

CITY OF HARRISONBURG, VIRGINIA
CONTRACT BETWEEN OWNER AND DESIGN BUILD CONTRACTOR

This Contract, dated this _____ day of _____, 2018, between the **City of Harrisonburg, Virginia**, a municipal corporation of the Commonwealth of Virginia ("Owner") and **Momentum Earthworks, LLC**, a Virginia limited liability company ("Contractor"), is binding among and between these parties as of the date of the Owner's signature.

RECITALS

I. The legal address for the Owner and for the Contractor and the addresses for delivery of Notices and other project documents are as follows:

Owner- City of Harrisonburg, Virginia
Attn- City Manager
Address- 345 South Main Street, Room 201
City, State, Zip- Harrisonburg, Virginia 22801
Telephone (540) 432-7701 FAX (540) 432-7778

Contractor – Momentum Earthworks, LLC
Attn- Hans Harman, President
Address- 1500 Pleasants Drive
City, State, Zip- Harrisonburg, Virginia 22801
Telephone (540) 746-8826 FAX (540) 564-1317
Contractor's Virginia License #:
FEIN/SSN:
SCC ID #:

II. The Project is identified as:

Project Title – Northend Greenway Shared Use Path With Blacks Run Stream Restoration Project, City of Harrisonburg (“Project” or “Work”) and Nutrient Credits

General Project Description – Construction of a 2.5-mile shared use path connecting north Harrisonburg with business areas of the City and other places in the City in accordance with the Phase I master plan.

III. The Virginia licensed Architect / Engineer who will design the Project is identified as:

Architect/Engineer – Kip Mumaw, PE – Ecosystem Services

Address – 1739 Allied St, Suite A

City, State, Zip – Charlottesville, VA 22903

Telephone (540) 239-1428

IV. Pursuant to the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 (Virginia Code §§ 56-575.1 et seq.) Contractor is awarded this Contract to perform the Work described by the Contract Documents for the above-described project ("the Project").

THEREFORE, in consideration of the Recitals set forth above, and good and valuable consideration as set forth below, the parties agree as follows:

1. **STATEMENT OF WORK:** The Contractor shall furnish all labor, equipment, and materials and perform all Work for the design and the construction of the Project in accordance with the Contract Documents.
2. **CONTRACT DOCUMENTS:** The Contract shall consist of the documents referenced in the Comprehensive Agreement between the City of Harrisonburg, Virginia, and Momentum Earthworks, LLC ("Comprehensive Agreement"). All of the documents itemized as Contract Documents in the Comprehensive Agreement are incorporated herein by reference.
3. **TIME FOR COMPLETION:** The Work shall be commenced on a date to be specified in a written order of the Owner and shall be Substantially Completed within the time set forth in a project schedule to be agreed upon by the parties or not later than the Contract Completion Date which is May 1, 2019, **unless extended by the Owner, for reasons not due to the fault of the Contractor.** The Work shall be finally completed within 30 days after the date of Substantial Completion of the Work.

The Nutrient Credits shall be transferred on the schedule set forth in the Nutrient Credit Purchase Agreement.

4. **COMPENSATION:** The Owner agrees to pay and the Contractor agrees to accept as just and adequate compensation for the performance of the Work in accordance with the Contract Documents the sum of:

Nine Hundred Eleven Thousand Five Hundred and Ten and no//100 Dollars (\$911,510.00) ("Contract Price").

- 5. **PAYMENTS:** The procedures for establishing a Schedule of Values for the Work, for requesting monthly progress payments for Work in place, and for requesting payments for properly stored materials are stated in the General Conditions. Unless otherwise provided under the Contract Documents, interest on payments due the Contractor shall accrue at the rate of one percent per month. § 2.2-4355 of the Code of Virginia.
- 6. **CONTRACTUAL CLAIMS:** Any contractual claims shall be submitted in accordance with the contractual dispute procedures set forth in Section 47 of the General Conditions and in the Supplementary Conditions, if any.
- 7. **NON-DISCRIMINATION:** §2.2-4311 of the Code of Virginia applies to this contract. See Section 4 of the General Conditions.
- 8. **AUTHORIZATION TO TRANSACT BUSINESS**
Contractor certifies that, if it is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, it is authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law, and that it shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. The Contractor understands and agrees that the Owner may void this Contract if the Contractor fails to comply with these provisions.
- 9. **DEBARMENT AND ENJOINMENT:** By signing contract, the undersigned certifies that this Contractor or any officer, director, partner or owner is not currently barred from bidding on contracts by any Agency of the Commonwealth of Virginia, the City of Harrisonburg, Virginia, or any public body or agency of another state, or any agency of the federal government, nor is this Contractor a subsidiary or affiliate of any firm/corporation that is currently barred from bidding on contracts by any of the same.

IN WITNESS WHEREOF, the parties hereto on the day and year written below have executed this agreement in three (3) counterparts, each of which shall, without proof or accountancy for the other counterparts, be deemed an original thereof.

For the Contractor:
Momentum Earthworks, LLC

For the Owner:
City of Harrisonburg, Virginia

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

APPROVED AS TO FORM

City Attorney

Attachments:

- Technical Proposal submitted by the Contractor
- Cost Proposal submitted by the Contractor
- Proposal Modifications, if any
- Performance Bond
- Labor and Material Payment Bond