

**Agreement for Consulting Services**  
between Owner and Pashek + MTR, Ltd.

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This agreement is for “professional services”, and is made April 1, 2024, by and between **Pashek + MTR, Ltd.**, 619 East Ohio Street, Pittsburgh, Pennsylvania 15212, and

**The Owner:** Tarentum Borough  
318 Second Street  
Tarentum, PA 15084

**for the following Project:** Tarentum & Cheswick Riverfront Park Master Plans

**Professional Services provided:** As described in the PFBC grant application submitted on December 21, 2023, with page 14 attached, describing the Scope of Work.

**Compensation:** Fixed Fee of \$50,000, including reimbursable expenses.

This Agreement consists of:  
1. General Provisions  
2. Scope of Services

  
\_\_\_\_\_  
John O. Buerkle, President      4/01/2024  
Date

\_\_\_\_\_  
Borough of Tarentum      Date

**1. Scope of Services**

- 1.1 *Scope of Services* – Pashek + MTR, Ltd’s services consist of those described in the attached proposal, and as amended.
- 1.2 *Standard of Care* – In providing services under this Agreement, the Consultant shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

**2. Basis of Compensation**

- 2.1 *Compensation* - The Owner will pay Pashek + MTR, Ltd. for services performed under this Proposal/Agreement.
- 2.2 *Invoicing* – Pashek + MTR, Ltd. will invoice the client on a monthly bases for work completed the previous month.
- 2.3 *Payment* - Payment not made within 90 days from the end of the calendar month to which the invoice applies will bear interest from the end of such month at the rate of one-and one-half percent (1.5%) per month until paid. Failure of the Owner to make payments when due shall cause for suspension of services. Owner access to documents (produced prior to or after suspension of services due to failure of payment), as defined herein, will be restricted until payment in full is received.

**3. Terms and Conditions**

- 3.1 *Laws, ordinances, and regulations* - Pashek + MTR, Ltd. will use its professional efforts to identify laws, rules, and regulations which apply to the project, to interpret the same in a reasonable manner and to produce reports, plans, and other documents which are consistent therewith.
- 3.2 *Mediation* – In an effort to resolve any conflicts that arise during the design and construction of the Project or following completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or Project shall be submitted to nonbinding mediation.

The Client and Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require 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 the primary method of dispute resolution among the parties to all those agreements.

- 3.3 *Termination* - In the event of termination of this Agreement by either party, the Client shall within fifteen calendar days of termination pay the Consultant for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions of this Agreement. The Client may terminate this Agreement for the Client's convenience and without cause upon giving the Consultant not less than seven calendar days' written notice. Either party may terminate this Agreement for cause upon giving the other party no less than seven days' written notice for any of the following reasons:

- 3.3.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party.
  - 3.3.2 Assignment of this Agreement to any other entity without prior written consent of the other party.
  - 3.3.3 Suspension of the project of the Consultant's services by the Client for more than three months, consecutive or in aggregate.
  - 3.3.4 Material changes in the conditions under which this Agreement was entered into and the failure of parties to reach agreement on compensation and schedule adjustments necessitated by such changes.
- 3.4 *Liability* – In recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant and Consultant's officers, directors, partners, employees, shareholders, owners, and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of the Consultant and the Consultant's officers, directors, partners, employees, shareholders, owners, and subconsultants shall not exceed the Consultant's total fee for the services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.
- 3.5 *Corporate Protection* - It is intended by the parties to this Agreement that the Consultant's services in connection with the Project shall not subject the Consultant's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Consultant, a Pennsylvania corporation, and not against any of the Consultant's individual employees, officers or directors.
- 3.6 *Third Party Relationships* - Nothing contained in this Agreement shall create a contractual relationship with or cause action in favor of a third party against either the Owner/Client or the Consultant. The Consultant's services under this Agreement are being performed solely for the Owner's/Client's benefit and no other party or entity shall have any claim against the Consultant because of this Agreement or the performance on nonperformance of services hereunder.
- 3.7 *Ownership of Documents* - All instruments of professional service prepared by Pashek + MTR, Ltd., including, but not limited to drawings and specifications, are the property of Pashek + MTR, Ltd., and these documents shall not be reused on other projects without Pashek + MTR, Ltd.'s written permission. Pashek + MTR, Ltd. retains all rights, including the copyright in its documents. Owner or others cannot use Pashek + MTR, Ltd.'s documents to complete the Project with others. The Owner retains the right to have access to additional copies of documents prepared by Pashek + MTR, Ltd. under this contract, for Owner's use regarding this Project.
- 3.8 *Opinion of Probable Cost* - Opinion of Probable Costs are made based on the experience and qualifications of Pashek + MTR, Ltd. and represent the reasonable judgment as a design professional familiar with the industry. Pashek + MTR, Ltd. has no control over the cost, or availability of labor, materials or equipment, or over market conditions or the provider's method of pricing. Pashek + MTR, Ltd. cannot and does not guarantee that the opinion of probable cost provided to the Owner will not vary from the actual cost experienced by the Owner.

If the Owner desires a more detailed opinion of probable cost, the Owner shall retain a separate cost estimating consultant at the Owner's Expense.

- 3.9 *Betterment*- If due to the Consultant's negligence, a required item or component of the Project is omitted from the Consultant's construction documents, the Consultant shall not be responsible for paying the cost required to add such item or component to the extent such item or component would have been required and included in the original construction documents. In no event will the Consultant be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.
- 3.10 *Controlling Law* - This Agreement is to be governed by the laws of the Commonwealth of Pennsylvania, which is the principal place of business of Pashek + MTR, Ltd.
- 3.11 *Assignment* - The Owner and Pashek + MTR, Ltd. respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement. Neither the Owner nor Pashek + MTR, Ltd. shall assign this Agreement without the written consent of the other.
- 3.12 *Entire Agreement* - This Agreement is the entire and integrated agreement between Owner and Pashek + MTR, Ltd., and supersedes all prior negotiations, statements or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Pashek + MTR, Ltd.
- 3.13 *Severability* - In the event that any term or provision of this Agreement is found to be void, invalid, or unenforceable for any reason, that term or provision shall be deemed to be stricken from this Agreement, and the balance of this Agreement shall survive and remain enforceable.
- 3.14 *Warranties and Fiduciary Responsibilities* - No warranty, either expressed or implied, is part of Pashek + MTR, Ltd.'s findings, recommendations, plans, specifications, or professional advice. Pashek + MTR, Ltd. has endeavored to perform services in accordance with general accepted standards of practice in effect at the time of the performance. The Owner acknowledges that neither Pashek + MTR, Ltd. Nor any of our subconsultants owe any fiduciary responsibility to the client or others.

#### **4. Owner's Responsibilities**

- 4.1 Owner agrees to provide Pashek + MTR, Ltd., with all information, surveys, reports, and professional recommendations requested to provide its professional services. Pashek + MTR, Ltd. may reasonably rely on the accuracy and completeness of these items.
- 4.2 Owner acknowledges that significant changes to the Project schedule, budget, or the Project's scope may require Additional Services performed by Pashek + MTR, Ltd.
- 4.3 Owner shall compensate Pashek + MTR, Ltd. in accordance with the terms of this Agreement.

Status	<input type="checkbox"/>	Approved	<input type="checkbox"/>	Pending	<input type="checkbox"/>	Intend to Apply
Date (if approved, list approval date; if pending, list submission date)						

**Section IV – Project Description**

Applicants are encouraged to discuss proposed projects, project scope of work, etc. with the Commission prior to submission of the application.

Check the appropriate project type and in the space provided below, describe the scope of work and approach.

**Acquisition** – Describe the area to be acquired in terms of size, length of stream, number of parcels, natural and man-made features, nature of surrounding land use, existing uses, relation to existing public parkland, trails, conservation areas and future proposed facilities. Indicate interest to be acquired if other than fee simple. Indicate if the principal use of the property will be for fishing or boating access.

**Access Development** – Describe the area to be constructed in terms of size, length of stream, number of parcels, natural and man-made features, nature of surrounding land use, existing uses, relation to existing public parkland, trails, conservation areas and future proposed facilities. Indicate if the principal use of the property will be for fishing or boating access.

**Other** – Describe the project scope of work. Identify the nature of the project and what assistance is being requested from the Commission (planning, administration, design, etc.).

**Detailed Description:**

We are requesting funds to help with master planning the two fishing and boating access points on the Allegheny River in Tarentum and Cheswick.

Scope of Work:

A. Public Participation

1. Meet with representatives of each community in early May to brainstorm goals for the plans and plan a public meeting.
2. Hold a public meeting in each community to gather ideas and concerns about the projects. This would hopefully take place in late May.
3. Update to Councils – we would update both councils at their June meeting to show preliminary designs and get feedback.
4. Meet with representatives of each community in late June to brainstorm further refinement of the master plans and begin discussing estimates of probable costs.
5. Present the draft Master Plan and estimates of probable costs to each Council. This would function as a second "public meeting" to meet the DCNR requirements should either borough choose to submit for a DCNR grant. Seek council approval to submit the grant application for federal funds. This would be at their August Council meeting.

B. Master Planning tasks:

1. Pull together from currently available sources base map information. (May)
2. Prepare a site analysis of each park and riverfront. (May)
3. Develop several planning concepts showing areas of access, parking, and riverfront development (fishing piers, kayak/canoe launches, and boat docking).
4. Refine the master plan and begin developing estimates of probable costs. (June)
5. Develop color renderings of the plans and other images to help describe the proposed development. (July)
6. Finalize the master plan, estimate of probable cost, and create a brief report memorializing the planning process and public input. (July)
7. Assist in preparing the grant application for federal funds. Attend one meeting with a foundation to explain the process. This would take place in August, 2024.

## NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Grants]

The Grantee agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this commonwealth who is qualified and available to perform the work to which the employment relates.
2. The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
3. Neither the Grantee nor any subgrantee nor any contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the grant agreement, subgrant agreement, contract or subcontract.
4. Neither the Grantee nor any subgrantee nor any contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
5. The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement for employees with an established work site.
6. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.
7. The Grantee and each subgrantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual

harassment. The Grantee and each subgrantee, contractor and subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Grantee, any subgrantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the granting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.

8. The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.
9. The Granter’s and each subgrantee’s, contractor’s and subcontractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Grantee and each subgrantee, contractor and subcontractor shall have an obligation to inform the commonwealth if, at any time during the term of the grant agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
10. The commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

Based on Management Directive 215.16 Amended (8/2/18)