

CITY OF OBERLIN, OHIO

ORDINANCE No. 20-45 AC CMS

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ENVIRONMENTAL DESIGN GROUP, INC. OF AKRON, OHIO, FOR PROFESSIONAL ENGINEERING SERVICES FOR MORGAN STREET RESERVOIRS DESIGN SERVICES AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio:

SECTION 1. That the City Manager is hereby authorized and directed to enter into a contract with Environmental Design Group, Inc. of Akron, Ohio for professional engineering services for Morgan Street Reservoirs Design Services in the City of Oberlin in an amount not to exceed \$101,200.00. A copy of the proposed contract is attached hereto and incorporated herein by reference.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

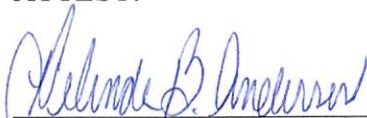
SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio or to provide for the usual daily operation of a municipal department, to wit: ***to proceed with the design of the improvements to the Morgan Street Reservoirs in a timely manner to comply with Ohio Department of Natural Resources regulations*** and provided that it is elevated to emergency status by the affirmative vote of at least five members of Council and receives the affirmative vote of at least five members of Council upon final passage, it shall go into full force and effect from and immediately after its passage; otherwise, it shall take effect at the earliest date allowed by law.

PASSED: 1st Reading: October 19, 2020

2nd Reading: November 2, 2020

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



LINDA SLOCUM
PRESIDENT OF COUNCIL

POSTED: 11/03/2020

EFFECTIVE DATE: 12/02/2020



September 24, 2020

Mr. Jeff Baumann
Public Works Director
City of Oberlin
85 South Main Street
Oberlin, Ohio 44074

**RE: Morgan Reservoir Design
 Oberlin, Ohio
 Environmental Design Group No. 19-00153-02P**

CORPORATE

450 Grant Street / Akron, OH 44311
P 330.375.1390 / **F** 330.375.1590
TF 800.835.1390

CLEVELAND OFFICE

2800 Euclid Avenue, Suite 620
Cleveland, Ohio 44115

COLUMBUS OFFICE

88 East Broad Street, Suite 880
Columbus, Ohio 43215

envdesigngroup.com

Dear Mr. Baumann:

Thank you for the opportunity to present this proposal for professional technical services to the City of Oberlin for the referenced project. Our proposed scope of services outlined below is based on Alternative 2, (partial lowering of Reservoir 1 embankment and converting Reservoir 2 to a wetland), identified in our Morgan Street Reservoirs Study and discussions with you about the project. We have also included a list of assumptions and exclusions that will help clarify the intended scope of work, both for the City of Oberlin (Client) and for Environmental Design Group.

SCOPE OF SERVICES

The services to be performed by Environmental Design Group in accordance with this proposal are as follows:

Task 1 – Project Management

Environmental Design Group will perform a kickoff meeting via Zoom with Client representatives to establish project communications, confirm scope of services, define project goals, establish a design schedule, and determine design review and approval procedures (meeting #1). Throughout the project, we will use our password-protected, project-specific SharePoint site to share information with you. It will contain a project calendar with meetings, a repository of deliverables, background information, and meeting notes. We will also use this SharePoint site throughout the project to share draft inventory information, mapping, and preliminary deliverables. We will also provide a separate folder for public web site information for public input and public project progress to be hosted on the existing City of Oberlin web site. In this folder, we will share construction update photos and schedule updates for the public. We will work with the City's communications department on all materials.

Additionally, we will have three (3) Zoom meetings with staff to review submittals at 60%, 90% & 100% design stages (meetings #2, #3, and #4). We will participate in two (2) public meetings to discuss the project specifics and update the public on the design process (meeting #5 and #6). The first public meeting will be prior to completion of the 60% and will focus on-site circulation and plant/species selection. We will update the graphics created in the previous contract for this public meeting. The second public meeting will be a work session prior to a regularly scheduled City Council Meeting. It is assumed this meeting will provide feedback after the 90% design stage. Additionally, we will attend a regularly scheduled City Council meeting

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for the construction contract award (meeting #7). During each of these meetings, we will prepare meeting minutes.

Task 2 – Wetland Delineation

Environmental Design Group will perform a wetland and other surface waters delineation for the area within Alternative 2. Prior to conducting the field visit, Environmental Design Group will perform a review of existing pertinent published data to get an indication of where wetlands are likely to occur on the property. Background information to be reviewed includes published information such as aerial photographs, U.S. Geological Survey (USGS) topographic maps, the U.S. Fish and Wildlife (USFWS) National Wetland Inventory, the Ohio Wetland Inventory, the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), and the County Soil Survey and hydric soils list.

Environmental Design Group will conduct a field visit to formally delineate wetlands and other surface waters at the above-referenced site. The purpose of the field visit is to identify and determine the quality and extent of wetlands that may be subject to regulation under Section 10 of the Rivers and Harbors Act, Sections 401 and 404 of the Federal Clean Water Act (CWA 1987, as amended) and/or the Ohio Isolated Wetland Permit Program.

Wetlands will be delineated according to methods specified in the U.S. Army Corps of Engineers (USACE) 1987 *Corps of Engineers Wetlands Delineation Manual* and the appropriate 2012 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual*. Potential wetland areas will be investigated using the USACE approach of assessing soils, vegetation, and hydrology. Findings will be documented on USACE Wetland Determination Forms. Environmental Design Group will assess areas determined to be wetlands per USACE criteria using the Ohio Environmental Protection Agency (Ohio EPA) *Ohio Rapid Assessment Method for Wetlands*. 5.0 (ORAM) Manual, and we will prepare the Ohio EPA's 10-page ORAM scoring sheets to determine the presumed wetland Category. Additionally, a Natural Heritage Database request will be submitted to the Ohio Department of Natural Resources (ODNR) regarding potentially occurring Rare, Threatened, and Endangered (RTE) wildlife and plant species in the project vicinity. The request is required in order to complete the ORAM scoring sheets and due to the proposed work regulated by the Clean Water Act. Environmental Responses are typically received from ODNR within 10 business days; however, response time may be longer.

Surface waters, which include reservoirs, ponds, lakes, streams, or ditches, will be identified. Plum Creek is located outside of the Alternative 2 area and will not be delineated. However, should other streams be identified during the site visit, they will be assessed using the Ohio EPA *Field Evaluation Manual for Ohio's Primary Headwater Habitat (PHWH) Streams*.

Wetland boundaries and stream centerlines will be mapped using a portable Global Positioning System (GPS) unit with sub-meter accuracy. GPS data will be entered into a Geographical Information System (GIS) for production of a map illustrating wetland and other surface waters locations and wetland determination data points.

The results of the wetlands and other surface water delineation will be presented in a short report. The report will include a summary of the published data review, a written description of wetlands and surface waters present, a map of wetlands and surface waters, photographs, and completed field data forms. The report will include a professional opinion on jurisdictional status of on-site wetlands and surface waters based upon current regulatory guidance. However, a jurisdictional determination is determined by the USACE during the Jurisdictional Determination process. The report will include a professional opinion on category/quality of on-site wetlands

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and streams based upon ORAM and/or HHEI scores. However, category/quality of wetlands and aquatic use designation of streams is determined by the Ohio Environmental Protection Agency, typically during the waterway permitting process

One (1) report electronic format PDF on OneDrive will be provided to the Client.

Task 3 – Berm Structural Analysis & Reservoir 2 Sediment Assessment

During the design of the embankments, our geotechnical engineering partner, CTL Engineering, will review the design details and construction sequencing. This review will occur during each design stage (Tasks 4, 5, and 6).

In order to more fully understand the physical properties of the existing sediment on the floor of Reservoir 2, Environmental Design Group will collect samples and measure the depth to be analyzed for physical properties. Physical properties to be determined include thickness, deposition type, and pollutant concentrations of the sediment samples. The samples will be collected at predetermined locations considered representative of typical sediment conditions. Global Positioning System (GPS) data will be collected during the sampling so that the horizontal location of the sampling locations can be mapped. A total of six (6) samples are assumed to provide a sufficient representation of the reservoir floor. The results of the sediment assessment will be presented in a report documenting the wetlands and surface waters on the parcels.

Task 4 – 60% Construction Plans

Based on the preferred Alternative 2 option, we will commence preparation of the Construction Plans for the 60% design stage. During this stage, we will perform a hydrologic model based on the preferred alternative with calculations in preparation to ODNR for review. It is our intention to use this documentation to remove this project from ODNR current dam regulations. We will review the information gathered from geotechnical and sediment investigations, review berm stability options, and draft those onto the previously created topographic survey. The hydrologic modeling will define the proposed wetland's hydrology to help inform the design. We will prepare a preliminary set of construction plans anticipated to include:

- Title Sheet;
- Site Preparation & Demolition Plan;
- Grading Plan;
- Layout Plan;
- Landscape Plan;
- Construction Details;
- Cross Sections.

We will prepare a draft Opinion of Probable Construction Costs (OPCC).

Deliverables include full and half-scale PDF files of the plans & OPCC for review. The review meeting will be performed in Task 1.

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Task 5 – 90% Construction Plans

Based on the berm stability option with associated geotechnical recommendations, and input on the 60% plan, we will commence the preparation of the Construction Plans for the 90% Stage. We will also finalize the hydrologic model and prepare a draft memo for ODNR's review. The City shall provide typical Project Manual documentation in word format, for our team to update for this project. This includes all typical front-end documents, general conditions, and supplemental conditions for a complete Project Manual. Technical specifications will be based upon ODOT CMS 2019 specifications and City of Oberlin specifications.

For the long term success of the project, we will prepare a Natural Resource Management Plan for the proposed wetland and upland areas. This plan will identify planted zone mapping and describe their ongoing maintenance needs. We will include a seasonal calendar for maintenance needs and a bulleted listing of each zone's estimated level of effort. We will provide this in draft form with the final submittal within Task 6.

We will revise and update the drawings and design created in Task 4. We will also include:

- SWPP Plan, Calculations and NOI Permit Application information
- Draft Technical Specifications and Project Manual
- Revised OPCC and Bid Tab

Deliverables include a full and half-scale PDF files of the plans, hydraulic modeling memo, Project Manual, technical specifications, bid tab & OPCC for review. We shall submit information to ODNR for their review and concurrence on reservoir modifications. A review meeting will be performed in Task 1.

Task 6 – Final Construction Plans and Specifications

It is assumed a public meeting will be held after the 90% design process (see Task 1 for details). Based on the Client's, ODNR's, and public's input on the 90% design, we will prepare a final set of construction plans and documents for public bidding. Pages are anticipated to include:

- | | |
|--|-----------------|
| • Title Sheet | 1 sheet |
| • Schematic Plan | 1 sheet |
| • General Notes, Specifications | 1 sheets |
| • Existing Conditions and Demolition Plan | 4 sheets |
| • Layout Plan | 2 sheets |
| • Grading and Utility Plan | 4 sheet |
| • Cross Sections | 2 sheet |
| • Landscape Plan | 4 sheet |
| • Details | 2 sheets |
| • <u>Storm Water Pollution Prevention Plan (SWPPP)</u> | <u>4 sheets</u> |
| | 25 sheets total |

As the design progresses, one or more of the above plans may be combined on a single drawing. We will revise the OPCC, Bid Tab, Project Manual, and Hydraulic Modeling Memo based on comments received. We will revise the Natural Resource Management Plan based upon comments received.

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Environmental Design Group will submit the appropriate NOI permit application for the City, however, the City shall pay all fees. We will also submit PDFs to the Client's preferred plan room (e-Arc) for bid package distribution. The City shall advertise the project and pay for all advertisements. The final hydrologic report after incorporation of the final design and ODNR comments will be provided to the City.

Task 7 – Bidding Assistance & Construction Administration Assistance

Environmental Design Group will participate in the pre-bid meeting to answer any questions by prospective bidders and subcontractors. We will issue addendums as required for clarification. In addition, we will participate in the Bid opening by review bids and make a recommendation on award of the construction contract. We will not attend the bid opening.

Environmental Design Group will attend the preconstruction meeting with the selected contractor and the Client. We will review and approve/disapprove shop drawings and other material submittals based upon approved drawings and specifications, as well as provide assistance to the Client during the construction phase to resolve design issues and make recommendations on field directed changes. We will attend up to six (6) on-site construction observation site visits to monitor construction compliance with contract documents and up to three (3) site visits to review embankment construction. These meetings will be scheduled with the Client, who will be performing overall construction inspection of the project. We will prepare meeting minutes for these meetings.

Environmental Design Group will assist the Client with pre-final and final inspections, including punch list preparation for the construction project. We will monitor plantings for compliance with plant guarantee requirements at substantial completion.

Task 8 – US Army Corps of Engineers and Ohio EPA Coordination (If Authorized)

It appears that the Morgan Street reservoirs within the Alternative 2 area were constructed in uplands and are not impoundments of Plum Creek or other Traditional Navigable Waters. Therefore, the reservoirs may not meet the definition of Waters of the U.S. and may not be subject to permitting under Section 404 of the Clean Water Act administered through the U.S. Army Corps of Engineers. Environmental Design Group will prepare and submit a package to the U.S. Army Corps of Engineers – Buffalo District requesting confirmation that permitting under Section 404 is not required. The package will include a cover letter describing the proposed activity, the Wetland and Surface Waters Delineation Report (completed under Task 2), and the Alternative 2 concept plan (completed under a previous contract).

The Morgan Street reservoirs may be considered waters of the state. However, it is presumed that the proposed activities do not require permitting under the Ohio Environmental Protection Agency (EPA)'s Isolated Wetland Permit program. Environmental Design Group will prepare and submit a package to the Ohio EPA requesting confirmation that permitting under the Isolated Wetland Permit program is not required. The package will include a cover letter describing the proposed activity, the Wetland and Surface Waters Delineation Report (completed under Task 2), and the design plans (completed under Task 4-6).

There is no statutory timeframe in which the agencies are required to respond to a request for confirmation of no permit required. However, recently, responses have generally been received within approximately three months of the date of submittal.

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PROJECT QUOTATION

Environmental Design Group's fee for these professional services will be a **Time and Materials**,
Not to Exceed basis as follows:

Task 1 – Project Management	\$ 9,746.00
Task 2 – Wetland Delineation	\$ 3,920.00
Task 3 – Berm Structural Analysis & Reservoir 2 Sediment Assessment	\$16,068.00
Task 4 – 60% Construction Plans	\$24,302.00
Task 5 – 90% Construction Plans	\$23,748.00
Task 6 – Final Construction Plans and Specifications	\$ 6,526.00
Task 7 – Bidding & Construction Administration Assistance	<u>\$15,214.00</u>
Total	\$99,524.00

Task 8 – US Army Corps of Engineers and Ohio EPA Coordination
(If Authorized) \$ 1,676.00

Authorized _____

Task 8 may not be authorized separately. If Task 8 is authorized, the Client shall initial in the line above.

This offer remains valid for thirty (30) days; acceptance thereafter is subject to our approval. Reimbursable expenses (i.e., prints, reproductions, photos, mileage, consultant and agency fees, etc.) are included in the price shown for professional services. From the date of acceptance of this agreement, the above fees will apply for one (1) year. If the work is not completed during that period, the agreement may be subject to renegotiation.

PROJECT SCHEDULE

Please see the attached Exhibit B for the schedule.

ASSUMPTIONS AND EXCLUSIONS

Below is a list of assumptions and exclusions that apply to our proposal for technical services for this project. These items were considered while defining the scope and cost of our services. These assumptions and exclusions also describe responsibilities both of Environmental Design Group and the Client, in the event there is a need for work outside the defined scope of services.

1. Unless the Client designates an alternate in writing, the person signing the agreement will be considered the Client's only official representative with respect to this agreement.
2. Client will provide timely review of submissions and invoices.
3. Client will provide engineering and surveying data and other existing information in the client's possession to Environmental Design Group that may be useful in the performance of the professional services described in the proposal. These items may include Environmental Site Assessments, Wetland Delineations, Boundary Surveys, Topographic Surveys, ALTA Surveys, plans and specifications of existing facilities and similar documents.
4. Client will make all provisions for Environmental Design Group personnel to enter upon public and private lands as required to perform the described services.

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5. This proposal has been based on a continuous project development process from start to finish. After the project is authorized, should the project be put on hold by the Client, or otherwise be pursued in a start-stop-resume manner, Environmental Design Group reserves the right to renegotiate the fees established herein to account for the extra costs resulting therefrom.
6. Opinions of construction cost or estimates of construction cost prepared by Environmental Design Group under this agreement are just that. Environmental Design Group does not warrant or guarantee that the project can be constructed for those amounts and the Client agrees that Environmental Design Group cannot be held liable for any discrepancies between bid costs and our opinions or estimates. If bids come in over 10% construction estimates, we will provide the client quick, cost-effective options to re-bid the project and perform minor updates to the bid package for re-bidding.
7. Environmental Design Group will indicate the locations of subterranean structures (pipes, tanks, telephone cables, field tiles, etc.) on the project plans only to the accuracy and extent provided by the owners of the facilities, either by plans or marking in the field. Environmental Design Group is not responsible for such structures that are not called to Environmental Design Group's attention or correctly shown on plans of affected utilities provided to Environmental Design Group by the owners of such utilities. Should actual locations or depths of such subterranean structures be required, the costs of physically locating or exposing such structures are the responsibility of the Client.
8. Changes in rules adopted by the agencies during the project process may affect the fees quoted herein and Environmental Design Group reserves the right to renegotiate such fees accordingly.
9. The scope assumes that the site visit to delineation wetlands and other surface waters will be conducted during the growing season, which varies annually but is typically early May through the end of October.
10. This proposal does not include additional data collection to determine wetland quality other than the ORAM.
11. This proposal does not include any data collection to determine stream quality other than HHEI.
12. The Wetland and Other Surface Waters Delineation Report will include a professional opinion on jurisdictional status of on-site wetlands and surface waters based upon current regulatory guidance. However, jurisdictional determination is determined by the U.S. Army Corps of Engineers during the Jurisdictional Determination process, which is not included in the scope of services.
13. The Wetland and Other Surface Waters Delineation Report will include a professional opinion on category/quality of on-site wetlands and streams based upon ORAM and/or HHEI scores. However, category/quality of wetlands and aquatic use designation of streams is determined by the Ohio EPA, which is typically conducted during the waterway permitting process. Waterway permits are not anticipated to be required for the project and are not included in the scope of services.
14. The scope does not include Federal or State endangered, threatened, or rare species surveys, other species surveys, or habitat surveys.
15. The scope assumes that a site visit with U.S. Army Corps of Engineers and/or the Ohio EPA will not be requested by the agencies and therefore, such a site visit is not included.
16. Environmental Design Group has included normal review durations by the public agencies, based on our experience, in the project schedule contained herein. However, the actual duration of such reviews is beyond the control of Environmental Design Group and extended review periods may impact and/or delay project completion.
17. ALTA/ACSM Land Title Surveys, if included in the proposal, will meet the 2016 Minimum Standard Detail Requirements as adopted by the American Land Title Association and the

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National Society of Professional Surveyors and will include specifically designated portions of Table A of the ALTA standards.

18. The costs do not include any permit fees, mitigation fees, or other fees that may be required by the mitigation holder or the agencies. It is the responsibility of the Client to pay these fees if any such fee is encountered.
19. Environmental Design Group offers professional services and will work to accomplish the client's goals, but the fees established herein shall be paid regardless of the outcome. Environmental Design Group will advise the Client on the likely approvability of the project but cannot guarantee that the desired approvals by regulatory agencies will be granted. Unfortunately, such approvability is not certain until the project has gone through the entire regulatory processes.
20. Property acquisition and/or temporary construction easement coordination is not included in the scope of services.
21. Client will be responsible for coordinating Council Authorization or other actions by City officials, any coordination with Lorain County Engineer and obtaining permits from other officials or agencies.
22. Client will be responsible for bid announcement, copies, and any necessary signatures including posting and payment for bid announcement.
23. Client will be responsible for post-construction monitoring if required by permitting agencies.
24. Client will be responsible for day-to-day construction inspection.

LIMITATION OF LIABILITY

Environmental Design Group warrants that it has adequate workers' compensation coverage, errors and omissions insurance and professional liability and such coverage under public liability and properties damage insurance policies as it deems to be adequate. Certificates of all such policies of insurance shall be provided to you upon request in writing. To the extent that it is lawful to do so, the Client hereby expressly waives and releases any cause of action or right of recovery which you may have hereafter against Environmental Design Group for any loss or damage to subject premises caused by fire, explosion or any other risk which may arise during our performance of services hereunder and which is covered by insurance.

Environmental Design Group's work being performed, and Environmental Design Group's findings and conclusions are for the benefit of the Client and appropriate regulatory agencies and are not to be relied upon by any other parties. A party's failure or delay to require strict performance on any provision of this agreement shall not be considered a waiver or deprive such party of the right to insist upon strict adherence to that term or other terms of this agreement.

STANDARD OF CARE

Services performed by Environmental Design Group under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by firms similar to Environmental Design Group which are currently providing similar services in the same geographical area.

Client recognizes that subsurface conditions or other field conditions may vary from those encountered at locations where borings, surveys or other observations are made by Environmental Design Group and that the data interpretations and recommendations by

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Jeff Baumann
Oberlin Public Works Director
September 24, 2020
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Environmental Design Group are based solely on information available to Environmental Design Group.

Environmental Design Group will be responsible for those data interpretations and recommendations but shall not be responsible for any interpretations by others of the information developed.

INVOICING PROCEDURES AND TERMS

Invoices will be submitted monthly based on the amount of work actually completed. If the client fails to make any payment due Environmental Design Group within thirty (30) days after receipt of Environmental Design Group's invoice, the amounts due Environmental Design Group will include a charge at the rate of 1% per month from said thirtieth day. In addition, Environmental Design Group may suspend services under this Agreement until all outstanding invoices have been paid in full plus accrued interest.


The attached Exhibit A – Standard Provisions of Agreement – is a part of this agreement and is binding on the client.

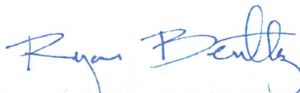
PROJECT INITIATION PROCEDURES

If this proposal is satisfactory, you may authorize Environmental Design Group to proceed by signing below and returning a copy of this letter to us. If there is a need for clarification or if changes in contractual arrangements are desired, please contact us at (330) 375-1390 or rbentley@envdesigngroup.com or kholmok@envdesigngroup.com.


We look forward to working with you.

Sincerely,


Katherine G. Holmok, PLA ASLA
Principal-in-Charge


Ryan Bentley, PLA ASLA
Project Manager | Principal Contact


ACCEPTED: City of Oberlin

By  Date 12.10.2020
Title CITY MANAGER

Clients Designated Representative: JEFF BAUMANN

Special Instructions: _____

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APPROVED AS TO FORM
Date: 12/9/2020

Jon D. Clark, Oberlin City Law Director

Jeff Baumann
Oberlin Public Works Director
September 24, 2020
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Invoicing Procedures:

In an effort to continue to provide an easy and effective method for communicating, we will be sending invoices and payment reminders via e-mail. By sending these documents via email, we can ensure each includes the information you require. Please provide the following information:

AP Contact _____

AP Email _____

AP Phone _____

Email an additional copy of the Invoice to:

1. _____

2. _____

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CIVIL ENGINEERING / LANDSCAPE ARCHITECTURE / PLANNING / SURVEYING / ENVIRONMENTAL SERVICES / CONSTRUCTION MANAGEMENT

EXHIBIT A STANDARD PROVISIONS OF AGREEMENT FISCAL YEAR 2020

Client and Environmental Design Group, LLC (Consultant) agree that the following provisions shall be part of their agreement:

1. This Agreement will be binding upon the heirs, executors, administrators, successors and assignees of Client and Consultant and will not be assigned by either Client or Consultant without the prior written consent of the other.
2. This Agreement contains the entire agreement between Client and Consultant relating to the project and the provision of services to the project. Any prior agreements, promises, negotiations or representations that are not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement will be in writing and signed by both Client and Consultant. The Client may use purchase orders as an administrative convenience, however, any terms and conditions contained in such purchase orders are not to be considered terms and conditions of this Agreement and will not be binding upon Consultant unless expressly agreed to in writing by Consultant.
3. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio.
4. Client's or Consultant's waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, will not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant.
5. If any term, condition, or covenant, of this Agreement is held by a court of competent jurisdiction to be invalid, void or not enforceable, the remaining provisions of this agreement will be valid and binding on Client and Consultant.
6. Consultant will only act as an advisor in all governmental relations. Obtaining government approvals is not a term of this agreement unless expressly set forth herein.
7. Consultant is not responsible for delay or damages caused by activities or factors beyond Consultant's reasonable control, including but not limited to, delays or damages by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Client or his agents to furnish timely information or approve or disapprove Consultant's work promptly, faulty performance by Client or other contractors, or the actions or inactions of governmental agencies including, but not limited to permit processing, changes in policy, environmental impact reports, dedications, general plans and amendments hereto, zoning matters, annexations or consolidations, use or conditional use permits, and building permits. When such delays beyond Consultant's reasonable control occur, Client agrees Consultant will not be deemed to be in default of this agreement.
8. The following will be considered as additional services to be performed for an additional fee: a) Changes to plans, specifications or other documents and/or field work required by one or more governmental agency, as a result of changes or official interpretations in its ordinances, policies, procedures or requirements after the date of this Agreement; b) Any and all increase in costs and expenses contemplated by this Agreement due to the granting

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of wage increases and/or other employee benefits to field or office employees as a result of the terms of any labor agreement, or rise in the cost of living, during the lifetime of this agreement. Client will be billed for the additional, percentage increase applied to all remaining compensation due with respect to services performed pursuant to this Agreement; c) Incidental services as required by Client not specified in writing within the scope of work on the front hereof; d) Cost of replacing any staking destroyed, damaged, or disturbed by an act of God or parties other than Consultant; e) The costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this Agreement.

9. Consultant makes no representations and does not guarantee expressly or implicitly: a) The estimated quantities made in connection with maps, plans, specifications, or drawings other than that all such figures are estimates only and Consultant shall not be responsible for interpretational differences or fluctuations. Estimates of areas provided under this agreement are not to be considered precise unless Consultant specifically agrees to provide the precise determination of such areas. b) The completion or quality of performance of Contractor or the completion or quality of performance of agreements by the construction contractor or contractors, or other third parties, nor is it responsible for their acts or omissions. c) Its findings, recommendations, specifications, or professional advice except that the work was performed pursuant to generally accepted standards of practice in effect at the time of performance. d) Soil conditions unless specifically included in writing in this Agreement, and it is further not liable for any damages arising out of the making or failure to make soil surveys, or sub-surface soil tests, or general soil testing.
10. What may be referred to as a *cost estimate* or *engineer's estimate* as made by Consultant herein or in other correspondence regarding the Project shall be deemed an opinion of probable construction cost. In providing opinions of probable construction cost, it is recognized that neither Client nor Consultant has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding, or over market conditions. The opinion of probable construction costs is based on Consultant's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work will not vary from the Client's budget or from any opinion of probable cost prepared by Consultant. If Client wishes greater assurances as to Total Project or Construction Costs, Client may employ an independent cost estimator.
11. Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to Client are only for convenience of Client. In the event there is a discrepancy between the electronic files and the hard copies, the hard copies govern. When transferring documents in electronic media format, Consultant makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Consultant at the beginning of this Project.
12. All original papers, documents, drawings and other work product of Consultant, and copies thereof, produced by Consultant pursuant to this Agreement, except documents which are to become permanent public record, will remain the property of the Consultant and may be used by Consultant without the consent of Client. Consultant retains all rights of copyright

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on work performed pursuant to this Agreement. All services provided pursuant to this Agreement may be used by Client only for the project described on the face hereof. Client agrees not to use or permit any other person to use plans, drawings, or other documents prepared by Consultant, which are not signed by Consultant and permitting agencies. Client agrees to be liable and responsible for any such use of unsigned plans, drawings, or other documents not signed by Consultant and agencies.

13. Client acknowledges that all certifications of Consultant that appear on drawings shall be limited to the original purpose for which the respective drawings were to be used; that such certification and drawings are not intended to embrace any changes or modifications to such drawings regardless of their nature or scope; and that any obligations of Consultants attaching to such drawings shall be subject to the foregoing qualifications.
14. This agreement may be terminated by either party by thirty (30) days' written notice if the other party has substantially failed to perform in accordance with the terms herein through no fault of the terminating party. Otherwise, Consultant has a right to complete all services agreed to be rendered pursuant to this agreement. In the event this Agreement is terminated before the completion of all services, Client agrees to release Consultant from all liability for work performed. In the event all or any portion of the work prepared or partially prepared by Consultant is suspended, abandoned, or terminated by any party or for any reason, Client will pay Consultant for all fees, charges, and services provided for the project to the date of said suspension, abandonment, or termination.
15. In the event that changes are made in the plans and specifications by Client or by any other person other than Consultant, any and all liability arising out of or resulting from such changes is waived by Client against Consultant, and Client assumes full responsibility and liability for such changes unless Client gives Consultant prior written notice of such changes and Consultant consents in writing to such changes.
16. Client agrees that Consultant will not perform on-site construction review for this project unless specifically provided for in this agreement. Any review of shop drawings and/or submittals is solely for general conformance with the design concept and contract documents and shall not form the basis of any liability of Consultant. Reviews of shop drawings and/or submittals by Consultant shall not alter the terms of this Agreement and shall not be construed to relieve any construction contractor of its obligations.
17. Client agrees that in accordance with generally accepted construction practices, construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property; that this requirement shall be made to apply continuously and not be limited to normal working hours.
18. All fees and other charges will be billed monthly and will be due at the time of billing unless otherwise specified in this Agreement. Client agrees that the periodic billings from Consultant to Client are correct, conclusive, and binding on Client unless Client within twenty (20) days from the date of receipt of such billing, notifies Consultant in writing of alleged inaccuracies, discrepancies, or errors in the billing. Client agrees to pay a late payment charge which will be computed at the periodic rate specified on the front hereof and will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.

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19. If client fails to pay Consultant within thirty (30) days after invoices are rendered, Client agrees Consultant will have the right to consider such default in payment a material breach of this Agreement. Consultant may, upon written notice to Client, immediately terminate this Agreement. In such event, Client will immediately pay Consultant for all fees, charges and services provided through the date of termination. Alternately, the Consultant may choose at its sole discretion not to terminate this Agreement but to suspend work until the account is brought current including accrued interest. In such event, the Client will bear any and all additional costs resulting from suspension of work including but not limited to increases to the stated fee as a result of inflation, promotions or other causes and/or additional fees incurred by Consultant as a result of changes necessitated by governmental agencies or other approving authorities.
20. In recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law and notwithstanding anything to the contrary in this Agreement, to limit the liability of the Consultant to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant to the Client shall not exceed \$50,000, or the Consultant's total fee for services rendered on this Project and paid to Consultant, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.
21. Client and Consultant agree that they will first try to resolve any claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement via good faith negotiations. If negotiations prove unsuccessful, Client and Consultant further agree to submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to be submitted to a court of competent jurisdiction in the State of Ohio.
22. Under no circumstances will any legal action in any way connected with this Agreement or services performed hereunder be initiated by either party after five (5) years from the date of Substantial Completion, unless this Agreement is terminated prior to substantial completion, in which case the date of termination of this Agreement will be the date on which such period will commence. Substantial completion is defined as deliverables submitted to the Client per the scope of services.
23. The work is being conducted and the report prepared for the sole use of the Client and represents a professional opinion based on the information available to Consultant at the time of the investigation and report.

Assignment of reliance to third-parties can be made, however this will be considered an additional service. Such letters of reliance may be provided on a case-by-case basis as requested. It is further understood that the scope, terms and conditions under which this report was originally prepared apply to any and all third-party recipients.



PROJECT SCHEDULE (Exhibit B)

City of Oberlin

Morgan Street/Waterworks

Upground Reservoirs No. 1 & 2

SCHEDULE AS OF SEPTEMBER 14, 2020

TASK	OCT 2020	NOV 2020	DEC 2020	JAN 2021	FEB 2021	MAR 2021	APR 2021	MAY 2021	JUN 2021	JUL 2021	AUG 2021	SEP 2021	OCT 2021	NOV 2021	DEC 2021
Contract Notice to Proceed															
Project Management/SharePoint Public Input Website															
Wetland Delineation & Soil Sampling															
Hydraulic Analysis															
60% Design & OPCC															
City Review (10 days)															
90% Design & OPCC															
ODNR Review to Determine Site is No Longer Regulated (45 days)															
City Review (10 days)															
Prepare and Submit USACOE Nationwide Permit ** if needed															
USACOE Nationwide Permit Review (10 weeks)** if needed															
Final Design & BID PACKAGE															
Bidding															
Construction															

Key Events

September 22, 2020: Contract Review @ Open Space Committee

October 5, 19 & November 2, 2020: Contract Reading at Council

November 2020: Contract NTP

Public Meeting Via Zoom: January 2021

Construction Start: July (dry season)

Construction Substantial Completion: November (during fall planting season)



Exhibit C
City of Oberlin
Morgan Street/Waterworks Upground Reservoirs No. 1 & 2
Construction Documents
September 24, 2020

	Principal	Project Manager	Senior Engineer	Civil	Land Planner / Graphics	EIT/CAD	Senior Ecology	Ecology / Soil Sci	Admin	Other	Total Hours	Total Cost
Task 1 - Project Management												
Project Management	2	15							8		25	\$3,128.00
Meetings with the City (3 Zoom) - 60%, 90%, 100% Reviews	3	6		2							11	\$1,628.00
Public Meeting (2), One at 50% with rendering updates, site circulation & plantings; One after 90% as a Workshop with Council	8	12			12					140	32	\$4,360.00
City Council Mtg at Construction Award		4								70	4	\$630.00
Subtotal Task 1	13	33	0	2	12	0	0	0	8	\$ 140	68	\$9,746.00
Task 2 - Wetland Delineation												
Wetland Delineation	2						6	28		\$ 140	36	\$3,920.00
Subtotal Task 2	2	0	0	0	0	0	6	28	0	\$ 140	36	\$ 3,920.00
Task 3 - Berm Design Review & Reservoir 2 Sediment Assessment												
Geotechnical Review of Drawings		4								\$ 4,850	4	\$5,410.00
Collect/Measure Soil Samples	2	1					24	24		\$ 140	51	\$6,252.00
Analyze Soil Samples	2	1					2	16		\$ 250	21	\$2,510.00
Sediment Assessment Report	2	1					2	12			17	\$1,896.00
Subtotal Task 3	6	7	0	0	0	0	28	52	0	\$ 5,240	93	\$16,068.00
Task 4 - 60% Construction Plans												
Integrate Geotechnical Recommendations into CDs		2				8					10	\$888.00
Develop Hydrologic Model Based on Preferred Option & Calc information for ODNR submittal	1	4	6	32						\$ 70	43	\$5,412.00
Grading Plan		8				48					56	\$4,768.00
Cross-Sections		8				24					32	\$2,944.00
Site Preparation and Demolition Plan, Title Sheet		2				8					10	\$888.00
Site Layout & Grading Plan	1	8				40					49	\$4,350.00
Landscape Plan	1	4				8					13	\$1,358.00
Cross Sections & Site Construction Details		8				16					24	\$2,336.00
Draft OPCC	1	4				8					13	\$1,358.00
Subtotal Task 4	4	48	6	32	0	160	0	0	0	\$ 70	250	\$24,302.00
Task 5 - 90% Construction Plans and Specifications												
Finalize Hydrologic Model	1	1	2	12						\$ 70	16	\$2,076.00
Prepare Hydrologic Model Memo	1	2	4	16							23	\$2,950.00
Title Sheet Update & General Notes		1				8					9	\$748.00
Site Preparation and Demolition Plan		1				12					13	\$1,052.00
Site Layout Plan Update		2				12					14	\$1,192.00
Site Grading Plan Update		3				16					19	\$1,636.00
Site Utility Plan & Construction Sequencing		1		12							13	\$1,448.00
Landscape Plan Update		2			6						8	\$790.00
Natural Resource Management Plan - Draft		6			6						12	\$1,350.00
Typical Sections & Site Construction Details		3		4		24					31	\$2,680.00
SWPPP Plan, Calculations & Permit Application		2				16					18	\$1,496.00
NOI Permit Application Submittal		1									1	\$140.00
Send to ODNR for review and concurrence of removal from regulation & Follow-up		4	4								8	\$1,296.00
Technical Specifications & Project Manual	1	12		4							17	\$2,306.00
QA/QC	2		8								10	\$1,852.00
Revise OPCC & Create BID TAB		2				6					8	\$736.00
Subtotal Task 5	5	43	18	48	12	94	0	0	0	\$ 70	220	\$23,748.00



Exhibit C
City of Oberlin
Morgan Street/Waterworks Upground Reservoirs No. 1 & 2
Construction Documents
September 24, 2020

	Principal	Project Manager	Senior Engineer	Civil	Land Planner / Graphics	EIT/CAD	Senior Ecology	Ecology / Soil Sci	Admin	Other	Total Hours	Total Cost
Task 6 - Final Construction Plans and Specifications												
Finalize Hydrologic Model Report	1	2	2	6							11	\$1,492.00
Finalize Construction Drawings into BID SET		1		2		16					19	\$1,574.00
Final Opinion of Probable Costs and Bid Tab		2				6					8	\$736.00
Final - Natural Resource Management Plan		3									3	\$420.00
Finalize Construction Documents		1			4	24					29	\$2,304.00
Subtotal Task 6	1	9	2	8	4	46	0	0	0	\$ -	70	\$6,526.00
Task 7 - Bidding & Construction Administration Assistance												
Pre-Bid Meeting		4								\$ 70	4	\$630.00
Bidding Assistance		4									4	\$560.00
Shop Drawing Coordination		4				4			4		12	\$1,188.00
Construction Coordination/ Respond to RFIs		6									6	\$840.00
Construction Observation Meetings During Key Times (6, 8HR+ support) with CTL support for embankment observation (40 hours)		12				48				\$ 5,360	60	\$10,688.00
Final Punchlist (Project Close-out)		4				8				\$ 140	12	\$1,308.00
Subtotal Task 7	0	34	0	0	0	60	0	0	4	\$ 5,570	98	\$15,214.00
TOTAL HOURS	835											
TOTAL COST	\$99,524.00											
Task 8 - US Army Corps of Engineers and Ohio EPA Coordination (if Authorized)												
US Army Corp & Ohio EPA coordination	2						4	8			14	\$1,676.00
Subtotal Task 2	2	0	0	0	0	0	4	8	0	\$ -	14	\$ 1,676.00