

February 26, 2024

John Zepko, Director of Planning and Code Enforcement
Town of Lansing
29 Auburn Road
Lansing, NY 14882

Proposal for Professional Services
Preparation of a Consolidated Funding Grant Application for the 2024 Grant Cycle
Colliers Engineering & Design Proposal No.: 24002127P

Dear Mr. Zepko,

Colliers Engineering & Design, Inc. is pleased to submit this proposal to assist the Town with the preparation of a funding application to update its Comprehensive Plan or Zoning Code through New York State's Consolidated Funding Application (CFA) process. There are currently two grant programs that have provided financial assistance for comprehensive planning and code update efforts in previous funding cycles: the Smart Growth Program and the Climate Smart Communities Program. Following the completion of the proposed Comprehensive Plan and Land Use Ordinance Gap Analysis, the Town will be in a position to determine whether to pursue funding for a Comprehensive Plan update or a Zoning Code update.

SCOPE OF SERVICES

Based on our conversations and information noted above, we propose the following scope of services to prepare and submit a compelling grant application for one of these efforts under one or both programs:

Task 1 - Review the requirements of both programs to determine the most appropriate funding source for the Town. This may result in preparing an application under both programs.

Task 2 - Prepare responses to the program questions as well as a proposed scope and project budget.

Task 3 - Coordinate application needs with the Town, such as resolutions of support, prior grant experience, etc.

Task 4 - Support the Town in submission of grant materials to the State portal.

SCHEDULE OF FEES

This project will be billed on an hourly basis with a not-to-exceed fee of \$10,000 at the hourly rates shown below.

This approach will allow us to reduce our fee if the level of effort it takes to complete the application is less than anticipated. It should be noted that this fee estimate includes the potential to apply to both programs.

Staff Rates 2024	
Billing Titles	Hourly Rates
Senior Principal	280.00
Senior Technical Director	230.00
Project Manager	190.00
Senior Project Specialist	180.00
Technical Specialist	150.00
Senior Technical Assistant	125.00

Buildings Division Schedule

Rates are effective through December 31, 2024

This Contract and Fee Schedule are based upon the acceptance of Colliers Engineering & Design's Business Terms and Conditions contained in Section II of this Contract. Delivery, mileage, printing and reproduction, overnight mail service and postage costs will be added to each monthly invoice.

Payment terms are NET30 of receipt of invoice.

SCHEDULE

Upon receipt of authorization to proceed, we anticipate completing this effort within eight weeks. This timeline assumes that Notice of Funding Availability is released in late May 2024 and applications are due in late July 2024, but these dates will be confirmed. CED assumes that a contract will be in place at the time of funding availability.

CLIENT CONTRACT AUTHORIZATION

I hereby declare that I am duly authorized to sign binding contractual documents. I also declare that I have read, understand, and accept this contract.

Signature

Date

Printed Name

Title

If you find this proposal acceptable, please sign where indicated above and return one signed copy to this office. **Payment terms are NET30 of receipt of invoice.** This proposal is valid for 60 days from the date of this proposal.

We very much appreciate the opportunity to submit this proposal and look forward to performing these services for you.

Sincerely,

Colliers Engineering & Design, Inc.



John Steinmetz, FAICP
Principal Planner & Regional Discipline Leader

cc: Kimberly Baptiste, AICP (via email)

Colliers Engineering & Design agrees to provide professional services under the following terms and conditions:

The term Client referenced herein is the person, persons, corporation, partnership, or organization referenced in the proposal between Colliers Engineering & Design and said Client.

1.0 SCOPE OF SERVICES:

Services not set forth in the Scope of Services, are excluded from the Scope of Services, and Colliers Engineering & Design will assume no responsibility to perform such services under the base contract. In situations where a written contract is not executed or where additional services becomes necessary during the course of the project, Colliers Engineering & Design may provide such services using our Technical Staff Hourly Rate Schedule in effect at the time of services. The hourly rates listed in our Technical Staff Hourly Rate Schedule are adjusted semi-annually and the Client shall be billed at the rates that are in effect at the time of service.

Since there are substantial costs to stop and restart a project once it is underway, should a project's progress be halted at any time by the client, for any reason, Colliers Engineering & Design reserves the right to charge a restart fee and/or to renegotiate the remaining fees within the contract.

These Business Terms and Conditions are applicable for any additional professional services rendered for this project including, but not limited to, change orders, client service authorization forms, etc.

2.0 STANDARD OF CARE:

In performing services, we agree to exercise professional judgment, made on the basis of the information available to us, and to use the same degree of care and skill ordinarily exercised in similar circumstances and conditions by reputable consultants performing comparable services in the same locality. This standard of care shall be judged as of the time the services are rendered, and not according to later standards.

Reasonable people may disagree on matters involving professional judgment and, accordingly, a difference of opinion on a question of professional judgment shall not excuse a Client from paying for services rendered. NO OTHER REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IS MADE.

3.0 INVOICES:

Colliers Engineering & Design bills its Clients on a monthly basis using a standard invoice format. This format provides for a description of services performed and a summary of professional fees, expenses, and other charges. For more detailed invoicing requests, Colliers Engineering & Design reserves the right to charge for invoice preparation time by staff members. Monthly invoices will be submitted based upon percentage of services completed and reimbursable expenses. Any comments or discrepancies, relative to invoices shall be submitted in writing within fourteen (14) days or the account will be considered correct.

For professional services billed on an hourly basis, Colliers Engineering & Design reserves the right to invoice all overtime services performed by our employees using our Technical Staff Hourly Rate Schedule in effect at the time of services at ONE AND ONE-HALF TIMES our standard hourly rate for those employees.

Expenses incurred for services, equipment, and facilities not furnished by Colliers Engineering & Design are charged to the Client at cost plus an up-charge not to exceed 15 percent of the invoice for said services.

Client shall pay Colliers Engineering & Design for reimbursable expenses, including, but not limited to, application fees, printing and reproduction, mileage, courier and express delivery service, special/overnight mailings, facsimile transmissions, specialized equipment and laboratory charges, and costs of acquiring materials specifically for the Client. Reimbursable charges will be added to each monthly invoice and are part of Client's responsibility.

4.0 PAYMENT:

Colliers Engineering & Design bills are payable in full UPON RECEIPT and **payment is expected within thirty (30) days**. We reserve the right to assess a late charge of 1.5 percent per month for any amounts not paid within 45 days of the billing date. In the event payment is not made according to the terms and conditions herein, the matter may proceed to a collections agency or to an attorney for collection. Client shall be responsible for fees charged by the collections agency and/or attorney's fees incurred to collect the monies owed. Should the matter proceed to court, client shall also be responsible for court costs.

In addition, where payment is not received in accordance with the terms of this contract, Colliers Engineering & Design reserves the right to withdraw any applications to federal, state, or local regulatory agencies / boards filed on behalf of the client with the understanding that these applications are the property of Colliers Engineering & Design. Colliers Engineering & Design will provide you with written notification two (2) weeks prior to taking any action to withdraw an application submitted on behalf of the client. If payment of all outstanding invoices is not received within two (2) weeks of receipt of this letter, Colliers Engineering & Design will withdraw all pending applications for the project.

5.0 RETAINER:

Colliers Engineering & Design reserves the right to request a retainer from the Client prior to the commencement of services on a project. While retainers are collected prior to the start of a project, the retainer is held to the end of the project, and will be applied to the final invoices. Retainers are not applied to the beginning of the project.

6.0 RIGHT OF ENTRY/JBSITE:

Client will provide for right of entry for Colliers Engineering & Design personnel and equipment necessary to complete our services. While Colliers Engineering & Design will take all reasonable precautions to minimize any damage to the property, it is understood by the Client that in the normal course of our services some damage may occur, the correction of which is not part of this Agreement.

Client shall furnish or cause to be furnished to Colliers Engineering & Design all documents and information known to the Client that relate to the identity, location, quantity, nature or characteristics of any hazardous or toxic substances at, on, or under the site. In addition, the Client will

furnish or cause to be furnished such other information on surface and subsurface site conditions required by Colliers Engineering & Design for proper performance of its services. Colliers Engineering & Design shall be entitled to rely on the accuracy and completeness of Client provided documents and information in performing the services required under this Agreement and Colliers Engineering & Design assumes no responsibility or liability for their accuracy or completeness.

Colliers Engineering & Design will not direct, supervise, or control the work of Client's contractors or their subcontractors. Colliers Engineering & Design shall not have authority over or responsibility for the construction means, methods, techniques, sequences, or procedures and Colliers Engineering & Design's services will not include a review or evaluation of the contractors (or subcontractor's) safety precautions, programs or measures.

Colliers Engineering & Design shall be responsible only for its activities and that of its employees on any site. Neither the professional activities nor the presence of Colliers Engineering & Design or its employees or subcontractors on a site shall imply that Colliers Engineering & Design controls the operations of others, nor shall this be construed to be an acceptance by Colliers Engineering & Design of any responsibility for jobsite safety.

7.0 UTILITIES:

In the execution of our services, Colliers Engineering & Design will take reasonable precautions in accordance with the professional standard of care to avoid damage or injury to subterranean structures or utilities. The Client agrees to hold Colliers Engineering & Design harmless and defend and indemnify Colliers Engineering & Design for any claims or damages to subterranean structures or utilities, which have not been marked-out under the One-Call system or are not shown or are incorrectly shown on the plans furnished.

8.0 TERMINATION OR SUSPENSION OF SERVICES:

Should Client fail to make payments when due or is otherwise in material breach of this Agreement, Colliers Engineering & Design at their election may suspend services at any time after PROVIDING WRITTEN NOTICE TO THE CLIENT until payments are brought current. Colliers Engineering & Design shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension and the Client agrees to indemnify and hold Colliers Engineering & Design harmless from any claim or liability resulting from such suspension.

This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, Colliers Engineering & Design shall be paid for service performed to the termination notice date plus reasonable termination expenses.

In the event of termination, or suspension for more than three (3) months, prior to completion of all services contemplated by the Agreement, Colliers Engineering & Design may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs of Colliers Engineering & Design in completing such analyses, records and reports.

9.0 SUBCONSULTANTS/SUBCONTRACTORS:

Colliers Engineering & Design prefers that its Clients directly retain others whose services are required in connection with a project (e.g., drillers, analytical laboratories, transporters, other experts, etc.), except in unusual circumstances. As a service, we will advise Clients with respect to selecting other such subconsultants/subcontractors and will assist Clients in coordinating and monitoring their performance. In no event will we assume any liability or responsibility for the work performed by other subconsultants/subcontractors, or for their failure to perform any work, regardless of whether we hire them directly as subconsultants/subcontractors, or only coordinate and monitor their work. When Colliers Engineering & Design does engage a subconsultant/subcontractor on behalf of the Client, the expenses incurred, including rental of special equipment necessary for the work, will be billed as they are incurred, at cost plus an up-charge not to exceed 20 percent of the invoice. By engaging us to perform services, you agree to defend, indemnify and hold Colliers Engineering & Design its directors, officers, employees, and other agents harmless from and against any and all claims, losses, liabilities, damages, demands, costs, or judgments arising out of or relating in any way to the performance or non-performance of work by another subconsultant/subcontractor. In addition, Client agrees to pursue recovery of and assert any claims based upon its loss, expenses and/or damages solely and directly against those subconsultants/subcontractors. In consideration of such indemnity and waiver, Colliers Engineering & Design agrees to assign its rights and/or claims against those subconsultants/subcontractors pursuant to the subconsultants/subcontractors agreements with Colliers Engineering & Design to the Client.

10.0 AGREED REMEDY:

Colliers Engineering & Design shall be liable to the Client only for direct damages to the extent caused by Colliers Engineering & Design's negligence in the performance of its services. UNDER NO CIRCUMSTANCES SHALL COLLIERS ENGINEERING & DESIGN BE LIABLE FOR INDIRECT, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES, OR FOR DAMAGES CAUSED BY THE CLIENT'S FAILURE TO PERFORM ITS OBLIGATIONS. With regard to services involving hazardous substances, Colliers Engineering & Design has neither created nor contributed to the creation or existence of any actually or potentially hazardous, radioactive, toxic, or otherwise dangerous substance or condition at any site, and its compensation is in no way commensurate with the potential liability that may be associated with a substance or site.

To the fullest extent permitted by law, the total liability, in the aggregate, of Colliers Engineering & Design and Colliers Engineering & Design's officers, directors, employees, agents and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of in any way related to Colliers Engineering & Design's services, the Project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, strict liability, breach of contract or breach of warranty shall not exceed the total compensation received by Colliers Engineering & Design under this Agreement, not including reimbursable expenses and any subconsultant/contractor fees rendered on the project.

It is intended by the parties to this Agreement that Colliers Engineering & Design's services in connection with the project shall not subject Colliers Engineering & Design's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Colliers Engineering & Design, a New Jersey corporation, and not against any of Colliers Engineering & Design's employees, officers or directors.

11.0 LIABILITY TO THIRD PARTIES:

The Client agrees to be solely responsible for, and to defend, indemnify, and hold Colliers Engineering & Design harmless from any and all liabilities, claims, damages and costs (including reasonable attorney's fees and defense costs) by third parties arising out of, or in any way related to, our performance or non-performance of services, except claims for personal injury, death, or personal property damage to the extent caused by the sole negligence, gross negligence or willful misconduct of employees of Colliers Engineering & Design.

12.0 INDEMNIFICATION:

Colliers Engineering & Design shall maintain, at its own expense, Workers Compensation Insurance, Comprehensive General Liability Insurance and Professional Liability Insurance at all times and will, upon request, furnish insurance certificates to the Client.

To the fullest extent permitted by law, Client shall indemnify, defend and hold harmless Colliers Engineering & Design and its agents, officers, directors and employees, subcontracts or consultants (herein for the remainder of this section collectively referred to as Colliers Engineering & Design) from and against all claims, damages, losses and expenses, whether direct, indirect or consequential or punitive, including but not limited to fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the services of Colliers Engineering & Design or any claims against Colliers Engineering & Design arising from the acts, omissions or work of others, unless it is proven in a court of competent jurisdiction that Colliers Engineering & Design is guilty of negligence, gross negligence, or willful misconduct in connection with the services and such negligence, gross negligence, or willful misconduct was the sole cause of the damages, claims, and liabilities.

Client agrees to defend, indemnify and hold harmless Colliers Engineering & Design from and against all claims, damages, losses and expenses, direct or indirect, and consequential damages, including but not limited to fees and charges of attorneys and court, and arbitration costs, brought by any person or entity, or claims against Colliers Engineering & Design which arise out of, are related to, or are based upon, the actual or threatened dispersal, discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemical, radioactive materials, liquids, gases, or any other material, upon it or into the surface or subsurface soil, water or watercourse, objects, or any tangible or intangible matter.

To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence breach of warranty or contract, or strict liability of Colliers Engineering & Design. This indemnification shall not apply to claims, damages, losses, or expenses which are determined by a court of competent jurisdiction to be the sole result of negligence or willful misconduct by Colliers Engineering & Design of obligations under this Agreement.

13.0 ASSIGNS:

The Client may not delegate, assign, sublet, or transfer his duties or interest in the Agreement without written consent of Colliers Engineering & Design. Colliers Engineering & Design shall not, in connection with any such assignment by the Client, be required to execute any documents that in any way might, in the sole judgment of Colliers Engineering & Design, increase Colliers Engineering & Design's contractual or legal obligations or risks, or the availability or costs of its professional or general liability insurance.

The Agreement shall not create any rights or benefits to parties other than the Client and Colliers Engineering & Design, and nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Colliers Engineering & Design. Colliers Engineering & Design's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Colliers Engineering & Design because of this Agreement of Colliers Engineering & Design's performance or nonperformance of services hereunder.

14.0 OWNERSHIP AND RESTRICTION ON REUSE OF DOCUMENTS:

All drawings, calculations, reports, plans, specifications, computer files, field data, notes, and other documents and instruments ("Documents") prepared by Colliers Engineering & Design are and remain the property of Colliers Engineering & Design as instruments of service. The Documents may not be copied by the Client or others on extensions of this project or on any other project. The Client agrees not to use Colliers Engineering & Design's Documents for marketing purposes, for projects other than the project for which the Documents were prepared by Colliers Engineering & Design, or for future modifications to this project, without Colliers Engineering & Design's express written permission. Any reuse or distribution to third parties without such express written permission or project-specific adaptation by Colliers Engineering & Design will be at the Client's sole risk and without liability to Colliers Engineering & Design or its employees, subsidiaries, independent professional associates, sub consultants, and subcontractors. The Client shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Colliers Engineering & Design from and against any and all expenses, fees, demands, liabilities, suits, actions, claims, damages or losses including attorneys' fees and costs, arising out of or resulting from such unauthorized distribution or reuse of Documents.

Computer files are not considered part of deliverables unless specifically requested or required by the signed contract. If computer files are required, Colliers Engineering & Design shall provide Client files subject to the following conditions:

The Client must execute our standard Electronic Media Release form prior to any distribution of files. The Client recognizes that data, plans, specifications, reports, documents or other information recorded on or transmitted as electronic media are subject to undetectable alteration, either intentional or unintentional due to, among other causes, transmission, conversion, media degradation, software error, or human alteration. Accordingly, it is understood that electronic files provided to the Client are for informational purposes only and are not intended as an end-product. Colliers Engineering & Design makes no representation of any warranties, either expressed or implied, regarding the fitness or

suitability of the electronic documents. Accordingly, the Client agrees to waive any and all claims against Colliers Engineering & Design and Colliers Engineering & Design's consultants relating in any way to the unauthorized use, reuse or alteration of the electronic documents. Any unlicensed use or reuse of the documents without our written consent will constitute a violation of our copyright. Only original plans and reports of the most recent date bearing the signature and the embossed seal of the professional will be considered documents of record.

Colliers Engineering & Design, shall maintain in its storage facility, samples collected as part of their services provided for a period of three (3) months after issuance of final reports. After the three (3) month time limit, all samples will be disposed of in accordance with appropriate regulations at the time. Extended storage of samples can be arranged at an additional cost to be established on a project by project basis.

15.0 GENERAL CONDITIONS:

Colliers Engineering & Design shall not be responsible for the delays caused by factors beyond its reasonable control, including but not limited to delay due to accidents, an act of God, fire, hurricane, flood, explosions, strike, boycott or other labor dispute, failure of the Client to furnish timely information or approve or disapprove of Colliers Engineering & Design's services or work product, delays caused by faulty performance by the Client or contractors of any level, or by acts of Government, which, in the opinion of Colliers Engineering & Design, could not have been reasonably foreseen and provided for, such delay will entitle Colliers Engineering & Design to an extension of time in performing its Services. If there is any increase in the total cost of providing Services by reason of any such delay, Colliers Engineering & Design will notify Client of particulars, and Client will pay for such increase. When such delays beyond Colliers Engineering & Design's reasonable control occur, the Client agrees that Colliers Engineering & Design shall not be responsible for damages, nor shall Colliers Engineering & Design be deemed in default of this Agreement.

The fees quoted in this proposal assume that upon authorization, this project will commence through to completion without a stop work order from the Client. Should a stop work order be received from the Client before completion of the project or any task, additional fees may be required to restart the project.

16.0 ENTIRE AGREEMENT:

This Agreement comprises the final and complete Agreement between the Client and Colliers Engineering & Design. It supersedes all prior or contemporaneous communications, representations, or Agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement signifies that each party has read the document thoroughly, has had the opportunity to have questions explained by independent counsel and is satisfied with the terms and conditions contained herein. Amendments to this Agreement shall not be binding unless made in writing and signed by both the Client and Colliers Engineering & Design.

To the extent Client provides its own Agreement and that Agreement conflicts with or is silent with respect to any term or condition expressed herein, these conditions shall prevail and shall be binding upon the parties.