

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
FEBRUARY 15, 2022 AGENDA**

| <b>Subject:</b>   | <b>Type:</b>                              | <b>Submitted By:</b>                              |
|---|---|---|
| AUTHORIZE AGREEMENT –<br>STORM WATER PUBLIC<br>EDUCATION & OUTREACH<br>SERVICES | ◆ RESOLUTION<br>ORDINANCE<br>RECEIVE/FILE | JEFF CALENTINE<br>DEPUTY DIRECTOR OF PUBLIC WORKS |

**SYNOPSIS**

A resolution has been prepared to authorize an agreement with The Brian Slobotski Memorial Foundation dba Brian Smiles for storm water public education & outreach services in an amount not to exceed \$3,000.

**FISCAL IMPACT**

The FY21/22 Biennial Budget provides funding for the proposed services.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Public education and outreach efforts are required as part of the NPDES permit for MS4 public storm water discharges. A joint agreement has been in place with the City of Papillion since 2016 to partner on providing said services. An agreement was not executed in 2021 because of pandemic restrictions.

Previously, this agreement was conducted through Civic Nebraska. This year and moving forward staff recommend that this contract be executed with the non-profit firm of “Brian Smiles”. The Brian Slobotski Memorial Foundation dba Brian Smiles is a Nebraska 501(c)(3) non-profit that focuses on the support of families living with any of 44 neuro-muscular diseases. It was created in memory of Brian Slobotski who passed away in 2013. Brian Smiles has deep ties to the community. It is a volunteer non-profit with members representing public education, state-wide non-profits, entrepreneurs, fire departments, marketing, and sales. Kent Day, who is with Civic Nebraska, has been running this project for the past 8 years and has the network in place to take over immediately.

Brian Smiles will prepare informational materials, arrange and conducting or attend various public outreach events as well as documentation and reporting.

To maximize the outreach efforts with a limited amount of funding, the City will once again partner with the City of Papillion. The agreement provides for each City to be responsible for 50 percent of the consultant services. The total cost is \$6,000.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, APPROVING AN AGREEMENT WITH THE BRIAN SLOBOTSKI MEMORIAL FOUNDATION DBA BRIAN SMILES FOR THE PURPOSE OF PROVIDING STORM WATER PUBLIC EDUCATION & OUTREACH SERVICES IN AN AMOUNT NOT TO EXCEED \$3,000.

WHEREAS the City Council of the City of La Vista has determined that public education and outreach in relation to the NPDES permit requirements for MS4 public storm water discharge is necessary; and

WHEREAS the FY21/22 Biennial Budget provides funding for this proposed service; and

WHEREAS Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secures Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska do hereby approve an agreement with The Brian Slobotski Memorial Foundation dba Brian Smiles for the purpose of providing storm water public education & outreach services in an amount not to exceed \$3,000.

PASSED AND APPROVED THIS 15TH DAY OF FEBRUARY 2022.

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, MMC  
City Clerk

Agreement for Consultant Services  
Papillion-La Vista Storm Water Management  
2022 Papillion-LaVista Stormwater Outreach & Public Education

This Agreement for consultant services is entered into as of February 15, 2022 by and between Brian Smiles (hereinafter called BS) and the City of La Vista, Nebraska (hereinafter called La Vista) and the City of Papillion, Nebraska (hereinafter called Papillion). It is understood by the parties to this Agreement that the consultant services described herein will be performed by BS under the auspices of “Papillion-LaVista Stormwater Outreach” (PLVSO).

**Section 1: Consultant Duties** – Consultant shall provide the following services:

In order to address the public education and outreach obligations of La Vista and Papillion under their respective MS4 storm water discharge permits, La Vista and Papillion are partnering to engage the services of BS to include the following:

**Outreach and Event Participations and Hosting**

1. Host informational tables at 3 events related to storm water management including the Nebraska Science Fest, World-O-Water, and the La Vista Public Works Open House. Additional school events are to be determined.
2. Create and maintain a website dedicated to storm water management information and outreach including basic search engine optimized with data updates weekly, monthly; mobile and tablet optimized.
3. Robust social media outreach

**Engagement Initiatives and Programs**

1. Participate in rain barrel projects
2. Pursue additional funding with an emphasis on school-age projects relating to storm water management.

**Procedures**

1. Train BS staff to host informational tables.
2. Provide at least 2 table hosts at each event to engage the community.
3. Distribute handouts, brochures, and literature provided by Papillion and La Vista.
4. Display PLVSO banners at events for project identification purposes.
5. Obtain items for incentives/give-aways at events to promote citizen engagement to the extent that funding is available.
6. Provide chairs and a canopy as required for table hosts at events.

## **Documentation and Reporting**

1. Create reports including data on community participation at all events such as the number of citizens engaged, number of brochures distributed, number of give-aways and hours and dates of events.
2. Provide data on all virtual contacts including citizens' visits to the website, activity on social media, and email distribution.
3. Prepare a final report of all efforts completed under this Agreement. This report shall be due by February 28, 2023. Papillion and La Vista will use this information to prepare their annual storm water management reports to the Nebraska Department of Environmental Quality and required under their respective MS4 permits.

## **Section II: Papillion and LaVista Duties – Papillion and La Vista shall provide the following:**

1. Provide publicity via Papillion and La Vista web sites and other media outlets.
2. Provide access to creeks and streams for tours and engagement activities.
3. Print and provide storm water management brochures and other literature as needed.
4. Provide project banners for display at events.
5. Provide sample rain barrels and other storm water management devices for display at events.

## **Section III: Property rights and informational disclosure**

Confidential information – BS shall freely disclose to Papillion and La Vista all information, data, and results obtained from work performed under this Agreement. Papillion and La Vista are free to use such information for their own internal purposes or to disclose such information to third parties. Provided, however, if the work performed pursuant to this Agreement requires disclosure of information which any party hereto considers as proprietary and confidential, the parties agree that separate confidentiality agreements may be executed with the individual participants in the project.

Rights in Data-Progress reports may be prepared at various times detailing the results of the project to date. These reports will become the property of Papillion and/or La Vista and will not be distributed by BS without written approval.

## **Section IV: Independent Contractor Statement**

BS and anyone that BS hires for assistance are not and shall not be considered employees of Papillion or La Vista. BS shall be and remain an independent contractor and nothing constrained in the Agreement shall be construed inconsistent with that status. Notwithstanding such status, any employee shall be removed from any job site by BS at any time on request of Papillion or La Vista for incompetence, neglect of duty, or misconduct. Papillion and La Vista shall have no other control over the employment, compensation, or discharge of BS's employees or agents.

## **Section V: Insurance**

BS shall purchase and maintain insurance as will protect BS from claims set forth below which may arise out of, or result from, BS's execution of the services in this Agreement, whether such execution be by BS or by anyone directly or indirectly employed by BS.

1. Claims under workman's compensation, disability benefit and other similar employee benefit acts.
2. Claims for damages because of bodily injury, occupational sickness, or disease, or death of BS's employees.
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than BS's employees.
4. Claims for damages insured by usual personal injury liability coverage which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by BS.
5. Claims for damages because of injury to, or destruction of, tangible property including loss of use resulting therefrom.
6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

Personal property insurance shall be the responsibility of the owner of the property regardless of the location of the loss.

## **Section VI: Indemnification**

BS agrees to indemnify, defend, and hold harmless Papillion and La Vista or their officers, agents, and employee from any and all claims, demands, actions, damages, liability, and expenses in connection with loss of life, personal injury, and/or damage to property which be asserted, claimed, or recovered against or from Papillion and/or La Vista or their officers, agents, and employees by reason of any act, omission, or representation of BS or its subcontractors, agents, or employees. In turn, Papillion and La Vista agree to indemnify, defend, and hold harmless BS or its officers, agents, and employees from any and all claims, demands, actions, damages, liability, and expense in connections with loss of life, personal injury, and/or damage to property which may be asserted, claimed, or recovered against or from Papillion and La Vista or their officers, agents, or employees by reason of any act, omission, or representation of Papillion and La Vista or their officers, agents, and employees. This clause shall survive the expiration or termination of this Agreement.

## **Section VII: Term of Agreement and Termination**

This Agreement commences February 15, 2022 and ends February 28, 2023 unless extended

by mutual Agreement of all parties. Papillion and La Vista reserve the right to terminate this Agreement early without penalty, damages, or cause. Services up to the point of termination will be compensated accordingly to the terms outlined below but under no circumstances shall any outstanding services not rendered be paid.

#### **Section VIII: Payment for Services**

In consideration of the foregoing, Papillion and La Vista will reimburse BS for all direct costs incurred in the performance of this Agreement, which shall not exceed a total cost of \$6,000. Papillion will be responsible for \$3,000 of the total cost and La Vista will be responsible for \$3,000 of the total cost.

BS will provide monthly invoices to Papillion and La Vista for actual costs incurred within the limits of the above-stated total cost. Payment shall be made to BS within thirty (30) days of receipt of invoices. BS shall bill Papillion and La Vista at the same time and in equal amounts for the services set forth in this Agreement. Invoices shall include a narrative and itemization of the costs of the services, materials, and wages covered by the invoices. Invoices shall be sent to:

City of LaVista, Nebraska Attn: Jeff Calentine, Public Works Deputy Director, 9900 Portal Rd, La Vista, NE 68128, or emailed to [jcalentine@cityoflavista.org](mailto:jcalentine@cityoflavista.org)

City of Papillion, Nebraska Attn: Alex Evans, Deputy City Engineer, 9909 Portal Rd, Papillion, NE 68046, or emailed to [aevans@papillion.org](mailto:aevans@papillion.org)

Checks shall be made payable to Brian Smiles and mailed to: Kent Day, 4705 N. 80<sup>th</sup> St., Omaha, NE 68134

#### **Section IX: Notices**

All notices to be given to any party under this Agreement shall be sent to the parties listed in Section VIII above.

#### **Section X: Assignment**

This Agreement is non-assignable and non-transferable. Any attempt by any party to assign its obligations hereunder shall be void.

#### **Section XI: Amendment**

This Agreement constitutes the entire understanding between BS and Papillion and La Vista with respect to the subject matter hereof and may not be amended except by a written Agreement signed by all three parties.

**Section XII: Governing Law and Forum**

This Agreement shall be governed by the laws of the State of Nebraska. Any legal actions brought by any of the Parties hereunder shall be in the District Court of Sarpy County, Nebraska.

We the undersigned, hereby warrant that we are properly authorized officers of the organization to be bound by this Agreement, and that we do hereby accept the terms and conditions provided herein.

**Brian Smiles**

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

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**City of Papillion**

By \_\_\_\_\_

(Mayor)

Attest \_\_\_\_\_

(City Clerk)

Date \_\_\_\_\_

**City of La Vista**

By \_\_\_\_\_

(Mayor)

Attest \_\_\_\_\_

(City Clerk)

Date \_\_\_\_\_