



**Item:** Professional Services Agreement Award: Central Montana Agricultural Technology Park Tax Increment Finance District Infrastructure Projects, O.F. 1658.1

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Consider proposal and approve Agreement.

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**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission award a contract in the amount of \$98,000.00 to Thomas Dean & Hoskins, PC (TD&H) for Engineering Services associated with the Central Montana Agricultural Technology Park (CMATP) Tax Increment Finance (TIF) District Infrastructure Projects, O. F. 1658.1, and authorize the City Manager to execute the Professional Services Agreement documents.”

2. Mayor calls for a second, discussion, public comment, and calls for the vote.

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**Staff Recommendation:** Approve Professional Services Agreement.

**Background:**

Significant Impacts

Engineering services provided by TD&H will complete the design of the first two TIF infrastructure projects within the CMATP. These include gravity sanitary sewer mains to serve ADF International and Dali LLC’s Great Bear Phase 2 projects, and pavement of Great Bear Avenue to serve the entire district. TD&H will also assist with bidding, as-built production, and other services. As the third part of this agreement, TD&H will provide a preliminary storm drain improvements design for the CMATP, which is the first step towards a comprehensive storm drainage system for this portion of the City.

Citizen Participation

The CMATP and adjacent area have no private residences, although Neighborhood Council 3 and the public in general have commented favorably upon industrial development in this area. The TIF applications for these expenditures were approved by

the Planning Advisory Board and the City Commission, at which times the public had opportunities to comment.

#### Workload Impacts

Engineering analysis, design phase engineering, plans, and specifications will be completed by TD&H, along with other professional services with direction from City engineering staff. City staff will provide plan review plus inspection and administration during the construction phase of the projects.

#### Purpose

Deficiencies in the existing infrastructure serving the CMATP were quantified in a preliminary Capital Improvement Plan (CIP) generated by the Engineering Division and dated May 23, 2013. This CIP was included with the project funding applications and agenda reports. The projects covered by this agreement were identified as the most beneficial and time sensitive needs of the CMATP.

#### Project Work Scope

This contract is divided into three sections. First, TD&H will complete the design of the gravity sanitary sewer main from the Black Eagle Road sewage lift station to the current terminus of the ADF sewer main, and to a point just inside the Great Bear Phase 2 site. Most of this design has already been completed by Dali LLC. The project will be put out for bids as soon as possible. Construction completion is scheduled for October 1, 2013.

The second section of the agreement will design paving for the currently graveled driveway from Highway 87 to the malt plant gate. Design has started on the west end of this driveway, to be named Great Bear Avenue, by Dali LLC. Design will be completed by TD&H and the project will be put out to bid. Construction completion is scheduled for October 1, although this date might need to be extended.

The third section of the agreement will provide a preliminary design of the CMATP's storm drainage system from the stock pond located east of Black Eagle Road west to Highway 87. As the area develops, a drainage system is needed to convey flows and prevent damage to properties and infrastructure along the way. TD&H will provide preliminary designs for the system and tighter cost estimates. This will allow the City to more accurately estimate financial needs for the improvements.

#### Evaluation and Selection Process

TD&H was selected for the improvements design in accordance with the City's Architect, Engineer and Surveyor Selection Policy. The consultant has already generated most of the plans for the sewer and part of the plans for the street. They have also surveyed the area. This will allow TD&H to rapidly get the project out to bid, which will help ensure timely completion and save expenses.

#### Conclusion

City staff recommends awarding the Professional Services Agreement to TD&H in the amount of \$98,000.00.

#### **Fiscal Impact:**

Funding for this contract was included in the CMATP TIF applications that were approved by the City Commission on July 2, 2013. Of the \$98,000, the sewer main extension design will cost \$22,000; roadway paving design, \$31,000; and the storm drain study, \$45,000.

It should be noted that the start of the storm drain portion of this agreement will be delayed until cash is available in the CMATP TIF account. This will occur when a) revenue is generated by properties contributing to the TIF; b) project construction costs come in under estimate; and/or c) the malt plant reimburses the TIF for their financial obligations under their annexation agreement to pay for part of the sanitary sewer infrastructure.

The attached Professional Services Agreement details the work scope and summarizes the project costs.

**Alternatives:**

The City Commission could vote to disapprove of the Professional Services Agreement.

**Attachments/Exhibits:**

1. Professional Services Agreement

## PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **CITY OF GREAT FALLS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 5021, Great Falls, Montana 59403-5021, hereinafter referred to as "City," and TD&H Engineering, 1800 River Drive North, Great Falls, MT 59401 hereinafter referred to as "Consultant."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to hire Consultant as an independent contractor to perform for City services described in the Scope of Services attached hereto as Exhibit "A" and by this reference made a part hereof.

2. **Effective Date:** This Agreement is effective upon the date of its execution and will terminate on the 30th day of June, 2014. The parties may extend this agreement in writing prior to its termination.

3. **Scope of Work:** Consultant will perform the work and provide the services in accordance with the requirements of the Scope of Services.

4. **Payment:** City agrees to pay Consultant Ninety Eight Thousand Dollars (\$98,000) for services performed pursuant to the Scope of Services. This includes: Phase 1. Sanitary sewer services, \$22,000; Phase 2. Roadway services, \$31,000; and Phase 3. Storm drain services, \$45,000. Consulting services will be completed on the basis of time and materials at the rates indicated on Exhibit B, Rate Schedule.

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 contract amount. The parties must agree upon any extra charges in writing.

5. **Independent Contractor Status:** The parties agree that Consultant is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. 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 hereunder 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, including the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA. As applicable, Consultant agrees to purchase a City safety inspection certificate or special business license.

9. **Nondiscrimination:** Consultant agrees that all hiring by Consultant of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

**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 agreement signed by both parties hereto. The Consultant may not subcontract or assign Consultant's rights, including the right to compensation or duties arising hereunder, 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 David Dobbs, City Engineer, and Consultant's designated liaison with City is John Juras, Senior Civil Engineer.

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

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

**CITY OF GREAT FALLS, MONTANA**

**TD&H ENGINEERING, PC,  
CONSULTANT**

By \_\_\_\_\_  
Gregory T. Doyon, City Manager

By John Juras  
Print Name: John Juras  
Print Title: Project Engineer

**ATTEST:**

(Seal of the City)

\_\_\_\_\_  
Lisa Kunz, City Clerk

**APPROVED AS TO FORM**

By \_\_\_\_\_  
Sara R. Sexe, City Attorney

## EXHIBIT "A"

### Scope of Services

#### 1. CMATP Sanitary Sewer Main Extension, Phase 1, (Office File 1658.1)

TD&H proposes to utilize components of the current Sanitary Sewer main design for Great Bear No. 2 Phase 1 to prepare a separate bid package for construction of the sanitary sewer main between Black Eagle Road and the manholes adjacent to MaltEurop's west gate. Portions of the sewer main upstream of this segment would be included in the same bid package as Additive Bid Schedules. Work to complete the Additive Schedules is not included in this scope and will be paid for by Dali LLC.

Specific tasks include:

1. Coordinating ADF sewer main connection,
2. Preparing an Easement Exhibit for MaltEurop utility easement,
3. Preparing construction plans, specifications, bid documents, and cost estimates,
4. Performing comprehensive bid services,
5. Construction staking,
6. Managing the sewer main construction engineering,
7. Processing contractor payment applications,
8. Final inspection and acceptance,
9. As-built Construction Mylar Drawings.

The City would perform full time construction inspection as per standard public infrastructure construction procedures. Montana Prevailing Wage Rates (Heavy) must be paid to construction workers.

#### 2. CMATP Great Bear Avenue Roadway Improvements, Phase 2, (Office File 1658.1)

TD&H would utilize the current partial Great Bear Avenue paving design and geotechnical recommendations to prepare a separate bid package for construction of Great Bear Avenue paving.

Specific tasks include:

1. Coordinating ADF approach and Innovation Street connections and ADF Storm Drain connections,
2. Preparing construction plans, specifications, bid documents, and cost estimates,
3. Performing comprehensive bid services,
4. Construction staking,
5. Managing the roadway construction engineering,
6. Final inspection and acceptance,
7. As-built Construction Mylar Drawings.



The City would perform full time construction inspection as per standard public infrastructure construction procedures. Montana Prevailing Wage Rates (Highway) must be paid to construction workers.

3. CMATP Preliminary Storm Drain Improvements Design, Phase 3 (Office File 1658.1)

TD&H will utilize components of the Great Falls Northeast Storm Drainage Master Plan plus data generated by City Staff to generate a Preliminary Storm Drain system design from Highway 87 east to the existing stock pond.

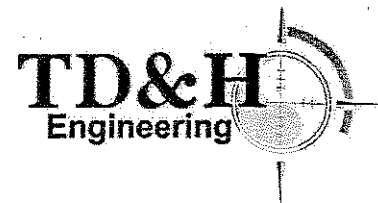
Delay the start of work for Phase 3 services until funding availability is confirmed by the City. Availability of funds based on results of Phases 1 and 2 bids and other factors.

Specific tasks include:

1. Verify Design Storm to be used for pipe design.
2. Utilize hydrologic calculations completed by others, including the ADF development, to model stormwater flows.
3. Complete topographic survey of pipeline alignment.
4. Set preliminary sizing, alignment and grade of storm drain and prepare preliminary plans.
5. Prepare Easement Exhibits for selected preliminary alignment.
6. Evaluate Stanek stock pond for 100 year storm detention viability. Cross section pond interior to assess pond stage/storage relationship.
7. Establish final design fee estimates and construction cost estimates for bond funded storm drain construction.
8. Prepare design report summarizing basis of design, presenting hydrologic calculations, and summarizing hydraulic computations.

**EXHIBIT "B"**

**TD&H ENGINEERING  
GREAT FALLS OFFICE  
STANDARD RATE SCHEDULE  
JANUARY 2013**



<b>TASK</b>	<b>DESCRIPTION</b>	<b>HOURLY RATE</b>
#3	Principal	\$182.00
#4	Senior Engineer II	156.00
#4	Senior Engineer I	135.00
#5	Engineer V	127.00
#5	Engineer IV	114.00
#5	Engineer III	96.00
#16	Engineer II	86.00
#16	Engineer I	82.00
#17	Production Manager/Construction Technician	100.00
#6	Engineering Technician	94.00
#10	Construction Administrator I	79.00
#8	Lab Technician	60.00 *
#18	CAD Manager	77.00
#12	CAD Drafter II	67.00
#13	Clerical	49.00
#19	Engineering Assistant	64.00
#7	Registered Land Surveyor	93.00
#9	Construction Inspector II	77.00 *
#9	Construction Inspector I	64.00 *
#1	Survey Party Chief I	66.00
#2	Surveyor	59.00
#14	Surveyor's Assistant	46.00
#31	Deposition & Court Testimony	261.00

\*See Materials Testing Fee Schedule for Additional Information

**Vehicle Use:** Mileage @ \$0.65/mile

**Reproduction**

Color Laser Printing \$0.70 per page  
Copy Machine \$0.10 per copy

**Out-of-pocket Expenses:** – charged at actual cost plus 10%

**Survey - Global Positioning**

Weekly Rate: 1500.00  
Daily Rate: 450.00  
Hourly Rate: 80.00

**Computer w/software**

Monthly Rate: \$500.00  
Weekly Rate: 180.00  
Daily Rate: 60.00  
Hourly Rate: 10.00

**Survey - Total Station with Data Collector**

Weekly Rate: 300.00  
Daily Rate: 100.00  
Hourly Rate: 20.00

**CAD Plotter (In-House)**

Xerox; Black and White \$0.30 / SF  
Bond \$0.90 / SF  
Mylar \$3.00 / SF

- NOTES:**
- 1) Construction Materials Testing per Separate Fee Schedule.
  - 2) Overtime work (above 40 hours per week, or weekends) increase hourly rates by 25%, or per quotation.
  - 3) Annual rate adjustments occur in January of each year. Increases typically range from 3% to 4%, and will be approved by the client prior to implementing.