

**AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH DOERING ENGINEERING, INC. FOR PROFESSIONAL SERVICES RELATING TO SURVEY WORK FOR THE ANTICIPATED RETROFITS OF UP TO EIGHT EXISTING DETENTION/RETENTION BASINS LOCATED IN THE UPPER REACHES OF THE CAULKS CREEK WATERSHED, IN ORDER TO IMPROVE THEIR FUNCTIONS AND WATER STORAGE CAPABILITIES.**

**WHEREAS**, the City Council created the Watershed Erosion Task Force in 2019 to begin a systematic assessment of Wildwood's nine (9) watersheds, which were experiencing different degrees of problems associated with erosion, woodland loss, flooding, and overall instability; and

**WHEREAS**, the task force has been meeting for almost four (4) years and recently chose, as part of its first group of projects, the retrofits of eight (8), existing detention/retention basins that are located in the upper reaches of Caulks Creek Watershed, given they were constructed at old standards for management of stormwater runoff that have been ultimately determined to be ineffectual; and

**WHEREAS**, a preliminary analysis of these basins was completed by two (2) consultants (Joe Wilson and Todd Wagner) and led to a meeting of the City with the trustees of these subdivisions, where the basins are located, for permission to expand the investigations of them, which was granted, and then followed by authorization by the City Council of additional efforts for the purposes of creating engineered plans and bid specifications for the same; and

**WHEREAS**, to assist in completing these desired design and engineered plans and bid specifications for this series of projects, the primary consultant, Todd Wagner, Wagner and Associates, L.L.C., requested these basin features be surveyed by a registered land surveyor to define the elevations of structures and nearby low sill elevations of buildings in their vicinities; and

**WHEREAS**, the Department of Planning contacted Doering Engineering, Inc., which provides survey services, and it provided a Scope of Services for these purposes that is attached hereto; and

**WHEREAS**, this Scope of Services was presented to the Planning and Parks Committee for its consideration and action, which was favorable, and that action was presented to City Council at its July 2023 Work Session, where the members authorized the preparation of legislation for this necessary component of this overall stormwater management project; and

**WHEREAS**, the contractual amount for these skills, per the Scope of Services, is not to exceed amount of fifty thousand dollars (\$50,000.00), which is to be funded through the 2023 Capital Improvements Program under Watershed Erosion Task Force Projects; and

**WHEREAS**, the engagement of this consultant will allow the engineering work to continue and reach the critical stage of it, where the modelling of these basins at different time and duration storm events is planned, with the best approaches for optimizing the use of them for protection of the downstream properties, both public and private types, can then be determined.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILDWOOD, MISSOURI, AS FOLLOWS:**

**Section One.** The City Council of the City of Wildwood, Missouri hereby authorizes the Mayor of the City of Wildwood, Missouri to execute the attached contract with Doering Engineering, Inc., for professional surveying services relating to the Watershed Erosion Task Force’s effort to retrofit of up to eight (8) basins located in the upper reaches of the Caulks Creek Watershed that are intended to retain more runoff during storm events and better manage impacts within the overall waterway. This survey work is needed to assist in understanding the storage capacities of these existing basins, thereby avoid creating flooding situations or other issues relating to the management of runoff to and from them.

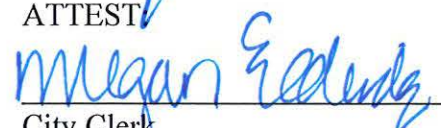
**Section Two.** The total expenses and liability of the City of Wildwood authorized herein shall be the agreed sum not to exceed fifty thousand dollars (\$50,000.00) again to address the Scope of Work and identified items wholly contained in **Attachment B** of the attached Contract document.

**Section Three.** This Ordinance shall be in full force and effect upon its passage and approval by the City Council of the City of Wildwood, Missouri.

This Bill was passed and approved this 9th day of October, 2023, by the Council of the City of Wildwood after having been read by title or in full two times prior to passage.

  
\_\_\_\_\_  
Presiding Officer

  
\_\_\_\_\_  
James R. Bowlin, Mayor

ATTEST  
  
\_\_\_\_\_  
City Clerk

ATTEST:  
  
\_\_\_\_\_  
City Clerk



**City of Wildwood**  
**CONSULTANT / SERVICES AGREEMENT**

DEPARTMENT: Planning and Parks

DATE: September 11, 2023

THIS AGREEMENT, made and effective this <sup>9</sup>~~11~~<sup>October</sup> day of ~~September~~ 2023 by and between the City of Wildwood, Missouri, a municipal corporation hereinafter referred to as "City", and Doering Engineering, hereinafter referred to as "Consultant", with a business address of: 4850 Lemay Ferry Road, St. Louis, Missouri 63129.

WITNESSETH: That the parties hereto, for the considerations hereinafter set forth, agree as follows:

**I. SCOPE OF SERVICES**

Except as expressly specified herein, Consultant hereby agrees to provide all of the supervision, labor, technical services, facilities, materials, tools, equipment, and apparatus, and to perform all the services and do all the things necessary for the proper completion of the Consultant services which are particularly described in any attachments incorporated herein and additionally as follows: to provide professional surveying services in association with the development of models and plans for the potential retrofits of up to eight (8), existing detention/retention basins, all being in accordance with the Scope of Services, as set forth in Attachment B of this Agreement.

The above services (hereinafter referred to as the "Work") shall be provided by the Consultant in accordance with all the provisions of this Agreement, including the General Conditions attached hereto as Attachment A, for the project which are incorporated herein by reference, and which terms shall prevail over any conflicting terms that may otherwise be adopted herein as part of any attachment, or any other documents submitted by Consultant.

**II. COMPENSATION**

**A. Basic Compensation.** The City hereby agrees to pay the Consultant, as full compensation for the complete and satisfactory performance of the Work, and all expenses and costs related thereto:

A sum not to exceed Forty-Nine Thousand Seventy-Two Dollars (\$49,072.00), as set forth on an Attachment B attached hereto and incorporated herein.

**B. Additional Compensation.** Any cost not specifically allowed the Consultant pursuant to Paragraph A, Basic Compensation, shall be considered Additional Compensation and must first be authorized by a written Change Order approved by the City and Consultant. If the City directs or authorizes additional services not included in this Agreement to be performed, the City and Consultant shall first agree by written Change Order as to how the Consultant is to be paid. Any services provided in addition to the Work shall not entitle Consultant

to additional compensation unless approved in advance and by written Change Order executed by the City and the Consultant.

### III. TIME AND MANNER OF PAYMENTS

All invoices, complete with necessary support documentation, shall be submitted to the City and payment shall be made by City in a lump sum within thirty (30) days of receipt of an invoice received after satisfactory performance of the Work for the fees, prices, rates or schedule of values set forth above. When appropriate due to the nature of the Work of the Agreement, progress payments may be authorized to be made based upon completion of quantifiable/identifiable phases of the Work. If authorized by the City, a schedule of progress payments based on phases of Work completed and in such corresponding amounts as determined to be appropriate shall be set forth in Attachment C attached hereto.

### IV. SCHEDULE OF WORK

Time is of the essence. The Work to be performed under the Agreement shall be commenced on or before September 12, 2023, shall be completed on or before December 31, 2023, and shall be performed so as not to delay or hinder City's schedule for the project, if applicable.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the effective date of Contract first above written.

DOERING ENGINEERING INC.

Consultant

By: MA Doering

Title MARK A DOERING  
PRESIDENT

[Signature]  
City of Wildwood

By: Jean Bowlin

Title Mayor

ATTEST:  
Megan Eddy

DATE: 10/9/23

- ATTACHMENT A – Consultant/Services Agreement General Conditions
- ATTACHMENT B – Consultant Proposal
- ATTACHMENT C – Progress Payment Schedule (Optional)
- ATTACHMENT D – Consultant Liability Insurance Requirements



## Attachment A

City of Wildwood

### CONSULTANT/SERVICES AGREEMENT GENERAL CONDITIONS

- 1. Independent Consultant.** The Consultant shall be and operate as an independent Consultant in the performance of this Agreement. The Consultant shall have complete charge of the personnel engaged in the performance of the Work, and all persons employed by the Consultant shall be employees of said Consultant and not employees of the City in any respect.
- 2. Assignment; Subcontracts.** This Agreement shall not be assigned to any other parties by the Consultant without the express written consent of the City. In addition, the Consultant shall not subcontract or assign any of the Work to be performed by it hereunder without the express written consent of the City except as may be set forth in Attachment B.
- 3. Proposals for the Work.** If the City issued a request for proposals in connection with the Work, such request for proposals and the proposal of the Consultant in response thereto, are incorporated herein by reference and made a part of this Agreement. In case of any conflicts between the request for proposals and the proposal of the Consultant, the requirements of the executed Consultant/Services Agreement shall control unless a change thereto is specifically stated in this Agreement.
- 4. Changes to Work and/or Compensation.** No change in the Scope of Work, Compensation or terms contained in this Agreement shall be made except as authorized in advance in writing by Change Order approved by the City and Consultant. The Consultant shall make any and all changes in the Work without invalidating this Agreement when specifically ordered to do so by written Change Order approved by the City and Consultant in advance of the Work being performed. Consultant, prior to the commencement of such changed or revised Work or request for compensation in excess of the Basic Compensation, shall promptly submit to the City a written cost or credit proposal for such changed or revised Work or additional compensation. If the City and Consultant shall not be able to agree as to the amount, either in consideration of time or compensation to be allowed or deducted, it shall nevertheless be the duty of Consultant, upon written notice from the City, to immediately proceed with such alteration or change, and Consultant shall be compensated the reasonable value of such Work. The City reserves the right to suspend Work of the Consultant upon written notification from the City if the City and Consultant are not able to agree as to matters of scope and compensation for changes to the Work.
- 5. Indemnification.** To the fullest extent permitted by law, the Consultant agrees to defend, indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, in any way arising from consultant's breach of the Agreement or out of services and/or operations negligently performed hereunder by the Consultant, including the City's



reliance on or use of the services or products provided by the Consultant under the terms of this Agreement. The Consultant shall not be liable for any loss or damage attributable solely to the negligence of the City. Consultant's sole remedy against the City for any claimed breach shall be limited to specific performance of the Agreement, including payment not to exceed the lawfully due compensation, but in no event shall the City be liable for or subject to any claim for damages, costs or attorneys' fees arising from this Agreement.

**6. Insurance.** Consultant shall furnish the City the certificates of insurance for workers' compensation, public liability, and property damage, including automobile coverage in the amounts specified by the City in the request for proposals, if any, otherwise in the amounts stated on Attachment D. The policies of insurance shall be in such form and shall be issued by such company or companies as may be reasonably satisfactory to the City. The City and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Consultant's Work, as determined by the City, shall be named as additional insured.

In addition to the foregoing, the Consultant shall maintain Professional Liability "errors and omissions" insurance in the form for the coverages satisfactory to City as indicated in the request for proposals, if any, otherwise as stated on attached Attachment D, but in no event less than the City's sovereign immunity limits as established by RSMo. §537.610, as adjusted from time to time. The City and Consultant waive all rights against each other for damages caused by fire or other perils to the extent covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance. Nothing in this Agreement, or the provision of insurance, shall be deemed a waiver of sovereign immunity by the City.

**7. Multi-year contracts; Non-appropriation.** Notwithstanding any provision herein to the contrary, the City is obligated only to make the payments set forth in this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during the City's then current fiscal year at the discretion of the City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "Event of Non-appropriation"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of the City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party. If applicable, this Agreement may be annually renewed at each fiscal year by inclusion of specific appropriation for this Agreement, from year to year not to exceed the maximum renewal period or term as set forth in the Agreement.

**8. Accounting.** During the period of this Agreement, the Consultant shall maintain books of accounts of its expenses and charges in connection with this Agreement in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Consultant.

**9. Reimbursable Expenses.** Expenses of the Consultant that are directly attributable to the performance of the Agreement that are in addition to the Basic Compensation, such as reproduction charges, travel expenses, long distance phone calls, mileage, and sub-contractors, are to be set forth in a schedule of reimbursable fees

and rates as part of the Agreement. Consultant personnel labor rate expenses for time while traveling in performance of the Agreement do not qualify as reimbursable expenses.

**10. Personnel.** The Work shall be performed exclusively by the personnel of the Consultant identified in the Consultant's proposal and no other personnel of the Consultant shall perform any of the Work without the express written approval of the City.

**11. Other Consultants.** The City reserves the right to employ other consultants in connection with the Work.

**12. Project Records and Work Product.** The Consultant shall provide the City with copies of all documents pertinent to the Work which shall include, without limitation, reports, correspondence, meeting minutes, and any deliverables. The City shall own all right, title and interest, including without limitations, all copyrights and intellectual property rights, to all documents and work product of the Consultant created in performance of or relating to this Agreement. Consultant agrees to take all steps reasonably requested by the City to evidence, maintain, and defend the City's ownership rights in the work product.

**13. Site Operations.** Where appropriate, the City will arrange for right of entry to any property at the request of the Consultant for the purpose of performing studies, tests and evaluations in connection with the Work.

**14. Termination.** The City shall have the right to terminate the Agreement at any time for any reason by giving the Consultant written notice to such effect. The City shall pay to the Consultant in full satisfaction and discharge of all amounts owing to the Consultant under the Agreement an amount equal to the cost of all Work performed by the Consultant up to such termination date, less all amounts previously paid to the Consultant on account of the Work performed and accepted. The Consultant shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to the Consultant for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Work.

**15. Compliance with Laws.** The Consultant shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, worker eligibility, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of the Agreement.

**16. Nondisclosure.** The Consultant agrees that it will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Agreement.

**17. Representations.** Consultant agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree the Agreement represents the entire agreement between the parties.



18. **Amendments.** This Agreement may be amended only by written agreement signed by the parties.
19. **Governing Law.** The interpretation of and performance under this Agreement shall be governed by the laws of the state of Missouri, without regard to choice of law principles.
20. **Severability.** If any provisions of this Agreement shall be found to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect and be construed to effectuate the intent of the parties.
21. **Notice.** Any notice or written communication required or permitted hereunder shall be sent to the parties via United States mail, certified return receipt requested, or via facsimile, to the respective addresses and numbers on file. Any notice so given shall be deemed effective on the date shown on the receipt thereof.
22. **Good Faith.** The parties shall act in good faith in the performance of their obligations hereunder.
23. **Prevailing Party.** If either party to this Agreement defaults in the performance of its obligation(s) hereunder, the prevailing party in any action to enforce its rights and remedies shall be entitled to obtain its costs and reasonable attorney's fees from the non-prevailing party.
24. **Non-Waiver.** The failure of either party to enforce any of its rights hereunder shall not act as a waiver of that or any other right possessed by such party under this Agreement.
25. **Authorization to Enter into Agreement.** Each party hereunder represents to the other that it is duly organized, validly existing and in good standing under the laws of its state of incorporation or formation; the execution, delivery and performance of this Agreement by such party has been duly authorized by all necessary and appropriate action; and, this Agreement constitutes a valid and binding obligation of such party, enforceable against such party in accordance with the terms hereof.
26. **Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one agreement that is binding upon both parties hereto, notwithstanding that all parties are not signatories to the same counterpart. This Agreement may be delivered by facsimile or electronic mail transmission. This Agreement shall be considered to have been executed by a party, if there exists a photocopy, facsimile copy, electronic copy, or a photocopy of a facsimile or electronic copy of an original hereof or of a counterpart hereof which has been signed by such party. Any photocopy, facsimile copy, electronic copy or photocopy of a facsimile copy of this Agreement or any counterpart hereof shall be admissible into evidence in any proceeding as though the same was an original.
27. **Other Special Provisions.** The special provisions set forth on Attachments C and D are incorporated herein by reference and made a part hereof.



**WORK ORDER  
FOR PROFESSIONAL SERVICES**

<b>Client Name</b>	<b>City of Wildwood</b>	<b>Date</b>	<b>6/13/2023</b>
<b>Contact</b>	<b>Joe Vujnich</b>	<b>Job #</b>	<b>23035</b>
<b>Client Address</b>	<b>16860 Main Street</b>	<b>Phone</b>	
	<b>Wildwood Mo. 63040</b>	<b>Fax</b>	

**Client Email****Property Location: 8 Detention Basins in the City of Wildwood.****Basic Scope of Services And Related Fees****Doering Engineering will provide the following services:**

**Execute a topographic survey of each of the existing Detention Basins, locating the edge of the water as of this date and then getting shots up the bank for design work. The overflow devices in each basin will be located and measured up with top and flow line information for each. This work will be tied to the existing subdivision lots. If the lot corners are close to the existing basin those corners will be found or set. This work will be based off the Modot VRS Network of continuously operating reference stations for 1983 east zone. After consulting with Todd Wagner PE, it was decided that the need is also for elevations across the bottom of each basin along a series of cross sections, approximately 5 per basin. Doering will obtain this information using a paddle boat with a trolling motor on it. (Doering will need access to each basin to place the boat in the water) Once all this information is obtained one drawing per basin will be prepared.**

**Our fee for these services will be \$49,072.00.****Doering Engineering will begin work immediately upon receipt of a signed copy of this agreement.**

4850 Lemay Ferry Road – St. Louis, MO 63129

Office: (314) 487-6913 – Fax (314) 843-1718

Email address: [Mdoering@doeringeng.com](mailto:Mdoering@doeringeng.com)

**FEES:** All fees are fixed fees. Fees will be billed monthly. Fees do not include any review fees or recording fees charged by the County. Fees do not include courier charges.

**NOTICE TO OWNER**

FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429, RSMo. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR LIEN WAIVERS FROM ALL PERSONS SUPPLYING MATERIALS OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.

THE CLIENT AGREES TO LIMIT DOERING ENGINEERING, INC.'S LIABILITY TO THE CLIENT AND TO ALL CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS ON THE PROJECT, AS A RESULT OF ANY PROFESSIONAL NEGLIGENT ACT, ERRORS, OMISSIONS OR BREACH OF CONTRACT, SUCH THAT THE TOTAL AGGREGATE LIABILITY OF DOERING ENGINEERING, INC. TO ALL THOSE NAMED SHALL NOT EXCEED DOERING ENGINEERING, INC.'S TOTAL FEE FOR SERVICES RENDERED ON THIS PROJECT OR \$50,000.00, WHICHEVER IS THE LESSER AMOUNT.

**FEE PAYMENT SCHEDULE**

BILLING STATEMENTS WILL BE SENT TO THE CLIENT ON THE FIRST OF EACH MONTH AND WILL BE BASED ON PERCENTAGE OF COMPLETION OF THE CONTRACT AT THAT TIME. IF ACCOUNT IS MORE THAN 45 DAYS PAST DUE, ALL WORK SHALL BE STOPPED. DOERING ENGINEERING, INC., WILL NOT BE HELD LIABLE FOR ANY DAMAGES DUE TO WORK STOPPAGE. FAILURE BY THE CLIENT TO COMPLY WITH THE TERMS OF THIS FEE PAYMENT SCHEDULE WILL CONSTITUTE A BREACH OF CONTRACT AND MAY RESULT IN A LIEN BEING FILED AGAINST THE PROPERTY.

ORDER ACCEPTED BY:  
CLIENT NAME \_\_\_\_\_

ORDER RECEIVED BY:  
DOERING ENGINEERING, INC.

SIGNATURE \_\_\_\_\_

\_\_\_\_\_

TITLE \_\_\_\_\_  
DATE \_\_\_\_\_

\_\_\_\_\_

PLEASE SIGN AND RETURN. WE WILL RETURN ONE SIGNED COPY TO YOU FOR YOUR FILES



## Attachment C

### Consultant/Services Agreement Progress Payment Schedule

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<b>Consultant:</b>	Doering Engineering
<b>Date:</b>	September 11, 2023
<b>Project:</b>	Stormwater Basin Retrofits
<b>Basic Compensation:</b>	Not to Exceed Forty-Nine Thousand Seventy-Two Dollars (\$49,072.00)

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**Services Rendered and Invoice Billings (Progress Payments)..... \$49,072.00**  
(In Payment Applications for Services Rendered, Such being Consistent with the Accepted Scope of Work)

**Total Basic Compensation: Not to Exceed \$49,072.00**

## Attachment D

### Consultant Liability Insurance Requirements

The Consultant shall purchase and maintain in full force and effect the following insurance coverages with an insurance carrier acceptable to the City:

1. The policy(ies) shall be endorsed to cover the contractual liability of the Consultant under the General Conditions.
2. The Consultant and its Sub-consultants shall procure and maintain during the life of this Agreement insurance of the types and minimum amounts as follows:
  - (a) Workers' Compensation in full compliance with statutory requirements of Federal and State of Missouri law and Employers' Liability coverage in the amount of \$1,000,000\*.
  - (b) Comprehensive General Liability and Bodily Injury
    - Including Death: \$500,000 each person\*
    - \$3,000,000 each occurrence\*
    - Property Damage: \$3,000,000 each occurrence\*
    - \$3,000,000 aggregate\*
  - (c) Comprehensive Automobile Liability, Bodily Injury
    - Including Death: \$500,000 each person\*
    - \$3,000,000 each occurrence\*
    - Property Damage: \$3,000,000 each accident\*
  - (d) Professional Liability
    - Including Death: \$500,000 each person\*
    - \$3,000,000 each occurrence\*
    - Property Damage: \$3,000,000 each occurrence\*
    - \$3,000,000 aggregate\*

The City's Protective policy shall name the City as the Insured. Certificates evidencing such insurance shall be furnished the City prior to Consultant commencing the Work on this project. The certificates must state "The City of Wildwood is an additional insured."

\* but not less than the sovereign immunity limits established by RSMo. 537.610 et seq.