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June 1, 2022

Lesley Riddle  
Public Works Director  
Department of Public Works  
City of Hyattsville, MD  
4633 Arundel Place,  
Hyattsville, Maryland, 20781

VIA EMAIL: [lriddle@hyattsville.org](mailto:lriddle@hyattsville.org)

Subject: 42nd Place Submerged Gravel Wetland  
Proposal for Construction Services

Dear Lesley:

Stormwater Maintenance, LLC (dba SMC) is pleased to submit this proposal for construction services on the above referenced site. This proposal is based on our review of the construction plans provided by the LID Center and dated May 4, 2022, our review of the project site, and our understanding of the work at this time.

### **SCOPE OF SERVICES AND WORK PLAN**

Based on the above, SMC proposes to perform the following work one time:

- Mobilize, a construction crew and site appropriate equipment to complete the project.
- Engage a private utility location contractor to locate any onsite utilities.
- Survey and lay the project limits of disturbance and erosion and sediment control (ESC) locations.
- Attend a pre-construction meeting with various stakeholders.
- Following ESC approval by regulatory agencies, initiate demolition and clearing and grubbing tasks.
- Excavate and remove soil from SGW location and dispose of at a suitable location offsite.
- Furnish and install inlet structures, piping, aggregate, and outlet structure(s).
- Furnish and install temporary and permanent seeding and stabilization matting on disturbed areas.
- Furnish and install wetland plantings on the wetland surface area.
- Complete As Built Drawings for submission to appropriate regulatory agencies.

The work proposed herein is limited to what is specifically described above. Additional costs may be required to perform any work not specifically described above.

### **FEES & PAYMENTS**

SMC proposes to furnish labor, equipment, and materials to perform the work specifically described in the above Scope of Services one time for a lump sum cost of \$155,463.13.

Billing for all work will be upon completion or on a monthly basis as progress billing for work completed to date. Continuing services will be invoiced at the commencement of work and on a monthly basis thereafter. Reimbursable costs, such as printing, large document scanning, overnight delivery scanning will be invoiced at

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cost plus 15% in addition to quoted costs. Use and/or Sales Tax, if applicable (NJ: 6.875%, PA: 6%, DC: 6%, others as applicable, plus any local sales tax) will be invoiced as a separate line item IN ADDITION to the quoted fees. Credit card payments will be charged a 3% fee in addition to the quoted fees. Payment is due within 30 days of invoice date in accordance with the attached General Provisions. This proposal is valid for 90 days.

The following General Provisions are also made a part of this contract. In the event Client prefers to use a different contract form, SMC reserves the right to increase cost up to \$500.00 or 10% of total project cost (whichever is greater) for legal expenses. Any alternative contract form must acknowledge the charge of Use and/or Sales Tax in addition to the quoted costs, if applicable. Fees may be increased if third party contract or insurance vendors are required.

In preparing this proposal, we may have performed a cursory inspection of the facility and (as discussed further in Item 16 of the below General Provisions) may be offering unique approaches to the work that are intended to best serve the owner of the facility. Some of these approaches may require revision when additional study and actions occur once we are under contract. Accordingly, please be aware that these approaches and ideas should not be executed by others without specific authorization from us.

If you find the above acceptable, please sign below and return a copy to our office. Your authorization for SMC to proceed with base contract or any additional work via verbal, email, fax, purchase order, or other preferred contract format acknowledges your acceptance of the terms of this proposal and applicability of the conditions and general provisions attached hereto.

Thank you for the opportunity to submit our proposal. We are looking forward to working with you on this project. Contact the top signer below if further information is needed.

Very Truly Yours,

STORMWATER MAINTENANCE, LLC



Scott Macomber  
Vice President

**EXECUTION**

Agreed and Accepted:

this \_\_\_\_\_ day of \_\_\_\_\_, 2022

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

By signing above, you acknowledge that you have the appropriate authorization to enter into contracts on behalf of the legal entity named above.

## Stormwater Maintenance, LLC (dba SMC)

### GENERAL PROVISIONS

1. **SCOPE OF WORK:** Stormwater Maintenance, LLC (dba SMC and/or Stormwater Maintenance & Consulting) shall perform the services specifically defined in the proposal Scope of Services section and shall invoice the Client as defined herein. Authorized additional work will be invoiced at our standard rates unless otherwise agreed upon. Any estimate or budget of cost to the Client if stated in the proposal shall not be a fixed price, but only an estimate, unless otherwise specifically stated in this Contract. If additional work is required – but not authorized - to complete work proposed in the Scope of Services, Client shall remain financially responsible for the cost of work actually completed. Engineering, construction, or maintenance services are proposed only if described in the Scope of Services and should not be otherwise assumed to be included in the work. The proposal for this Scope of Work becomes null and void if not accepted and properly executed within thirty (30) days of the date of the proposal.
2. **RIGHT OF ENTRY:** The Client will provide rights of entry and access for SMC and necessary permissions in order for SMC to perform its work without delays. Delays may result in additional costs. While SMC will take reasonable precautions to minimize damage to property, it is understood that in the normal course of work some damage may occur to surface features, the correction of which may not be part of this Contract.
3. **STANDARD OF CARE:** Work performed by SMC under this Contract will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of its profession practicing under similar circumstances in the same or similar locality, in the same period of time. SMC's work will be performed in accordance with generally accepted engineering, survey, construction, or applicable discipline practices, as applicable. This warranty is in lieu of all other warranties either expressed or implied.
4. **TERM & TERMINATION:** If identified as annual services in the proposal Scope of Services section, this contract will automatically renew at the current contract rates plus 3%, at SMC's discretion. If identified as triennial services in the proposal Scope of Services section, this contract will automatically renew at the current contract rates plus 10%, at SMC's discretion. Contracts for one-time services will terminate when the services are completed and payment is received in full. SMC may, at any time and for any reason, terminate this contract upon written notice to the Client. Client shall be responsible for payment for all services provided and materials acquired up to the time of termination.
5. **CONFINED SPACE ENTRY:** Confined space entry will only occur if specified in the proposal Scope of Services. Confined space entry will be limited to spaces that are determined by SMC or regulatory authorities to be NON-PERMIT confined spaces. Should work be required in Permit Spaces, additional costs will be required. SMC reserves the right to not complete work that requires entry into Permit Spaces or that pose a risk to personnel that can not be mitigated in a practical and/or cost effective manner. Mitigation of conditions that cause Permit spaces and/or to facilitate safe entry may require additional costs.
6. **RISK ALLOCATION:** Client acknowledges that the design, construction and operation of existing infrastructure if related to the work has been entirely beyond the control of SMC. Client acknowledges that other conditions may exist that SMC cannot readily identify using commonly accepted and economically viable observation, engineering, inspection, maintenance, and/or construction methods. Furthermore, Client acknowledges that it is possible for a storm or other natural events to occur that the subject infrastructure may not safely convey, or survive intact, for a variety of reasons, including but not limited to rainfall depths or intensities and the performance of the subject infrastructure. Therefore, by verbal authorization or written execution of the proposal Client waives any claim against SMC, and agrees to indemnify, defend, and hold SMC harmless from any claim, liability, or loss arising from problems resulting from the performance or failure of the subject infrastructure. SMC's liability for damages arising out of negligence, including errors, omissions, or other professional acts, and including unintentional breach of contract, will be limited to SMC's fee. SMC will not be liable for consequential damages, including, without limitation, loss of use or loss of profits, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act. No employee or agent of SMC shall have any individual liability to the Client in addition to, or in excess of, SMC's liability under these contract terms and conditions.
7. **INSPECTION SERVICES:** Unless specifically described in the Scope of Services, any proposed inspection services are specifically limited to the cursory surface inspection of existing facilities to determine general operability. Unless specifically described in the Scope of Services, no inspection of construction activities, subsurface investigation or inspections, or materials testing are proposed nor shall occur under this contract without further authorization. Client agrees to permit SMC to photograph and to conduct aerial drone photography and videography of the site, the result of which may be used for site documentation, publicly available marketing, etc.
8. **REMEDIES:** In the event the Client becomes aware that an error or omission by SMC has been discovered, or a change in the conditions reported by SMC is suspected, SMC shall receive prompt notice of the suspected error, omission, or change in order for SMC to have the opportunity to effect an acceptable solution or remedy. Failure to provide prompt notice or to provide SMC the opportunity to remedy the situation shall relieve SMC of any further liability.
9. **PAYMENTS:** Invoices will be submitted for all work upon completion or on a monthly basis for work completed to date. Continuing services will be invoiced at the commencement of work and on a monthly basis thereafter. Invoices will be in a format standardized by SMC, and any special form of invoicing requested by the Client may be subject to an additional administrative charge. Payments will be due and payable in full within thirty (30) days of the date of

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invoice, without retainage, and will not be contingent upon receipt of funds from third parties. If payment is not received within 45 days of the invoice date, SMC retains the right to STOP WORK and retain and/or withdraw all materials, files, documents, and any other work product without recourse until the account is paid in full. In the event that the Client objects to all or any portion of any invoice, the Client shall notify SMC of the objection within fifteen (15) days from the date of the invoice, give reasons for the objection, and pay that portion of the invoice not in dispute. If at any time, an invoice remains unpaid for a period in excess of thirty (30) days, a service charge of one and one half percent (1 1/2%) per month from the date of the invoice, an effective maximum rate of eighteen percent (18%) per annum, will be charged on past due accounts. If fees are not paid in full within thirty (30) days of the due date, SMC reserves the right to pursue all appropriate remedies, including stopping work and retaining all documents without recourse. If applicable, Client forfeits any prepayment for services if scheduled payments are over 60 days past due. In the event a lien or suit is filed or arbitration is sought to collect overdue payments under the Contract, Client agrees to indemnify and hold harmless SMC from and against any and all reasonable fees, expenses, and costs incurred by SMC including but not limited to court costs, arbitrators and attorney's fees, and other claim-related expenses. In the event the Client fails to pay any invoice in full, SMC shall have the right to institute collection procedures. The Client shall be responsible for all costs of collection including litigation costs, reasonable attorney's fees at a minimum of 25% of the amount due, court costs, and any other costs associated with collection. SMC reserves the right to modify payment terms. Unless otherwise stated in the proposal or included in a fixed price, all reimbursable costs, such as subcontractors, printing, scanning, postage, etc. will be invoiced at 15% above our cost in addition to the costs quoted in the proposal. Sales or use tax, if applicable, will be the responsibility of the Client in addition to quoted costs.

10. OWNERSHIP OF MATERIALS & WORK: SMC shall retain ownership of any materials used in work completed under this contract until payment in full is made for all work performed. SMC reserves the right to remove any materials installed in the event that payment in full is not made 90 days from invoice date. SMC shall not be responsible for site conditions after said removal. Removal of materials will not relieve Client of responsibility for full payment. Additional charges will apply for re-installation of any materials removed under this provision. Client hereby grants permission to access the site for said removal. SMC shall retain ownership rights of any work product completed under this contract. Unless otherwise agreed upon, SMC reserves the right to utilize images, videos, drawings, and other project related information for marketing purposes.
11. UNENFORCEABILITY: In the event that any term or condition of these General Provisions is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision herein.
12. SUBCONTRACTORS: SMC reserves the right to utilize subcontractors to execute some or all of the work.
13. WEATHER AND SITE CONDITIONS FORCE MAJEURE: All work proposed herein and related fees assume favorable weather, water levels, and ground conditions. Additional costs above the quoted fee may be required in the event that unexpected temporary measures are required to protect SMC's work from weather conditions or to repair unexpected damage from weather.
14. PERMITS AND FEES: Unless specifically discussed in the Scope of Services, it is assumed that no sediment control measures or permits are required to complete the work. Additional costs and delays may result if permits are required. SMC shall not be responsible for permit fees or any delays related to permits.
15. FUEL SURCHARGE: Work proposed herein may be subject to a fuel surcharge in addition to quoted costs. Fuel surcharge will be subject to change with the volatility of fuel prices.
16. RECOMMENDATIONS: Any recommendations, advice, or suggestions offered in the proposal are subject to re-evaluation and potential revision once under contract and are intended to be implemented only by SMC, unless otherwise noted. SMC shall not be responsible for any damages or liability associated with proposal stage recommendations that are not implemented by SMC. SMC reserves the right to seek monetary compensation if proposal recommendations are implemented by others based on the contents of the proposal.
17. HAZARDOUS MATERIALS & TESTING: Unless otherwise noted, this proposal assumes no actions related to hazardous or regulated materials nor any analytical testing will be required by us.
18. MAINTENANCE ACTIVITIES: Unless otherwise noted, any maintenance proposed under or as a result of this contract assumes no unusual pollutant loadings or spills and no changes in disposal site availability. As sediment plumes, fish kills, or other plant or wildlife issues can occur for a wide range of reasons, SMC shall have no liability for cause or cleanup of said occurrences.
19. COVID-19 FORCE MAJEURE: Notwithstanding the requirements and obligations set forth in this Agreement, SMC and its sureties shall not be held liable for any impacts, delays, labor overruns, material overruns and/or cost overruns related to its Work stemming from the current flu epidemic, and/or COVID-19 (Coronavirus Pandemic) or its aftermath. SMC shall be entitled to an extension of any stipulated contract time and an equitable adjustment of the fee, due to labor shortages, material escalation, or otherwise, for the performance of SMC's Work due to events and conditions beyond SMC's control, including the impacts from the Coronavirus pandemic.

Updated: 3/31/2020

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