENT AUTHORITY

BY: \_\_\_\_\_  
(Client)

Title \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

YOST STRODOSKI MEARS, INC.

BY: Jim E. Yost  
(Landscape Architect)

Title President

DATE: 3 / 20 / 2025

19 South Newberry Street York, Pennsylvania 17401

phone (717) 812-9959 [www.ysmla.com](http://www.ysmla.com)

*Dedicated to the design and planning of community spaces for public recreation*

## STANDARD CONTRACT TERMS AND CONDITIONS

### 1. DUTIES AND RESPONSIBILITIES

1.1 The Landscape Architects, (Yost Strodoski Mears, Inc., its agents, employees and sub-consultants), agrees to provide only those professional services specifically set forth in the Scope of Services portion of this Agreement. Additional services may be performed, if requested, subject to an agreed upon revision in the Scope of Services and authorized fee. Unless specifically set forth in the Scope of Services, Landscape Architects shall not provide any construction phase services including, but not limited to, the construction phase observation of any contractor's work.

1.2 In the event that the Landscape Architect and Client have not executed this Agreement, the Client's authorization to Landscape Architect to proceed with the performance of the services set forth herein shall constitute acceptance by the Client of these Terms and Conditions.

### 2. UNDERGROUND UTILITIES AND STRUCTURES

2.1 Client agrees to advise Landscape Architect in writing of known or suspected utilities or other underground structures or features which could affect the services to be provided and shall provide all drawings in its possession which identify underground utilities, structures or features.

2.2 Client agrees to release Landscape Architect from any liability to Client and to hold Landscape Architect harmless in accordance with Paragraph 11.1 where subterranean utility lines and other underground structures or features which were not identified to Landscape Architect as required by Paragraph 2.1 have been damaged.

### 3. RESTRICTIONS ON USE OF DOCUMENTS

3.1 It is understood and agreed that all drawings, sketches, specifications and other documents in any form, including CADD disks, prepared under this Agreement (collectively "Documents") are instruments of Landscape Architect's services and, as such, shall remain, the property of Landscape Architect, whether the project for which they are intended is executed or not. Client shall, upon payment of all fees and reimbursable expenses due Landscape Architect under this Agreement, be permitted to retain reproducible copies of those Documents necessary for the execution of the Project and for information and reference in connection with Client's use and occupancy of the Project. The Documents are prepared for use on this Project only and are not appropriate for use on any other project, for additions to this Project, for completion of this Project by others (unless Landscape Architect is adjudged in default) or for any purpose other than as defined by the Scope of Services, except by agreement in writing with the appropriate compensation to Landscape Architect. Any use of the Documents or the information or data contained therein, in violation of this subparagraph or any alteration or modification of such Documents or the information or data contained therein, without the express written consent of Landscape Architect is expressly prohibited. Such prohibited use is at the sole risk of the user and Landscape Architect is released from any liability for damages arising from such use.

3.2 Client agrees that any Documents in Client's possession shall not be used and shall be returned promptly to Landscape Architect, if Client is in default under this Agreement. Client agrees that Landscape Architect may obtain injunctive relief to enforce this subparagraph.

### 4. STANDARD OF CARE

4.1 In performing the services required by this Agreement, Landscape Architect shall use that degree of usual and customary professional skill and care ordinarily exercised by members of its profession under similar circumstances practicing in the same or similar locality. The standard of care shall exclusively be judged as of the time the services are rendered and not according to later standards. Landscape Architect makes no express or implied warranty beyond its commitment to conform to this standard.

### 5. OBSERVATION SERVICES

5.1 If required under the Scope of Services, Landscape Architect shall visit the site at the intervals set forth in the Scope of Services to become generally familiar with the progress and quality of that portion of the work for which Landscape Architect prepared the Documents to determine in general if such work is being performed in a manner indicating that such work when completed will be in accordance with the Documents. Landscape Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work. On the basis of on-site observations as a design professional, Landscape Architect shall keep client informed of the progress and quality of the work. Landscape Architect's services do not include supervision or direction of the actual work of the contractor, his employees, agents or subcontractors. Client agrees to notify the contractor accordingly. The contractor shall also be informed by Client that neither the presence of Landscape Architect's field representative nor the observation by the Landscape Architect shall excuse the contractor for defects or omissions in his work.

5.2 Under no circumstances shall Landscape Architect have control over, or be in charge of, nor shall it be responsible for, construction means, methods, techniques, sequences or procedures in connection with the Work. Landscape Architect shall not be responsible for any contractor's schedules or failure to carry out the Work in accordance with the Documents. Landscape Architect shall not have control over or charge of acts or omissions of any contractor, subcontractor, or their agents or employees, or of any other persons performing portions of the Work.

5.3 It is further understood that the contractor will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performances of the work, and that these requirements will apply continuously and not be limited to normal working hours. Any monitoring of the contractor's performance conducted by Landscape Architect's personnel is not intended to include review of the adequacy of the contractor safety measures in, on or near the construction site. The Landscape Architect will not be held responsible for any contractor's failure to observe or comply with the Occupational Health and Safety Act of 1970, and regulations or standards promulgated thereunder, or any state, county, or municipal law or regulation of similar import or intent.



## **6. TERMINATION, SUSPENSION**

6.1 This Agreement may be terminated by either party upon seven days written notice should the other party fail substantially to perform in accordance with its terms. This Agreement may be terminated by the Client upon at least seven days written notice to Landscape Architect in the event that the Project is permanently abandoned. In the event of any termination that is not the fault of Landscape Architect, Landscape Architect will be compensated for all services performed up to the time written notice of termination is actually received by Landscape Architect, together with reimbursable expenses then due and reasonable Termination Expenses directly associated with the termination.

6.2 In the event of termination or suspension for more than three (3) months which occurs prior to completion of all services contemplated by the Agreement, the Landscape Architect may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed up to the date of receipt of written notice of termination or suspension. Termination Expenses provided for above shall include all fees and costs incurred by Landscape Architect in reporting, completed data, completing such analyses, records and reports.

## **7. INVOICES, PAYMENTS**

7.1 Landscape Architect will submit invoices to Client every four weeks and a final invoice upon completion of services.

7.2 Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. Client agrees to pay a service charge of one and one-half (1½) percent per month (18% per annum) or fraction thereof on past due payments under this Agreement.

7.3 Timely payment to the Landscape Architect in accordance with the Terms and Conditions of this Agreement is a material consideration of this Agreement. Therefore, the Client's failure to make payments in accordance with this Agreement shall constitute substantial nonperformance and a cause for termination by Landscape Architect.

If the Client fails to make payment when due Landscape Architect for services and expenses, the Landscape Architect may, at its option and without prejudice to its right to terminate as described above, upon seven (7) days written notice to the Client, suspend performance under this Agreement. Unless payment in full is received by the Landscape Architect within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of performance, the Landscape Architect shall have no liability to the Client for delay or damages caused the Client because of such suspension of performance. The Client shall hold harmless, indemnify, and defend the Landscape Architect for claims that arise due to any suspension.

7.4 It is further agreed that in the event a lien or suit is filed to enforce payment under this agreement, the Landscape Architect will be reimbursed by the Client for all court costs and reasonable attorney's fees in addition to accrued service charges.

7.5 Unless the compensation identified in this Agreement is specifically identified as a "Fixed Fee", the amounts set forth as the Total Fee shall constitute the Landscape Architect's best estimate of the effort required to complete the project as the Landscape Architect understands it to be defined. For those projects involving conceptual or process development work, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in direction, additional effort, or suspension of effort, which may alter the scope. The Landscape Architect will inform the Client of such situation so that negotiations relating to a change in scope and an adjustment to the time of performance can be accomplished as required. If such change, additional effort, or suspension of effort results in an increase or decrease in the cost of or time required for performance of the services, whether or not changed by an change order, an equitable adjustment shall be made and this Agreement modified accordingly.

## **8. ASSIGNS**

8.1 Neither the Client nor the Landscape Architect may delegate, assign, or sublet, or transfer his duties or interest in this Agreement without written consent of the other party. Such consent shall not be unreasonably withheld. Under no circumstances may Client assign any claim arising under this Agreement or in connection with Landscape Architect's services.

## **9. LIMITATIONS ON REMEDIES**

9.1 The Client shall promptly report to the Landscape Architect any defects in Landscape Architect's services of which Client becomes aware, so that Landscape Architect may take measures to minimize the consequences of such defect. Client warrants that Client will impose a similar notification requirement on all contractors in Client's General Contract and shall require all subcontracts at any level to contain a like requirement. Failure by Client, and the Client's contractors or subcontractors to notify Landscape Architect shall relieve Landscape Architect of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given.

9.2 If, due to Landscape Architect's error, any required item or component of the Project is omitted from the Documents, Landscape Architect shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the Project or otherwise adds value or betterment to the Project. In no event, will Landscape Architect be responsible for any cost or expense that provides betterment, upgrade or enhancement of the Project. Client's sole and exclusive remedy for such omission by Landscape Architect shall be for Landscape Architect to perform services necessary to correct omission without charge to Client; provided that where Landscape Architect's fees or reimbursable expenses would have been higher had the omitted item or component been included prior to construction, Landscape Architect shall be entitled to such increased fees and reimbursable expenses.

9.3 Notwithstanding any other provision of this Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of the fault or whether it was committed by Client or Landscape Architect, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

9.4 Landscape Architect's liability for damages due to breach of contract, error, omission, professional negligence or any other theory of liability will be limited to an amount not to exceed three times the Landscape Architect's fees under this Agreement. Such limitation shall apply to the aggregate of all claims that may be brought against Landscape Architect. If the Client prefers not to limit the Landscape Architect's professional liability to this sum, the Landscape Architect will waive this limitation upon the Client's request provided that the Client agrees to pay an additional consideration for this waiver equal to the cost of insuring against such risk.

9.5 It is understood that the Landscape Architect shall not be held responsible for any errors or omissions on the part of contractor, including, but not limited to, the contractor's failure to adhere to the plans and specifications regardless of whether or not the Landscape Architect is performing observational services. This provision shall be included in the contract between the Client and his contractor(s) for this project.

#### **10. DISPUTE RESOLUTION**

10.1 All claims, disputes, and other matters in question between the Landscape Architect and the Client, not in excess of \$200,000, arising out of, or relating to, this Agreement or the breach thereof or the services rendered by Landscape Architect ("Dispute"), shall be resolved as follows:

10.2 A written demand for non-binding mediation, which shall specify in detail the facts of the Dispute and the relief requested, shall be submitted, within a reasonable time after the basis for the Dispute has arisen, to the party against whom the claim is brought. If the Dispute cannot be resolved by the parties within ten (10) days, the demand shall be submitted to United States Arbitration and Mediation of the Northeast, Incorporated, or such mediation service as the parties shall otherwise agree to retain, for good faith non-binding mediation. The Mediator's fee shall be shared equally by the parties.

10.3 Any Dispute between the parties that is not fully resolved by mediation within 120 days of submission to the mediation service may be decided by litigation in a court of competent jurisdiction.

10.4 In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

10.5 In the event that Client institutes suit against the Landscape Architect because of any Dispute and if such suit is dropped or dismissed, or if judgment is rendered for the Landscape Architect, Client agrees to reimburse the Landscape Architect, or pay directly, any and all costs and any and all other expenses of defense, immediately following dropping or dismissal of the case or immediately upon judgment being rendered on behalf of the Landscape Architect.

#### **11. INDEMNIFICATION**

11.1 To the fullest extent permitted by law, Client shall indemnify, defend and hold harmless Landscape Architect, their subsidiaries, affiliates, officers, employees and consultants or such others who may have assisted the Landscape Architect in the rendering of its services in connection with the Project from and against any and all manner of demands, claims, liabilities, costs and expenses, including, without limitation, reasonable attorney's fees and any other defense costs arising out of any conduct, including the breach of any provision of this Agreement, by Client or any individual or entity for whose acts Client is responsible.

11.2 In the event the Client is required to defend the Landscape Architect under Paragraph 11.1, the Landscape Architect shall have the right to counsel of its own choosing.

#### **12. WARRANTY OF AUTHORITY TO SIGN**

12.1 The person signing this contract warrants he or she has authority to sign as, or on behalf of, the Client for whom or for whose benefit that Landscape Architect's services are rendered. If such person does not have such authority, he agrees that he or she is personally liable for all breaches of this contract and that in any action for breach of such warranty a reasonable attorney fee shall be included in any judgment rendered.

#### **13. CHOICE OF LAW**

13.1 This contract will be construed in accordance with the laws of the Commonwealth of Pennsylvania.

#### **14. SEVERABILITY**

14.1 In the event that any provisions herein shall be deemed invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and binding upon the parties hereto.

#### **15. REFERENCES**

15.1 Client agrees that Landscape Architect has authority to utilize the name of Client and a general description of the project work or service performed as references to other clients or potential clients.

#### **16. INTEGRATION**

16.1 There are no understandings or agreements concerning the Project except as expressly stated herein.

#### **17. VALIDITY**

17.1 It is understood that if this Agreement is not executed by Client or accepted as set forth in Paragraph 1.2 within sixty (60) days of the date of the Agreement, Landscape Architect reserves the right to revise or withdraw this Agreement.

#### **18. THIRD PARTY BENEFICIARIES**

18.1 Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or the Landscape Architect.

#### **19. WAIVER OF SUBROGATION**

19.1 Except to the extent that such waiver would invalidate the applicable casualty insurance coverage, the Client and Landscape Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent such damages are covered by casualty insurance, the proceeds of which are paid to the claimant. Client and Landscape Architect each shall require similar waivers from their contractors, consultants and agents.

## NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

1. **Representations.** The Grantee represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the agreement. The Grantee shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
2. **Nondiscrimination/Sexual Harassment Obligations.** The Grantee shall not:
  - a. in any manner discriminate in the hiring of any employee(s) for the performance of the activities required under this agreement or any subgrant agreement, contract, or subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act ("PHRA") and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
  - b. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
  - c. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under this agreement or any subgrant agreement, contract, or subcontract.
  - d. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor, or supplier who is qualified to perform the work to which this agreement relates.
  - e. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act, or National Labor Relations Act, as applicable, and to the extent determined by entities charged with the Acts' enforcement and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
3. **Establishment of Grantee Policy.** The Grantee shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of this agreement, the Grantee shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near

where the grant activities are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.

4. **Notification of Violations.** The Grantee's obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the agreement. Accordingly, the Grantee shall notify the Commonwealth if, at any time during the term of this agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
5. **Cancellation or Termination of Agreement.** The Commonwealth may cancel or terminate this agreement and all money due or to become due under this agreement may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee in the Contractor Responsibility File.
6. **Subgrant Agreements, Contracts, and Subcontracts.** The Grantee shall include these Nondiscrimination/Sexual Harassment provisions in its subgrant agreements, contracts, and subcontracts with all subgrantees, contractors, and subcontractors providing goods or services under this agreement. The incorporation of these provisions in the Grantor's subgrants, contracts, or subcontracts does not create privity of contract between the Commonwealth and any subgrantee, contractor, or subcontractor, and no third-party beneficiaries are created by those provisions. If the Grantee becomes aware of a subgrantee's, contractor's, or subcontractor's violation of these provisions, the Grantee shall use its best efforts to ensure the subgrantee's, contractor's, or subcontractor's compliance with these provisions.

**Rate schedule****Effective Date: January 1, 2025****Compensation for personnel shall be in accordance with the following hourly rates:**

<u>Position</u>	<u>Hourly Rate</u>
Principal Landscape Architect .....	\$ 145
Landscape Architect .....	\$ 95 - 120
Designer .....	\$ 55 - 95
Senior CADD Technician/Manager .....	\$ 105 - 120
CADD Technician .....	\$ 65 - 90
Office Clerical/Support .....	\$ 55

**Compensation for expenses and other charges shall be as follows:**

Mileage .....	\$0.70/mile
Direct expenses .....	Cost + 10%