



Creating the Science of Facility Management

Facility Operations, Evaluation & Analysis

November 18, 2021

Mr. Tim Goodridge
Assistant General Manager
MetraPark
PO Box 2514
Billings, MT 59103-2514

Send to: TGoodridge@metrapark.com

RE: MetraPark Organizational and Analysis

Dear Tim:

Thank you for the opportunity to submit this agreement for Venue Solutions Group (VSG) to provide services to MetraPark to perform an Organizational Analysis of the complex. Please allow this correspondence to service both as a proposal as well an agreement that can be executed; we've found that the process can move more quickly with a single document.

This letter and all attachments hereto can, if acceptable, constitute the agreement ("Agreement") between Venue Solutions Group, LLC (the "Consultant") and MetraPark ("Client"), for the organizational analysis of MetraPark facilities ("Project") as described herein.

The specific description and schedule of services to be provided by the Consultant to the Client are defined in Attachment A, "Scope of Services."

The terms of compensation and reimbursements that the Consultant will receive for rendering services to the Client are defined in Attachment B, "Compensation for Services."


The general terms and conditions of this Agreement are defined in Attachment C, "General Conditions to Agreement."

If you agree with these terms and conditions, please sign below and return to my office. Upon my receipt of one signed copy of this Agreement, we will fully execute and begin work on the Project by determining a mutually agreeable date for a site visit.

Sincerely,



Tom Williams
Partner

| | | |
|------------------------------------|---|-------|
| ACCEPTED BY VENUE SOLUTIONS GROUP: | | |
| By |  | _____ |
| Title | Partner | _____ |
| Date | 11/23/2021 | _____ |

| | | |
|-------------------------|-------------|------------------------------------|
| ACCEPTED BY METRAPARK: | | |
| By | _____ | |
| Title | _____ | |
| Date | _____ | |
| | | <u>Initial here for acceptance</u> |
| Fee for Scope: | \$30,000.00 | _____ |
| Fee for Optional Scope: | \$10,000.00 | _____ |

ATTACHMENT A
“Scope of Services”
Venue Solutions Group

Venue Solutions Group (VSG) will interview up to twenty (20) designated Client employees, board members, civic stakeholders, local tenants and/or subcontractors over the course of two (2) business days to assess the following:

1. Organizational culture and environment
2. Standards of accountability
3. Skills sets and general experience
4. Available resources (personnel, technological, equipment)
5. Communications within the department
6. Training and development approach

We recommend that the interviewees represent a cross section of the full-time staff and cover different areas, such as finance, box office, operations, and sales & marketing. Interviews are with one person at a time and VSG will explicitly indicate that all comments will be kept confidential. The same general line of questions will be presented to each individual in order to achieve a level of consistency.

We will also seek to tour the complex in order to formulate thoughts on cleanliness, maintenance, and organization, which can be indicative of proper procedures, adequate staffing, and use of current technology.

The overall goal of the project will be to determine the general culture of the organization, the effectiveness of internal communications, what processes and protocols are in place, what the employees' skillsets are and how employees improve them, how work is allocated and can it be improved upon, and how knowledge is passed between employees. We will take into account the results of the current masterplan exercise to opine on additional resources the staff may need in order to successfully operate an upgraded complex. We will incorporate recommendations as appropriate, which will be based on industry best practice and common standards. However, VSG will not provide a recommendation on contracting management to an outside party, but instead will offer benefits and challenges of utilizing private management.

Forty-five (45) to sixty (60) days after our site visit, we will present an electronic draft (PDF) of our report for your review. After receiving feedback, we will edit the report and submit a final, electronic version.

METHODOLOGY

In order to fulfill the obligations of the scope of work, our process will include five (5) specific tasks after contract execution:

- Task 1. Information Request
- Task 2. Site Visit (Tours and Interviews)
- Task 3. Analyze Data and Create Narrative
- Task 4. Provide Draft Report
- Task 5. Incorporate Feedback for Final Report

Task 1. Information Request

Upon execution of this agreement, VSG will request a variety of information that will help us prepare for the site visit. This will include, but not be limited to, items such as current organizational chart, job descriptions, operating budget, capital budget, policies and procedures, and any available operating manuals.

Task 2. Site Visit

This task will encompass multiple interviews and is one that will require the most commitment from venue staff and stakeholders. Our two-person project team will spend two days on site, and beforehand will recommend a suggested schedule. Typically we will work from 8:30 am to 5:30 pm with a one hour lunch and 10-15 minutes between interviews.

During the site visit, we will:

Conduct a kickoff meeting. We will meet with venue leadership involved in the project. This will allow for formal introductions, identify roles and responsibilities, confirm the timeline and deliverables, finalize the scope of work, develop lines of communication, and establish the format and content of the deliverable.

Tour the facility. We request the most knowledgeable venue staff escort our project team through the complex and be capable of answering general facility questions.

Interview staff. We will meet with venue staff, third party operating partners as well as key facility stakeholders, users/tenants for interviews (individually). We will discuss such topics as roles and responsibilities (before, during and after events), process and procedures, venue policies, activities related to their general experience and knowledge of best practices, frequent challenges and service provider relationships. We will request two separate rooms for interviews so that our project team can conduct separate interviews simultaneously.

Task 3. Analyze Data and Create Narrative

This Task will be the most focused and require the most time of the project team. As we finalize data collection and sort through information collected, we will identify strengths and areas of opportunity for the organizational structure, compare existing practices to industry “best practices,” and formulate suggestions and recommendations for all components identified in the scope of work.

Task 4. Present Draft Report

VSG will create and assemble an electronic deliverable based on Tasks 1 through 3 and submit via email to the designated venue representative. Delivery of the draft report would occur no later than sixty (60) after the site visit. Venue representatives should thoroughly review the report and provide feedback to VSG for discussion and incorporation.

Task 5. Incorporate Feedback for Final Report

VSG will review the feedback and engage the venue in dialogue for comments or suggestions that may require additional discussions to ensure we understand the feedback and incorporate as appropriate. Once this has been completed, we will submit, again via email, a PDF formatted final report.

At Client discretion, VSG will conduct a one (1) hour Web Ex (or similar platform) to present our findings and answer questions to the audience of Client’s choice.

OPTIONAL SCOPE – INCREASE INTERVIEWEE NUMBER

At the client's discretion, VSG will interview up to thirty (30) designated Client employees, board members, civic stakeholders, local tenants and/or subcontractors over the course of two (2) business days. We will utilize a third VSG representative in order to accommodate the additional ten individuals.

ATTACHMENT B
“Compensation for Services”
Venue Solutions Group

Fee Proposal

Professional fees for the services described herein are **\$30,000.00**, inclusive of all costs for two VSG representatives to travel to Billings, MT.

Should the Client desire to implement the “Optional Scope” described in Attachment A, the additional fee, which will be inclusive of travel costs for a third VSG representative, shall be **\$10,000.00**.

Upon conclusion of the site visit VSG will invoice 25% of the fee (due in 30 days), and with the delivery of the final report we will invoice the remaining balance.

ATTACHMENT C
“General Conditions to Agreement”
Venue Solutions Group

1. **PAYMENTS** are payable to the Consultant within thirty (30) days from the date of invoice. Invoices are sent out every month and the Client will have ten (10) days from receipt of the invoice in which to review the invoice for accuracy. After ten (10) working days from receipt of the invoice, the invoice will be deemed accurate. An interest charge of the greater of (a) 2% per annum over the prevailing U.S. prime rate as published in *The Wall Street Journal*, or (b) the maximum interest rate permitted under the laws of the state where the project is located, shall accrue and be payable on any unpaid balance not received thirty (30) days following receipt of an invoice. Invoices will be deemed received (i) on the date of the invoice if sent by electronic mail, (ii) on the date of delivery by courier or overnight delivery such as FedEx, or (iii) three (3) days after the date of invoice if sent by U.S. mail.

2. **REIMBURSABLE EXPENSES.** Unless noted otherwise in Attachment B, reimbursable expenses will include the following: transportation (including automobile), lodging, and meals in connection with travel, including related travel agency fees; long distance telephone calls, courier services and facsimile communications, postage and delivery charges; reproduction costs; photographic production techniques; All payments to be made by the Client under this Agreement shall be increased by the addition of applicable Sales and Use Taxes, if any. All Reimbursable Expenses shall be invoiced at cost with a 0.0% markup. Mileage charges for automobiles shall be at the prevailing rate established by the Internal Revenue Service.

3. **NO DEDUCTION** shall be made from the Consultant’s compensation on account of claims of negligent errors or omissions in performance of professional services by the Consultant, except pursuant to a judicial award or an award rendered in a proceeding in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect.

4. **LEGAL COSTS.** The Client shall reimburse the Consultant for all costs incurred in collection of unpaid accounts, including, without limitation, all reasonable attorney and legal expenses.

5. **CLIENT'S RESPONSIBILITIES.** The Client shall furnish such legal, accounting, and insurance counseling services as may be required for the Project and shall provide the Consultant with all existing information relating to the Project which the Consultant may request. If the Client becomes aware of any fault or defect in the Project or the Consultant’s services, Client shall promptly notify the Consultant. The Client shall furnish required information or services as expeditiously as necessary for the orderly performance of the work.

6. SEPARATE CONSULTANTS. If a firm or firms are separately engaged by the Client to work under the general direction of the Consultant, the Consultant shall have no responsibility or liability for the performance or technical sufficiency of the services of such separately engaged firms.

7. ADA. With respect to the Americans with Disabilities Act (“ADA”), Client acknowledges that the ADA is not a detailed building code and that its requirements are general in nature and open to differing interpretations. Consultant will use its reasonable professional efforts to interpret applicable ADA requirements and to advise Client in this regard. However, Consultant cannot warrant or represent that services provided under this Agreement will result in full project compliance with the ADA or all interpretations of ADA requirements by regulatory bodies or court decisions. In addition, if Client requires that any aspect of the Project deviate from Consultant’s reasonable judgment and understanding of the provisions of the ADA, Client shall defend, indemnify and hold Consultant harmless from any claim based upon such deviation.

8. SUSPENSION OF WORK. If any invoice is outstanding for more than thirty (30) days from the date due, the Consultant shall have the right, in addition to any and all other rights provided, to refuse to render further services to the Client and such act or acts shall not be deemed a breach of this Agreement. Continued performance and/or completion of work by the Consultant under this Agreement are contingent upon payment of fees by the Client.

9. TERMINATION OF AGREEMENT. This Agreement may be terminated by the Consultant upon seven (7) days written notice if the Client fails substantially to perform in accordance with its terms through no fault of the Consultant. This Agreement may be terminated by the Client upon seven (7) days written notice to the Consultant if the Consultant fails substantially to perform in accordance with its terms through no fault of the Client. In the event of termination, the Consultant shall be compensated for all services performed to the termination date, together with all Reimbursable Expenses.

10. DISPUTE RESOLUTION/ARBITRATION. Any controversy, claim or dispute arising out of or relating to the interpretation, construction, or performance of this Agreement, or breach thereof, shall be referred to voluntary, nonbinding mediation to be conducted by a mutually acceptable mediator prior to resorting to litigation or arbitration. Provided they do not exceed a cumulative total of \$75,000 during the term of this Agreement, all claims, disputes and other matters in question between the parties to this Agreement, arising out of or relating to this Agreement or the breach thereof, which are not resolved as the result of the non-binding mediation process, shall be decided by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, unless the parties mutually agree otherwise. Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time

after the claim, dispute or other matter in question has arisen. No demand for arbitration can be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, any additional person not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by the Consultant, the Client and any other person sought to be joined. Any consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any disputes not described therein. This agreement to arbitrate and any agreement to arbitrate with an additional person or persons duly consented to by the parties to this Agreement shall be specifically enforceable under the prevailing arbitration law.

The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

11. INDEMNIFICATION. The Client agrees to indemnify and hold harmless Consultant, its members, managers, agents, employees and independent contractors (the "Indemnified Persons") from and against any losses, claims, damages or liabilities relating to or arising out of Consultant's engagement hereunder, except for any liability resulting from the willful misconduct or gross negligence of an Indemnified Person, as determined by final judgment of a court of competent jurisdiction. The Client agrees that it will reimburse any Indemnified Person for all expenses (including reasonable attorneys' fees) as they are incurred in connection with investigating, preparing or defending any action or claim, whether or not the Indemnified Person is named as a party to an action, proceeding or investigation. The provisions of this section shall be in addition to any rights that an Indemnified Person may have at common law or otherwise, and this paragraph shall survive termination of this Agreement, including by completion of the Project.

12. INDEPENDENT CONTRACTORS. Each party to this Agreement is an independent contractor and this Agreement shall not be construed as creating a joint venture, partnership, agency or employment relationship between the parties hereto nor shall either party have the right, power or authority to create any obligation or duty, express or implied, on behalf of the other.

13. MISCELLANEOUS. Neither party may assign its interest in this Agreement to any other person without the express written consent of the other party. This Agreement, including the letter and all attachments, constitutes the complete and sole agreement between the parties with respect to the Project, and may be amended only by a written document signed by both parties. This Agreement shall be governed by the laws of the State where the Consultant is performing the work for this contract.