



CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES

This *Consultant Agreement for Professional Services ("Agreement")* is entered into as of July 14, 2023, between Great West Engineering, Inc., located at 2501 Belt View, Helena, MT 59601 ("Great West"), and West Great Falls Flood Control & Drainage District, located at P.O. Box 791, Great Falls, MT 59403. ("Client"). The parties agree as follows:

- I. **Project.** Client desires to engage Great West to perform certain consulting, design, advisory, and/or surveying services for Wadsworth Lake Drain Outfall Structure Permitting Assistance ("Project").
- II. **Scope of Services.** Great West shall perform the following services for the Project ("Services") as described in letter dated May 25, 2023, attached to this *Agreement* as *Exhibit "A."*
- III. **Payment.** Client shall pay Great West as compensation for the Services a lump sum amount of \$7,000.
- IV. **Standard Provisions.** The standard provisions for this *Agreement* are stated on page 2.
- V. **Additional Provisions.** The following additional provisions shall apply to this *Agreement*:
None
- VI. **Authorization.** Persons executing this *Agreement* represent that they have the requisite authority and power to execute this *Agreement* on behalf of their respective employers.

GREAT WEST ENGINEERING, INC.

WEST GREAT FALLS FLOOD CONTROL &
DRAINAGE DISTRICT

Josh Sommer, PE

Business Unit Manager

[Print Name & Title]

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For Public Review

Standard Provisions

1. Payments.

1.1 Monthly Invoices. Monthly invoices shall be issued for all Services performed under this *Agreement*.

1.1.1 Lump Sum. Invoices for a lump sum contract are based on percentage of work completed; and the contract amount may be increased for any unanticipated event, which is beyond Great West's control and which increases the level of Services required to complete Project.

1.1.2 Time and Materials. Invoices for a time and materials contract are based on the hourly rates set forth in Great West's prevailing *Schedule of Billing Rates*, which may be amended from time to time, plus expenses.

1.1.3 Retainers. Retainers are applied toward final invoice.

1.2 Expenses. Expenses include all out-of-pocket costs for technical, professional and clerical services and for transportation, meals and lodging, laboratory tests and analyses, telephone, printing, copying, and binding. Expenses are billed at 1.10 times invoice amount, and Client shall pay all governmental fees, permits and charges.

1.3 Payment Date. Invoices are due and payable within thirty (30) days after date of invoice.

1.4 Past Due Accounts. Any invoice not paid within thirty (30) days after date of invoice shall bear interest at 10%.

1.5 Stop Work. Great West may stop work on Project and withhold delivery of all Services until Client's obligations then due and owing to Great West are paid in full.

1.6 Disputes. Invoices shall outline Services performed and all related charges and expenses. Disputes regarding an invoice shall be forwarded in writing to Great West within twenty (20) days of date of invoice. If Client does not dispute an invoice within the prescribed time, the invoice is deemed accurate and due and payable.

1.7 Estimates. Estimated amounts for Services performed on an hourly or cost plus fee bases are only estimates and may not accurately reflect the ultimate charges to Client.

1.8 Adjustment of Fees. Great West may alter the distribution of compensation between individual phases of the contract to be consistent with services actually rendered, but shall not exceed the maximum contract value.

2. Notice to Proceed. This *Agreement* constitutes Client's notice to proceed with Services once it is signed by Client and Consultant.

3. Subconsultants. With Client's approval, Great West may retain subconsultants to perform Services for Project.

4. Extra Work. If Client desires work to be performed beyond the Services described in this *Agreement* ("*Extra Work*"), Client must authorize the *Extra Work* by signing a written amendment, signed and agreed upon by Consultant. If written amendment is impracticable, then a written or electronic statement authorizing the *Extra Work* is required.

5. Safety and Construction. Great West is not responsible for construction means, methods, techniques, sequences of procedures, or safety precautions and programs

related to work performed by contractors, subcontractors, or anyone else associated with Project.

6. Cost Estimates. Great West does not warrant construction cost estimates.

7. Use of Documents. Great West retains ownership of all documents and work product under this *Agreement*, and Client may only use such documents and work product in connection with the Project.

8. Professional Standards. Great West shall perform Services according to the standard of care ordinarily exercised under similar conditions by similarly qualified professionals who are currently practicing in the area where Great West is located. Great West makes no express or implied warranties.

9. Indemnity. Great West and Client shall indemnify and hold each other harmless from and against all claims, liabilities, actions, damages and expenses made by third parties to the extent caused by or resulting from negligent acts, wrongful acts, errors, or omissions related to or arising out of their respective performances in connection with the Project.

10. Limitation of Liability. Great West's liability for its acts, errors, or omissions is limited to the total fee for Services performed under this *Agreement*. Client waives all other damages.

11. Alternative Dispute Resolution. Unresolved disputes, controversies and claims relating to performance of Services shall be initially referred to mediation prior to initiating any other adjudicatory option.

12. Termination. This *Agreement* may be terminated upon thirty (30) days written notice to the other party. In such event, Client shall pay Great West for all Services performed and for all expenses incurred to and including date of termination. In addition,

13. Dates. All time periods refer to calendar days unless otherwise stated.

14. Montana Law Governs; Venue. This *Agreement* is to be performed in the State of Montana and is made and entered into under the laws of the State of Montana and shall, in all respects, be interpreted, enforced, and governed under the internal laws (and not the conflicts of laws rules) of the State of Montana. In the event legal proceedings are commenced with regard to, arising out of or related to any provision of this *Agreement*, Client and Great West Engineering, Inc. agree that venue shall be the First Judicial District Court of Montana, located in Helena, Montana.

15. Survival. The provisions of this *Agreement* shall survive its termination and completion of Services.

16. Complete Agreement. This *Agreement* constitutes the complete and final understanding between the parties and may only be amended by written agreement between the parties.

See what's possible.

GREAT FALLS

702 2nd Street S, #2
Great Falls, MT 59405
Ph: (406) 952-1109

BILLINGS

6780 Trade Center
Avenue
Billings, MT 59101
Ph: (406) 652-5000
F: (406) 248-1363

HELENA

2501 Belt View Drive
Helena, MT 59601
Ph: (406) 449-8627
F: (406) 449-8631

BOISE

3050 N Lakeharbor
Lane
Suite 201
Boise, ID 83703
Ph: (208) 576-6646

SPOKANE

9221 N Division Street
Suite F
Spokane, WA 99218
Ph: (509) 413-1430

EXHIBIT A



May 25, 2023

Chuck Rogers
West Great Falls Flood Control and Drainage District
P.O. Box 791
Great Falls, MT 59403

RE: Wadsworth Lake Drain Outfall Structure – Permitting Assistance

Dear Mr. Rogers and Board Members:

The following permits are anticipated to be required to allow for construction of the new Wadsworth Lake Drain Outfall Structure along the Sun River bank:

- 404 Permit (US Army Corps of Engineers)
- 318 Authorization (DEQ)
- SPA 124 Permit (Montana Fish, Wildlife and Parks)
- Floodplain Permit (Cascade County)
- Navigable Rivers Land Use License (DNRC)

Great West Engineering proposes a lump sum fee of \$7,000 for permitting assistance. The *Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains and Other Water Bodies* will be utilized for all of the permit applications. Our services will include the following:

- Project scoping and initial floodplain permitting coordination with Cascade County and the DNRC
- Wetland delineation in immediate vicinity of the outfall structure along the bank of the Sun River
- Preparation of technical memorandum to summarize wetland delineation
- Coordination with permitting agencies
- Preparation of the Joint Application
- Preparation of supporting information for the Joint Application
- Coordination with the District

The completed applications will be provided to the District for signatures and submittal to the various agencies. For the floodplain permit application, we will complete a qualitative encroachment analysis and will not be completing a formal HEC-RAS modeling analysis. The DNRC has indicated that this approach is reasonable for this project, but Cascade County will not provide any input on whether or not they will accept this approach until after the application has been formally submitted. There is the potential that Cascade County will request HEC-RAS modeling for the encroachment analysis, which would add significant additional effort and cost. If the County requires modeling for the encroachment analysis, we will need to amend our agreement to incorporate the additional services.



Our services and fee do not include the following:

- Permitting agency fees
- Hydraulic modeling or "no rise" analysis for the floodplain permit
- Preparation of a Stormwater Pollution Prevention Plan (SWPPP)

Please feel free to contact me with any questions.

Sincerely,

Great West Engineering, Inc.

A handwritten signature in blue ink that reads "Josh P. Sommer".

Josh Sommer, PE
Great Falls Business Unit Manager

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For Public Review**