

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this “Agreement”) is effective on the 1<sup>st</sup> day of February, 2023 (the “Effective Date”) by and between the Bassett Creek Watershed Management Commission, a Minnesota joint powers organization (the “Commission”), and Redpath and Company, Ltd., a Minnesota business corporation (the “Contractor”).

**I. SERVICES TO BE PROVIDED.** The Contractor will perform for the Commission monthly bookkeeping services and annual financial audit assistance services as detailed and further specified in the Contractor’s engagement letter proposal, attached hereto as Exhibit A and incorporated into this Agreement as if fully set forth herein (the “Proposal”). If any terms contained in the Proposal conflict with any terms in this written Agreement, the terms in the Agreement shall prevail. All professional services provided by the Contractor under this Agreement shall be provided in a manner consistent with the level of care and skill ordinarily exercised by professional consultants currently providing similar services.

**II. COST OF SERVICES.** For monthly bookkeeping services, the Commission shall pay the Contractor, from February 1, 2023 through January 31, 2024, a flat monthly fee of \$1,075. For annual financial audit assistance services and Form 1099 preparation, which are expected to occur during February and March of 2023 and shall not exceed 25 hours without the Commission’s prior written approval, the Commission shall pay the Contractor an hourly fee of \$150. No additional commissions, fees, or reimbursement shall otherwise be due under this Agreement, and unless otherwise expressly agreed to by the Commission in a future writing, the total compensation paid to the Contractor under this Agreement shall not exceed \$16,650. Likewise, the Commission shall not be responsible for payment for any work performed by the Contractor that is not expressly listed on the Proposal unless otherwise expressly agreed to by the Commission in writing. The Contractor shall submit invoices for the services it provides to the Commission on a monthly basis. The itemized invoices shall identify all work completed, and once approved, invoices submitted will be processed and paid in the same manner as other claims made to the Commission. Because the Commission only meets monthly and needs to formally approve all claims at a Commission meeting, it shall have 45 days from the date of any non-disputed invoice to approve and make payment thereon.

**III. TERM; TERMINATION.** The term of this Agreement shall begin on the Effective Date and end on January 31, 2024. Notwithstanding any other provision herein to the contrary, this Agreement may be terminated as follows: (1) the parties, by mutual written agreement, may terminate this Agreement at any time; (2) the Contractor may terminate this Agreement in the event of a material breach of the Agreement by the Commission, upon providing 30 days’ written notice to the Commission, if the Commission fails to cure said breach within those 30 days; and (3) the Commission may terminate this Agreement at any time at its option, for any reason or no reason at all, upon providing 30 days’ written notice to the Contractor.

**IV. INDEPENDENT CONTRACTOR.** All services provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the Commission for any purpose. Any and all officers, employees, subcontractors, and agents of the Contractor, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be considered employees of the Commission. Any and all actions which arise as a consequence of any act or omission on the part of the Contractor, its officers, employees, subcontractors, or agents, or

other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the Commission.

**V. INDEMNIFICATION.** The Contractor, and any and all officers, employees, and agents of the Contractor, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall indemnify, defend, and hold harmless the Commission and its officials, employees, contractors and agents from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by the Contractor, its officers, employees, and agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement. In no event shall the Commission be liable to the Contractor for consequential, incidental, indirect, special, or punitive damages. Nothing in this Agreement shall constitute a waiver or limitation of any immunity or limitation on liability to which the Commission is entitled under Minnesota Statutes, Chapter 466 or otherwise.

**VI. INSURANCE.** The Contractor agrees that before any of the services can be performed hereunder, the Contractor shall procure at a minimum: worker's compensation Insurance as required by Minnesota state law; professional liability in an amount not less than \$1,000,000.00 per occurrence and \$2,000,000 in the aggregate; and commercial general liability in an amount of not less than \$1,500,000.00 per occurrence for bodily injury or death arising out of each occurrence, and \$1,500,000.00 per occurrence for property damage. To meet the commercial general liability requirements, the Contractor may use a combination of excess and umbrella coverage. The Contractor shall provide the Commission with a current certificate of insurance listing the Commission as an additional insured with respect to the commercial general liability and umbrella or excess liability. Such certificate of liability insurance shall contain a statement that such policies shall not be canceled or amended unless 30 days' written notice is provided to the Commission, 10 days' written notice in the case of non-payment.

**VII. CONFLICT OF INTEREST.** The Contractor shall use best efforts to meet all professional obligations to avoid conflicts of interest and appearances of impropriety.

**VIII. THIRD PARTY RIGHTS.** The Parties to this Agreement do not intend to confer on any third party any rights under this Agreement.

**IX. NOTICES.** Any notices permitted or required by this Agreement shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to:

Contractor: Redpath and Company, Ltd.  
55 Fifth Street East, Suite 1400  
St. Paul, MN 55101  
Attn: Gregory R. Smith

Commission: Bassett Creek Watershed Management Commission  
Attention: Laura Jester  
16145 Hillcrest Lane  
Eden Prairie, MN 55346

or such other contact information as either party may provide to the other by notice given in accordance with this provision.

## **X. MISCELLANEOUS PROVISIONS.**

**A. Entire Agreement.** This Agreement shall constitute the entire agreement between the Commission and the Contractor, and supersedes any other written or oral agreements between the Commission and the Contractor. This Agreement can only be modified in writing signed by the Commission and the Contractor.

**B. Data Practices Act Compliance.** Data provided, produced or obtained under this Agreement shall be administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. The Contractor will immediately report to the Commission any requests from third parties for information relating to this Agreement. The Contractor agrees to promptly respond to inquiries from the Commission concerning data requests.

**C. Audit.** The Contractor must allow the Commission, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all Services provided under this Agreement for a minimum of six years from the termination of this Agreement.

**D. Choice of Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of Minnesota. Any disputes, controversies, or claims arising under this Agreement shall be heard in the state or federal courts of Minnesota and the parties waive any objections to jurisdiction.

**E. No Assignment.** This Agreement may not be assigned by either party without the written consent of the other party.

**F. No Discrimination.** The Contractor agrees not to discriminate in providing products and services under this Agreement on the basis of race, color, sex, creed, national origin, disability, age, sexual orientation, status with regard to public assistance, or religion.

**G. Severability.** The provisions of this Agreement are severable. If any portion of this Agreement is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision will not affect the remaining provisions of the Agreement.

**H. Waiver.** Any waiver by either party of a breach of any provision of this Agreement will not affect, in any respect, the validity of the remainder of this Agreement.

**I. Compliance with Laws.** The Contractor shall exercise due professional care to comply with applicable federal, state and local laws, rules, ordinances and regulations in effect as of the date the Contractor agrees to provide the services contemplated herein.

**J. Headings.** The headings contained in this Agreement have been inserted for convenience of reference only and shall in no way define, limit, or affect the scope and intent of this Agreement.

[remainder of page left intentionally blank]

**IN WITNESS WHEREOF**, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement which shall take effect on the date first written above.

**THE COMMISSION:**

By: \_\_\_\_\_  
Its: Chair

By: \_\_\_\_\_  
Its: Secretary

**CONTRACTOR:**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

December 19, 2022

Laura Jester  
Bassett Creek Watershed Management Commission  
16145 Hillcrest Lane  
Eden Prairie, MN 55346

Dear Commissioners:

This letter defines the agreement with respect to the terms and objectives of our engagement and the nature and limitations of the services Redpath and Company, Ltd. and affiliated entities (herein referred to as Redpath and Company) will provide for Bassett Creek Watershed Management Commission (the Commission).

## **SERVICES**

### **Monthly Accounting Services**

Redpath and Company will enter invoices and receipts into QuickBooks accounting system and generate monthly financial statements, including:

- Maintain check register.
- Financial Reports.
- Administrative and program budget report.
- Statement of revenue, expenditures and changes in fund balance.
- Income statement/balance sheet.
- Budget to actual comparisons for all funds.
- Schedules of each fund.

Included in services:

- Preparing monthly checks and financial statements, including administrative and program/project budget reports.
- Reconciling bank statements.
- Depositing review fee checks.
- Posting receipts from grant funding to appropriate accounts.
- Monitoring and managing investment funds.
- Submitting all reporting requirements to the Office of the State Auditor.

We will not perform any procedures to verify or corroborate the information supplied to us by the Commission nor will we audit the information. The management of the Commission, not our firm, is responsible for the accuracy of the information we use to update your general ledger.

As part of performing bookkeeping services, we may propose standard, adjusting, or correcting journal entries to your general ledger. You are responsible for reviewing the entries and understanding the nature of any proposed entries and the impact they have on your accounting records. You are responsible for designating a qualified management-level individual to be responsible and accountable for overseeing these services.

### **Annual Financial Audit Assistance and Form 1099s preparation**

We will provide assistance in preparing schedules and other documents for the Commission's annual audit as directed by Commission personnel. As well we will prepare and transmit Form 1099s for the year.

## **INFORMATION REQUIREMENTS**

We will provide you with an information request, which outlines the information needed to complete our services.

The terms of this engagement, including timing and estimated cost, is directly dependent on the quality and timeliness of the information and data you provide. A lack of information may also cause delays in the timely completion of the engagement. In the event that information cannot be provided, you may incur additional costs if we attempted to generate such information, or we may even be unable to continue the engagement in the absence of such information. It is in your best interest to provide accurate and timely information.

## **FEES**

Our fees are generally based on time expended and out-of-pocket expenses. However, fees may also include other relevant factors, such as:

- the difficulty of the questions and the skill required to perform the accounting, tax, or other services properly
- time limitations imposed either by you or the circumstances
- the nature and length of the professional relationship between us
- the experience, reputation and ability of the accountant or accountants assigned to the engagement

We bill our fees monthly as work progresses and expect payment within thirty (30) days. Each invoice includes a detailed description of the services provided. Amounts over thirty (30) days will be considered delinquent. We reserve the right to assess a 1.5% per month service charge on

any balance older than thirty (30) days. In the event it becomes necessary to refer this account to an attorney for collection (whether or not suit is commenced), you will be responsible for payment of all reasonable costs of such collections, including reasonable attorney fees. Our policy is to suspend work if your account becomes overdue by sixty (60) days or more, and work will not be resumed until your account is paid in full. Should we elect to discontinue services, you will be responsible for all time and expenses incurred through the date of termination regardless of whether we have issued a report or other final product.

Our fees will be as follows:

Monthly Accounting Services	\$1,075 per month
Annual Financial Audit Assistance and 1099 preparation	\$150 per hour

You will also be billed for travel and other out-of-pocket costs such as report production, word processing, postage, etc.

The above fees are based on the anticipated scope of services, anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered. Bassett Creek Watershed Management Commission acknowledges that the following circumstances may result in a change in scope of services and an increase in fees:

- New accounting standards or tax law changes,
- Failure by the Commission to complete the preparation work by the applicable due dates,
- Inaccurate records,
- Turnover in your staff,
- Significant unanticipated or undisclosed transactions, issues, or other such unforeseeable circumstances,
- Delays by the Commission causing scheduling changes or disruption of previously scheduled timing of work (fieldwork),
- Circumstances requiring revisions to work previously completed or delays in resolution of issues that extend the period of time necessary to complete the accounting services.

Services requested by you that are not included in this engagement letter will be billed dependent on the level of effort required and will be subject to all the terms of this letter.

Our fees and rates are adjusted annually for general economic factors.

If we are requested or required to provide documents or testimony to support litigation proceedings as a professional service on your behalf (that is, litigation in which we are not a party as a result of our engagement.), you will be billed for our time at the current standard rates and all out-of-pocket expenditures, including copying costs and legal fees.

## **DELIVERABLES**

All financial statements prepared by Redpath will be delivered to you electronically.

All tax filings prepared by Redpath will be delivered to you electronically, however, we will provide a paper filing copy of any tax return that can't be filed electronically with the taxing authority. Electronic delivery is secure and simplifies the client authorization process for the electronic filing of tax returns.

## **RECORD KEEPING RESPONSIBILITIES**

The AICPA Code of Professional Conduct requires Redpath to maintain our independence with regard to certain attestation services provided to Bassett Creek Watershed Management Commission. These rules require Bassett Creek Watershed Management Commission to take responsibility for all nonattest services. Redpath cannot serve as custodian for your data in such a way that your data is incomplete and accessible only through Redpath or the Redpath portal. As such, any tax return, financial report, reconciliation, document, and/or calculation (depreciation schedules, various tax calculations and journal entry support, etc.) that we prepare or update on your behalf will be sent to you at the completion of each attest or nonattest service. You are responsible for downloading and maintaining these records as well as all supporting documentation generated in the normal course of business operations until the retention period expires.

Our responsibility is to maintain client records for the minimum required time period in compliance with federal and state laws and regulations (generally three to six years). Our firm's records retention policy will differ considerably from yours. Every business (or individual) has different record keeping requirements, because regulations vary by industry, entity structure, the state(s) of operation, and most importantly, the needs to the specific business (or individual). Retention policies are determined by taking into consideration legal, fiscal, operational, and historical values of any given type of record.

## **CONFIDENTIALITY**

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service



provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

## **PRIVACY**

We have established policies and procedures to ensure that client's non-public, personal information is private and secure at all times. We maintain physical, electronic and procedural controls to comply with standards in safeguarding your information from loss, misuse, alteration or destruction (unless the destruction is according to our records retention schedule). We do not sell information to third parties. We do not disclose non-public information except as necessary to provide our services (see Confidentiality above) and as required by law. We do not disclose non-public information we receive to our affiliates unless authorized.

## **DISPUTE RESOLUTION**

In the event of a dispute over fees for our engagement, the Commission and our firm mutually agree to try in good faith to resolve the dispute through mediation by selecting a third-party to help reach an agreement, in accordance with the following paragraph (Mediation). If we are unable to resolve the fee dispute through mediation, then, with the consent of both parties, such disputes may be settled by binding arbitration. **We both acknowledge that should a dispute over fees arise that cannot be resolved through mediation, each of us is giving up the right to have the dispute decided in a court of law before a judge or jury. Instead, we are accepting the use of arbitration for resolution.**

We believe that most disagreements can be resolved to mutual satisfaction in a friendly, non-threatening environment. While we do not expect there to be any problems whatsoever with our relationship, misunderstandings can occur. Therefore, we agree that any dispute arising under this agreement (including the scope, nature and quality of services to be performed by us, our fees or other terms of the engagement) shall be submitted to mediation. A competent and impartial third-party, acceptable to both parties, shall be appointed to mediate, and each disputing party shall pay an equal percentage of the mediator's fees and expenses. No suit or arbitration proceeding shall be commenced under this agreement until at least sixty (60) days after the mediator's first meeting with the involved parties. If the dispute requires litigation, the court shall be authorized to impose all defense costs against any non-prevailing party found not to have participated in the mediation process in good faith.

## **OTHER MATTERS**

### **Non-Solicitation of Employees**

In recognition of the importance of our employees it is hereby agreed that Bassett Creek Watershed Management Commission will not solicit our employees for employment or enter into an independent contractor arrangement with any individual who is or was an employee of

Redpath and Company for a period of twelve months following the date of the conclusion of this engagement. If Bassett Creek Watershed Management Commission violates this non solicitation clause, Bassett Creek Watershed Management Commission agrees to pay Redpath and Company a fee equal to 25% of the hired person's last annual salary at Redpath and Company at the time of violation so as to reimburse Redpath and Company for the costs of hiring and training a replacement.

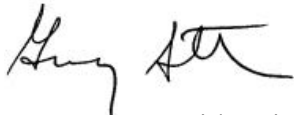
This letter supersedes all prior communications, understandings, and agreements, whether oral or written, in connection with this engagement. Amendments to this agreement must be in writing and signed by both parties. This letter covers our current year of service and each year thereafter until amended. If you do not understand any of the terms of this agreement, please call me and I will be happy to review them with you.

I will be your client manager and primary contact for all of your services. Please feel free to contact me directly at 651-255-9315.

Thank you for the opportunity to be of service. We look forward to continuing the relationship.

Sincerely,

REDPATH AND COMPANY



Gregory R. Smith, Director

#### Response

This letter correctly sets forth the understanding of the services provided for Bassett Creek Watershed Management Commission.

If you agree to the terms of this engagement, please designate below the individual who will be overseeing our services, sign this letter and return it to us via DocuSign. If a designated individual is not assigned below, it will be assumed that the individual who signs the engagement letter will oversee our services.

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Designated individual responsible for overseeing our services

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Management signature

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Title

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Date