

Panther Park Update

Prepared for Town of Whitestown by LandWorx Engineering

Panther Park S Buck Street, Whitestown, Indiana

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made this ____ day of _____, 20____, between LandWorx Engineering, LLC (LandWorx) and _____ (Client), provides for the following Professional Services:

Reference Attachment A: Scope of Services incorporated herein.

Compensation to be paid to LandWorx for providing the requested Services shall be as follows:

Reference Attachment B: Compensation incorporated herein.

Any services beyond those identified in this Agreement shall be considered Additional Services. Unless otherwise agreed, such Additional Services shall be performed on an hourly basis. Email transmissions may be utilized for authorizing Additional Services provided LandWorx receives the transmission and agrees that the terms and conditions are acceptable. Email transmissions shall only be effective for changes in the scope, compensation, or schedule. Reimbursable expenses include direct expenses included but not limited to travel, lodging, meals, telephone and fax, copies, shipping/overnight delivery, and prints, times a multiple of 1.10. The fees provided in this Agreement do not include any sales or service tax that may be required to be imposed. The Client shall be responsible for the payment of any such taxes that may be imposed.

This Agreement shall remain in effect until 6/30/2020, unless terminated as provided herein. LandWorx agrees to perform services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. LandWorx shall perform its services with due and reasonable diligence consistent with sound professional practice. If services are disrupted or delayed for reasons beyond LandWorx's control, the completion date and fee will be modified accordingly.

LandWorx shall generally submit invoices on a monthly basis. These invoices shall be due and payable by the Client upon receipt. The Client hereby agrees that it will make payment for said Services within 15 days from the date of the invoice. If Client fails to make payment as provided, LandWorx may immediately suspend its services or terminate this Agreement, and may suspend its services or terminate its agreement on any other project with Client, its subsidiary, or related entity. Client agrees to pay costs of collection, including attorneys fees, and interest on all outstanding balances at a rate of 1.5 percent per month.

In the event the Project identified in this Agreement is suspended, canceled, or abandoned, LandWorx shall be compensated to the date of notice of suspension, cancellation, or abandonment. If the Client delays or suspends LandWorx's services for more than 45 cumulative days, then LandWorx may terminate this Agreement, upon giving seven days written notice. Either party may terminate this Agreement upon the other's filing for bankruptcy, insolvency, or assignment for the benefit of creditors. Either party may terminate this Agreement for cause upon 7 days written notice of a substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. Upon suspension or termination, LandWorx shall be compensated for the Services provided and reimbursable expenses incurred up to the date of suspension or termination, including necessary and reasonable costs incurred thereafter.

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LandWorx shall not be responsible for or have control over construction means, methods, techniques, sequences, or procedures; or for safety precautions and programs in connection with the work. Nor shall LandWorx be responsible for any contractor's failure to carry out the work in accordance with plans, specifications, or with applicable laws or regulations. LandWorx shall have no responsibility for the discovery, presence, handling, removal, transportation, or disposal of or exposure to hazardous, toxic, or similar materials in any form at the project site.

Neither party will assign or transfer its interest in this Agreement, but LandWorx may subcontract certain portions of the Services. Nothing in this Agreement shall be construed as creating any rights, benefits, or causes of actions for any third party against either LandWorx or the Client. LandWorx is an independent contractor to the Client and is not an employee, agent, joint-venturer, or partner of the Client.

If a dispute between the parties arises out of or relates to this Agreement, then the parties agree to make a good faith effort to settle the issue through direct discussion between the parties prior to having recourse to a judicial forum. It is further agreed that the parties each waive their right to indirect, special, incidental, consequential, or punitive damages. The limit of liability of LandWorx to the Client for any cause or combination of causes resulting from the Services rendered hereunder shall be, in total amount, limited to the fees paid under this Agreement or twenty-five thousand dollars, whichever is greater.

To the extent damages are covered by property insurance during construction, the Client waives all rights against the contractors, consultants, agents and employees of LandWorx for damages, except such rights as they may have to the proceeds of such insurance.

The Client shall provide basic project data and LandWorx shall be entitled to rely on any and all information provided. The Client shall review LandWorx's work thoroughly and promptly, provide direction as necessary, and give notice of any defect in LandWorx's work or services. The Client shall, within 30 days of notice of any defect in work or service, give written notice to LandWorx describing the defect and providing any costs associated with such defect. The Client waives any right to set-off or recovery of costs associated with any defective work or service unless the Client strictly complies with this provision and provides written notice as required herein.

All documents prepared or furnished by LandWorx are instruments of service, and LandWorx shall retain all ownership and property interests therein. The Client may make and retain hard (i.e., not electronic) copies of documents for use on the project. Documents are not intended or represented to be suitable for reuse. LandWorx shall not be required to provide or deliver electronic copies of documents unless specifically required in the description of Professional Services. In the case of any discrepancy between any electronic files and hard copies of drawings or files, hard copies shall control. Due to the easily alterable nature of electronic files, LandWorx makes no warranties, either expressed or implied, with respect to performance of electronic files, if such files are provided or delivered to Client.

This Agreement embodies the entire agreement and understanding between the parties.

TOWN OF WHITESTOWN

LANDWORX ENGINEERING, LLC

Signed

Signed

Printed Name

Printed Name

Title

Title

Date

Date



ATTACHMENT A: SCOPE OF SERVICES

PROJECT UNDERSTANDING

LandWorx understands the following:

- Town of Whitestown Parks and Recreation wishes to replace and update playground equipment for Panther Park located on South Buck Street in Whitestown, Indiana.
- The replacement is to generally include two play areas separated by age groups (2-5 yrs old and 5-12 yrs old) and shall also include pour-in-place surfacing meeting fall requirements and appropriate ASTM, local, and national standards.
- Client is open to “off-the-shelf” equipment as available from vendors to save time on project completion.
- The replacement should be complete within the 2019 calendar year if possible.

SERVICES

I. Bid Package Preparation

- a. LandWorx will work with the Client to prepare a Bid Package for the removal of existing equipment, site preparation, procurement and installation of the new surfacing and play equipment, post-installation testing as required.
- b. Bid Package will include the following:
 - i. Bid Notice
 - ii. Instructions to Bidders
 - iii. Plans and Specifications
 - iv. Bid Form and Submittal Information
- c. Client shall provide General Conditions/up front language for the specifications and any applicable information regarding contract requirements (prevailing wage, requirements for work within the applicable jurisdiction, insurance requirements, required permits, liquidated damages, etc.).
- d. Bid Package will be presented to the Client for review and approval prior to being sent out to bidders.

II. Bid Coordination

- a. LandWorx will work with the Client to develop a bid schedule and send out the package to at least three qualified playground equipment companies.
- b. LandWorx will compile and then work with the Client to respond to questions from the bidders. LandWorx will receive the bids, tabulate them for comparison, and present them to the Client for selection. If requested, LandWorx will present a recommendation for a preferred selection.

III. Contract Issuance

- a. LandWorx will assist the Client in coordinating the contract and construction scheduling. Client will develop, issue, and execute the contract with the playground equipment company.

IV. Construction Administration

- a. LandWorx will visit the site during demolition and installation at least three times. Once during or just after demolition, once at installation of the pour-in-place surface, and once at finalization of installation of the play equipment.
- b. In coordination with the Client, LandWorx will respond to Material Submittals and Requests for Information and questions on final equipment of equipment.
- c. LandWorx will review pay-applications from the selected equipment company and pass the through to the Client for approval and payment.
- d. LandWorx will work with the selected equipment company and the Client to ensure post-construction testing is completed per the contract and specifications.



ATTACHMENT B: COMPENSATION

SUMMARY

Scope Item	Fee (Hourly/Lump Sum)
Bid Package Preparation	\$3,850. (L/S)
Bidding Coordination	\$1,800. (L/S)
Contract Issuance	\$500. (L/S)
Construction Administration	\$2,150. (Hourly)
Reimbursable Expenses (Estimated – see below)	\$450.
Total	\$8,750.

REIMBURSABLE EXPENSES

Reimbursable expenses are direct expenses including but not limited to the following:

- Mileage
- Travel
- Lodging
- Meals
- Shipping/overnight delivery
- Prints

ATTACHMENT C: HOURLY RATE SCHEDULE

<u>Personnel Role</u>	<u>Hourly Rate</u>
Principal	\$140
Project Manager/Director	\$125
Engineer/Landscape Architect	\$115
CAD Technician	\$95

The above rates are valid for this project through 12/31/2019 and are then subject to change on an annual basis.