





November 1, 2010

Mr. David Anderson, ICMA-CM  
Administrator  
Liberty Township  
10104 Brewster Lane, Suite 125  
Powell, OH 43065

**Re: South Liberty Park – Professional Services Agreement.**

Dear Mr. Anderson:

Please find the enclosed agreement for the above referenced project. We look forward to working with Liberty Township and this project. Please give me a call with any questions at (614) 898-7100 or (614) 306-6934.

Sincerely,

Brian S. Crider, PE, RLA  
Vice President

BSC:bsc  
cc: File  
File: 90-00100-00-0326

Enclosures

## ENGINEERING AGREEMENT

This ENGINEERING AGREEMENT entered into on this 2<sup>nd</sup> day of November, 2010 by and between Liberty Township hereinafter referred to as the OWNER and **ms consultants, inc.** a corporation duly licensed and existing under the laws of the State of Ohio for the practice of engineering, hereinafter referred to as the ENGINEER with an office located at 2221 Schrock Road, Columbus, Ohio 43229..

WITNESSETH:

That, the OWNER and the ENGINEER, for the mutual considerations herein contained and specified, have agreed and do hereby agree as follows:

### SECTION 1

#### Services of the Engineer

- 1.1 Perform Professional Engineering Services per Exhibit "A" as attached herein. Preparation of site survey and site civil design documents for a township sports field facility located on Liberty Road.

#### Standard of Care

- 1.2 The standard of care for all professional engineering services performed under this Agreement will be the skill and care ordinarily exercised by members of the engineering profession performing under similar circumstances.

### SECTION 2

#### Period of Services

- 2.1 The ENGINEER agrees to commence work upon receipt of written authorization to proceed by the Owner and complete by preliminary survey document will be completed within four weeks from authorization – weather dependent. The initial permit plan set will be prepared four weeks after the preliminary survey is complete.

### SECTION 3

#### Payments to the Engineer

- 3.1 The OWNER agrees to compensate the ENGINEER for the performance of the work specified in this Agreement as follows:
- 3.1.1 For Services rendered under Paragraph 1.1, as described in Exhibit A and subject to Section 4.1, a cumulative lump sum Fee of twenty thousand-one hundred eighty dollars (\$20,180.00).
- 3.2 The ENGINEER shall submit a monthly statement for services rendered based upon the ENGINEER's estimate of the proportion of the total services actually completed at the time of billing. The OWNER shall make prompt monthly payments.
- 3.3 The compensation set forth in this Agreement may be renegotiated to cover costs not within the purview of the Scope of Services originally contemplated herein. Such costs may arise from significant changes in the extent of the PROJECT or its design, including but not limited to, changes in size, complexity, OWNER's schedule, or character or construction or methods of financing; and revising previously accepted studies, reports, design documents or contract documents when such revisions are due to causes beyond the ENGINEER's control.

### SECTION 4

#### Remaining Provision

#### 4.1 Termination

The OWNER shall have the right to terminate this Agreement for any reason at any time with a two (2) week written notice sent certified mail or overnight delivery to the ENGINEER. In the event of such notice the ENGINEER shall immediately cease all performance of the terms of the Agreement and the OWNER shall pay to the ENGINEER within sixty (60) days after the submission of the final statement all amounts due for services performed by the ENGINEER. The amount of services which the ENGINEER has performed and for which the OWNER shall be obligated to pay, as aforesaid, shall be through the date of termination and include the time required to deliver and project materials to the OWNER. In no event shall the OWNER be obligated for the payment of any services defined in this Agreement which have not yet been

performed by ENGINEER at the time of the receipt by the ENGINEER of any such notice of termination, any other provisions of this Agreement to the contrary notwithstanding.

#### 4.2 Reuse of Documents

All documents, including drawings and records prepared by the ENGINEER pursuant to this Agreement, are instruments of service in respect of the PROJECT. They are not intended or represented to be suitable for reuse by the OWNER or others on extensions of the PROJECT or on any other project. Any reuse, without written verification or adaptation by the ENGINEER for the specific purpose intended, will be at the OWNER's sole risk and without liability or legal exposures to the ENGINEER. The OWNER agrees to indemnify, defend, save and hold harmless the ENGINEER for any or all reuse of instruments without such written verification.

#### 4.3 Insurances

The ENGINEER shall provide and maintain during the life of this Agreement the following insurances: Comprehensive General Liability, Comprehensive Automobile Liability, Workers Compensation and Professional Liability.

#### 4.4 Successors and Assigns

4.4.1 The OWNER and the ENGINEER each binds the corporation or himself their, successors, executors, administrators and assigns, to the other party of this Agreement, and to the, successors, executors, administrators, and assigns of such other party, in respect to all covenants, agreements and obligations of this Agreement.

4.4.2 Neither the OWNER nor the ENGINEER shall assign, sublet, or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except as stated in Paragraph 4.4.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this Paragraph shall prevent the ENGINEER from employing such independent consultants, associates, and subcontractors as it may deem appropriate to assist him in the performance of services hereunder.

4.4.3 Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than the OWNER and the ENGINEER.

4.4.4 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the OWNER, ENGINEER or any public body which may be a party hereto.

4.4.5 Jurisdiction

This agreement shall be interpreted under the laws of the state of Ohio.

4.5 Discrimination Clause

The ENGINEER agrees not to discriminate against any employee or applicant for employment because of race, creed, sex, disability, or color, including, but not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship.

4.6 Confidentiality

The OWNER agrees to keep confidential and not to disclose to any person or entity, other than OWNER'S employees sub-consultants, contractor and sub-contractor, if appropriate, any data or information with the exception of such data or information that is demonstrated to have been in the public domain, or in compliance with an order by a court or required by law. If such information includes proprietary information Section 4.7 of this agreement shall govern.

4.7 Proprietary Information

The OWNER agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by the consultant pertaining to this project or this agreement shall be considered confidential and proprietary, and shall not be released or otherwise made available to any third-party without the express written consent of the ENGINEER.

4.8 Dispute Resolution

In an effort to resolve any conflict or dispute that may arise in the course of performing professional services under this agreement or following the completion of this Agreement, the OWNER and ENGINEER agree that all disputes between them arising out of or relating to this Agreement or the project shall be submitted to nonbinding mediation unless the parties mutually agree in writing otherwise. Should nonbinding mediation fail to resolve the conflict or dispute the OWNER and ENGINEER reserve all rights, claims, defenses in law and/or equity and to have the claim resolved in a court of competent jurisdiction.

4.9 Indemnification

To the fullest extent permitted by law, the ENGINEER shall indemnify and hold harmless, OWNER, employees and agents from and against any and all claims, costs, losses and damages caused by the negligent acts of the ENGINEER in the performance and furnishing of ENGINEER's services under this Agreement. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees and agents and ENGINEER's Consultants from and against any and all claims, costs, losses caused by the negligent acts of the OWNER or OWNER's officers, directors, partners, employees, agents and OWNERS consultants (other than the ENGINEER) with respect to this Agreement or the Project.

IN WITNESS WHEREOF, the parties hereto have caused this ENGINEERING AGREEMENT to be executed, in duplicate, as of the date and year first above written, by affixing the signature of the duly authorized officer of ENGINEER, and by signature of the duly authorized representative of Liberty Township.

Witness:

**ms consultants, inc.**

\_\_\_\_\_

By:

\_\_\_\_\_

Title

\_\_\_\_\_

Date

\_\_\_\_\_

Attest:

\_\_\_\_\_

By:

\_\_\_\_\_

Title

\_\_\_\_\_

Date

\_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES**

**Task 1 – Site-Civil Design Services**

**Task 1a – Site Design Services**

- A) **ms consultants** shall prepare a maximum of two site base maps locating project elements such as ball fields, “egg shaped” community area, access drive, parking, green space, etc. The site layouts shall be prepared using GIS and the development master plan (prepared by Floyd Browne Group) that will be provided by Liberty Township.

**Additional base maps or revisions requested to the project configuration after design documents begin shall require a modification.**

- B) **ms consultants** will provide the following drawing sheets:

1. Cover Sheet
2. Site Dimension Plan
3. Site Detail Sheet (s)
4. Site Grading & Drainage Plan
5. Storm water Pollution Prevention Plan
6. Erosion & Sediment Control Notes and Details

All drawing sheets will incorporate the field areas, parking, the community area, the service road and the “L” shaped bike path.

Proposed grades will be based on Delaware County’s GIS (2’ contours) or a survey provided by Liberty Township. **ms consultants** will be held harmless for the accuracy of these documents prepared outside our firm. **Survey Services are excluded under the basic scope of services.**

Specifications for the above outlined plans will be provided by reference on the drawing sheets.

- C) A representative from **ms** shall attend a maximum of two project meetings to coordinate with Liberty Townships’ project manager, OIAA, and the YMCA, as applicable.

**Minimal plan revisions generated from review comments by Liberty Township shall be incorporated into the drawing set.**

**Any revision requiring the re-design of engineering systems after the preliminary permit submittal may require a modification to the base fee under the terms of this agreement.**

**Task 1b- Service Road Design**

- A) **ms consultants** shall prepare a geometric plan and grading plan for the proposed roadway way alignment. The plan shall include notes, details, and specifications by referenced required to construction the private roadway. All design data shall be provided by plan view only. *Profiles or cross sections that may be requested by the reviewing agency shall require a modification to the proposed agreement and fee.*

- B) As part of this task, a review meeting will be held with the client and basic revisions

**ms consultants, inc.**

requested during the meeting will be incorporated into the roadway design.

## **Task 2 – Storm water Management Design**

### **Task 2a – Storm water Conveyance Design**

- A) Hydraulic calculations used to size the storm sewer will be included as part of the project deliverables. The intent of the design is to have the ball fields sheet flow and the access drive, parking areas, and park areas' storm water to be conveyed to the detention pond by ditches or storm water pipes. Calculations shall be prepared using a methodology approved by the governing, jurisdictional agency.

### **Task 2b – Storm water Detention & Water Quality Design**

- A) **ms consultants** shall prepare design calculations to size all detention systems for the proposed project. The design team intent is to provide a detention pond in the northwest corner of the site. Existing conditions may modify this intent and will be coordinated with the township's project manager. Calculations will include detention requirements, volume availability, and outlet sizing. All calculation will be prepared per using a methodology approved by the governing, jurisdictional agency.
- B) Proposed detention systems will be shown in plan view with all design data.

## **Task 3 – Utility Planning**

### **Task 3a – Existing Utility Research**

- A) **ms** will coordinate with Liberty Township (storm & sanitary), Del-Co Water, and the electric, gas, cable and telephone companies regarding utilities that directly affect the South Liberty Park's site. This information will be used by **ms consultants, inc.** to provide a letter to Liberty Township stating what utilities are currently available on the site. **Design of utility extensions are not included as part of this proposal and will require a modification to the contract.**

### **Task 3b – Sanitary Extension Research**

- A) **ms consultants, inc.** will analyze the proposed horizontal sanitary sewer alignments for future development.
- B) **ms consultants** will prepare a horizontal sanitary sewer extension plan to locate the preferred horizontal alignment of the utility mainlines. As part of this task, vertical conflicts will be identified against information provided by the utility companies. **The master plan will be subject to change during final engineering in Phase II of the proposed project which is outside to scope of services for this proposal.**

**Redesign of the existing pump station, proposed easement descriptions and exhibit, and plan and profile of the sewer extension are not included in this proposal and will require a modification to the contract.**

#### **Task 4 – Deliverables**

- A) As part of the basic services the following hard copies shall be supplied to Liberty Township: five set of bond prints, one set of **half-size prints (11" x 17")**, and **one set of AutoCAD files for preliminary review**. Five set of bond prints, one set of half-size prints (11" x 17"), and **one set of AutoCAD files for final review**. In addition, mileage for the project meetings outlined in this scope are included in the project fee.

Additional prints and mileage will be handled as a reimbursable expense.

#### **Additional Services Available Upon Request**

- Wetland Study/Mitigation
- Survey (topographic & boundary, ALTA, easement plat)
- Permitting (zoning, engineering, EPA-NOI, ODOT, etc.)
- Public Meetings
- 3-D Rendering of the proposed park
- Utility Design (Restrooms, concession stands, park features, site lights, sanitary extensions)
- Redesign of the existing sanitary pump station
- Traffic Study/Road Improvements to Liberty Road North
- Cost Estimating
- Bidding Assistance
- Construction Administration and Inspection
- Request For Information (RFI)/Shop Drawings

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