

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement between the **City of New Meadows** ("City") and **Keller Associates, Inc.** ("Consultant") and is effective as of the date of the last signature to the Agreement (Effective Date).

Owner's Project, of which Consultant's services under this Agreement are a part, is generally identified as follows: **City Engineering Services** ("Project").

The Owner and the Consultant agree to the following Project scope, schedule, and compensation:

SCOPE: The Consultant is appointed to serve as the City Engineer and Qualified Licensed Professional Engineer (QLPE) on an on call, as needed basis. This Agreement establishes a General City Engineering Services task which applies to routine support for minor efforts and consultations as requested by the City, including City requests to attend City Council meetings and services related to development reviews. Consultant agrees to create subtasks and track expenses for development reviews, and create other subtasks as requested by the City for budgeting purposes. Other more specific tasks will be authorized by independent Task Orders which will establish a detailed scope, schedule, and budget for each endeavor.

SCHEDULE: The schedule shall commence on the Effective Date of the Agreement. Consultant anticipates completing its services within a reasonable time.

COMPENSATION:

Basic Services. For General City Engineering Services, Consultant shall be reimbursed for all hours worked and other costs incurred at the rates and terms set forth in its current fee schedule included as Attachment A, updated semi-annually in January and July. For specific Task Orders under this agreement, compensation will be provided on a time-and-materials or lump sum basis as mutually agreed upon and as specified in each Task Order.

Additional Services. Compensation for performing Additional Services will be pursuant to a mutually agreed upon amendment to this Agreement.

In Witness Whereof, the parties hereto have executed this Agreement as of the date of the last signature below. The Terms and Conditions attached are included and incorporated in this agreement by this reference. Owner and Consultant further acknowledge that they have reviewed and accepted the attached Terms and Conditions.

CITY OF NEW MEADOWS

CONSULTANT: KELLER ASSOCIATES, INC.

Signature: _____
Name: _____
Title: _____
Address: _____
Telephone: _____
Date: _____

Signature: _____
Name: James Bledsoe
Title: Principal
Address: 100 East Bower Street, Suite 110
Meridian, ID 83642
Telephone: (208) 288-1992
Date: _____

TERMS AND CONDITIONS

1. **CONTRACT** – This document constitutes the full and complete Agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. The Agreement may be amended only if both parties specifically agree in writing to such amendment of the Agreement.
2. **INVOICES AND PAYMENT** – Owner will make payment within 30 calendar days of the invoice date. Consultant shall keep accurate records of expenses. If Owner contests an invoice, Owner shall advise the Consultant within 15 days of receipt of invoice of the specific basis for doing so, may withhold only that portion so contested, and shall pay the undisputed portion.

Interest. If payment is not received by the Consultant within 30 calendar days of the invoice date, Owner shall pay interest at a rate of 1½% per month (or the maximum allowable by law, whichever is lower) of the past due amount. Payments will be credited first to interest and then to principal.

Suspension. If the Owner fails to make payments when due, the Consultant may suspend performance of services upon five (5) calendar days' notice to the Owner. Owner agrees to indemnify and hold Consultant harmless from any claim or liability resulting from such suspension.
3. **DOCUMENTS** – All documents prepared or furnished by Consultant are instruments of service, and Consultant retains ownership and property interest (including the copyright and the right of reuse) in such documents. Owner shall have a limited license to use the documents in and for the Project subject to full payment for all services relating to preparation of the documents. The Owner agrees to obtain prior written agreement for any reuse or modifications of the instruments of service, and understands that any unauthorized use of the instruments of service shall be at the Owner's sole risk and without liability to the Consultant.
4. **STANDARD OF CARE** – The standard of care for all professional engineering and related services performed or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. The Consultant makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with the Consultant's services. Consultant shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws, rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.
5. **CHANGES OR DELAYS** – The proposed scope of services, compensation, schedule, and allocation of risks reflect Consultant's understanding of the Project at the date of this Agreement and respective Task Orders. Costs and schedule commitments shall be subject to renegotiation for changed conditions, unreasonable delays caused by the Owner's failure, independent government agencies, Force Majeure events (i.e. acts of God, riots, wars, sabotage, strikes, civil disturbances, pandemics, government declared emergencies, etc.), or causes beyond the reasonable control of Consultant. Where this occurs, changes in the Agreement and task orders shall be negotiated and an equitable adjustment in compensation and schedule shall be made.
6. **TERMINATION OR REDUCTION OF SERVICES** – The Owner and Consultant may terminate this Agreement in whole or in part at any time by giving 30 days written notice thereof. The Owner shall promptly pay Consultant for all services rendered to the effective date of suspension of services, plus suspension charges, which shall include the cost of assembling documents, personnel and equipment, rescheduling or reassignment, and commitments made to others on the Owner's behalf. If Owner elects to terminate, modify, or reduce any portion of Consultant's services under this Agreement, Owner shall indemnify Consultant from any damages related to the services or activities Consultant did not provide.
7. **SUSPENSION OF SERVICES** – If the Owner suspends services of the Consultant for any reason for more than thirty days, the Consultant shall be reimbursed for expenses incurred due to suspension of services, including costs associated with rescheduling or reassigning personnel, and commitments made to others on Owner's behalf.
8. **INDEMNITY AND LIMITATION OF LIABILITY** – Owner and Consultant each agree to indemnify and hold the other (including their respective officers, directors, employees, agents, owners, shareholders, members, partners, sub-consultants, subcontractors, and representatives) harmless from and against liability for all claims, losses, damages and expenses, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Owner and Consultant, they shall be borne by each party in proportion to its negligence. Neither the Owner nor Consultant shall be liable for incidental, indirect or consequential damages. The Consultant's liability to the Owner and to all construction contractors and subcontractors on the Project, due to the Consultant's negligent acts, errors omissions, or breach of contractual obligations relating to or arising out of the Project shall not exceed the Consultant's total fee of the respective Task Order.

9. **OPINIONS OF COST** – Consultant’s opinions of probable cost represent Consultant’s judgment as an experienced and qualified design professional. Since Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Owner’s and other contractor’s methods of determining prices, or over competitive bidding or market conditions, the Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable cost prepared by the Consultant.
10. **CONSTRUCTION PHASE SERVICES** – If Consultant performs any services during the construction phase of the Project, Consultant shall not supervise, direct, or have control over Owner’s contractor’s work. Consultant shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the contractor. Consultant does not guarantee the performance of the construction contract by the contractor and does not assume responsibility for the contractor’s failure to furnish and perform its work in accordance with the Contract Documents.
11. **MISCELLANEOUS**

Right of Entry: Unless otherwise noted in the scope of work, the Owner shall provide for Consultant’s right to enter the property owned by the Owner and others in order to fulfill the services to be performed hereunder.

Dispute Resolution: Owner or its Contractor agree to notify Consultant of any claims against the Consultant within 10 days of discovery of any allegations, errors or omissions. Should a dispute arise, Owner and Consultant agree to negotiate disputes between them in good faith for a period of 30 calendar days from the date the dispute is raised in writing by either the Owner or Consultant. If the parties fail to resolve the dispute through negotiation, then the dispute shall be decided through non-binding mediation or other mutually agreed alternative dispute resolution technique. Fees and expenses for mediation shall be split equally between the parties. The Owner and Consultant agree non-binding mediation or other mutually acceptable dispute resolution technique shall precede litigation. This Agreement shall be governed by the laws of the State where the Project is located.

Hazardous Environmental Conditions: The scope of Consultant’s services does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead or other hazardous materials, as defined by Federal, State, and local laws or regulations. Consultant is not required to become an arranger, operator, generator, or transporter of hazardous substances, and shall have no responsibility for the discovery, handling, removal, disposal or exposure of persons to hazardous substances of any form.

Subsurface Investigations: In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total project cost and/or execution. These conditions and cost/execution effects are not the responsibility of Consultant.

Consultant Reliance: Owner shall make available to Consultant all relevant information pertinent to the Project. Consultant shall be entitled to rely, without liability or the need for independent verification, on the accuracy and completeness of any and all information provided by Owner, Owner’s consultants and contractors, information from public records, and information ordinarily or customarily furnished by others, including, but not limited to specialty contractors, manufacturers, suppliers, and publishers of technical standards.

Certifications: Consultant shall not be required to sign any documents that result in Consultant having to certify, warrant, or guarantee the existence of conditions whose existence Consultant cannot ascertain within its services for the Project.

Third Parties: Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Consultant. Consultant’s services hereunder are being performed solely for the benefit of the Owner, and no other entity shall have any claim against Consultant because of this Agreement or Consultant’s performance of services hereunder.

Severability and Waiver: In the event any of these contract provisions are found to be illegal or otherwise unenforceable, the unenforceable contract provisions will be stricken, and those remaining contract provisions shall continue in full force and effect. The failure of either party of this Agreement to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, shall not be construed as a waiver of such term, covenant or right.

Joint Drafting: The Parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

ATTACHMENT A
KELLER ASSOCIATES, Inc.
2024 TITLE CODE BILLING RATES
January 1, 2024

Project Engineer - I	\$105	-	\$130
Project Engineer - II	\$130	-	\$170
Project Engineer - III	\$175	-	\$230
Project Manager - I / II	\$145	-	\$180
Project Manager - III	\$180	-	\$240
Structural - I	\$105	-	\$130
Structural - II	\$130	-	\$170
Structural - III	\$175	-	\$230
Chief Engineer/Structural Engineer			\$290
CAD - I	\$85	-	\$105
CAD - II	\$110	-	\$130
CAD - III	\$135	-	\$160
CAD Manager			\$190
Electrical/Controls - I	\$110	-	\$130
Electrical/Controls - II	\$130	-	\$170
Electrical/Controls - III	\$175	-	\$230
Principal	\$245	-	\$300
Survey - I	\$100	-	\$125
Survey - II	\$125	-	\$150
Survey - III	\$155	-	\$185
Field Representative	\$110	-	\$145
Engineering Student			\$75
Administration - I	\$80	-	\$90
Administration - II	\$90	-	\$125

Other Billing Terms

- Mileage: Billed at Federal Rate (currently \$0.655 per mile)
- Per Diem: \$60.00 per day
- Reimbursable Expenses at Cost x 1.05
- Subconsultant Expenses at Cost x 1.10
- After Hrs. & Weekend Field Work at Cost x 1.25
- Seepage Testing Equipment: \$800/month (1 month minimum charge)
- Flow Meter Equipment: \$1,500/month/meter (1 month minimum charge)
- 3D Survey Scanner Equipment: \$625/day
- Remote Bathymetric Survey Equipment: \$750/day
- Drone: \$100/day
- UTV: \$150/day
- Specialty Software - Project specific
- The Title Code Billing Rates are effective January 1, 2024 and will be adjusted semi-annually in January and July of subsequent years