



## AGREEMENT FOR DESIGN AND CONSULTING SERVICES

This Agreement is made as of the date of Client Authorization by and between ELA SPORT, a Division of the ELA GROUP, INC. (ELA), 743 South Broad Street, Lititz, Pennsylvania 17543 and:

### CLIENT

Elizabethtown Area School District  
600 E. High Street  
Elizabethtown, PA 17022

Attention: Dan Forry, MBA, PCSBA  
Chief Finance & Operations Officer

### VIA E-MAIL ONLY

### OWNER AND PROJECT

ELA SPORT shall perform services in accordance with the Terms and Conditions of this Agreement and shall be responsible for the means, methods, and procedures used in performing services under this Agreement for the Project.

**Owner:** Elizabethtown Area School District  
600 E. High Street  
Elizabethtown, PA 17022

**Project:** Elizabethtown Area School District  
Elizabethtown Area High School  
Campus  
Professional Design Services  
Athletic Facilities Master Plan

### FEE

All professional services will be completed for a lump sum total fee. All expenses, as included in the attached Rate Schedule for Consulting Services, will be invoiced, and shall be compensated in addition to the lump sum fee stipulated below. ELA SPORT proposes to complete the Scope of Basic Services as described herein for the following lump sum fee:

#### BASIC SERVICES:

*Lump Sum Fee: Seven Thousand Eight Hundred Dollars (\$7,800.00)*

*Estimated Reimbursable Cost: Time and Materials Not to Exceed Eight Hundred Dollars (\$800.00)*

All invoices will be rendered every four (4) weeks based on the percentage of the project completed and expenses incurred during the prior billing period. Professional Services incurred beyond the stipulated lump sum fee will not be invoiced unless the Elizabethtown Area School District (CLIENT) has authorized the work as an Extra Service, either verbally or in writing. Extra Services shall be invoiced on an hourly rate basis in accordance with the attached Rate Schedule for Consulting Services and Expense Schedule.

A copy of the 2022 Rate Schedule for Consulting Services and Expense Schedule for ELA SPORT/ELA GROUP, INC. is attached and is applicable only to services performed outside of the Scope of Basic Services identified herein (Extra Services).

## SCOPE OF BASIC SERVICES

When we met with the School District staff previously, we discussed the goals for the Athletic Facility Master Plan. These were:

- Have the outdoor athletic facilities planned out to address future needs. This particularly applies to the stadium.
  - Look at ways to best improve facilities to benefit the students and community to the fullest. This will include both short and long-term improvements.
  - Identify the need for infrastructure to support future improvements.
  - Prioritize improvements based on shortfalls in general conditions and demand of usage of facilities.
  - Develop costs and timelines for the work.
  - Coordinate work with Crabtree Rohrbaugh Associates as they plan for the fieldhouse.
- A. Project Base Mapping: Normally base mapping for the project is developed utilizing LiDAR mapping supplemented with any existing campus mapping that the School District may have. We have received PDFs of the previous projects on the campus and will request Autocad (\*.dwg) if they are available.
- B. Site Investigation: Meet with the District Staff (maintenance/athletic director/administration) and do a walkthrough of the fields. During these walks, we will discuss concerns and issues of the staff as well as investigate conditions including but not limited to ADA access, safety issues, field grading, solar orientation as well as other sport-specific standards. As part of our investigation process, we will use Hummer Turfgrass Systems as a subconsultant with expertise in natural grass fields particularly with proper maintenance programming.
- C. Project Programming and Planning Workshop: Prior to initiating the project Schematic Design and Master Plan Phase, we suggest that a Steering Committee (Committee) be formed to serve as the decision makers throughout the process.

1. Prior to the first Planning Workshop meeting, ELA will provide the following to the Committee to assist in facilitating discussion:
    - a. Provide written agenda to outline and identify primary discussion points for the meeting.
    - b. Provide questionnaires to the School District to develop an understanding of the number of teams, student athletic participation, staff concerns, field usage and maintenance practices for both sites. The information from these questionnaires is very important to ascertain conditions and trends to be addressed in planning.
  2. For a project of this scope we see having one (1) initial planning workshop to facilitate discussion regarding the project.
- D. Schematic Design and Master Planning: Master Planning includes production of documentation in graphic and written format that will define the project scope, budget, and potential implementation schedule for each site. Based upon our experience with projects similar in scope and nature, we recommend the following as the Scope of Services:
1. Review the applicable municipal ordinances and other applicable regulatory requirements affecting project development.
  2. Based upon the project programming and Planning Workshop completed as Task C, develop Schematic Design Drawing(s) for improvement of the Outdoor Athletic Facilities. It is anticipated that multiple options may be required to fully explore all potentials as may be identified in Task C. Schematic design will include “core” project improvements (such as a field), athletic facility supporting improvements (such as lighting, grandstands, field house/concessions, fencing, etc.), and site improvements (such as parking areas, pedestrian access/walkways, ADA access, landscaping, entry courts/areas, donor opportunity areas, etc.).

The Schematic Design Drawings will be “conceptual” by nature and may consist of trace overlays (“design studies”) or similar hand drawn documents.
  3. Arrange and attend a second meeting with the Committee to present the Schematic Design Options and provide an opportunity for a critique by the Committee.
  4. Based upon input from the meeting, prepare the “draft” Master Plan Drawing for the complete athletic complex development at each campus including estimates of probable construction cost and issue to the Committee for review.
  5. Based upon comments and input from the Committee, prepare the final Master Plan Documents to include the following:
    - a. Written report summarizing findings of the study including student participation, community use, maintenance issues, field usage and other pertinent information.
    - b. Schematic Layout/Improvement Plan, including plan notations, identification of improvements, relevant dimensions, areas, and other necessary information to define the project scope.

- c. Rendered (color) Master Plan (If 3-D renderings of the Master Plan are desired we can provide those as an additional service).
  - d. Final Master Plan Opinion of Probable Construction and Project Cost
6. Submit the Master Plan and Master Plan Documents identified above (Task D.5.a – d) to the Committee for review and comment. Based upon input and critique, revise the Plan and Documents to produce the Final Master Plan Documents which will be submitted to the School Board for their consideration. ELA Sport will provide five (5) complete sets of the Master Plan and Documents along with all information saved for digital distribution (download) from our FTP client server site.

## **EXTRA SERVICES**

The following Professional Services are specifically excluded from the Scope of the Agreement. If Extra Services are found to be required during execution of the Basic Services, they shall be compensated in addition to the Basic Services Fee and provided in accordance with the Terms and Conditions of this Agreement.

1. Any professional service not specifically listed in this proposal.
2. The 3-D renderings of the Master Plan options may be provided as an Extra Service.

## **COMPENSATION**

Professional Services will be provided as outlined in this Agreement in accordance with the ELA Group, Inc. Terms and Conditions for Consulting and Design, a copy of which is attached and included as part of this Professional Services Agreement.

All invoices will be rendered every four (4) weeks using our standard hourly rates for the professional staff that performed the work, expenses, reimbursable expenses, and subconsulting fees incurred during the prior billing period. A copy of our current applicable rate schedule is enclosed. The rate schedule may be altered at the end of each calendar year to reflect our cost of doing business in the coming year.

If it appears during the completion of the services that the total cost may exceed this estimate, we will notify the Owner in writing prior to the cost exceeding the above estimate and indicate the reasons for the increase. No work will be performed beyond the estimate without the Owner approval. Any services performed in addition to those mentioned in the Scope of Basic Services will be billed as an Additional Service and will be delineated as such on the applicable invoice.

## **OWNER PROVIDED ITEMS/SERVICES**

The following are items and services that the School District will need to provide for completion of this project:

1. Creation of a Steering Committee to help guide the project;
2. Provide any existing basemapping or other similar documentation for the School Campus;
3. Completion of all questionnaires and charts furnished by ELA;
4. Provide a room for Committee Meetings.

## SCHEDULE

ELA Sport proposes to proceed with the Scope of Basic Services within fifteen (15) business days of written authorization and is dependent upon the availability of the Steering Committee. Based upon projects of similar scope and nature, it is anticipated that all services described herein will be completed within a 4 to 6-month timespan, subject to scheduling of meetings and receipt of information/input from CLIENT.

## AUTHORIZATION

This AGREEMENT consists of all pages including the Terms and Conditions, Rate Schedule for Consulting Services and any attachments as identified above and constitutes the entire AGREEMENT between ELA SPORT and CLIENT. This AGREEMENT supersedes all prior written or oral understandings.

**ELA Sport/ELA Group, Inc.**

**Elizabethtown Area School District**

BY:   
Hugh D. Cadzow, RLA

BY: \_\_\_\_\_

TITLE: Principal & Senior Project Manager

TITLE: \_\_\_\_\_

DATE: October 19, 2022

DATE: \_\_\_\_\_

### Attachments

Terms and Conditions  
Hourly Billing Rate Schedule

**ELA GROUP, INC.**  
**TERMS AND CONDITIONS**  
**FOR CONSULTING AND DESIGN**

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**1. GENERAL PROVISIONS**

- 1.1 CONTRACT DOCUMENTS:** The Terms and Conditions set forth herein are incorporated by reference in the Proposal for the performance of services described as the "Project" in the Proposal.
- 1.2 AGREEMENT:** The Agreement between ELA Group, Inc. ("ELA") and the CLIENT ("the Agreement") consists solely of these Terms and Conditions and the Proposal to which they are attached. In the event that ELA and the CLIENT have not executed the Agreement, the CLIENT's authorization to ELA to proceed with the performance of the services set forth in the Proposal shall constitute acceptance of these Terms and Conditions.
- Specific terms set forth in the Proposal shall take precedence over these Terms and Conditions to the extent they are inconsistent or contradictory.
- 1.3 STANDARD OF CARE:** ELA shall endeavor to perform the services under this Agreement with the care and skill ordinarily used by members of ELA's profession practicing under similar conditions at the same time and in the same locality.
- Estimates of cost, approvals, recommendations, opinions and decisions by ELA are made on the basis of ELA's experience, qualifications and professional judgment. ELA makes no other warranty or guarantee, express or implied.
- 1.4 TIMING OF PROPOSAL:** ELA agrees that the Agreement shall remain open and may be accepted by the CLIENT for thirty (30) days from the date of the Agreement. Acceptance of the Agreement after the end of the 30-day period shall be valid only if ELA elects, in writing, to reaffirm the Agreement and waives its right to reevaluate and resubmit the Agreement.
- 1.5 SUBCONSULTANTS:** ELA has the right to employ or retain such independent consultants, associates and subcontractors as it may deem appropriate to assist it in the performance of the services required.
- 1.6 OTHER WORK:** If the CLIENT requests ELA to provide services on other projects before a written agreement is consummated for the other project, the terms and conditions of this Agreement shall apply thereto.

**2. CLIENT COOPERATION**

- 2.1 INFORMATION:** The CLIENT shall cooperate with ELA at all times to enable ELA to complete the Project. The CLIENT shall provide ELA with all information pertinent to the project reasonably requested by ELA to enable it to complete the Project.
- 2.2 ACCESS:** CLIENT shall provide access to the site of the Project at all reasonable times to enable ELA to complete the Project at no cost to ELA.
- 2.3 HAZARDOUS SUBSTANCES:** The CLIENT represents and warrants to ELA that it has and will comply with all obligations imposed by applicable law upon the generation, storage or disposal of hazardous substances and/or waste and that it will promptly notify ELA of any notices concerning such matters. The CLIENT agrees to hold harmless, indemnify and defend ELA from and against any and all damages and liabilities and expenses arising out of or in any way connected with the presence, discharge, exposure, release, or escape of hazardous substances, or wastes of any kind, to the extent permitted by law.
- 2.4 SAFETY RESPONSIBILITY:** ELA is not responsible for any safety precautions or programs of the CLIENT or any contractors working on the Project except for ELA's own employees.

**3. USE OF ELA'S DOCUMENTS**

- 3.1 USE OF DOCUMENTS:** All documents, including drawings and specifications, prepared by ELA pursuant to this Agreement, are instruments of ELA's service for use solely with respect to this Project. They are not intended or represented to be suitable

for reuse on extensions of the Project or on any other project. Any reuse without written verification or adoption by ELA for the specific purpose intended is at the CLIENT's sole risk and will not impose liability upon ELA.

- 3.2 COPYRIGHT:** ELA shall be deemed the author of the documents prepared for this Project and shall retain all common law, statutory and other reserved rights, including the copyright. Notwithstanding the foregoing, upon CLIENT'S payment in full of all invoices rendered by ELA, plans and surveys prepared for this Project shall be the property of CLIENT, but shall be used by CLIENT solely in connection with this Project. If plans are used for completion of or for additions to this Project by others without ELA's involvement: (1) any seal of ELA's architects or engineers shall be removed from the plans or a statement placed on such documents that ELA is not involved; and (2) CLIENT shall engage another engineer or architect as applicable to review the plans and take full responsibility for suitability for use. The ownership rights of CLIENT shall not under any circumstances preclude ELA's use of designs or components of the documents for other purposes or projects.

#### 4. LIMITATION OF LIABILITY/INDEMNIFICATION

- 4.1 INDEMNIFICATION:** The CLIENT shall indemnify and hold harmless ELA, its officers, directors, shareholders, or agents, employees, consultants and subcontractors from and against any and all liabilities, damages, or expenses in connection with (1) any personal injury or property damage arising out of any negligent acts or omissions by the CLIENT, its officers, directors, agents, employees and contractors, or (2) the CLIENT's breach of this agreement. The CLIENT further agrees to indemnify and hold harmless ELA for any and all fees and expenses incurred, to the extent caused by the CLIENT's negligence, in enforcing or defending ELA's right under this Agreement or the performance of its duties under this Agreement.

ELA may settle any claim for which it has a right of indemnification against CLIENT without CLIENT's consent. ELA shall not be required to prove its liability or the reasonableness of the settlement to obtain indemnification from the CLIENT.

- 4.2 LIMITATION OF LIABILITY:** ELA shall not be liable to CLIENT unless CLIENT establishes ELA breached the Agreement by failing to render services in accordance with the applicable professional standard of care. CLIENT hereby waives its right to pursue any other cause of action of any nature whatsoever against ELA including, but not limited to, negligence, strict liability, and breach of warranty. Notwithstanding anything to the contrary, under no circumstances shall ELA be liable to CLIENT for consequential, incidental, special, or punitive damages. To the fullest extent permitted by law, ELA's total liability to CLIENT shall not exceed the greater of the total compensation received by ELA under this Agreement, or the amount of any deductible plus the amount ELA's insurers pay in settlement or satisfaction of CLIENT'S claims under ELA's professional insurance policy, subject to all limits and conditions of such insurance. ELA shall not be obligated to challenge an insurer's determination as to whether or not to provide coverage to ELA in any given situation or as to the amount of coverage it will provide to ELA in any given situation.

- 4.3 INSURANCE:** ELA presently carries professional liability insurance coverage with an annual aggregate limit of liability of \$4,000,000. Certificates of insurance or copies of policies will be provided upon request. Additional coverage may be obtained at the CLIENT's expense. Failure to exercise this option waives any claims of liability beyond such limits.

- 4.4 CLIENT/MANUFACTURER SUPPLIED DESIGNS:** In the event that the Project requires the furnishing and supplying of design services for such products as pre-manufactured buildings, tanks, special structures and systems, etc, the CLIENT shall not hold ELA responsible for any design which is furnished by others.

#### 5. PAYMENT/INVOICES

- 5.1 PAYMENTS:** ELA will submit invoices to the CLIENT every four weeks as the work proceeds. Payment is due and payable in full on receipt of an invoice by the CLIENT without retainage and is not contingent upon receipt of funds from third parties.

The CLIENT recognizes that prompt payment of invoices is an essential aspect of overall consideration for this Agreement. The CLIENT agrees to pay all charges not in dispute within 30 days of the invoice date. If payment in full is not made within 30 days of the invoice date, ELA reserves the right to pursue all remedies, including withdrawing certifications, withholding the submission (to CLIENT or third party municipality or agency) and/or recording of plans or other documents, stopping work on seven (7) days' prior written notice, and retaining all documents without recourse. The CLIENT agrees to pay a service charge of 1-1/2% per billing period on any amount outstanding over 30 days.

In the event CLIENT breaches its obligation to pay amounts invoiced by or otherwise due ELA under the Agreement and ELA obtains a judgment for any such amount, interest shall accrue on the total amount of the judgment at the rate of 1 1/2 % per month notwithstanding the fact that such interest rate may exceed the legal rate of post-judgment interest.

The CLIENT further agrees to reimburse ELA for all expenses ELA incurs in the collection process or to enforce payment under this Agreement, including, but not limited to, court costs, arbitrators' and attorneys' fees and other claim related expenses.

Timely payments of invoices is a condition of this Agreement. Failure to make payments in full within the time limits stated above will be considered substantial noncompliance with the terms of this Agreement and cause for termination of the Agreement if ELA so chooses.

**5.2 DISPUTED CHARGES:** Any charges the CLIENT disputes must be brought to ELA's attention within 10 days of receipt of the invoice. The CLIENT and ELA shall work together in good faith to resolve any disputed charges. If the CLIENT and ELA are unable to resolve their differences within 30 days, ELA shall have the right to suspend or terminate service. ELA has the right to suspend service if undisputed charges are not paid within 45 days of the invoice date.

**5.3 INVOICES:** All invoicing will be substantiated by ELA cost record sheets and work order system, all of which shall be made available to CLIENT upon request and during regular working hours for inspection and audit. Time spent in additional detailing of invoices is considered extra effort on the Project and will be invoiced as additional work. Any increase in ELA's cost resulting from state or federal legislation shall be reimbursed by the CLIENT.

If CLIENT asks ELA to issue invoices or bills to any entity or individual other than CLIENT, such invoicing or billing shall not in any way relieve CLIENT of its liability under the Agreement to pay such invoices or bills or any other obligation and such invoicing or billing shall not in any way interfere with or prejudice ELA's right to pursue CLIENT for the breach of any such obligation.

**5.4 CREDIT:** The CLIENT shall provide credit references and shall authorize ELA to conduct credit checks at ELA's request. ELA shall not be bound by this Agreement unless and until ELA approves in writing the CLIENT's credit history. The CLIENT's inability to provide credit references and/or a credit history acceptable to ELA constitutes a substantial failure to perform under this Agreement.

## 6. TERMINATION

**6.1 TERMINATION:** This Agreement may be terminated by either party upon seven (7) days' written notice should the other party substantially fail to perform in accordance with the terms of this Agreement through no part of the party initiating the termination. The CLIENT agrees to be liable and pay ELA for all labor done, work performed, materials furnished, and all expenses incurred for all work and additional work up to and including the day work is terminated.

**6.2 DEFAULT:** In addition to its other remedies, ELA reserves the right to withhold submission (to the CLIENT or any third party municipality or agency) of any plans or other documents and withhold performance of any other term of this Agreement upon default by the CLIENT of any of the CLIENT's obligations under this Agreement.

## 7. MISCELLANEOUS PROVISIONS

**7.1 ARBITRATION:** Any and all disputes of any nature whatsoever between ELA and CLIENT shall be submitted to binding arbitration at ELA's sole election in accordance with this paragraph. To initiate arbitration under this paragraph, ELA shall send written notice to CLIENT specifying the dispute that will be submitted to arbitration. Any arbitration under this paragraph shall be conducted by a single arbitrator selected using the arbitrator selection process offered by the American Arbitration Association. The arbitrator so selected shall be licensed to practice law in Pennsylvania and shall have substantial experience arbitrating commercial disputes. Any arbitrator selected to resolve a dispute between ELA and CLIENT shall have authority to: (a) decide the dispute in accordance with rules promulgated by the American Arbitration Association that the arbitrator determines are most appropriate based on the facts and circumstances; and (b) allocate the costs of arbitration among the parties as he or she deems appropriate. Each dispute submitted to arbitration under the Agreement shall be subject to the respective statute or statutes of limitations that would otherwise have applied had the dispute been brought in a court of law, all limitations of liability set forth in the Agreement, and Pennsylvania law. A judgment of any court having jurisdiction may be entered upon any arbitration award.

**7.2 VENUE:** If a dispute between ELA and CLIENT is submitted to arbitration, the arbitration shall be conducted at a location in Lancaster, Pennsylvania selected by the arbitrator. If, however, a dispute between ELA and CLIENT is submitted to the judicial process including, but in no way limited to, a dispute over an arbitrator's jurisdiction, such dispute shall be submitted to the Lancaster County Court of Common Pleas in Lancaster, Pennsylvania.

**7.3 CONTROLLING LAW:** The Agreement is governed by the laws of the Commonwealth of Pennsylvania.

Rev 10.21



- 7.4 ASSIGNS:** To the extent permitted by law, this Agreement cannot be assigned or transferred by either party without the prior written consent of both parties.
- 7.5 THIRD PARTY BENEFICIARIES:** Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to any third party.
- 7.6 MODIFICATION:** This Agreement may be amended only by written instrument signed by both parties.
- 7.7 ENTIRE AGREEMENT:** These Terms and Conditions, any drawings, plans, plats, and/or exhibits attached hereto, and the Proposal to which these items are attached, set forth the entire understanding and agreement between the parties with respect to the Project and shall be binding upon and inure (except as otherwise provided herein) to the benefit of the parties and their respective successors and assigns. This Agreement supersedes all prior documents, agreements, and understandings between the parties with respect to the Project.



**HOURLY BILLING RATE SCHEDULE  
FOR 2022 CONSULTING SERVICES**

<b>STAFF TYPE</b>	<b>HOURLY BILLING RATE</b>
<b>ELA GROUP, INC. – ENGINEERS AND LANDSCAPE ARCHITECTS</b>	
President	\$ 175.00
Division Director/Principal/Vice President	\$ 135.00 - \$ 185.00
Senior Project Manager/Engineer	\$ 125.00 - \$ 160.00
Project Manager	\$ 110.00 - \$ 135.00
Project Engineer/Landscape Architect Designer	\$ 75.00 - \$ 135.00
CAD Manager	\$ 115.00
Senior CAD Designer	\$ 100.00 - \$ 120.00
CAD Designer	\$ 80.00 - \$ 100.00
GIS	\$ 135.00
Administration	\$ 60.00 - \$ 85.00
<b>ELA SPORT – ATHLETIC FACILITY PLANNING</b>	
Principal-In-Charge: ELA Sport	\$ 170.00
Senior Project Manager	\$ 170.00 - \$ 180.00
Project Manager	\$ 90.00 - \$ 100.00
Senior Designer	\$ 110.00 - \$ 130.00
Design Technician	\$ 65.00 - \$ 75.00
<b>ELA TECHNOLOGIES – ELECTRONIC DATA MANAGEMENT</b>	
Tech Support	\$ 80.00 - \$ 110.00
Scanning (Document Imaging)	\$ 60.00

**REIMBURSABLE EXPENSES**

Reimbursable expenses are at cost including, but not limited to the following:

- o Mileage
- o Travel Expenses, including Meals
- o Prints
- o Copies
- o Postage
- o Outside Consultants
- o Testing Services
- o Equipment Rental
- o Traffic Counter Rental
- o Application/Recording Fees
- o Permit and/or Other Fees
- o Other Project Related Expenses

ELA Group Inc/ELA Sport adjusts the fee schedule annually to reflect the cost of doing business for the coming year. This fee schedule is effective December 19, 2021 through December 16, 2022. For projects in progress that extend past the dates of the fee schedule attached to executed contracts, rates will be adjusted on the invoices and may adjust the amount of the project contracted fee.