

PROFESSIONAL SERVICES AGREEMENT

Herrera Environmental Consultants for the Missoula Development Park

This Agreement is made and entered into June 27, 2023, between the **CITY OF MISSOULA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 435 Ryman St., Missoula, MT 59802-4297, referred to here as “City,” and **Herrera Environmental Consultants**, 101 East Broadway, Suite 610, Missoula, MT 59802, referred to here as “Consultant.”

In consideration of the mutual covenants and agreements contained here, the receipt and sufficiency of the same being acknowledged, the parties agree as follows:

- 1. Purpose:** City agrees to hire Consultant as an independent contractor to perform services for City described in the Scope of Services, attached as Exhibit A, reference made a part of this agreement.
- 2. Effective Date:** This agreement is effective on the date of its execution.
- 3. Scope of Work/Task Deadlines:** Consultant will perform the work and provide the services in accordance with the requirements of Exhibit A.
- 4. Payment:** City agrees to pay Consultant an amount not to exceed **One-Hundred Twenty Two Thousand Seven Hundred Fifty-Six Dollars (\$122,756.00)** for services performed pursuant to the Scope of Services. Any alteration or deviation from the described work that involves extra costs will be performed by Consultant after written request by the City and will become an extra charge over and above the agreement amount. The parties must agree in writing upon any extra charges.
- 5. Independent Contractor Status:** The parties agree that Consultant, is an independent contractor for purposes of this agreement and the parties agree that Consultant is and shall be an independent contractor when performing services pursuant to this agreement. Consultant is not subject to the terms and provisions of the City’s personnel policies handbook and may not be considered a City employee for workers’ compensation or any other purpose. Consultant is not authorized to represent the City or otherwise bind the City in any dealings between Consultant and any third parties.

Consultant shall comply with the applicable requirements of the Workers’ Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Consultant shall maintain workers’ compensation coverage for all members and employees of Consultant’s business, except for those members who are exempted by law.

Consultant shall furnish the City with copies showing one of the following: (1) a binder for workers’ compensation coverage by an insurer licensed and authorized to provide workers’ compensation insurance in the State of Montana; or (2) proof of exemption from workers’ compensation granted by law for independent contractors.

6. Indemnity and Insurance: For other than professional services rendered, to the fullest extent permitted by law, Consultant agrees to defend, indemnify, and hold the City harmless against claims, demands, suits, damages, losses, and expenses connected therewith that may be asserted or claimed against, recovered from or suffered by the City by reason of any injury or loss, including but not limited to, personal injury, including bodily injury or death, property damage, occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Consultant or Consultant's agents or employees.

For the professional services rendered, to the fullest extent permitted by law, Consultant agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or willful misconduct of the Consultant or Consultant's agents or employees.

For this purpose, Consultant shall provide City with proof of Consultant's liability insurance issued by a reliable company or companies for personal injury and property damage in amounts not less than as follows:

- Workers' Compensation – statutory
- Employers' Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate
- Automobile Liability - \$1,000,000 property damage/bodily injury; \$2,000,000 annual aggregate
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate

The city shall be included or named as an additional or named insured on the Commercial General and Automobile Liability policies. The insurance must be in a form suitable to City.

7. Professional Service: Consultant agrees that all services and work performed under this agreement will be accomplished in a professional manner.

8. Compliance with Laws: Consultant agrees to comply with all federal, state and local laws, ordinances, rules and regulations. Consultant agrees to purchase a City business license.

9. Nondiscrimination and Affirmative Action: Consultant agrees and shall comply with the following Non-Discrimination and Affirmative Action policies:

NON-DISCRIMINATION. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status, vaccination status, sexual orientation, or gender identity/expression, except where these criteria are reasonable bona fide occupational qualifications.

AFFIRMATIVE ACTION POLICY. Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of

Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

The City's Affirmative Action Policy Statement is:

The Mayor of the City of Missoula or the Mayor's designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, vaccination, sexual orientation, gender identity or expression, or marital status. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Personnel staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.

10. Default and Termination: If either party fails to comply with any condition of this agreement at the time or in the manner provided for, the other party, at its option, may terminate this agreement and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this agreement.

11. Modification and Assignability: This document contains the entire agreement between the parties and no statements, promises or inducements made by either party or agents of either party, which are not contained in this written agreement, may be considered valid or binding. This agreement may not be enlarged, modified or altered except by written amendment signed by

both parties hereto. The Consultant may not subcontract or assign Consultant's rights, including the right to compensation or duties arising under this agreement, without the prior written consent of City. Any subcontractor or assignee will be bound by all of the terms and conditions of this agreement.

12. Ownership and Publication of Materials: All reports, information, data, and other materials prepared by the Consultant pursuant to this agreement are the property of the City. The City has the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any re-use without written verification or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to the Consultant. No material produced in whole or in part under this agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of the City.

13. Liaison: City's designated liaison with Consultant is Tracy Campbell and the consultant liaison is Heidi Houck.

14. Applicability: This agreement and any extensions of it shall be governed and construed in accordance with the laws of the State of Montana.

15. Signing of Contract: The contract may be signed in counterparts and signed electronically by all parties.

WITNESS, the parties here have executed this instrument the day and year first above written.

CONSULTANT:

Theresa M. Wood
Theresa M. Wood (Jun 28, 2023 15:50 PDT)

Theresa M. Wood

MAYOR

City of Missoula, Montana

Jordan Hess
Jordan Hess (Jun 28, 2023 13:20 MDT)

Jordan Hess

ATTEST:

MC1
Claire Trumble (Jun 28, 2023 13:40 MDT)

Martha L. Rehbein, CMC, City Clerk

APPROVED AS TO FORM AND CONTENT:

JIM NUGENT
JIM NUGENT (Jun 27, 2023 10:30 MDT)

Jim Nugent, City Attorney

(SEAL)



ENGINEERING SERVICES FOR MISSOULA DEVELOPMENT PARK REGIONAL STORM SYSTEM

The City of Missoula (City) authorized Herrera Environmental Consultants (Herrera) to prepare this scope of work and associated budget estimate for support in providing a conditions assessment and alternatives analysis for the Missoula Development Park. As the County passes the baton for the Development Park’s stormwater system to the City’s stormwater utility, it is critical to understand the condition and effectiveness of the stormwater system components to ensure they can be operated effectively and maintained efficiently by the City.

Herrera will assess conditions and analyze capacity of the system, and develop alternatives and recommendations for repairs, maintenance, and/or improvements to ensure that the stormwater system functions to accommodate the 5-year, 24-hour storm event.

This scope of work describes the activities, assumptions and deliverables associated with the following tasks:

- Task 1– Project Management..... 1
- Task 2 – Conditions Assessment and Site Survey.....2
- Task 3 – Capacity Analysis.....4
- Task 4 – Alternatives Analysis and Reporting5
- Task 5 – Additional Services6

TASK 1– PROJECT MANAGEMENT

Herrera will manage the scope, schedule, and budget for the work described in Tasks 2-5, and coordinate with the City on a regular basis to keep the City’s project manager informed about project progress, project issues, and schedule.

The anticipated duration of the project work is 4 months from contractual notice-to-proceed. The following project management work will be completed:

SCOPE OF WORK

- a. Project Schedule – Herrera will prepare an overall project schedule for the work as well as sub-schedules for completing individual tasks and update the schedule as needed as task work proceeds. Any updates to the schedule will be discussed with the City Project Manager.
- b. Progress Reports & Invoices – Herrera will submit monthly invoices and progress reports. The progress reports will include descriptions of the progress to date on each task.
- c. Conduct a kick-off meeting with the City's project team (via conference call). Herrera will prepare an agenda and meeting minutes. Kick-off meeting will be an approximately 60-minute conference call, attended by City staff and up to four staff from the Consultant team.
- d. Internal Team Coordination – Herrera's project manager will coordinate the work across tasks and be the main point of contact for requesting information from City staff and relaying information provided by the City.
- e. Coordination with the City of Missoula – Herrera's project manager will be the main point of contact for communication and coordination with the City on this project. Coordination will include regular phone calls and in-person or conference call meetings with the City as needed to coordinate getting City staff input and review.
- f. QA/QC - Herrera will perform quality assurance and quality control during development of all work product submittals.

Assumptions:

- The duration of active project work will be no longer than 4 months.
- Meetings among Consultant team members that do not involve City staff will be conducted under other tasks in this scope of work.
- Herrera will set up and maintain a project file sharing site.
- Kickoff meeting will include up to four Herrera team members (1 hour meeting)

Deliverables:

- Project Schedule (Electronic format - PDF)
- Kickoff meeting agenda and meeting notes (Electronic format - Word)
- Monthly invoices, progress reports, and budget tracking report (Electronic format - PDF)

TASK 2 – CONDITIONS ASSESSMENT AND SITE SURVEY

Herrera will conduct a condition assessment of the stormwater system to identify the original design configuration and purpose, current configuration, and condition.

SCOPE OF WORK

Prior to site inspections, Herrera will review existing design documentation to determine original design parameters. Herrera will prepare an assessment checklist and identify criteria for evaluating system components. After reviewing all available design information for the assets, the field work for site inspections will include:

- Conducting visual inspections to confirm existing configuration, assess system conditions, and identify operational, maintenance, and other concerns.
- Performing field surveys to fill data gaps on the stormwater system components, including pipe invert elevations, mainhole rim elevations, and other data not included in the City's GIS database. Survey will be conducted by Eli and Associates, Inc.
- Evaluating the condition of mainhole structures, catch basins, drywells, stormwater inlets, pipes, valves, stormwater basins, open channels, culverts, outlets, and other components. Herrera will contract with a local pipe inspector to CCTV stormwater pipes to identify cracks, sagging, root intrusion, offset joints, or other issues that may impede conveyance or allow inflow and infiltration.

Assumptions:

- Inspections will be two full days for up to two (2) Herrera staff members, and three full days for one (1) Herrera staff member.
- The consultant team will collect topographic data to determine current grades of swales and ditches.
- Topographic data will be collected using survey grade Leica Viva rover and base station or equivalent technology.
- Topographic data to be used in the capacity analysis (Task 3) will be existing 2019 LiDAR data. If updated or additional LiDAR survey is required, it will be conducted as part of Task 5 – Additional Services, and will be approved by the City prior to work.
- Infrastructure is assumed to include the elements shown in the City's GIS Missoula Maps. If there is a significant amount of infrastructure not represented by the City's GIS, survey for those elements will be included in Task 5 – Additional Services.
- Lamp test will be performed on stormwater mains in the ROW. Pipes that don't pass the lamp test will be jetted and CCTV'd. Assume that 1600 LF of pipe will need to be jetted and CCTV'd.

Deliverables:

- Site Assessment Checklist (Electronic format - PDF)
- Scanned Field Notes (Electronic format - PDF)
- Inspection photo log (Electronic format – PDF and jpegs)
- Survey data files (Electronic format – CAD)

SCOPE OF WORK

- CCTV video and photos (Electronic Format)

TASK 3 – CAPACITY ANALYSIS

A conveyance capacity analysis will determine whether the existing stormwater system components meet the 5-year, 24-hour storm event level of service and whether the system combined with surface features has capacity for a 100--year, 24-hour storm event. Both peak storm event analyses will be conducted for a full-build out condition, with parcel impervious surface coverage maximized as allowable by zoning code. Existing GIS and LiDAR data, design plans and reports, as well as survey data collected during previous tasks, will be compiled, and used to develop a below- and aboveground hydrology and hydraulics (SWMM) model to simulate all potential runoff flow pathways for the 5-year and 100-year rainfall events.

Herrera will use GIS tools in conjunction with LiDAR and aerial imagery data to delineate drainage basins. Pervious and impervious land cover will be assumed based on the maximum allowable per land use/zoning code, i.e., a full build-out condition. Herrera will review the 1996 Hydrology Report prepared by DJ&A to determine if the modeling parameters included in the report are appropriate for use in the SWMM model. Parameters may be adjusted or updated based on verified site conditions and engineering judgement. The model will be used to evaluate whether a simulated hydraulic grade line (HGL) shows surcharging above drainage structure rim elevations and routing of surcharged (overland) flows. The 100-year storm event will be evaluated to determine whether conveyance capacity within the public ROW, including roadway curb and gutter capacity, is exceeded and the potential flooding risks to private property, such as buildings. This analysis will help determine if additional conveyance or attenuation (detention or infiltration) capacity is needed to achieve the desired level of service, which could be addressed by increasing the size of existing facilities or adding new facilities.

Capacity constrained drainage system components will be highlighted in exhibits, one for each storm event analyzed. The exhibits will show surcharging conveyance elements (e.g., HGL is higher than pipe crown elevation) and flooding elements (HGL is above a structure rim elevation). The exhibits will be used to facilitate discussions about proposed improvements and will be documented in the Alternatives Analysis report.

Assumptions:

- Topographic data to be used in the model will be existing 2019 LiDAR data. If updated or additional LiDAR survey is required, it will be conducted as part of Task 5 – Additional Services, and will be approved by the City prior to work.
- Model documentation will be included in the Alternatives Analysis report (Task 4).

SCOPE OF WORK

- Herrera will evaluate the effectiveness of drywells and the model will represent infiltration conditions by applying a drywell density for each subcatchment and adjusting the “percent routed subcatchment” parameter.
- City staff will provide interpretation of zoning code to determine build out conditions.

Deliverables:

- Final SWMM input and output files (Electronic format)
- Two capacity constraint exhibits (5- and 100-year events) (Electronic format - PDF)

TASK 4 – ALTERNATIVES ANALYSIS AND REPORTING

Herrera will conduct an alternatives analysis to determine the actions required to address any identified capacity deficits, deferred maintenance, failing infrastructure, or opportunities to reduce the maintenance effort or increase effectiveness. Alternatives will be developed based on best management practices, capital and operational costs, input from key operations and engineering staff, and other considerations and priorities provided by the City.

Herrera will analyze alternatives by developing an evaluation ranking system, which will include consideration of system needs, capital and operational cost implications, risks, and other potential impacts. The analysis will prioritize the alternatives, with critical alternatives having high priority and less critical alternatives having low priority.

Alternatives will typically include:

- Maintenance – Vegetation management and control, sediment removal, trash removal, drywell maintenance, pipe jetting, and other maintenance activities.
- Repair – Pipe lining, crack sealing, stabilization of scoured areas.
- Retrofit – Increasing pipe size, pipe bursting, increased channel size, and/or detention basin improvements.
- Additional Infrastructure – If the capacity assessment shows the system doesn’t accommodate the 5-year event, Herrera will evaluate alternatives for additional infrastructure. Infiltration alternatives will also consider pre-treatment such as sediment forebays, vegetated filter strips, vegetated swales, and/or hydraulic separators to protect Missoula’s aquifer. Additional infrastructure investments could also be considered if they can be shown to sufficiently reduce the on-going operations and maintenance effort.

Based on the information collected during the documentation review, the results of the physical observations and evaluations of the stormwater system, the capacity assessment, and the

SCOPE OF WORK

alternatives analysis, Herrera will prepare an alternatives analysis report. The report will document:

- The findings of the assessment including components in need of maintenance, repair, or improvement in order to provide a reliable and efficient stormwater system.
- Alternatives and the preferred alternatives, including design assumptions, schedule constraints, and implementation requirements.
- Conceptual designs for the repairs and improvements, based on City of Missoula Standards.

Assumptions:

- Alternatives Analysis Report will present alternatives for repairs, maintenance, and/or improvements for the system to function as designed and to accommodate the 5-year, 24-hour storm event.
- Design of the preferred alternatives is not included and will be scoped and budgeted separately.
- The City will provide review and a consolidated, conflict-resolved set of comments on draft deliverables within two (2) weeks of submittal. Comments on the draft deliverables will be incorporated into the final deliverable.

Deliverables:

- Draft and Final Alternatives Analysis Report (Electronic – PDF and Word).

TASK 5 – ADDITIONAL SERVICES

Additional services may be provided, and is established to address unexpected changes during the project. Any work under the Additional Services task will require written approval from the City prior to commencement of the work. Written approval will include a brief description of the work and the approved budget. Work under this task could include additional LiDAR survey, additional ground survey, modeling of additional storm scenarios, modeling of additional build out scenarios, updating the City's GIS attributes for ownership, or other services requested by the City.

SCOPE OF WORK

SCHEDULE

Herrera is available to begin work on this project immediately and we anticipate performing this work starting in early summer 2023. An overall project duration of 4 months is assumed, with completion occurring in September 2023. A rough schedule based on receiving contractual Notice to Proceed on May 29, 2023 is as follows:

Conditions Assessment:	May - Jun 2023
Capacity Analysis:	Jun 2023 – Aug 2023
Alternatives Analysis and Reporting:	Aug – Sept 2023



Cost Estimate for **Missoula County - Development Park Stormwater**
 Herrera Project No. **23-08096-000**
 5/16/2023

			Task No.	1	2	3	4	5	Total
				Project Management	Conditions Assessment	Capacity Analysis	Alternatives Analysis and Reporting	Additional Services	
			Schedule	5/29/2023	5/29/2023	6/29/2023	8/29/2023	9/29/2023	
			Task End Date	9/29/2023	6/29/2023	8/29/2023	9/29/2023	9/29/2023	
Staff	Labor Category	2023 Burdened Labor Rates							
Spillane, Michael	Engineer VIII / President	\$330.37	1	0	0	1	0	2	
Houck, Heidi	Engineer VI	\$229.64	25	0	1	6	0	32	
Fidler, Matthew	Engineer III	\$135.34	1	48	4	48	16	117	
Brown, Jess	Engineer III	\$158.82	1	0	88	48	28	165	
Schaner, Neil	Engineer IV	\$189.23	1	0	28	18	12	59	
Johnson, Kyle	Engineer V	\$203.78	9	18	4	14	4	49	
Bagniewski, Ben	GIS Analyst I	\$83.86	0	20	8	10	28	66	
Marston, Charles	CAD Technician II	\$107.81	0	0	4	0	0	4	
Rudnick, Tracy	Project Accountant IV	\$152.86	6	0	0	0	0	6	
Jackowich, Pamela	Administrative Coordinator IV	\$127.85	0	0	0	10	0	10	
Total Hours per Task			44	86	137	155	88	510	
Subtotal Labor			\$9,306	\$11,841	\$21,963	\$24,204	\$12,046	\$79,360	
Subtotal Herrera Labor			\$9,306	\$11,841	\$21,963	\$24,204	\$12,046	\$79,360	
Subconsultants									
Subconsultant									
CCTV			\$0	\$8,000	\$0	\$0	\$0	\$8,000	
Survey			\$0	\$19,350	\$0	\$0	\$16,000	\$35,350	
Subtotal Subconsultant Cost			\$0	\$27,350	\$0	\$0	\$16,000	\$43,350	
Grand Subtotal			\$9,306	\$39,237	\$21,963	\$24,204	\$28,046	\$122,756	
Grand Total								\$122,756	