

CITY OF HARRISBURG

SERVICES AGREEMENT

THIS AGREEMENT is made at Harrisburg, Pennsylvania, by and between the CITY OF HARRISBURG, a municipal corporation ("CITY"), and
McClure Company
_____("CONTRACTOR"), who agree as follows:

This Services Agreement and the following documents form the Contract between the parties hereto and are as fully a part of the Contract as if hereto attached, or herein repeated: This Services Agreement, the General Specifications, General Conditions Part I, the General Conditions Part II, Wage Rate Determination, the Scope of Services/Technical Specifications, the Drawings (as listed in the Schedule of Drawings, the Notice to Proceed, and all of the documents and Exhibits enumerated or referred to in this Agreement.

Goods/Services

Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall supply the equipment, related goods, and services as described in Exhibit A. CONTRACTOR shall supply said goods at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for any goods unless prior to initiating orders: (a) CONTRACTOR notifies CITY and CITY agrees in writing that such goods are outside the scope of Exhibit A; (b) CONTRACTOR provides a quote for the additional compensation required for these additional goods; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional goods and amount of compensation therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Mayor, the City Solicitor or authorized designee and the City Controller, or by the Harrisburg City Council, as required by the Harrisburg City Code.

Payment

CITY shall pay CONTRACTOR for services or goods rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit C. The payments specified in Exhibit C shall be the only payments to be made to CONTRACTOR for the services/goods rendered pursuant to this Agreement unless pursuant to the section entitled "Goods/Services" above, CITY approves additional compensation for additional services/goods. CONTRACTOR shall submit all billings to CITY in the manner specified in Exhibit C, or, if not specified in Exhibit C, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.

Facilities and Equipment

CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing the services/goods pursuant to this Agreement.

General Provisions

The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document relating to the scope of services/goods or payment therefor, the General Provisions shall control over said terms or conditions.

Authority

The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.

Exhibits

All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Exhibit A –Plumbing Scope of Services/Technical Specifications

Exhibit B – N/A

Exhibit C – Fee Schedule/Manner of Payment

Exhibit D - General Provisions

Exhibit E – Special Terms and Conditions, Equipment and Supplies

Exhibit F – N/A

Exhibit G – Special Clauses

City of Harrisburg
Signature Sheet
AGREEMENT

THE CITY OF HARRISBURG:

By: Wanda R.D. Williams Date: 2/23/24
Wanda R.D. Williams, Mayor

By: Charlie DeBrunner Date: 2/27/24
Charlie DeBrunner, Controller

APPROVED AS TO FORM AND LEGALITY:

By: Tiffany E. Baldock Date: 2/22/2024
Law Bureau

McClure Company:

Daniel Pietropola
Daniel Pietropola,
Vice President

Date: 02-23-24

The City of Harrisburg is governed under Pennsylvania's Optional Third Class City Law Charter, 53 P.S. § 41101, et seq. Section 53 P.S. § 41413(c) of the law requires that "all bonds, notes, contracts and written obligations of the city shall be executed on its behalf by the mayor and the controller."

EXHIBIT A: SERVICE SCOPE AND TECHNICAL SPECIFICATIONS

****PLEASE REFER TO PLUMBING PRINT P-101 "FLOOR PLAN LAYOUT" FOR ALL SINK LOCATIONS. THE PLUMBING PRINT IS NOT TO BE UTILIZED FOR POTABLE PIPING LAYOUT. P-101 AND THE SCOPE OF WORK LISTED IN THIS EXHIBIT A SHALL BE CONSIDERED TO BE ILLUSTRATIVE AND DESIGN INTENT PURPOSES. MCCLURE COMPANY'S PROFESSIONAL DESIGNERS AND ENGINEERS WILL PROVIDE THE NECESSARY INFRASTRUCTURE TO SUPPORT THE FUNDAMENTAL FUNCTIONS OF THE AGREED UPON TENANT STATIONS. THE FINAL DESIGN, LAYOUT, MATERIALS AND EQUIPMENT MAY POSSIBLY DEVIATE FROM P-101 AND THE GENERAL SPECIFICATIONS LISTED BELOW.**

Contractor shall be responsible to provide all the below items, as deemed necessary for a properly functioning system, and the labor to install them. All materials will remain City property once they have been installed.

1. All pressurized water piping systems shall be rated for 150 PSI working pressure.
2. Install 85 gallon, 390K BTU water heater, including venting and final gas hookup. (City is responsible for getting the gas line to the building.)
3. Thermal expansion tank
4. Hot water recirculation pump Extend the existing domestic water service
5. Install domestic water piping to rough-in locations for vendor supplies sinks at approximately 16 locations
 - Main lines, where necessary, shall be 1 ¼" copper pipe.
 - Secondary lines 1/2" copper or PEX pipe.
6. 16 - 2" Studor valves (pvc piping and stub outs)
7. 1" backflow preventer
8. Domestic hot/cold shutoff valves at vendor locations to complete rough-in
9. In wall plumbing at vendor locations (all others are exposed)
10. Install all piping within building thermal envelope, above ceiling under building insulation and on building side of wall insulation, unless noted otherwise.
11. Equipment shall be installed in accordance with the standards of the national fire protection association and the national fuel gas code.
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13. All pressure regulators shall be vented to the outdoors per manufacturer's recommendation, whether shown or not. extend 1" gas vent from each indoor gas pressure regulator to outside through roof or wall, 10 feet horizontal distance from any building opening and 7 feet minimum above finished elevation and in accordance with local codes and manufacturer's written recommendations
14. All potable water lines shall be run in the existing wood-framed trough.
15. Upon confirmation of all material lead times and delivery dates, McClure company anticipates all work will be complete within 45 calendar days. McClure Company will not be responsible for delays due to unforeseen conditions outside their control.

END OF SECTION

EXHIBIT C: FEE SCHEDULE/MANNER OF PAYMENT

Contractor's Compensation

Without limiting the CITY'S right to amend or cancel portions of services during the contract term, the total of all fees paid to the CONTRACTOR during the contract term for the performance of all services as set forth in Exhibit A (Scope of Services/Technical Specifications), including normal revisions (hereafter the "Services"), shall not exceed the total sum of \$ 1.00 (as *calculated below*), except that additional compensation for additional services may be authorized via a Supplemental Agreement between the CITY and CONTRACTOR pursuant to this Agreement.

EXHIBIT D: GENERAL PROVISIONS/TERMS AND CONDITIONS

Term

This Agreement shall become effective on the date the last party hereto signs the Agreement, as indicated by the date next to that party's signature ("Effective Date") or Notice to Proceed, whichever comes first and shall terminate in 45 days from Notice to Proceed, unless otherwise extended by written agreement of the parties or by exercise of the CITY'S option set forth below.

Termination

Without limiting the CITY'S right to terminate this Agreement for cause, the CITY shall have the right to suspend or terminate this Agreement and/or a Purchase Order for its convenience at any time with immediate effect and without cause by written notice to CONTRACTOR.

If all or any portion of CITY'S payment obligations under this Agreement are grant funded (whether via a private, local government, state and/or federal grant program or any combination thereof), the CITY shall have the right to suspend or terminate this Agreement and/or a Purchase Order with immediate effect by written notice to CONTRACTOR due to expiration, suspension or termination of the grant program(s).

The CITY's obligation to make payments during any CITY fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (CITY, State and/or Federal) are not appropriated or otherwise made available to support continuation of performance of this Agreement in a subsequent fiscal period, the CITY shall have the right to terminate this Agreement and/or a Purchase Order with immediate effect by written notice to CONTRACTOR.

In the event of Termination pursuant to this Paragraph:

- A. CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.
- B. CITY shall pay CONTRACTOR the reasonable value of Goods or Services satisfactorily rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services or delivered the goods required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services or Goods satisfactorily rendered by CONTRACTOR. The foregoing is cumulative and does not affect any right or remedy that CITY may have in law or equity.

Mercantile License/Business License

If applicable, CONTRACTOR shall comply with Chapter 5-715 of the Codified Ordinances of the CITY of Harrisburg which requires all persons, firms, companies and corporations engaging in business within the CITY of Harrisburg to obtain a Mercantile License and pay the mercantile tax.

No Conflicts

CONTRACTOR hereby represents and warrants to CITY that its execution and performance of this Agreement does not and will not breach any other agreement and does not require the consent of any other person or entity. CONTRACTOR hereby represents and warrants to the CITY that there is no relationship that would create a conflict of interest with the CITY under applicable law. The CONTRACTOR will not be prevented or restricted by virtue of providing the services or goods under this Agreement from providing services or goods to other entities or individuals.

Independent Contractor

- A. The parties intend that an independent CONTRACTOR relationship will be created by this Agreement and it is understood that the CONTRACTOR will not be an employee of the CITY. The CONTRACTOR shall act in the capacity of an independent CONTRACTOR with respect to the CITY. The CONTRACTOR shall not be, nor represent himself or herself as being, an employee or agent of the CITY, and shall not be, nor represent himself or herself as being authorized to bind the CITY. The CONTRACTOR shall not have the status of an employee of the CITY and shall not be eligible to participate in any employee benefit plans, pension plans, group insurance plans, paid vacation/sick leave programs, or any other employee benefits. CITY shall not provide social security, unemployment compensation, disability insurance, worker's compensation or similar coverage, nor any statutory benefits, to the CONTRACTOR. The CONTRACTOR shall be solely responsible for all taxes, withholdings, and other similar statutory obligations, including, but not limited to workers' compensation Insurance and CONTRACTOR agrees to indemnify and hold the CITY harmless in the event the CITY is required to pay any of the same on behalf of the CONTRACTOR.
- B. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors. CONTRACTOR agrees to not subcontract any portion of the Services without prior authorization from the CITY, which authorization shall not be unreasonably withheld.
- C. The provisions of this Paragraph shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of the Section titled "No Conflicts."

D. CONTRACTOR shall not assign this Agreement in whole or in part nor delegate any duties, without the prior written consent of the CITY, which consent shall be in the sole discretion of the CITY. Any assignment consented to by the CITY shall be evidenced by a written assignment agreement executed by CONTRACTOR and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the original Agreement and to assume the duties, obligations, and responsibilities being assigned.

Liquidated Damages

Not applicable.

Contractor's Business

CONTRACTOR represents that they are in the business of providing goods or services of the kind stated in this Agreement on a routine basis to various clients and it is expressly understood between the parties that services rendered under this Agreement shall not be considered CONTRACTOR's sole source of work, revenue, or income. It is further understood that this Paragraph constitutes a material condition of this Agreement and that the CITY would not have entered into this Agreement and agreed to pay for goods or services of CONTRACTOR without said representation and understanding. Services shall be performed in a workmanlike and timely manner and in conformance with industry standards and all applicable laws.

Work Product Ownership

To the extent applicable, Any works, ideas, discoveries, inventions, products, or other information, whether or not copyrightable, trade markable, patentable (collectively, the "Work Product") developed in whole or in part by the CONTRACTOR in connection with the Services shall automatically become the exclusive property of the CITY. No license or conveyance of any such rights to the CONTRACTOR is granted or implied under this Agreement. CONTRACTOR, without further consideration, agrees to sign all documents necessary to confirm or perfect the exclusive ownership of the CITY to the Work Product. The terms of this Paragraph shall survive termination of this Agreement.

Insurance

The parties agree that for the duration of this Agreement the CONTRACTOR shall maintain Primary/Non-Contributory insurance coverage, which shall include all terms, conditions and amounts required by the CITY which shall include the following minimum coverage:

Commercial General Liability:

\$1,000,000	General Aggregate
\$1,000,000	Each Occurrence
\$1,000,000	Personal & Adv. Injury
\$200,000	Damage to Rented Premises (each occurrence)

Excess Liability:	
\$2,000,000	Aggregate
\$2,000,000	Each Occurrence
Automobile Liability	
\$1,000,000	Combined Single Limit (each accident)
Workers Compensation & Employers Liability	
Per Pennsylvania Statute	
Builders Risk/All Risk Insurance	100% of Contract Value

Coverage shall be demonstrated through a current Certificate of Insurance provided to the City no later than the time of execution of this Agreement, a copy of which shall be attached hereto, incorporated herein by reference and marked as "Attachment 3;" or by any replacement or updated post-execution Certificate that may be required from time to time by the City. The Certificate shall state that Contractor's insurance is Primary/Non-Contributory, name the City of Harrisburg as an Additional Insured as to all coverage specified herein (and as may otherwise be required by the CITY) and contain a provision requiring 30 days' notice prior to cancellation. All deductibles are the sole responsibility of Contractor (and its subcontractors and consultants) to pay and/or indemnify.

Indemnity

CONTRACTOR agrees to indemnify, hold harmless, and defend CITY and its agents, employees, directors, and elected and appointed officials from and against any and all claims (including Worker's Compensation Claims), damages, losses and expenses, including but not limited to court costs and reasonable attorneys' fees, for which CITY may be held liable of whatsoever kind or nature, including but not limited to injury (including death) to any person including the CITY's employees and damages to any property of whatsoever kind or nature, caused by the services to be performed under this Agreement by CONTRACTOR, it's subcontractor, or any individual or legal entity working on behalf of or under CONTRACTOR's supervision or in any way connected with the use, misuse, maintenance, operation, or failure of any machinery or equipment (regardless of whether such machinery or equipment was furnished, rented, or loaned by CITY), whether due in whole or part to any act, omission, or negligence of CONTRACTOR, its subcontractor, or any individual or legal entity working on behalf of or under CONTRACTOR's supervision. CONTRACTOR shall not be responsible for any claims, damages, losses or expenses arising out of the CITY's negligence. The terms of this Paragraph shall survive termination of this Agreement.

Limitation of Liability

The CITY and Contractor waive claims against each other for any indirect, incidental, consequential, special or exemplary damages, whether in an action of contract, negligence, strict liability or other tortious action, arising out of this Agreement. Both Parties recognize that this Agreement reflects a reasonable allocation of risks and that such allocation is a significant inducement to provide the services described in this Agreement to the CITY.

Confidentiality

CONTRACTOR during the term of this Agreement may have access to proprietary, private and/or otherwise confidential information ("Confidential Information") of the CITY, including its elected and appointed officials, employees, contractors and agents. Confidential information shall mean all non-public information including without limitation, all social security, tax, financial, investment, operational, personnel, and statistical information of the CITY. CONTRACTOR will not at any time or in any manner, either directly or indirectly, use for the personal benefit of the CONTRACTOR, or divulge, disclose, or communicate in any manner any Confidential Information. CONTRACTOR will protect such information and treat the Confidential Information as strictly confidential. This provision shall continue to be effective after the termination of this Agreement. Upon termination of this Agreement, CONTRACTOR will return to CITY all Confidential Information, whether physical or electronic, and other items that were used, created, or controlled by the CONTRACTOR during the term of this Agreement.

Third Party Beneficiary

Nothing in this Agreement is intended to confer third-party beneficiary status on any other person or entity to enforce the terms of this Agreement.

Taxes

CONTRACTOR shall pay, when and as due, any and all taxes incurred as a result of CONTRACTOR's compensation hereunder, including estimated taxes, and shall provide CITY with proof of such payment upon request. CONTRACTOR hereby agrees to indemnify CITY for any claims, losses, costs, fees, liabilities, damages or injuries suffered by CITY arising out of CONTRACTOR's breach of this Paragraph.

Recitals

Any recitals are incorporated into the terms of this Agreement as if fully set forth therein.

Conflict of Terms

In the event of any conflict between the terms or other provisions of this Agreement and any document prepared or provided by CONTRACTOR and made part of this Agreement, including by example and without limitation any document relating to the scope of services/technical specifications or payment thereof, the terms and conditions of this Agreement shall control over CONTRACTOR'S terms and conditions.

Entire Agreement

This Agreement constitutes the entire contract between the parties. All terms and conditions contained in any other writings previously executed by the parties regarding the matters contemplated herein shall be deemed to be merged herein and superseded hereby. No modification of the Agreement shall be deemed effective unless in writing and signed by the parties hereto.

Waiver of Breach

Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

Delay/Force Majeure

CITY shall not be liable for any delays resulting from acts of God, acts of third parties, orders of any kind of the government of the United States of America or of the Commonwealth of Pennsylvania or any of their departments, agencies, political subdivisions or officials, or any civil or military authority, equipment failures, strikes, severe weather conditions, fires, riots, wars, earthquakes, equipment or facility shortages or any other causes beyond its reasonable control.

Severability

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

Survival of Terms

The terms and conditions of this Agreement that by their sense and context are intended to survive termination hereof shall so survive, including without limitation the sections relating to indemnification.

Binding Effect

This agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties.

Applicable Law & Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflict of law provisions thereof. Each party hereto consents to the exclusive jurisdiction of the state courts of Pennsylvania situated in the County of Dauphin, Pennsylvania or in the United States District Court for the Middle District of Pennsylvania for any litigation that may arise out of this Agreement and each party hereto waives any objection based on forum non conveniens or any other objection to such venue. The United Nations Convention on Contracts for Sale of Goods shall not apply.

EXHIBIT E: SPECIAL TERMS AND CONDITIONS EQUIPMENT AND SUPPLIES

These Contract Special Terms and Conditions ("Special Terms and Conditions") shall be part of the contract for the supply and delivery of **Construction Services** between the City of Harrisburg ("The City") and McLure ("Contractor").

Contract Scope

For the purposes of this contract, "**Plumbing Scope of Services**" are defined as found in the Exhibit A: Scope of Services/Technical Specifications.

Contract Period

The City shall establish the Contract effective date as specified in Exhibit D of the General Provisions/Terms and Conditions of this contract.

Site Location

300 Verbeke Street Harrisburg, PA 17102 (Broad Street Market Temporary Structure) – Contractor parking will be provided.

Warranties

The Contractor warrants that all Contract item(s) it may furnish, either itself or through its agents and subcontractors, shall be free and clear of any defects in workmanship or materials.

- A. The Contractor shall pass through to the City the manufacturer's warranty for all contract Items. The Contractor shall correct any problem with the Contract Item(s) and/or replace any defective part with a part of equivalent or superior quality, without additional cost to the City.
- B. The warranty period for a Contract Item shall commence upon delivery of the Contract Item to the City at the specified address.
- C. The Contractor warrants that it has the capability, either directly or through the manufacturer or a manufacturer's representative, to perform warranty service for the warranty period.

Ancillary Services

A Contractor may choose to offer ancillary services in conjunction with the products it provides to the City. However, any ancillary services offered must be integral to the initial acquisition, must be initiated at the time of purchase, and must be included in the scope of the original procurement. Stand-alone services are not within the scope of this service contract.

- A. Sample ancillary services include, but are not limited to, the following:
- Customization – any modification to a Contract Item to meet specific requirements. In a situation where the procurement involves custom design and build of an item and the City determines that on-site inspection of the item is necessary during item design and build, the costs associated with such inspection/monitoring trips to the Contractor's location shall be at the direct expense of the City and shall not be included in the price of the Contractor's item or paid for by the Contractor in any manner.
 - Special Delivery Arrangements – these may include, without limitation, fuel surcharges, added charges for multiple delivery locations, or staged deliveries (multiple dates).
 - Special Lettering
 - Extended Warranty
 - Preventive Maintenance Services
 - Training
- B. Any ancillary services provided will be entirely at the Contractor's option.
- C. If a Contractor chooses to offer ancillary services in conjunction with the Contract items it provides to the City, the Contractor and City shall negotiate the applicable services to be provided and notate the details of the required service and prices on the purchase order at time of order.
- D. The contractor may submit the list of ancillary services and prices it proposes to offer in any format. If it is not possible to submit pricing, as may be the case with certain installation services, the Contractor shall simply note that it is offering the service and that the actual price will be negotiated between the Contractor and the City and annotated on the purchase order at time of order.
- E. Though all potential ancillary services with their associated prices should be included in the original proposal, such services and their associated prices are not a factor in bid evaluation. However, the City reserves the right to restrict the types of services to be offered on any contract.

Product Recall

The Contractor shall provide recall notification, regardless of level, to the City through the most expedient method possible. The notice, at a minimum, shall include:

- complete product description and/or identification
- contract product delivered date
- purchase order number
- reason for recall
- instructions to acquire service and/or repair of product

Manufacturer's Price Reduction

If, prior to the delivery of the awarded item(s) by the Contractor, a price reduction is announced by the original equipment manufacturer, a comparative price reduction will be given to the City by the Contractor.

EXHIBIT F BONDS

Bid Bond

Not Applicable

Payment Bond

Waived

Performance Bonds

Waived