

RESOLUTION NO. R2025-

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH HITCHCOCK DESIGN GROUP FOR VETERANS MEMORIAL FINAL DESIGN

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the City has budgeted sufficient funds in the 2026 fiscal year for the procurement of design services for the Veterans Memorial Final Design (“Services”); and

WHEREAS, pursuant to the City’s Qualification Based Selection (QBS) Process, as amended March 19, 2018 (“QBS Policy”), City staff requested a proposal for the Services from Hitchcock Design Group (“Consultant”) because Consultant has provided design services for the City in the past to the City’s satisfaction; and

WHEREAS, Consultant submitted a proposal to perform the Services (“Proposal”) in the amount of \$33,000.00 as provided in the Proposal; and

WHEREAS, the City desires to enter into a professional services agreement with Consultant for the performance of the Services (“Agreement”); and

WHEREAS, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve the Agreement with Consultant for the Services at the price proposed;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DU PAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Resolution as if fully set forth in this Resolution.

SECTION 2: Approval of Agreement. The Agreement with Consultant in the amount of \$33,000.00 as provided in Attachment A of the Agreement, is hereby approved in the form attached to this Resolution as Exhibit A.

SECTION 3: Execution. The City Council hereby authorizes and directs the City Administrator to execute, on behalf of the City, the final Agreement only after receipt by the City Administrator of at least two executed copies of the Agreement from Consultant; provided, however, that if the City Administrator does not receive such executed copies of the Agreement from Consultant within 60 days after the date of adoption of this Resolution, then this authority to execute and seal the Agreement shall, at the option of the City Council, be null and void.

SECTION 4: Effective Date. This Resolution shall be in full force and effect following its passage and approval in the manner provided by law.

[Signatures and Voting Record on Following Page]

PASSED THIS ____ day of _____, 2025.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED THIS ____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A
AGREEMENT

**CITY OF WARRENVILLE
PROFESSIONAL SERVICES AGREEMENT
FOR VETERANS MEMORIAL FINAL DESIGN**

THIS AGREEMENT (“Agreement”) is dated as of the 18th day of August, 2025 (**“Effective Date”**) and is by and between the **CITY OF WARRENVILLE**, an Illinois home rule municipal corporation (**“City”**), and **HITCHCOCK DESIGN GROUP**, an Illinois Corporation (**“Consultant”**) (collectively, the **“Parties”**).

IN CONSIDERATION OF the agreements set forth in this Agreement, the receipt and sufficiency of which are mutually acknowledged, and pursuant to the City’s statutory and home rule powers, the Parties agree as follows:

SECTION 1. SCOPE AND PROVISION OF SERVICES.

A. Engagement of the Consultant. The City hereby engages the Consultant identified below to provide all necessary professional consulting services and to perform the work in connection with the project described as follows: conceptual plan development and grant funding application services for Cerny Park (collectively, the **“Services”**).

B. Services. The Consultant has submitted to the City a description of the Services to be provided by the Consultant, a copy of which is attached as **Exhibit A** to this Agreement (**“Scope of Services”**). The Consultant must provide the Services pursuant to the terms and conditions of this Agreement and as described more fully in the Scope of Services.

C. Commencement; Time of Performance. The Consultant will commence the Services immediately upon receipt of written notice from the City that this Agreement has been fully executed by the Parties (**“Commencement Date”**). The Consultant will diligently and continuously prosecute the Services until the completion of the Services or the termination of this Agreement (**“Time of Performance”**).

D. Reporting. The Consultant will regularly report to the City regarding the progress of the Services during the term of this Agreement.

E. Relationship of the Parties. The Consultant will act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement will be construed to: (i) create the relationship of principal and agent, employer and employee, partners, or joint venturers between the City and the Consultant; or (ii) create any relationship between the City and any subcontractor of the Consultant.

F. Information Releases. The Consultant will not issue any news releases or other public statements regarding the Services without prior approval from the City.

G. Mutual Cooperation. The City will cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with any non-confidential information that the City may have that may be relevant and helpful to the Consultant’s performance of the Services. The Consultant agrees to cooperate with the City in the performance of the Services to complete the Work and with any other the Consultants engaged by the City.

H. Compliance with Laws and Grants.

1. The Consultant will give all notices, pay all fees, and take all other actions that may be necessary for the Services to be provided, performed, and completed in accordance with applicable required governmental permits, licenses, or other approvals and authorizations that may be required or necessary in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* The Consultant will also comply with all conditions of any federal, state, or local grant received by the City or the Consultant with respect to this Agreement or the Services.

2. The Consultant will be liable for damages in the event that any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body are caused by the Consultant's, or its subcontractors', negligent performance of, or failure to perform, the Services or any part of the Services.

3. Every provision of law required by law to be inserted into this Agreement will be deemed to be inserted herein.

SECTION 2. COMPENSATION AND METHOD OF PAYMENT.

A. Compensation. The total amount billed by the Consultant for the Services under this Agreement will not exceed **\$33,000** ("**Compensation**"), as outlined in the Scope of Services, including reimbursable expenses as identified in the Scope of Services, without the prior express written authorization of the City.

B. Invoices and Payment. The Consultant will be paid as provided in the Scope of Services. The Consultant will submit invoices to the City in an approved format for those portions of the Services performed and completed by the Consultant. The City will pay to the Consultant the amount billed in accordance with the Illinois Prompt Payment Act, 50 ILCS 505/1 *et seq.*

C. Records. The Consultant will maintain records showing actual time devoted and costs incurred, and, on reasonable, advance written notice, will permit the authorized representative of the City to inspect and audit such data and records of actual time devoted and costs incurred for work done under this Agreement. The records required to be made available to the City under this Section 2.C will be made available at reasonable times during the term of this Agreement, and for five years after the termination of this Agreement.

D. Claim in Addition to Compensation. If the Consultant claims a right to additional compensation as a result of action taken by the City, the Consultant must provide written notice to the City of the claim within seven days after occurrence of the action, and no claim for additional compensation will be valid unless made in accordance with this Section 2.D. Any changes in the Compensation will be valid only upon written amendment pursuant to Section 10.A of this Agreement. Regardless of the decision of the City relative to a claim submitted by the Consultant, the Consultant will proceed with all of the Services required to complete the Services under this Agreement without interruption, subject to and without waiving

Consultant's right to pursue its rights and remedies in dispute resolution as provided in this Agreement.

E. Taxes, Benefits, Royalties. The Compensation includes all applicable federal, state, and local taxes of every kind and nature applicable to the Services, including, without limitation, all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits and, unless otherwise specifically identified, all costs, royalties and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. The Consultant waives and releases any claim or right to claim additional compensation by reason of the payment of any tax, contribution, premium, costs, royalties, or fees.

F. Completion and Acceptance of Services. The Services, and any phase of the Services, will be considered complete on the date of final written acceptance by the City of the Services or each phase of the Services, as the case may be.

G. Additional Services. The City will not be liable for any costs incurred by the Consultant in connection with any services provided by the Consultant that are outside the scope of this Agreement ("**Additional Services**"), regardless of whether the Additional Services are requested or directed by the City, except upon the prior written consent of the City Administrator after approval in accordance with applicable procedures.

H. No Additional Obligation. The City is under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant, or with any vendor solicited or recommended by the Consultant.

SECTION 3. PERSONNEL; SUBCONTRACTORS.

A. Key Project Personnel. The employees, officials, and personnel of the Consultant described in the Scope of Services ("**Key Project Personnel**"), if any, will be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel may not be changed without the City's prior written approval. The Consultant will notify the City as soon as practicable prior to or promptly after terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Consultant will have no claim for damages and may not bill the City for additional time and materials charges as the result of any portion of the Services that must be duplicated or redone due to termination or for any delay or extension of the Time of Performance as a result of any termination, reassigning, or resignation.

B. Availability of Personnel. The Consultant will provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement or in the Scope of Services.

C. Approval and Use of Subcontractors. The Consultant will perform the Services with its own personnel and under the management, supervision, and control of its own organization, unless otherwise approved by the City in writing. All subcontractors and subcontracts used by the Consultant will be acceptable to, and approved in advance by, the City. The City's approval of any subcontractor or subcontract will not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by this Agreement. All Services performed under any subcontract will be subject to all

of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term "Consultant" will be deemed also to refer to all subcontractors of the Consultant, and every subcontract will include a provision binding the subcontractor to all provisions of this Agreement.

D. Removal of Personnel and Subcontractors. If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the City, then, immediately upon notice from the City, the Consultant will remove and replace the personnel or subcontractor. The Consultant will have no claim for damages, for compensation in excess of the amount contained in this Agreement or for a delay or extension of the Time of Performance as a result of any removal or replacement.

SECTION 4. TERM OF AGREEMENT.

A. Term. The term of this Agreement, unless terminated pursuant to the terms of this Agreement, will expire on the date the City determines that all of the Services under this Agreement, including warranty services, are completed. A determination of completion will not constitute a waiver of any rights or claims that the City has, before or after completion, with respect to any breach of this Agreement by the Consultant or any right of indemnification of the City by the Consultant.

B. Termination. Notwithstanding any other provision hereof, the City may terminate this Agreement, at any time and for any reason, upon seven days prior written notice to the Consultant. In the event that this Agreement is so terminated, the Consultant will be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed as determined as provided in the Scope of Services. Subject to Section 9 of this Agreement, either party may terminate this Agreement for failure to cure an Event of Default, as defined in Section 9 of this Agreement, by the other party, including, but not limited to failure of the City to pay amounts due under the terms of this Agreement.

SECTION 5. CONFIDENTIAL INFORMATION; OWNERSHIP OF WORK PRODUCT AND DOCUMENTS.

A. Confidential Information. In the performance of this Agreement, the Consultant may have access to or receive certain information in the possession of the City that is not generally known to members of the public ("**Confidential Information**"). Confidential Information includes, without limitation, proprietary information, copyrighted material, personal or private data of every kin, financial information, health records and information, maps, and all other information of a personal nature. The Consultant must not use or disclose any Confidential Information without the prior written consent of the City. If the Consultant has any doubt about the confidentiality of any information, then the Consultant must seek a determination from the City regarding the confidentiality of the information. The Consultant and all of its personnel and subcontractors must make and apply all safeguards necessary to prevent the improper use or disclosure of any Confidential Information. At the expiration or termination of this Agreement, the Consultant must promptly cease using, and must return or destroy (and certify in writing destruction of), all Confidential Information, including all copies, whether physical or in any other form, in its possession. The Consultant may not transfer to, store in, or otherwise allow work product containing Confidential Information to be located in any location, whether physical or digital, not under the control of the Consultant. If the Consultant is required, by any government authority or court of competent jurisdiction, to disclose any Confidential information, the

Consultant must immediately give notice to the City with the understanding that the City will have the opportunity to contest the process by any means available to it prior to submission of any documents to a court or other third party. The Consultant must cause all of its personnel and subcontractors to undertake and abide by the same obligations regarding Confidential Information as the Consultant.

B. Ownership. Provided the City complies with its payment obligations under this Agreement, the Consultant agrees that all final, deliverable work product, in any form, prepared, collected, or received by the Consultant in connection with any or all of the Services to be performed under this Agreement will be and remain the exclusive property of the City. At the City's request, or upon termination of this Agreement, the Consultant will cause the work product to be promptly delivered to the City. Any outstanding payment obligations may not be used as a basis to withhold work product for which payment has been made. The Consultant agrees that, to the extent permitted by law, any and all work product unique to the project and Services will exclusively be deemed "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. § 101 *et seq* subject to the terms of this Agreement. Provided the City complies with its payment obligations under this Agreement, to the extent any such work product does not qualify as a "work for hire," the Consultant irrevocably grants, assigns, and transfers to the City all right, title, and interest in and to the final, deliverable work product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. Provided the City complies with its payment obligations under this Agreement, all intellectual property, Confidential Information, and work product unique to the project and Services will at all times be and remain the property of the City. The Consultant will execute all documents and perform all acts that the City may request in order to assist the City in perfecting or protecting its rights in and to the work product and all intellectual property rights relating to the work product. Provided the City complies with its payment obligations under this Agreement, all of the foregoing items will be delivered to the City upon demand at any time and in any event, will be promptly delivered to the City upon expiration or termination of this Agreement within three days after a demand. In addition, the Consultant will return the City's data in the format requested by the City.

C. Freedom of Information Act and Local Records Act. The Consultant acknowledges that this Agreement, all documents submitted to the City related to this Agreement, and records in the possession of the Consultant related to this Agreement or the Services may be a matter of public record and may be subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, and any other comparable state or federal laws now existing or adopted later (collectively, the "**Disclosure Laws**"). In the event that the City requests records from the Consultant, the Consultant shall promptly cooperate with the City to enable the City to meet all of its obligations under the applicable Disclosure Law. The Consultant acknowledges and agrees that the determination as to whether information in the records is exempt from disclosure or should be released to the public will be made by the City in its sole and absolute discretion.

D. Injunctive Relief. In the event of a breach or threatened breach of Section 5(A), the City may suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, the Consultant agrees that the City will be entitled to seek immediate injunctive relief to prevent or curtail any breach, threatened or actual. The rights provided under this Section 5.D are in addition and without prejudice to any rights that the City may have in equity, by law or statute. The Consultant will fully cooperate with the City in

identifying the scope of any improper use or dissemination of data protected by Section 5(A) and will assist the City in any notification efforts required by law.

SECTION 6. WARRANTY.

The Consultant agrees to perform the Services consistent with the standards of professional practice, care, skill, and diligence practiced by similar consulting Landscape Architecture firms performing services of a similar nature (the “standard of care”). Any of the Services required by law to be performed by licensed professionals will be performed by professionals licensed by the State of Illinois to practice in the applicable professional discipline.

SECTION 7. CONSULTANT REPRESENTATIONS.

A. Ability to Perform. represents that it is financially solvent, has the necessary financial resources, has sufficient experience and competence, and has the necessary capital, facilities, organization, and staff necessary to provide, perform, and complete the Services in accordance with this Agreement and with the standard of care.

B. Authorization. The execution, delivery and performance by the Consultant of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its organizational documents, as amended and supplemented, any of the applicable requirements of law, or constitute a breach of or default under, or require any consent under, any agreement, instrument, or document to which the Consultant is now a party or by which the Consultant is now or may become bound.

C. Company Background. The information disclosed by the Consultant regarding its corporate structure, financial condition, expertise, and experience is true and correct. The Consultant will promptly notify the City in writing of any material change to or about the Consultant, including without limitation to change in ownership or control, and any change will be subject to City approval which will not be unreasonably withheld.

D. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge: (1) no City employee, official, or agent has an interest in the business of the Consultant or this Agreement; (2) as of the date of this Agreement, neither the Consultant nor any person employed or associated with the Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Consultant nor any person employed by or associated with the Consultant will at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

E. No Collusion. The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 2012, 720 ILCS 5/33E-1 *et seq.* *The Consultant* represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the City prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it is found that the Consultant has, in procuring this Agreement, colluded with any

other person, firm, or corporation, then the Consultant will be liable to the City for all loss or damage that the City may suffer, and this Agreement will, at the City's option, be null and void.

F. Sexual Harassment Policy. The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).

G. No Default. The Consultant is not in arrears to the City under any debt or contract and is not in default as surety, contractor, or otherwise to any person, unless as disclosed the City in writing.

H. No Legal Actions Preventing Performance. As of the Effective Date, the Consultant has no knowledge of any action, suit, proceeding, claim or investigation pending or to its knowledge threatened against the Consultant in any court, or by or before any federal, state, municipal, or governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, would materially affect the Consultant's ability to perform its obligation under this Agreement.

I. Patriot Act Compliance. The Consultant represents and warrants to the City that neither the Consultant nor any of its principals, shareholders, or other employees or officials (collectively "**Personnel**") is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Consultant further represents and warrants that the Consultant and its Personnel are not directly or indirectly engaged in or facilitating transactions related to this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Consultant must, and will, defend, indemnify, and hold harmless the City and its officials, officers, authorities, and all City elected or appointed officials, officers, employees, agents, representatives, and attorneys from and against every claim, damage, loss, risk, liability, and expense (including attorneys' fees and costs) arising from or related to any breach of the representations and warranties in this Section 7.I.

SECTION 8. INDEMNIFICATION; INSURANCE; NO PERSONAL LIABILITY.

A. Indemnification. The Consultant agrees to, and does hereby, hold harmless and indemnify the City and all City elected or appointed officials, officers, and employees, from third-party claims that may be asserted at any time against any of those parties in connection with this Agreement or the Consultant's performance to the extent caused by Consultant's negligent performance, or failure to perform, all or any part of the Services; provided, however, that this indemnity does not, and will not, apply to willful misconduct or negligence on the part of the City.

B. Insurance. Contemporaneous with the Consultant's execution of this Agreement, the Consultant will provide certificates of insurance, all with coverages and limits acceptable to the City, and the Consultant must provide certificates of insurance, endorsements, and insurance policies acceptable to the City and including at least the minimum insurance coverage and limits set forth in **Exhibit B** to this Agreement. For good cause shown by the Consultant, the City may extend the time for submission of the required certificates, endorsements, and policies and may impose deadlines or other terms to assure compliance with this Section 8.B. Each certificate and endorsement must be in a form acceptable to the City and from a company with a general rating of A minus, and a financial size category of Class X or better, in Best's

Insurance Guide. Each insurance policy must provide that no cancellation of any insurance will become effective until the expiration of 30 days after written notice of the cancellation will have been given by the insurance company to the City (10 days' written notice in the event of cancelation due to the Consultant's non-payment of premium). The Consultant must maintain and keep in force, at all times during the term of this Agreement and at the Consultant's expense, the insurance coverage provided in this Section 8.B and **Exhibit B**, including without limitation at all times while correcting any failure to meet the warranty requirements of Section 6 of this Agreement.

C. No Personal Liability. No elected or appointed official, or employee of the City will be personally liable, in law or in contract, to the Consultant as the result of the execution and performance of this Agreement. Nor shall any officer, director or employee of Consultant be personally liable, in law or in contract, to the City as the result of the execution and performance of this Agreement.

SECTION 9. DEFAULT.

A. Default by Consultant.

1. If the City determines that the Consultant has failed or refused to perform the Services in compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("**Consultant Event of Default**"), and fails to cure any the Event of Default within ten days after the Consultant's receipt of written notice of the Event of Default from the City, or if the Consultant Event of Default reasonably cannot be cured within ten days, Consultant fails to commence and continue to cure the Event of Default within ten days and cure the Consultant Event of Default within a reasonable time agreed to in writing by the Parties, then the City will have the right, notwithstanding the availability of other remedies provided by law or equity, to pursue any one or more of the remedies provided for under Section 9.B of this Agreement.

2. Remedies. In case of any Consultant Event of Default and failure to cure as provided in Section 9(A), the City may pursue the following remedies:

a. Cure by the Consultant. The City may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Consultant Event of Default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement;

b. Termination of Agreement. The City may terminate this Agreement and, notwithstanding anything in Section 3.C. of this Agreement, the City will not have any liability for further payment of amounts due or to become due under this Agreement for portions of the Services not completed in accordance with the Agreement;

c. Recover Damages. The City may recover damages from Consultant, or may recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the City as the result of any Consultant Event of Default by the Consultant or as a result of actions taken by the City in response to any Event of Default by the Consultant.

B. Default by the City. If the City fails to complete its payment obligation as set forth in this Agreement ("**City Event of Default**"), and fails to cure the City Event of Default

within ten days after the City's receipt of written notice of the City Event of Default from the Consultant, then the Consultant will have the right to terminate the Agreement.

SECTION 10. GENERAL PROVISIONS.

A. Amendment. No amendment to this Agreement will be effective unless and until the amendment is in writing, properly approved in accordance with applicable procedures, and executed.

B. Assignment. Neither Party may assign their rights or obligations under this Agreement without the prior written consent of the other party.

C. City Actions, Consents, and Approvals. Any action, consent, or approval needed to be taken or given under this Agreement by the City may only be performed by the City Administrator or their designee, to the extent provided for by law.

D. Binding Effect. The terms of this Agreement bind and inure to the benefit of the Parties and their agents, successors, and assigns.

E. Notice. Any notice required to be given under this Agreement must be in writing and must be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or (iv) by E-mail. E-mail notices will be deemed valid and received by the addressee only upon explicit or implicit acknowledgment of receipt by the addressee. Unless otherwise expressly provided in this Agreement, notices will be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 10.E, each party will have the right to change the address or the addressee, or both, for all future notices to the other party, but no notice of a change of addressee or address will be effective until actually received.

Notices to the City will be addressed to, and delivered at, the following address:

City of Warrenville
3S258 Manning Avenue
Warrenville, IL 60555
Attention: Philip Kuchler, Public Works Director
E-mail: pkuchler@warrenville.il.us

With a copy to:

Elrod Friedman LLP
325 N. LaSalle Street, Suite 450
Chicago, Illinois 60650
Attention: Brooke Lenneman
E-mail: brooke.lenneman@elrodfriedman.com

Notices to the Consultant will be addressed to, and delivered at, the following address:

Hitchcock Design Group
22 E. Chicago Avenue

Suite 200A
Naperville, Illinois 60540
Attention: Mike Wood, Senior Associate
Email: mwood@hitchcockdesigngroup.com

F. Third Party Beneficiary. The provisions of this Agreement are and will be for the benefit of the Consultant and City only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement. The City will not be liable to any vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the City, without the knowledge and approval of the Corporate Authorities.

G. Severability. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the City will have the right, in its sole and absolute discretion, to determine if (i) the remainder of the provisions of this Agreement will remain in full force and effect and will in no way be affected, impaired, or invalidated, or (ii) the entire agreement shall be invalid, void, and unenforceable.

H. Time of the Essence. Time is of the essence in the performance of this Agreement.

I. Governing Laws. This Agreement will be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

J. Venue. Exclusive jurisdiction with regard to the any actions or proceedings arising from, relating to, or in connection with this Agreement will be in the 18th Judicial Circuit Court of DuPage County, Illinois or, where applicable, in the federal court for the Northern District of Illinois. The Parties waive their respective right to transfer or change the venue of any litigation filed in the 18th Judicial Circuit Court of DuPage County, Illinois.

K. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between the City and the Consultant with respect to the Scope of Services and the Services.

L. Non-Waiver. No waiver of any provision of this Agreement will be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor will any waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

M. Exhibits. Exhibits A and B attached to this Agreement are, incorporated in and made a part of this Agreement. In the event of a conflict between any Exhibit and the text of this Agreement, the text of this Agreement will control.

N. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement will be cumulative and will not be exclusive of any other rights, remedies, and benefits allowed by law.

O. Consents. Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any

party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent must be in writing.

P. Interpretation. This Agreement will be construed without regard to the identity of the Party which drafted the various provisions of this Agreement. Every provision of this Agreement will be construed as though all Parties to this Agreement participated equally in the drafting of this Agreement. Any rule or construction that a document is to be construed against the drafting party will not be applicable to this Agreement.

Q. Survival. The provisions of Sections 6,7, and 8 will survive the termination or expiration of the Agreement.

R. Calendar Days; Calculation of Time Periods. Unless otherwise specific in this Agreement, any reference to days in this Agreement will be construed to be calendar days. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event on which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless the last day is a Saturday, Sunday or legal holiday under the laws of the State in which the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. The final day of any period will be deemed to end at 5:00 p.m., Central time.

S. Counterpart Execution. This Agreement may be executed in several counterparts, each of which, is deemed to be an original, but all of which together will constitute one and the same instrument.

T. Force Majeure. Neither the City nor the Consultant shall be liable for any delay or failure in performance of any part of this Agreement if due to an unforeseen cause beyond its control and without its fault or negligence including, without limitation: (1) earthquakes, floods, hurricanes, tornadoes, or other similar natural calamities; (2) acts or failure to act on the part of any governmental authority other than the Village or Consultant, including, but not limited to, enactment of laws, rules, regulations, codes or ordinances subsequent to the date of this Agreement; (3) acts of war; (4) acts of civil or military authority; (5) embargoes; (6) work stoppages, strikes, lockouts, or labor disputes; (7) public disorders, civil violence or disobedience; (8) riots, blockages, sabotage, insurrection or rebellion; (9) epidemics, pandemics or public health emergencies that result in public health orders or quarantines; (10) terrorist acts; (11) fires or explosions; (12) nuclear accidents; ; (13) major environmental disturbances; or (14) vandalism.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF WARRENVILLE

By: _____
City Administrator

ATTEST:

By: Geoff Roehly

Title: Senior principal

CONSULTANT

By: Tim King

Its: Principal

EXHIBIT A
PROPOSAL



August 5, 2025

Philip M. Kuchler, P.E.
Public Works Director
City of Warrenville
3S258 Manning Avenue
Warrenville, Illinois 60555

RE: Veterans Memorial Improvements – Final Design

Dear Phil,

Thank you for asking Hitchcock Design Group to submit this proposal to provide landscape architectural services for the Final Design of the Veterans Memorial Improvements. We appreciate the opportunity to contribute to the success of this renovation and advance our relationship with you and your colleagues at the City of Warrenville.

PROJECT UNDERSTANDING

We worked with City staff and a stakeholder working group during the Schematic Design Phase to identify a preferred concept. This concept was finalized in February 2025 with a working construction budget of approximately \$425,000 and has since been endorsed by City Council. Construction of this project is partially dependent on successfully raising donor funding to construct the improvements. At this time, the City would like HDG to provide Final Design documents to aid in soliciting donations and to have the project shovel ready to bid when funding is available. The anticipated bidding period would be early 2027. The concept and construction budget will be refined during Final Design and will take into account future bidding costs.

SCOPE OF SERVICES

To meet your objectives, we propose a process as described in the attached Scope of Services.

PROFESSIONAL FEES

We propose to complete the outlined phase services for a fixed fee of \$32,500. Customary out-of-pocket expenses such as printing, delivery, and mileage will be invoiced in addition to the fixed fee, not-to-exceed \$500.

PROJECT TEAM

I will be our project manager and will be directly responsible for routine project communications with you and the rest of the project team and will be supported by other members of our studio as needed to advance the work in a timely manner.



AUTHORIZATION AND SCHEDULE

We can begin this work within two weeks of your authorization and complete our work within your scheduled timeframe.

If this proposal is acceptable, please forward a Professional Services Agreement for review, signature, and authorization to proceed.

Thank you again for the opportunity to work with the City of Warrentville. If you have any questions or wish to discuss this proposal further, please do not hesitate to call.

Sincerely,

Hitchcock Design Group

Mike Wood, ASLA
Senior Associate

Encl: Scope of Services (made part of this agreement)



Scope of Services

City of Warrenville – Veterans Memorial Improvements – Final Design

August 5, 2025

FINAL DESIGN SERVICES

A. Design Development

Objective: Reach consensus with the Owner on the final design, probable cost and implementation strategy for the proposed improvements. Obtain construction permits from the appropriate jurisdictional agencies.

Process: Specifically, based on the approved Schematic Design Report, HDG will:

1. Refine the Schematic Design concept, and using the previously provided survey, prepare **Design Development Documents** illustrating the final size, horizontal and vertical geometry, structure, materials, finishes, and supporting calculations, as appropriate, for the proposed improvements including:
 - a. Grading and drainage
 - b. Walks, decks and other pedestrian surfaces
 - c. Structures and retaining walls
 - d. Automatic irrigation system (performance plan and specification)
 - e. Planting
 - f. Benches, trash containers, planters, bike racks, flagpoles and other site furnishings
 - g. Electrical and lighting (performance plan and specification)
 - i. Identify required electrical requirements for uplighting, irrigation, and auxillary power using existing service. (Note that this proposal does not include electrical engineering. Bid and construction documents will identify that the contractor will provide all electrical work and controls associated with proposed components).
2. Collect and review **Product Data**. Prepare **Outline Specifications**, including the products, materials and finishes of each component or system.
3. Prepare a summary of quantities and updated **Construction Cost Opinion**.
4. (mtg #1) Review the Design Development Documents with City staff and workgroup (60% review).
5. Revise the Design Development Documents as may be required.



6. Prepare and submit **Permit Documents** including only the applications, drawings and supporting calculations that are required to secure the following construction permits anticipated for the proposed improvements:
 - a. Building Permit, City of Warrenville
7. Make minor revisions to the Permit Documents, as may be required, to facilitate jurisdictional approvals and permit(s).

Deliverables: **Design Development Documents; Product Data; Outline Specifications; Construction Cost Opinion; Permit Documents**

B. Construction Documents

Objective: Produce the final Construction Drawing and Project Specifications that will be used to construct the specified improvements.

Process: Specifically, following approval of the Design Development documents, HDG will:

1. Prepare and submit the graphic Construction Drawings including:
 - a. Existing conditions and removals
 - b. Grading
 - c. Geometric layout and materials
 - d. Planting
 - e. Irrigation (performance plan and specification)
 - f. Electrical and lighting (performance plan and specification)
 - g. Construction details
2. Prepare and submit the written **Project Specifications** including:
 - a. Technical specifications
3. Update and submit the **Construction Cost Opinion** and **Schedule**.
4. (mtg #2) Review the Construction Documents with City staff and workgroup (50% review).
5. Finalize the Construction Documents as required.
6. (mtg #3) Review the final Construction Documents with City staff and workgroup (100% review).
7. Make minor revisions, stamp and submit, as required.



BIDDING AND CONSTRUCTION SERVICES

Consultation during bidding and construction can be completed upon request and invoiced at standard hourly rates.

GENERAL PROJECT ADMINISTRATION

In addition to the services outlined above, HDG will administer the performance of its own work throughout the term of the contract by providing the following services:

A. Communications

1. Schedule, create agendas and summarize the highlights of periodic meetings
2. Rehearse, attend and present at public forums identified
3. Collect and disseminate communications from other parties
4. Periodically inform your representative about our progress

B. Schedules

1. Create, periodically update and distribute the project schedule
2. Coordinate the activities of our staff and our consultants

C. Staffing

1. Select and assign staff members and consultants to appropriate tasks and services
2. Prepare and administer consultant agreements

3

D. File Maintenance

1. Establish and maintain appropriate correspondence, financial, drawing and data files
2. Obtain appropriate insurance certificates from consultants
3. Maintain appropriate time and expense records

OPTIONAL, ADDITIONAL SERVICES

The following items are not included in the proposal and can be provided as additional services:

1. Additional site surveying.
2. Electrical engineering.
3. Site work beyond basic site clearing and finish grading necessary to construct the improvements outlined in Schematic Design.
4. Additional meetings.

Services or meetings not specified in this scope of services will be considered Additional Services. If circumstances arise during HDG's performance of the outlined services that require additional services, HDG will promptly notify Client about the nature, extent and probable additional cost of the Additional Services, and perform only such Additional Services following Client's written authorization.

EXHIBIT B

INSURANCE COVERAGES

A. Worker's Compensation and Employer's Liability with limits not less than:

(1) Worker's Compensation: Statutory;

(2) Employer's Liability:

\$500,000 injury-per occurrence

\$500,000 disease-per employee

\$500,000 disease-policy limit

Insurance will evidence that coverage applies in the State of Illinois.

B. Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees will be included as insureds.

C. Comprehensive General Liability with coverage written on an "occurrence" basis and with limits no less than:

\$1,000,000 Bodily Injury and Property Damage

Coverage is to be written on an "occurrence" basis.

Coverages will include:

- Broad Form Property Damage Endorsement

- Blanket Contractual Liability (must expressly cover the indemnity provisions of this Agreement)

D. Professional Liability Insurance. With a limit of liability of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate and covering the Consultant against damages that the Consultant may be obligated to pay to the extent caused by their negligent acts.

E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis so that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover the loss.

F. Owner as Additional Insured. City will be named as an Additional Insured on all policies except for:

Worker's Compensation

Professional Liability

Each additional Insured endorsement will identify City as follows: City of Warrenville, including its Board members and elected and appointed officials, its officers, employees.

GEOGRAPHIC INFORMATION SYSTEMS TECHNOLOGY RIDER

The City has developed digital map information through Geographic Information Systems Technology ("**GIS Data**") concerning the real property located within the City. If requested to do so by the Consultant, the City agrees to supply the Consultant with a digital copy of the GIS Data, subject to the following conditions:

1. **Limited Access to GIS Data.** The GIS Data provided by the City will be limited to the scope of the Work that the Consultant is to provide for the City;

2. **Purpose of GIS Data. The Consultant** will limit its use of the GIS Data to its intended purpose of furtherance of the Work; and

3. **Agreement with Respect to GIS Data.**

a. **Trade Secrets of the City.** The GIS Data constitutes proprietary materials and trade secrets of the City and is the property of the City;

b. **Consent of City Required. The Consultant** may not provide or make available the GIS Data in any form to anyone without the prior written consent of the City.

c. **Supply to City.** At the request of the City, the Consultant will provide the City with all information that has been developed by the Consultant based on the GIS Data;

d. **No Guarantee of Accuracy.** The City makes no guarantee as to the accuracy, completeness, or suitability of the GIS Data in regard to the Consultant's intended use of the GIS Data; and

e. **Discontinuation of Use.** At the time as the Services have been completed to the satisfaction of the City, the Consultant will cease its use of the GIS Data for any purpose whatsoever; and, upon request, an authorized representative of the City will be afforded sufficient access to the Consultant's premises and data processing equipment to verify that all use of the GIS Data has been discontinued.

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