

planning NEXT

**STANDARD FORM CONTRACT
FOR SPECIAL SERVICES**

This AGREEMENT made this ____ day of _____, 2015 ("Effective Date"), between **City of Gahanna** (hereinafter referred to as the "Principal") and ACP Greene + Associates, LLC. also doing business as planning NEXT (hereinafter referred to as the "Consultant").

In consideration of the mutual promises herein contained, the parties hereto agree as follows:

1. **Consultant's Services:** Consultant will provide the Scope of Services as enumerated in the Work Program, attached hereto as Exhibit "A" and incorporated and made a part of this Agreement as if fully set forth herein (the "Project").
2. **Principal's Responsibilities:** The Principal shall provide full and complete information regarding the requirements of the Project as expeditiously as necessary for the orderly progress of the Consultant's services, and the Consultant shall be entitled to rely on the accuracy and completeness thereof. The Principal shall designate a representative authorized to act on the Principal's behalf and shall timely make decisions pertaining to the Project in order to avoid unreasonable delays.
3. **Compensation:** The professional fee compensation to be allocated to this Project is a not-to-exceed amount of **\$39,550** (Thirty nine thousand five hundred and fifty dollars). The project shall be invoiced monthly on work completed. Services beyond the agreed-upon scope will also be billed on an hourly rate.
4. **Reimbursable Expenses:** Including in the professional fee compensation, the Principal agrees to pay the Consultant for costs incurred by the Consultant's employees and consultants in performing the Consultant's Services or otherwise in furtherance of the Project. These reimbursable expenses include, but are not limited to:
 - i. transportation and living expenses for out of town travel (for transportation by personally owned vehicle, the Principal agrees to reimburse the Consultant at the IRS-going rate);
 - ii. governmental, public or other fees related to the Project;
 - iii. graphic design, computer-aided design, film development, exhibit preparation, literature publication, renderings, models, printing and copying expenses;
 - iv. long distance telephone calls, facsimiles, postage, overnight mail and courier services; and
 - v. premiums for any unique or additional insurance required by the Principal or the nature of the Project.
5. **Payments:** All payments for professional fees and documented reimbursable expenses are due and payable thirty (30) days from the date of Consultant's invoice. Any amounts remaining unpaid after thirty (30) days of an invoice shall bear interest at a rate of ten percent (10%) APR, simple interest. Consultant's records relating to the computation of its fees and reimbursable expense amounts pertaining to this Agreement shall be made available to the Principal, or its authorized representative, at a time mutually agreed between the parties upon a written request by the Principal.
6. **Subconsultants:** All subconsultants will be hired by and be responsible to the Consultant. All coordination, planning and input to the subconsultant will be by the Consultant.

7. Suspension or Termination: This Agreement may be terminated or suspended by either party, with or without cause, upon not less than fourteen (14) days written notice to the other party. A written notice shall be deemed duly served when personally delivered to the party to whom it is directed, or when sent overnight delivery through a nationally recognized courier and addressed to the last known address of the party to whom it is directed. The failure to meet any Project deadline or timetable after a suspension or termination has occurred will not constitute a breach of this Agreement.

If the Principal fails to make payments when due to the Consultant for services and expenses, the Consultant may immediately suspend performance of services under this Agreement. In the event Consultant properly suspends its performance, it shall not be liable to the Principal for any damages suffered as a result of the suspension of services or delay in the progress of the Project.

In the event of termination by the Principal without cause, the Consultant shall be entitled to payment for services performed prior to termination, together with reimbursable expenses (if any) then due, prepaid reimbursable expenses incurred or committed, and a termination fee equal to fifteen percent (15%) of the value of the remaining Consultant's services left to be performed under this Agreement, provided, however, that if over fifty percent of the fixed-sum compensation has been earned by, or is due to, the Consultant prior to such termination by the Principal then no termination fee shall be due to the Consultant. The Principal and the Consultant agree that the termination fee is not a penalty and is reasonable based upon the facts and circumstances known to the parties at the time of entering this Agreement, and with due regard to future expectations.

8. Document Use: Except for documents that are proprietary to Consultant, the Principal retains all rights to all documents and reports that are produced, compiled or generated with respect to this project. Consultant shall identify any documents considered to be proprietary and the parties shall thereupon agree, in writing, upon the extent of use by either party.
9. Arbitration: Any controversy or claim arising out of or relating to this Agreement, including any alleged breach, shall be settled in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment on the award may be entered in any court having jurisdiction thereof. As part of any arbitration award, the prevailing party shall be awarded, in addition to the claim, all costs of such arbitration, including without limitation the costs of arbitration and attorneys' fees. A demand for arbitration must be made within a reasonable time after the claim or dispute arises and in no case beyond the date of any otherwise applicable statute of limitations.
10. Applicable Law: This Agreement shall be governed by the laws of the state where the Principal has its primary place of business. If the Principal is a federal entity or agency, this Agreement will be governed by the laws of the state of Ohio.
11. Binding: This Agreement shall be binding on the parties hereto and on their successors, assigns, and legal representatives. Neither the Principal nor the Consultant, nor their successors, assigns, or legal representatives shall assign or delegate any rights or obligations under this Agreement without the prior written consent of the other party.
12. Entire Agreement: This Agreement, including Exhibit A, contains the entire agreement between the Principal and the Consultant respecting the Project, and any agreement or representation respecting the Project or the duties and obligations of either the Principal or the Consultant in relation thereto not expressly set forth in this instrument is null and void. This Agreement supersedes all prior agreements,

negotiations and representations, either written or oral, and may be amended only by a written modification signed by both parties, which makes reference to this Agreement. Nothing in this Agreement shall be construed as creating any rights, obligations, contractual relationships or causes of action with any third parties as against either the Principal or the Consultant.

- 13. Nonwaiver: No delay or failure by either party in exercising any right under this Agreement, and no partial or simple exercise of such right, shall constitute a waiver of that or any other right.
- 14. Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together constitute one and the same agreement.
- 15. Legal Construction: In the event that any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 16. Effective Date: This Agreement commences on the Effective Date and shall continue until the Consultant's Services are complete or the Agreement is suspended or terminated as provided herein.
- 17. Other Conditions:

The cost for additional Listening and Learning Meetings beyond those included in the Scope of Services will be billed separately at a rate of \$800 (eight hundred dollars) per meeting.

PRINCIPAL

planning NEXT/ACP GREENE + ASSOCIATES

(Signature)

(Signature)

(Printed Name and Title)

Jamie A. Greene, Principal/Owner
(Printed Name and Title)