

**West Valley City  
Professional Services Agreement  
Metro Business Park Pond Clean-Up and Renovation**

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**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between West Valley City, a municipal corporation of the State of Utah (hereinafter the “CITY”), located at 3600 Constitution Boulevard, West Valley City, Utah, and J.U.B. Engineers, Inc. (hereinafter “J-U-B”), with a location of 466 North 900 West, Kaysville, Utah 84037.

**W I T N E S S E T H :**

**WHEREAS**, the CITY wishes to rehabilitate the storm drainage pond in Metro Business Park at approximately 1355 West 2200 South in West Valley City (hereinafter the “Project”); and

**WHEREAS**, the CITY desires to contract with a professional engineering firm to assist the CITY with development of the Project; and

**WHEREAS**, J-U-B is a professional engineering firm that has the qualifications, expertise, and desire to provide the necessary services to the CITY; and

**NOW, THEREFORE**, for and in consideration of the mutual covenants made herein, the parties agree as follows:

**A G R E E M E N T :**

1. **J-U-B’s Obligations.** J-U-B agrees to perform the work necessary to complete the following tasks as outlined below:
  - a. **Project Management.** Organize and direct at least two (2) meetings of City staff and stakeholders as necessary to establish goals and objectives for development of plans.
  - b. **Survey & Base Map.** Obtain field survey data to gather information needed for project design. Develop accurate base map from survey data for design work.
  - c. **Inventory.** Identify existing infrastructure by using City utility maps and site survey information to compile an inventory and assessment of existing storm drain piping to the existing pond. Examine existing pond banks to identify erosion concerns and determine the condition of existing concrete curb wall around the perimeter. Evaluate replacement options for the curb wall. Assess the pond outlet channel and evaluate options for replacement piping. Examine

existing landscape treatment in order to develop recommendations for practicable landscape improvements that will be more attractive, require less maintenance and care, and provide positive opportunities for people to enjoy and interact with the pond, such as viewing areas and places to sit and watch wildlife.

- d. Design. Based on the Inventory, develop a plan to renovate the pond to collect storm water in an aesthetically pleasing and environmentally friendly manner. From the approved plan, develop a set of construction documents for implementation. All of the following plans, designs, and construction documents are subject to approval by the CITY prior to preparation of the next set of plans.
  - i. Final Site Plan. Develop a master plan for pond rehabilitation and stabilization of its banks that includes an appropriate retaining system to prevent erosion and create a pedestrian-friendly perimeter; planting concepts; irrigation system renovations; pedestrian sitting areas; piping options for outlet channel to pump station; landscape treatment over piped areas; sediment trap at inlet; natural nutrient removal on the east end prior to runoff entering pipe; pond “cleanup” including aeration system. The master plan will be the base map for all design work.
  - ii. Preliminary Construction Documents. Prepare 60% construction plans and drawings of proposed improvements to include demolition plan; preliminary layout and dimensioning plan; drainage and grading plan; pond edge retaining system, piping and other infrastructure improvements; electrical plans, if required; preliminary construction details; irrigation main line layout plan; planting plan; and preliminary opinion of probable construction costs.
  - iii. Final Construction Documents. Based on CITY review and comment, prepare complete set of construction documents for successfully bidding and constructing the project, including all design plans; all construction details; technical specifications; prepare any other necessary bidding documents as needed such as bid forms and bid schedule; provide a final set of bidding documents in electronic format; and provide final opinion of probable construction costs.
- e. Bidding Assistance. Attend one (1) pre-bid meeting and answer questions from bidders and contractors; interpret drawings and technical information as needed; prepare and issue addenda as required for bidding.
- f. Construction Administration. During the construction period, perform regular weekly site visits of 4 hours each over approximately 12 weeks, and a substantial completion walk-thru and a final acceptance walk-thru for a total of approximately 56 hours of construction observation. Perform administrative tasks

during construction, including receiving, reviewing and processing of payment requests; prepare punch lists; write and distribute status reports of visits; review as-built drawings as prepared by the construction contractor. J-U-B shall submit all change orders to the City for review and approval prior to authorization.

- g. Additional Tasks at the Request of CITY. J-U-B agrees to perform any additional tasks, not specifically stated herein, requested by CITY in conjunction with this Project.

- 2. **Project Schedule.** J-U-B shall complete the work as set forth in Section 1 of this Agreement within six (6) months of the execution of this Agreement, which completion time may be extended by the CITY, at the CITY's sole discretion.

- 3. **CITY's Obligations.**

- a. In consideration for the work performed by J-U-B, as set forth in Sections 1 and 2 above, the CITY agrees to pay J-U-B for the cost of services up to a maximum fee of Forty Seven Thousand Nine Hundred Fifty Dollars (\$47,950).

- 4. **Term of Agreement.** This Agreement shall commence upon execution by the parties and shall continue for a period of six months or until either of the following occurs:

- a. J-U-B completes the work set forth in this Agreement.
- b. The CITY has paid J-U-B the maximum compensation amount of Forty Seven Thousand Nine Hundred Fifty Dollars (\$47,950).

- 5. **Termination.**

- a. In the event J-U-B fails to comply with any provisions of this Agreement, or if the progress or quality of the work is unsatisfactory, the CITY may serve written notice thereof upon J-U-B, and if J-U-B fails within a period of three (3) days thereafter to correct failure, the CITY may terminate this Agreement upon written notice to J-U-B. Upon such termination, J-U-B shall immediately cease its performance of this Agreement and the City shall determine and pay to J-U-B the amount due for such satisfactory work up to the effective date of Termination. Conditions which may result in termination of this Agreement specifically include, but are not limited to, failure to comply with any applicable federal, state, or local laws or regulations. Notwithstanding the above, J-U-B shall not be relieved of liability to the CITY for damages sustained by virtue of any breach by J-U-B.
- b. The CITY also reserves the right to terminate this Agreement at any time for its convenience, or in the event that it abandons or indefinitely postpones the Project.

Such terminations shall be accomplished by written notice to that effect, delivered to J-U-B. Upon receipt of such notice, J-U-B shall immediately cease work. Payment to J-U-B shall be made for work performed prior to receipt by J-U-B of such termination notice, and J-U-B shall have no claim for loss of anticipated profits or any additional compensation.

- c. In the event the City fails to substantially comply with the provisions of this Agreement, or if it fails to timely pay compensation due to J-U-B, J-U-B may serve written notice thereof upon the CITY, and, if the CITY fails within a period of seven (7) working days thereafter to correct such failure, J-U-B may terminate this Agreement upon written notice to the CITY. J-U-B accepts no liability in such circumstances for damages or delays that result from suspension of work by the CITY.

- 6. **CITY Representative.** The CITY hereby appoints Russ Willardson or his designee as the CITY's representative to assist in the administrative management of this Agreement, to ensure that the work to be performed by J-U-B is timely and adequately performed, and to provide for CITY approvals as may be required by this Agreement or the nature of the work. The CITY's representative shall assist in coordinating, monitoring, and evaluating this Agreement to completion. J-U-B understands and agrees that the CITY's representative shall have no control over the means, methods, techniques, or procedures employed by J-U-B, it being clearly understood that the CITY is interested only in the results obtained under this Agreement, with the manner and means of obtaining those results being under the sole control of J-U-B.

7. **Additional Conditions.**

- a. CITY will furnish all applicable criteria and operating standards needed to meet CITY requirements.
- b. **Responsibility for Consultants.** J-U-B shall be responsible for all of J-U-B's consultants and subconsultants of any tier for the services set forth in this Agreement. J-U-B shall be solely responsible for compensation due to consultants and subconsultants at any tier for the services set forth in this Agreement. J-U-B shall indemnify and hold the City harmless from any claims, damages or expenses related to J-U-B's consultants or subconsultants of any tier resulting from performance under this Agreement.
- c. **Responsibility for Documents.** Notwithstanding any approval from the CITY of the documents prepared by J-U-B pursuant to this Agreement, J-U-B and J-U-B's consultants shall be solely responsible, as measured by the standard of care as defined herein, for (i) the technical accuracy and adequacy of such documents; (ii) the constructability of the improvements described in such documents; (iii) the compliance of such documents and the improvements described in such

documents with all laws, ordinances, codes, regulations, rules, or other requirements of governmental authorities having jurisdiction over the Project applicable to the Project at the time of the issuance of the Building Permit for the improvements described in such documents (including the Americans with Disabilities Act Accessibility Guidelines); and (iv) the compliance of such documents and improvements described in such documents with the design and construction standards provided by the CITY, if any. J-U-B shall be responsible for the adequacy, accuracy, and coordination of all documents used on the Project prepared by J-U-B, J-U-B's consultants, or their subconsultants of any tier.

- d. **Instruments of Service.** The CITY and J-U-B acknowledge that any and all drawings, specifications, reports, models, and other documents and data (including documents, drawings, and data retained or stored by electronic means, such as AutoCad 2008 or compatible or similar files) prepared by J-U-B or by J-U-B's consultants or its subconsultants of any tier related to the Project pursuant to this Agreement are Instruments of Service. J-U-B represents and warrants that J-U-B owns all of the rights, title and interest in the Instruments of Service and that ownership of the Instruments of Service is fully assignable. Accordingly, J-U-B hereby assigns to the CITY ownership of all Instruments of Service and hereby assigns to the CITY all common law, statutory, or other reserved rights, including all copyrights that J-U-B has in the Instruments of Service. J-U-B shall require similar assignment by its consultants and subconsultants of any tier to the CITY. At the completion of the Project or upon termination of this Agreement, whichever occurs first, J-U-B, its consultants, and subconsultants at any tier shall promptly deliver reproducible files (including AutoCad 2008 or compatible or similar files) to the CITY all Instruments of Service related to the Project and/or prepared pursuant to this Agreement. Any reuse of the Instruments of Service by the CITY for any project other than the Project will be at the CITY's sole risk, and J-U-B, its consultants, and subconsultants shall not be liable.
8. **Independent Contractor.** It is understood and agreed that J-U-B is an independent contractor, and that the officers and employees of J-U-B shall not be employees, officers, or agents of the City; nor shall they represent themselves to be City employees; nor shall they be entitled, as a result of the execution of this Agreement, to any benefits or protections that would otherwise be available to City employees.
9. **Conflict of Interest.** J-U-B warrants that no City employee, official, or agent has been retained by J-U-B to solicit or secure this Agreement upon an agreement or understanding to be or to become an officer, agent, or employee of J-U-B, or to receive a commission, percentage, brokerage, contingent fee, or any other form of compensation.
10. **Indemnification and Insurance.** J-U-B agrees to indemnify and hold the CITY harmless from and against damages and expenses, including reasonable court costs and attorney's fees, by reason of liability imposed against the CITY for damages because of

bodily injury, death, and/or property damages, intellectual property or otherwise, resulting from the J-U-B's performance of services under this Agreement, to the extent that such bodily injuries, death, and/or property damages, intellectual or otherwise, are attributable to the negligence of J-U-B and/or J-U-B's consultants, subconsultants of any tier, representatives, servants, agents, employees, and/or assigns. The indemnification required by this section shall not apply to any bodily injuries, death, and/or property damages that are attributable to the negligence of the CITY. As used in this section, the CITY shall also refer to the officers, agents, assigns, volunteers, and employees of the CITY.

J-U-B will maintain insurance coverage throughout the term of the Agreement. Insurance coverage will include:

1)	Worker's Compensation State Employer's Liability	Statutory \$100,000
2)	Commercial General Liability Bodily Injury and Property Damage Aggregate	\$2,000,000 \$4,000,000
3)	Automobile Liability Per-Occurrence Limit	\$2,000,000
4)	Professional Liability	\$2,000,000

11. **Subcontract Assignment.** Neither party shall assign any rights or interest herein without prior written consent of the other party.
12. **Attorney's Fees.** In the event of default hereunder, all costs incurred in enforcing this Agreement, including reasonable attorney's fees, whether legal services are provided by in-house or outside counsel and whether incurred through initiation of legal proceedings or otherwise, shall be allocated in accordance with State law.
13. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties.
14. **Entire Agreement.** This Agreement contains the entire agreement between the parties, and no statement, promise, or inducements made by either party or agents for either party, which are not contained in this written Agreement, shall be binding or valid.
15. **Modification of Agreement.** This Agreement may be modified only by written amendment executed by all of the parties hereto.



WEST VALLEY CITY

\_\_\_\_\_  
Ron Bigelow, Mayor

ATTEST:

\_\_\_\_\_  
Sheri McKendrick, City Recorder

J-U-B ENGINEERS, INC.

\_\_\_\_\_  
By:  
Its:

STATE OF UTAH            )  
                                      : ss.  
COUNTY OF SALT LAKE )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, personally appeared before me \_\_\_\_\_, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he is the \_\_\_\_\_ [title] of J-U-B Engineers, Inc., and that this Professional Services Agreement was signed by him in behalf of said corporation by authority of its bylaws or of a Resolution of its Board of Directors, and he acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
Notary Public