

July 20, 2007

Jill Way  
Supervisor  
Town of Dover  
126 East Duncan Hill Road  
Dover Plains, NY 12522

**RE:** Letter of Agreement for Professional Services  
Dover Knolls Planning Services  
LRK Proposal Number: 03.P0700.00



Dear Jill:

In response to our ongoing conversations, Looney Ricks Kiss Architects, Inc. (LRK) is pleased to submit this Proposal for Professional Services to the ***Town of Dover*** (hereinafter referred to as "Client") for municipal planning services for the Dover Knolls development project at the former Harlem Valley Psychiatric Center (the "Project"). The professional services outlined below as Basic Services are based upon our understanding of your immediate requirements for the Project.

#### **SCOPE OF BASIC SERVICES**

***Task A: Initial Investigation:*** LRK will review project status, official correspondence, site context and base mapping materials as provided by the Town Board, municipal officials and professionals (the Client) prior to the Lead Trip (Task B). The Client and LRK will discuss the Lead Trip and future tasks during a kick-off conference call at least one week prior to the Lead Trip.

***Task B: Lead Trip:*** LRK will provide a two-person planning team, consisting of Jim Constantine and Gonzalo Echeverria, to meet with the Client during a one-day Lead Trip. LRK and the Client will tour and discuss the Site and its immediate context. LRK and the Client will outline topics and areas of concern for the upcoming Public Workshop (Task C). LRK will also assist the Client in determining the possible direction for alternatives to the Master Plan to be requested of the Dover Knolls Development Company.

**Task C: Public Workshop:** A four-person team from LRK, consisting of Jim Constantine, Gonzalo Echeverria, and two staff designers, will meet with municipal officials and professionals, along with representatives of Dover Knolls Development Company, in Dover for a two-day public planning workshop to review and discuss the current Master Plan and anticipated direction for a consensus plan. During the two-day workshop, LRK anticipates that the following events will occur prior to arriving at the final consensus plan:

- Public Presentations
- Hands-on Work Sessions
- Round Table Reviews
- Final Presentation

Upon the conclusion of the two-day workshop, and based upon feedback from the Client during the workshop, LRK will proceed with the final consensus plan as produced and presented during the workshop.

**Task D: Final Deliverables:** One week following the Public Workshop, LRK will provide up to four hard copies of the consensus plan at 1"=200' and one digital copy for Client use and distribution. LRK will also provide the Client with a Memorandum of Findings that describes the results of the Public Workshop.

## **SCHEDULE**

LRK is prepared to begin this project immediately upon receiving a fully executed agreement and retainer as outlined in this document.

## **COMPENSATION**

LRK's compensation for planning services provided for Tasks A through D shall be a stipulated sum in the amount of **Twenty-five Thousand Dollars (\$25,000.00)**. The above stipulated sum includes the following anticipated project expenses:

- Car Rental (Two round-trips from Princeton to Dover)
- Accommodations (One night for LRK team during Public Workshop)
- Overnight delivery services from LRK to Client (Up to four packages)
- Color printing expenses (Up to four color plots of consensus plan)

## **ADDITIONAL SERVICES**

Additional services shall consist of all services not included in the Basic Services as set forth above. No work will be performed beyond the services noted above without an express written agreement between LRK and the Client. Additional Services will be billed either on an hourly, or a negotiated fixed fee based on the scope of additional services requested.

**ATTACHED EXHIBITS**

The following is a list of exhibits attached to this agreement that are incorporated and made a part of this agreement:

Exhibit A: General Conditions

This Letter of Agreement represents the entire understanding between the Town of Dover and Looney Ricks Kiss Architects, Inc. with respect to services outlined above; this agreement supersedes any prior agreements between the parties, written or oral, and may be modified only by written agreement signed by both parties. If this satisfactorily sets forth your understanding of the arrangement between us, please sign two copies of this Letter of Agreement in the space provided and return them to me for execution by LRK. A fully executed copy will be mailed back to you for your records.

Sincerely,

Jim Constantine, PP  
Principal  
Looney Ricks Kiss Architects, Inc.

JC/ge/rh  
F:\proposal\2007\03P0700 Harlem Valley Psych (Dover NY)\Pro\_DoverNY\_070720.doc

Cc: Joel Russell, Planning Consultant, Town of Dover

**Accepted By:**  
Town of Dover, New York

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Accepted By:**  
Looney Ricks Kiss Architects, Inc.

By: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**Terms and Conditions of Planning Agreement**

**1. Authorization to Proceed and Standard of Care:** Execution of this agreement by Owner will be authorization of Looney Ricks Kiss Architects, hereinafter referred to as "Architect", to proceed with the work, unless otherwise provided for in this agreement. Architect shall exercise that degree of care, skill and diligence in rendering all of its services under this Agreement in accordance with that prevailing among architectural firms when performing services for projects similar to the Project in the jurisdiction where the Project is located (the "Professional Standard"). The Architect makes no warranty in this Agreement, express or implied, other than to comply with the Professional Standard in providing services Pursuant to this Agreement.

**2. Payment to Architect:** Architect will bill monthly for fees and reimbursable expenses. Payment is due upon receipt. Outstanding balances of 30 days or more will accrue interest at 1.0% per month (12% per annum). If full or satisfactory payment is not made within 30 days from the date of the invoice, work on this Project may be stopped at the discretion of Architect without any penalty from the Owner. If legal action is required in order to collect moneys due to Architect, the Owner shall be liable for any attorney's fees and costs incurred in such action in addition to the fees and termination expenses. Said legal action shall take place in the place of Architect's principle place of business which shall also determine applicable law. Terms regarding the entitlement success and value added portion of Architect's fee, when applicable, shall survive the termination of this agreement.

**3. Reimbursable Expenses:** Reimbursable expenses are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's Consultants directly related to the Project, including, but not limited to: (1) transportation in connection with the project, authorized out-of-town travel and subsistence, electronic communications, reproductions, plots, postage, handling, delivery of instruments of service to the extent not included in Basic Services, renderings, models and mock ups requested by the Owner; (2) Owner approved project specific insurance or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect and Architect's Consultants. In addition to the direct costs, 10% will be added for cost of funds, handling and overhead (multiple for reimbursable expenses: 1.1).

**4. Architects' Consultants:** For changes in the services and/or additional services of Architect's Consultants, compensation shall be computed as a multiple of 1.10 times the amounts billed to the Architect for such services.

**5. Reuse of documents**  
The design documents developed under this Agreement (contract documents) are instruments of LRK's services and LRK retains an ownership interest in the documents. The contract documents are subject to re-use fees if used for other projects. The re-use of these contract documents for other projects can be negotiated upon written notification from the Owner of its re-use intent. Should the Architect not be retained to provide site adaptation and revision services of the documents for other developments, the Owner shall compensate the Architect for such re-use fees negotiated with the Architect and will execute in favor of the Architect a complete release of liability and indemnity agreement for such proposed re-use. Nothing in this provision shall prohibit the Owner from using or modifying the design documents as desired for this Project. To the extent LRK is not retained in regards to subsequent modifications to the design documents for this Project, Owner agrees to hold LRK harmless for any damages, direct or indirect, that may arise as a result of subsequent modifications. Any unauthorized use of the documents shall be at the Owner's sole risk and without liability to Architect or its consultants.

Prior to the exchange of electronic information between the parties, the Owner and the Architect shall by separate agreement set forth the specific conditions governing the exchange and format of such electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

**6. Suspension of Services:** In the event of a suspension of services caused by the Owner, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services including entitlement success and value added fees, when applicable. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**7. Termination:** Either party may terminate this agreement without cause upon 30 days written notice to the other party. Additionally, if the Owner does not make timely payments to the Architect or otherwise perform in accordance with this Agreement, such failure shall be considered cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. In the event of termination of the Agreement, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due. Terms regarding the

entitlement success and value added portion of Architect's fee, when applicable, shall survive the termination of this agreement.

**8. Dispute Resolution:** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. The parties shall share the mediator's fee and any filing fees equally. Mediation shall be a condition precedent to arbitration, legal or equitable proceedings.

**9. Limitation of Liability:** In order for the Owner to receive the benefits of a fee which includes a lesser allowance for risk funding, Owner agrees to limit Architect's liability for any cause or combination of causes arising from Architect's or Architect's Consultants' professional acts, errors or omissions, such that the total aggregate liability of Architect shall not exceed Architect's fee for the services rendered on this project, not including reimbursable expenses, Architect's Consultants' fees or value added and entitlement success fees where applicable. Owner further agrees that no shareholder, officer, director, partner, principal or employee of Architect shall have personal liability under any provisions of this agreement or for any causes of action arising out of or related to the professional services provided in connection with the Project. The limitation of liabilities and the indemnification provisions contained herein will survive the termination of this agreement.

**10. Waiver of Consequential Damages:** A breach of this agreement may cause both parties to experience damages that are indirectly related to the breach or that were not foreseeable by either party at the time this agreement was entered into. Such damages are called consequential damages and may include, but are not limited to, loss of use and loss of profit. Neither party shall be liable to the other for any consequential damages incurred by either party due to the fault of the other, regardless of the nature of this fault.

**11. Interpretation, Titles and Survival:** The paragraph titles used in this agreement and these Terms and Conditions of Agreement are for general reference only and are not part of the Agreement between the parties.

This agreement shall be governed by the law of Tennessee

As used herein, the term "Architect" includes or refers to interior designer when applicable. The term "Architect's Consultant" refers to those consultants that contract directly with Architect.

**12. No Third Party Beneficiaries:** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect and there are no third party beneficiaries to this Agreement.

**13. Construction Administration:** Architect shall perform Construction Administration as set forth in the basic scope of services or as set forth in additional service agreements. Construction Administration is defined as the process in which the Architect 1) becomes generally familiar with and keeps the Owner informed about the progress and quality of the portion of construction completed ("work"), 2) endeavors to guard the Owner against defects and deficiencies in the work, and 3) determines in general if the work is being performed in a manner indicating that the work, when fully completed, will be in substantial accordance with the Contract Documents. However, Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. Architect shall not have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work. Architect shall not be responsible for the Contractor's failure to perform the work in accordance with the requirements of the contract documents.

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Architect: \_\_\_\_\_ Date: \_\_\_\_\_