



November 16, 2017

John Shay, City Manager
City of Ludington
400 South Harrison Street
Ludington, Michigan 49431

Re: Proposal for Professional Landscape Architecture and Engineering Services
for West Ludington Avenue and Stearns Park Improvements Phase 1

Dear John:

Progressive AE is pleased to present this proposal for landscape architectural and engineering services for West Ludington Avenue and Stearns Park Improvements Phase 1. Following is our understanding of the project, our scope of services, clarifications, proposed schedule and compensation for your consideration.

UNDERSTANDING OF PROJECT

The project, as we understand it, is:

In 2006 and 2007, Progressive AE prepared a master plan and construction documents for improvements to West Ludington Avenue and Stearns Park. In the following years, the City of Ludington pursued various matching grants. In 2016, the City of Ludington was successful in securing a Michigan Recreation Trust Fund Grant to construct the first phase of the project. The project will focus on creating a new promenade and overlook at the terminus of West Ludington Avenue, creating a new gathering space for community activities with seating, site lighting, landscaping and other amenities.

SCOPE OF BASIC SERVICES

Based upon the above project understanding, we will provide the following scope of services:

Update and amend the construction documents previously developed by Progressive AE in 2007, verify the opinion of cost, assist in bidding the project and provide construction observation services. The project is to be bid in January 2018, with construction in spring/summer of 2018. We will also prepare a new MDEQ/USACE joint permit for work below the ordinary high-water mark. Site visits for construction observation and punch list review at conclusion of the project will be capped at 12 visits.

CLARIFICATIONS

It is our understanding that the City of Ludington will print the construction documents, arrange and pay for any advertisements for bid and pay for any permitting fees (MDEQ/USACE joint permit, SESC, etc.), therefore they are not included in our scope of services.

SCHEDULE

A tentative schedule for the project is:

- Drawing revisions and send to City of Ludington – October 26 to November 20th
- City of Ludington final review of documents – November 20th to December 1st
- Prepare and submit MDEQ/USACE joint permit – November 20th to December 1st

- Any final revisions to bid pack – December 4th to December 8th
- Pause for holidays – December 11th to January 1st
- Bidding – January 2nd to January 19th
- Post-bids and recommendation – January 22nd to February 5
- City Commission approval – February 12th
- Construction – mid-April to June 30

PROFESSIONAL COMPENSATION

Based upon the above identified scope of services, Progressive AE proposes professional compensation for a stipulated sum of \$17,440 (seventeen thousand four hundred forty dollars). Reimbursable expenses are in addition to the professional compensation, estimated at \$1,700 (one thousand seven hundred dollars) and will be invoiced according to the attached Schedule for Invoice Rates.

The terms of this proposal defining project understanding, scope, clarifications, schedule and professional compensation are incorporated into the Standard Agreement Provisions for Professional Services which is attached.

Progressive AE has prepared this proposal for the City of Ludington and we request that it be treated as confidential and not copied or distributed for any reason other than evaluation for hire.

If this proposal meets with your approval, please sign and return the attached Letter of Intent. Your signature will be our authorization to begin the work and place the project in the firm's schedule.

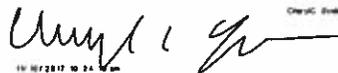
Sincerely,

Progressive AE



Craig H. Hondorp

Craig H. Hondorp, PLA, LEED AP
Senior Landscape Architect



Cheryl C. Scales

Cheryl C. Scales, PE, LEED AP
Principal/Senior Civil Engineer

CHH/pny
Cc: Progressive AE – Jim Horman
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LETTER OF INTENT FOR PROFESSIONAL SERVICES

It is the intent of the City of Ludington to engage Progressive AE for landscape architectural and engineering services for West Ludington Avenue and Stearns Park Improvements Phase 1 as described in the proposal from Progressive AE dated November 16, 2017.

Progressive AE proposes to provide landscape architectural and engineering services as described for a stipulated sum of \$17,440 (seventeen thousand four hundred forty dollars). Reimbursable expenses are in addition to the professional compensation, estimated at \$1,700 (one thousand seven hundred dollars) and will be invoiced according to the attached Schedule for Invoice Rates.

Accepted by:

Johnson Deborah L. Luskin
Signature

John Shay DEBORAH L. LUSKIN
Print Name

1/8/2018 1/8/2018
Date

City of Ludington

Standard Agreement Provisions
Architectural Services

The parties to this agreement, Progressive AE, Grand Rapids, Michigan, USA, hereinafter called the ARCHITECT and City of Ludington, Ludington, Michigan hereinafter called the OWNER, hereby agree to the following conditions:

1. **Limit of Scope:** The services provided by the ARCHITECT shall be limited to those described in the proposal dated November 16, 2017. The parties agree that the terms of the proposal are incorporated herein by reference, and are part of this agreement as if fully set forth herein. If any terms set forth in the proposal are expressly in conflict with the terms hereof, the terms of the proposal shall govern.
2. **Changed Conditions:** If, during the term of this Agreement, the ARCHITECT becomes aware of any circumstances or conditions that were not originally contemplated by or known to the ARCHITECT, then to the extent that they affect the scope of services, compensations, schedule, allocation of risks or other material terms of this Agreement, the ARCHITECT may call for re-negotiation of appropriate portions of the Agreement. The ARCHITECT shall notify the OWNER of the changed conditions necessitating re-negotiation, and the ARCHITECT and the OWNER shall promptly and in good faith enter into re-negotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.
3. **Additional Services:** Additional services not specifically identified in the Scope of Services shall be paid for by the OWNER in addition to the fees previously stated, provided the OWNER authorizes such additional services in writing. Special services will be billed monthly as work progresses and invoices are due upon receipt. If services covered by this agreement have not been completed within three months of the date of this agreement, through no fault of the ARCHITECT, extension of the ARCHITECT'S services beyond that time shall be compensated as additional services.
4. **Standard of Care:** Professional Services provided by the ARCHITECT will be conducted in a manner consistent with that level of care ordinarily and normally exercised by licensed architects and engineers practicing in the State of Michigan. The OWNER and ARCHITECT agree that a contingency in the amount of three percent (3%) of the cost of the work be established, as required, for changes that may be required because of possible omissions, ambiguities, or inconsistencies in plans and specifications.
5. **Hazardous Materials:** The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.
6. **Opinions of Probable Construction Cost:** In providing opinions of probable construction cost, the OWNER understands that the ARCHITECT has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the ARCHITECT's opinions of probable construction costs are made on the basis of the ARCHITECT's professional judgment and experience. The ARCHITECT makes no warranty, express or implied that the bids or the negotiated cost of the Work will not vary from the ARCHITECT's opinion of probable construction cost.
7. **Schedule for Rendering Services:** The ARCHITECT shall prepare and submit for OWNER approval a schedule for the performance of the ARCHITECT's services. This schedule shall include reasonable allowances for review and approval times required by the OWNER, performance of services by the OWNER's consultants, and review and approval times required by public authorities having jurisdiction over the project. This schedule shall

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be equitably adjusted as the project progresses, allowing for changes in scope, character or size of the project requested by the OWNER, or for delays or other causes beyond the ARCHITECT's reasonable control.

8. **Ownership of Reports, Drawings and Other Materials:** The OWNER agrees that all reports, drawings, letters, work sheets, plans, preliminary material tables, supportive data, documents and other materials produced by the ARCHITECT in the course of and for the purpose of meeting this contract are the property of the ARCHITECT, shall remain in the possession of the ARCHITECT and the ARCHITECT has and retains all copyrights in such material. Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instrument of Service solely for the purposes of constructing, using and maintaining the Project provided that the Owner shall comply with all obligations including the prompt payment of all sums when due, under this Agreement.
9. **Alteration and Reuse of CAD Information:** Because computer aided design/drafting (CAD) information stored in electronic form can be modified by other parties, intentionally or otherwise, without notice or indication of said modifications, the ARCHITECT reserves the right to remove all indications of its ownership and/or involvement in the material from each electronic medium not held in its possession. The OWNER may retain copies of the work performed by the ARCHITECT in CAD form. Release of electronic media will be by execution of the Architect's Release of Electronic Media Request Form. Copies shall be for information and used by the OWNER for the specific purpose for which the ARCHITECT was engaged. Said material shall not be used by the OWNER, or transferred to any other party, for use in other projects, additions to the current project, or any other purpose for which the material was not strictly intended without the ARCHITECT's express written permission. Any unauthorized modification or reuse of the materials shall be at the OWNER's sole risk, and the OWNER agrees to defend, indemnify, and hold the ARCHITECT harmless, from all claims, injuries, damages, losses, expenses, and attorneys' fees arising out of the unauthorized use or modification of all Project documentation.
10. **Payment Terms:** Invoices will be submitted by the ARCHITECT monthly, are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the date of invoice. Invoices past due shall accrue interest at one percent (1%) per month from the original invoice date.
11. **Disputed Invoices:** If the OWNER objects to any portion of an invoice, the OWNER shall so notify the ARCHITECT in writing within ten (10) calendar days of receipt of the invoice. The OWNER shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with other payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved within thirty (30) calendar days in accordance with the Dispute Resolution provision of this Agreement. Interest at one percent (1%) per month shall be paid by the OWNER on all disputed invoice amounts that are subsequently resolved in the ARCHITECT's favor and shall be calculated on the unpaid balance from the due date of the invoice.
12. **Abandonment of Work:** If any work is abandoned or suspended, the ARCHITECT shall be paid for services performed prior to receipt of written notice from the OWNER of abandonment or suspension.
13. **Errors and Omissions Insurance:** The ARCHITECT maintains an errors and omissions insurance policy as part of normal business practice. The OWNER agrees to limit the ARCHITECT's liability to the OWNER and to all Construction Contractors and

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Subcontractors on the project due to the ARCHITECT's negligent acts, errors, or omissions, such that the total aggregate liability of the ARCHITECT to all those named shall not exceed the amount of \$1,000,000.

14. **Indemnification:** Subject to the limitation in paragraph 13 above, the ARCHITECT agrees to the fullest extent permitted by law, to indemnify and hold harmless the OWNER against damages, liabilities and costs arising from the negligent acts of the ARCHITECT in the performance of professional services under this Agreement, to the extent that the ARCHITECT is responsible for such damages, liabilities and costs. The ARCHITECT shall not be obligated to indemnify the OWNER for the OWNER's own negligence.
15. **Consequential Damages:** Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the OWNER nor the ARCHITECT, their respective officers, directors, partners, employees, contractors or sub-consultants 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 incidental, indirect and 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 OWNER and the ARCHITECT 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.
16. **Dispute Resolution:** In an effort to resolve any conflict, the duly authorized representatives of each party will meet together in good faith in an attempt to resolve the conflict. If this attempted resolution fails to resolve the claim or dispute, the parties agree that all claims, disputes, and other matters in question between the parties arising out of or relating to this Agreement or breach thereof first shall be submitted for non-binding mediation to any one of the following, as agreed to by the parties: American Arbitration Association, American Intermediation Service, Americord, Dispute Resolution, Inc., Endispute, or Judicate. The parties hereto agree to fully cooperate and participate in good faith to resolve the dispute(s). The cost of mediation shall be shared equally by the parties hereto. Any time expended in mediation shall not be included in calculating the time for filing arbitration.

If mediation fails to resolve the claim or dispute, the matter shall be submitted to arbitration with the American Arbitration Association under the Construction Industry rules, unless the parties agree otherwise or unless a plaintiff not a party hereto institutes litigation in a court of competent jurisdiction and said court takes personal jurisdiction over one of the parties hereto regarding the same subject matter as in dispute between the parties hereto.

No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder, or in any other manner, any additional person not a party to this Agreement except by written consent of the parties and such consent to arbitration involving an additional person(s) shall not constitute consent to arbitration of any dispute not described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional person(s) shall be specifically enforceable under the prevailing arbitration law.

The demand for arbitration shall be made within one (1) year of the date the claimant knew or should have known of the existence of the claim, dispute, or other matter but in no event later than 3 years after the date of substantial completion of the project. If the demand for arbitration is not effectuated within such times, the claim, dispute, or other matter shall be forever barred.

The decision rendered by the arbitrators shall be final, and judgement may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. In the event

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either party makes a claim or brings an arbitration action or lawsuit against the other party for any act arising out of the performance of the services hereunder, and the claimant fails to prove such claim or action, then the claimant shall pay all legal and other costs (including attorneys' fees) incurred by the other party in defense of such claim or action.

17. Hiring of Personnel: OWNER may not directly hire any employee of the ARCHITECT. OWNER agrees that it shall not, directly or indirectly solicit any employee of the ARCHITECT from accepting employment with OWNER, affiliate companies, or competitors of ARCHITECT.
18. Site Signage: The ARCHITECT shall be permitted to install on the project premises an exterior sign of not more than 60 square feet for promotional purposes. The location of the sign shall be mutually agreed upon by OWNER and ARCHITECT, not to be unreasonably withheld by either.
19. Means and Methods: The ARCHITECT shall not have control over, charge of, or responsibility for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, nor shall the ARCHITECT be responsible for the constructors failure to perform work in accordance with the contract documents.
20. Evaluation of Work: The ARCHITECT shall have authority to reject work that does not conform to the contract documents, however, the ARCHITECT does not have authority to stop work at any time.

1811 4 Mile Road NE
 Grand Rapids, MI 49525
 phone 616.361.2664
 fax 616.361.1493
 progressiveae.com

Schedule of Invoice Rates - 2017

Hourly Staff Charges

Class 8 Personnel:	Principals	\$195/hour
Class 7 Personnel:	Experienced Senior Project Managers, Architects, Engineers, Planners, Landscape Architects, Environmental Analysts, LEED Consultants, and Construction Administrators	\$145/hour
Class 6 Personnel:	Senior Project Managers, Architects, Engineers, Planners, Landscape Architects, Environmental Analysts, and Construction Administrators	\$125/hour
Class 5 Personnel:	Project Managers, Architects, Engineers, Planners, Landscape Architects, Environmental Analysts, Construction Administrators, Designers, and Surveyors	\$110/hour
Class 4 Personnel:	Intermediate Architects, Engineers, Planners, Designers, Landscape Architects, Environmental Analysts, Construction Administrators, and Surveyors	\$90/hour
Class 3 Personnel:	Graduate Architects, Engineers, Planners, Designers, Environmental Analysts, Construction Administrators, Technicians, and Surveyors	\$75/hour
Class 2 Personnel:	Technicians, Project Assistants, Clerical Technicians, and Surveyors	\$65/hour
Class 1 Personnel:	Project Assistants, Technicians and Clerical Technicians	\$50/hour

Reimbursable Expenses

1. Fees for securing permits and approvals of authorities having jurisdiction over projects at cost.
2. Outside consultants, travel, and lodging at cost plus 10% handling.
3. Copies, telephone, cell phone voice and data charges and office supplies will be charged through a \$25 per month Misc. Office Expense charge. This charge will not be applied to invoices under \$1,000.
4. CAD black/white plotting at 15¢ per square foot; CAD color plotting at 25¢ per square foot; CAD low density color images at 30¢ each; CAD high density color images at 50¢ each; large-format color plotting at \$9 per square foot. Postage, shipping, and lab tests at cost. Files written to CD will be minimum \$100 per drawing or \$500 maximum. Passenger vehicle mileage on projects at the IRS Standard Rate (currently 53.5¢ per mile). Field vehicles at 75¢ per mile. Lodging, meals, and airfare at cost. Boat rental at \$40 per day. Nuclear density meters at \$30 per day. Fluke Scopemeter at \$40 per day. Machine rental GPS at \$250 per day. Traffic Counters at \$60 per count. Surveying supplies at 50¢ per stake.
5. Overtime expenses requiring higher than normal rates if authorized by owner.

Notes:

1. Invoices are due upon receipt. Unpaid invoices shall bear interest at a rate of 1 percent per month if not paid within 30 days of the date of the invoice.
2. Special media requests may be at higher rate.
3. Hourly staff charges and expenses subject to change annually.