

CONTRACT FOR SERVICES

THIS AGREEMENT made and entered into this ____ day of _____ 2008, by and between Rapid City, South Dakota, hereinafter referred to as the “City,” and Leathers & Associates, Inc., hereinafter referred to as “Leathers.”

ARTICLE I: Objective

The objective of this Professional Services Agreement between the parties hereto will be the design, development, and construction consultation for the City’s playground. Leathers is to prepare plans and oversee construction for all approved elements of the project.

ARTICLE II: Services

SCOPE OF SERVICES

In order to achieve the above objective, Leathers will provide the following services (for more detail, see attached Proposal):

1. Design Phase
2. Design Development and Construction Documents Phase
3. Organization Phase
4. Construction Phase

TERMS OF PERFORMANCE:

Leathers will commence work immediately upon authorization to do so and complete the project within the time periods given below:

Construction Days: TO BE DETERMINED. All plans and documents are to be completed by that time.

PROVIDED BY LEATHERS:

Leathers will provide:

- a. Schematic design
- b. Design development
- c. Construction documents (1/4 scale and 1/8 scale plans and Final Materials List)

- d. Construction consultation
- e. If construction is not completed during the construction days, Leathers shall compile a “punch list” of items to be completed by the City.

Note: Leathers shall not provide materials or labor for construction of the playground or items on the punch list.

PROVIDED BY CLIENT:

In order to assist Leathers in the provision of professional services, the City will provide:

- a. Any and all existing data and drawings for above facility including site data.
- b. The name of a representative to whom Leathers will report and from whom Leathers will receive and review comments, instructions, directions and authorizations.
- c. Assume any necessary permit fees.
- d. Labor and materials to construct. Factory-direct equipment purchased through Leathers has a one-year warranty.
- e. Completion of punch list after construction week.

ARTICLE III: General Terms and Conditions

- A. Ownership of all original plans and documents shall remain with Leathers. However, Leathers shall furnish the City with reproducibles on mylar of these original documents.
- B. Right to Terminate. Either party to this Agreement may terminate the same, with or without cause, by giving 30 days written notice to the other party of the intent to terminate this Agreement. If termination should occur prior to the completion of the project, the City shall owe Leathers for services performed to date of Notice of Termination, in accordance with the proposal. If termination occurs after drawings are complete but before the build, the City shall owe Leathers for those drawings, less any costs incurred by the City to correct any deficiencies or defects attributable to Leathers’ work.
- C. Leathers shall observe and comply with applicable federal and state regulations and guidelines, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed by Leathers on the work described by the Contract.

- D. Fees and Payments: The City will compensate Leathers for the provision of professional services described above, which includes fees for services and travel but excludes equipment and materials. The City will pay for completed work upon receipt of an approved invoice. Payments shall be in process within two weeks of receipt of each invoice.
- E. Liability and Indemnity: Leathers agrees to defend, indemnify and save harmless the City from any and all claims, damages, costs, and expenses, including reasonable attorney fees, arising out of or in connection with the conduct or management of the business conducted by Leathers. City shall not be liable and Leathers waives all claims for damages to person(s) or property sustained by Leathers, its agents, servants, invitees, and customers resulting from the condition of the building in which the leased premises are situated or resulting from any accident in or about said building or said leased premises. Nothing in this agreement shall limit Leather's rights against third parties for damages caused by said third parties to Leather's property.
- F. Insurance: Leathers shall purchase and maintain at a minimum the Professional Errors & Omissions in the amount of \$1,000,000.00
1. Additional insurance regulations. Each Insurance policy shall include the following conditions by endorsement to the policy:
 - (i) Each policy shall require that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverage or limits, a notice thereof shall be given to City by certified mail to: City Finance Officer, 300 Sixth Street, Rapid City, South Dakota, 57701, or to such address as the City may designate in writing. The Leathers shall also notify City in a like manner within ten (10) days of receipt, of any notices of expiration, cancellation, non-renewal payment of premiums or assessments for any deductibles which all are the sole responsibility and risk of the Leathers.
 - (ii) Companies issuing the insurance policy or policies shall have no recourse against the City for payment of premiums or assessments for any deductibles that are the sole responsibility and risk of Leathers.
 - (iii) The Term "City" shall include all elected officials, boards, commissions, divisions, departments, and officers of the City and individual members and employees thereof in their official capacities, and while acting on behalf of the City.

Vicki Powers Park Creative Playground

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their authorized officials, this Agreement on the respective dates as indicated below.

Dated this _____ day of _____, 2008.

CITY OF RAPID CITY:

Alan Hanks, Mayor

ATTEST:

James Preston, Finance Officer

(SEAL)

LEATHERS & ASSOCIATES, INC.

Marc S. Leathers, President

Vicki Powers Park Creative Playground

State of South Dakota)

) SS.

ACKNOWLEDGMENT

County of Pennington)

On this ____ day of _____, 2008, before me, the undersigned officer, personally appeared Alan Hanks and James F. Preston, known to me to be Mayor and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they, as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

(SEAL)

State of South Dakota)

) SS.

ACKNOWLEDGMENT

County of Pennington)

On this ____ day of _____, _____, before me, the undersigned officer, personally appeared Marc S. Leather, who acknowledged themselves to be the President of Leathers & Associates, Inc., and that as such, being duly authorized to do so, executed the foregoing instrument by signing and acknowledged that they executed the same for the purposes therein contained and that they had the authority to do so in the name of the Leathers & Associates, its President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Public, South Dakota
My Commission Expires:

(SEAL)

PROPOSAL

This proposal constitutes an estimate of the work our office will provide for your project and the associated fees. The fees described in this proposal assume that we are providing standard services based on the schematic provided after Design Day. The Design Development and Construction Documents Phase fees outlined here will vary only if additional work is requested or required. Examples of work that would generate additional fees include details above and beyond those necessary for us to build the project, perspective drawings, an increase in project size, or a change of site.

The construction consultation portion of the proposal will not change except by mutual agreement between Leathers & Associates and the City. Certain conditions may be encountered during construction that significantly affect consultants' total number of hours. Variables such as weather and low volunteer turnout are impossible to identify until the time of construction and may affect the total hours necessary for construction consultation. However, additional fees will be charged only if construction continues beyond the final scheduled day.

Vicki Powers Park Creative Playground

The following is an estimate of costs for professional services as well as reimbursable expenses. Your completed project will be worth 2-3 times its actual cost. We are confident that we can work within your budget.

PRE-CONSTRUCTION

Design Phase

Design Day

Construction Phase

(secures build dates)

Design Development & Construction Documents Phase

Design Development Phase, Detailed Drawings, and
Final Materials Take-Off Phase

Organization Phase

Organization Phase Fee

CONSTRUCTION

Construction Consultation

TOTAL PROFESSIONAL FEES Not to exceed \$45,000

REIMBURSABLE EXPENSES

Design Day Travel (airfare and travel time)

Organization Day Travel (airfare and travel time)

Construction Travel (airfare only-2 or 3 people)

Total Not to exceed \$6,000

BASIC SERVICES

The Basic Services consist of the four phases described below.

SCHEMATIC DESIGN PHASE (already completed)

A representative of Leathers & Associates shall consult with the committee to ascertain the requirements of the project and shall confirm such requirements to the committee. The firm shall prepare schematic design studies, consisting of drawings and other documents illustrating the scale and relationship of project components for approval by the committee.

DESIGN DEVELOPMENT/CONSTRUCTION DOCUMENTS PHASE

Design Development

Leathers & Associates shall review and consult with the committee on the schematic design and shall incorporate the design feedback requested by the committee. Leathers & Associates shall refine and change the schematic design to conform with the current safety and accessibility guidelines (ASTM F1487, CPSC Pub. No. 325, and ADA Accessibility Guidelines for Play Areas) and to fit site and utility requirements. Individual details, traffic flow and budget constraints shall be considered.

Construction Documents

Leathers & Associates shall prepare from the developed design, for approval by the committee, the working drawings and specifications setting forth the requirements for the construction of the entire project.

Leathers & Associates shall assist the committee in filing the required documents for the approval of governmental authorities having jurisdiction over the project. It is, however, the committee's responsibility to identify any such requirements and authorities and to follow through with any required filings.

The City will be assigned a project manager, who will serve as the City's main contact from shortly after Design Day through the construction of the project. The project manager is available from 8 a.m. to 5 p.m. Eastern Time and can be reached by telephone, email or fax. All project management is included in the design development and construction documents phase fee.

Final Materials Takeoff Phase

Along with working drawings and specifications setting forth the requirements for the construction of the entire project, Leathers & Associates shall provide the City with a Final Materials List, enabling the City to purchase or obtain donations for all materials necessary for the completion of the project. A suppliers list and specifications for materials are part of this list.

ORGANIZATION PHASE

Leathers & Associates shall provide organizing and coordinating assistance and support by phone to the committee. A representative of Leathers & Associates shall also conduct Organization Day meetings with the committee.

CONSTRUCTION PHASE

Leathers & Associates shall provide construction consultants who will be present at the site during construction. The consultants shall work with the committee during construction to provide observation of construction and interpretation of drawings.

The construction consultants shall familiarize themselves generally with the progress and quality of the work and determine in general if the work is proceeding in accordance with the construction drawings. The construction consultants shall be the interpreters of the requirements of the construction documents and the impartial judges of the performance thereunder by the volunteers.

The construction consultants shall have the authority to reject work that does not conform to the construction documents. Whenever, in their reasonable opinion, they consider it necessary or advisable to ensure the proper implementation of the intent of the construction documents, they shall have authority to require replacement of any work at any stage of construction. The construction consultants' decisions shall be final if consistent with the intent of the construction documents.

The construction consultants shall conduct a final inspection upon substantial completion of the work and shall prepare a punch list for the committee's use to accomplish full completion of the project.

Leathers & Associates shall receive and review the punch list and shall issue a certificate of substantial completion.

TRAVEL FEES

Travel charges for Organization Day are included in the reimbursables and will be billed separately. Both airfare and travel by car will be billed as a combination of expenses and travel time.

Airfare or mileage fees for construction are included in the reimbursables in this proposal and will be billed separately. Travel time is included.

PAYMENT OF FEES

All bills generated from this contract are due within 45 days from the invoice date.