

RECORD OF ORDINANCES

Ordinance No. 2019-14

Passed APRIL 22 2019

AN ORDINANCE AUTHORIZING THE VILLAGE ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH BIRD+BULL ENGINEERS & SURVEYORS FOR ENGINEERING SERVICES FOR EVALUATION OF THE VILLAGE'S SANITARY SEWER SYSTEM INFLOW & INFILTRATION AND WWTP FLOW EQUALIZATION, AND THE DECLARATION OF AN EMERGENCY

WHEREAS, the Village of Baltimore requires specific engineering services for the Village of Baltimore - Evaluation of Sanitary Sewer System Inflow & Infiltration and WWTP Flow Equalization Project ("the Project"); and,

WHEREAS, Bird+Bull Engineers & Surveyors has the necessary qualifications to provide such specific engineering services to the Village for the Project; and,

WHEREAS, Service Committee has reviewed the matter and recommends approval of an agreement between the Village and Bird+Bull Engineers & Surveyors for the provision of specific engineering services for the Project; and,

WHEREAS, this legislation needs to be approved on an emergency basis in order for the engineering services to be completed in a timely fashion, in accordance with a Schedule of Compliance included in the newly issued NPDES permit to the Village;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BALTIMORE, FAIRFIELD COUNTY, OHIO, THREE-FOURTH'S (3/4'S) OF ITS MEMBERS CONCURRING:

SECTION 1: The Village Administrator is hereby authorized and directed to enter into an agreement with Bird+Bull Engineers & Surveyors in order to provide engineering services to the Village for the Village of Baltimore - Evaluation of Sanitary Sewer System Inflow & Infiltration and WWTP Flow Equalization Project, in an amount not to exceed \$29,950.00, plus additional services at the hourly rates set forth in Appendix 1 of the agreement. A copy of said agreement is attached hereto and incorporated herein.

SECTION 2: For the reasons noted in the preamble, this Ordinance is declared to be an emergency measure necessary for the health, safety and general welfare of the community. Therefore, this ordinance shall become effective immediately upon its passage by Council.



Brad Nicodemus, Mayor


DATE OF PASSAGE: 4-22-2019

EFFECTIVE DATE: 4-22-2019

ATTEST: 

Brian Bibler, Fiscal Officer

SPONSOR: KELLER

APPROVED AS TO FORM: 

Jeffrey Feyko, Village Solicitor

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CERTIFICATE OF AVAILABILITY OF FUNDS

I certify that the money required to meet this contract has hereby been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of this fund, free from any previous obligation or certification as required by Ohio Revised Code 5705.01 to 5705.47.

4/22/19

Date



Brian Bibler, Fiscal Officer



**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of 4/22/19 ("Effective Date") between the **Village of Baltimore, OH** ("Owner" and/or "Village") and **Bird+Bull, Inc.** ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: **Village of Baltimore – Evaluation of Sanitary Sewer System Inflow & Infiltration and WWTP Flow Equalization** ("Project").

PROJECT BACKGROUND

The Village of Baltimore has a wet weather overflow that is located in the flow equalization basin at the wastewater treatments works (2005 Basil-Western Road NW). On February 13, 2019, the Village was issued a new NPDES permit for the wastewater treatment works (WWTP). The permit became effective on March 1, 2019. Permit number is 4PB00011*OD.

As part of the new permit, a Schedule of Compliance was included in the permit under Part I, C. The following is the excerpt taken directly from the NPDES Permit:

Part I, C - Schedule of Compliance

Flow Equalization Wet Weather Overflow Elimination Schedule

1. *The permittee shall take the necessary steps to eliminate the wet weather overflow at the flow equalization basin due to excessive inflow and infiltration within the sanitary sewer system as expeditiously as practicable, but not later than the dates developed in accordance with the following schedule:*

a. *Implement a study of inflow and infiltration within the sanitary sewer system within twelve (12) months of the effective date of this permit. (Event Code 11599)*

This study shall include, but not be limited to the following content:

- i. A complete evaluation of inflow contributions from individual residences including sump pumps, downspouts and foundation drains.*
- ii. An evaluation of inflow contributions from aged sewer pipes and identification of any cross connections between the storm sewers and the sanitary sewers.*
- iii. An evaluation of the capacity of the flow equalization basin.*

b. *Complete and submit to the Ohio EPA, Central District Office, Division of Surface Water, an evaluation report for item 1.a. within eighteen (18) months of the effective date of this NPDES permit. [Event Code 95999]. This report shall identify:*

- i. The means and a schedule for the elimination of the overflow at the flow equalization based upon:*

- e. **Identify what factors contribute to the activation of the flow equalization overflow at the WWTP;**
- f. **Identify locations in the sanitary collection system for potential flow monitoring;**
- g. **Compile and summarize data provided by the Village with regard to inflow contributions from individual residences including sump pumps, downspouts and foundation drains;**
- h. **Evaluation of the sewer system conditions and identify a series of alternatives to correct identified problems. These alternatives will be evaluated based on capital costs, operation, maintenance & replacement costs, financial and public health impacts to users, and environmental impacts;**
- i. **Evaluate WWTP Flow Equalization capacity, itemize recommended improvements, and provide related cost estimates;**
- j. **Report – Prepare a report that summarizes the findings, identifies problem areas, proposes repairs to the collection system, identification, characterization, and recommendations for elimination of private sources of infiltration/inflow (such as leaking sanitary sewer laterals, storm water sump pumps, foundation and/or roof drains, etc.), provides cost estimates for the proposed repairs, identifies hydraulic deficiencies, provides a schedule of short term/long term improvements, and prioritizes the improvements. Submit to OEPA for endorsement.**

The following services are NOT included in the Scope of Services described above:

- **Flow monitoring.** Should flow monitoring be deemed necessary, Bird+Bull can offer these services or can recommend companies that can provide these services direct to the Village. The necessity and extent of flow monitoring cannot be determined at this time without further evaluation of the current conditions.
- **Televising.** Should sanitary sewer cleaning and televising be deemed necessary, Bird+Bull can offer these services or can recommend companies that can provide these services direct to the Village. The necessity and extent of televising cannot be determined at this time without further evaluation of the current conditions. The cost for televising can vary but is typically in the range of \$3.75 - \$4.00/L.F.
- **Field Inspections of Manholes.** It appears that 633 manholes were inspected by the Village/Village's consultant as recently as 2017 so that is probably not necessary with Bird+Bull's scope of work. Should this be deemed necessary, Bird+Bull can provide these services for an additional fee.
- **Smoke Testing.** Should smoke testing be deemed necessary, Bird+Bull can recommend companies that can provide these services direct to the Village. The necessity and extent of smoke testing cannot be determined at this time without further evaluation of the current conditions.
- **Individual Home Inspections.** For purposes of this agreement, the individual inspections would be conducted by Village Staff and the data would then be compiled and summarized by Bird+Bull. If requested, Bird+Bull can provide the individual inspection services for an additional fee.

3. The compensation for Services and reimbursable expenses is as follows:

**Evaluation of Sanitary Sewer System Inflow & Infiltration
and WWTP Flow Equalization \$29,950.00**

2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer's employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as **Appendix 1**.

3.01 *Termination*

A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.

b. By Engineer:

- 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
- 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.I.

c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.

d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.


B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

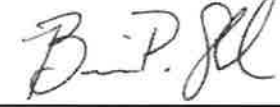
- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
 - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
 - 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and
 - 4. such limited license to Owner shall not create any rights in third parties.
- G. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is less.
- I. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: **Village of Baltimore, OH**

Engineer: **Bird+Bull, Inc.**

By: 
Print name: TERI WISE
Title: VILLAGE ADMINISTRATOR
Date Signed: 4-23-19

By: 
Print name: **Brian P. Coghlan, P.E.**
Title: **President**
Date Signed: **04/05/2019**

Engineer License or Firm's Certificate No.: **01981**
State of: **Ohio**

Address for Owner's receipt of notices:
655 Blacklick Street
Baltimore, OH 43125
Phone: **614-830-2067**

Address for Engineer's receipt of notices:
3500 Snouffer Rd., Suite 225
Columbus, OH 43235-2857
Phone: **614-761-1661**