



DATE:

07/19/2024

AGENDA ITEM (ACTION ITEM):

Consider / Approve a service agreement with Emboss Design for architectural consulting services for construction project strategy development and budgeting for the 2024-25 fiscal year.

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board; 04.31 Authority to Encumber and Expend Funds; 702 KAR 4:160

HISTORY/BACKGROUND:

To assist the Operations team with architectural planning and budgeting of construction projects identified on the current district facility plan, and to utilize the expertise and knowledge the Emboss Design team has with District facilities and projects, the Operations team requests to enter into a service agreement with Emboss Design for the 2024-25 school year.

FISCAL/BUDGETARY IMPACT:

Hourly rates depending on Emboss Design's individual staff member billing rates while providing consulting services.

RECOMMENDATION:

Approve the service agreement with Emboss Design for architectural consulting services for construction project strategy development and budgeting for the 2024-25 fiscal year.

CONTACT PERSON:

Matt Rigg, Chief Operations Officer

Principal/Administrator



District Administrator



Superintendent

*Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda
Principal – Complete, print, sign and send to your Director. Director – if approved, sign and put in the Superintendent's mailbox*



AGREEMENT BETWEEN CLIENT AND ARCHITECT FOR THE PROVISION OF LIMITED PROFESSIONAL SERVICES

The parties to this Agreement, as dated below, hereby agree to and accept the following terms as well as the ADDITIONAL TERMS AND CONDITIONS attached.

Date: July 15, 2024

Project Name: Kenton County Schools Consulting Services

Client: Kenton County School Board

Contact: Matt Rigg

Email: Matthew.Rigg@kenton.kyschools.us

Phone: (859) 957-2619

Mailing Address: 1055 Eaton Drive, Ft. Wright, KY 41017

SCOPE OF SERVICES:

Any service not specifically described herein to be performed by the Architect as a Basic Service, may, if mutually agreed to by the Client and Architect, be performed as an Additional Service, with an increase in the Architect’s compensation and adjustment in Architect’s contract time. Services offered are limited to those services described in this proposal. No other services are offered or implied unless specifically addressed in this proposal.

- 1. Scope consists consist of assistance and consulting services for budgeting and strategy.

FEE ARRANGEMENT:

- 1. Base Fee

Hourly Basis - Services will be invoiced for time expended at the following rates:

Director of Design	\$230/Hour	Sr. Project Manager	\$190/Hour
Project Manager	\$180/Hour	Project Architect	\$160/Hour
Project Designer 2	\$130/Hour	Project Designer 1	\$115/Hour
Sr. Interior Designer	\$145/Hour	Interior Designer	\$130/Hour
Architectural Intern	\$110/Hour	Administrative	\$80/Hour

- 1. In addition to the Base Fee, the Client will reimburse Emboss, P.S.C. at the multiple of 1.1 times the amount advanced for prints, delivery charges, copies, engineering fees, photographs, etc., and/or any other direct charge incurred by Emboss, P.S.C. **Client Initials:** _____
- 2. Invoices will be submitted monthly for services and reimbursables expenses and are due when rendered. Invoices shall be considered PAST DUE if not paid within 90 days after the invoice date and the Architect may without waiving any claim or right against the Client and without liability whatsoever to the Client, terminate the performance of the service. A service charge will be charged at 1.5% per month on the unpaid balance. In the event any portion or all of an account remains unpaid 180 days after billing, the Client shall pay cost of collection, including reasonable attorney’s fees. **Client Initials:** _____

Risk Allocation / Limitation of Liability:

Increase liability limitation stated on the reverse to \$ _____ at a cost of \$ _____.

Acceptance:

- This proposal is void if not signed and dated by the Client and returned to Emboss, P.S.C. within thirty (30) days of the date hereof.
- Per your verbal authorization, we are proceeding with this project. If the above does not represent your understanding of the agreement notify us immediately.

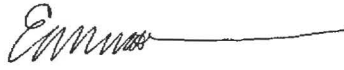


EMBOSS DESIGN, PSC

CLIENT:

Date Signed:

Signature:



Emma Adkisson, CEO, Director of Design

Signature:

Printed Name:



TERMS AND CONDITIONS

For purposes of the agreement "Architect" shall mean Emboss Design, PSC.

ACCESS TO SITE

Unless otherwise stated, the Architect will have access to the site for activities necessary for the performance of the services. The Architect will take precautions to minimize damage due to these activities, but has not included in the fee the cost of restoration of any resulting damage.

FEE

When an estimated fee is given, it is based upon SCOPE OF SERVICES and shall not be exceeded by more than ten percent without written approval of the Client. Where the fee arrangement is to be on an hourly basis, the rates shall be those that prevail at the time the services are rendered. Personnel rates are revised annually, effective January 1st. If scope of services is not complete within 6 (six) months of signing of contract, the Architect reserves the right to the modify fee. Client will be notified in writing, prior to recommencing work.

CONSTRUCTION ADMINISTRATION

Unless listed under SCOPE OF SERVICES on the reverse side of this form, no CONSTRUCTION ADMINISTRATION or Material Inspection services (i.e. field observation, footing inspections, pay request and shop drawing review, etc.) are included. The Owner/Client understands that there may be misinterpretations of the design professional's plans and specifications during construction which may lead to errors and subsequent damage. Inasmuch as the Owner/Client has elected to proceed with the work without the design professional providing construction review services, the Owner/Client agrees to indemnify and hold-harmless the Architect against any and all claims, damages, awards and costs of defense, which may arise out of the acts of the contractor performing work not in compliance with the intent of the design documents.

If CONSTRUCTION ADMINISTRATION services are listed under SCOPE OF SERVICES, the Architect will endeavor to guard the Owner/Client against defects and deficiencies in construction and will advise the Owner/Client to reject work not in compliance with Architect's Construction Documents; however, the Architect shall not be responsible for the failure of the Contractor(s) to perform construction work in accordance with the Construction Documents. The Architect shall not be responsible for the means, methods or procedures of construction selected by the Contractor, and the Contractor will be solely and completely responsible for conditions of the job site including safety of all persons and property during the performance of the work. This requirement will apply continuously and not be limited to normal working hours. When on the site, the representative of the Architect is responsible for his/her own safety but has no responsibility for the safety of other personnel or safety conditions at the site.

INDEMNIFICATION

The Owner/Client shall indemnify and hold harmless the Architect and all of its personnel from and against any and all claims, damages, losses and expenses (including reasonable attorneys' fees) arising out of or resulting from the performance of the services, provided that any such claims, damage, loss or expense is caused in whole or in part by the negligent act of omission, and/or strict liability of the Owner/Client, anyone directly or indirectly employed by the Owner/Client (except the Architect) or anyone for whose acts any of them may be liable.

HIDDEN CONDITIONS

A structural condition is hidden if concealed by existing finishes or is not capable of investigation by reasonable visual observation. If the Architect has reason to believe that such a condition may exist, the Owner/Client shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If (1) the Owner/Client fails to authorize such investigation or correction after due notification, or (2) the Architect has no reason to believe that such a condition exists, the Owner/Client is responsible for all risks associated with this condition, and the Architect shall not be responsible for the existing condition nor any resulting damages to persons or property.

BETTERMENT

Emboss Design, PSC, PSC shall not be responsible for paying the cost to add work that would have been otherwise necessary for the successful completion of the project or otherwise adds value or betterment of the project resulting from any required item / component of the project being omitted from Emboss Design, PSC's documents, due to an error or omission on the documents provided for the project.

RISK ALLOCATION/LIMITATION OF LIABILITY

In recognition of the relative risks, rewards and benefits of the project to both the Owner/Client and the Architect, the risks have been allocated so that the Owner/Client agrees that, to the fullest extent permitted by law, the Architect's total liability to the Owner/Client, for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this agreement, from any cause or causes, shall not exceed the total amount of \$3,000.00. Liability is limited to residual or consequential damages proximately caused by the Architect's design errors or omissions, but excluding lost profits, income, any/or economic loss. The available insurance coverage is outlined on the Architect's insurance policy's declarations page for the policy period that is in force at the time of this Agreement. Such causes, include, but are not limited to the Architect's negligence, errors, omissions, strict liability, breach of contract or breach of warranty. A higher liability limit is available at additional cost and, if desired by the Owner/Client, is indicated on the front side of this form. The increased limit must be specified and the additional cost of \$3 per each additional \$1,000 of liability must be paid prior to commencement of services. This additional cost is not included in the Base Fee.

TERMINATION OF SERVICES

This agreement may be terminated upon 10 days written notice by either party should the other fail to perform his obligations hereunder. In the event of termination, the Owner/Client shall pay the Architect for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

OWNERSHIP / USE OF DOCUMENTS

All drawings, specifications, and other documents prepared by Emboss Design, PSC are the instruments of the Architect's service for the Owner's use for this Project and this building site only, and shall remain, the property of Emboss Design, PSC, whether the project is executed or not. The architect shall retain all common law, statutory, and other reserved rights, including the copyright. Unauthorized duplication of the instruments of the Architect's services for a project not specified in the Agreement shall be a violation of copyright laws. The Client shall not make any modifications to the instruments of service without prior written consent of Emboss Design, PSC. The Owner/Client agrees to defend, indemnify, and hold harmless the Architect and the Architect's consultants from any causes of action, claims, losses, damages and expenses of any kind whatsoever, including reasonable attorney's fees resulting from the unauthorized reuse of the Architect's and the Architects' consultants' materials.

APPLICABLE LAW

Unless otherwise specified, this agreement shall be governed by the laws of the principal place of business of the Architect.

HAZARDOUS MATERIALS

The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form.

DISPUTE RESOLUTION

Should any claims arise between the Owner/Client and Architect the parties agree to submit such claim(s) to mediation as a condition precedent to litigation. Should the parties fail to resolve the claim(s) through mediation then the claim(s) may be litigated in the County where the project is located.

AUTHORITY

The individual signing this agreement represents and warrants that he or she has the requisite power and authority to execute this Agreement on behalf of the Client / Owner.

FREE AND VOLUNTARY EXECUTION

The individual signing this agreement certifies that he or she has read this document and executes it freely, voluntarily and with full knowledge of its significance and legal effect.

CONSPICUOUSNESS OF AGREEMENT

The individual signing this agreement, and initialing where noted, acknowledges that any he or she is waiving and relinquishing any defense on behalf of the Owner/Client to challenge the enforcement of this agreement by arguing that the terms, language, font size, use of italics or bold in font, or the lack thereof, was, in whole or in part, inconspicuous, hidden, concealed, hard to read, imperceptible, unnoticeable, indicatable, or were surreptitiously included in this agreement.

Client Signature: _____