

1. Phase 1 Services – Data Collection and Preparation

- a. Consult and meet with the CLIENT to define and clarify CLIENT'S requirements for the project and review available data, including prior submission of the Stormwater Management Plan (SWMP) components and reporting.
- b. Review the SWMP of up to three other communities of a similar size and geography as Kirksville.
- c. Identify and evaluate solutions available to the CLIENT and recommend those solutions which in the CONSULTANT'S judgment meet the CLIENT'S requirements for the project.
 - i. Work with the CLIENT in defining each required target goal and schedule for implementation. The rationale for choosing those targets determined by CLIENT will be incorporated into the SWMP.
 - ii. Determine with CLIENT milestones associated with each of the 6 minimum measures. The milestones should include frequency and dates.
 - iii. Provide a schedule for implementing a stormwater ordinance that includes the MS4 permit requirements. Obtain and deliver draft ordinance(s) for consideration.
 - iv. Develop a list of BMPs (Best Management Practices) and design guidelines for implementing construction and post-construction measures.
 - v. Develop checklists and forms to be used to administer the SWMP.
- d. Obtain available DNR guidance and checklists to review potential SWMP components prior to drafting the SWMP.

2. Phase 2 Services – SWMP Development and Approval

- a. Prepare a draft SWMP for the City's review and submit the plan in the form of a digital deliverable (.PDF file format).
- b. Prepare a draft example of the annual report form to review with the City.
- c. Attend a City Council meeting to review the SWMP and answer questions/take comments. Review the annual reporting and other requirements of the SWMP that will carry on in future years.
- d. Revise the SWMP based on City comments and furnish 3 hard copies and a digital deliverable (.PDF file format) of the final draft of the SWMP.
- e. CLIENT will submit SWMP to DNR and CONSULTANT will address comments from the agency.

NOTE: This AGREEMENT does not prepare any design manual, customized stormwater ordinance, map of outfalls, or other document, except the defining of those items written in the SWMP to meet requirements of the MS4 permit. These items may (and likely will) be required to be developed subsequent to the scope of this agreement within the approved schedule.

3. Additional services. Additional services will be provided by the CONSULTANT upon the request of the CLIENT and paid for as defined in Article V, Payment provisions. These services may include:

- a. Services resulting from significant changes in the scope, extent, or character of the portions of the project designed or specified by the CONSULTANT

including, but not limited to, changes in size, complexity, CLIENT'S schedule, character of project, or method of financing. These services may also be as a result of changes in laws or regulations or other causes beyond the CONSULTANT'S control.

- b. Serving as a consultant or witness for the CLIENT in any litigation, arbitration, or other dispute resolution process related to the project.
- c. Other services performed by the CONSULTANT not otherwise provided for in this agreement.

ARTICLE III - CLIENT'S RESPONSIBILITIES

In addition to other responsibilities set forth in this agreement, the CLIENT shall:

- A. Provide CONSULTANT with all criteria and full information as to CLIENT'S requirements for the project, including design objectives, capacity, performance requirements, and budgetary limitations upon which the CONSULTANT may rely.
- B. Furnish available information pertinent to the project including reports and data relative to previous work.
- C. Arrange for safe access to and make all provisions for CONSULTANT to enter upon public and private property as required to perform services under the agreement.
- D. Examine alternative solutions, reports, drawings, specifications, and other documents presented by the CONSULTANT and render timely decisions pertaining to the documents.
- E. Provide timely reviews, approvals, and permits from all governmental authorities having jurisdiction over elements or phases of the project.
- F. Participate in conferences, meetings, and other similar aspects of the project as requested by the CONSULTANT.

ARTICLE IV – TIME OF PERFORMANCE FOR SERVICES

- A. The services under this agreement have been agreed to in anticipation of the orderly progress of the project through completion. Unless a specific time of performance for services is specified in this agreement, CONSULTANT'S obligation to render services hereunder will be for a period which may reasonably required for the completion of said services. If a specific time of performance is provided herein and if the CLIENT has requested changes in the scope or character of the project, the time of performance shall be adjusted equitably.

The draft SWMP will be submitted to CLIENT within 8 weeks of the notice to proceed.

ARTICLE V – PAYMENT PROVISIONS

- A. CLIENT shall pay the CONSULTANT for services described in the Scope of Work, Section A.1 as follows:
 - 1. **A Lump Sum fee of \$11,400.**
- B. The Lump Sum includes compensation for CONSULTANT'S services and services of CONSULTANT'S sub-consultants, if any. The Lump Sum includes labor and direct expenses associated with providing the services as defined.

- C. The portion of the Lump Sum amount billed for CONSULTANT'S services will be based upon the CONSULTANT'S estimate of the percentage of completion accomplished during the billing period.

ARTICLE VI – INSURANCE

- A. Insurance – CONSULTANT shall purchase and maintain insurance as set forth below:
 - 1. Commercial General Liability insurance with a limit of \$1,000,000 for each occurrence and \$2,000,000 general aggregate.
 - 2. Automobile Liability insurance with a limit of \$1,000,000 for each accident, combined single limit for bodily injury and property damage.
 - 3. Workers Compensation and Employer's Liability insurance in accordance with statutory requirements, with a limit of \$500,000 for each accident.
 - 4. Professional Liability insurance on a claims made basis in the amount of \$1,000,000 per claim and annual aggregate.

Certificates of insurance evidencing the coverages indicated above will be provided to CLIENT upon request.

ARTICLE VII – DISPUTE RESOLUTION

- A. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration if it involves an amount in excess of \$50,000. Prior to arbitration the parties shall endeavor to resolve disputes by mediation in accordance with paragraph 22 of the standard provisions of agreement incorporated herein.
- B. Unless the parties mutually agree otherwise, arbitration shall be in accordance with the construction industry arbitration rules of the American Arbitration Association then in effect. The demand for arbitration shall be filed in writing with the other party to the agreement and with the American Arbitration Association.
- C. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
- D. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in the state having jurisdiction thereof.

ARTICLE VIII – ALLOCATION OF RISKS

- A. Percentage Share of Negligence. To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damage caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of the Owner, Consultant, and all other negligent entities and individuals.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the effective date of which is indicated on page 1.

CLIENT:

CITY OF KIRKSVILLE, MO

By: _____

Title: City Manager

Date Signed: _____

CONSULTANT:

BARTLETT & WEST, INC.

By: _____

Title: Vice President

Date Signed: _____