



Independent Fee Review Proposal and Agreement

KLJ Project # 2105-00772 Effective Date 5/7/2021

Client Information

Name Broadwater County
 Billing Address 515 Broadway Street
 City, State, Zip Townsend, MT 59644 Business # 406-266-9271
 Authorized By Mike Delger
 Title Chair – Broadwater County Commission

Detailed Description of Services

Complete an Independent Fee Review (IFR) using the information attached to this Proposal and Agreement. The IFR shall contain a detailed breakdown of the tasks and associated costs to complete each item of work. The IFR is intended as an estimate of engineering fees based on the information provided and is not a review of the engineering concepts, design, detailed construction requirements or other items associated with the project.

Project Location

Township N/A Range N/A Section N/A
 City of Townsend County Broadwater State Montana

Estimated Completion Date of Services Within 14 calendar days of contract execution and delivery to KLJ.

Estimated Fees for Services \$ 3,500 Type Lump Sum

Special Conditions to be considered
None.

Other Items
None.

TERMS AND CONDITIONS

- Payment for services is due and payable when billed. Any amount not paid within 30 days will be subject to a late payment charge of 1½% per month. If payment is based upon Hourly Rates plus Expenses and it will be an amount equal to KLJ's Direct Labor Costs times a designated factor for labor, overhead and profit for the services of all KLJ's personnel engaged on the Project, plus Reimbursable Expenses and KLJ's Consultant charges times a factor.
- Payment for services does not include any agency review fees, submittal fees, filing fees, permit fees, or other such fees. Client will pay all such fees directly.
- To the fullest extent permitted by law, Client and KLJ (1) waive against each other, and the other's employees, officers, directors, 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 the Project, and (2) agree that KLJ's total liability to Client under this Agreement shall be limited to the total amount of compensation received by KLJ.
- KLJ agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the KLJ's negligent performance of professional services under this Agreement and that of its consultants or anyone for whom KLJ is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the KLJ, its officers, directors, employees and consultants (collectively, KLJ) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or anyone for whom the Client is legally liable. Neither the Client nor the KLJ shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.
- The project schedule is dependent upon Client and or agency reviews and comments being received in a timely manner. An initial schedule will be submitted when written notice to proceed is received from the Client. The schedule will be updated during the progression of the services as needed.
- Any files or data provided by KLJ to Client for use on the project are the intellectual property of KLJ. Client agrees that nothing in this Agreement allows Client to modify or reuse KLJ's intellectual property on any other project or for any other use or purpose without written permission from KLJ. Any such use, reuse or modification of KLJ's intellectual property will be at Consultant's sole risk and without liability or legal exposure to KLJ or its officers, directors, or employees. Client shall defend, indemnify and hold KLJ, its officers, directors and employees harmless from any and all damages, liabilities, claims, demands, and causes of action of every kind and character, including costs of litigation and reasonable attorneys' fees, arising out of or resulting from any use, reuse or modification of KLJ's intellectual property.
- The standard of care for all services performed or furnished by KLJ 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. KLJ makes no warranties, express or implied, under this Agreement or otherwise, in connection with KLJ's services.
- The parties to this Agreement agree to attempt to resolve any and all unsettled claims, counterclaims, disputes, and other matters in question arising out of or relating to this Agreement or the breach thereof ("Dispute") through direct negotiations between the appropriate representatives of each party. If, within 30 days, such negotiations are not fully successful the parties agree to submit any outstanding issue to nonbinding mediation conducted in accordance with rules and procedures agreed to by the parties. If the Dispute remains unresolved after the mediation, either party may seek to have the Dispute resolved by a court of competent jurisdiction in the county and state where the project is located. The non-prevailing party in any Dispute shall pay all reasonable expenses, including mediator fees, administrative fees, travel expenses, out-of-pocket expenses such as copying, court costs, witness fees and reasonable attorneys' fees.

- Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement without the prior written consent of the other party.
- The parties hereto shall comply with applicable laws and regulations.
- Any notice required to be given hereunder shall be given in writing and either hand-delivered, electronically mailed or mailed with proper postage, prepaid, certified, and return receipt requested. If hand-delivered or electronically mailed any notice shall be effective upon delivery. If mailed, such notice shall be effective on the third business day following mailing. Notices shall be to the attention of the Consultant Contact and KLJ Project Manager listed above.
- The laws of the state in which the Project is located shall govern this Agreement including the interpretation, and construction thereof. The parties agree that the jurisdiction and venue for any controversy arising out of or relating to this Agreement shall be in the state or federal courts located in the county and state where the project is located.
- Affirmative Action: KLJ shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.
- This Agreement and all attachments hereto constitute the entire agreement of the parties and supersedes any and all prior negotiations or understandings, whether written or oral. No subsequent amendment or modification of this Agreement shall be binding on the parties unless it is in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement and the Client hereby authorizes the above-described services to be performed by **KLJ Engineering LLC** under the above terms and conditions set forth.

Client Broadwater County

Date _____

Signature _____

Printed Name Mike Delger

Title Chair – Broadwater County Commission

KLJ Engineering LLC

Date 5/6/2021

Signature 

Printed Name Mark Anderson, PE

Title VP – Environment / Public Works