

## **Proposal for Professional Design Services**

### **Master Plan**

Smith Cemetery

Windham, Maine

January 13, 2020

### **Project Understanding**

Brian Morin of the Town of Windham (Client) has requested that Walsh Engineering Associates, Inc. (WEA) prepare this proposal for professional design services to develop a Master Plan for the Smith Cemetery located on Gray Road in Windham, Maine.

WEA will work with the client to develop a master plan that will guide the cemetery growth for 25 - 50 years, or more. The plan can be used to further develop access roads, cremation and full body burials, niche walls, and potential green burial areas.

Based on initial site visit with the Client, the most likely place for the expansion of the cemetery will be to the North East of the existing cemetery on land owned by the Town.

### **Scope of Services**

Based upon the project understanding and existing conditions, WEA proposes the following scope of services:

#### Survey and Base Plan Development

WEA will develop a base plan of the cemetery property combining the boundary provided by the Client, aerial lidar data, and GPS location of the boundary corners. With the information gathered, WEA will prepare a base plan from the collected data showing:

- Topography with one-foot contours (based on LIDAR)
- Identification of the major features of the site.
- Wetlands mapping provided by the Client.
- Boundary provided by Client.

#### Master Plan

WEA will work with the Client to establish project criteria, goals and priorities, to conduct on-site analysis of existing conditions, and to develop a master land use plan and phasing strategies for green cemetery development. WEA will develop physical design concepts for burial layout systems, roads, and site amenities. WEA will produce the following:

- An Analysis Plan of the existing natural and man-made factors influencing development of the site
- Conduct a planning strategy meeting with the client and stakeholders
- Develop a Master Plan for:
  - Full body burial areas
  - Cremation burial areas.
  - Develop estimates for potential capacity for each area.

- Develop a phasing plan for the cemetery master plan development.
- Presentation of the Master Plan to the Town and stakeholders.
- Estimate of probably cost.

#### Additional Services

After completion of Master Plan, WEA is prepared to provide services for permitting, design and construction. A proposal would be prepared for that scope when requested by the Client.

#### Exclusion from scope of work

The following items are specifically excluded from the scope of work for this proposal.

- Detailed engineering design
- Local Permitting
- DEP stormwater Permitting
- Maine DEP Permitting
- Maine NRPA (wetland) Permitting
- Detailed design of cemetery and amenities
- Drone mapping
- Survey layout of burial plots
- Design of columbarium gardens and structures
- Geotechnical borings
- Construction Services
- Services not specifically listed in the Scope of Work

#### **Compensation**

Based on the above scope of services, WEA will proceed on an hourly basis according to the attached hourly rates in Exhibit A and general conditions (Exhibit B). Based on this scope and experience with similar projects, we anticipate the following range of fees:

<u><b>Task</b></u>	<u><b>Estimated Budget</b></u>
1. Base Mapping	\$ 1,500 - \$ 2,000
2. Master Plan Development	\$ 6,500 - \$ 6,900
<b>Total</b>	<b>\$ 8,000 - \$ 8,900</b>

Costs for reimbursable expenses such as mileage and printing are not included in the fees above and will be billed in accordance with Exhibit A.

#### Schedule

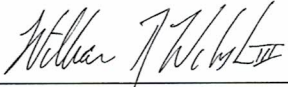
We will begin work on the project within three weeks of contact acceptance. Depending on availability of meetings with client, WEA anticipates completion within 8 to 12 weeks. WEA will work diligently towards meeting this timeline.

#### **Terms and Conditions**

The terms and conditions will be as detailed in contract with the State of Maine.

We appreciate the opportunity to provide this proposal. We trust that you will find it acceptable and look forward to working with you to make the project successful.

Respectfully Submitted:



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William R. Walsh, III, PE  
Principal, Walsh Engineering Associates,  
Inc.

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January 13, 2020

Date

Accepted by:

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Brian S. Morin  
Town of Windham

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Date

**EXHIBIT A**  
**Schedule of Hourly Rates**  
**2019**

Principal Engineer	\$145
Senior Engineer	\$135
Project Manager	\$130
Civil Engineer	\$125
Designer	\$110
Environmental Scientist II	\$105
Engineering Technician/Designer	\$95
Environmental Scientist I	\$90
CAD Technician	\$90
Permitting Specialist	\$80
Administrative Services	\$50 - \$60

Reimbursable Expenses

Sub Consultants	Cost plus 15%
Application Fees paid by WEA	Cost plus 15%
Printing and incidental expenses	Cost plus 10%
Large Format B&W Prints	\$1.75 each
Large Format Color Prints	\$7.50 each
Mileage	\$0.56/mile



**EXHIBIT B**  
**TERMS AND CONDITIONS OF AGREEMENT**

Client and Engineer further agree as follows:

1.01 Basic Agreement

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Client shall pay Engineer for such Services as set forth in Paragraph 9.01.

2.01 Payment Procedures

- A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Client.
- B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Client fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Client, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

- A. If authorized by Client, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.
- B. Client shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Termination

- A. The obligation to provide further services under this Agreement may be terminated:
  - 1. For cause.
    - a. *By either party upon written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.*
    - b. *By Engineer:* Upon seven days written notice if Engineer believes that Engineer is being requested by Client to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or Upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control. Engineer shall have no liability to Client on account of such termination.
  - 2. For convenience, by Client effective upon the receipt of notice by Engineer.
    - a. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.01 Controlling Law

- A. This Agreement is to be governed by the law of the State of Maine.

#### 6.01 Successors, Assigns, and Beneficiaries

- A. Client and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Client and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Client and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Client nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

#### 7.01 General Considerations

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.
- B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.
- C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Client and such contractor.
- D. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Client without consultation and advice of Engineer.
- E. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition).
- F. All design documents (including but not limited to reports, photos, videos, renderings, etc.) prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.
- G. To the fullest extent permitted by law, Client and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Client under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.
- H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Client: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.



#### 8.01 Total Agreement

- A. This Agreement (inclusive together with any expressly incorporated appendix), constitutes the entire agreement between Client and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

#### 9.01 Dispute Resolution

- A. In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Engineer agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation.

The Client and the Engineer further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution among the parties to all those agreements.

#### 10.01 Third-Party Beneficiaries

- A. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Engineer. The Engineer's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against the Engineer because of this Agreement or the performance or nonperformance of services hereunder. The Client and Engineer agree to require a similar provision in all contracts with contractors, subcontractors, sub consultants, vendors and other entities involved in this Project to carry out the intent of this provision.

#### 11.01 Protection of Successor Consultant:

- A. In consideration of the risks and rewards involved in this Project, the Client agrees, to the maximum extent permitted by law, to indemnify and hold harmless the Consultant from any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising or allegedly arising from any negligent acts, errors or omissions by any prior consultant employed by the Client on this project and from any claims of copyright or patent infringement by the Consultant arising from the use or reuse of any documents prepared or provided by the Client or any prior consultant of the Client. The Client warrants that any documents provided to the Consultant by the Client or by the prior consultant may be relied upon as to their accuracy and completeness without independent investigation by the successor Consultant and that the Client has the right to provide such documents to the successor Consultant free of any claims of copyright or patent infringement or violation of any other party's rights in intellectual property.

#### 12.01 Hazardous Materials Indemnity

- A. The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Engineer, its officers, partners, employees and subconsultants (collectively, Engineer) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of the Engineer.