



25 Star Point Terrace, Middlebury, VT 05753 • 802-236-8324 • led-vt.com

June 1, 2022

Ms. Kathleen Ramsay, Town Manager
Town of Middlebury
77 Main St.
Middlebury, VT 05753

Re: Agreement for Professional Engineering Services
Mill Street & Park Street Improvements Project - Final Design Phase Engineering Services
LED Project No. 22028

Dear Kathleen;

This letter is written pursuant to your (CLIENT) request for Landmark Engineering & Design, LLC., (CONSULTANT) to provide professional Engineering services as outlined in the Work Proposal dated May 26, 2022, included as Attachment No. 1. It is to be considered an AGREEMENT when executed and witnessed by a duly authorized agent of the CLIENT.

SCOPE OF SERVICES

The CONSULTANT will perform contract administration and construction oversight for the following services as described in Attachment No. 1, Section 1: Project Understanding. Professional services are to be performed by the CONSULTANT as detailed in Section 2: Scope of Services in Attachment No. 1 of this AGREEMENT. The CLIENT may, from time to time, request changes in the scope of services of the CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT's compensation, which are mutually agreed upon by and between the CLIENT and the CONSULTANT, shall be incorporated into this AGREEMENT by written amendments signed by both parties.

BASIS OF COMPENSATION

For services as outlined in Section 2: Scope of Services in Attachment No. 1, the CLIENT agrees to compensate the CONSULTANT as follows:

Items 1-6: A Lump Sum Fee of Eight Thousand Three Hundred Fifty Dollars (\$8,350.00) including Reimbursable Expenses per Section 4: Cost Proposal of Attachment No. 1.

The total engineering fee for the Final Design Phase Engineering Services of the Mill Street & Park Street Improvements Project is Eight Thousand Three Hundred Fifty Dollars (\$8,350.00).

Billing for each work item shall be percentage of completion as indicated below:

Lump Sum Services: Includes all engineering costs and direct expenses per Attachment No. 1. CLIENT shall be invoiced / billed throughout the project duration based upon percentage complete. The cost to the CLIENT will be limited to the lump sum fee indicated for each Lump Sum work item above.

Hourly: N/A

TERMS AND CONDITIONS:

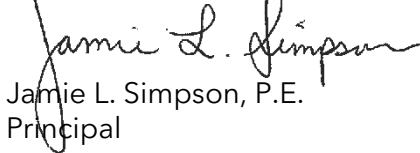
Refer to Attachment No. 2 for the terms and conditions that govern this AGREEMENT.

If this AGREEMENT is not executed within sixty (60) days of the date on Page 1, it may be subject to renegotiation.


If this AGREEMENT is acceptable, please sign both copies and return one (1) executed copy to our office, to confirm our agreement. We are pleased to have the opportunity to be of service.

Respectfully,

LANDMARK ENGINEERING & DESIGN, LLC



Jamie L. Simpson, P.E.
Principal



Elias J. Erwin, LD
Principal

ACKNOWLEDGMENT

The Town of Middlebury, Vermont hereby acknowledges this to be an AGREEMENT and agrees to the conditions as stated. You are hereby directed to proceed with the Scope of Services.

The Town of Middlebury, Vermont hereby acknowledges that they have the financial resources and intend to pay for services rendered in accordance with the conditions as stated herein and acknowledge that invoices will be paid in full within thirty (30) days of billing.

The Town of Middlebury, Vermont warrants that the signature below represents the CLIENT's AUTHORIZED REPRESENTATIVE and possesses the full legal authority to execute this AGREEMENT on behalf of CLIENT.

TOWN OF MIDDLEBURY

Signature

Date of Execution

Witness to Signature

Executed in Duplicate



25 Star Point Terrace, Middlebury, VT 05753 • 802-236-8324 • led-vt.com

June 1, 2022

Mrs. Kathleen Ramsay, Town Manager
Town of Middlebury
77 Main Street
Middlebury, VT 05753

RE: Proposal for Mill Street & Park Street Improvements Project
Final Design Phase Engineering Services
Middlebury, VT 05753

Mrs. Ramsay;

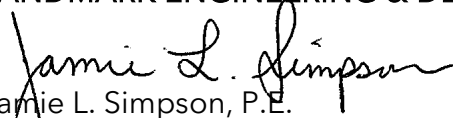
Landmark Engineering & Design, LLC. (LED) would like to thank you and Bill Kernan, Public Works Director of Operations, for the opportunity to provide engineering services for the Town of Middlebury. Attached is our Project Understanding, Scope of Services, Project Schedule, and Cost Proposal for the above-referenced project.

This project includes providing Final Design Phase engineering services for the Mill Street & Park Street Improvements Project to include design of new sewer main, new stormwater main, new precast underground structures, and restoration of all existing paved surfaces on Mill Street and Park Street located in Middlebury, VT.

LED has the knowledge and expertise to effectively assist the Town of Middlebury by providing essential engineering services in a timely, efficient, and cost-effective manner.

Thank you again for the opportunity to submit this proposal. We look forward to your response.

Respectfully,
LANDMARK ENGINEERING & DESIGN, LLC.


Jamie L. Simpson, P.E.
Principal Engineer
Enc.

1. Project Understanding

As discussed on April 7, 2022, in a pre-proposal on-site meeting with Bill Kernan, Matt Cram, and Bob Wells, Landmark Engineering & Design, LLC. (LED) proposes a project scope of work to include Final Design Phase Engineering Services for the following improvements:

1. Evaluation of new sewer main alternatives, design of approximately 120 LF of new stormwater main, five (5) new underground structures, and design of sewer tie-ins (existing 8" diameter mains and several existing 4" diameter services) to the recommended design alternative.
2. Resetting of existing underground structure frames and grates to establish proper cross-slope, road crown and curb reveal.
3. Removal of a small portion of the existing above-ground stone wall at the intersection of Mill Street and Park Street, with restoration of the stone wall end, at the limits of removal.
4. Restoration of the existing paved surfaces on Mill Street and Park Street. The area anticipated for paved surface restoration includes approximately 525 square yards of road surface on a portion of Park Street and Mill Street. At the time of construction, it is anticipated that the existing paved road surface within the project limits shall be removed, the subbase compacted and graded to obtain finish elevations in accordance with the site plans.

2. Scope of Services

The following technical approach is presented to address the Scope of Services obtained from the pre-proposal on-site meeting on April 7, 2022.

1. Landmark Engineering & Design, LLC. (LED) will review proposed maps and drawings provided by the Town, as well as any available existing drawings, surveys and permits related to the project site.
2. LED will conduct a topographical survey of the project area up to and including the front face of existing buildings. The topographic survey of the project site will include existing street rights-of-way, utilities, driveways, corners of buildings, walls, stairs, trees and shrubs. The topographic survey will be used to create a base map at a scale of 1-inch is equal to 20-feet (1"=20') with 1-foot contours.
3. LED will perform Final Design and Drafting services for the project including the evaluation of design alternatives for sanitary sewer mains, storm sewer mains in addition to underground structures and details associated with the recommended design.
4. Preliminary cost estimates and an expected construction schedule for the selected design alternative shall be prepared and provided to the Town.
5. LED will identify any required permits anticipated for the project. At this time, there are no required permits anticipated for the scope of work related to replacement of existing municipal sewer mains, stormwater mains or underground structures.
6. Upon completion of the final design, LED will prepare and finalize contract drawings to be used for construction. In addition, Contract Documents and Technical Specifications shall be prepared and provided to the Town.

LED is not responsible for the following under this agreement:

1. Materials testing service fees.
2. Public Notices.
3. Workers' Safety & Jobsite Responsibilities.
4. Bid Phase or Construction Engineering Services

3. Project Schedule

The following Project Schedule will result in a completed project that meets the needs of the Town of Middlebury. In addition, our goal throughout the project shall be to maintain the satisfaction of the Town, the engineer, the contractor and business owners in the area.

<u>Project Milestone</u>	<u>Complete by:</u>
Executed Agreement	June 14, 2022
Prepare/Evaluate/Recommend Design Alternatives	July 1, 2022
Complete Final Design of Recommended Alternative	July 29, 2022
Design Revisions & Project Meeting	August 2, 2022
Provide Final Contract Documents & Drawings	August 5, 2022

4. Cost Proposal

The following is our Cost Proposal for the engineering services for this proposed project:

<u>Task Items</u>	<u>Manhours</u>	<u>Amount</u>	<u>Basis</u>
Items No. 1 & 2	20	\$1,600	Lump Sum
Item No. 3	46	\$4,475	Lump Sum
Item No. 4 & 5	5	\$475	Lump Sum
Item No. 6	19	\$1,700	Lump Sum

Reimbursable Expenses: \$100
Mileage: \$0

Total \$8,350.00

Terms and Conditions

PERFORMANCE OF SERVICES: The CONSULTANT shall perform the Services as outlined on Page 1 in consideration of the stated fee and payment terms. The Services shall not be changed without the written agreement of both the CONSULTANT and the CLIENT, except for changes to the Services as may be permitted, authorized, or contemplated by the AGREEMENT.

CLIENT'S AUTHORIZED REPRESENTATIVE: The CLIENT shall designate, by signing, that he/she will act as CLIENT'S authorized representative regarding the services to be rendered under this AGREEMENT. He/she shall have authority to transmit instructions, receive information, interpret and define CLIENT'S policies and decisions regarding services for the Project.

TERMINATION, SUSPENSION OR ABANDONMENT: This AGREEMENT may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the party initiating the termination. CONSULTANT shall be compensated in full for services performed and expenses incurred prior to the date of termination, suspension, or abandonment.

OWNERSHIP OF DOCUMENTS: Plans, specifications, designs and reports prepared under this AGREEMENT by the CONSULTANT as instruments of service, are and shall remain the CONSULTANT's property, whether the project for which they are made is executed or not. The CLIENT shall be permitted to retain copies, including reproducible copies of plans, specifications, designs and reports, in connection with the use and occupancy of the specific project. The plans, specifications, designs and reports shall not be used by the CLIENT on other projects, for additions to this project, or for completion of this project by others except by agreement in writing and, provided the CONSULTANT is not in default under this AGREEMENT, without appropriate compensation to the CONSULTANT.

SCOPE OF OPINIONS: Unless otherwise specifically stated, any information, documents, records, data, interpretations, or opinions given to the CLIENT by the CONSULTANT in the course of the CONSULTANT's performance of the Services shall be for the CLIENT's sole use and benefit and only in connection with the specific project for which the CONSULTANT was engaged by the CLIENT, and the same is not intended to be used or relied upon by the CLIENT for any other purpose nor is it intended to benefit or be relied upon by any third party. Any such unintended use or reliance by the CLIENT or by a third party shall be at the CLIENT's or said third party's own risk. Further, any interpretation or opinion given by the CONSULTANT to the CLIENT shall be limited to the specific laws and/or regulations addressed in the AGREEMENT as the same may be further qualified by the interpretations or opinion in question.

RETAINER / BILLING / PAYMENT: The CLIENT agrees to pay the CONSULTANT for all services performed and all costs incurred. The CLIENT shall pay the CONSULTANT for services performed, in U.S. funds drawn upon U.S. banks within thirty (30) calendar days of invoice date. If the CLIENT objects to all or any portion of an invoice, the CLIENT shall so notify the CONSULTANT within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice, if any, not in dispute. Any invoices not objected to within such fourteen-day period shall be deemed accepted by CLIENT.

The CLIENT shall pay an additional charge of one percent (1%) (or the maximum percentage allowed by law, whichever is lower), of the invoiced amount per month for any payment received by the CONSULTANT more than thirty (30) calendar days from the date of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment thereafter shall first be applied to accrued interest and then to the principal unpaid amount. Payment of invoices is in no case subject to unilateral discounting or setoffs by the CLIENT.

Application of the percentage rate indicated above as a consequence of the CLIENT's late payments does not constitute any willingness on the CONSULTANT's part to finance the CLIENT's operation, and no such willingness should be inferred. If the CLIENT fails to pay undisputed invoiced amounts within sixty (60) calendar days of the date of the invoice, the CONSULTANT may at any time, without waiving any other claim against the CLIENT and without thereby incurring any liability to the CLIENT, suspend or terminate this AGREEMENT (as provided for herein). In no event shall CONSULTANT be responsible for any liability or damage incurred by CLIENT or OWNER relating to CONSULTANT's suspension or termination of this AGREEMENT pursuant to these Terms and Conditions.

INDEMNIFICATION: The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any damage, liability, or cost (including reasonable attorneys' fees and cost of defense) to the extent caused by the CLIENT's negligent acts, errors, or omissions and those of its contractors, sub-contractors, or consultants or anyone for whom the CLIENT is legally liable, and arising from the project that is the subject of this AGREEMENT. Neither party is obligated to indemnify the other party in any manner whatsoever for that party's negligence.

DAMAGES: The CLIENT agrees that CONSULTANT's sole liability for any breach of its warranty (as provided for herein), or as the result of any cause or causes of action in any way related to the Services and arising in contract, tort, strict liability, or otherwise, shall, in the aggregate, be limited to the obligation to pay the CLIENT an amount equal to the greater of: \$250.00, or the total amount theretofore paid by the CLIENT to CONSULTANT for the Services.

STANDARD OF CARE: The CONSULTANT shall exercise usual and customary professional efforts in performance of its services under this AGREEMENT and in complying with codes, regulations, and laws in effect as of the date of execution of this agreement.

COURT COSTS: In the event that CLIENT fails to fulfill its obligations hereunder CLIENT shall reimburse CONSULTANT for all its costs, including reasonable attorney fees, court costs, and interest associated with the enforcement of this AGREEMENT.

WARRANTY: The CONSULTANT warrants to the CLIENT that the CONSULTANT will exercise reasonable care, skill, competence, and judgment consistent with professional standards in performing the Services. In consideration of CONSULTANT's extension of this warranty to the CLIENT, the CLIENT agrees that THIS WARRANTY SHALL BE EXCLUSIVE OF ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED.

ADDITIONAL SERVICES FOR PERMIT ACQUISITION: By following acceptable design standards, and normal and customary standards of the CONSULTANT, we do not imply that the engineered product will meet all permit and Board approvals. It is understood by the CLIENT that at times additional efforts may need to be expended in order to obtain approvals even when all reasonable and customary procedures are followed during the engineering process and that CLIENT'S obligation to pay invoices is in no way related to obtaining permits or approvals.

COOPERATION: The CLIENT agrees to cooperate fully with the CONSULTANT and its agents, representatives, and employees in the performance of the Services and to take any and all such actions as may reasonably be requested by the CONSULTANT in connection therewith.

INDEPENDENT CONTRACTOR STATUS: The CONSULTANT and CLIENT agree that the CONSULTANT is an independent contractor and not a partner, employee, or agent of the CLIENT for any purpose.

BINDING EFFECT: This AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal and legal representatives, successors, and assigns; provided, that neither of the parties hereto shall be entitled to assign any of said party's rights under this AGREEMENT without prior written consent of the other party hereto.

Initialed: _____ (CONSULTANT) _____ (CLIENT)

