



319 Black River Lane  
Lorain, Ohio 44052  
440.204.2269  
[lorainport.com](http://lorainport.com)

DATE: December 8, 2023  
TO: Board of Directors  
FROM: Brad Mullins, Chairman, Boards of Directors  
SUBJECT: Meeting Notice

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Please be advised that a Regular Board Meeting has been scheduled for 6:00 p.m. on

Tuesday, December 12, 2023

Location:  
Lorain Port and Finance Authority  
319 Black River Lane  
Lorain, OH 44052

cc: Mayor/Administration  
City Council  
Media

**Lorain Port and Finance Authority**  
Board of Directors Regular Meeting  
Tuesday, December 12, 2023, at 6:00 p.m.  
Port Office

**AGENDA**

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- I. Roll Call
- II. Pledge of Allegiance
- III. Disposition of Meeting Minutes
  - A. October 24, 2023, Special Board Meeting
- IV. Report of Officers
  - A. Chairman
    - 1. Correspondence received:
  - B. Executive Director
    - 1. Stacy Caddey Recommendations  
*Staff Presenter: Tom Brown, Executive Director*
  - C. Assistant Director
    - 1. Economic Development Resolution: Resolution No. 2023-\_\_\_  
*Staff Presenter: Tiffany McClelland, Assistant Director*
- V. Report of Committees
  - A. Contract Management Committee
    - 1. Murray Ridge Litter Control Contract: Resolution No. 2023-\_\_\_  
*Staff Presenter: Kelsey Leyva Smith, Office Manager*
    - 2. Trolls Under the Bridge Lease Discussion  
*Staff Presenter: Tom Brown, Executive Director*
    - 3. Stage Architects Proposal: Resolution No. 2023-\_\_\_  
*Staff Presenter: Tom Brown, Executive Director*
  - B. Strategic Development Plan Committee
  - C. Marketing and Public Affairs Committee
    - 1. 2023 Shuttle Boat Statistics  
*Staff Presenter: Kelsey Leyva Smith, Office Manager*

2. Crows Nest Digital Media Agreement: Resolution No. 2023-\_\_  
*Staff Presenter: Tom Brown, Executive Director*

D. Financial Planning and Audit Committee

1. November 2023 Financial Statement: Motion to approve  
*Staff presenter: Yvonne Smith, Accountant*
2. Inclusive Project Planning Grant Advancement of Funds Extension:  
Resolution No. 2023-\_\_  
*Staff presenter: Yvonne Smith, Accountant*
3. Transfer of Funds from Inclusive Project Planning Fund to the General  
Fund: Resolution No. 2023-\_\_
4. Port and Parks Bike Trail Station Advancement of Funds Extension:  
Resolution No. 2023-\_\_  
*Staff presenter: Yvonne Smith, Accountant*
5. 2024 Temporary Budget: Resolution No. 2023-\_\_  
*Staff presenter: Yvonne Smith, Accountant*

E. Bylaws & Personnel Committee

1. Employee Compensation  
*Staff Presenter: Tom Brown*

- VI. Other Business
- VII. Public Comment
- VIII. Executive Session: Property Disposition
- IX. Adjournment

**Lorain Port and Finance Authority**  
**Board of Directors**  
**Special Meeting**  
**Tuesday, October 24, 2023, at 5:00 p.m.**

**Board of Directors:** Ms. Bonilla and Kiraly; Mrs. Silva Arredondo; Messrs. Mullins (5:03 p.m.), Nielsen, Scott, Veard, Zellers and Zgonc (9)

**Staff:** Tom Brown, Executive Director  
Tiffany McCelland, Assistant Director

**Guests:** Stacy Caddey, Fundraising Consultant

**I. Roll Call**

**A.** The meeting was called to order at 5:00 p.m. by Vice Chairman Carl Nielsen with roll call indicating a quorum present.

**II. Report of Officers**

**A. Feasibility Study Analysis with Stacy Caddey:** Ms. Caddey said this is the final report from the feasibility study analysis between July and October. We tested the Port's ability to raise \$10 million for a capital campaign for the Black River Landing Amphitheater Project. She conducted 21 interviews, which included representatives of different philanthropic foundations, government, community leaders, business owners and board members. The hope with this study was to examine perceptions about the Port Authority and to test the level of interest in the project, assess where it fits in terms of priority for those who are philanthropically inclined, gift and grant ranges. She thinks we had a really good mix of interviewees for a good combination of perspectives. Ms. Caddey said the Port is respected and loved from the staff to the board members. Interviewees were very favorable about the organization and their reaction to the project. Only one unfavorable and one mixed, and that was usually about one specific thing to do with the project. She believes follow-up conversations could remedy those concerns. The strengths that were shared most often were staff, leadership and reputation, and the belief this project could be the spark to future waterfront planning. People were very enthusiastic about the potential for future events at the new amphitheater and offer many ideas. Black River Landing is definitely

seen as one of the gems of Lorain and Lorain County. Concerns were mostly about where is the money going to come from. Interviewees want the programming to be balanced for the citizens of Lorain and those traveling to the city. Transportation was a mentioned concern if it were to get too popular or too big. Ms. Caddey said she explained in her interviews that the designs were not set in stone, but many expressed concerns about keeping Black River Landing a green space. She said the programming suggestions and partnerships are endless. Everyone felt this project could take on a regional scope but again they wanted to be sure to remind us to maintain a balance with the local Lorain audience. Many also suggested learning from other communities who have done this before. Find what works and apply it here. Ms. Caddey said she was pleasantly surprised people didn't have a laundry list of obstacles. She has been in fundraising for 30 years and the economy is always a concern. Out of all the interviews, not one person said we shouldn't move forward with the project. Ms. Caddey said she's almost never had that happen before. Of those who were able to answer about where this project would fall on their priority list, most said medium to high range, which is a good sign. The vast majority of people said they thought \$10 million was a realistic goal but there was an asterisk that it was doable with government participation. They also suggested some type of sales tax or public financing or forgivable loan program. Foundation leaders seemed to think philanthropy would make up about 25-30% of the project, based on their experience. Identified gift and grant ranges varied, and Rep. Joe Miller suggested asking for \$500,000 in the capital budget process. Ms. Caddey said we're in the planning phase right now. The next phase is the leadership applied phase where we finalize our case for support and start talking to the potential lead gift givers. The board of a 501c3 will usually make a pledge gift and then help ask others. They help develop ideas on who else we should be asking. With our small staff, board members' involvement will be important. Ms. Caddey said a majority of the interviews shared a common theme about the city and needing the city to be a partner. There was skepticism about follow through at the city level. She estimates the Port will be able to raise \$2.5-3 million in philanthropic dollars. The

ranges of the gift indications were between \$765,000 and \$1.6 million. Then there's the potential for naming rights. Ms. Caddey said in terms of a timeline, the next step would be pursuing the other government funding and creating a final case for support that includes all of the updated information for the final project plan. The quiet phase looks like ongoing prospect research and community outreach. The public phase is when we ask the general public. Immediate next steps are the port discusses board recommendations, makes decisions, actively pursues government funding and meet with Joe Miller's office. Ms. Caddey said in the quiet phase we do not have to disclose our goal. That's usually announced in the public phase. Determining the steering committee and staffing configuration to support a campaign. Meeting with study participants and others who weren't interviewed to answer any questions or concerns and provide them with the most up-to-date information. Ms. Caddy said those who were interviewed received a two-page summary about the project. Generally, the interviewees were very supportive and informed. There were hints with some people that if this gets a boost with a few lead gifts, there's potential to draw more philanthropic dollars. The naming rights opportunity is sort of on its own plate right now, Ms. Caddey said, but that can be incorporated as philanthropic recognition or as a promotional company or agent they can use it to sell to advertisers. Ms. Kiraly asked Ms. Caddey how she saw her timeline fitting in with our current construction timeline? Ms. Caddey said with a goal of opening in 2025, the timelines match up pretty well. Ms. Kiraly asked for a month-by-month or quarterly schedule? Ms. Caddey said yes, she will be doing that. With where we are at the end of October, she said it's good timing to get well organized on the government side. Her best advice right now is to meet with as many government officials as we can. The philanthropic people will still be there, but from what she understands the capital project fund is time sensitive and not likely to repeat again for some time. Mr. Zellers asked if we needed to establish a 501c3? Mr. Brown said no, the port can accept donations. Mr. Mullins said it might be a good time to reach out to private business owners who are looking at tax liabilities. Ms. Caddey left the meeting. Mr. Zellers said we need to get the

government thing figured out because we don't have a lot of time. Mr. Brown said he has been in contact with Senator Manning and Ms. McClelland has talked with Rep. Miller. Both have said we're at the top of their list and to wait until the programming comes out. Mr. Zellers asked how long? Mr. Brown said that's an unknown. Mr. Zellers said we need to let the architects have time with drawings and specifications. We need to give them solid direction on which way they're going. If we can't get the government funding, we're going to have to scale back and they'll have to redesign. Mr. Nielsen asked how long from when the guidance comes out would someone get a check? Mr. Brown said capital budget is probably a spring announcement for commitment. Once you have that commitment, you can leverage those things. The \$700 million is a Strategic Community Investment Fund. All we know right now is it'll be between \$700,000 million and \$1 billion and we better be ready. Ms. Kiraly said it usually takes a few months for the funds to roll out for capital. Mr. Zellers asked if the port would be involved in the financing? Mr. Brown said we're going to as an organization need to determine what we're comfortable amortizing and reach out to the county port and say we're comfortable borrowing x. He still thinks a .25% sales tax is doable. He'll probably go and meet with their board to see if they want to partner because they have a big project they need money for, too. There are other opportunities for partnerships as well. Mr. Brown said at a minimum he thinks we need to complete the stage and top in some sort of iteration. Mr. Zellers said we have to find some way to get the stage, the top, the lighting and get it done. He thinks we have to give Whiting-Turner some kind of worst case scenario. Those ARPA dollars have to be spent before the time limit expires. Mr. Brown said if we purchase materials, the money would be spent, and we have until end of calendar year 2026. Mr. Mullins said he thinks the county and city want to see progress. Mr. Brown said we have to come to some kind of conclusion on what we're comfortable with. He thinks we have to decide if we believe in moving the stage's location. Mr. Zellers wants the architects to tell us what the minimum amount would be, with the goal being \$10 million. Mr. Brown is going to set up another meeting with Whiting-Turner. Mr. Mullins said pricing came in high and

steel has come down. Mrs. Silva Arredondo asked about the \$1 million in savings? Mr. Brown said it was originally through the stage canopy would be a higher ticket item than it ended up being. Ms. Kiraly said it sounds like the capital campaign has to run the duration of the project. Mr. Mullins said he thought it was interesting Ms. Caddey brought up succession planning. He said Mr. and Mrs. Early will be here next year, but what comes after that? Ms. Bonilla asked if Live Nation was an attainable goal? Mr. Mullins said not them exactly, but possibly a similar company. Mr. Zellers said that could help with fundraising. Ms. Kiraly said she wouldn't rule out establishing a 501c3. If this is a 5-10 year campaign, we're going to need more manpower. It's a huge undertaking and could snowball once things get rolling. Mr. Mullins said Ms. Caddey just lays the groundwork for us. Ms. Kiraly said our current bandwidth can only handle so much. Mr. Mullins said he's talking about the future. We would have to create a separate entity just for programming. Ms. Kiraly said the thought would be potentially having the 501c3 live under the Port Authority as a subsidiary. Mr. Brown said he is exploring options with legal but he is not at liberty to discuss that yet. There are a lot of ways to do it. Mr. Brown said the port went from losing a lot of money running concerts to earning money when Mr. Earley came in with Rockin' on the River. He thinks the new stage could draw someone in. If we make the right presentation, the right players could come in with a proposal. Mr. Mullins said we look at who we are, what we do and what we're supposed to be doing and concerts aren't our expertise. Mr. Zgonc said we have to be ready by 2025. Mr. Brown said at a minimum we're going to have a transition plan with Mr. Earley. Across the industry, alcohol sales are down. Mr. Zellers confirmed the levy will be on the March ballot and said we'll be in the midst of fundraising, final designs, some idea if we get state or federal funding. Mr. Brown said we need to make the levy our number one priority and work on the stage quietly. Mr. Scott said he's not sure which direction we're going. What if we don't get the government funding? He asked for a flowchart to show what happens in the different scenarios. Mr. Mullins suggested a SWOT analysis. What he's gathered is we're going to move forward with the current plan and on the backburner have



a plan b. He agreed we can't take our eye off the ball with the levy. Mr. Scott asked about the financing option? Mr. Brown said we have to contribute to the project in some capacity, but it depends on the organization's comfort level. Mr. Scott asked for preliminary numbers? Mr. Brown said it could be anywhere from \$2-3 million. It depends on our revenue level. Mr. Veard asked about the number of attendees at Rockin' on the River? Mr. Mullins said it has to be 120-130,000 people across the different events and festivals. Mr. Zellers said we have to be ready to pull the trigger even if we don't get government funding. He would like to know exactly what the price is going to be without the greenroom and some of the other niceties. Can we get it into the \$5-6 million range? Mr. Nielsen asked what is the target date for construction? Mr. Zellers said we have to get going by next fall at the latest. There was some conversation about adding fencing to keep concert goers out while they start earlier, but he isn't sure that has been decided? Mr. Nielsen asked if we'll have to go out to bid on the construction phases. Ms. McClelland said yes. Mr. Nielsen asked how long that would take? Ms. McClelland said three months. Mr. Zellers said he sees a minimum of 3-4 months of architecture work still needing done. We'll get numbers to know we're in the ballpark. Mr. Zellers said it'll probably be a 6-8 week bid process and then 2-3 weeks of negotiations and contract signing, so six months out right now. Mr. Nielsen said we'd then be awarding contracts in June 2024. The two main components to him are the stage fundraising and the levy. Mr. Scott said he questions the validity of the survey. It included three board members and the mayor. Mr. Brown said it wasn't for lack of trying. Ms. Bonilla asked if anyone said anything about concrete donations? Mr. Brown said the report showed about \$1 million. Mr. Zellers said we need to establish a steering committee and determine who is going to talk to who. Mr. Scott said what are the action steps?" Mr. Brown said we need to have some further conversations with Ms. Caddey. He's going to ask for her best practices. Mr. Zellers said we're going to work with the architects, too. Mr. Scott asked if we needed to meet more often? Mr. Brown said that's going to have to happen. Mr. Veard said there is an art to fundraising and it takes time. We need someone who knows how to do it.

**III. Adjournment**

- A.** There being no further business to come before the board, Mr. Zgonc moved to adjourn. Mr. Mullins seconded. The meeting adjourned at 6:29 p.m.

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Brad Mullins, Chairman

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Tom Brown, Executive Director

## **ROLE OF LPA**

### **CAMPAIGN STEERING COMMITTEE**

The Campaign Steering Committee will be formed by combining LPA board leadership with additional community volunteer leaders and will serve as the campaign's primary operating and policy-setting committee. The additional volunteers will be recruited primarily from among corporate, philanthropic and other community leaders who are not currently on the LPA board.

Under the leadership of the Campaign Chair/Co-Chairs, the committee's responsibilities include:

1. Leading by example by making appropriate personal gift to the campaign.
2. Attending meetings of the Campaign Steering Committee to make and receive reports of campaign progress.
3. Approving the overall strategy for the campaign and overseeing its implementation.
4. Approving and implementing campaign policies.
5. Assisting in the identification and recruitment of additional campaign volunteers, as needed.
6. Assisting in the identification and evaluation of potential campaign donors.
7. Making introductions to personal contacts where appropriate to help cultivate relationships with potential donors.
8. Monitoring the overall progress and activity of the campaign and recommending changes in strategy, as necessary.
9. Confirming or modifying the campaign goal prior to the campaign public announcement.
10. Assisting the Campaign Co-Chairs and ED by serving as spokespersons for the organization and the campaign as required.
11. In conjunction with the Campaign Co-Chairs and the ED, acting to spur and motivate others to ensure the campaign's success.

The campaign for LPA will be organized and staffed in a way that the Campaign Steering Committee's time will be used efficiently, and their responsibilities will not be burdensome or overly time-consuming.



**ROLE OF LPA**  
**CAMPAIGN CO-CHAIRS**

The Campaign Co-Chairs will serve as the campaign's chief volunteer officers.

Responsibilities include:

1. Leading by example and making their own commitments to the campaign.
2. Presiding at meetings of the Campaign Steering Committee.
3. Helping to identify and enlist key volunteers for the campaign organization.
4. Assisting in the identification and evaluation of leadership and major gift prospects for the campaign.
5. Making introductions to personal contacts where appropriate to help cultivate relationship with potential donors.
6. Participating in the solicitation efforts with personal/corporate/foundation contacts.
7. Participating in significant decisions regarding the operation and management of the campaign in consultation, as appropriate, with other volunteers, ED, campaign staff and campaign counsel.
8. Acting as spokespersons for the campaign in campaigning publications, the media, and at public meetings.
9. Acting as the spur and motivator in achieving success through the campaign organization's action.

The Campaign will be organized and staffed in a way that the Campaign Co-Chairs' time will be used efficiently, and their responsibilities will not be overly burdensome or time-consuming.

**RESOLUTION NO. 2023-\_\_****A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO RESCIND RESOLUTION NUMBER 2020-26 FOR THE SET ASIDE OF ANY ECONOMIC DEVELOPMENT RELATED REVENUES TO BE USED FOR THE PURPOSES OF ECONOMIC DEVELOPMENT RELATED ACTIVITIES.**

**WHEREAS**, the Lorain Port Authority is empowered and established under Chapter 4582 of the Ohio Revised Code for the purposes and duties set forth therein, and

**WHEREAS**, The Lorain Port Authority collaborated with the Council of Development Finance Agencies (CDFA) to create a five-year strategic plan; and

**WHEREAS**, The Strategic Plan provides an innovative and action-oriented approach which provides direction and guidance to help drive the Port's success, growth and impact in the community; and

**WHEREAS**, The Strategic Plan is aligned with the vision and mission of the Port Authority and will shepherd critical efforts that foster economic development, spur redevelopment and revitalization, catalyze community transformation, unlock capital for small business and entrepreneurs and establish the Authority as the community and economic development finance leader throughout Lorain; and

**WHEREAS**, The intention of resolution 2020-26 was to position the Lorain Port Authority to be involved in more economic development projects by pledging specific dollars directly back into economic development related activities; and

**WHEREAS**, Though the intention of resolution 2020-26 was forward thinking, the execution of dollars being set aside was flawed and therefore needs to be rescinded in the best interest of the operations of the agency.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the Executive Director or his designee is authorized and directed to rescind resolution 2020-26 resulting in economic development funds no longer being set aside for economic development related purposes. All funds that have previously been set aside from the commencement of resolution 2020-26 will be free and clear and no future funds will be set aside.

**SECTION II.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal Requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:**

**Nays:**

**Abstain:**

**Adopted:**

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Brad Mullins, Chairman

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Tom Brown, Executive Director

**RESOLUTION NO. 2023-\_\_****A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE MURRAY RIDGE PRODUCTION CENTER, INC. FOR THE GENERAL CLEAN-UP OF LITTER AND DEBRIS GROUNDS SERVICES FOR PROPERTIES OWNED BY THE LORAIN PORT AUTHORITY.**

**WHEREAS**, it is the desire of the Board of Directors of the Lorain Port Authority to maintain its property in good condition for public usage; and,

**WHEREAS**, it is the desire of the Board of Directors of the Lorain Port Authority to provide for the general clean-up of litter and debris that accumulates on its property from normal usage; and,

**WHEREAS**, said area for litter clean up generally consists of Lakeside Landing, the Eastside Launch Ramp Facility, Riverside Park, the Black River Landing and the Dike Disposal Site; and,

**WHEREAS**, said provision of maintenance services will also include the inspection of the launch ramp facilities, and general maintenance services as required; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the Executive Director or his designee is hereby authorized to enter into a contractual agreement with the Murray Ridge Production Center, Inc. for the general clean-up of litter and debris services for properties owned/leased by the Lorain Port Authority.

	<b>Location</b>	<b>Per Occurrence</b>
A.	Black River Landing	\$ 70.00
B.	Lakeside Landing / Riverside Park	\$ 90.00
C.	Dike Disposal Site	\$ 40.00
D.	As requested i.e. After festivals, concerts, events as needed	\$ 11.00 per man hr.

**SECTION II.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, of the Ohio Revised Code.



**Ayes:**

**Nays:**

**Abstain:**

**Adopted:**

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Brad Mullins, Chairman

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Tom Brown, Executive Director



December 8, 2023

Kelsey Leyva-Smith  
Lorain Port Authority  
319 Black River Lane  
Lorain, OH 44052

Dear Kelsey:

For calendar year 2024, Murray Ridge Production Center's quote for cleaning the port Authority. We greatly appreciate the opportunity to work with you and have tried to keep your costs low.

- |  |   |
|--|---|
| A. All Parks   | \$200.00 per occurrence- 1 time per month in January, February, March, November and December.           |
| B. All Parks   | \$200.00 per occurrence- 1 time per week on Monday in April and October.                                |
| C. All Parks   | \$200.00 per occurrence - 2 time per week on Monday and Thursday May, June, July, August and September. |
| D. As requested work<br>(i.e. Festival clean ups, Port Fest, etc.) | \$11.00 per man-hour  |

During January, February, March, November and December we will provide service to all parks one time per month (weather will determine the day).

During April and October, we will provide services one time per week on Monday (weather permitting).

During May, June, July, August and September we will provide services twice per week to all parks on Monday and Thursday at the Black River Landing, Riverside/Lakeside Park and the Diked Disposal Site (weather permitting).

If these prices are acceptable, please return this letter, signed to acknowledge acceptance.

Sincerely,

Bob Pando  
Custodial Manager

Accepting for Lorain Port Authority:

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Signature

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Date

**RESOLUTION NO. 2023-\_\_****A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH BIALOSKY CLEVELAND FOR THE NEXT PHASE OF ARCHITECTURE AND ENGINEERING SERVICES FOR THE BLACK RIVER LANDING AMPHITHEATER PROJECT.**

**WHEREAS**, the Lorain Port Authority advertised for architectural services for the completion of the Black River Landing Amphitheater Project; and

**WHEREAS**, such services shall include: Program Verification, Schematic Design, Design Development, Construction Document Preparation, Bid and Award Support, Conformed Documents, Construction Administration, Post-Construction, and Additional Services of all types; and

**WHEREAS**, the Lorain Port Authority wishes to enter into a contract with Bialosky Cleveland for each of these services through the completion of this project; and

**WHEREAS**, As per Resolution 2023-01, further proposals for Design Development, Construction Documents and Construction Administration services specific to each phase of construction would be brought to the board of directors as needed; and

**WHEREAS**, the next phase of the project includes Bialosky Cleveland's Architecture and Engineering services which will encompass the advancement of the designs for the stage, canopy, amphitheater, and greenroom portions of the project through Design Development, Construction Documents, and Construction Administration; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the Executive Director or his designee will enter into the contract for the Design Development, Construction Documents, and Construction Administration for a total not to exceed \$986,250.

**SECTION II.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal Requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:**

**Nays:**

**Abstain:**

**Adopted:**

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Brad Mullins, Chairman

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Tom Brown, Executive Director


**AIA® Document B133® – 2019**
**Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition**

**AGREEMENT** made as of the 07th day of December in the year 2023  
(In words, indicate day, month and year.)

**BETWEEN** the Architect's client identified as the Owner:  
(Name, legal status, address, and other information)

Lorain Port Authority  
319 Black River Lane  
Lorain, Ohio 44052

and the Architect:  
(Name, legal status, address, and other information)

Bialosky + Partners Architects, dba Bialosky Cleveland  
6555 Carnegie Ave., Suite 200  
Cleveland, Ohio 44103

for the following Project:  
(Name, location, and detailed description)

Black River Landing Amphitheater  
Lorain, Ohio

The Construction Manager (if known):  
(Name, legal status, address, and other information)

The Whiting-Turner Contracting Company  
1001 Lakeside Avenue, Suite 100  
Cleveland, Ohio 44114

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A201–2017™, General Conditions of the Contract for Construction; A133–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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13	SCOPE OF THE AGREEMENT

## ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Black River Landing Amphitheater and Festival Venue Phases 1A & 1B. The project, located at Black River Landing 319 Black River Lane, Lorain Ohio 44052, consists of the construction of a new 2,847 square foot covered concrete performance stage with a 6,078 square foot sculptural form roof, amphitheater with 48,000 square feet of lawn seating for 4,000 seated patrons and a standing capacity of 8,000, and an adjacent building housing a 1,364 square foot green room facility that includes a changing room, bathroom, office, water closet, janitor closet, and 1,528 square feet of additional storage space. Refer to Exhibit A for completed schematic design that includes the limits of Phases 1A & 1B of the project.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

As described in Section 1.1.1 above and as indicated in 6/30/23 Schematic Design Package.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

As indicated in Construction Manager's 11/09/23 Schematic Estimate Cost Options: \$5,625,550 for Phase-1A and \$2,574,450 for Phase 1B for a total Phase-1 budget of \$8,200,000

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Design Development: To commence on or about 01/02/24  
 Bid & Permit Documents: To be issued on or about 8/30/24

.2 Construction commencement date:

On or about 10/30/24

.3 Substantial Completion date or dates:

5/31/25

.4 Other milestone dates:

N/A

§ 1.1.5 The Owner has retained a Construction Manager pursuant to the following agreement:

*(Indicate agreement type.)*

- AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.
- AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, or phased construction are set forth below:

*(List number and type of bid/procurement packages.)*

N/A

§ 1.1.7 The Owner's anticipated Sustainable Objective for the Project:

*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

N/A

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:

*(List name, address, and other contact information.)*

Mr. Thomas Brown, Executive Director  
 Lorain Port Authority  
 319 Black River Lane  
 Lorain, Ohio 44052

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

*(List name, address, and other contact information.)*

Mr. Thomas Brown, Executive Director  
Lorain Port Authority  
319 Black River Lane  
Lorain, Ohio 44052

§ 1.1.10 The Owner shall retain the following consultants and contractors:

*(List name, legal status, address, and other contact information.)*

.1 Construction Manager:

*(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1)*

The Whiting-Turner Contracting Company  
1001 Lakeside Avenue, Suite 100  
Cleveland, Ohio 44114

.2 Land Surveyor:

Mc Steen & Associates, Inc.  
1415 East 286<sup>th</sup> St.  
Wickliffe, Ohio 44092

.3 Geotechnical Engineer:

URS Corporation  
800 West ST. Clair Avenue  
Cleveland, Ohio 44113

- . 1 Utilizing report dated March 08, 2001

.4 Civil Engineer:

N/A

.5 Other consultants and contractors:

*(List any other consultants and contractors retained by the Owner.)*



§ 1.1.11 The Architect identifies the following representatives in accordance with Section 2.4:  
(List name, address, and other contact information.)

Jack A. Bialosky, Jr., FAIA – Principal In-Charge  
Robert Maschke, FAIA – Design Architect

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Design Architect:

Robert Maschke Architects, Inc.  
1287 West 54<sup>th</sup> Street  
Cleveland, Ohio 44102

.2 Structural Engineer:

ARUP  
77 Water Street  
New York, NY 10005

.3 Mechanical Engineer:

Bialosky Cleveland  
6555 Carnegie, Avenue  
Suite 200  
Cleveland, Ohio 44103

.4 Electrical Engineer:

Bialosky Cleveland  
6555 Carnegie, Avenue  
Suite 200  
Cleveland, Ohio 44103

**.5 Civil Engineer:**

Osborne Engineering  
1111 Superior Avenue  
Suite 2100  
Cleveland, Ohio 44114

**.6 Landscape Architect:**

REALM Collaborative  
100 East Broad Street  
Suite 1710  
Columbus, Ohio 43215

**.8 Lighting Design:**

Claude R. Engle Lighting Consultant  
3 Wisconsin Circle  
Suite 860  
Chevy Chase, Maryland 20815

**§ 1.1.12.2 Consultants retained under Supplemental Services:**

N/A

**§ 1.1.13 Other Initial Information on which the Agreement is based:**

N/A

**§ 1.2** The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

**§ 1.3.1** Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA

Init.

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User Notes:

(1296322159)

Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.6 **Insurance.** The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$ 1,000,000 ) for each occurrence and Two Million Dollars (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 Employers' Liability with policy limits not less than One Million Dollars (\$ 1,000,000 ) each accident, Two Million Dollars (\$ 2,000,000 ) each employee, and Two Million Dollars (\$ 2,000,000 ) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Five Million Dollars (\$ 5,000,000 ) per claim and Seven Million Dollars (\$ 7,000,000 ) in the aggregate.

§ 2.6.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made or given without the Architect's written approval.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.7 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

### § 3.2 Review of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

**§ 3.3 Schematic Design Phase Services (Services completed under previous agreement dated January 05, 2023)**

§ 3.3.1 The Architect shall review the program, and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager's review and the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.

§ 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

**§ 3.4 Design Development Phase Services**

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and

other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

### § 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents.

### § 3.6 Construction Phase Services

#### § 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques,

sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

### § 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Construction Manager is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

### § 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

### § 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.



§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

##### § 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Assistance with Selection of Construction Manager	Not Provided – Accomplished during Schematic Design
§ 4.1.1.2 Programming	Not Provided
§ 4.1.1.3 Multiple Preliminary Designs	Not Provided
§ 4.1.1.4 Measured drawings	Not Provided
§ 4.1.1.5 Existing facilities surveys	Not Provided
§ 4.1.1.6 Site evaluation and planning	Not Provided
§ 4.1.1.7 Building Information Model management responsibilities	Architect
§ 4.1.1.8 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.9 Civil engineering	Architect
§ 4.1.1.10 Landscape design	Architect
§ 4.1.1.11 Architectural interior design	Architect
§ 4.1.1.12 Value analysis	Owner-Architect
§ 4.1.1.13 Cost estimating	Owner
§ 4.1.1.14 On-site project representation	Architect
§ 4.1.1.15 Conformed documents for construction	Architect
§ 4.1.1.16 As-designed record drawings	Architect
§ 4.1.1.17 As-constructed record drawings	Not Provided
§ 4.1.1.18 Post-occupancy evaluation	Not Provided
§ 4.1.1.19 Facility support services	Not Provided
§ 4.1.1.20 Tenant-related services	Not Provided
§ 4.1.1.21 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.22 Telecommunications/data design	Not Provided
§ 4.1.1.23 Security evaluation and planning	Not Provided
§ 4.1.1.24 Commissioning	Not Provided
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.26 Historic preservation	Not Provided
§ 4.1.1.27 Furniture, furnishings, and equipment design	Architect (For Green Room Building)
§ 4.1.1.28 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.29 Other Supplemental Services	Not Provided

#### § 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

- § 4.1.1.7 Building Information Model management responsibilities: Architect will lead coordination of BIM model between design and engineering consultants.
- § 4.1.1.9 Civil engineering: Included in Architect's Base Services
- § 4.1.1.10 Landscape design: Included in Architect's Base Services
- § 4.1.1.11 Architectural interior design: Finish selections for Green Room facility are included in Architect's Base Services

- § 4.1.1.14 On-site project representation: Attendance at on-site Owner-Architect-Construction Manager meetings is included in base services.
- § 4.1.1.15 Conformed documents for construction: Architect will create conformed documents at conclusion of bidding and permitting to be used for construction.
- § 4.1.1.16 As-designed record drawings: Architect will create As-designed documents at conclusion of construction that will incorporate design changes and supplemental sketches created during construction.
- § 4.1.1.21 Architect's coordination of the Owner's consultants: Included in base services
- § 4.1.1.27 Furniture, furnishings, and equipment design: Furniture selections for Green Room facility are included in Architect's Base Services.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

- § 4.1.1.12 Value analysis: 6.4: If at any time the estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with Architect in making such adjustments.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

#### § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6

- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8
- .9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect;
- .12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .13 Services necessitated by the Owner's delay in engaging the Construction Manager;
- .14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and
- .15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice:

- .1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or
- .5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 Thirty Five ( 35 ) visits to the site by the Architect during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One ( 1 ) inspections for any portion of the Work to determine final completion

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within Two ( 2 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's

objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.6 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.7 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 5.9 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.11 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 The Owner shall coordinate the Architect's duties and responsibilities set forth in the Agreement between the Owner and the Construction Manager with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

§ 5.15 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.16 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Manager's general conditions costs, overhead, and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the compensation of the Construction Manager for Preconstruction Phase services; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

*(Paragraph deleted)*

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 terminate in accordance with Section 9.5;
- .3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due, pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

## § 8.2 Mediation

§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

*(Paragraphs deleted)*



**ARTICLE 9 TERMINATION OR SUSPENSION**

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven 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.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

N/A

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

\$100,000

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

**ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, except as modified in this Agreement. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 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 Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
(Insert amount)

(Paragraphs deleted) See Exhibit-B: Fee Matrix

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

N/A

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

Architect will provide a written proposal to the Owner for requested additional services. Compensation for additional services will be provided on an Hourly-Estimated basis at the rates identified in Exhibit-C, Hourly Billing Rates Table.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent (0 %), or as follows:

*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

Architect's time to coordinate additional services provided by Architect's consultants will be billed to the Owner on an hourly basis as described in Section 11.3.

§ 11.5 When compensation for Basic Services is based on a stipulated sum, the proportion of compensation for each phase of services shall be as indicated in Exhibit-B: Fee Matrix.

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The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See Exhibit-C: Hourly Billing Rates Table

## § 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent ( 0 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)*

N/A

## § 11.10 Payments to the Architect

### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Zero (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

*(Paragraph deleted)*

### § 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

One and One Half 1 ½% Per Month

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:  
(Include other terms and conditions applicable to this Agreement.)

This contract is prepared under the assumption that Phase 1A and 1B of the project will be constructed concurrently and to meet a schedule to open the venue in advance of the 2025 event season on 6/01/25. In the event the entire project is not constructed concurrently, and a portion of it is deferred to be built at a later date, the Architect will be due additional compensation for Construction Administration Phase services accordingly. The amount of this additional compensation can be quantified once the Owner determines the work scope that will be implemented in the initial phase of construction and when deferred work will commence.

## ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B133™-2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition

(Paragraphs deleted)

- .2 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

(Paragraphs deleted)

- Other Exhibits incorporated into this Agreement:  
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

Exhibit-A: Fee Matrix

Exhibit-B: Hourly Billing Rates Table

Exhibit-C: ARUP Structural Engineering Proposal Dated 10/13/22

Exhibit-D: REALM Landscape Architecture Proposal Dated 6/21/23

Exhibit-E: Osborne Engineering Proposal Dated 6/9/23

Exhibit-F: Claude Engle Lighting Design Proposal Dated 6/16/23

- .3 Other documents:

(List other documents, if any, forming part of the Agreement.)

N/A

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
OWNER (Signature)

Thomas Brown, Executive Director  
Lorain Port Authority  
\_\_\_\_\_  
(Printed name and title)

  
ARCHITECT (Signature)

Jack Alan Bialosky, Jr., FAIA  
Senior Principal

\_\_\_\_\_  
(Printed name, title, and license number, if required)

**EXHIBIT-A**  
**FEE MATRIX**

**Black River Landing Amphitheater**  
**Design Development, Construction Documents, and Construction Administration Phases**  
**Fee Matrix**  
**12-07-23**

Discipline	Firm	Design Development	Construction Documents	Construction Administration	Total Fee
Architectural & Interior Design	Bialosky	\$129,090	\$290,453	\$225,908	<b>\$645,450</b>
Structural Engineering	ARUP	\$35,000	\$35,000	\$30,000	<b>\$100,000</b>
MEP Engineering	Bialosky	\$15,000	\$41,250	\$18,750	<b>\$75,000</b>
<b>Base Scope (ASMEP) Total</b>		<b>\$179,090</b>	<b>\$366,703</b>	<b>\$274,658</b>	<b>\$820,450</b>

Additional Consultants					Fee
Civil Engineering	Osborne	\$18,000	\$20,250	\$6,750	<b>\$45,000</b>
Landscape Architecture	Realm	\$12,500	\$24,750	\$15,750	<b>\$53,000</b>
Irrigation Design (Allowance)	Realm	\$0	\$5,000	\$0	<b>\$5,000</b>
Lighting Design	Claude Engle	\$32,500	\$14,100	\$16,200	<b>\$62,800</b>
<b>Total Additional Consultants</b>		<b>\$63,000</b>	<b>\$64,100</b>	<b>\$38,700</b>	<b>\$165,800</b>

<b>Totla All - Base Scope (ASMEP) + Additional Consultants</b>		<b>\$242,090</b>	<b>\$430,803</b>	<b>\$313,358</b>	<b>\$986,250</b>
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**EXHIBIT-B**  
**HOURLY BILLING RATES**

**Bialosky Cleveland**Architectural and Interior Design Staff

Principal Emeritus	\$300.00/hour
Sr. Principal	\$250.00/hour
Principal	\$215.00/hour
Associate Principal	\$175.00/hour
Senior Project Manager/Spec Writer	\$170.00/hour
Project Manager/ Sr. Designer	\$135.00/hour
Architect	\$120.00/hour
Designer	\$110.00/hour
Intern 2	\$95.00/hour
Intern 1	\$85.00/hour
Administrative 2	\$150.00/hour
Administrative 1	\$100.00/hour

MEP Engineering Staff

Senior Engineer/Associate Principal	\$200.00/hour
Engineers	\$150.00/hour
Engineering Designer	\$125.00/hour
Jr. Engineer	\$110.00/hour

**Robert Maschke Architects**

Principal	\$300.00/hour
Designer	\$110.00/hour

**ARUP**

Principal	\$420.00/hour
Associate Principal	\$300.00/hour
Associate	\$255.00/hour
Senior Engineer/Consultant	\$235.00/hour
Engineer/Consultant	\$160.00/hour
BIM Manager	\$200.00/hour
Senior BIM Technician	\$185.00/hour
BIM Technician	\$150.00/hour
Sr. Project Controls	\$240.00/hour
Project Controls	\$160.00/hour
Administrative 1	\$90.00/hour



**REALM**

Principal	\$200.00/hour
Senior Professional	\$125.00/hour
Professionals	\$100.00/hour
Interns	\$85.00/hour

**Osborne Engineering**

Principal	\$270.00/hour
Director	\$254.00/hour
Discipline Manger/Lead	\$239.00/hour
Senior Project Manager	\$224.00/hour
Senior Architect/Engineer, Sr. Specs. Des.	\$203.00/hour
Project Manager	\$177.00/hour
Senior Project Architect/Engineer/BIM Manager	\$168.00/hour
Project Architect/Engineer, Sr. Specs. Des.	\$144.00/hour
Arch 3, Engineer 3, Designer 3	\$124.00/hour
Arch 2, Engineer 2, Designer 2	\$112.00/hour
Arch 1, Engineer 1, Designer 1, Admin 1	\$107.00/hour
CO-OP, Admin 1	\$91.00/hour

**Claude Engle**

Principal	\$300.00/hour
Senior Designer	\$225.00/hour
Associate Designers	\$150.00/hour
Drafting & Technical Services	\$150.00/hour

**EXHIBIT-C**  
**ARUP STRUCTURAL ENGINEERING PROPOSAL**

**Bialosky Architects**

# Black River Landing Amphitheater

Proposal for Structural Engineering Services

October 13, 2022



## Contents

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## 1. Overview

Arup US, Inc (Arup) is pleased to present this proposal for structural engineering services associated with the Black River Landing Amphitheater project.

The Black River Landing Amphitheater project consists of a new landscaped park area on the banks of the Black River in Lorain, OH. The focal point of the design is a sculptural canopy over a stage area which fronts grass seating areas with limited hard landscaping. There is a small wedge building of approximately 1,400sf with an accessible inclined grass roof to the side of the canopy which contains a multi-purpose room, kitchen and restrooms. There is also a larger wedge building to the west of the site of approximately 11,800sf which will be a commercial/retail space. There is an existing Lorain Port Authority building to the north of the site behind the proposed stage and canopy. Our understanding of the project is based on the documentation received titled ‘221004 Black River Landing Amphitheater SD Drawings.pdf’

We understand the project will be developed in phases, with Phase 1 consisting of the stage and canopy and smaller wedge building and Phase 2 consisting of the larger wedge building. The total construction cost is understood to be in the range of \$12-15 million.

## 2. Project Team

The project architecture team consists of a combination of Robert Maschke Architects and Bialosky Architects. We understand that Arup’s client will be Bialosky Architects and the ultimate client is the Lorain Port and Finance Authority. We will take ultimate direction from Bialosky Architects in the event that inconsistent requests are made from various partners. It is assumed that other disciplines shall be brought on as needed as the project progresses.

## 3. Scope of Work

Arup propose the following scope of work, which is split between project stages. This proposal assumes Arup will develop Phases 1 & 2 to a Schematic Design level, and then continue only Phase 1 through to its completion.

The basis of this proposal is for Arup to develop the design for the canopy structure to schematic design level after which a specialty fabricator can be brought on by the client in a design assist role, and who would be responsible for final detailing. For the Phase 1 stage smaller wedge building, it is assumed that Arup would develop the design through to completion for conventional design bid build procurement.

Arup can provide further scope as an additional service to facilitate other procurement options as follows:

- Full 100% CD’s Developed by Arup for a traditional design bid build procurement
- Design Development level of Detail Design by Arup along with a performance specification for a design Build approach

Our base scope of services in this proposal includes the following:

### *Schematic Design*

- Develop basis of design for canopy and wedge buildings

- Provide up to three (3) structural concepts for the primary canopy structure
- Develop initial foundation concepts
- Provide a concept presentation with sketches
- Provide initial structural quantity estimates for pricing
- Develop wind tunnel testing specification, if considered necessary
- Provide geotechnical investigation specifications
- Develop one selected structural concept to a schematic level of design
- Produce a set of schematic design drawings to include:
  - Foundation layout
  - Plans
  - Sections
  - Typical details

#### *Design Development*

- Engage with specialty fabricators for initial construction and erection ideas for canopy
- Produce full set of drawings suitable for pricing for Phase 1 wedge building and canopy

#### *Construction Documents*

- Work with selected specialty fabricator to provide all information required to finalize the canopy design, including structural loads, connection design intent and specifications
- Produce a full set of drawings for the canopy and Phase 1 wedge building at a nominally 50% CD level of detail suitable for submission to the local building department
- Produce full detailed designs for canopy foundations and Phase 1 wedge building
- Review detailed design of canopy superstructure by specialty fabricator to ensure compliance with the design intent

#### *Construction Administration*

- Review of canopy and Phase 1 wedge building shop drawings and submittals
- Visit to fabricator during fabrication

We would be happy to discuss alternative procurement options with the client if it is of interest.

## 4. Information Required

In order to carry out the proposed scope of work, the following information will be needed:

- Geotechnical Interpretative Report, providing sufficient information for the design of the foundations
- Frozen backgrounds from the architect two weeks before the delivery of engineering documents for each project phase

## 5. Schedule

At this stage the project schedule is not confirmed, however this proposal is based on the project durations noted below. If the schedule differs from these assumed durations, Arup will adjust the proposal to reflect the confirmed schedule. It is assumed that the schematic design phase will commence at the start of November 2022.

Schematic Design (Phases 1 & 2)	6 weeks
Design Development (Phase 1 only)	2 months
Construction Documents (Phase 1 only)	3 months

A two-week client approval period between each phase has been assumed.

For Construction Administration, it is assumed that all submittals related to the canopy will be received and approved within 3 months of the fabricator's notice to proceed. Any review of materials by Arup beyond this period will be charged as an additional fee on a time and materials basis (beyond the fabricator and site visits included in the section below).

## 6. Meetings

We will meet the client and other appropriate members of the design team on a bi-weekly basis through Schematic Design, Design Development and Construction Documents. This proposal assumes one (1) in-person meeting in Lorain/Cleveland, OH for each project stage, for a total of three (3) in-person meetings. Arup are happy to increase the number of meetings at the request of the client for an additional fee.

During construction, Arup will visit the steel fabricator one (1) time for an in-progress review. Arup will also visit site one (1) time during erection. Additional visits during the CA period will be charged to the client at cost, following acceptance.

## 7. Fees

For the scope of work outlined in this proposal we propose a lump sum fee of **\$135,000**.

Schematic Design (Canopy and Phase 1 & 2 Wedge Buildings)	\$35,000
Design Development (Design Assist Canopy and Phase 1 Wedge Building Design)	\$35,000
Construction Documents (Canopy review and Phase 1 Wedge Building Design)	\$35,000
Construction Administration (Canopy & Phase 1 Wedge Building)	\$30,000

We will invoice our fees monthly in equal instalments for the phase of works currently underway as indicated above. All invoices are due for payment within 30 days of issue. If invoices remain unpaid after 45 days we reserve the right to stop work until all outstanding invoices are paid in full.

## 8. Reimbursable Expenses

Out-of-pocket expenses will be invoiced at cost, and will include:

- Printing, plotting and reproduction of documents
- Travel expenses outside of New York City
- Messenger service and overnight mail
- Costs of laboratory testing
- Costs of wind tunnel testing, if required
- Filing, code consulting and expediting services

Invoices for reimbursable expenses will be submitted monthly.

## 9. Additional Services

Arup would be happy to provide the following design disciplines as an additional service at the request of the client:

- Acoustic Consulting
- Audiovisual/Performance Sounds, Video and Communications
- Lighting Design

## 10. Hourly Rates

For any services outside of the scope of works described, we would propose to work on a time and materials basis at the following hourly rates, following client approval. Our rates are subject to change on April 1<sup>st</sup> each year.

Principal	\$420
Associate Principal	\$300
Associate	\$255
Senior Engineer/Consultant	\$235
Engineer/Consultant	\$160
BIM Manager	\$200
Senior BIM Technician	\$185
BIM Technician	\$150
Senior Project Controls	\$240
Project Controls	\$160
Project Administration	\$120



## 11. Assumptions and Additional Services

Arup has assumed the following in preparing this proposal:

- Arup will not be responsible for any structural or civil design associated with the landscaping
- All cladding for the canopy will be non-structural, and designed and detailed by others
- The architect will provide a 3D model (either Revit or Rhino) as well as 2D backgrounds, and will be ultimately responsible for the canopy geometry and setting out
- Arup will not be responsible for providing any 3D models for fabrication or setting out purposes

## 12. Terms and Conditions

Arup's standard terms and conditions are attached. These terms and conditions along with this proposal shall control, govern and constitute the entire agreement between us, unless and until another contract is agreed to and signed by both parties. We are happy to address any concerns you may have prior to commencement of services.

This proposal remains valid for 90 days from the date of issue.

## 13. Agreement

If you are in agreement with our proposal, please provide us with a formal written notification of acceptance, including a signed copy of this document. We very much look forward to working with you on this exciting project.

## Standard Terms and Conditions

## Version: AFL-01A

10/13/2022 Bialosky Architects Arup US, Inc.

Lorain Port &  
Finance AuthorityBlack River Landing  
Amphitheater

Date	Client Entity ("Client")	Arup Entity ("Arup")	Owner Entity ("Owner")	Project Title ("Project")	Exhibits
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**1. EXTENT OF AGREEMENT:** These terms and conditions are hereinafter referred to as the "Agreement" and supplement and govern all aspects of the obligations and liabilities between Arup and the Client relating to the Project. Unless otherwise expressly defined, the terms used in this document have the same meaning as terms in the engineering proposal ("Engineering Proposal") which this document may supplement. This Agreement shall control and supersede all prior or simultaneous negotiations, representations and agreements, either written or oral including separate agreements between the Client and an Owner or other party if applicable. In the event that this Agreement is not fully executed, it shall nonetheless be effective and controlling to the parties so long as Arup has provided same to the Client.

**2. DEFINITIONS:**

**2.1.** The term "Instruments of Service" means the plans, specifications, reports, opinions, letters and or other deliverables prepared by or for Arup, in any medium, including graphic and pictorial representations, which relate to its professional services for the Project and shall include but not be limited to engineering designs, details, schedules, diagrams and written descriptions which set forth the design intent of the Project. If the Instruments of Service are a report, it is understood by the Client that it is intended for and may be relied upon only by the Client and other expressly identified project stakeholders. Arup shall be entitled to rely on the completeness and accuracy of services, information and documents furnished by or on behalf of Client.

**2.2.** The term "Work" means the construction and services, supplies, labor, equipment, materials, components, or assemblies related to or required for the construction of the Project by a contractor and other construction specialists. The Work may constitute the whole or a part of the Project, whether completed or partially completed.

**2.3.** The term "Record Documents" means documents that are provided to the Owner at the completion of the construction contract, recording changes from Construction Documents made during construction such as drawings, specifications, addenda, change orders and other modifications, approved shop drawings, product data, samples, and similar submittals.

**2.4.** The term "Standard of Care" shall mean the standard under which Arup's services shall be evaluated which shall be in accordance with current, accepted professional engineering practice appropriate for the size, complexity, schedule, and other characteristics of the Project in the jurisdiction where the Project is located.

**3. ARUP'S RESPONSIBILITIES:** Arup shall prepare the Instruments of Service in a manner consistent with the Standard of Care and shall only be liable for negligent errors and omissions which fall below that standard. Any error in the Instruments of Service, whether or not in violation of the Standard of Care, shall be promptly corrected by Arup without charge to Client for the effort in effectuating same upon discovery by, or notice to, Arup. Client and Arup agree that the Instruments of Service, while consistent with the Standard of Care as defined above, may contain errors, omissions, and inconsistencies (collectively "Errors") at the time

they are provided to the Client. If the Errors do not increase the Project cost by more than five percent (5%), Client releases Arup from liability for increase in the Project cost in connection with the Errors. This release does not limit Arup's liability for increases beyond five percent (5%) in the event the Instruments of Service are not prepared in a manner consistent with the Standard of Care.

**4. CLIENT'S RESPONSIBILITIES:** The Client shall provide the following: (1) Full information identifying its requirements for and limitations on the Project. (2) A representative authorized to act on the Client's behalf with respect to the Project who shall render decisions in a timely manner pertaining to all requests and/or documents submitted by Arup. (3) A periodic update to the budget for the Project with the understanding that same shall not be materially changed and shall not significantly increase or decrease the portion allocated for the services set forth in the Engineering Proposal without the agreement of Arup as to whether the change will require a corresponding change in the Project scope and quality. (4) Tests, inspections and reports required by law or the Agreement, including, but not limited to, chemical tests and tests for hazardous materials. (5) All legal, insurance and accounting services, including auditing services that Client determines necessary to address its needs and interests relating to the Project. (6) All fees necessary for securing the approval of authorities having jurisdiction over the Project. (7) Prompt written notice to Arup if the Client becomes aware of any Arup fault or defect on the Project. (8) Recognition that there will be changes and additions to engineering drawings during construction as a result of field conditions or unanticipated developments and that Client shall establish a design and construction contingency fund after discussion with Arup to cover additional costs which may result from such changes and additions. (9) If applicable the Client shall review and approve submissions for each phase of the work in a timely manner and shall authorize Arup in writing to proceed with each succeeding phase. The Client shall provide written notice of any known inconsistencies in Arup's services expeditiously after discovery.

**5. ADDITIONAL SERVICES:** Arup's fee was determined based on expected time and effort to complete its scope of services as defined in the Engineering Proposal for the Project and with the construction cost and construction schedule contemplated in the original budget and schedule. It is understood and acknowledged by the Client and/or the Owner that Arup shall be entitled to an equitable adjustment of its fees so that the percentages of its fee to construction cost remain constant if the design or construction schedule is lengthened beyond the original schedule or if the construction cost or project budget is increased beyond five percent (5%). Except to the extent caused by a negligent error or omission, if the Client requests that Arup perform any of the following services (the "Additional Services"), the Client shall provide Arup with additional compensation equal to Arup's hours expended at Arup's standard hourly rates. Arup's hourly rates are subject to annual adjustment in accordance with Arup's standard practice. In the alternative, the Client and Arup may agree on stipulated sum fees for specific Additional Services. In no event shall Arup be compelled or required to perform what it deems in its reasonable

professional judgment to be an Additional Service unless and until the Client and/or Owner provides the appropriate written change order.

**5.1. PRIOR TO ISSUANCE OF CONSTRUCTION DOCUMENTS:** It shall be an Additional Service if Arup is requested to make any revisions in the Instruments of Service when such revisions are: (1) inconsistent with approvals or instructions previously given by the Client; (2) required because of changes in the Project including, size, quality, complexity, the Client's schedule, the Client's budget, or the method of bidding or negotiating and contracting for construction; (3) required due to errors or omissions in the services of any other Consultant working for the Owner; (4) required by the enactment or revisions to codes, laws or regulations subsequent to the preparation of such documents; (5) due to changes required as a result of the Client's failure to render decisions in a timely manner; or (6) required to reduce the cost of the Project to comply with previous cost estimates or Project budgets, including value engineering. If this project is located outside of the United States or Canada, any and all costs associated with corporate or personal registrations and/or business permits has been excluded and will be charged as an additional sum at cost to the Client.

**5.2. AFTER THE ISSUANCE OF CONSTRUCTION DOCUMENTS:** All of the following activities after the issuance of construction documents shall be considered Additional Services: (1) preparing any changes to the Instruments of Service or preparing other documentation, analysis and supporting data, evaluating contractors' proposals, and providing other services in connection with change orders and construction change or extra work directives; (2) providing services in connection with evaluating substitutions or alternates proposed by a contractor, the Client or others; (3) providing services made necessary by the default or termination of a contractor, by defects or deficiencies in the construction of the Project or by the failure of performance on the part of the Client, any contractor or others performing services or Work in connection with the Project; (4) providing services in connection with claims submitted by any contractor or others performing services or providing Work on the Project; (5) providing services in connection with the preparation for legal proceedings or attendance at public hearings or other meetings (6) providing services when submittals are reviewed prior to receiving a submittal schedule, reviewing submittals out of sequence, or if more than two reviews are required of any submittal (7) providing services in responding to unnecessary, excessive or unreasonable requests for information submitted by the Client, any contractor or others who are performing Work or supplying materials in connection with the Project; (8) providing services in excess of one punch list compilation for each area or component of the Project and one review of the punch list items for completion; (9) providing any services requested by the Client after the earlier of the issuance of the final Certificate for Payment or sixty (60) days after Substantial Completion was originally scheduled; (10) providing services that are not customarily provided by an engineer as basic services on projects of similar size, complexity and scope as the Project and which have not been set forth as Basic or Additional Services in this Agreement; (11) providing "fast track" services; or (12) segregating bidding packages for pricing and award of contracts for the construction of the Project. (13) providing Record Drawings (as defined in Article 7.5)

## **6. LIMITATIONS OF LIABILITY:**

**6.1. AGGREGATE LIMITS:** TO THE FULLEST EXTENT PERMITTED BY LAW, CLIENT AND ARUP EACH WAIVE ANY RIGHT TO CONSEQUENTIAL, LIQUIDATED OR INCIDENTAL DAMAGES AND AGREE THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF ARUP AND ARUP'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND INDEPENDENT PROFESSIONAL ASSOCIATES OR ENGINEERS, AND ANY OF THEM, TO THE CLIENT AND ANY ONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, SPECIFICALLY INCLUDING ANY THIRD PARTY BENEFICIARIES OR INDEMNIFIED PARTIES, FOR ANY AND ALL INJURIES, CLAIMS LOSSES, EXPENSES, OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO ARUP'S SERVICES, THE PROJECT OR THIS AGREEMENT, FROM ANY CAUSE OR CAUSES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, THE NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, MISREPRESENTATION, OR BREACH OF WARRANTY OF ARUP OR ARUP'S OFFICERS, DIRECTOR, EMPLOYEES, AGENTS OR INDEPENDENT PROFESSIONAL ASSOCIATES OR ENGINEERS, OR ANY OF THEM, SHALL NOT EXCEED THE LESSER OF THE TOTAL COMPENSATION RECEIVED BY ARUP FOR THE SPECIFIC WORK PERFORMED RESULTING IN CLIENT'S DAMAGES OR THE LIMITS OF THE AVAILABLE INSURANCE COVERAGE SPECIFICALLY IDENTIFIED AND REQUIRED BY THE CLIENT FOR THIS PROJECT AT THE TIME OF JUDGMENT.

**6.2. WARRANTIES/GUARANTEES:** Arup makes no express or implied warranty or guaranty of any sort. All warranties and guarantees, including warranty of merchantability or warranty of fitness for a particular purpose, are expressly disclaimed.

**6.3. NO THIRD PARTIES:** Services provided by Arup herein are solely for the benefit of the Client and nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party.

## **7. RESPONSIBILITY FOR CONSTRUCTION OF PROJECT**

**7.1. INSTRUMENTS OF SERVICE:** The Instruments of Service are not a substitute for the shop drawings and other submittals which will be used to actually construct the Project. Nothing in the Agreement shall create or be deemed to create any duty upon Arup to supervise the construction means and methods and/or safety procedures of any contractor, subcontractor, or their employees or agents, or any other person or party. Arup shall not incur any liability as a result of the acts, omissions, or failure to properly perform of any contractor, subcontractor, or their employees or agents, or any other person or party.

**7.2. REVIEW SERVICES:** Observation or review services performed by Arup pursuant to the Agreement, whether of material or work and whether performed prior to, during or after completion of construction, are performed solely for the purpose of attempting to determine general conformity of the work performed by others with the design intent of contract plans and specifications. Although Arup will follow standard industry practices and procedures, as appropriate under the circumstances, Arup may nevertheless fail to detect non-conformances. In the absence of gross negligence, and without affecting other limitations herein, Arup shall not be liable to the Client for the economic or other consequences stemming from

such undetected non-conformances or their subsequent correction. It is agreed that the professional services of Arup do not extend to or include the review or site observation of a contractor's work or performance. Arup has no responsibility to reject or stop work of any employee or agent of Client.

**7.3. RESPONSIBILITY FOR CONSTRUCTION COSTS:**

Arup is not responsible for the actual construction of the Project and shall not be deemed to have a duty of means and methods. Upon the request of the Client, Arup shall review and comment on any proposed Project construction budget or estimates of construction costs prepared by or for the Client. The Client acknowledges Arup is not responsible for (1) cost increases due to the timing of a contractor's buy-outs for the Project; (2) the cost of labor, materials or equipment; (3) Contractor's methods of determining bid prices; (4) competitive bidding, market or negotiating conditions; (5) contractor's, fabricator's or supplier's failure to meet Project schedules; or (6) the quality of construction work or the materials supplied for the Project. Accordingly, Arup makes no representation that bids or negotiated prices will not vary from the Client's Project construction budget or from any estimate of construction costs reviewed by Arup. The Client further agrees that Arup shall have no liability for actual construction costs exceeding the Project construction budget or prior cost estimates. If the Client requests that Arup provide redesign services to reduce construction costs, Arup shall be compensated for such redesign efforts as Additional Services, provided that such redesign efforts were not required due to a negligent error, inconsistency or omission in the Instruments of Service.

**7.4. RESPONSIBILITY FOR PROJECT SCHEDULE:** Arup is responsible for meeting the milestone dates set forth in a schedule of design deliverables that it agrees to and are incorporated in to the Client's Project Schedule. However, if Arup is delayed or disrupted in performing its services or its ability to meet any of its specific milestone dates is adversely affected in either case by the actions of the Client, construction manager, any contractor or others, or for reasons beyond Arup's reasonable control (including without limitation a Force Majeure Event), then: (1) Arup's liability for missing any milestone dates shall be reduced to the extent the delay is caused by the actions or failure to act of others or for reasons beyond Arup's control, (2) the time for performance of Arup's services shall be equitably adjusted, and (3) Arup shall be compensated for any additional resources employed as an Additional Service.

**7.5. RECORD DOCUMENTS:** The Client acknowledges that Arup is generally not responsible for the production or modification of Record Documents as it is a contractor's sole responsibility, who through its superintendent, is constantly present at the site, in control of operations, and involved in all details of construction. Should Arup be requested to prepare or modify Record Documents, the Client understands the limitations of the Record Documents and acknowledges and agrees that Arup has not verified the accuracy or completeness of the information on which the Record Documents are based and agrees to indemnify and release Arup for any liability for any errors or omissions that may be incorporated therein.

**7.6. ACCELERATED PROJECT DELIVERY OR FAST TRACK:** In the event the Client chooses to take advantage of the potential time and cost savings benefits of an accelerated project delivery or fast-track process, the Client acknowledges that it has been advised that the Project will be affected. Some of the effects of either process include the necessity of making early or premature

commitments to design decisions and the issuance of incomplete and uncoordinated construction documents for permitting, bidding, and construction purposes. The Client acknowledges that the Project, if developed on either basis, will likely require associated coordination, design, and redesign of parts of the Project after construction documents are issued and the construction contract is executed, and may require removal of work-in-place, all of which events may cause an increase in the Cost of the Work and/or an extension of the Project construction schedule. Therefore, the Client acknowledges the necessity of including sufficient contingencies in the budget for the Cost of the Work to account for additional costs and construction schedule extensions arising from either process.

**7.7. ELECTRONIC FILES:** If requested, Arup shall provide the Client with the Instruments of Service in electronic form. However the Client recognizes that the use of electronic media such as CADD formats may subject them to tampering, and modifications by parties over whom Arup has no control and which may result in discrepancies and translation errors stemming from differences in computer software, hardware and equipment-related problems, disc malfunctions and user error. The Client releases Arup from any claims as a result of differences between Arup's filed hard copy and the electronic form of the Instruments of Service if applicable. For each recipient to whom the Client provides the Instruments of Service in electronic form or to whom Arup provides the Instruments of Service in electronic form at the Client's request or under this Agreement, the Client agrees to defend, indemnify and hold harmless Arup from all claims, causes of action, suits, demands, and damages, arising from any differences between the filed hard copy and the electronic form of the Instruments of Service.

**7.8. HAZARDOUS MATERIALS:** Arup's services do not include services related to detection, reporting, permitting, analysis, or abatement of asbestos, hazardous or toxic materials including molds and fungus (collectively "hazardous materials") at the Project site. In the event Arup or any other party encounters hazardous materials at the jobsite, or should it become known in any way that hazardous materials may be present at the jobsite or any adjacent areas that may affect the performance of Arup's services, Arup may, without liability for consequential or any other damages, suspend performance of services on the Project until the Client retains appropriate specialist consultants or contractors to identify, abate and/or remove the hazardous materials and warrant that the jobsite complies with applicable laws and regulations. To the fullest extent permitted by law, the Client shall defend, indemnify and Hold Harmless Arup, its officers, directors, shareholders, partners, principals, agents, employees, consultants, successors, and assigns from and against all liability, loss, damages, costs, and expenses, including attorneys' fees and disbursements, which any of them may at any time sustain or incur by reason of any demands, claims, causes of action or legal proceedings arising out of or in connection with asbestos, hazardous or toxic materials on the Project site.

**7.9. LEED:** The LEED Green Building Rating system or similar environmental guidelines ("LEED") utilizes certain design, construction and usage criteria in order to promote environmentally friendly buildings. The Client and/or Owner acknowledges and understands that LEED is subject to interpretation, and achieving levels of compliance involves factors beyond the control of Arup, including, but not limited to, the end use, operation and maintenance of the completed Project. In addressing LEED, Arup shall use the

Standard of Care in performing its services, in interpreting LEED and designing in accordance with LEED. However, Arup does not warrant or represent that the Project will actually achieve LEED certification or realize any particular energy savings. Arup shall not be responsible for any environmental or energy issues arising out of the end use and operation of the completed Project

## 8. INDEMNIFICATION:

**8.1. ARUP INDEMNIFICATION OF CLIENT:** Arup shall indemnify the Client and its officers, employees and successors from and against all third party damages, losses, and judgments, including reasonable attorney's fees and expenses to the extent they result from Arup's negligent acts or negligent omissions in the preparation of the Instruments of Service and for patent, copyright or trademark infringement attributable to Arup's services. The Client acknowledges and agrees that Arup shall have no affirmative duty to provide a defense for the Client or any other party in connection with indemnified claims and that Arup's responsibility for reimbursement of any reasonable legal fees of the indemnified parties shall be conditioned upon a finding against Arup of negligence by a court of competent jurisdiction and then only to the extent there is a clear nexus between the costs and the negligent act. The Client further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, partner, principal, or employee of Arup shall have personal liability under this Indemnification provision, under any provision of the Agreement or for any matter in connection with the professional services provided in connection with the Project.

**8.2. CLIENT INDEMNIFICATION OF ARUP:** The Client assumes liability for and agrees to indemnify and hold harmless Arup, its consultants, and their respective officers, directors, shareholders, partners, principals, employees, and successors from and against all damages, losses and judgments, including reasonable attorney's fees and expenses, to the extent they arise from or are alleged to arise from an act or omission of the Client, its agents, employees, consultants, contractors or construction manager (collectively for this indemnity "Client Entity"). The provisions of this section shall extend for all time notwithstanding the termination or expiration of the Agreement.

## 9. INSURANCE COVERAGES:

**9.1.** All deductibles and premiums associated with the below coverages except a project-specific policy of professional liability insurance shall be the responsibility of Arup. The use of umbrella or excess liability insurance to achieve the above required liability limits is permitted, provided that such umbrella or excess insurance results in the same type and amounts of coverage as required under the required individual policies identified below. Arup shall upon request provide to the Client certificates of insurance evidencing compliance with the insurance requirements.

**9.2. MINIMUM AMOUNT OF COVERAGE:** Arup shall maintain the following **minimum** amounts of insurance during the term of this Agreement.

Type	Coverage
Workmen's Compensation	Statutory
Employer's Liability	\$ 100,000
Commercial General (Bodily Injury/Property Damage)	\$ 500,000
Automobile Liability	\$ 500,000
Professional Liability	\$ 1,000,000
Umbrella Liability	\$ 1,000,000

**9.3. PROJECT POLICIES:** If the Client chooses to acquire a policy of professional liability insurance for the Project, then the Client agrees that it will pay the cost of the project policy and that Arup must agree on the limits of coverage, parties covered, deductible required and length of the policy period after substantial completion of the services.

## 10. OWNERSHIP AND USE OF INSTRUMENTS OF SERVICE:

Arup is the author of the Instruments of Service and shall retain all common law, statutory and other rights, including copyrights. Provided Arup is fully compensated for its services and expenses on the Project, the Instruments of Service shall be made available to be used for construction of the Project and for operation, modification and maintenance of the Project following its completion. In the event any software and/or digital models (collectively referred to as "Digital IP") is created by or on behalf of Arup in relation to the Project, Arup grants to Client a non-exclusive license to use the Digital IP for the sole purpose of completing the Project provided that Arup is fully compensated for its services and expenses on the Project. Unless otherwise agreed, Client shall not be entitled to make multiple copies of the Digital IP, permit use by multiple users of the Digital IP, and/or use the Digital IP for purposes other than the completion of the Project. Arup shall have a non-exclusive, irrevocable, royalty-free license to use any data or information supplied to it in connection with the Project (excluding personal data as defined under applicable data privacy legislation) for the purpose of improving its internal processes and project delivery. Where any data or information generated during the course of Arup's services is held within an externally-hosted data storage system, project extranet or similar hosted or controlled by the Client, the Client shall at any time up to 12 months from practical completion of the Project provide to Arup (or procure from a third party) access to all such data and information. The Client agrees that Arup will not have any liability to the Client for any revision or addition to, alteration or deviation from the Instruments of Service occurring subsequent to Arup's completion of services under the Agreement or earlier termination in accordance with the Agreement. To the fullest extent permitted by law, the Client shall indemnify, defend and hold harmless Arup, its officers, directors, shareholders, partners, principals, agents, employees, consultants, successors, and assigns from and against all liability, loss, damages, costs, and expenses, including attorneys' fees and disbursements, which any of them may at any time sustain or incur by reason of any revision or addition to, misuse of or deviation from the Instruments of Service occurring subsequent to Arup's completion of services under or the earlier termination of this Agreement by or on behalf of the Client. Client acknowledges Arup's right to include photographic or artistic representations of the design of the Project among its promotional and educational materials including Arup's website or elsewhere. If the Client publicizes the Project and credits other designers, it shall give Arup credit as appropriate and in accordance with industry standards.

**11. TERMINATION AND SUSPENSION:** Except as otherwise provided in this section, this Agreement may be terminated by either party upon not less than thirty (30) calendar days' written notice for convenience or 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. If the defaulting party fails to cure its default within the thirty (30) calendar day notice period or fails to commence action to cure its default when the cure cannot reasonably be completed within thirty (30) days, the termination

shall take effect without further notice. Upon a suspension of services by the Client or termination for convenience, Arup shall be paid for all fees and expenses for services performed through the date of the suspension / termination plus demobilization expenses. In the event of a suspension of services or a termination, Arup shall have no liability for any delay or damage caused because of such suspension/termination of services. Upon the resumption of Arup's services, Arup's fee shall be equitably adjusted and Arup shall be reimbursed for all expenses incurred as a result of the suspension. If the Client's suspension of Arup's services continues for more than ninety (90) calendar days, Arup may terminate this Agreement upon seven (7) calendar days' written notice to the Client.

**12. PAYMENT PROVISION:** Invoices shall be submitted monthly and payments are due within 30 days. All monies secured by the Client by its client to pay for Arup's services identified herein shall be deemed to be held in trust for Arup. Payment of Arup's fees shall not be dependent on Client receiving funding from a third party. In the event of a dispute pursuant to the services rendered hereunder, the Client shall not have the right to set off any payments due or owing to Arup. Payments due Arup and which remain unpaid shall bear interest 30 days from the date of the invoice at the rate of one and a half percent (1.5%) cumulatively per month or the maximum amount permitted by law. Arup is entitled to recover any and all legal fees and any other costs expended if it becomes necessary to pursue legal actions to collect fees due hereunder. Client expressly acknowledges that Arup shall be entitled to a judgment for its attorney fees and court costs attributable to the collection of its fees which are ultimately adjudicated/arbitrated to be rightfully due and owing. Failure of the Client to make payments to Arup in accordance with this Agreement shall be considered substantial non-performance and grounds for Arup to terminate the Agreement or suspend its services without liability for delay. Arup's full payment pursuant to this section shall be a condition precedent for its obligation of performance. Reimbursable Expenses will be billed at cost plus ten percent (10%). Reimbursable Expenses include the actual expenses incurred directly or indirectly in connection with the Project such as those for travel (including transportation and associated expenses); toll telephone calls; reproduction of Project-related documents, reproduction of drawings; filing and permit fees; delivery, express and courier services; and film and processing. Back up, including receipts, will not be provided unless specifically requested by Client at the outset and only for expenses in excess of one hundred dollars. This fee is in addition to the budget. The Client shall pay all taxes (including any goods or services tax, or any equivalent thereof) or government charges payable in respect of the services and all fees are stated exclusive of such taxes and net of any non US withholding taxes. Client shall take special care to review the email and domain when it receives invoices to confirm that they are genuine and not a cyber attack, such as phishing, pharming, etc, failure of hardware, software, human error, etc and Client assumes all risk with no right of set-off or credit for an incident not the fault of Arup. To assist Client in fraud prevention, we have initiated a Digital Signature /Certificate to allow Client to ensure the emails they receive from us originate within the Arup network.

**13. NO SOLICITATION OF EMPLOYEES:** The Client agrees and acknowledges that it will not, directly or indirectly, solicit or hire any employee of Arup or induce any Arup employee to terminate his or her employment with Arup without the express written consent of Arup. Recognizing that Arup has expended a

substantial investment in recruitment, advertisement, testing, and training of their personnel, the Client agrees that if it violates this clause and hires an Arup employee within one year of the completion of the Project, it shall pay Arup for each employee thus hired, the amount of one (1) year's salary, at the last level of annual remuneration that employee received from Arup.

**14. DISPUTE RESOLUTION:** In mutual recognition of the negative consequences associated with disputes both in terms of lost time and expense to all parties, the Client and Arup agree to settle their disputes by good-faith mediation as a condition precedent to the institution of legal proceedings by either party. The parties shall share the mediator's fee and any court or related legal filing fees equally. The mediation shall be held in the state and locality of the primary Arup office performing the work, unless another location is mutually agreed upon. In the event that the matter cannot be resolved through (or is not appropriate for) negotiation or mediation, the dispute shall be submitted for determination in the applicable courts of the state or territory where the primary Arup office performing the work is located and this Agreement shall be subject to and construed in accordance with the laws of that state or territory. The Client shall not assert any claim against Arup more than three (3) years after the date of the substantial completion of the Project.

**15. FORCE MAJEURE:** Neither the Client nor Arup shall be held accountable or penalized under the terms of this Agreement for the failure to perform which is occasioned by a Force Majeure Event, which shall mean an event or circumstance which is (1) beyond a Party's reasonable control, (2) the affected Party could not have reasonably avoided or overcome, and (3) which is not substantially attributable to the other Party. Force Majeure Events may include, without limitation, war, invasion, act of terror, strike (but not strikes or disputes unique to a Party), riot or other public disorder, intervening Act of God, natural disaster, hurricane force winds, tornadoes, disease outbreak, epidemic or pandemic, or other declaration of public health emergency, quarantine restriction.

**16. NOTICES/MODIFICATION / ASSIGNMENT:** Any and all notices or other communications required by this Agreement or by law to be served on, given to, or delivered to either party, shall be in writing and shall be deemed received when personally delivered to the party to whom it is addressed, project manager, or in lieu of such personal service, upon receipt of telegraphic, facsimile or electronic notice or three (3) days after deposit in the United States mail, first-class, postage prepaid. The Agreement may be amended only by written modification executed by both parties and neither obligations relating to this Agreement or claims arising there from may be assigned without the written permission of the non-assigning party. However, Client agrees that Arup may upon written notice to Client assign all or any part of its rights and obligations under this Agreement to an affiliated or related entity.

**ETHICS/WHISTLEBLOWING PROCEDURE:** Arup is committed to a culture of ethical conduct and transparency as part of its mission to shape a better world through right and honorable dealings. Should you witness any unethical conduct or behavior by Arup or any of its officers or employees please report such incident in accordance with Arup's **Speak Up Procedure** for the Americas Region. Subject to local laws, you may make your report confidentially. Once a report is made, Arup will investigate and respond accordingly.

**EXHIBIT-D**

**REALM LANDSCAPE ARCHITECTURE PROPOSAL**

# Proposal

June 21, 2023

**PROJECT**

**Black River Landing Phase 1**  
 Lorain, Ohio

**SCOPE**

**Site Design &  
 Landscape Architecture**

**CLIENT**

**Bialosky Architects**  
 Attn: Paul Deutsch  
 Architect / Senior Associate  
 6444 Carnegie Avenue  
 Cleveland, Ohio 44103  
 pauld@bialosky.com

**OWNER**

**Lorain Port & Finance Authority**  
 319 Black River Ln,  
 Lorain, OH 44052

**AGREE AND ACCEPTED**

\_\_\_\_\_  
 Signatory:

\_\_\_\_\_  
 Date:

**SCHEDULE & SCOPE AREA**

Refer to Exhibit A

**SCOPE**

Refer to Exhibit B

**GENERAL PROJECT ASSUMPTIONS**

Refer to Exhibit C

**TERMS & CONDITIONS**

Refer to Exhibit D

**Dear Paul,**

It is with great pleasure that we submit this proposal for Landscape Architecture services for **Phase 1 of the Black River Landing Amphitheater** project in Lorain, Ohio. We look forward to continuing our collaboration with Bialosky Architects and your consultant team to deliver a high quality design process and built project. Should you have any questions, please do not hesitate to contact me to discuss.

Sincerely,



**Brian Bernstein** PLA, ASLA  
 Principal / Co-Founder

## Overview

1

### Project Understanding

<p>Type Size Design Delivery Process Const. Budget Estimated</p>	<p>Waterfront Park +/- 2.8 ac. Bid Drawings +/- \$3M Site Improvement Costs</p>
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2

### Process

<p>Design Development Construction Documentation Construction Administration</p>	<p>3 Months 3 Months TBD</p>
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3

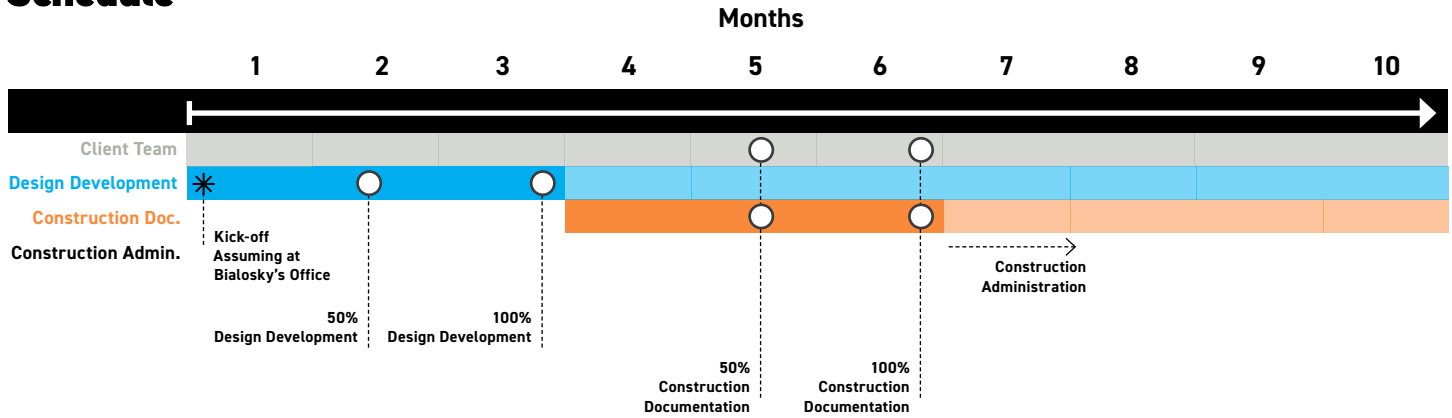
### Investment

<b>Phase 1A+B</b>	
Design Development	\$12,500
Construction Documentation	\$24,750
Construction Administration	\$15,750
<b>Lump Sum Sub-Total: \$53,000</b>	
<b>Add Alternate</b>	
Design Development	\$12,280
Construction Documentation	\$15,050
Construction Administration	\$7,175
<b>Lump Sum Sub-Total: \$34,505</b>	
<b>Consultant Allowance</b>	
Irrigation Design	Allowance: \$5,000



# Exhibit A

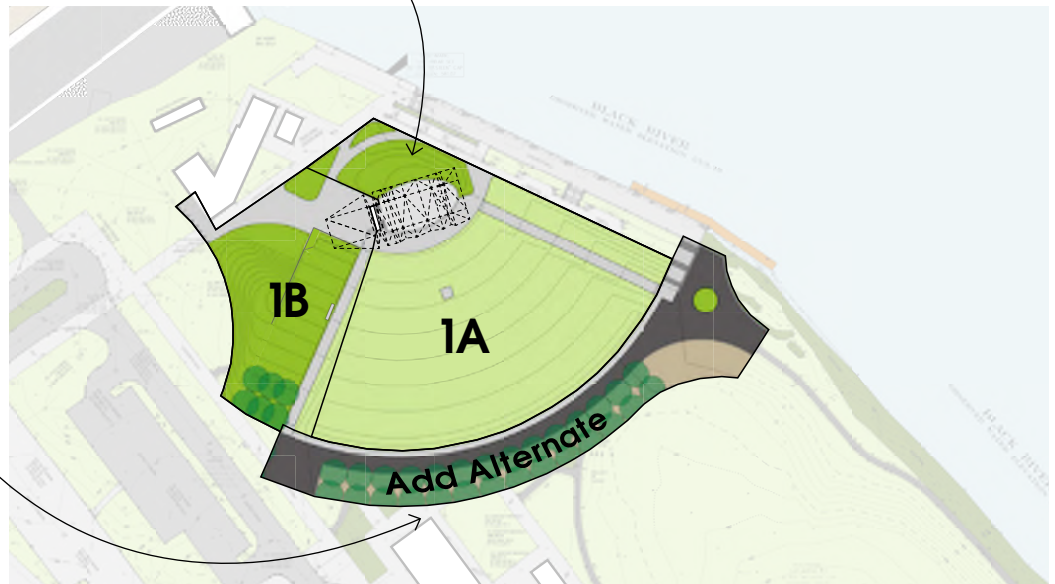
## Schedule



## Scope Area

**Phase 1A + 1B**  
 (Assumed Site Improvements Budget based on WT's SD Estimate +/- \$2M)

**Add Alternate Area**  
 (Assumed Site Improvements Budget based on WT's SD Estimate +/- \$1M)



# Exhibit B1

## Design Development Scope

During this phase, REALM will focus on refining the approved schematic design from a technical perspective while providing the necessary graphic exhibits to convey the design to the client. In particular, we understand the following to be a part of our services:

**Tasks:**

- **Design Development Process** - REALM will complete the following tasks:
    - **Design Refinement** - incorporate feedback from the client team as well as budget considerations into the overall site design. Advance technical documentation.
    - **Presentation Graphics** - preparation of presentation level graphics to assist with conveying the design intent to the client.
    - **Overall Site Plan** - develop a site plan showing the proposed design in relation to existing site conditions.
    - **Hardscape & Materials Plans** - develop pedestrian areas (behind curbs) for hardscape materials, walls, stairs and site furnishings as required.
    - **Grading Plan** - prepare a grading plan in collaboration with the Civil Engineer's mass grading plan. Spot grades provided in all pedestrian areas (behind curbs).
    - **Lighting Plans** - in collaboration with the team's Lighting Designer and Electrical Engineer, coordination of fixture location.
    - **Preliminary Soils Plan** - Identify all areas of imported planting soil areas.
    - **Landscape Plans** - refinement of the landscape plan indicating specific material selection.
    - **Irrigation Plans** - develop a proposed irrigation design.
    - **Sections / Elevations & Typical Const. Details** - provide the necessary information to describe the design.
- 
- **Cost Estimating Assistance** - assist the team's cost estimator with quantity take-offs and material identification as necessary
  - **Client Presentations** - participate in client presentation and client board level presentation.

## Design Development

**DELIVERABLES:**

**Illustrative Exhibits**

Refined Illustrative Site Plan

**DD Technical Design Set**

Overall Site Plan

Notes + Finishes Legends

DD Materials Plans

DD Planting Plans

DD Soils Plans

DD Irrigation

DD Site Sections + Elevations + Details

DD Outline Specs. (CSI Format)

**Meetings**

Weekly Design Team Meetings

(via zoom)

(1) Client Presentation

(In-person)

(1) Client Board Presentation

(In-Person)

# Exhibit B2

## Construction Documentation Scope

During this phase, REALM will focus on final documentation of the design. In particular, we understand the following to be apart of our services:

**Tasks:**

- **Construction Documentation Process** - REALM will complete the following tasks:
    - **Overall Site Plan** - develop a site plan showing the proposed design in relation to existing site conditions.
    - **Tree Protection Plan** - (If Required)
    - **Site Soils Plan** - finalize areas and specification of site soils
    - **Hardscape & Materials Plans** - finalize material specifications and finishes inclusive of site furnishings.
    - **Layout & Jointing Plan** - site layout & jointing as it relates to pedestrian hardscape and landscape areas inclusive of dimensions and alignment notations.
    - **Grading Plan** - prepare a grading plan in collaboration with the Civil Engineer's mass grading plan. Spot grades provided in all pedestrian areas (behind curbs).
    - **Lighting Plans** - in collaboration with the team's lighting designer and electrical engineer, identify fixture locations.
    - **Landscape Plans** - finalize landscape selections and specifications inclusive of plant genus, species size and type of plant, planting details, limits of seed/sod, general notes.
    - **Irrigation Plans** - finalize design of the irrigation system.
    - **Site Details** - finalize site details, sections, elevations and enlarged plans necessary to convey design intent to bidders / contractors.
    - **Specifications** - prepare technical specifications in CSI format.
- 
- **Cost Estimating Assistance** - assist the team's cost estimator with quantity take-offs and material identification.
  - **Client Presentations** - participate in client presentation and client board level presentation.

## Construction Documentation

**DELIVERABLES:**

**Technical Drawing Set**

- Note + Finishes Legend
- CD Soils Plan
- CD Materials Plan
- CD Jointing
- CD Layout Plan
- CD Grading Plan (Ped. Areas)
- CD Planting Plan
- CD Irrigation
- CD Site Sections + Elevations
- CD Details
- CD Specs. (CSI Format)

**Meetings**

- Weekly Design Team Meetings (via zoom)
- (1) Client Presentation (In-person)
- (1) Client Board Presentation (In-Person)

# Exhibit B3

## Bidding & Permitting + Construction Admin.

During this phase, REALM will focus on developing the necessary information to assist with bidding and permitting. In particular, we understand the following to be apart of our services:

**Tasks:**

- **Bidding & Negotiations** - REALM to assist with:
  - **Bid Packages** - Assist with the production of Bid Packages as required.
  - **Pre-Bid Meeting** - Participate in pre-bid meeting
  - **Bid Review** - Assist in the review all bids received
  - **Bid RFI's** - Assist with clarifications and addenda during bidding.
  - **Pre-award Conference** - Participate in pre-award meetings
  
- **Construction Administration** - REALM to provide the following services in relation to the scope of Landscape Architecture:
  - **Pre-Construction Meeting** - Participate in a pre-construction meeting
  - **OAC Meetings** - Participate in weekly OAC meetings.
  - **RFI's** - Review landscape related RFI's and shop drawings
  - **Field Observations & Reports** - Complete a series of field observations during construction and provide a detailed report for each visit.
    - **Local Field Observation Strategy** - It is assumed an experienced & licensed Landscape Architect from Snyder & Associates will perform weekly site observations inclusive of photos and a written report for the scope of work. This report will be provided to REALM within 1 business day from the time of the site visit.
  - **Tree Tagging** - REALM to provide tree tagging review via imagery provided by local / regional nursery. On-site visits can be provided at a per diem rate of \$1,200 + reimbursable expenses.
  - **Pre & Final Punch** - provide a pre and final punch list report.

## Bidding & Negotiations + Const. Admin

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**DELIVERABLES:**

**Bidding & Negotiations**

- Pre-Bid Meeting
- Bid RFI's
- Addendum / Bulletins
- Review / Evaluate Bid Results

**Construction Admin.**

- Pre-Construction Meeting
- RFI + Submittal Review
- Tree Tagging
- On-site Construction Observation
- On-site Mock-up Reviews
- In-Office Documentation
- Final Inspections / Punch List

**Meetings / Site Visits**

- (1) Pre-Construction Meeting
- OAC Meetings LA Scope (by Zoom)
  - (1) Tree Tagging Trips
  - (3) Site Observation Visits
    - (1) Pre Punch Visit
    - (1) Final Closeout Visit

# Exhibit C

## General Project Assumptions

### Assumptions / Exclusions

- **Existing Conditions Survey & Geo-Tech Report:**  
 Survey to be provided by Owner in electronic drawing format inclusive of all existing conditions. Geotechnical report provided by owner if required.
- **Architectural**  
 It is assumed that the team's Architect will be responsible for the design of the buildings.
- **Civil Engineer**  
 It is assumed that the Civil Engineer will be responsible for documentation of work within roadways / parking lots from curb to curb (excluding landscaping and specialty vehicular drop-off areas requiring a higher level of finish). Additionally, it is assumed the team's Civil Engineer will be responsible for mass grading of the site, sub-surface drainage, stormwater strategies and utility coordination. REALM will provide input on how stormwater strategies, particularly those that reduce the need for additional below grade infrastructure can be considered for implementation. In areas within REALM's scope (behind the curbs), we will responsible for the:
  - Hardscape design (pavement, walls, stairs, etc.)
  - Landscape design (soils, ground covers, shrubs, trees, etc.)
  - Fine grading and drainage fixture selection (to be coordinated with the Civil Engineer and shown on their sheets in Civil 3D.)
  - CSI Specifications for associated items
- **Exterior Lighting:**  
 REALM will work in collaboration with the team's lighting designer and electrical engineer to coordinate design intent, fixture selection and location. Lighting design, engineering, photometrics, wiring, conduit, and structural provided by the team's electrical engineer.
- **Structural Engineering:**  
 Structural Engineering for site related items (i.e. freestanding walls, retaining walls, water features, canopy structures, stairs, etc.) is not currently part of this scope. If required, it can be provided as part of the consultant allowance or as an additional service.
- **Irrigation Design:**  
 Irrigation Design for site improvement areas (i.e. control system, electrical components, water source) is part of this scope and will be provided by an Irrigation Consultant.
- **Cost Estimating:**  
 Cost estimating in not part of this scope.
- **Signage & Wayfinding:**  
 Necessary signage and wayfinding design is not provided as part of this scope.
- **Audio / Visual Equipment & MEP:**  
 Audio/Visual Equipment & MEP engineering are not currently part of this scope. If required, it can be provided as part of the consultant allowance or as an additional service.

### Consultant Services

- Survey & Geo-Tech**  
 NIC
- Architectural Design**  
 NIC
- Civil Engineering**  
 NIC
- Lighting Design & Engineering**  
 NIC
- Structural Engineering**  
 NIC
- Irrigation Design**  
 WC3 Irrigation Consultants  
 PM: Steve Lukasik  
 \$5k Allowance
- Cost Estimating**  
 NIC
- Signage & Wayfinding**  
 NIC
- Audio / Visual Equipment & MEP**  
 NIC

# Exhibit D

## Terms & Conditions

### 1. Standard of Care

1.1 The Landscape Architectural Services shall be performed with care and diligence in accordance with the professional standards applicable at the time and in the location of the project and appropriate for a project of the nature and scope of this Project.

### 2. Scope of Services

2.1 Landscape Architectural Services to be provided under this Agreement are as listed in this proposal, anything not listed will be considered additional services/supplemental services.

### 3. Supplemental Services

3.1 Supplemental Services are in addition to the basic Scope of Services and, when requested in writing by the Client, shall entitle the Landscape Architect to additional compensation beyond the Compensation provided in this proposal. Supplemental Services under this agreement include any additional items not currently listed in this proposal.

### 4. Changes to Approved Services

4.1 Revisions to drawings or other documents shall constitute Supplemental Services when made necessary because of Client-requested changes to previously approved drawings or other documents, or because of Client changes to previous Project budget parameters or Project requirements.

### 5. Schedule of Performance

5.1 The Client's signature on this Agreement shall be the basis for the Landscape Architect to begin providing services for the Project. The Landscape Architect shall perform the services as expeditiously as is consistent with the standard of care described above.

### 6. Information

6.1 The Client shall provide data about the site and other information on which the design is to be based as well as Client's budget parameters for the Project. The Landscape Architect shall be entitled to rely on the accuracy and completeness of information provided by the Client.

### 7. Budget

7.1 The Landscape Architect shall reasonably strive to propose designs and prepare documents consistent with the Client's budget parameters. If provided by the Landscape Architect as a part of the Scope of Services, opinions of probable construction costs are based on the Landscape Architect's familiarity with the landscape construction industry and are provided only to assist the Client's budget planning. Such opinions shall not be construed to provide a guarantee or warranty that the actual construction costs will be within the Project budget parameters at the time construction bids are solicited or construction contracts negotiated.

### 8. Approvals

8.1 The Client's decisions, approvals, reviews, and responses

shall be communicated to the Landscape Architect in a timely manner so as not to delay the performance of the Landscape Architectural Services.

### 9. Project Permit and Review Fees

9.1 The Client shall pay all fees required to secure jurisdictional approvals for the Project.

### 10. Ownership of Documents

10.1 The Landscape Architect shall be deemed the author and owner of all documents and deliverables developed pursuant to this Agreement and provided to the Client by the Landscape Architect (collectively, the "Design Materials"). Subject to payment by the Client of all fees and Reimbursable Expenses owed to the Landscape Architect, the Landscape Architect grants to the Client an irrevocable, non-exclusive license to reproduce the Design Materials solely for the construction of the Project and for information and reference with respect to the use of the Project.

### 11. Landscape Architect Compensation

11.1 Compensation for the Landscape Architectural Services performed under this Agreement shall be as indicated in the Preliminary Provisions plus Reimbursable Expenses as defined below. Supplemental Services, when requested in writing by the Client, shall require additional compensation to be determined on an hourly basis or on the basis of a negotiated fee.

11.2 Reimbursable Expenses are expenditures made by the Landscape Architect, its employees, and consultants in the interest of the Project plus an administrative fee of 10%. Reimbursable Expenses include but are not limited to travel expenses, costs of reproduction of documents, postage, services of professional consultants which cannot be quantified at the time of contracting, and other, similar direct Project-related expenditures.

11.3 Monthly payments to the Landscape Architect shall be based on (1) the percentage of the Scope of Services completed and shall include payments for (2) Supplemental Services performed, and (3) Reimbursable Expenses incurred.

11.4 Payments are due and payable 30 days from the date of the Landscape Architect's invoice. Invoiced amounts unpaid 45 days after the invoice date shall be deemed overdue and shall accrue 15% simple interest per month. At the Landscape Architect's option, overdue payments may be grounds for termination or suspension of services.

11.5 If through no fault of the Landscape Architect, the Scope of Services to be provided under this Agreement has not been completed within 45 calendar days of the initial notice to proceed, the compensation for services rendered after that time period shall be equitably adjusted.

# Exhibit D

## Terms & Conditions

### 12. Indemnification

12.1 Client and Landscape Architect each agree to indemnify and hold harmless the other, and their respective officers, employees and representatives, from and against liability for losses, damages, and expenses, including reasonable attorneys' fees, to the extent such losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors, or omissions. In the event losses, damages, or expenses are caused by the joint or concurrent negligence of Client and Landscape Architect, they shall be borne by each party in proportion to its negligence.

### 13. Dispute Resolution

13.1 If a dispute arises out of or relates to this Agreement, the parties shall endeavor to resolve their differences first through direct discussions. If the dispute has not been settled within 21 days of the initial discussions, the parties shall submit the dispute to mediation, the cost of which shall be shared equally by the parties. Nothing in these provisions shall limit rights or remedies not expressly waived under applicable lien laws.

### 14. Termination

14.1 This Agreement may be terminated by either party on seven (7) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination, provided the defaulting party has not cured or in good faith diligently commenced to cure the breach during the 7-day notice period.

### 15. Assignment

15.1 Neither party shall assign their interest in this Agreement without the express written consent of the other, except as to the assignment of proceeds.

### 16. Governing Law

16.1 The law in effect at the Landscape Architect's principal place of business shall govern this Agreement.

### 17. Complete Agreement

17.1 This Agreement represents the entire understanding between the Client and the Landscape Architect and supersedes all prior negotiations, representations, or agreements, whether written or oral with respect to its subject matter. The person(s) signing this Agreement on behalf of the parties hereby individually warrant that they have full legal power to execute this Agreement on behalf of the respective parties and to bind and obligate the parties with respect to all provisions contained herein. This Agreement may be amended only in a writing signed by both the Client and the Landscape Architect.

### Firm Hourly Rates

Principal.....	\$200/hr.
Senior Professional.....	\$125/hr.
Professionals.....	\$100/hr.
Interns.....	\$85/hr.

**REALM Collaborative**  
 100 E Broad Street, Suite 1710  
 Columbus, OH 43215



-----  
 Brian Bernstein  
 Principal / Co-Founder

**ACCEPTED:**  
**Bialosky Architects**  
 Attn: Paul Deutsch  
 Architect / Senior Associate  
 6444 Carnegie Avenue  
 Cleveland, Ohio 44103  
 pauld@bialosky.com

-----  
 Signature

-----  
 Print Name

-----  
 Date

**EXHIBIT-E**

**OSBORNE ENGINEERING CIVIL ENGINEERING PROPOSAL**





P20230530.000

June 9, 2023

Paul Deutsch, AIA, LEED AP  
Bialosky + Partners Architects, LLC  
6555 Carnegie Ave., Suite 200  
Cleveland, OH 44103

sent via email: [pauld@bialosky.com](mailto:pauld@bialosky.com)

**Re: Proposal for Civil Engineering Services for Design Development, Construction Documents and Construction Administration for Phases 1A & 1B + Add Alternate Area of the Black River Landing Amphitheater project in Lorain, Ohio**

Dear Mr. Deutsch:

Osborn Engineering appreciates the opportunity to continue working with your team on this exciting and transformative project.

**SCOPE OF SERVICES:**

**1. Design Development Phase**

- 1.01 Participate in conference call coordination meetings as required.
- 1.02 Review all City, County and State requirements that apply to this project and share key information with the team.
- 1.03 Coordinate with the project surveyor to verify that all required project areas are included in their scope and that all captured information is in-line with stakeholders' available record drawings.
- 1.04 Perform site visits with the design team for continued coordination.
- 1.05 Continue in the development of the site plan with fellow design team members.
- 1.06 Identify potential utilities that would need to be relocated, upsized or modified in some other manner.
- 1.07 Due to the project area exceeding 1.0 acre in size and being highly impervious, post-construction stormwater management is expected for this project. Due to the adjacency of the project to the Black River, stormwater quantity control is not anticipated or included.
- 1.08 Develop preliminary stormwater management calculations and concepts to fit the site plan program.
- 1.09 Meet with AHJ's to introduce the project and clarify permitting requirements.
- 1.10 Coordinate with design team members on the determination of grading, layout of site amenities, sidewalks and hardscape plans.

**2. Construction Documents Phase**

- 2.01 Prepare the following site/civil plan sheets for the proposed development:
  - 2.01.1 Existing Conditions and Demolition Plan
  - 2.01.2 Site Grading Plan
  - 2.01.3 Site Utility Plan (Domestic and Fire Water, Sanitary Sewer, Storm & Gas)
  - 2.01.4 Horizontal Control Plan



- 2.01.5 Stormwater Management Layout, Calculations and Details
- 2.01.6 Storm Water Pollution Prevention Plans, Details and Notes Sheets
- 2.01.7 Miscellaneous Site Work Details and General Notes Sheets.
- 2.02 Participate in weekly conference calls for project coordination.
- 2.03 Develop project specifications covering divisions 31, 32 and 33. Division 32 items that overlap with scope of the landscape architect will be coordinated.
- 2.04 Develop any/all proposed easement linework to provide to team's surveyor for plat preparation.
- 2.05 Prepare one CD progress submittal and respond to design review comments.
- 2.06 Conduct follow-up meetings with AHJ's to keep them engaged in the project.
- 2.07 Respond to plan review comments from AHJ's.
- 2.08 Review and coordinate design with construction cost estimate, developed by others, schedule and phasing.
- 2.09 Update drawings and specifications.
- 2.10 Prepare final Construction Document drawings and specifications for permit and bidding.
- 2.11 Specifications will be prepared in standard CSI six-digit division format.
- 2.12 Submit stamped and signed PDF drawings and specifications for plan approval.

### 3. Construction Phase

- 3.01 Attend necessary meetings during CA.
- 3.02 Maximum number of two (2) shop drawing reviews and approvals per submittal.
- 3.03 Civil engineer to complete site observations every two (2) weeks during construction phase, while site development operations are underway.
- 3.04 Respond to Contractor RFI's.

### 4. Clarifications

- 4.01 Our fee assumes that, although changes are expected throughout the early development of the design, there will be no significant design changes after the 75% CD stage. If there are any significant design changes after that point, other than re-design work necessary to bring the project within the budget, we would be entitled to additional design fees.
- 4.02 Prepare construction documents, including plans and specifications, in accordance with the City of Lorain, Lorain County, State of Ohio and applicable Federal requirements as of the start date of the project.
- 4.03 Osborn's civil team will review the geotechnical soils report, prepared by others, and incorporate recommendations into the plans and specifications.
- 4.04 Coordinate site exterior lighting with the design team's selected electrical engineer.
- 4.05 Provide input and review of the cost estimate, provided by others. Cost data will be limited to site work including demolition, grading, infrastructure, utilities, pavement and storm water management.

### FEES:

Our lump sum fee to provide the services described above for the base scope of Phases 1A & 1B is **\$47,500.00**, not including reimbursable expenses, which will be billed in accordance with the attached rate sheet. The Add Alternate segment of the project can be designed for an additional **\$15,000.00**. Osborn will invoice monthly based on percentage of work completed and expenses incurred to date.

Osborn Engineering will invoice monthly based on a percentage of work completed to date. The fees presented are based on a fixed fee/lump sum plus expenses basis.



<b>Service</b>	<b>DD</b>	<b>CD</b>	<b>CA</b>	<b>Total</b>
Civil – 1A & 1B	\$ 14,250	\$ 23,750	\$ 9,500	<b>\$ 47,500</b>
Civil – Add Alt	\$ 4,500	\$ 7,500	\$ 3,000	<b>\$ 15,000</b>

**ESTIMATED EXPENSES:**

Osborn Engineering estimates the reimbursable expenses for this project to be **\$500**. Reimbursable expenses will only be invoiced as they are charged to the project.

**EXCLUSIONS:**

1. SUE Level A utility mapping services.
2. Site surveying and base mapping.
3. Offsite improvements to roadways or utilities. Osborn can provide offsite improvement services under a separate proposal upon request.
4. Geotechnical soils investigations or reporting.
5. LEED Administration.
6. Permits involving the Army Corps of Engineers or ODNR involving the existing coastline of the Black River.
7. Environmental assessments or remediation design.
8. Site lighting design or Photometric Plans – this will be prepared by the team's electrical engineer.
9. Cost estimating services.
10. Traffic volume analysis or signalization requirements including any traffic control plans. Osborn can provide these services under a separate proposal upon request.
11. Planting Plans, Irrigation Plans or selection of final vegetation – these shall be performed by the Landscape Architect.
12. Full time construction observation.
13. Reimbursable costs, which includes printing, shipping, travel and permit fees.

Should you have any questions or need additional information, please don't hesitate to let us know. We are excited to be a part of the project and the development team and are ready to begin work upon receiving authorization.

Sincerely,

**OSBORN ENGINEERING**

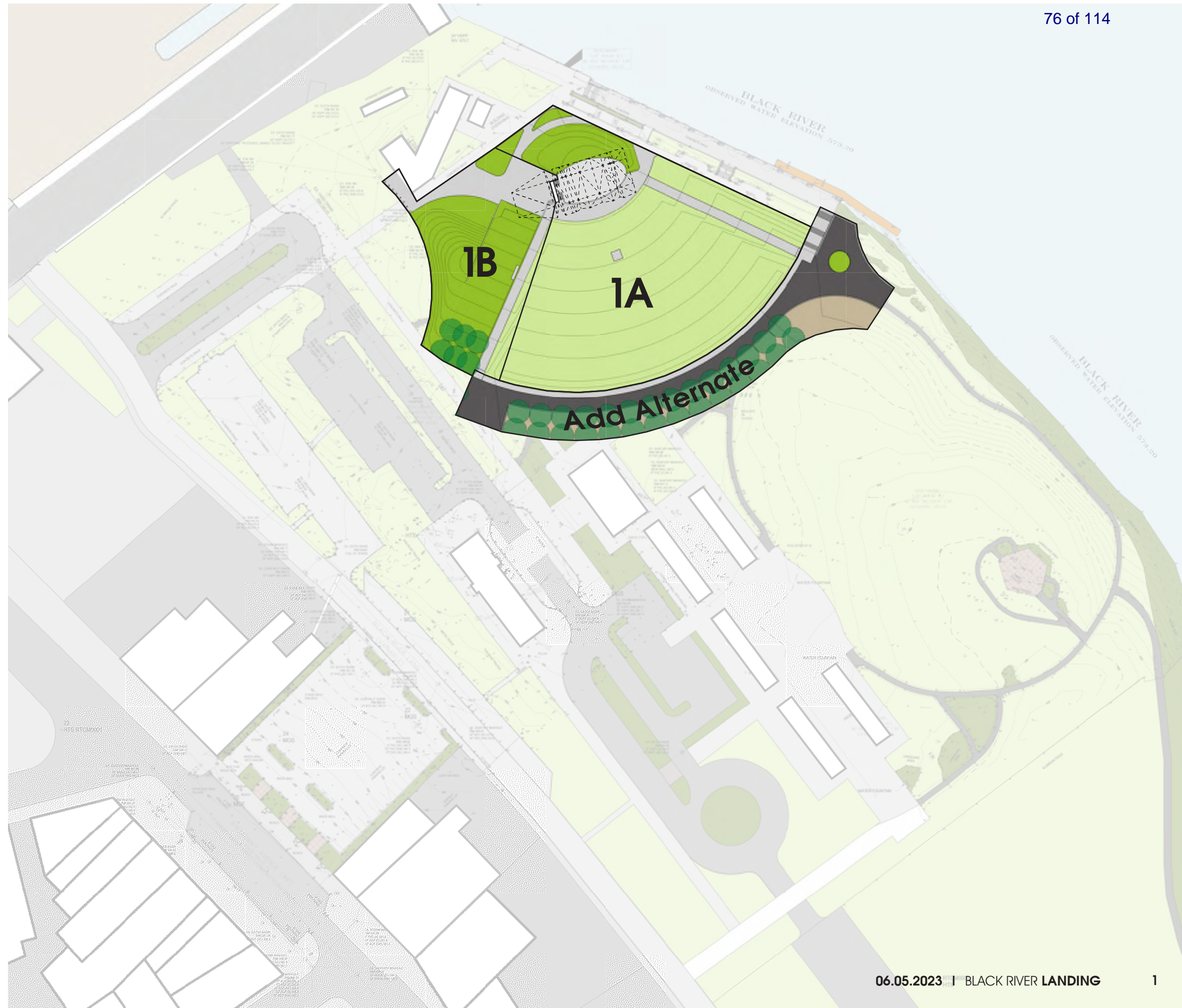
Joe Ferenczy, PE  
Director of Infrastructure

---

By: Jon-Michael C. Lemon, P.E., LEED GA  
Director of Civil Engineering

cc: OECAct

# PHASING PLAN



## LEGEND

PHASE 1A:  
1.50 ACRES

PHASE 1B:  
0.59 ACRES

PHASE 1 TOTAL:  
2.09 ACRES

ADD ALTERNATE:  
0.64 ACRES

TOTAL:  
2.73 ACRES

**EXHIBIT-F**

**CLAUDE ENGLE LIGHTING DESIGN PROPOSAL**

CLAUDE R. ENGLE  
LIGHTING CONSULTANT

CLAUDE R ENGLE III  
CLAUDE R ENGLE IV  
TEL: 301 654 5502  
FAX: 301 654 5503

June 16, 2023

Robert Mashke  
robert mashke ARCHITECTS inc.

Re: Proposal for Lighting Consultation on Black River Landing (DD+ 50%CD & 50%CA)

Dear Robert,

Happy to see this project and your vision move into the next phase of realization.

As we discussed previously, your idea of having a local lighting consultant of the electrical engineer manage CD & CA is a good one. We have worked internationally like that successfully for many years on many important projects. Our involvement mirrors that of a Design Architect where our involvement is focused on the design and then switches to a more supervisory role during the Contract Document and Construction Phases. It does require us to do a more complete Design Definitive Phase Package than usual to ensure that not only is the design fully expressed, but that the specifications are developed as well.

The local Project Electrical Engineer or lighting consultant is familiar with the local codes and practices and is best positioned for coordinating the Contract Documents with all the other local trades and fielding questions from the site during construction. The Project Electrical Engineer would also be responsible for code compliance and brings knowledge of local practices to the project.

For the Contract Document Phase, we would review the lighting package at 50% and at 95% to make sure that the design intent and criteria has been maintained. Should there be any changes to the design during this phase which require our input or the design of a special lighting system, we would charge on an hourly basis.

Though the local consultant would be fielding most of the questions during the Construction Phase, we are presuming we would oversee the procurement phase. The answering of any RFIs that the local lighting consultant felt they could not answer or items that potentially affected the design would be charged on an hourly basis. For the final commissioning of the lighting, I will put in as an additional service should you deem that necessary.

From our discussions, we propose to provide architectural lighting consultation as follows:

2 WISCONSIN CIRCLE, SUITE 860 CHEVY CHASE, MARYLAND 20815  
CLAUDE R. ENGLE, LIGHTING CONSULTANT IS INCORPORATED IN THE STATE OF MARYLAND

## PROJECT AREAS:

## Phase 1A

1. Amphitheatre Canopy Lighting
2. House Stage Lighting
3. Surrounding Site & Area Lighting Lighting
4. Audience Area

## Phase 1B

1. Exterior Lighting of Peel
2. Interior Lighting of Peel
  - a. Green Room
  - b. Multi-purpose Room
  - c. Office
  - d. Amenities

## Add Alternate

1. Tree-lined Avenues
2. Riverside Promontory
3. Back of Audience Area

## SCOPE OF WORK:

## Design Development Phase

1. Working from the approved lighting design concepts, continue developing the lighting design for all areas listed above to achieve the developed concepts. This includes working with the design team to develop integration of lighting systems into the architecture, decorative lighting fixtures and fixtures for integration into the millwork.
2. These will be documented as Master Lighting Plans indicating the locations, types and wattages of each fixture. Our plans will be based on RMA's plans, reflected ceiling plans, and sections and will be intended to be electronically indexed into the Architectural drawings.
3. Using a rendering program and working in black and white, develop the sculptural lighting of the Amphitheatre Canopy. These will generate the lighting specification as well.
4. Work with RMA to develop the interior lighting of the Green Room Peel.
5. Develop a hierarchy of light levels for the project, and how the central concept of the project applies to the different spaces or how the different spaces inform the design concept of the building.
6. Prepare a complete study of photometric calculations of all interior and exterior spaces. Target lux levels and brightness levels will be described in a diagrammatic form or list format of the project areas.
7. Work with Realm & RMA to develop lighting of Add Alternate Phase (4 mtgs, design, calculate, prepare spec \$5000 fee)
8. Where the control of the lighting is critical to maintaining the overall image and quality of light for the project, we will prepare lighting control logic plans that show

lighting groups and how they are controlled. These diagrams are intended for the project engineers for developing their branch circuiting, developing the electrical system and control specifications and for explaining to the Client how the lighting works. We will also work with the Client on developing the kind of interface they want with the lighting control and how they want to use the spaces.

9. We will develop an outline lighting specification which will use fixture sketches and catalog cuts to illustrate the appearance and size of the luminaires and power consumption. This will entail a work session with the electrical engineers to make sure that local codes and practices are being respected in the design. Neither the plans nor fixture sketches will be intended for use as stand-alone bidding and construction documents at this stage.
10. Develop the information needed to produce a lighting control line diagram. Provide lighting control diagrams and a written description of the intent of the lighting control system.
11. We will work with the Cost Consultant to help develop the budgets of the designed systems.
12. Attend 12 coordination meetings via Video Conferencing & 6 design sessions.
13. Where required, develop designs for mockups to be built by others of exterior façade lighting. Participate in the review and evaluation of these mockups and prepare the technical portions of any reports. (This is an additional service, for which we will provide an estimate of the fee and expenses for our involvement before we proceed).
14. Participate in the presentation of the DD Design to the Client, if required.
15. Incorporate any comments from or changes requested by the Client into a revised final Design Development Lighting Report.

We presume 6 design sessions with RMA via video conferencing.  
\$32,500 fee. (+ \$5,000 with Add Alternate Phase)

#### Construction Document Phase

1. Having presented and explained the lighting Design in detail to the local engineers, we would be available for any questions they may have during the Construction Document Phase. Being "local", they are knowledgeable about local codes and in close proximity to the project architect and engineers for all coordination. We presume they will answer most questions from the field, but in the case they cannot, we will. The answering of ongoing queries would be charged on an hourly basis.
2. The local lighting consultant will be responsible for code compliance. Wherever possible the local engineers should utilize architectural luminaires for emergency lights. Where the engineers identify special problems, we will work with them to resolve them to avoid the use of standalone emergency fittings.
3. Should we need to prepare the lighting specification drawings and writings for any "special" lighting systems, that would be an additional service. The Project Electrical Engineer shall be responsible for preparing all parts of the specification.
4. Review the 50% Contract Documents that have been prepared by the local engineer to make sure that the Construction Documents continue to represent and articulate the intended lighting design. We would also be reviewing in detail the



lighting specification to make sure that it is solid and that it can purchase the specified performance of the lighting design.

5. Review the 95% Contract Documents that have been prepared by the local engineer to make sure that the Construction Documents continue to represent and articulate the intended lighting design. We would also be reviewing in detail the lighting specification to make sure that it is solid and that it can purchase the specified performance of the lighting design.
6. Attend 8 coordination meetings.
7. Mockups. Where required, develop designs for any further mockups to be built by others. Participate in the review and evaluation of these mockups and prepare the technical portions of any reports. This would be an extra.

We presume 4 design sessions with RMA via video conferencing.  
\$14,100 fee (+ \$1,000 with Add Alt Phase).

#### Contract Administration Phase

1. Review tender proposals and make recommendations on their acceptance and suggesting any modifications that could help them meet the specification.
2. Should there be any further mockups we will develop designs for those mockups to be built by others. Participate in the review and evaluation of these mockups and prepare the technical portions of any reports.
3. Work with approved manufacturers from the lighting submission process reviewing their shop drawings and samples to develop special lighting systems for final acceptance. (Hourly Basis)
4. Attend twelve 1-hour Construction Coordination meetings.
5. Provide on-going replies to field questions during the construction (hourly basis).
6. Review the final installation, provide a punch list and give directions for the focusing of the lights and the programming of all the light scenes. (optional)

Procurement Process: \$5,400

Attend Coordination Meetings: \$2,400

Answer RFIs on an hourly basis (\$250/hour).

(+ \$1,000 with Add Alt Phase)

One visit to site for final commissioning of the lighting systems.(2 days)  
\$8,400 fee; \$600 expenses.

Our fee involvement based on Design Phases is as follows:

	Phases 1A & 1B	Add Alt Phase	Expenses
Design Development Phase	USD 32,500	USD 5,000	
Contract Document Phase	USD 14,100	USD 1,000	
Construction Admin Phase	<u>USD 16,200</u>	<u>USD 1,000</u>	<u>USD 600</u>
	USD 62,800	USD 7,000	USD 600

**Total Fee: USD 63,400 or USD 70,400 with Add Alternate Phase**

**REIMBURSABLE EXPENSES:**

In addition to the above fees, we will invoice for long distance telephone, telecopy, shipping and transportation, reproduction services, courier, and mailing charges. We will also be reimbursed for the direct costs of travel and lodging incurred on trips to Ohio for project work sessions and presentations.

**ADDITIONAL SERVICES:**

Additional services will be provided at our normal hourly rates, if authorized, but are not included in the fee estimates. These include:

1. Mock-ups or models:

Any costs of mock-ups or models, other than study models intended for our own use will be reimbursed, subject to approval prior to their fabrication.

2. Computer Modeling:

The costs for computer modeling or computer calculations for emergency lighting or LEED reports other than what we develop for our own use will be reimbursed, subject to approval prior to development.

3. Additional Site Visits or trips for mockups that are not enumerated above.

4. Photo realistic renderings:

We provide accurate black and white renderings to illustrate lighting effects and appearances, but photo realistic rendering is an additional service.

5. Design Changes:

Any changes of approved designs that cause a major redesign of an area is an additional service.

**INSURANCE:**

We shall maintain Professional Liability Insurance in an amount not less than Three Million Dollars (\$3,000,000.00) and Public Liability and Motor Vehicle Liability Insurance in an amount of Five Hundred Thousand Dollars (\$500,000.00) and shall furnish certificates of such insurance to you if requested.

**DRAWINGS AND SPECIFICATIONS:**

All drawings, specifications and other work products of the Lighting Consultant for this project are instruments of service for this project only. Re-use of any of the instruments of service of the Lighting Consultant on extensions of this project or any other project without the written permission of the Lighting Consultant, shall be at the Owner's risk.

RECORDS:

Time records and records of the Lighting Consultant's direct personnel expenses and reimbursable expenses shall be kept on a generally recognized accounting basis and shall be available to authorized representatives at mutually convenient times.

INVOICES AND PAYMENTS:

If out of scope additional work is required or requested, it shall be invoiced on a monthly basis in the month that it is accrued. Out of scope work, can either be a firm fixed fee or hourly basis as described above.

All payments should be made in the form of Wire Transfers as listed on the invoice. All invoices are payable at Net-30 days. We offer a discount of 5% for invoices that are paid within 10 days of invoicing.

Any/All payments made after Net-30 days shall incur 1.5% interest on the unpaid balance per month.

If you have any questions or comments regarding the proposal or if I have left something out, please call me.

Best Regards,

A handwritten signature in black ink, appearing to read "Claude R. Engle, Jr.", with a long, sweeping flourish extending to the right.

Claude R. Engle, Jr

Tour Type	2021 Season			2022 Season			2023 Season			Passenger Count	Actual Trip Increase
	Scheduled Trips	Cancelled	Total Trips	Scheduled Trips	Cancelled	Total	Scheduled Trips	Cancelled	Total		
River	41	4	37	33	4	29	27	4	23	223	-6
Sunset	36	4	32	29	2	27	27	10	17	156	-10
Fall	0	0	0	N/A	N/A	0	16	8	8	49	8
Lighthouse	13	1	12	13	4	9	14	3	11	688	2
Dinner	14	1	13	13	4	9	12	2	10	166	1
Private LH	8	1	7	5	0	5	15	3	12	278	7
Private River	7	0	7	6	0	6	11	0	11	112	5
Twilight	0	0	0	N/A	N/A	0	N/A	N/A	0	0	0
History	9	1	8	15	1	14	11	0	11	183	-3
Brunch	0	0	0	N/A	N/A	0	N/A	N/A	0	0	0
Sip&Sway River	12	1	11	11	1	10	25	3	22	45	12
Sip&Sway Sunset	3	1	2	2	0	2	23	2	21	114	19
Kids Cruise	N/A	N/A	0	N/A	N/A	0	8	2	6	55	6
Water Taxi	19	3	16	20	1	19	26	2	24	1483	5
<b>Total</b>	<b>162</b>	<b>17</b>	<b>145</b>	<b>147</b>	<b>17</b>	<b>130</b>	<b>215</b>	<b>39</b>	<b>176</b>	<b>3552</b>	<b>35</b>

This year, we scheduled 215 trips. Of those, 39 were cancelled for one reason or another and were able to run 176 total. That's an increase of 36 trips from 2022 to 2023. Of the 11 scheduled History Excursions, 9 of them sold out, showing they remain among our most popular trip offered.

Passengers tend to like the Sip n' Sway at the sunset time versus the earlier time slot, so we'll plan for more of those next year.

The Water Taxi ran 24 times out of 26 scheduled trips. There were a total of 1,483 riders, with 665 from BRL, 661 from the Shipyards, and 157 from Oasis Marinas. Our statistics show most people ride the Water Taxi during Rockin on the River.

**RESOLUTION NO. 2023-**

**A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO ENTER INTO A ONE YEAR EXTENSION WITH CHRIS HAYNES DBA CROW’S NEST DIGITAL MEDIA FOR MARKETING AND MEDIA PRODUCTION SERVICES AT A MONTHLY RATE OF \$1,500.00.**

**WHEREAS**, in an effort to broaden our social media and marketing presence, the LPFA entered into a one-year agreement with Chris Haynes DBA Crow’s Nest Digital Media for marketing and media production services; and

**WHEREAS**, his work has been widely recognized and has dramatically increased our public presence; and

**WHEREAS**, the one year contract entered into with Crow’s Nest Digital Media comes to a conclusion on December 31, 2023 but may be extended per our current agreement,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the Executive Director or his designee is hereby authorized to enter into a contract extension with Chris Haynes DBA Crow’s Nest Digital Media for marketing and media production services for calendar year 2024 at a rate of \$1,500.00 per month.

**SECTION III.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal Requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:**

**Nays:**

**Abstain:**

**Adopted:**

\_\_\_\_\_  
Brad Mullins, Chairman

\_\_\_\_\_  
Tom Brown, Executive Director

LORAIN PORT AUTHORITY, LORAIN COUNTY

Fund Summary

November 2023

Fund #	Fund Name	Starting Fund Balance	Month To Date Revenue	Year To Date Revenue	Month To Date Expenditures	Year To Date Expenditures	Ending Fund Balance	Current Reserve for Encumbrance	Unencumbered Fund Balance
1000	General	\$957,759.15	\$22,032.83	\$1,054,708.08	\$107,279.01	\$1,036,892.71	\$872,512.97	\$104,928.03	\$767,584.94
2051	USEPA Brownfield Assessment Grant	\$0.00	\$0.00	\$28,048.53	\$0.00	\$28,048.53	\$0.00	\$465,987.22	(\$465,987.22)
2061	Marine Patrol Program	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2901	Inclusive Project Planning	\$14,772.50	\$0.00	\$0.00	\$0.00	\$7,686.50	\$14,772.50	\$3,872.50	\$10,900.00
4201	Grant Construction KIFBL	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4202	Port & Parks Bike Trail Station	\$36,069.94	\$0.00	\$76,841.67	\$0.00	\$82,964.95	\$36,069.94	\$20,126.79	\$15,943.15
4901	BRL Stage Capital Projects	\$579,122.13	\$0.00	\$1,185.00	\$0.00	\$417,062.87	\$579,122.13	\$6,000.00	\$573,122.13
9902	Rockin' on the River	\$0.00	\$0.00	\$32,204.26	\$0.00	\$32,204.26	\$0.00	\$0.00	\$0.00
9903	Energy Special Improvement District	\$2,059.45	\$0.00	\$0.00	\$0.00	\$440.55	\$2,059.45	\$0.00	\$2,059.45
Report Total:		\$1,589,783.17	\$22,032.83	\$1,192,987.54	\$107,279.01	\$1,605,300.37	\$1,504,536.99	\$600,914.54	\$903,622.45

Last reconciled to bank: 11/30/2023 – Total other adjusting factors: \$200.00

Revenue Summary

November 2023

	Final Budget	Month To Date Revenue	Year To Date Revenue	Budget Variance Favorable (Unfavorable)	YTD % Received
<b>1000 General</b>					
Property and Other Local Taxes	\$844,245.00	\$0.00	\$792,053.85	(\$52,191.15)	93.818%
Intergovernmental	\$39,350.00	\$0.00	\$111,391.38	\$72,041.38	283.078%
Charges for Services	\$130,968.35	\$12,579.90	\$118,576.83	(\$12,391.52)	90.539%
Earnings on Investments	\$22,000.00	\$4,919.57	\$24,585.33	\$2,585.33	111.752%
Miscellaneous	\$3,600.00	\$4,533.36	\$8,100.69	\$4,500.69	225.019%
Other Financing Sources					
Advances - In	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
Total Other Financing Sources	\$0.00	\$0.00	\$0.00	\$0.00	
<b>Total 1000 General</b>	<b>\$1,040,163.35</b>	<b>\$22,032.83</b>	<b>\$1,054,708.08</b>	<b>\$14,544.73</b>	
<b>2051 USEPA Brownfield Assessment Grant</b>					
Intergovernmental	\$500,000.00	\$0.00	\$28,048.53	(\$471,951.47)	5.610%
<b>Total 2051 USEPA Brownfield Assessment Grant</b>	<b>\$500,000.00</b>	<b>\$0.00</b>	<b>\$28,048.53</b>	<b>(\$471,951.47)</b>	
<b>2901 Inclusive Project Planning</b>					
Miscellaneous	\$20,900.00	\$0.00	\$0.00	(\$20,900.00)	0.000%
<b>Total 2901 Inclusive Project Planning</b>	<b>\$20,900.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>(\$20,900.00)</b>	
<b>4202 Port &amp; Parks Bike Trail Station</b>					
Intergovernmental	\$60,898.52	\$0.00	\$1,841.67	(\$59,056.85)	3.024%
Other Financing Sources					
Advances - In	\$0.00	\$0.00	\$75,000.00	\$0.00	0.000%
Total Other Financing Sources	\$0.00	\$0.00	\$75,000.00	\$0.00	
<b>Total 4202 Port &amp; Parks Bike Trail Station</b>	<b>\$60,898.52</b>	<b>\$0.00</b>	<b>\$76,841.67</b>	<b>(\$59,056.85)</b>	
<b>4901 BRL Stage Capital Projects</b>					
Miscellaneous	\$0.00	\$0.00	\$1,185.00	\$1,185.00	0.000%
Other Financing Sources					
Transfers - In	\$1,260.50	\$0.00	\$0.00	(\$1,260.50)	0.000%
Total Other Financing Sources	\$1,260.50	\$0.00	\$0.00	(\$1,260.50)	

LORAIN PORT AUTHORITY, LORAIN COUNTY  
**Revenue Summary**  
 November 2023

	Final Budget	Month To Date Revenue	Year To Date Revenue	Budget Variance Favorable (Unfavorable)	YTD % Received
Total 4901 BRL Stage Capital Projects	\$1,260.50	\$0.00	\$1,185.00	(\$75.50)	
9902 Rockin' on the River					
Miscellaneous	\$0.00	\$0.00	\$32,204.26	\$0.00	0.000%
Total 9902 Rockin' on the River	\$0.00	\$0.00	\$32,204.26	\$0.00	
Report Total:	\$1,623,222.37	\$22,032.83	\$1,192,987.54	(\$537,439.09)	



LORAIN PORT AUTHORITY, LORAIN COUNTY

Revenue Status  
 By Fund  
 As Of 11/30/2023

Fund: 1000 General

Account Code	Account Name	Final Budget	Revenue	Budget Balance	YTD % Received
1000-110-0000	General Property Tax - Real Estate	\$844,245.00	\$792,053.85	\$52,191.15	93.818%
1000-490-0500	Other - Intergovernmental{ODNR Submerged Land Lease}	\$36,200.00	\$18,090.76	\$18,109.24	49.974%
1000-490-0800	Other - Intergovernmental{Miscellaneous}	\$3,150.00	\$3,149.50	\$0.50	99.984%
1000-490-9000	Other - Intergovernmental{Homestead and Rollback}	\$0.00	\$90,151.12	-\$90,151.12	0.000%
1000-523-0000	Recreation Entry Fees	\$24,450.00	\$26,475.82	-\$2,025.82	108.286%
1000-590-0100	Other - Charges for Services{Oasis Lease}	\$54,636.35	\$54,636.35	\$0.00	100.000%
1000-590-0201	Other - Charges for Services{JATT Riverside, LLC}	\$1,500.00	\$1,000.00	\$500.00	66.667%
1000-590-0600	Other - Charges for Services{Lumen Leases}	\$1,500.00	\$1,500.00	\$0.00	100.000%
1000-590-0700	Other - Charges for Services{Black River Landing}	\$25,000.00	\$23,360.66	\$1,639.34	93.443%
1000-590-0800	Other - Charges for Services{Miscellaneous}	\$1,382.00	\$1,604.00	-\$222.00	116.064%
1000-590-2000	Other - Charges for Services{Economic Development}	\$10,000.00	\$10,000.00	\$0.00	100.000%
1000-590-7200	Other - Charges for Services{Lighthouse}	\$12,500.00	\$0.00	\$12,500.00	0.000%
1000-701-0000	Interest	\$22,000.00	\$24,585.33	-\$2,585.33	111.752%
1000-820-0000	Contributions and Donations	\$3,500.00	\$7,500.00	-\$4,000.00	214.286%
1000-891-0000	Other - Miscellaneous Operating	\$100.00	\$600.69	-\$500.69	600.690%
1000-941-0000	Advances - In	\$0.00	\$0.00	\$0.00	0.000%
Fund 1000 Sub-Total:		\$1,040,163.35	\$1,054,708.08	-\$14,544.73	101.398%

Fund: 2051 USEPA Brownfield Assessment Grant

Account Code	Account Name	Final Budget	Revenue	Budget Balance	YTD % Received
2051-411-0000	Federal - Restricted	\$500,000.00	\$28,048.53	\$471,951.47	5.610%
Fund 2051 Sub-Total:		\$500,000.00	\$28,048.53	\$471,951.47	5.610%

Revenue Status

By Fund

As Of 11/30/2023

Fund: 2901 Inclusive Project Planning

Account Code	Account Name	Final Budget	Revenue	Budget Balance	YTD % Received
2901-841-6600	Capital Contributions{JobsOhio}	\$20,900.00	\$0.00	\$20,900.00	0.000%
Fund 2901 Sub-Total:		\$20,900.00	\$0.00	\$20,900.00	0.000%

Fund: 4202 Port & Parks Bike Trail Station

Account Code	Account Name	Final Budget	Revenue	Budget Balance	YTD % Received
4202-411-6300	Federal - Restricted{Port & Parks BikeTrail Station}	\$40,771.73	\$1,841.67	\$38,930.06	4.517%
4202-490-6400	Other - Intergovernmental{Metro Parks}	\$20,126.79	\$0.00	\$20,126.79	0.000%
4202-941-6300	Advances - In{Port & Parks BikeTrail Station}	\$0.00	\$75,000.00	\$0.00	0.000%
Fund 4202 Sub-Total:		\$60,898.52	\$76,841.67	\$59,056.85	126.180%

Fund: 4901 BRL Stage Capital Projects

Account Code	Account Name	Final Budget	Revenue	Budget Balance	YTD % Received
4901-820-4300	Contributions and Donations{Stage Project}	\$0.00	\$1,185.00	-\$1,185.00	0.000%
4901-931-4300	Transfers - In{Stage Project}	\$1,260.50	\$0.00	\$1,260.50	0.000%
Fund 4901 Sub-Total:		\$1,260.50	\$1,185.00	\$75.50	94.010%

Fund: 9902 Rockin' on the River

Account Code	Account Name	Final Budget	Revenue	Budget Balance	YTD % Received
9902-892-0750	Other - Miscellaneous Non-Operating{Rockin' on the River}	\$0.00	\$32,204.26	\$0.00	0.000%
Fund 9902 Sub-Total:		\$0.00	\$32,204.26	\$0.00	0.000%
Report Total:		\$1,623,222.37	\$1,192,987.54	\$537,439.09	73.495%

LORAIN PORT AUTHORITY, LORAIN COUNTY  
 Appropriation Summary  
 November 2023

	Reserved for Encumbrance 12/31 Less Adjustment	Final Appropriation	Total Appropriations	Month To Date Expenditures	Year to Date Expenditures	Current Reserve for Encumbrance	Unencumbered Balance	YTD % Expenditures
1000 - General								
Leisure Time Activities								
Recreation								
Contractual Services	\$0.00	\$19,000.00	\$19,000.00	\$225.00	\$18,676.50	\$0.00	\$323.50	98.297%
Supplies and Materials	\$0.00	\$12,150.00	\$12,150.00	\$3,520.00	\$11,511.48	\$51.35	\$587.17	94.745%
Total Recreation	\$0.00	\$31,150.00	\$31,150.00	\$3,745.00	\$30,187.98	\$51.35	\$910.67	
Total Leisure Time Activities	\$0.00	\$31,150.00	\$31,150.00	\$3,745.00	\$30,187.98	\$51.35	\$910.67	
Basic Utility Services								
Billing - Electric								
Contractual Services	\$3,625.00	\$40,000.00	\$43,625.00	\$2,378.26	\$32,187.88	\$11,437.12	\$0.00	73.783%
Total Billing - Electric	\$3,625.00	\$40,000.00	\$43,625.00	\$2,378.26	\$32,187.88	\$11,437.12	\$0.00	
Billing - Gas								
Contractual Services	\$750.00	\$6,500.00	\$7,250.00	\$0.00	\$5,117.37	\$882.63	\$1,250.00	70.584%
Total Billing - Gas	\$750.00	\$6,500.00	\$7,250.00	\$0.00	\$5,117.37	\$882.63	\$1,250.00	
Billing - Water								
Contractual Services	\$1,606.23	\$12,000.00	\$13,606.23	\$710.56	\$10,188.86	\$3,417.37	\$0.00	74.884%
Total Billing - Water	\$1,606.23	\$12,000.00	\$13,606.23	\$710.56	\$10,188.86	\$3,417.37	\$0.00	
Total Basic Utility Services	\$5,981.23	\$58,500.00	\$64,481.23	\$3,088.82	\$47,494.11	\$15,737.12	\$1,250.00	
General Government								
Boards and Commissions								
Personal Services	\$8,963.78	\$349,000.00	\$357,963.78	\$26,490.10	\$307,736.20	\$6,071.34	\$44,156.24	85.969%
Employee Fringe Benefits	\$7,597.50	\$165,941.00	\$173,538.50	\$13,696.72	\$146,517.14	\$20,692.81	\$6,328.55	84.429%
Contractual Services	\$3,294.98	\$262,253.00	\$265,547.98	\$40,012.85	\$207,724.83	\$40,934.62	\$16,888.53	78.225%
Supplies and Materials	\$7,528.36	\$214,171.00	\$221,699.36	\$20,245.52	\$189,471.89	\$15,536.67	\$16,690.80	85.463%
Total Boards and Commissions	\$27,384.62	\$991,365.00	\$1,018,749.62	\$100,445.19	\$851,450.06	\$83,235.44	\$84,064.12	
Total General Government	\$27,384.62	\$991,365.00	\$1,018,749.62	\$100,445.19	\$851,450.06	\$83,235.44	\$84,064.12	
Capital Outlay								
Capital Outlay	\$0.00	\$69,849.00	\$69,849.00	\$0.00	\$32,760.56	\$5,904.12	\$31,184.32	46.902%
Total Capital Outlay	\$0.00	\$69,849.00	\$69,849.00	\$0.00	\$32,760.56	\$5,904.12	\$31,184.32	
Total Capital Outlay	\$0.00	\$69,849.00	\$69,849.00	\$0.00	\$32,760.56	\$5,904.12	\$31,184.32	
Other Financing Uses								

LORAIN PORT AUTHORITY, LORAIN COUNTY  
**Appropriation Summary**  
 November 2023

	Reserved for Encumbrance 12/31 Less Adjustment	Final Appropriation	Total Appropriations	Month To Date Expenditures	Year to Date Expenditures	Current Reserve for Encumbrance	Unencumbered Balance	YTD % Expenditures
Advances - Out	\$0.00	\$0.00	\$0.00	\$0.00	\$75,000.00	\$0.00	\$0.00	0.000%
Total Other Financing Uses	\$0.00	\$0.00	\$0.00	\$0.00	\$75,000.00	\$0.00	\$0.00	
Total 1000 - General	\$33,365.85	\$1,150,864.00	\$1,184,229.85	\$107,279.01	\$1,036,892.71	\$104,928.03	\$117,409.11	
<hr/>								
2051 - USEPA Brownfield Assessment Grant								
General Government								
Boards and Commissions								
Employee Fringe Benefits	\$0.00	\$6,500.00	\$6,500.00	\$0.00	\$1,035.75	\$0.00	\$5,464.25	15.935%
Contractual Services	\$0.00	\$493,000.00	\$493,000.00	\$0.00	\$27,012.78	\$465,987.22	\$0.00	5.479%
Supplies and Materials	\$0.00	\$500.00	\$500.00	\$0.00	\$0.00	\$0.00	\$500.00	0.000%
Total Boards and Commissions	\$0.00	\$500,000.00	\$500,000.00	\$0.00	\$28,048.53	\$465,987.22	\$5,964.25	
Total General Government	\$0.00	\$500,000.00	\$500,000.00	\$0.00	\$28,048.53	\$465,987.22	\$5,964.25	
Total 2051 - USEPA Brownfield Assessment Grant	\$0.00	\$500,000.00	\$500,000.00	\$0.00	\$28,048.53	\$465,987.22	\$5,964.25	
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2061 - Marine Patrol Program								
Security of Persons and Property								
Police Enforcement								
Personal Services	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
Employee Fringe Benefits	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
Total Police Enforcement	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Total Security of Persons and Property	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Total 2061 - Marine Patrol Program	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
<hr/>								
2901 - Inclusive Project Planning								
Community Environment								
Community Planning and Zoning								
Contractual Services	\$11,559.00	\$0.00	\$11,559.00	\$0.00	\$7,686.50	\$3,872.50	\$0.00	66.498%
Total Community Planning and Zoning	\$11,559.00	\$0.00	\$11,559.00	\$0.00	\$7,686.50	\$3,872.50	\$0.00	
Total Community Environment	\$11,559.00	\$0.00	\$11,559.00	\$0.00	\$7,686.50	\$3,872.50	\$0.00	
Total 2901 - Inclusive Project Planning	\$11,559.00	\$0.00	\$11,559.00	\$0.00	\$7,686.50	\$3,872.50	\$0.00	

4202 - Port & Parks Bike Trail Station

Report reflects selected information.

LORAIN PORT AUTHORITY, LORAIN COUNTY  
 Appropriation Summary  
 November 2023

	Reserved for Encumbrance 12/31 Less Adjustment	Final Appropriation	Total Appropriations	Month To Date Expenditures	Year to Date Expenditures	Current Reserve for Encumbrance	Unencumbered Balance	YTD % Expenditures
Capital Outlay								
Capital Outlay								
Capital Outlay	\$0.00	\$103,091.74	\$103,091.74	\$0.00	\$82,964.95	\$20,126.79	\$0.00	80.477%
Total Capital Outlay	\$0.00	\$103,091.74	\$103,091.74	\$0.00	\$82,964.95	\$20,126.79	\$0.00	
Total Capital Outlay	\$0.00	\$103,091.74	\$103,091.74	\$0.00	\$82,964.95	\$20,126.79	\$0.00	
Other Financing Uses								
Advances - Out	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
Total Other Financing Uses	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Total 4202 - Port & Parks Bike Trail Station	\$0.00	\$103,091.74	\$103,091.74	\$0.00	\$82,964.95	\$20,126.79	\$0.00	
<hr/>								
4901 - BRL Stage Capital Projects								
Capital Outlay								
Capital Outlay								
Contractual Services	\$0.00	\$600,000.00	\$600,000.00	\$0.00	\$417,062.87	\$6,000.00	\$176,937.13	69.510%
Capital Outlay	\$0.00	\$396,260.50	\$396,260.50	\$0.00	\$0.00	\$0.00	\$396,260.50	0.000%
Total Capital Outlay	\$0.00	\$996,260.50	\$996,260.50	\$0.00	\$417,062.87	\$6,000.00	\$573,197.63	
Total Capital Outlay	\$0.00	\$996,260.50	\$996,260.50	\$0.00	\$417,062.87	\$6,000.00	\$573,197.63	
Total 4901 - BRL Stage Capital Projects	\$0.00	\$996,260.50	\$996,260.50	\$0.00	\$417,062.87	\$6,000.00	\$573,197.63	
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9902 - Rockin' on the River								
Fiduciary Distributions								
Other Distributions								
Contractual Services	\$0.00	\$0.00	\$0.00	\$0.00	\$32,204.26	\$0.00	\$0.00	0.000%
Total Other Distributions	\$0.00	\$0.00	\$0.00	\$0.00	\$32,204.26	\$0.00	\$0.00	
Total Fiduciary Distributions	\$0.00	\$0.00	\$0.00	\$0.00	\$32,204.26	\$0.00	\$0.00	
Total 9902 - Rockin' on the River	\$0.00	\$0.00	\$0.00	\$0.00	\$32,204.26	\$0.00	\$0.00	
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9903 - Energy Special Improvement District								
Fiduciary Distributions								
Distributions to Other Governments								
Contractual Services	\$0.00	\$0.00	\$0.00	\$0.00	\$440.55	\$0.00	\$0.00	0.000%
Total Distributions to Other Governments	\$0.00	\$0.00	\$0.00	\$0.00	\$440.55	\$0.00	\$0.00	

Report reflects selected information.

LORAIN PORT AUTHORITY, LORAIN COUNTY  
 Appropriation Summary  
 November 2023

	Reserved for Encumbrance 12/31 Less Adjustment	Final Appropriation	Total Appropriations	Month To Date Expenditures	Year to Date Expenditures	Current Reserve for Encumbrance	Unencumbered Balance	YTD % Expenditures
Total Fiduciary Distributions	\$0.00	\$0.00	\$0.00	\$0.00	\$440.55	\$0.00	\$0.00	
Total 9903 - Energy Special Improvement District	\$0.00	\$0.00	\$0.00	\$0.00	\$440.55	\$0.00	\$0.00	
Report Totals:	\$44,924.85	\$2,750,216.24	\$2,795,141.09	\$107,279.01	\$1,605,300.37	\$600,914.54	\$696,570.99	

LORAIN PORT AUTHORITY, LORAIN COUNTY  
 Appropriation Status  
 By Fund  
 As Of 11/30/2023

Fund: General  
 Pooled Balance: \$872,512.97  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$872,512.97

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
1000-310-349-7000	Other - Professional and Technical Services{Shuttle Boats}	\$0.00	\$0.00	\$19,000.00	\$0.00	\$18,676.50	\$323.50	98.297%
1000-310-490-7000	Other - Supplies and Materials{Shuttle Boats}	\$0.00	\$0.00	\$12,150.00	\$51.35	\$11,511.48	\$587.17	94.745%
1000-512-311-0000	Electricity	\$3,625.00	\$0.00	\$40,000.00	\$11,437.12	\$32,187.88	\$0.00	73.783%
1000-522-313-0000	Natural Gas	\$750.00	\$0.00	\$6,500.00	\$882.63	\$5,117.37	\$1,250.00	70.584%
1000-532-312-0000	Water and Sewage	\$1,610.74	\$4.51	\$12,000.00	\$3,417.37	\$10,188.86	\$0.00	74.884%
1000-735-132-0000	D Salaries - Administrator's Staff	\$8,963.78	\$0.00	\$349,000.00	\$6,071.34	\$307,736.20	\$44,156.24	85.969%
1000-735-211-0000	D Ohio Public Employees Retirement System	\$0.00	\$0.00	\$48,860.00	\$0.00	\$44,061.22	\$4,798.78	90.179%
1000-735-213-0000	D Medicare	\$0.00	\$0.00	\$5,061.00	\$0.00	\$4,546.18	\$514.82	89.828%
1000-735-221-0000	Medical/Hospitalization	\$7,564.50	\$0.00	\$90,776.00	\$15,129.00	\$83,209.50	\$2.00	84.614%
1000-735-222-0000	Life Insurance	\$33.00	\$0.00	\$444.00	\$74.00	\$403.00	\$0.00	84.486%
1000-735-225-0000	D Workers' Compensation	\$0.00	\$0.00	\$1,000.00	\$0.00	\$743.00	\$257.00	74.300%
1000-735-228-0000	D Health Care Reimbursement	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
1000-735-229-0000	Other - Insurance Benefits	\$0.00	\$0.00	\$5,000.00	\$3,148.97	\$1,851.03	\$0.00	37.021%
1000-735-252-0000	Travel and Transportation	\$0.00	\$0.00	\$14,800.00	\$2,340.84	\$11,703.21	\$755.95	79.076%
1000-735-321-0000	Telephone	\$514.47	\$0.00	\$12,000.00	\$4,638.29	\$7,876.18	\$0.00	62.937%
1000-735-329-0000	Other-Communications, Printing & Advertising	\$285.10	\$4.59	\$17,750.00	\$2,168.76	\$14,965.84	\$895.91	83.003%
1000-735-329-8000	Other-Communications, Printing & Advertising{Other Promotio}	\$0.00	\$0.00	\$4,000.00	\$1,236.00	\$1,932.95	\$831.05	48.324%
1000-735-329-8800	Other-Communications, Printing & Advertising{Fireworks}	\$0.00	\$0.00	\$25,075.00	\$75.00	\$25,000.00	\$0.00	99.701%
1000-735-330-0000	Rents and Leases	\$0.00	\$0.00	\$5,000.00	\$735.94	\$3,680.70	\$583.36	73.614%
1000-735-330-6000	Rents and Leases{ODNR Lease}	\$0.00	\$0.00	\$36,005.00	\$0.00	\$36,003.32	\$1.68	99.995%
1000-735-330-6100	Rents and Leases{CORPS Engineer Lease}	\$0.00	\$0.00	\$16,843.00	\$8,003.42	\$6,996.58	\$1,843.00	41.540%
1000-735-341-0000	Accounting and Legal Fees	\$2,500.00	\$0.00	\$5,000.00	\$6,775.00	\$725.00	\$0.00	9.667%
1000-735-343-0000	Uniform Accounting Network Fees	\$0.00	\$0.00	\$3,800.00	\$948.00	\$2,844.00	\$8.00	74.842%
1000-735-344-0000	D Tax Collection Fees	\$0.00	\$0.00	\$20,000.00	\$0.00	\$17,822.76	\$2,177.24	89.114%
1000-735-346-0000	Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
1000-735-347-0000	Planning Consultants	\$0.00	\$0.00	\$13,500.00	\$12,687.50	\$812.50	\$0.00	6.019%
1000-735-349-0000	Other - Professional and Technical Services	\$0.00	\$0.00	\$21,635.00	\$1,500.00	\$19,985.00	\$150.00	92.373%

LORAIN PORT AUTHORITY, LORAIN COUNTY  
**Appropriation Status**  
 By Fund  
 As Of 11/30/2023

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
1000-735-353-0000	Liability Insurance Premiums	\$0.00	\$0.00	\$57,500.00	\$0.00	\$48,630.00	\$8,870.00	84.574%
1000-735-391-0000	Dues and Fees	\$0.00	\$0.00	\$24,145.00	\$2,166.71	\$20,450.00	\$1,528.29	84.697%
1000-735-410-0000	Office Supplies and Materials	\$0.00	\$0.00	\$5,000.00	\$1,578.48	\$2,467.60	\$953.92	49.352%
1000-735-431-0000	Repairs and Maintenance of Buildings and Land	\$11,225.36	\$3,697.00	\$207,671.00	\$13,566.46	\$185,896.02	\$15,736.88	86.383%
1000-735-431-5300	Repairs and Maintenance of Buildings and Land{GOOSE DOG}	\$0.00	\$0.00	\$1,500.00	\$391.73	\$1,108.27	\$0.00	73.885%
1000-800-540-0000	Machinery, Equipment and Furniture	\$0.00	\$0.00	\$6,000.00	\$0.00	\$3,368.56	\$2,631.44	56.143%
1000-800-590-0000	Other - Capital Outlay	\$0.00	\$0.00	\$63,849.00	\$5,904.12	\$29,392.00	\$28,552.88	46.034%
1000-920-920-0000	D Advances - Out	\$0.00	\$0.00	\$0.00	\$0.00	\$75,000.00	\$0.00	0.000%
<b>General Fund Total:</b>		<b>\$37,071.95</b>	<b>\$3,706.10</b>	<b>\$1,150,864.00</b>	<b>\$104,928.03</b>	<b>\$1,036,892.71</b>	<b>\$117,409.11</b>	<b>87.558%</b>

Fund: USEPA Brownfield Assessment Grant  
 Pooled Balance: \$0.00  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$0.00

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
2051-735-252-0000	Travel and Transportation	\$0.00	\$0.00	\$6,500.00	\$0.00	\$1,035.75	\$5,464.25	15.935%
2051-735-300-0000	Contractual Services	\$0.00	\$0.00	\$493,000.00	\$465,987.22	\$27,012.78	\$0.00	5.479%
2051-735-400-0000	Supplies and Materials	\$0.00	\$0.00	\$500.00	\$0.00	\$0.00	\$500.00	0.000%
<b>USEPA Brownfield Assessment Grant Fund Total:</b>		<b>\$0.00</b>	<b>\$0.00</b>	<b>\$500,000.00</b>	<b>\$465,987.22</b>	<b>\$28,048.53</b>	<b>\$5,964.25</b>	<b>5.610%</b>

Fund: Marine Patrol Program  
 Pooled Balance: \$0.00  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$0.00

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
2061-110-132-0000	D Salaries - Administrator's Staff	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%

Report reflects selected information.



LORAIN PORT AUTHORITY, LORAIN COUNTY  
**Appropriation Status**  
 By Fund  
 As Of 11/30/2023

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
2061-110-211-0000	D Ohio Public Employees Retirement System	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
2061-110-213-0000	D Medicare	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
Marine Patrol Program Fund Total:		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%

Fund: Inclusive Project Planning

Pooled Balance: \$14,772.50  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$14,772.50

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
2901-410-347-6700	Planning Consultants{Inclusive Project Planning}	\$11,559.00	\$0.00	\$0.00	\$3,872.50	\$7,686.50	\$0.00	66.498%
Inclusive Project Planning Fund Total:		\$11,559.00	\$0.00	\$0.00	\$3,872.50	\$7,686.50	\$0.00	66.498%

Fund: Port & Parks Bike Trail Station

Pooled Balance: \$36,069.94  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$36,069.94

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
4202-800-500-6300	Capital Outlay{Port & Parks Bike Trail Station}	\$0.00	\$0.00	\$103,091.74	\$20,126.79	\$82,964.95	\$0.00	80.477%
4202-920-920-0000	D Advances - Out	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.000%
Port & Parks Bike Trail Station Fund Total:		\$0.00	\$0.00	\$103,091.74	\$20,126.79	\$82,964.95	\$0.00	80.477%

Fund: BRL Stage Capital Projects

Pooled Balance: \$579,122.13  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$579,122.13

LORAIN PORT AUTHORITY, LORAIN COUNTY  
**Appropriation Status**  
 By Fund  
 As Of 11/30/2023

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
4901-800-346-4301	Engineering Services{Stage Architect}	\$0.00	\$0.00	\$400,000.00	\$0.00	\$362,062.87	\$37,937.13	90.516%
4901-800-347-4302	Planning Consultants{Stage Fundraiser}	\$0.00	\$0.00	\$100,000.00	\$6,000.00	\$25,000.00	\$69,000.00	25.000%
4901-800-349-4303	Other - Professional and Technical Services{Stage Construct}	\$0.00	\$0.00	\$100,000.00	\$0.00	\$30,000.00	\$70,000.00	30.000%
4901-800-590-4300	Other - Capital Outlay{Stage Project}	\$0.00	\$0.00	\$396,260.50	\$0.00	\$0.00	\$396,260.50	0.000%
BRL Stage Capital Projects Fund Total:		\$0.00	\$0.00	\$996,260.50	\$6,000.00	\$417,062.87	\$573,197.63	41.863%

Fund: Rockin' on the River

Pooled Balance: \$0.00  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$0.00

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
9902-889-399-0750	Other - Other Contractual Services{Rockin' on the River}	\$0.00	\$0.00	\$0.00	\$0.00	\$32,204.26	\$0.00	0.000%
Rockin' on the River Fund Total:		\$0.00	\$0.00	\$0.00	\$0.00	\$32,204.26	\$0.00	0.000%

Fund: Energy Special Improvement District

Pooled Balance: \$2,059.45  
 Non-Pooled Balance: \$0.00  
 Total Cash Balance: \$2,059.45

Account Code	Account Name	Reserved for Encumbrance 12/31	Reserved for Encumbrance 12/31 Adjustment	Final Appropriation	Current Reserve for Encumbrance	YTD Expenditures	Unencumbered Balance	YTD % Expenditures
9903-882-391-0000	Dues and Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$440.55	\$0.00	0.000%
Energy Special Improvement District Fund Total:		\$0.00	\$0.00	\$0.00	\$0.00	\$440.55	\$0.00	0.000%
Report Total:		\$48,630.95	\$3,706.10	\$2,750,216.24	\$600,914.54	\$1,605,300.37	\$696,570.99	57.432%

**Bank Reconciliation**

Reconciled Date 11/30/2023

Posted 12/7/2023 2:20:57 PM

Prior UAN Balance:		\$1,589,783.17
Receipts:	+	\$23,123.69
Payments:	-	\$108,329.01
Adjustments:	+	<u>-\$40.86</u>
Current UAN Balance as of 11/30/2023:		\$1,504,536.99
Other Adjusting Factors:	+	<u>\$0.00</u>
Adjusted UAN Balance as of 11/30/2023:		<u><u>\$1,504,536.99</u></u>
Entered Bank Balances as of 11/30/2023:		\$1,510,720.14
Deposits in Transit:	+	\$0.00
Outstanding Payments:	-	\$6,383.15
Outstanding Adjustments:	+	\$0.00
Other Adjusting Factors:	+	<u>\$200.00</u>
Adjusted Bank Balances as of 11/30/2023:		<u><u>\$1,504,536.99</u></u>

Balances Reconciled

Reconciliation Notes

Deflating Bank Errors: \$200.00  
 Petty Cash.

Governing Board Signatures

\_\_\_\_\_  
 \_\_\_\_\_

There are no outstanding receipts as of 11/30/2023.

There are no outstanding adjustments as of 11/30/2023.

LORAIN PORT AUTHORITY, LORAIN COUNTY

12/7/2023 2:35:04 PM

Bank Balances

UAN v2023.2

Reconciled Date 11/30/2023

Posted 12/7/2023 2:20:57 PM

Type	Name	Number	Prior Bank Balance	Calculated Bank Balance	Entered Bank Balance	Difference
Primary	PRIMARY		\$389,326.16	\$286,134.82	\$286,134.81	-\$0.01
Secondary	FFL		\$1,219,064.42	\$1,223,981.53	\$1,223,981.53	\$0.00
Secondary	First Fed		\$601.34	\$603.80	\$603.80	\$0.00
Total:			<u>\$1,608,991.92</u>	<u>\$1,510,720.15</u>	<u>\$1,510,720.14</u>	<u>-\$0.01</u>

## LORAIN PORT AUTHORITY, LORAIN COUNTY

12/7/2023 2:35:04 PM

## Outstanding Payments

UAN v2023.2

Reconciled Date 11/30/2023

Posted 12/7/2023 2:20:57 PM

Account	Type	Payment #	Post Date	Vendor / Payee	Amount
PRIMARY	Warrant	15271	11/17/2023	Girls Give Back	\$1,050.00
PRIMARY	Warrant	15282	11/17/2023	Girls Give Back	\$1,050.00
PRIMARY	Warrant	15283	11/17/2023	Colette Ramey	\$107.15
PRIMARY	Warrant	15287	11/28/2023	AABLE RENTS COMPANY	\$840.00
PRIMARY	Warrant	15288	11/28/2023	EDWARD A. ABEL	\$336.00
PRIMARY	Warrant	15289	11/28/2023	MURRAY RIDGE PRODUCTION CENTER	\$400.00
PRIMARY	Warrant	15290	11/28/2023	NGW Industrial LLC	\$2,600.00
					<hr/>
					\$6,383.15
					<hr/>

## LORAIN PORT AUTHORITY, LORAIN COUNTY

12/7/2023 2:35:04 PM

## Cleared Payments

UAN v2023.2

Reconciled Date 11/30/2023

Posted 12/7/2023 2:20:57 PM

Account	Type	Payment #	Post Date	Vendor / Payee	Amount
PRIMARY	Electronic	216-2023	11/03/2023	THOMAS E BROWN	\$2,475.66
PRIMARY	Electronic	217-2023	11/03/2023	Jeremy Lawrence Gornall	\$344.22
PRIMARY	Electronic	218-2023	11/03/2023	KELSEY LEAH LEYVA	\$1,208.51
PRIMARY	Electronic	219-2023	11/03/2023	TIFFANY A MCCLELLAND	\$2,407.51
PRIMARY	Electronic	220-2023	11/03/2023	IDA YVONNE SMITH	\$1,791.58
PRIMARY	Electronic	222-2023	11/03/2023	OHIO PUBLIC EMPLOYEES DEFERRED	\$825.00
PRIMARY	Electronic	223-2023	11/07/2023	MICHAEL E. BROSKY	\$778.02
PRIMARY	Electronic	225-2023	11/09/2023	US TREASURY	\$3,247.14
PRIMARY	Electronic	226-2023	11/09/2023	OHIO TREASURER OF STATE	\$636.52
PRIMARY	Electronic	227-2023	11/09/2023	CITY OF LORAIN DEPT. OF TAXATION	\$766.81
PRIMARY	Electronic	228-2023	11/09/2023	OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM	\$6,305.89
PRIMARY	Electronic	229-2023	11/17/2023	THOMAS E BROWN	\$2,475.66
PRIMARY	Electronic	230-2023	11/17/2023	Jeremy Lawrence Gornall	\$277.69
PRIMARY	Electronic	231-2023	11/17/2023	KELSEY LEAH LEYVA	\$1,208.50
PRIMARY	Electronic	232-2023	11/17/2023	TIFFANY A MCCLELLAND	\$2,407.51
PRIMARY	Electronic	233-2023	11/17/2023	IDA YVONNE SMITH	\$1,791.58
PRIMARY	Electronic	235-2023	11/17/2023	OHIO PUBLIC EMPLOYEES DEFERRED	\$825.00
PRIMARY	Electronic	249-2023	11/15/2023	HUNTINGTON NATIONAL BANK	\$58.00
PRIMARY	Warrant	15083	07/17/2023	LORAIN INTERNATIONAL ASSOCIATION	\$1,000.00
PRIMARY	Warrant	15187	09/21/2023	LORAIN COUNTY ORGANIZED LABOR FESTIVAL	\$900.00
PRIMARY	Warrant	15216	10/17/2023	PREMIUM COMPUTER SYSTEMS	\$100.00
PRIMARY	Warrant	15218	10/17/2023	Roy A. DeVore	\$1,637.50
PRIMARY	Warrant	15234	10/19/2023	Kathleen Huffman	\$85.72
PRIMARY	Warrant	15235	10/23/2023	FALLS RIVER CONCERTS LLC	\$8.84
PRIMARY	Warrant	15242	10/24/2023	MURRAY RIDGE PRODUCTION CENTER	\$800.00
PRIMARY	Warrant	15245	10/24/2023	QUALITY SERVICES	\$180.00
PRIMARY	Warrant	15246	10/24/2023	Roy A. DeVore	\$475.00
PRIMARY	Warrant	15250	10/31/2023	COLUMBIA GAS OF OHIO	\$231.09
PRIMARY	Warrant	15251	10/31/2023	JAN-PRO CLEANING SYSTEMS	\$272.00
PRIMARY	Warrant	15252	10/31/2023	Lumen	\$723.29
PRIMARY	Warrant	15253	10/31/2023	QUALITY SERVICES	\$360.00
PRIMARY	Warrant	15254	10/31/2023	Stacy A. Caddey	\$12,500.00

LORAIN PORT AUTHORITY, LORAIN COUNTY

Cleared Payments

Reconciled Date 11/30/2023

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Account	Type	Payment #	Post Date	Vendor / Payee	Amount
PRIMARY	Warrant	15255	10/31/2023	TREASURER OF STATE, AUDITOR	\$135.30
PRIMARY	Warrant	15256	11/03/2023	MEXICAN MUTUAL SOCIETY	\$500.00
PRIMARY	Warrant	15257	11/03/2023	LORAIN HISTORICAL SOCIETY	\$696.00
PRIMARY	Warrant	15258	11/07/2023	Born's Lawn Care, LLC	\$998.75
PRIMARY	Warrant	15259	11/07/2023	CITY OF LORAIN UTILITIES DEPT.	\$710.56
PRIMARY	Warrant	15260	11/07/2023	FIRELANDS ELECTRIC, INC.	\$2,389.50
PRIMARY	Warrant	15261	11/07/2023	FRED V. OSTRANDER	\$100.00
PRIMARY	Warrant	15262	11/07/2023	FRIENDS OFFICE	\$103.93
PRIMARY	Warrant	15263	11/07/2023	MURRAY RIDGE PRODUCTION CENTER	\$600.00
PRIMARY	Warrant	15264	11/07/2023	REPUBLIC SERVICES, INC.	\$112.66
PRIMARY	Warrant	15265	11/07/2023	THOMAS BROWN	\$197.50
PRIMARY	Warrant	15266	11/07/2023	Tiffany McClelland	\$580.73
PRIMARY	Warrant	15267	11/13/2023	LORAIN COUNTY TREASURER	\$840.50
PRIMARY	Warrant	15268	11/13/2023	LORAIN COUNTY TREASURER	\$7,564.50
PRIMARY	Warrant	15269	11/13/2023	LORAIN COUNTY TREASURER	\$37.00
PRIMARY	Warrant	15272	11/17/2023	Chris Haynes	\$1,500.00
PRIMARY	Warrant	15273	11/17/2023	Countryside Gutter	\$671.20
PRIMARY	Warrant	15274	11/17/2023	JOHN MICHAEL LANE	\$125.00
PRIMARY	Warrant	15275	11/17/2023	KB Lawn and Snow Removal, LLC	\$9,050.59
PRIMARY	Warrant	15276	11/17/2023	LUCAS PLUMBING & HEATING, INC.	\$1,095.55
PRIMARY	Warrant	15277	11/17/2023	Lumen	\$723.29
PRIMARY	Warrant	15278	11/17/2023	OHIO EDISON	\$82.44
PRIMARY	Warrant	15279	11/17/2023	OHIO TREASURER OF STATE	\$36,003.32
PRIMARY	Warrant	15280	11/17/2023	TERMINAL READY MIX	\$250.00
PRIMARY	Warrant	15281	11/17/2023	VICTORY WINDOW CLEANING, LLC	\$360.00
PRIMARY	Warrant	15284	11/20/2023	OHIO EDISON	\$1,880.61
PRIMARY	Warrant	15285	11/20/2023	PARKER MARINE, INC.	\$2,824.00
PRIMARY	Warrant	15286	11/20/2023	US BANK ONE CARD	\$1,244.39
PRIMARY	Warrant	15291	11/28/2023	OHIO EDISON	\$415.21
PRIMARY	Warrant	15292	11/28/2023	THOMAS BROWN	\$61.83
PRIMARY	Warrant	15293	11/29/2023	UNITED STATE POSTAL SERVICE	\$396.00
					\$121,354.60

## LORAIN PORT AUTHORITY, LORAIN COUNTY

12/7/2023 2:35:04 PM

## Cleared Receipts

UAN v2023.2

Reconciled Date 11/30/2023

Posted 12/7/2023 2:20:57 PM

Account	Type	Ticket #	Receipt #	Post Date	Source	Amount
PRIMARY	Standard		226-2023	11/01/2023	Tamika Bonilla	\$2,500.00
PRIMARY	Standard		227-2023	11/03/2023	Andrew & April Serfozo, Trolls Under the Bridge	\$800.00
PRIMARY	Standard		228-2023	11/03/2023	LORAIN PORT AUTHORITY SPECIAL	\$100.00
PRIMARY	Standard		230-2023	11/03/2023	PEEK PRO TICKETING SYSTEM	\$80.01
PRIMARY	Standard		229-2023	11/06/2023	Beneath the Light LLC	\$1,868.75
PRIMARY	Standard		238-2023	11/09/2023	BUCKEYE COMMUNITY BANK	\$222.00
PRIMARY	Standard		231-2023	11/14/2023	LORAIN COUNTY AUDITOR - J. CRAIG SNODGRASS	\$200.00
PRIMARY	Standard		232-2023	11/16/2023	Haas Distributing Inc.	\$500.00
PRIMARY	Standard		233-2023	11/17/2023	Stanley Mni Storage Co. LLC	\$500.00
PRIMARY	Standard		234-2023	11/17/2023	West Ridge Road Partners LLC	\$500.00
PRIMARY	Standard		235-2023	11/17/2023	Alison Cariglio	\$433.36
PRIMARY	Standard		236-2023	11/20/2023	TTAJ Properties, LLC	\$500.00
PRIMARY	Standard		237-2023	11/27/2023	ARIEL ON BROADWAY	\$10,000.00
FFL	Interest		244-2023	11/30/2023	FFL	\$906.16
FFL	Interest		246-2023	11/30/2023	FFL	\$4,010.95
First Fed	Interest		245-2023	11/30/2023	First Fed	\$2.46
						\$23,123.69



LORAIN PORT AUTHORITY, LORAIN COUNTY

12/7/2023 2:35:04 PM

Cleared Adjustments

UAN v2023.2

Reconciled Date 11/30/2023

Posted 12/7/2023 2:20:57 PM

Account	Type	Item #	Post Date	Source or Payee	Amount
PRIMARY	Receipt Adj	230-2023	11/03/2023	PEEK PRO TICKETING SYSTEM	-\$40.86
PRIMARY	Receipt Adj	133-2023	11/17/2023	Girls Give Back	-\$1,050.00
PRIMARY	Receipt Adj	133-2023	11/17/2023	Girls Give Back	\$1,050.00
					-\$40.86

## Payment Listing

November 2023

Payment Advice #	Post Date	Transaction Date	Type	Vendor / Payee	Amount	Status
216-2023	11/03/2023	10/30/2023	EP	THOMAS E BROWN	\$2,475.66	C
217-2023	11/03/2023	10/30/2023	EP	Jeremy Lawrence Gornall	\$344.22	C
218-2023	11/03/2023	10/30/2023	EP	KELSEY LEAH LEYVA	\$1,208.51	C
219-2023	11/03/2023	10/30/2023	EP	TIFFANY A MCCLELLAND	\$2,407.51	C
220-2023	11/03/2023	10/30/2023	EP	IDA YVONNE SMITH	\$1,791.58	C
222-2023	11/03/2023	10/31/2023	EW	OHIO PUBLIC EMPLOYEES DEFERRED	\$825.00	C
223-2023	11/07/2023	11/03/2023	EP	MICHAEL E. BROSKY	\$778.02	C
225-2023	11/09/2023	11/08/2023	EW	US TREASURY	\$3,247.14	C
226-2023	11/09/2023	11/08/2023	EW	OHIO TREASURER OF STATE	\$636.52	C
227-2023	11/09/2023	11/08/2023	EW	CITY OF LORAIN DEPT. OF TAXATION	\$766.81	C
228-2023	11/09/2023	11/08/2023	EW	OHIO PUBLIC EMPLOYEES RETIREMENT S	\$6,305.89	C
229-2023	11/17/2023	11/14/2023	EP	THOMAS E BROWN	\$2,475.66	C
230-2023	11/17/2023	11/14/2023	EP	Jeremy Lawrence Gornall	\$277.69	C
231-2023	11/17/2023	11/14/2023	EP	KELSEY LEAH LEYVA	\$1,208.50	C
232-2023	11/17/2023	11/14/2023	EP	TIFFANY A MCCLELLAND	\$2,407.51	C
233-2023	11/17/2023	11/14/2023	EP	IDA YVONNE SMITH	\$1,791.58	C
235-2023	11/17/2023	11/15/2023	EW	OHIO PUBLIC EMPLOYEES DEFERRED	\$825.00	C
249-2023	11/15/2023	12/07/2023	CH	HUNTINGTON NATIONAL BANK	\$58.00	C
15256	11/03/2023	11/03/2023	AW	MEXICAN MUTUAL SOCIETY	\$500.00	C
15257	11/03/2023	11/03/2023	AW	LORAIN HISTORICAL SOCIETY	\$696.00	C
15258	11/07/2023	11/07/2023	AW	Born's Lawn Care, LLC	\$998.75	C
15259	11/07/2023	11/07/2023	AW	CITY OF LORAIN UTILITIES DEPT.	\$710.56	C
15260	11/07/2023	11/07/2023	AW	FIRELANDS ELECTRIC, INC.	\$2,389.50	C
15261	11/07/2023	11/07/2023	AW	FRED V. OSTRANDER	\$100.00	C
15262	11/07/2023	11/07/2023	AW	FRIENDS OFFICE	\$103.93	C
15263	11/07/2023	11/07/2023	AW	MURRAY RIDGE PRODUCTION CENTER	\$600.00	C
15264	11/07/2023	11/07/2023	AW	REPUBLIC SERVICES, INC.	\$112.66	C
15265	11/07/2023	11/07/2023	AW	THOMAS BROWN	\$197.50	C
15266	11/07/2023	11/07/2023	AW	Tiffany McClelland	\$580.73	C
15267	11/13/2023	11/08/2023	WH	LORAIN COUNTY TREASURER	\$840.50	C
15268	11/13/2023	11/08/2023	AW	LORAIN COUNTY TREASURER	\$7,564.50	C
15269	11/13/2023	11/08/2023	AW	LORAIN COUNTY TREASURER	\$37.00	C
15270	11/17/2023	11/17/2023	SW	Skipped Warrants 15270 to 15270 Series 2	\$0.00	V
15271	11/17/2023	11/17/2023	RW	Girls Give Back	\$1,050.00	O
15272	11/17/2023	11/17/2023	AW	Chris Haynes	\$1,500.00	C
15273	11/17/2023	11/17/2023	AW	Countryside Gutter	\$671.20	C
15274	11/17/2023	11/17/2023	AW	JOHN MICHAEL LANE	\$125.00	C
15275	11/17/2023	11/17/2023	AW	KB Lawn and Snow Removal, LLC	\$9,050.59	C
15276	11/17/2023	11/17/2023	AW	LUCAS PLUMBING & HEATING, INC.	\$1,095.55	C
15277	11/17/2023	11/17/2023	AW	Lumen	\$723.29	C
15278	11/17/2023	11/17/2023	AW	OHIO EDISON	\$82.44	C
15279	11/17/2023	11/17/2023	AW	OHIO TREASURER OF STATE	\$36,003.32	C
15280	11/17/2023	11/17/2023	AW	TERMINAL READY MIX	\$250.00	C
15281	11/17/2023	11/17/2023	AW	VICTORY WINDOW CLEANING, LLC	\$360.00	C
15282	11/17/2023	11/17/2023	AW	Girls Give Back	\$1,050.00	O
15283	11/17/2023	11/17/2023	AW	Colette Ramey	\$107.15	O

## Payment Listing

November 2023

Payment Advice #	Post Date	Transaction Date	Type	Vendor / Payee	Amount	Status
15284	11/20/2023	11/20/2023	AW	OHIO EDISON	\$1,880.61	C
15285	11/20/2023	11/20/2023	AW	PARKER MARINE, INC.	\$2,824.00	C
15286	11/20/2023	11/20/2023	AW	US BANK ONE CARD	\$1,244.39	C
15287	11/28/2023	11/28/2023	AW	AABLE RENTS COMPANY	\$840.00	O
15288	11/28/2023	11/28/2023	AW	EDWARD A. ABEL	\$336.00	O
15289	11/28/2023	11/28/2023	AW	MURRAY RIDGE PRODUCTION CENTER	\$400.00	O
15290	11/28/2023	11/28/2023	AW	NGW Industrial LLC	\$2,600.00	O
15291	11/28/2023	11/28/2023	AW	OHIO EDISON	\$415.21	C
15292	11/28/2023	11/28/2023	AW	THOMAS BROWN	\$61.83	C
15293	11/29/2023	11/29/2023	AW	UNITED STATE POSTAL SERVICE	\$396.00	C
Total Payments:					\$108,329.01	
Total Conversion Vouchers:					\$0.00	
Total Less Conversion Vouchers:					\$108,329.01	

Type: AM - Accounting Manual Warrant, AW - Accounting Warrant, IM - Investment Manual Warrant, IW - Investment Warrant, PM - Payroll Manual Warrant, PR - Payroll Warrant, RW - Reduction of Receipt Warrant, SW - Skipped Warrant, WH - Withholding Warrant, WM - Withholding Manual, WS - Special Warrant, CH - Electronic Payment Advice, IL - Investment Loss, EP - Payroll EFT Voucher, CV - Payroll Conversion Voucher, SV - Payroll Special Voucher, EW - Withholding Voucher, POS ADJ - Positive Adjustment, NEG ADJ - Negative Adjustment, POS REAL - Positive Reallocation, NEG REAL - Negative Reallocation

Status: O - Outstanding, C - Cleared, V - Voided, B - Batch

\* Asterisked amounts are not included in report totals. These transactions occurred outside the reported date range but are listed for reference.

LORAIN PORT AUTHORITY, LORAIN COUNTY  
Purchase Order Listing  
Year 2023

Purchase Order #	Type	Issue Date	Transaction Date	Expire Date	Vendor	Status	Amount Encumbered	Amount Charged	Amount Adjusted	Amount Overspent	Available Balance
277-2023	PO Reg	11/01/2023	11/01/2023		Tiffany McClelland	C	\$197.50	\$197.50	\$0.00	\$0.00	\$0.00
278-2023	PO Reg	11/02/2023	11/02/2023		FRED V. OSTRANDER	C	\$100.00	\$100.00	\$0.00	\$0.00	\$0.00
279-2023	PO Reg	11/03/2023	11/03/2023		MEXICAN MUTUAL SOCIETY	C	\$500.00	\$500.00	\$0.00	\$0.00	\$0.00
280-2023	PO Reg	11/03/2023	11/03/2023		LORAIN HISTORICAL SOCIETY	C	\$696.00	\$696.00	\$0.00	\$0.00	\$0.00
281-2023	PO Reg	11/14/2023	11/14/2023		NGW Industrial LLC	C	\$2,600.00	\$2,600.00	\$0.00	\$0.00	\$0.00
282-2023	PO Reg	11/14/2023	11/14/2023		US BANK ONE CARD	O	\$86.00	\$0.00	\$0.00	\$0.00	\$86.00
283-2023	PO Reg	11/15/2023	11/15/2023		VICTORY WINDOW CLEANING, LLC	C	\$360.00	\$360.00	\$0.00	\$0.00	\$0.00
284-2023	PO Reg	11/15/2023	11/15/2023		US BANK ONE CARD	O	\$850.00	\$0.00	\$0.00	\$0.00	\$850.00
285-2023	PO Reg	11/15/2023	11/15/2023		Stacy A. Caddey	O	\$6,000.00	\$0.00	\$0.00	\$0.00	\$6,000.00
286-2023	PO Reg	11/17/2023	11/17/2023		Girls Give Back	C	\$1,050.00	\$1,050.00	\$0.00	\$0.00	\$0.00
287-2023	PO Reg	11/17/2023	11/17/2023		Colette Ramey	C	\$107.15	\$107.15	\$0.00	\$0.00	\$0.00
288-2023	PO Reg	11/17/2023	11/17/2023		US BANK ONE CARD	O	\$450.00	\$0.00	\$0.00	\$0.00	\$450.00
289-2023	PO Reg	11/21/2023	11/21/2023		US BANK ONE CARD	O	\$45.00	\$0.00	\$0.00	\$0.00	\$45.00
290-2023	PO Reg	11/21/2023	11/21/2023		LUCAS PLUMBING & HEATING, INC.	O	\$1,163.68	\$0.00	\$0.00	\$0.00	\$1,163.68
291-2023	PO Reg	11/27/2023	11/27/2023		FIRELANDS ELECTRIC, INC.	O	\$1,100.00	\$0.00	\$0.00	\$0.00	\$1,100.00
292-2023	PO Reg	11/27/2023	11/27/2023		WOBL RADIO INC. * WDLW RADIO INC.	O	\$1,236.00	\$0.00	\$0.00	\$0.00	\$1,236.00
293-2023	PO Reg	11/29/2023	11/29/2023		US BANK ONE CARD	O	\$299.00	\$0.00	\$184.00	\$0.00	\$115.00
294-2023	PO Reg	11/29/2023	11/29/2023		UNITED STATE POSTAL SERVICE	O	\$396.00	\$396.00	\$0.00	\$0.00	\$0.00
295-2023	PO Reg	11/30/2023	11/30/2023		US BANK ONE CARD	O	\$5,904.12	\$0.00	\$0.00	\$0.00	\$5,904.12
Total for selected purchase orders:							<u>\$23,140.45</u>	<u>\$6,006.65</u>	<u>\$184.00</u>	<u>\$0.00</u>	<u>\$16,949.80</u>

Status: O - Open, C - Closed, B - Batch

**RESOLUTION NO. 2023-\_\_****A RESOLUTION TO APPROVE A REPAYMENT EXTENTION FOR THE ADVANCEMENT OF FUNDS FROM THE GENERAL FUND TO A SPECIAL REVENUE INCLUSIVE PROJECT PLANNING GRANT FUND.**

**WHEREAS**, the Lorain Port Authority has authorized staff to enter into an agreement with the JobsOhio and the City of Lorain for contracted expenses of 4ward Planning Inc. for site area redevelopment analysis and strategic plan of three publicly controlled sites in the city of Lorain, and

**WHEREAS**, this Special Revenue Fund will require an advancement of thirty-one-thousand, eight hundred dollars (\$31,800.00). Due to the timing of this grant, the repayment of these advancements will be repaid from the Special Revenue Inclusive Project Planning Grant Fund by December 31, 2023.

**WHEREAS**, due to project delays a repayment extension is necessary. The revised repayment of these advancements will be repaid from the Special Revenue Inclusive Project Planning Grant Fund by March 31, 2024.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the repayment of the advancement of funds pertaining to the amendment is hereby approved and that the Executive Director or his Designee is hereby authorized to extend the repayment date for the advance funds from the General Fund to the Special Revenue Inclusive Project Planning Grant Fund (affirmative majority vote required).

**SECTION II.** That pursuant to the budget amendment and appropriation of funds, the Executive Director or his Designee is also authorized to request an amended Certificate of Estimated Resources from the County Auditor.

**SECTION III.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:****Nays:****Abstain:****Adopted:**


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 Brad Mullins, Chairman

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 Tom Brown, Executive Director

**RESOLUTION NO. 2023-\_\_****A RESOLUTION TO APPROVE A TRANSFER OF FUNDS FROM THE INCLUSIVE PROJECT PLANNING SPECIAL REVENUE FUND TO THE GENERAL FUND.**

**WHEREAS**, since the Inclusive Project Planning Program is funded through a JobsOhio grant that requires matching funds; and

**WHEREAS** the General Fund transferred the matching funds for the grant in 2021; and

**WHEREAS** the grant is completed and all grant and match dollars have been reconciled by JobsOhio; and

**WHEREAS**, we have received an email from JobsOhio stating the Inclusive Project Planning Grant is officially closed; and

**WHEREAS** it is necessary to make a transfer the remaining balance of One Thousand Nine Hundred Thirty-Six Dollars and Twenty-Five Cents (\$1,936.25) back to the General Fund.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the transfer of funds pertaining to the amendment is hereby approved and that the Executive Director is hereby authorized to transfer funds from the Inclusive Project Planning Special Revenue Fund to the General Fund (affirmative majority vote required).

**SECTION II.** That pursuant to the budget amendment and appropriation of funds, the Executive Director is also authorized to request an amended Certificate of Estimated Resources from the County Auditor.

**SECTION III.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:**

**Nays:**

**Abstain:**

**Adopted:**

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Brad Mullins, Chairman

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Tom Brown, Executive Director

**RESOLUTION NO. 2023-\_\_****A RESOLUTION TO APPROVE A REPAYMENT EXTENTION FOR THE ADVANCEMENT OF FUNDS FROM THE GENERAL FUND TO A SPECIAL REVENUE COASTAL MANAGEMENT PORT AND PARKS LAKE ERIE BIKE TRAIL STATION FUND.**

**WHEREAS**, on November 10, 2020, through resolution no. 2020-30 the Lorain Port Authority authorized staff to apply for funding assistance with the Ohio Coastal Management for shoreline improvements adjacent to the Lorain County Metro Parks Bike Trail at the entrance of the Mile Long Pier in Lorain, and

**WHEREAS**, this grant was awarded on June 21, 2021, in the amount of \$50,000.00 with a \$50,000.00 match for a total project cost of \$100,000.00. The Lorain County Metro Parks and the Lorain Port Authority will each contribute 50% of the grant match.

**WHEREAS**, this Special Revenue Fund will require an advancement of funds of seventy-five thousand dollars (\$75,000.00) because this is a reimbursable grant. Repayment of these advancements will be repaid from the Special Revenue Port and Parks Lake Erie Bike Trail Station Fund by December 31, 2023.

**WHEREAS**, due to project delays and supply chain issues a repayment extension is necessary. The revised repayment of these advancements will be repaid from the Special Revenue Port and Parks Lake Erie Bike Trail Station Fund by June 30, 2024.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the repayment of the advancement of funds pertaining to the amendment is hereby approved and that the Executive Director or his Designee is hereby authorized to extend the repayment for the advancement of funds from the General Fund to the Special Revenue Port and Parks Lake Erie Bike Trail Station Fund (affirmative majority vote required).

**SECTION II.** That pursuant to the budget amendment and appropriation of funds, the Executive Director or his Designee is also authorized to request an amended Certificate of Estimated Resources from the County Auditor.

**SECTION III.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:**

**Nays:**

**Abstain:**

**Adopted:**

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Brad Mullins, Chairman

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Tom Brown, Executive Director



**RESOLUTION NO. 2023-\_\_****A RESOLUTION TO APPROVE THE 2024 TEMPORARY APPROPRIATIONS FOR THE LORAIN PORT AUTHORITY.**

**WHEREAS**, it is necessary, as per the Ohio Revised Code, when Levy funds are received, to provide budget appropriations for the Lorain Port Authority for calendar year 2024; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the budget for the Lorain Port Authority, Lorain, Ohio for the fiscal year beginning January 1, 2024, as prepared by the Fiscal Officer and recommended by the Finance committee, be adopted as follows: (See attached sheet).

**SECTION II.** That the Chairman and/or Executive Director be and hereby are authorized and directed to certify said budget and transmit a copy of this resolution to all offices as required by law.

**SECTION III.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes:****Nays:****Abstain:****Adopted:**


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 Brad Mullins, Chairman

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 Tom Brown, Executive Director

## LORAIN PORT AUTHORITY

Description	Temporary Appropriations 2024
<b>Expenditures</b>	
1000-190-349-0000 - Other - Professional and Technical Services	\$0.00
1000-310-349-7000 - Other - Professional and Technical Services{River Tour}	\$0.00
1000-310-391-7100 - Dues and Fees{Ferry Boat}	\$0.00
1000-310-490-7000 - Other - Supplies and Materials{River Tour}	\$0.00
1000-512-311-0000 - Electricity	\$25,000.00
1000-522-313-0000 - Natural Gas	\$6,500.00
1000-532-312-0000 - Water and Sewage	\$12,000.00
1000-735-132-0000 - Salaries - Administrator's Staff	\$344,000.00
1000-735-211-0000 - Ohio Public Employees Retirement System	\$48,160.00
1000-735-213-0000 - Medicare	\$4,988.00
1000-735-221-0000 - Medical/Hospitalization	\$90,776.00
1000-735-222-0000 - Life Insurance	\$444.00
1000-735-225-0000 - Workers' Compensation	\$1,000.00
1000-735-229-0000 - Other - Insurance Benefits	\$5,000.00
1000-735-240-0000 - Unemployment Compensation	\$0.00
1000-735-252-0000 - Travel and Transportation	\$12,000.00
1000-735-321-0000 - Telephone	\$12,000.00
1000-735-329-0000 - Other-Communications, Printing & Advertising	\$10,000.00
1000-735-329-8000 - Other-Communications, Printing & Advertising{Other Promotion}	\$4,000.00
1000-735-329-8800 - Other-Communications, Printing & Advertising {Fireworks}	\$25,075.00
1000-735-330-0000 - Rents and Leases	\$5,000.00
1000-735-330-6000 - Rents and Leases{ODNR Lease}	\$36,005.00
1000-735-330-6100 - Rents and Leases{CORPS Engineer Lease}	\$16,843.00
1000-735-341-0000 - Accounting and Legal Fees	\$3,000.00
1000-735-343-0000 - Uniform Accounting Network Fees	\$3,800.00
1000-735-344-0000 - Tax Collection Fees	\$20,000.00
1000-735-345-0000 - Election Expenses	\$0.00
1000-735-346-0000 - Engineering Services	\$5,000.00
1000-735-347-0000 - Planning Consultants	\$15,000.00
1000-735-349-0000 - Other - Professional and Technical Services	\$20,000.00
1000-735-353-0000 - Liability Insurance Premiums	\$57,500.00
1000-735-391-0000 - Dues and Fees	\$14,000.00
1000-735-391-1500 - Dues and Fees{Bonds - Revenue}	\$0.00
1000-735-391-2000 - Dues and Fees{Economic Development}	\$0.00
1000-735-391-8500 - Dues and Fees{Real Estate}	\$0.00
1000-735-410-0000 - Office Supplies and Materials	\$5,000.00
1000-735-431-0000 - Repairs and Maintenance of Buildings and Land	\$140,000.00
1000-735-431-5300 - Repairs and Maintenance of Buildings and Land{GOOSE DOG}	\$1,500.00
1000-745-342-0000 - Auditing Services	\$0.00
1000-800-540-0000 - Machinery, Equipment and Furniture	\$3,500.00
1000-800-590-0000 - Other - Capital Outlay	\$50,000.00
<b>Other Financing Uses</b>	
1000-910-910-0000 - Transfers - Out	\$0.00
1000-920-920-0000 - Advances - Out	\$0.00
<b>Total Expenditures</b>	<b>\$997,091.00</b>