

BARTLETT & WEST, INC.

AGREEMENT FOR PROFESSIONAL SERVICES

This is an agreement effective as of _____, 20__ between the City of Kirksville, Missouri ("CLIENT") and Bartlett & West, Inc. ("CONSULTANT").

WHEREAS, the CLIENT intends to develop a Stormwater Management Plan for the entire community. The City has determined 7 priority basins and 8 known areas of concern. In addition, the rest of the community's basins will be evaluated for potential problem areas. Due to funding requirements, the City has to prioritize and move forward with an initial phase of work, known as the Substantial Plan phase. This phase is to determine the appropriate solutions, approximate costs, benefits, priorities, and challenges with regard to the initial 8 known areas of concern.

WHEREAS, the CLIENT intends to engage the CONSULTANT to perform certain professional services with regard to such work, which is hereinafter called the PROJECT.

The CLIENT and CONSULTANT therefore agree as follows:

ARTICLE I – DEFINITIONS AND RULES OF INTERPRETATION

- A. The agreement between the CLIENT and the CONSULTANT consists of this Agreement for Professional Services, the attached Standard Provisions of Agreement for Professional Services and the following exhibits and addenda:
 - 1. Exhibit A – Scope of Work _____
 - 2. Exhibit A-1 – Project Fee Estimating Sheet _____
 - 3. Exhibit A-2 – Schedule _____
 - 4. Exhibit B – Standard Hourly Rates _____
 - 5. Exhibit C – Reimbursable Expenses _____All such items together shall be referenced herein as the "Agreement."

- B. In the event of any conflict in the language of this Agreement for Professional Services with the Standard Provisions of Agreement attached hereto, the language of the Standard Provisions of Agreement shall control unless this Agreement for Professional Services specifically provides to the contrary.

- C. This Agreement represents the entire and integrated agreement between the CLIENT and the CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CLIENT and the CONSULTANT.

- D. This Agreement shall be governed by the laws of the state of Missouri, not including that state's conflict of law rules.

ARTICLE II – SCOPE OF WORK

See Attached Exhibit A – Scope of Work

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 designs, or investigation at or adjacent to the site.
- 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. Designate one employee as the CLIENT's representative with respect to all services to be rendered under this agreement. This individual shall have the authority to transmit instructions, receive information and to interpret and define the CLIENT's policies and decisions pertinent to ENGINEER's services.
- E. Examine alternative solutions, reports, drawings, specifications, and other documents presented by the CONSULTANT and render timely decisions pertaining to the documents.
- F. Provide timely reviews, approvals, and permits from all governmental authorities having jurisdiction over elements or phases of the project.
- G. Participate in conferences, meetings, bid openings, 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.

Notice of Award/Notice to Proceed – June 8, 2010

DRAFT List of Potential Project/Evaluation Matrix by July 1, 2010

Public "Open House" Meetings by July 20, 2010

DRAFT Substantial Plan summary report by July 23, 2010.

Council Presentation of Substantial Plan on August 2, 2010.

FINAL DRAFT Substantial Plan summary report by August 6, 2010.

ARTICLE V – PAYMENT PROVISIONS

- A. CLIENT shall pay the CONSULTANT for services described in the Scope of Work, as follows:

1. An amount equal to the cumulative hours charged to the project by each class of CONSULTANT'S employees times the standard hourly charge rates for each applicable billing class, plus reimbursable expenses.
 2. A schedule of standard hourly charges is attached to this agreement as Exhibit B. The schedule of hourly charges will be adjusted at the beginning of each calendar year. Time charged to the project will be billed at the charge rates in effect at the time services are rendered. Overtime for non-exempt staff will be billed at 1.35 times the rates listed in the schedule.
 3. Reimbursable expenses will be billed at the current charge rates and are attached to this agreement as Exhibit C.
 4. Subcontracted services will be billed at actual cost plus 10%.
 5. The total fee for the project shall not exceed **\$85,936.00** without authorization by the CLIENT. Any additions to the Scope of Work or changes in the extent of services provided will result in an equitable adjustment in the total maximum fee.
- B. Fees will be billed monthly as time is spent on the project and reimbursable charges are incurred.

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:

CONSULTANT:

CITY OF KIRKSVILLE, MISSOURI

BARTLETT & WEST, INC.

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____