



FLATLAND RESOURCES, LLC
PO Box 1293 – MUNCIE, INDIANA 47308
P: 765.284.2328 – F: 765.284.2353

CONTRACT FOR PROFESSIONAL SERVICES

5/5/2023

Client:

Town of Yorktown
9312 West Smith Street
Yorktown, IN 47396

Project:

Nebo Road Park Design

Agents:

Chase Bruton
Town Manager
Town of Yorktown

Project Location and Limits:

Delaware County, Mount Pleasant Township, more specifically the parcels located at 0, 1100, 1104, & 1108 South Nebo Road currently owned by Indiana Michigan Power. See Attachment A for a location map of the project site.

Project Description:

The purpose of this project is to put together a park design and preliminary cost estimate for the land being donated to the Town of Yorktown by Indiana Michigan Power. Completed in conjunction with the Parks 5-year Master Plan, this project would be eligible to receive Land and Water Conservation Fund (FWCF) grant dollars – a 50/50 federal grant program run through the Indiana DNR. The project would be implemented in two phases: Phase I being design and Phase II being the completion of the LWCF grant application.

Scope of Services:

Phase I – Park Design

FLR will provide a team of professionally qualified personnel to develop a park design that responds to its surroundings, meets a need within the community, and would score well through the LWCF program. The following tasks will be included in the project scope:

- 1) Inventory and Analysis – Gather on site topographic data and conduct an analysis of conditions on and around the site that could affect the design. Hold one (1) public meeting with the surrounding neighborhoods to understand the needs of those most likely to use the park.
- 2) Develop Three (3) Concepts – FLR will develop three (3) conceptual parks plans that respond to the inventory and analysis and feedback from the community.

- 3) Concept Refinement & Client Meeting – FLR will meet with the Town of Yorktown and other identified stakeholders to discuss the three (3) developed concepts and choose a concept or portions of each concept to refine.
- 4) Final Plan – FLR will take the refined concept and create a final park plan that can be utilized for promotion and grant applications.
- 5) Perspective Rendering – FLR will create a perspective rendering showing what residents would be doing while visiting the park. The rendering can be utilized for promotion of the park and grant applications.
- 6) Cost Estimation – FLR will put together a cost estimation based upon the final park plan. This estimation can be utilized to pursue project funding.

Phase II – LWCF Grant Application

FLR will provide a team of professionally qualified personnel to complete the following services:

- 1) FLR will compile and complete a competitive grant application for the Land and Water Conservation Fund Program. These grants are due June 1st of each year, Phase I would be completed in a timely manner to allow the grant application to be successfully submitted by this date. FLR will also hold coordination meetings with Indiana DNR representatives to ensure the project has the best chance of being awarded funding.

Fee:

FLR will execute and implement the above listed tasks for a fee of:

Phase I - Nebo Road Park Design

\$9,840.00

Nine Thousand Eight Hundred and Forty Dollars & 0/100

Phase II – LWCF Grant Application

\$6,520.00

Six Thousand Five Hundred and Twenty Dollars & 0/100



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Acceptance of Phase I*:

Chase Bruton
Town Manager
Town of Yorktown

Phil Tevis
Member/Owner
FlatLand Resources, LLC

**Phase II would not begin until a written NTP from the Town of Yorktown is sent to FlatLand Resources.*

Payment:

FLR shall submit invoices once a month at a minimum to the Project Owner or the Owner's agent for services rendered during the previous calendar month.

The Project Owner or the Owner's Agent hereby agrees that payment will be made for the said Services within 30 days from Project Owner receiving payment from State Funding agency; and in default of such payment, hereby agrees to pay all cost of collection, including reasonable attorney's fees regardless of whether legal action is initiated. The Project Owner or the Owner's Agent hereby acknowledges that unpaid invoices shall accrue interest at 18 percent per annum after they have been outstanding for over 60 days. FLR will reserve the right to suspend work if payments become delinquent. If work is suspended, services will not resume until payment is made in full, including related collection fees, attorney's fees, interest and late charges.

STANDARD TERMS AND CONDITIONS

1. INVOICE AND PAYMENT PROCEDURES:

FlatLand (FLR) shall submit invoices, once a month, at a minimum, to the OWNER for Services accomplished during each calendar month. The OWNER, as OWNER or authorized agent for the OWNER hereby agrees that payment will be made for said Services within thirty (30) days from the date of the invoice; and, in default of such payment, hereby agrees to pay all cost of collection, including reasonable attorney's fees, regardless of whether legal action is initiated. The OWNER hereby acknowledges that unpaid invoices shall accrue interest at 10 percent per annum after they have been outstanding for over sixty (60) days. If an invoice remains unpaid ninety (90) days after the date of the invoice, FLR may, upon giving seven (7) days written notice of its intent to do so, suspend all Services on the OWNER's project. This suspension shall remain in effect until all unpaid invoices are paid in full. If an invoice remains unpaid one hundred twenty (120) days after the date of the invoice, FLR may, upon giving seven (7) days written notice of its intent to do so, declare OWNER to be in breach of this Agreement and pursue its remedies for collection.

2. CONSTRUCTION SERVICES: If, under this Agreement, professional services are provided during the construction phase of the project, FLR shall not be responsible for or have control over means, methods, techniques, sequences, or procedures; or for safety precautions and programs in connection with the Work. Nor shall FLR be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents or for Contractor's failure to comply with applicable laws, ordinances, rules or regulations. Under no circumstances will FLR have any direct contractual relationship with the Construction Manager, Contractor, any subcontractors, material suppliers or other consultants unless FLR and the Owner expressly agree otherwise in writing.

3. SUBSURFACE INVESTIGATION: FLR makes no representations concerning soil conditions unless specifically included in writing in this agreement, and FLR is not responsible for any liability that may arise out of the making or failure to make soil surveys, or sub-surface soil tests, or general soil testing.

4. AGENCY REVIEW: In the event that the plans, specifications, and/or field work covered by this contract are those required by various governmental agencies and in the event, that due to change of policy of said agencies after the date of this agreement, additional office or field work is required, the said additional work shall be paid for by OWNER as extra work.

5. SURVEY STAKING: In the event that any staking is destroyed by an act of God or parties other than FLR, the cost of re-staking shall be paid for by OWNER as extra work.

6. MISCELLANEOUS EXPENSES: The OWNER shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this agreement.

7. CHANGE OF SCOPE: The Scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by FLR and OWNER. FLR will promptly notify OWNER of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement before commencement of change in scope.

8. SAFETY: FLR specifically disclaims any authority or responsibility for general job site safety and safety of persons other than FLR employees.

9. REUSE OF PROJECT DELIVERABLES: Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by OWNER for any purpose other than that for which such documents or deliverable were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by FLR for the specific purpose intended, shall be at OWNER's sole risk.

10. OPINIONS OF CONSTRUCTION COST: Any opinion of construction costs prepared by FLR is supplied for the general guidance of the OWNER only. Since FLR has no control over competitive bidding or market conditions, FLR cannot guarantee the accuracy of such opinions as compared to contract bids or actual cost to OWNER.

11. INSURANCE: FLR will maintain insurance coverage for Professional, Comprehensive General, Automobile and Employer's Liability in amounts mutually agreed upon by the parties. Certificates evidencing such coverage will be provided to OWNER upon request. For projects involving construction, OWNER agrees to require its construction contractor, if any, to include FLR as an additional insured on its policies relating to the Project. FLR coverages referenced above shall, in such case, be excess over Contractor's primary coverage.

12. INDEMNITY: To the fullest extent permitted by law, FLR shall indemnify and save harmless from and against loss, liability, and damages sustained by OWNER, its employees, and representatives by reason of injury or death to persons or damage to tangible property to the extent caused directly by the negligence of FLR or its employees.

13. LIMITATIONS OF LIABILITY: No employee of FLR shall have individual liability to OWNER. OWNER agrees that, to the fullest extent permitted by law, FLR's total liability to OWNER for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, FLR's negligence, error, omissions, liability, or breach of contract shall not exceed the total Amount of the Agreement.

14. PREVAILING PARTY LITIGATION COSTS: In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs from the other party. Any litigation shall be governed by the laws of the state of Indiana.

15. AUTHORITY: The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

16. STATUTE OF LIMITATIONS: To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims regarding FLR's performance under this Agreement shall expire one year after Project Completion.

17. OWNERSHIP OF WORK: It is understood that that the data and documents produced for, or in conjunction with, this project are wholly owned by the OWNER and shall be available to the OWNER, in the requested format, digital or hardcopy, for a period of five years after completion of the contract.

18. TERMINATION OF AGREEMENT: Either party may at any time, upon seven days prior written notice to the other party, terminate this Agreement for convenience and without cause. Upon such termination, Owner shall pay to FLR all amounts owing to FLR under this Agreement, for all work performed up to the effective date of termination, plus any

Attachment A:

