

PROJECT APPLICATION FORM
Town of Truro Community Preservation Committee

Applicant: Truro Cemetery Commission, Holly Ballard-Gardner, *Chair*

Submission Date: 31 October 2024

Address: P.O. BOX 367, Truro, MA 02666
520-909-3495 - truro.cemeteries@gmail.com

Purpose: Open Space, Recreation

Town Committee: Truro Cemetery Commission

Project Name: Create the *Old County Natural Burial Cemetery*
(hereafter "*Old County Natural*")

Project Location: Existing Town cemetery land on Old County Road, abutting New South Cemetery, Truro, Massachusetts

Amount Requested: \$171,520.00

Project Summary: Design and open an innovative natural burial cemetery on existing cemetery land in Truro that has been designated for green burials.

Estimated Date for Commencement: Immediately upon grant funding.

Estimated Date for completion: Within 11 months of funding.

Executive Summary

As an environmentally-conscious alternative to current burial methods, *Old County Natural* will offer an harmonious balance between the seashore ecosystem and green burial sites—as well as link to 18th c. burial methods—with the creation of an ecologically and spiritually enriching final disposition for death. At the same time *Old County Natural* will make accessible existing Town-owned land for recreation, and preserve native habitat as open space in perpetuity. Meditative spaces for reflection and contemplation will exist along a tranquility trail within the native hillside of oak and pine trees. Natural burial sites will be interwoven into the existing landscape, creating spiritually-impactful, environmentally-sensitive final resting places that have deep rooted connections to the spirit of the Outer Cape. *Old County Natural* pays respect to the land on which Truro exists and the lives of the people who have lived here. By developing a fully conservation-style green burial cemetery now, Truro will be a model for other towns and cities.

4. About Natural or Green Burials

A natural or green burial is a method of final disposition of a deceased body with fewer environmental impacts than traditional burial or cremation. The body is not embalmed, thus avoiding the introduction of toxic chemicals to the ground and water supply. No metal or hard wood are used to make the casket so the container is fully biodegradable and over time “composts.” The body is entered into the ground in a cardboard or simple wood container, or a linen or cotton shroud. No concrete or steel grave liner or vault is used, thus avoiding the consumption of “forever” materials. The gravesite may have a low profile stone grave marker, a tree, or no marker at all.

The purpose of a natural burial is to minimize the environmental impact of body disposition. The method conserves natural resources by not consuming concrete, hardwoods, and steel, and reduces carbon emissions by not cremating a body. It preserves the natural habitat by not clearing land for a “traditional” grass-covered cemetery and protects worker health by not using toxic chemicals in the preparation of a body for burial.

Traditional Burial’s

Environmental impact

Annual impact (U.S.)

Embalming fluid	4 million gallons of formaldehyde, methanol, sodium borate, sodium nitrate, glycerin, coloring agents added to the ground
Caskets	64,500 tons of steel, 2,700 tons of copper and bronze, 20-million board feet of hardwood, much of it tropical, consumed
Vaults and foundations	2 million tons of concrete and 14,000 tons of steel consumed

Cremation’s Environmental Impact

Impact per death

Annual impact (U.S.)

Carbon emission	400 kg of CO ₂ (equivalent of driving a car 609 miles)	1 million metric tons (released into the atmosphere)
Fuel consumption	2-3 gallons	3.8 – 5.7 million gallons
Trash waste and chemical pollution	Release of mercury, lead, cadmium, arsenic from dental work and surgical implants	

Current burial practices have proven cumulatively dangerous, filling land with concrete, imported rainforest woods, bronze, steel, and other metals, toxic chemicals, and other things that create leachate and impede the natural decomposition of organic bodies in soil that is ideal for the purpose of filtering, binding, and deactivating toxins. In studies designed to determine toxic plume from burials, any dangers involved with burial are attributable to what is put into the grave not the body itself.

Green burials are permitted and occur in Massachusetts; no law specifically addresses requirements. In general, there is no law requiring a body to be embalmed, even in a traditional burial. As of this writing, no exclusive green cemetery exists in the state of Massachusetts, so the Town of Truro has the opportunity to be the first.

5. History of Green Burials

Prior to 1860 — Care of the dead was largely handled by families, church members, and the local midwife. Burial was either on private property or in church graveyards, 4-5 feet down, in a pine casket made by the local cabinetmaker, or a shroud made of old sheets or other fabric. All materials were organic, and no impediments were added that would delay natural decomposition. In this way, the early burials in Truro's historic cemeteries are already "natural" or what we would today call "green."

1860 -1930 — Care of the dead migrated out of the hands of family members and into the storefronts of undertakers. The National Funeral Directors Association was formed in 1882 to promote embalming, experimented with on the battlefields of the Civil War, and establish a mortuary profession. The affluent began purchasing embalming for preservative reasons and increasingly for cosmetic purposes, and the middle class followed suit. It was common for the mortician to embalm the body and return it to the family home parlor for a vigil. Burial in rural areas continued as before; some cemeteries in crowded urban areas were moved out of the city limits. Early wooden vaults to assist in this effort were introduced.

1930 — Wilbert Haas, a German-American concrete business owner, toured the tomb of King Tut in Egypt, which resulted in his idea to encase caskets in concrete vaults to facilitate closer burials, thus increasing burial density and revenue potential. He marketed the idea as providing protection from the elements for deceased loved ones—and (false) protection to the living from the germ- ridden, restless souls inside. Cemetery managers embraced the practice for its orderliness and hygiene promises, even after miasma theory that had been associated with the dank air of rotting corpses causing a threat to the health of the living was debunked and replaced by proven germ theory. Around the same time, cemetery managers began writing bylaws to require vaults as a matter of course. Undertakers, now funeral directors, actively carried a reputation for professionalism akin to doctors and lawyers.

1998 - present — Green burial migrated to the US from the UK in South Carolina, with the Ramsey Creek Conservation Burial Ground. Today, more than 350 cemeteries offer green burial, although there remain few that are exclusively natural, with most of them being hybrid.

6. The Land

The area known as New South Cemetery is made up of 6.1 acres of wooded land acquired by the Town of Truro in 1990 and designated for cemetery use. About half is in current use as the New South Cemetery, opened in 1994. The other half is accessed from the New South Cemetery road and has a rolling topography with native pine and oak trees as well as native grasses and lichen. It was designated for green burials by the Cemetery Commission in 2023.

7. Landscape Plan

With the grant funding, the Commission will engage a professional landscape designer with experience in botanical gardens and public park spaces to create a landscape plan that preserves the natural species and takes advantage of the existing topography. The plan will provide walking paths, burial access, and burial sites as well as wayfinding signage. Existing species will be maintained to create a sustainable, low maintenance landscape accessible to the public. A local landscape contractor will be engaged to prepare the site and install the pathways and burial site markers. The existing New South Cemetery Road will be used for parking and access.

8. Reasons the Project is Necessary Now

Interest in and demand for environmentally-friendly methods of burial, while still small, have been growing in recent years across the U.S. and locally. In several states including California there are dedicated natural burial “cemeteries” that double as conservation land. Across the Outer Cape, traditional cemeteries have become “hybrid,” integrating green burial plots amidst traditional and cremains burials.

In Truro, the opening of the Natural Burial Area at Old North Cemetery on Rt 6 has garnered significant interest and within the first year, 42% of the available plots have been sold, with two natural burials occurring to date. The Cemetery Commission participated in a well-attended Climate Action Committee panel discussion, to educate residents on green burial, making clear the demand for green burial exists in Truro.

This ability for a natural burial cemetery to achieve multiple goals by being integrated with other purposes makes it an efficient project for community funding.

9. Connection to Community Preservation Goals

The *Old County Natural* achieves multiple community goals:

1. Enhances community character

By supplementing the existing traditional-style cemeteries with one that conserves the landscape, *Old County Natural* preserves Truro’s rural character, maintains the indigenous coastal terrain and wildlife habitat, and supports bio-diversity goals.

2. Has a positive impact and meets community needs

Old County Natural meets the needs of several active populations including dog walkers, hikers, naturalists, and bird watchers, by expanding recreational open space. It meets the needs of a growing and under-served population of families planning for death, families of the terminally ill or recently deceased, and bereaved families who seek an environmentally-conscientious end of life solution. It supports the goals of the Climate Action Committee and the Truro Conservation

Trust. In addition it supports the interests of independent climate activists, conservations, and environmentalists. It does so while protecting environmental and water resources and supporting community sustainability goals. As well, all efforts will be made to ensure the new cemetery is accessible to visitors with mobility issues.

3. Has a positive fiscal impact

- The initial cost is the bulk of the lifetime cost, to make accessible the unused Town cemetery land.
- By the very nature of a natural conservation space, ongoing cost is minimal and entails periodic removal of brush and trimming back from access path. The ongoing cost can be covered with the existing Cemetery Commission budget and completed in conjunction with the existing maintenance work at New South Cemetery.
- By adding to the available stock of green burial plots, *Old County Natural* would generate incremental revenue for the Town. Pricing of the new plots would be set by the Cemetery Commission upon completion, based on market rates.

4. Is needed now

There is a degree of urgency based on the growing demand for natural burial options. As a town that is commended for its natural resources, the availability of natural burial plots is not only warranted but will enhance the town's reputation and character. Because the lead time to create and open a new cemetery is about a year following funding, it is vital that the process be initiated now.

10. Summary of Beneficiaries

Natural habitat
Rural character
Wildlife
Climate action (Goal 13 United Nations Agenda for Sustainable Development)
Water conservation
Full-time residents of Truro
Summer visitors
Town of Truro image and reputation
Bereaved families
Elderly
Families of the terminally ill, dying, and recently deceased
Natural aesthetic of Truro
Neighbors, surrounding residents

11. Project Management

The project will be led by Holly Ballard-Gardner, Chairwoman of the Truro Cemetery Commission. She has an M.B.A. from Wharton at University of Pennsylvania, an M.A. in English from Middlebury College and a B.A. in Economics from University of Virginia. In the past she worked for the Philadelphia Historical Commission on the preservation of historic cemetery properties, is a member of the Association for Gravestone Studies, and has researched cemetery preservation extensively. She led two previous CPC grants, the publication of *A Field Guide to the Historic Cemeteries of Truro, MA* and the Historic Gravestone Repair project. She

introduced green burials to Truro in 2023, works with other Outer Cape towns to coordinate on access and education for green burial practices, and has given public lectures on green burial.

In addition a project manager from a landscape architecture firm will provide professional oversight and direction for planning and implementation. A landscape contractor will provide a project manager for execution and installation.

12. Guidance

In all aspects, the project will be guided by Massachusetts Department of Conservation and Recreation's Guidelines for Municipally Owned Historic Burial Grounds and Cemeteries and consistent with Massachusetts General Laws Chapter 114: Cemeteries and Burials. Guidance will also come from Green Burial Massachusetts (greenburialma.org), the Green Burial Council (greenburial.org), and the Association for Gravestone Studies.

13. Professional Consultants & Contractors

A preliminary estimate has been secured from The Green Room Landscape Architecture who are short-listed to be retained for the landscape design plan. They design modern landscapes in all regions of the U.S. Their designs call attention to the sensory and atmospheric qualities of the outdoor spaces of significant residences, commercial buildings, and public spaces. They draw upon a diverse palette of new and reused hardscape materials to supply texture and form. With their expertise in horticulture they select plantings adapted to a landscape's microclimate. Their sensitivity to water conservation, habitat creation, biodiversity, and ecosystem health fosters co-habitation between humans, animals, and beneficial insects. Their principles manifest in an aesthetic of naturalistic composition that deftly integrates landscape with nearby built forms.

Installation will be undertaken by local contractors. An RFP will be issued upon completion of the landscape design plan.

14. Detail of Work & Cost.

The project consists of three distinct phases: "Plan and Design," "Execution and Installation," and "Opening." Phase I will be completed by a professional landscape architecture firm with national experience in design and construction of public natural areas (public parks, botanical gardens), such as The Green Room Landscape Architecture (tgrla.com). Phase II will be completed by a local landscape contractor, to be determined through RFP process. Phase III which entails awareness-building, education, and outreach will be completed by the Cemetery Commission.

15. Work Process

Phase I begins immediately upon funding and entails analysis of the site and research of global best practices in green burial cemeteries followed by design, construction documents, and wayfinding design. Phase II begins with an RFP issued to local contractors upon completion of construction documents.

16. Budget Summary

Community Preservation Commission – Grant – Budget Form – 2024/25				
Organization Name: Truro Cemetery Commission				
Project Name: Create the Old County Natural Burial Cemetery				
ITEM	Total Cost	Requested from CPC	Other sources	Notes
<i>Phase 1 Plan & Design:</i>				
Task 1 Research & analysis	\$19,240	\$19,240		
Task 2 Conceptual & schematic design	\$15,905	\$15,905		
Task 3 Construction documents	\$33,625	\$33,625		
Task 4 Wayfinding design	\$16,450	\$16,450		
<i>Sub Total Plan & Design</i>	\$85,220	\$85,220		
<i>Phase 2 Execution & Installation:</i>				
Site improvement	\$20,000	\$20,000		
Path installation	\$25,000	\$25,000		
Plantings & habitat restoration	\$10,000	\$10,000		
Wayfinding fabrication & installation	\$15,000	\$15,000		
<i>Sub Total Execution & Installation</i>	\$70,000	\$70,000		
<i>Phase 3 Opening Outreach:</i>				
Open house	\$500	\$500		
Publicity & education	\$800	0	\$800	Pro Bono
<i>SubTotal Opening Outreach</i>	\$1,300	\$500	\$800	
Contingency for cost increases	\$15,000	\$15,000		
Project Total	\$171,520	\$171,520	\$800	

17. Maps

Location of cemetery in Truro



040-999-000
CAPE COD NATIONAL SEASHORE
USA DEPT OF INTERIOR

V. SITE CONTROL

The site is existing Town owned land designated as cemetery, already managed and overseen by the Cemetery Commission. See "Maps."

VII. FEASIBILITY

Completion of the project will require successful development of a design plan and construction documents within budget to be approved by the Cemetery Commission. The land is already zoned for cemetery purposes. There are no historic preservation restrictions. The existing New South Cemetery Road will be used for access and parking. There are no known potential barriers or impediments to project implementation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Holly Ballard-Gardner', with a stylized, flowing script.

Holly Ballard-Gardner
Chair, Truro Cemetery Commission

ADDENDUM TO PROJECT APPLICATION FORM 2024

Town of Truro Community Preservation Committee

Applicant: Truro Cemetery Commission

Project: *Old County Natural Burial Cemetery*

Please find below additional information related to Section 13, “Professional Consultants & Contractors”

Interest in green burials surged in recent years in part due to the pandemic causing people to reshape how they envision their own ends. Although there are approximately 430 cemeteries nationwide that allow green burials, most are hybrid, mixing green burials into a traditional style cemetery. There are very few dedicated green burial cemeteries. As of now there exists no dedicated green cemetery in Massachusetts. (A “conservation” style cemetery has been proposed in Western Massachusetts; there are private green cemeteries in New York State, Maine, and California.)

Because the concept is new, we have the opportunity for Truro to be a leader in developing a model natural burial cemetery for public use. While the Commission recognizes the importance of local expertise, the selection of a landscape architect for this project is predicated on the emerging and specialized nature of green burial design which requires practitioners who can transcend conventional cemetery design and integrate principles of ecological conservation, memorial aesthetics, and spiritual contemplation.

After discussing the project with a local landscape designer (who declined to participate), with Green Burial Massachusetts, and two landscape architects (one of whom declined to participate), we identified the skills and expertise needed. We need a practitioner not only who is capable of delivering on time and on budget but who has experience in:

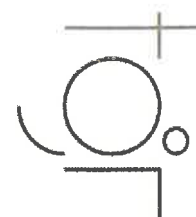
- Planning public spaces - master plans, accessibility, way finding, and circulation
- Designing botanical gardens with expertise in preserving native plants, adapting for climate effects, and rain harvesting
- Researching best practices, micro-climate requirements, and macro-climate shifts
- Designing outdoor spaces that have spiritual and meditative aspects consistent with the integration of burial and other outdoor public uses
- Strategies for preserving natural habitats and re-adapting and re-using vegetation and hardscape

Based on these skills, we secured a preliminary estimate from The Green Room Landscape Architects located in Phoenix, Arizona, award-winning licensed landscape architects who work nationally in a variety of climates. Their experience designing botanical gardens and public spaces demonstrates a profound understanding of landscape as a living, evolving system. Their portfolio reveals a meditative sensibility that aligns closely with the philosophical and ecological principles underlying green burial practices. Their expertise in biodiversity, horticulture, and drought tolerant landscapes stands out as well-suited to the needs of the project. Although not

local to our immediate region, their expertise in creating spaces that harmonize human experience with natural ecosystems and preserve native habitats makes them uniquely qualified to conceptualize Truro's new cemetery. Preliminary discussions with them revealed a deep interest in the project and a desire to surpass standard requirements and provide extraordinary value for the project.

Respectfully submitted,
Holly Ballard-Gardner, *Chair*

3 December 2024



The Green Room
Landscape Architecture

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DESIGN LETTER OF AGREEMENT

PROJECT NAME: Old County Natural Burial Cemetery (Old County Natural)
CLIENT: Truro Cemetery Commission
PROJECT ADDRESS: Old County Road, abutting New South Cemetery, Truro, MA
DATE: 11.19.2024

I. PROJECT DESCRIPTION

Landscape Architectural Consulting Services for the Old County Natural, an innovative natural burial cemetery on existing cemetery land in Truro that has been designated for green burials.

II. SCOPE OF SERVICES

Scope of services to include deliverables and meetings for the following tasks: Task 1: Research and Analysis, Task 2: Schematic Design, Task 3: Construction Documents, and Task 4: Wayfinding Design. The following task descriptions detail the landscape architectural scope of services for each phase of this project.

TASK 1: RESEARCH AND ANALYSIS

- 1.1 Attend an in-person kick-off meeting to identify the goals and objectives for the project.
- 1.2 Perform a site analysis of the existing conditions of the site. Identify opportunities and constraints that affect the landscape architectural design scope of work.
- 1.3 Confirm the general and detailed requirements for the project with the Client and governing jurisdiction.
- 1.4 Prepare a cad base by obtaining a topographic and/or boundary survey, native plant inventory (NPI), civil files, Client files, etc.

Deliverables: Site analysis and/or opportunities and constraints diagram *

Meetings: One (1) in-person kick-off meeting
* Site analysis and/or opportunities and constraints diagram to be presented during schematic design presentation meeting

Schedule: 4-6 weeks, estimated

TASK 2: SCHEMATIC DESIGN

- 2.1 Based on the site analysis and opportunities and constraints diagram, we will prepare and present one (1) conceptual design plan to convey the design intent of the landscape architectural components of the site to gather Client feedback.
- 2.2 Prepare illustrative sketches, sections, and elevations as necessary, for key site areas or components related to the landscape architectural design scope of work.

Deliverables: One (1) schematic design package including:

- a) Character imagery to convey landscape architectural intent
- b) One (1) conceptual design plan with labels
- c) Illustrative sketches, sections, and elevations, if needed

Meetings: One (1) schematic design presentation meeting

Schedule: 4-6 weeks, estimated

TASK 3: CONSTRUCTION DOCUMENTS

- 3.1 Incorporate minor conceptual design revisions based on Client feedback during the schematic design presentation meeting into the design development drawing package. We will prepare a 50% construction document drawing package to describe the size, location, and character of the landscape architectural design scope of work for preliminary cost estimation/bidding purposes.
- 3.2 Prepare design intent details for critical site elements, as needed.
- 3.3 Perform selection and research of certain landscape components such as materiality and desired amenities for the project.
- 3.4 Prepare an opinion of probable cost to understand estimated project cost.
- 3.5 Based on Client feedback on our 50% construction document package and an opinion of probable cost estimate, we will prepare 100% construction document package consisting of general requirements and working drawings. Drawings will be sufficient for permitting and bidding purposes.
- 3.6 Distribute drawings, specifications, and related project information to contractors for bidding purposes.
- 3.7 Assist in reviewing proposals from contractors for landscape architectural scope of work, answer questions, evaluate bidder-proposed substitutions, and provide addendum information, as needed.

Deliverables: One (1) design development (50%) construction document drawing package including:

- a) Plans graphically illustrating the design intent for hardscape, landscape, lighting, irrigation, and preliminary details, sections, elevations, as needed
- b) One (1) opinion of probable cost based on 50% construction document package

One (1) 100% landscape construction document drawing package for Truro, Massachusetts permitting and bidding purposes including:

- a) Site Inventory, Salvage & Revegetation Plan(s), if necessary - To graphically identify all required plant material and assign the appropriate salvage designation per City standards

- b) Site Demolition Plan(s), if necessary - To graphically identify existing site features that will remain in place, be salvageable or demolished
- c) Hardscape Plan(s) & Schedule - To graphically locate and identify all hardscape materials to be used including specific quantities, sizes, finishes, colors, etc.
- d) Details, Sections & Elevations - To graphically convey specific hardscape, planting, and other landscape features
- e) Landscape Plan(s) - To graphically locate and identify all plant materials to be used including names, quantities, and sizes
- f) Irrigation Plan(s), if necessary - To graphically locate and describe all components necessary to install a fully automatic irrigation system
- g) Lighting Plan(s) - To graphically locate and describe all components necessary to install a fully automatic lighting system
- h) One (1) revised opinion of probable cost based on 100% construction document package and contractor bids

Meetings: One (1) 50% construction document package and preliminary opinion of probable cost meeting
 One (1) 100% construction document and revised opinion of probable cost meeting
 One (1) in-person pre-construction meeting

Schedule: 8-12 weeks, estimated

TASK 4: WAYFINDING DESIGN

- 4.1 This task will develop the signage/wayfinding master plan for the project. The master plan will illustrate the location and design of exterior signage on a comprehensive map.
- 4.2 We will work with the Client to collect and review brand standards, existing images, maps, quotes, and other significant access pertaining to the City of Truro to prepare signage design.
- 4.3 Review proposed signage with Client and refine based on Client feedback and finalize signage master plan and present to Client for final approval. *

Deliverables: One (1) preliminary signage/wayfinding master plan
One (1) final signage/wayfinding master plan

Meetings: To run concurrently with other design meetings as outlined in this proposal

*Sign permit submittals, fire code and ADA compliance, and comprehensive sign plan submittals to the City are the responsibility of the selected sign fabricator. Complete sign specifications (construction drawings, exact locations, quantities, materials) will be the responsibility of the selected sign fabricator. The Green Room can assist with comprehensive sign plan development, or coordination of that deliverable with selected sign fabricator, if required as an additional service upon request.

DESIGN FEE SUMMARY:

Task 1: Research and Analysis	\$ 19,240.00
Task 2: Schematic Design	\$ 15,905.00
Task 3: Construction Documents	\$ 33,625.00
Task 4: Wayfinding Design	\$ 16,450.00

Total Design Fee (Tasks 1-4) **\$ 85,220.00 ***

*Design Fee total includes airfare and ferry tickets for two people for three days/two nights for the initial site visit under Task 1: Research and Analysis, and airfare and ferry tickets for one person for three days/two nights for the pre-construction meeting under Task 3: Construction Documents.

CURRENT PAYMENT REQUEST:

Design Deposit Requested: **\$ 35,145.00**
(Due at signing, covers Task 1 & 2)

FUTURE PAYMENT SCHEDULE:

Second Installment **\$ 33,625.00**
(Due upon completion of Task 1 & 2, covers Task 3)

Third Installment: **\$ 16,450.00**
(Due upon completion of Task 3, covers Task 4)

The firm periodically revises its fee schedule. When we do so, we may adjust the fees we charge you. The firm will notify the Client of these changes if this occurs. Landscape Architect agrees to provide its professional services in accordance with generally accepted standards of its profession. Landscape Architect agrees to put forth reasonable efforts to comply with codes, laws, and regulations in effect as of the date of this agreement.

EXCLUDED SERVICES:

All specific meetings and deliverables for this project are identified with the Scope of Work portion of the Agreement. The following information is not a part of the Agreement and would be provided under a separate Agreement or as Additional Services if required.

- **Management of Consultants / General Contracting Scope**
 - Payment requests by others
 - Permit application fees
 - Contractor insurance requirements
 - Services for which a contractor's license is required
- **Specialty Installation / Design Services by Others**
 - Mechanical design of pool systems or fountains and related maintenance manuals
 - Evaluation of subsurface conditions, soils (including suitability for plant material, soil content, level of compaction)
 - Environmental permitting
 - Low voltage lighting photometric analysis
 - As-built drawings of installed systems
 - SEPA submittals
 - Signage design
 - Security design
- **Engineering (civil, structural, etc.)**
 - Surveying
 - Lot line location
 - Existing drainage
 - Location of existing utilities
- **Landscape Design Services**
 - Maintenance plan
 - Illustrative graphics (beyond those identified in this Agreement)
 - Value engineering after 100% Construction Documents

ADDITIONAL SERVICES:

Client acknowledges that significant changes to the Project schedule, budget, scope, site conditions, consultant involvement, special permit requirements or other project conditions that result in design changes may require Additional Services of Landscape Architect. If agreed upon with written confirmation by the Client and Landscape Architect, Additional Services shall be provided by Landscape Architect. These Additional Services are not included as part of this Agreement and Landscape Architect assumes no responsibility to perform such services. Additional Services will be billed hourly and calculated on Landscape Architect's prevailing fee schedule at the time of service. Additional meetings, deliverables, and/or representation beyond those specified in the Design Letter of Agreement will be charged as Additional Services. Reimbursable expenses associated with these Additional Services shall be in addition to those in the Design Letter of Agreement.

SPECIALTY MATERIALS:

Client acknowledges that Landscape Architect may source specialty materials on behalf of the Client and in accordance with the plans, but Landscape Architect will not be responsible for

planting or installing said specialty materials. Landscape Architect may request, and Client agrees to pay, a deposit up to one hundred percent of Landscape Architect's cost for the specialty materials prior to acquisition. If the cost of the specialty materials exceeds the deposit collected, Landscape Architect will invoice Client for the balance of the specialty materials obtained for Client, and Client agrees to pay Landscape Architect pursuant to the terms of Article 4 of the Terms and Conditions of this Agreement, below.

TERMS & CONDITIONS:

Article 1 Landscape Architect's Responsibilities

- a. Landscape Architect agrees to provide professional services in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar conditions. Landscape Architect agrees to comply with codes, laws, and regulations in effect as of the date of this Agreement.

Article 2 Client's Responsibilities

- a. Client or Client's general contractor agrees to provide Landscape Architect with all information, surveys, reports, and professional recommendations requested by Landscape Architect to provide its professional services. The Client agrees to provide site base plans in digital format (AutoCAD) as required for the Scope of the project. Landscape Architect may reasonably rely on the accuracy and completeness of these items. Landscape Architect assumes no responsibility for the accuracy of such information or services and shall not be liable for errors or omissions therein.
- b. Client agrees to advise Landscape Architect of any known or suspected contaminants at the Project site. Client shall be solely responsible for all subsurface soil conditions unless otherwise agreed to in writing.
- c. Client agrees that it will pay for all necessary permits from authorities having jurisdiction over the project. Landscape Architect will assist Client with this obligation by completing and submitting appropriate paperwork and forms to governing authorities. Landscape Architect's assistance, however, shall not include attendance at more than one meeting with such governing authorities or creating additional or special documentation required by such authorities. Client acknowledges that its failure to obtain any required permits from the City, County or any other regulatory body may be a violation of law and consequences could include penalties and fines assessed by the governing authorities, loss in value and diminished marketability of the property. To the extent Client determines it will proceed without the necessary permits described herein, Client will indemnify, defend, and hold Landscape Architect harmless for, from and against any liability, claims, penalties, fines or assessments, including without limitation attorneys' fees and costs, related to the lack of proper permitting on the project. Further Client hereby releases Landscape Architect and its shareholders, directors, officers, employees, and agents from any liability relating to Client's decision to proceed with the project without the necessary permits.
- d. Client agrees to provide the items described in Article 2.A and to render decisions in a timely manner so as not to delay the orderly and sequential progress of Landscape Architect's services.
- e. Client may furnish the services of the following consultants: Fountain Hydraulics Engineer/Pool Consultant and Civil Engineer.
- f. The work of the Landscape Architect does not include the specification of water proofing materials or protection membranes for pools, fountains, planters, and work over structure.

Article 3 Estimated Schedules, Project Budget, and Additional Services

- a. Landscape Architect shall render its services as expeditiously as is consistent with its professional standard of care. During the course of the Project, anticipated and unanticipated events (limited to events outside control of Landscape Architect) may impact the Project schedule.
- b. Client acknowledges that significant changes to the Project schedule, budget, site conditions, consultant involvement, special permit requirements, or the landscape program may require Additional Services of Landscape Architect.
- c. If agreed upon with written confirmation by the Client and Landscape Architect, Additional Services shall be provided by Landscape Architect. These Additional Services are not included as part of this Agreement and Landscape Architect assumes no responsibility to perform such services. Additional Services will be billed hourly and calculated on Landscape Architect 's prevailing fee schedule at the time of service. Additional meetings and/or representation to those already specified in the Scope will be charged as Additional Services. Additional deliverables beyond those already specified in the Scope will be charged as Additional Services. Reimbursable expenses associated with these Additional Services shall be in addition to those in the scope of services.

Article 4 Compensation and Payments

- a. Client agrees to pay Landscape Architect as follows:
- b. Basic Services: Services provided under this Agreement are on a lump-sum basis for Tasks 1, 2, 3 and 4. While Landscape Architect will attempt to stay within the Client's budget for each phase set forth above, Client acknowledges that Landscape Architect's fees for Basic Services, Specialty Materials and Reimbursable Expenses may exceed the budget. At that point, an additional services contract will be requested.
- c. Specialty Materials: Specialty materials provided by Landscape Architect under this Agreement will be billed at Landscape Architect's actual cost, plus standard industry markup of 30%. Landscape Architect may request from Client, and Client agrees to pay, an advance deposit up to one hundred percent of the cost of the specialty materials prior to purchase.
- d. Reimbursable Expenses will be billed at actual cost and include, but are not limited to reproduction, and handling of documents; authorized travel; and Client requested renderings and models.
- e. Invoices for services rendered, specialty materials provided and reimbursable will be mailed to the Client monthly. All payments are due to Landscape Architect upon receipt of invoice. Any outstanding payments owed past thirty (30) of receipt of invoice will be charged an additional 1.5% /month (18% annually).
- f. If the Client objects to any portion of an invoice, the Client shall notify Landscape Architect in writing within ten (10) calendar days of receipt of invoice. The Client shall identify the specific cause of the disagreements and shall pay when due that portion of the invoice not in dispute.

Article 5 Termination

- a. Either the Client or Landscape Architect may terminate this Agreement upon seven (7) days written notice.
- b. If terminated, Client agrees to pay Landscape Architect for all Basic and Additional Services rendered and Reimbursable Expenses incurred up to the date of termination. Client agrees to pay within thirty (30) calendar days.
- c. Upon not less than seven (7) days written notice, Landscape Architect may suspend the performance of its services if Client fails to pay Landscape Architect in full for services

rendered or expenses incurred. Landscape Architect shall have no liability because of such suspension of service or termination due to nonpayment.

Article 6 Dispute Resolution

- a. Client and Landscape Architect agree to mediate claims or disputes arising out of or relating to this Agreement as a condition precedent to litigation. The mediation shall be conducted in Maricopa County, Arizona, by the American Arbitration Association pursuant to its Commercial Mediation Procedures, and the parties agree that the mediator shall be experienced in handling construction disputes. A demand for mediation shall be made within a reasonable time after a claim or dispute arises and the parties agree to participate in mediation in good faith. Mediation fees shall be shared equally. In no event shall any demand for mediation be made after such claim or dispute would be barred by the applicable law.

Article 7 Ownership of Documents

- a. All instruments of professional service prepared by Landscape Architect, including, but not limited to, drawings and specifications, are the property of Landscape Architect, and these documents shall not be reused on other projects without Landscape Architect's written permission. Subject to Client's performance of all obligations under this Agreement, Landscape Architect grants Client an irrevocable, non-exclusive license to reproduce the documents solely for the construction of the project and for information and reference with respect to the project. Landscape Architect retains all rights, including the copyright in its documents. Client or others cannot use Landscape Architect's documents to complete this Project with others unless Landscape Architect is found to have materially breached this Agreement.

Article 8 Governing Law: Jurisdiction

- a. This Agreement is governed by the State of Arizona.
- b. The parties agree that any suit, action or proceeding arising out of, or with respect to, this Agreement shall be brought exclusively in the state or federal courts of the State of Arizona located in the County of Maricopa, and each of the parties hereby irrevocable accepts the exclusive personal jurisdiction and venue of those courts for the purpose of any suit, action or proceeding.

Article 9 Entire Agreement and Severability

- a. This Agreement is the entire and integrated Agreement between Client and Landscape Architect and supersedes all prior negotiations, statements, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Client and Landscape Architect.
- b. In the event that any term or provision of this Agreement is found to be void, invalid or unenforceable for any reason, that term or provision shall be deemed to be stricken from this agreement, and the balance of this Agreement shall survive and remain enforceable.

Article 10 No Assignment

- a. Notwithstanding any other term in this Agreement, Landscape Architect shall not control or be responsible for another's means, methods, techniques, schedules, sequences, procedures, construction safety, or any other related programs, or for another's failure to complete the work in accordance with the plans and specifications.
- b. Construction Observation Phase services will be provided to determine the general progress of the work, but will not include supervision of the Contractors, or of their means,

methods, techniques, schedules, sequences, or procedures, or for construction safety or any other related programs. Landscape Architect maintains the right and the duty to recommend that Client reject work that does not appear to conform generally to the plans and specifications. Landscape Architect shall not have any liability for recommendations made in good faith.

- c. If Construction Observation Phase payment certification services are included in this Agreement, such certifications for payment shall be a representation to the Client that, to the best of Landscape Architect's knowledge, information and belief, the work has progressed to approximately the point indicated. Such certification shall be subject to any noted qualifications by Landscape Architect and shall not be a representation that Landscape Architect has supervised the work, reviewed means, methods, techniques, schedules, sequences, procedures, or for construction safety or any other related programs of the Contractors, or that Landscape Architect has reviewed how or for what purpose the Contractor has used or intends to use the contract funds.

Article 11 Indemnification

- a. Client agrees to indemnify, defend and hold Landscape Architect harmless from any third-party claims or lawsuits for personal injury or damage caused by others in the process of constructing or implementing the designs of the Landscape Architect. Client shall not be required to indemnify or defend Landscape Architect for any direct or third-party claims relating to or arising out of this Agreement or Landscape Architect's negligence in performing its obligations under this Agreement.

Article 12 Attorneys' Fees

- a. Should any legal proceeding be commenced between the parties to this Agreement seeking to enforce any of its provisions, including, but not limited to, fee provisions, the predominantly prevailing party in such proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for attorneys' and expert witnesses' fees.

Article 13 Waivers of Consequential Damages and Subrogation

- a. Client acknowledges and agrees that proper project maintenance is required after the Project is complete. A lack of or improper maintenance of the scope of work for the Project and its supporting systems and infrastructure may result in damage to property or persons. Client further acknowledges that, as between the parties to this Agreement, Client is solely responsible for the results of any lack of or improper maintenance after completion of the Project.

Article 14 Client's Responsibility for Maintenance

- a. Client acknowledges and agrees that proper project maintenance is required after the Project is complete. A lack of or improper maintenance of the scope of work for the Project and its supporting systems and infrastructure may result in damage to property or persons. Client further acknowledges that, as between the parties to this Agreement, Client is solely responsible for the results of any lack of or improper maintenance after completion of the Project.

Article 15 No Third-Party Beneficiaries

- a. Nothing in this Agreement is intended to create a contractual relationship for the benefit of any third party. There are no intended beneficiaries of this Agreement except Landscape Architect and Client.

SIGNATURE PAGE

If this Agreement is not accepted within ninety (90) days, the offer to perform the described services is withdrawn and shall be null and void.

I/We hereby authorize The Green Room Landscape Architecture to perform the above-described professional services subject to the Terms and Conditions set forth in this Agreement.

Client

Signed: _____ Date: _____

Name: _____

Title: _____

We agree to perform the above described professional services subject to the Terms and Conditions.

The Green Room Landscape Architecture

Signed: _____ Date: _____

Name: _____

Title: _____