



**PROPOSAL  
OF  
AGREEMENT FOR PROFESSIONAL SERVICES  
DATED FEBRUARY 8, 2013**

**PROPOSAL SUMMARY**

Lohmann Golf Designs, Inc. offers the following bidding and construction observation services for the construction of Hole #3 tee, #4 green, #7 green and #8 green at Johnson Park Golf Course in Racine, WI.

**SCOPE OF SERVICES**

- Visit site to meet with Owner and engineers (for river bank project) to coordinate the two projects, determining schedules and on-site logistics (*completed on February 8, 2013*)
- Update specifications necessary for public bidding of the project, including adjustment of the green construction materials, methods and construction details (per discussion at above meeting).
- Submit specifications to Owner for incorporation into the City bidding documents. Assist Owner with development of itemized bid form and provide a digital and hard copy of the construction drawings. Bid document distribution to be completed by the Owner.

- Prepare a list of qualified bidders and submit to the Owner.
- Review final bid package with Owner and course representatives and make any necessary adjustments to the specifications and bidding forms.
- Assist the Owner with the bidding and negotiation process, including attendance at two pre-bid meetings (one each for the golf course and river bank projects) to be scheduled on the same day. All contracts to be prepared by Owner.
- Conduct a pre-construction visit to meet with Owner and Contractor and review project requirements.
- Conduct a maximum of four (4) full-day site visits (or the hourly equivalent) during construction to observe the work being completed and provide general guidance to the Contractor.

### **COMPENSATION**

The fees for the above services, plus travel expenses, shall be **\$7,500.**

Architectural services outside the scope outlined above must be first approved by the Owner and will be paid for as the work is performed, based on our current hourly rates:

Principal Architect	\$145.00 per hour
Project Architect	\$125.00 per hour

**GENERAL TERMS AND CONDITIONS**

The General Terms and Conditions attached hereto are expressly made a part hereof and incorporated verbatim by this reference.

**ACCEPTANCE**

This Proposal shall be considered revoked if acceptance is not received within sixty (60) days of the date hereof.

If the above meets your approval, please provide your signature of acceptance in the space below and return a copy as notice of your acceptance. We look forward to working with you.

Respectfully submitted,

LOHMANN GOLF DESIGNS, INC.



Todd Quitno, ASGCA  
Senior Project Architect

Accepted by: \_\_\_\_\_  
Name Date  
  
\_\_\_\_\_  
Title

**LOHMANN GOLF DESIGNS, INC.  
GENERAL TERMS AND CONDITIONS**

These General Terms and Conditions are appended to and expressly made a part of the Proposal dated **February 8, 2013** to **Johnson Park Golf Course – City of Racine** (hereinafter referred to as "the Client") from **Lohmann Golf Designs, Inc.** (hereinafter referred to as "Lohmann").

Upon execution by the Client, the Proposal, including these General Terms and Conditions, shall become our Agreement for Professional Services (hereinafter referred to as "Agreement").

**1. ARCHITECT'S RESPONSIBILITIES**

The scope of the project shall be only as described in the Agreement and include only such work as Lohmann deems necessary to carry out and complete the project. The project scope shall not be altered except by mutual agreement and proper authorization to proceed.

After the acceptance of any plans by the Client, and/or by the appropriate public agencies, any changes must be approved by Lohmann and agreement reached as to the additional compensation due Lohmann, if any.

Lohmann shall not be responsible for the means, methods, techniques, sequences, or appropriateness of any installation procedures undertaken by any Contractor or Sub-contractor, or for job-site safety precautions or programs for the safety of any such Contractor, its employees or third persons, Client agrees that Lohmann neither controls nor supervises the work on-site. Lohmann shall not be responsible for Contractor's errors or omissions or failure to carry out the work in accordance with the Contract documents, or for the failure of plants to grow.

Estimates, opinions, and statements of probable construction cost prepared by Lohmann represent its best judgment as a design professional and are supplied for the general guidance of the Client. Because Lohmann has no control over the costs of labor and material, over Contractor's methods of determining bid prices, or over competitive bidding or market conditions, Lohmann cannot and does not guarantee that any such estimates, opinions, or statements will not vary from Contractor's bids or actual cost to the Client.

**2. CLIENT'S RESPONSIBILITIES**

The Client's responsibilities include the following: (these items are to be provided at the Owners cost)

The Client shall designate, when necessary or appropriate for the expeditious completion of the Project, a representative authorized to act on its behalf with respect to the Project. The Client or its representative shall examine documents submitted by Lohmann. The client or its representative shall render decisions pertaining to such documents promptly in order to avoid unreasonable delay in the progress of the services to be performed by Lohmann under this Agreement.

The Client shall furnish a certified land survey of recent date of the site of the Project giving, as applicable, grades and lines of streets, alleys, pavements, and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements, and trees; and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths. The Client shall also furnish, as applicable, zoning restrictions, and hydrological information relating to the site.

The Client shall furnish the services of consultants when Lohmann and Client deem such services necessary or appropriate for completion of the project. Such consultants may include, among others, soil engineers, irrigation consultants, civil engineers, and planners. Cost of such consultants must be approved by Client prior to services being rendered.

The Client shall furnish any laboratory test, inspection, or report as required by law or the Agreement.

Client shall be responsible for wetland, flood plain, and floodway delineation, engineering, mitigation and permitting, if necessary.

Client shall be responsible for storm water management and soil and erosion control and planning.

If requested by Lohmann, Client shall furnish evidence that financial arrangements have been made to fulfill the Client's obligations under this Agreement.

If this Agreement is for the development of a golf course in conjunction with a real estate development, Client agrees that it will include language provisions in the sales and resale agreement, along with the Homeowner's Association documents and the Covenants, Conditions and Restrictions for the development which alert those buying golf course property to the possibility of personal injury and property damage and contain a legal disclaimer shielding Client, Developer and Lohmann from liability through the property owner's assumption of the risks of the normal hazards of living in a golf course development.

### **3. INDEMNIFICATION**

Client will indemnify, defend and hold harmless Lohmann, its officers, directors, employees, and Sub-contractors from and against all claims and actions, including attorneys' fees, arising out of damages or injuries to persons or tangible property caused by a negligent act, error, or omission of Client or any of Client's agents, trade contractors, and employees in the performance of Services under this Agreement. Client will not be responsible for any loss, damage, or liability arising from the sole negligence of Lohmann, or Lohmann's Sub-contractors, agents, staff or consultants.

The Client shall make no demand for liquidated damages for delays or actual damages for delays, and no damages of any kind may be assessed against Lohmann for any delays or for delays or causes attributed to other Contractors or arising outside the scope of this Agreement.

In the event that Client institutes legal action of any kind (suit, arbitration, etc.) against Lohmann because of any failure or alleged failure to perform, error, omission, or negligence, and if such legal action is not successfully prosecuted or if it is dismissed, or if the decision is rendered for Lohmann, Client agrees to pay Lohmann any and all costs of defense, including attorney's fees, expert witness' fees, and court costs and any and all other expenses of defense which may be necessary. Payment shall be made immediately following dismissal of the case or immediately upon a decision being rendered in behalf of Lohmann.

Lohmann is not responsible for identifying, locating, discovering, removing or remediation of any hazardous waste. Lohmann is also not responsible for the consequences of any hazardous waste materials of any kind at the site, including but not limited to asbestos, and PCB's, as well as materials not yet known as hazardous.

The above indemnification provision extends to claims against Lohmann which arise out of, are related to, or are based upon, the dispersal, discharge, escape, release or saturation of smoke, vapors, soot, fumes, acids alkalis, toxic chemicals, liquids, gasses or any other material, irritant, contaminant or pollutant in or into the atmosphere, or on, onto, upon, in or into the surface or subsurface soil, water or water-courses, objects, or any tangible or intangible matter, whether sudden or not.

### **4. REUSE OF DOCUMENTS**

Original drawings (including working drawings), calculations, specifications, and other documents, as instruments of service are and shall remain at all times the exclusive property of Lohmann whether the project for which they are made is executed or not. They are not to be used by the Client on other projects or extensions to this project, except by agreement in writing with, and with appropriate compensation to Lohmann.

## **5. TERMS OF PAYMENT**

The Client shall pay Lohmann monthly as the work proceeds, and the fees and reimbursable expenses shall be invoiced monthly as the work progresses on each phase. Lohmann shall determine the percentage of completion for purposes of the monthly billing.

All invoices are due upon receipt. Lohmann reserves the right not to start work on the next phase until all invoices for work on the prior completed phase have been paid in full. Payment for a phase shall be considered approval and acceptance of Lohmann's work on that phase. Overdue accounts are subject to a service charge of one percent (1.0%) per month on the unpaid balance. An account is considered overdue if an invoice is not fully paid thirty (30) days after the date of the invoice. This is an annual rate of twelve percent (12%).

Reimbursable expenses are in addition to the Basic Services Fee, the compensation for any Additional Services, and the compensation for any Project Representatives (unless the Proposal specifically includes these expenses). Reimbursable Expenses include actual expenditures made by Lohmann, their employees or consultants in the interest of the Project for the following:

- a. Transportation and living in connection with traveling for the Project.
- b. Blueprints, photocopies, and other reproductions (excluding copies for Lohmann's office use and a duplicate set at each phase of the Project for Client's review and approval); all expendable surveying supplies; and fees for securing approval of authorities having jurisdiction over the Project.
- c. Any additional insurance coverage or limits, including professional liability insurance, requested by the Client in excess of that normally carried by Lohmann.

Invoices shall be considered correct as rendered if not questioned verbally within ten (10) calendar days of the date of the invoice.

Failure to pay any invoice prior to its becoming overdue shall entitle Lohmann, upon five (5) days verbal notice, to suspend performance of services under this Agreement. Unless payment in full is received by Lohmann within five (5) days of the date of the notice, the suspension shall take effect without further notice. Lohmann shall have no liability to Client for delay or damage caused Client because of such suspension of services. The failure of Client to make payments to Lohmann in

accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

Should Lohmann bring any action or proceeding at law or in equity to enforce payment of unpaid invoices, together with any and all service charges, and if Lohmann recovers judgment in any sum, Lohmann shall also recover reasonable counsel fees, service charges, and interest, as well as litigation and collection expenses, witness fees, and court costs, of the maximum extent allowed by law.

## **6. TERMINATION**

This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by the Client, under the same terms, whenever the Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Lohmann either before or after the termination date shall be reimbursed by the Client.

In the event this Agreement is terminated, Lohmann shall be paid its compensation for services performed to the termination date, including reimbursable expenses then due.

Job Cancellation Fee: In order to take this project, Lohmann has foregone potentially significant revenues from other projects. Therefore, if this project is cancelled by the Client, a cancellation fee of ten percent (10%) of the remaining monies due from the contract will be immediately due.