

**PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF CORNING,
NEW YORK AND DESIGNING LOCAL, LTD. FOR CONSULTING SERVICES FOR
DEVELOPMENT OF A CULTURAL ARTS MASTER PLAN**

THIS AGREEMENT is made and entered into as of the 18 day of Aug, 2022, by and between Corning, New York, a municipal corporation, hereinafter referred to as “**City**,” and Designing Local, LTD., a professional planning firm, hereinafter referred to as “**CONSULTANT**.”

RECITALS

WHEREAS, City desires to retain a qualified consulting firm to assist City with the development of a Public Art Strategy; and

WHEREAS, City has determined that CONSULTANT possesses the skills, experience and certifications required to provide the services required by City; and

WHEREAS, CONSULTANT is an independent consultant providing similar professional services to numerous other municipal corporations; and

WHEREAS, City desires to retain CONSULTANT to provide professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises identified herein, the parties mutually agree as follow:

1. SCOPE OF SERVICES.

A. CONSULTANT. CONSULTANT shall assist City by executing the following scope of services in a satisfactory and proper manner in accordance with requirements provided by the City Manager, or their designee. Services will include, but not be limited to, the items noted in CONSULTANT’S proposal Exhibit A.

2. SCHEDULE. Services of CONSULTANT are to commence upon the execution of this Agreement and shall continue in full force and effect until it is terminated. CONSULTANT shall meet the completion date as indicated on Exhibit A.

3. TERM. The term of this Agreement shall continue in full force and effect for a period of eighteen (18) months. The term of this Agreement may be extended as agreed upon, in writing, by CONSULTANT and City.

4. COMPENSATION. CONSULTANT will perform the work outlined above and will invoice City upon completion of the project. CONSULTANT’s total compensation, including reimbursed expenses, for the services set forth for the Agreement shall not exceed \$54,500 as outlined in Exhibit A.

A. COMPENSATION. The compensation shall be paid to CONSULTANT based on the following hourly rates guide:

Amanda Golden | Designing Local: \$125/hr.
Josh Lapp | Designing Local: \$125/hr.
Matt Leasure | Designing Local: \$125/hr.

- B. METHOD OF PAYMENT.** As a condition precedent to any payment to CONSULTANT under this Agreement, CONSULTANT shall submit to the City a statement of account which clearly sets forth the designated items of work for which the billing is submitted.

City shall review CONSULTANT's statement and pay CONSULTANT for services rendered hereunder at the rates, if acceptable, and in the amounts provided hereunder at the completion of each task. Payment will be made according to the City's standard Payment Schedule and Terms.

5. OWNERSHIP OF WORK. All documents furnished to CONSULTANT by City and all reports and supportive data prepared by CONSULTANT by this Agreement are City's property, for the exclusive use of City, shall be given to City at the completion of CONSULTANT services.

6. COMPLIANCE WITH LAW. CONSULTANT shall use due professional care to comply with all applicable federal, state and local laws, codes, ordinances and regulations. CONSULTANT represents to City that it has, and will maintain through the term of this Agreement, all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required for CONSULTANT to practice its profession.

7. INSURANCE. CONSULTANT shall procure and maintain for the duration of this Agreement, insurance as described in Exhibit B against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by CONSULTANT, its agent, representatives, employees or subcontractors.

8. RELATIONSHIP BETWEEN THE PARTIES. CONSULTANT is, and at all times shall remain, an independent contractor, not an agent or employee of City. CONSULTANT shall be solely responsible for all acts of its his agent, representatives, employees or subcontractors, including any negligent acts or omissions. CONSULTANT shall have no authority to act on behalf of City or to bind City to any obligation whatsoever, unless City provides prior written authorization to CONSULTANT. As an independent contractor, CONSULTANT shall not be entitled to any benefit, right or compensation from City other than those provided for in this Agreement.

9. INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT SHALL DEFEND AT ITS OWN DEFENSE THROUGH COUNSEL APPROVED BY CITY, INDEMNIFY AND HOLD HARMLESS CITY, ITS OFFICERS, REPRESENTATIVES, AGENTS, SUBCONTRACTORS, AND EMPLOYEES, VOLUNTEERS AGAINST ANY AND ALL SUITS, DAMAGES, COSTS, FEES, CLAIMS, DEMANDS, CAUSES OF ACTION, LIABILITIES, LOSSES AND EXPENSES, INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES, TO THE EXTENT ARISING OR RESULTING DIRECTLY OR INDIRECTLY

FROM ALL ACTS OR OMISSIONS TO ACT OF CONSULTANT OR CONSULTANTS ITS OFFICERS, REPRESENTATIVES, AGENTS, SUBCONTRACTORS, AND EMPLOYEES, VOLUNTEERS RENDERING SERVICES UNDER THIS AGREEMENT, INCLUDING ALL CLAIMS RELATING TO THE INJURY OR DEATH OF ANY PERSON OR DAMAGE TO ANY PROPERTY, EXCLUDING, HOWEVER, SUCH LIABILITY, CLAIMS, LOSSES, DAMAGES, OR EXPENSES ARISING FROM CITY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. TERMINATION OF AGREEMENT. Notwithstanding any other provision of this Agreement, City may terminate this Agreement at any time upon giving ten (10) days written notice to CONSULTANT. In the event of such a termination, CONSULTANT shall be entitled to any compensation owed for services rendered up to the effective date of termination.

11. WRITTEN NOTIFICATION. Any notice, demand, request, consent, approval, or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first-class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing it mailed as provided in this section.

CITY: City of Corning
Mark Ryckman, City Manager
500 Civic Center Plaza
Corning, NY 14830

CONSULTANT: Designing Local
Amanda Golden
1223 East Main Street, Suite 311
Columbus, OH 43205

12. PARTIAL INVALIDITY. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

13. WAIVER. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

14. NO IMPLIED WAIVERS. The failure of either party at any time to require performance by the other party of any provisions hereof shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

15. ASSIGNMENT. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of CONSULTANT. CONSULTANT, therefore, shall not assign, delegate, nor transfer any rights or obligations pursuant to this Agreement, except as specified in this Agreement, without the prior written consent of City. Any assignment of any right or obligation or subcontracting of any work without City consent shall be void and of no effect.

16. TAXES. CONSULTANT agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement, and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. CONSULTANT agrees to indemnify and hold City harmless from any liability which it may incur to the United States of America or the State of New York as a consequence of CONSULTANT'S failure to pay, when due, all such taxes and obligations. In the event City is audited for compliance regarding withholding or other applicable taxes, CONSULTANT agrees to furnish City with proof of payment of taxes on these earnings.

17. NONDISCRIMINATION. CONSULTANT shall not discriminate against any person related to the performance under this Agreement (including any employee or applicant) on the basis of race, color, religious creed, national origin, gender, physical or mental disability, marital status, or sexual orientation.

18. DEFAULT. In the event CONSULTANT fails to provide the services set forth in this Agreement due to the fault of CONSULTANT, City shall have the right to either do the work itself or hire an outside contractor to perform those services.

19. VENUE. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in Steuben County, New York.

20. CONSTRUCTION. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in the manner that avoids any violation of statute, ordinance, regulation, or law.

21. AMENDMENT. This Agreement constitutes the complete and exclusive statement of the Agreement between City and CONSULTANT. This Agreement may be amended or extended from time-to-time by written agreement of the parties hereto.

22. INTEGRATION. This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by CONSULTANT for City, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed by the party to be charged.

23. EXECUTION. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement it shall not be necessary to produce or account for more than one such counterpart.


24. IN WITNESS WHEREOF, City and CONSULTANT have executed this Agreement as of the date first above written.

CITY OF CORNING:



City Manager
City of Corning

CONSULTANT:



Amanda Golden, Managing Principal
Designing Local, Ltd.

EXHIBIT A APPROXIMATE SCOPE OF WORK AND BUDGET

	Amanda Golden	Joshua Lapp	Graphic Designer	Support Staff	Associated Cost	Total Cost by Task
HOURLY RATE:	\$125	\$125	\$125	\$100		
TASK	HOURS				COST	
TASK 1: Discovery						(\$ 5,250.00)
1.1 Research and document existing inventory	5	20			(\$ 3,125.00)	
1.2 Discover	5	7			(\$ 1,500.00)	
1.3 Work plan and schedule	5				(\$ 625.00)	
TASK 2: Community Input Gathering						(\$ 17,625.00)
2.1 Determine existing attitudes	10	15			(\$ 3,125.00)	
2.2 Determine optimal method for engagement						
a. Create	10	10			(\$ 2,500.00)	
b. Market			2		(\$ 250.00)	
c. Facilitate	32	32			(\$ 8,000.00)	
d. Report	15	15			(\$ 3,750.00)	
TASK 3: Synthesize Ideas and Define Strategy						(\$ 14,875.00)
3.1 Articulation of common vision	40	45	10	5	(\$ 12,375.00)	
3.3 Develop strategy to gain consensus	10	10			(\$ 2,500.00)	
TASK 4: Initial Recommendations						(\$ 10,875.00)
4.1 Present outline and graphic elements of the plan	5	15			(\$ 2,500.00)	
4.2 Present draft plan	5	5			(\$ 1,250.00)	
4.3 Creation of final plan	5	10	40		(\$ 6,875.00)	
4.3 Outreach materials			2		(\$ 250.00)	
TASK 5: Final Review and Approval						(\$ 3,375.00)
5.1 Presentation to elected officials, stakeholders, and public	20		7		(\$ 3,375.00)	
TOTAL PERSONNEL CATEGORY HOURS	167	184	61	5	(\$ 52,000.00)	
TRAVEL (All Inclusive, to be billed as used)						(\$ 2,000.00)
PRINTING COSTS (All Inclusive, to be billed as used)						(\$ 500.00)

TOTAL COST (Not to Exceed)				(\$ 54,500.00)

EXHIBIT B INSURANCE

CONSULTANT shall provide insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements to: **City of Corning, New York**

Minimum Scope of Insurance Coverage shall be *at least as broad as*:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 0001 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000 (or \$2,000,000)** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status. City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy, with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT including materials, part or equipment furnished in connection with such work or operations.

Primary Coverage. For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of CONSULTANT's insurance and shall not contribute with it.

Notice of Cancellation. Each insurance policy required above shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to City.

Waiver of Subrogation. CONSULTANT hereby grants to City a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against City by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. City may require CONSULTANT to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M.

Best's rating of no less than A:VII, unless otherwise acceptable to City.

Claims Made Policies. If any of the required policies provide claims-made coverage:

The Retroactive Date must be shown, and must be before the date of the Agreement or the beginning of contract work.

Insurance must be maintained and evidence of insurance must be provided for at least six (6) months after completion of the contract work.

Verification of Coverage. CONSULTANT shall furnish City with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/29/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: Insurance Agency of Ohio, 7100 N High St Ste 300, Worthington, OH 43085-2333, Dan R Guarasci. CONTACT NAME: Dan R Guarasci, PHONE: 614-848-3000, FAX: 614-848-7698, E-MAIL ADDRESS: Dan@IAofOhio.com. INSURER(S) AFFORDING COVERAGE: Cincinnati Indemnity Co (NAIC # 23280), Capitol Specialty Insurance Co.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes entries for Commercial General Liability, Automobile Liability, Umbrella Liability, Workers Compensation, and Professional liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER CANCELLATION

CERTIFICATE HOLDER: City of Anaheim, 200 S. Anaheim Blvd, Anaheim, CA 92805. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE signature.



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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																					
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			ENP 0279663	10/01/2021	10/01/2022	<table style="width:100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$</td><td style="text-align: right;">1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$</td><td style="text-align: right;">100,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$</td><td style="text-align: right;">5,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td style="text-align: right;">\$</td><td style="text-align: right;">1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$</td><td style="text-align: right;">2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$</td><td style="text-align: right;">2,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td><td></td></tr> </table>	EACH OCCURRENCE	\$	1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	100,000	MED EXP (Any one person)	\$	5,000	PERSONAL & ADV INJURY	\$	1,000,000	GENERAL AGGREGATE	\$	2,000,000	PRODUCTS - COMP/OP AGG	\$	2,000,000		\$	
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	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> N / A If yes, describe under DESCRIPTION OF OPERATIONS below						<table style="width:100%; border-collapse: collapse;"> <tr><td></td><td style="text-align: right;">PER STATUTE</td><td style="text-align: right;">OTH-ER</td></tr> <tr><td>E.L. EACH ACCIDENT</td><td style="text-align: right;">\$</td><td></td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td style="text-align: right;">\$</td><td></td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td style="text-align: right;">\$</td><td></td></tr> </table>		PER STATUTE	OTH-ER	E.L. EACH ACCIDENT	\$		E.L. DISEASE - EA EMPLOYEE	\$		E.L. DISEASE - POLICY LIMIT	\$										
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CERTIFICATE HOLDER

CANCELLATION

<p style="text-align: center;">CORNING</p> <p>City of Corning 500 Nasser Civic Center Plaza Corning, NY 14830</p>	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE </p>
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