

# AGREEMENT BETWEEN CLIENT AND LANDSCAPE ARCHITECT

This Agreement, effective as of August 27, 2024, is between the following parties:

CLIENT: City of Independence, Iowa

LANDSCAPE ARCHITECT: RITLAND+KUIPER Landscape Architects (RKLA)

for the following PROJECT: **1<sup>ST</sup> STREET WEST CORRIDOR IMPROVEMENTS**

## ARTICLE 1: LANDSCAPE ARCHITECT'S BASIC AND ADDITIONAL SERVICES

### A. Project Understanding

1. The project scope and design intent will be guided by the corridor concept plans prepared by RITLAND+KUIPER as part of the Community Visioning process and approved by the Client.
2. This project consists of assistance in preparation of a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant application, including grant writing, concept layout, concept cost estimate, benefit/cost analysis (BCA), traffic analysis for BCA, and presentation graphics for the application of the 1st Street W. corridor from the Wapsipinicon River to the west City of Independence city limits. The RAISE grant application package will be developed for the 2025 RAISE submission. This project will include a review of the existing roadways, sidewalks, ADA accommodation, street reconstruction schedule, existing utilities, potential areas for stormwater quality improvements and coordination with existing and planned private developments in the area.
3. Design for streetscape enhancements will be complementary with other recent downtown streetscape renovations.
4. The Landscape Architect will be responsible for hiring subconsultants necessary for the completion of the services outlined below (AECOM).
5. The Landscape Architect agrees to provide its professional services in accordance with generally accepted standards of its profession.

### B. Scope of Services

#### 1. *Concept Design Development*

- a. Utilize existing site information to develop a basemap for the streetscape corridor in the study.
- b. Update streetscape concept plans for the 1<sup>st</sup> Street West corridor previously developed as part of the Community Visioning process in response to more detailed evaluation of the data collected in this study. Enhancements reviewed as part of the streetscape concept updates may include trees, lights, specialty pavement, furniture, and signage. The study will include evaluation of utility needs in these corridors including site lighting and potential utility relocations.
- c. Coordinate the AECOM Concept Design services (Tasks 1-7) on Exhibit A attached.
- d. Coordinate work sessions as needed for design interaction between Client and City stakeholders. Anticipated meetings and administrative tasks are outlined in Exhibit A (Tasks 24-29).
- e. Develop a final Conceptual Development Plan for the streetscape corridor as described in the Project Understanding above.
- f. Develop preliminary cost opinion to help evaluate funding needs and priorities.

## **2. Traffic Analysis**

- a. These services include traffic data gathering of previous studies and traffic signal timing, traffic counts, traffic analysis for use in the BCA and RAISE grant application and two traffic signal warrants.
- b. Coordinate the AECOM Traffic Analysis services (Tasks 8-15) on Exhibit A attached.
- c. Assist AECOM in developing a technical memorandum to summarize the approach, methodology, findings, results and conclusions of the traffic study.

## **3. RAISE Grant Assistance**

- a. Develop Raise Grant Application in partnership with the Client. The following tasks for the RAISE Grant Application are described in further detail in Exhibit A:
  - Review Documents and Project Information
  - Document Project Benefits and Innovations / Preliminary Assessment of Project Against RAISE Guidance
  - Multimodal Connectivity
  - Identify Innovations / Partnerships
  - Economic Analysis - Benefit Cost Analysis (BCA) and Equity Considerations
  - Consistency with Local Plans & Technical Feasibility
  - Grant Application
  - Draft and Final Application and Supplemental Materials
- b. Raise Grant Application will require the following tasks are provided by the Client:
  - Provide Required Project Information
  - Secure Support Letters
  - Certifications and Letters of Commitment for Funding
  - Submission of the Application
  - Assistance Coordinating with Project Partners (as needed).

## **C. Services Not Included**

The following items are not included in the project scope at this time but could be added by supplemental agreement if and when the services are needed.

1. Preliminary and Final Design Services
2. Design & Construction Survey
3. Geotechnical Services
4. Environmental Services
5. NEPA Clearances
6. Project Permits
7. Construction-Related Services

## **D. Additional Services**

1. We will identify services not included in our proposed scope of work if they are requested. We will advise your office of the impact on our work and propose an increase to the fee amount before any work is undertaken that is outside our scope of services.
2. Extra services will be provided on an hourly basis at the billing rates listed below or the current hourly rates prevailing when services are rendered.

## **ARTICLE 2: CLIENT'S RESPONSIBILITIES**

- A. Client agrees to provide Landscape Architect with all information, surveys, reports, and professional recommendations and any other related items requested by Landscape Architect in order to provide its professional services. Landscape Architect may rely on the accuracy and completeness of these items.
- B. Client agrees to advise Landscape Architect of any known or suspected contaminants at the Project site. Client shall be solely responsible for all subsurface soil conditions.
- C. Client will obtain and pay for all necessary permits from authorities with jurisdiction over the Project.
- D. Client agrees to provide the items described in Article 2.A and to render decisions in a timely manner so as not to delay the orderly and sequential progress of Landscape Architect's services.

**ARTICLE 3: COMPENSATION AND PAYMENTS**

- A. Client agrees to pay Landscape Architect as follows:

Based on the complexity of the project and the amount of services anticipated, RITLAND+KUIPER Landscape Architects (and their subconsultant, AECOM) will provide the services described in Article 1, and in accordance with the conditions outlined in this contract, for a sum not to exceed **\$159,000**.

**TASK 1: CONCEPT DESIGN DEVELOPMENT (\$49,000)**

**TASK 2: TRAFFIC ANALYSIS (\$39,000)**

**TASK 3: RAISE GRANT ASSISTANCE (\$71,000)**

- 1. Billing for services will be hourly, at the rates listed below, and submitted monthly as the work progresses.
- 2. RKLA billing rates effective through March, 2025:
 

Craig Ritland, FASLA	\$ 150.00/hr.
Mark Kuiper, ASLA	\$ 150.00/hr.
Samantha Price, PLA	\$ 100.00/hr.

- B. Reimbursable Expenses, if incurred (i.e. printing costs) will be billed at our direct cost, in addition to the fees above. At this time we do not anticipate any significant printing costs in the design development process as we expect our deliverables to be electronic files (PDF documents).
- C. Landscape Architect shall bill Client for Basic and Additional Services and Reimbursable Expenses once a month. All payments are due Landscape Architect upon receipt of invoice.

**ARTICLE 4: TERMINATION**

- A. Either Client or Landscape Architect may terminate this Agreement upon seven days written notice.
- B. If terminated, Client agrees to pay Landscape Architect for all Basic and Additional Services rendered and Reimbursable Expenses incurred up to the date of termination.
- C. Upon not less than seven days' written notice, Landscape Architect may suspend the performance of its services if Client fails to pay Landscape Architect in full for services rendered or expenses incurred. Landscape Architect shall have no liability because of such suspension of services or termination due to Client's nonpayment.

**ARTICLE 5: DISPUTE RESOLUTION**

- A. Client and Landscape Architect agree to mediate claims or disputes arising out of or relating to this Agreement before initiating litigation. The mediation shall be conducted by a mediation service acceptable to the parties. A party shall make a demand for mediation within a reasonable time after a claim or dispute arises, and the parties agree to mediate in good faith. In no event shall any demand for mediation be made after such claim or dispute would be barred by applicable law. Mediation fees shall be shared equally.

## **ARTICLE 6: USE AND OWNERSHIP OF LANDSCAPE ARCHITECT'S DOCUMENTS**

- A. Upon the parties signing this Agreement, Landscape Architect grants Client a nonexclusive license to use Landscape Architect's documents as described in this Agreement, provided Client performs in accordance with the terms of this Agreement. No other license is implied or granted under this Agreement. All instruments of professional service prepared by Landscape Architect, including but not limited to, drawings and specifications, are the property of Landscape Architect. These documents shall not be reused on other projects without Landscape Architect's written permission. Landscape Architect retains all rights, including copyrights, in its documents. Client or others cannot use Landscape Architect's documents to complete this Project with others unless Landscape Architect is found to have materially breached this Agreement.

## **ARTICLE 7: MISCELLANEOUS PROVISIONS**

- A. This Agreement is governed by the law of Landscape Architect's principal place of business.
- B. This Agreement is the entire and integrated agreement between Client and Landscape Architect and supersedes all prior negotiations, statements or agreements, either written or oral. The parties may amend this Agreement only by a written instrument signed by both Client and Landscape Architect.
- C. In the event that any term or provision of this Agreement is found to be unenforceable or invalid for any reason, the remainder of this Agreement shall continue in full force and effect, and the parties agree that any unenforceable or invalid term or provision shall be amended to the minimum extent required to make such term or provision enforceable and valid.
- D. Neither Client nor Landscape Architect shall assign this Agreement without the written consent of the other.
- E. Irrespective of any other term in this Agreement, Landscape Architect shall not control or be responsible for construction means, methods, techniques, schedules, sequences or procedures; or for construction safety or any other related programs; or for another parties' errors or omissions or for another parties' failure to complete their work or services in accordance with Landscape Architect's documents.
- F. To the greatest extent permitted by Iowa law, the Client agrees to indemnify, defend and hold Landscape Architect harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees and all legal expenses and fees incurred through appeal, and all interest thereon, accruing or resulting to any and all persons, firms or any other legal entities on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of the Project and/or this Agreement, except that the Landscape Architect shall not be entitled to be indemnified to the extent such damages or losses are found by a court or forum of competent jurisdiction to be caused by Landscape Architect's negligent errors or omissions.
- G. Should any legal proceeding be commenced between the parties to this Agreement seeking to enforce any of its provisions, including, but not limited to, fee provisions, the prevailing party in such proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for attorneys' and expert witnesses' fees, which shall be determined by the court or forum in such a proceeding or in a separate action brought for that purpose. For purposes of this provision, "prevailing party" shall include a party that dismisses an action for recovery hereunder in exchange for payment of the sum allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action or proceeding.

- H. Client and Landscape Architect waive consequential damages for any claims, disputes or other matters in question arising out of or relating to this Agreement. Landscape Architect's waiver of consequential damages, however, is contingent upon the Client requiring contractor and its subcontractors to waive all consequential damages against Landscape Architect for claims, disputes or other matters in question arising out of or relating to the Project.
- I. To the extent damages are covered by property insurance during construction, Client and Landscape Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for such damages. Client or Landscape Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties described in this paragraph.
- J. Client acknowledges and agrees that proper Project maintenance is required after the Project is complete. A lack of or improper maintenance may result in damage to property or persons. Client further acknowledges and agrees that, as between the parties to this Agreement, Client is solely responsible for the results of any lack of or improper maintenance.
- K. Nothing in this Agreement shall create a contractual relationship for the benefit of any third party.

LANDSCAPE ARCHITECT

CLIENT: City of Independence



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Mark Kulper, ASLA, LEED AP, Principal  
Signature Dated: August 27, 2024  
License/Certificate No. IOWA 00413  
Renewal Date: June 30, 2025

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Title \_\_\_\_\_

Dated \_\_\_\_\_