

City of Fayetteville Staff Review Form

2020-0509

Legistar File ID

7/7/2020

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Matt Casey

6/18/2020

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract in the amount of \$224,350.00 with Garver, LLC for design of the School/College Avenue Corridor Improvements and approval of a budget adjustment, per RFQ 20-01, selection #3.

Budget Impact:

4602.860.7221-5860.02		2019 - Streets Projects 2019 Bonds	
Account Number		Fund	
46020.7221.1020		Hwy 71B Corridor, North to Township	
Project Number		Project Title	
Budgeted Item?	Yes	Current Budget	\$ 10,000.00
		Funds Obligated	
		Current Balance	\$ 10,000.00
Does item have a cost?	Yes	Item Cost	\$ 224,350.00
Budget Adjustment Attached?	Yes	Budget Adjustment	\$ 224,350.00
		Remaining Budget	\$ 10,000.00

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF JULY 7, 2020

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director
Chris Brown, City Engineer

FROM: Matt Casey, Engineering Design Manager

DATE: June 17, 2020

SUBJECT: **Approval of a contract in the amount of \$224,350.00 with Garver, LLC for design of the School/College Avenue Corridor Improvements and approval of a budget adjustment, per RFQ 20-01, selection #3.**

RECOMMENDATION:

Staff recommends approval of a contract in the amount of \$224,350.00 with Garver, LLC. per RFQ 20-01, selection #3 to provide professional services for the design of the School/College Avenue Corridor Improvements Project and approval of a budget adjustment.

BACKGROUND:

The School Avenue and College Avenue Corridors serve as the major north-south route through the central part of the City, and are major commercial and retail destination. Maintaining and improving the corridors will allow them to continue to serve mobility needs, and to continue to develop/redevelop as commercial corridors.

Improvements to these corridors could include striping, widening and/or narrowing of the roadway, utility relocation (including burial of overhead utilities), sidewalk/trail installation, accommodations for transit systems, elimination or reconfiguration of driveways, additional traffic signals, medians, plazas, art installations, lighting, wayfinding, protected intersections, parking, and other corridor improvements to be identified in the design process.

The starting point for corridor designs is the 71B Corridor Plan recently completed by RDG Planning. Goals and aspirations of the Plan will be implemented to the greatest extent possible through the limits of the project segments selected for design and construction, which include College Ave. between North Street and Township Street, and School Ave. between Martin Luther King Jr. Blvd. and Cato Springs Road.

DISCUSSION:

On May 5th, the team of Garver, LLC and RDG Planning and Design was selected as the most qualified team for detailed design of the corridors. Staff has worked with Garver and RDG to prepare a detailed scope of work and contract for this project. They have provided a proposed

scope and fee in the amount of **\$224,350.00** for the programming phase of this project. Services to be provided include:

- LIDAR surveying
- Traffic Studies
- Project Programming.

The contract will be paid based on hourly rates for work completed, up to the total contract amount.

The programming phase will include meetings with stakeholders and city staff to review the plan goals and make decisions about how and where to include project elements identified in the 71B Plan.

Estimated costs of the program elements will be provided at the end of this phase. This will inform decisions on construction phasing based on currently available funds and will also help in the pursuit of additional funding to supplement the allocation from the Transportation Bond Program. Contract amendments for detailed design and development of construction plans for selected project segments will be executed after the phasing plan is developed.

BUDGET/STAFF IMPACT:

The design for this project will be paid for with the funds from the 2019 Transportation Bond Fund under the 71B Corridor Project.

Attachments:

Garver, LLC - Engineering Agreement
Budget Adjustment

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GARVER, LLC

THIS AGREEMENT is made as of _____, 2020, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and GARVER, LLC (hereinafter called ENGINEER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of ENGINEER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of ENGINEER
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of ENGINEER.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF ENGINEER

- 2.1 Perform professional services in connection with the Project as hereinafter stated.
 - 2.1.1 The Scope of Services to be furnished by ENGINEER during the Project is included in Appendix A attached hereto and made part of this Agreement.
- 2.2 ENGINEER shall coordinate their activities and services with the CITY OF FAYETTEVILLE. ENGINEER and CITY OF FAYETTEVILLE agree that ENGINEER has full responsibility for the engineering services.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

- 3.1 CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of ENGINEER:

- 3.1.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 3.1.2 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 3.1.3 Assist ENGINEER in obtaining access to property reasonably necessary for ENGINEER to perform his services under this Agreement.
- 3.1.4 Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
- 3.1.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 3.1.6 The City Engineer is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 3.1.7 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to ENGINEER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

- 4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. ENGINEER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included as Appendix A.

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for this Agreement shall be based upon on an Hourly basis as described in Appendix B.
- 5.2 Statements
 - 5.2.1 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for professional services consistent with ENGINEER'S normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project.

Applications for payment shall be made in accordance with a format to be developed by ENGINEER and as approved by CITY OF FAYETTEVILLE. Applications for payment

shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the study and report for the Project.

5.3 Payments

5.3.1 All statements are payable upon receipt and due within thirty (30) days. If a portion of ENGINEER's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise ENGINEER in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

5.4 Final Payment

5.4.1 Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, ENGINEER shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by ENGINEER to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against ENGINEER or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

6.1.1 During the course of performance of these services, ENGINEER will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation	Statutory
Employers' Liability	\$500,000 Each Accident
Commercial General Liability	
Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability:	
Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

ENGINEER will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services.

6.2 Professional Responsibility

6.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of ENGINEER.

6.3 Cost Opinions and Projections

6.3.1 Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.

6.4 Changes

6.4.1 CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of ENGINEER.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that ENGINEER is given:

- 6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
- 6.5.2.2 An opportunity for consultation with the terminating party prior to termination.
- 6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - 6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,
 - 6.5.3.2 Any payment due to ENGINEER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of ENGINEER's default.
- 6.5.4 If termination for default is effected by ENGINEER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by ENGINEER relating to commitments which had become firm prior to the termination.
- 6.5.5 Upon receipt of a termination action under Paragraphs 6.5.1 or 6.5.2 above, ENGINEER shall:
 - 6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
 - 6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.
- 6.5.6 Upon termination under Paragraphs 6.5.1 or 6.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 6.5.7 If, after termination for failure of ENGINEER to fulfill contractual obligations, it is determined that ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 6.5.4 of this clause.
- 6.6 Delays
 - 6.6.1 In the event the services of ENGINEER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond ENGINEER's reasonable control, ENGINEER shall be entitled to additional compensation and time for reasonable costs incurred by ENGINEER in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

6.7.1 ENGINEER's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and ENGINEER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or ENGINEER in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 6.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 6.8.3 and 6.8.4 have been complied with.

6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give ENGINEER written Notice at the address listed in Paragraph 6.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and ENGINEER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of ENGINEER and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to ENGINEER for services rendered by ENGINEER.

6.10 Publications

6.10.1 Recognizing the importance of professional development on the part of ENGINEER's employees and the importance of ENGINEER's public relations, ENGINEER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ENGINEER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to ENGINEER. CITY OF FAYETTEVILLE

may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

6.11 Indemnification

6.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and ENGINEER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

6.12 Ownership of Documents

6.12.1 All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. ENGINEER may retain reproduced copies of drawings and copies of other documents.

6.12.2 Engineering documents, drawings, and specifications prepared by ENGINEER as part of the Services shall become the property of CITY OF FAYETTEVILLE when ENGINEER has been compensated for all Services rendered, provided, however, that ENGINEER shall have the unrestricted right to their use. ENGINEER shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of ENGINEER.

6.12.3 Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. ENGINEER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.13 Notices

6.13.1 Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:
125 West Mountain Street
Fayetteville, Arkansas 72701

ENGINEER's address:
2049 E. Joyce Blvd, Suite 400
Fayetteville, Arkansas 72703

6.14 Successor and Assigns

6.14.1 CITY OF FAYETTEVILLE and ENGINEER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor ENGINEER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.15 Controlling Law

6.15.1 This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

6.16 Entire Agreement

6.16.1 This Agreement represents the entire Agreement between ENGINEER and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to ENGINEER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by ENGINEER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 7 - SPECIAL CONDITIONS

7.1 Additional Responsibilities of ENGINEER

7.1.1 CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve ENGINEER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

7.1.2 ENGINEER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by ENGINEER's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

7.1.3 ENGINEER's obligations under this clause are in addition to ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against ENGINEER for faulty materials, equipment, or work.

7.2 Remedies

7.2.1 Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and ENGINEER arising out of or relating to this Agreement or the breach thereof will be

decided in a court of competent jurisdiction within Arkansas.

7.3 Audit: Access to Records

7.3.1 ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. ENGINEER shall also maintain the financial information and data used by ENGINEER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. ENGINEER will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 7.3.1 above shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of ENGINEER;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

7.3.3.3.3 If the subagreement is terminated for default or for convenience.

7.4 Covenant Against Contingent Fees

7.4.1 ENGINEER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ENGINEER for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

7.5 Gratuities

7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that ENGINEER or any of ENGINEER’s agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to ENGINEER terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

7.5.2 In the event this Agreement is terminated as provided in Paragraph 7.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against ENGINEER as it could pursue in the event of a breach of the Agreement by ENGINEER. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs ENGINEER incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

7.6.1 City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, ENGINEER will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ENGINEER, by its authorized officer have made and executed this Agreement as of the day and year first above written.


CITY OF FAYETTEVILLE, ARKANSAS

ENGINEER

By: _____
Mayor, Lioneld Jordan

By:  _____
Senior Project Manager, Ron Petrie

ATTEST:
By: _____
City Clerk

By:  _____
Project Manager, Jeff Webb

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX A – SCOPE OF SERVICES

2.1 General

Generally, the scope of services includes LIDAR surveying, traffic studies, and project programming for improvements to College Avenue between North Street and Township Road and School Avenue between MLK Jr. Boulevard and Cato Springs Road. Improvements will consist primarily of corridor improvements associated with all modes of transportation, access control, and streetscapes.

2.2 Surveys

2.2.1 Design Surveys

Garver will conduct a mobile LIDAR survey along the project corridor as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Garver will locate all above ground buildings and other structures, streets, drainage features, trees over eight inches in diameter, visible utilities, and any other pertinent topographic features that may be present along the project corridor. Garver will establish control points that are tied to the City of Fayetteville's control network for use during design and construction.

2.2.2 Property Surveys

Property Surveys are excluded from the scope of services for the Programming Phase.

2.3 Geotechnical Services

Geotechnical Services are excluded from the scope of services for the Programming Phase.

2.4 Coordination

Garver will also attend coordination meetings with the Owner and other agencies as required. Garver will prepare exhibits for these meetings when appropriate.

2.5 Traffic Study

Garver shall perform traffic analysis for College Avenue between Township Road and North Street and School Avenue between MLK, Jr. Boulevard and Cato Springs Road. As part of that analysis, Garver will analyze the following five signalized intersections within the identified corridor:

- North Street
- Sycamore Street
- Township Road
- Martin Luther King, Jr. Boulevard
- 15th Street

In addition, Garver will include traffic analysis for a proposed signal at the intersection of College Avenue and E. Poplar Street in the analysis.

Existing Data Collection

Garver will coordinate with the City of Fayetteville Engineering Department to review the existing and historical traffic data from the Fayetteville Transportation Plan Study (2017) and determine any additional information needed to complete the analysis. If additional data is needed, Garver will coordinate with the Project Manager to assemble that data, including combining sample counts with existing daily traffic information from ARDOT GIS to estimate peak hour turning movement counts. Garver will also perform field observation to verify the existing delay, queuing, and pedestrian activity at

the identified intersections.

Develop Existing Traffic

Garver will produce current year (2020) traffic data estimates at the study intersections by applying growth factors to the existing data, balancing from adjacent intersections, and estimating turning movements from other data sources for the AM and PM peak periods.

Existing Year Operational Analysis

Garver will use the appropriate service package as determined by the City to perform the Existing AM and PM peak hour operational analysis for the two roadway segments and six intersections listed above. The purpose of this analysis is to establish the existing needs of the study area.

Develop Future Year Traffic

Garver will develop 2030 (interim year) and 2040 (design year) AM and PM peak hour traffic volume projections for the study area using future growth rate(s) as determined in coordination with the City.

Future Year Operational Analysis

Garver will perform No Build analysis using the 2030 and 2040 AM and PM peak hour demand to define the expected operating conditions if no modifications are made.

Garver will consider iterative roadway and pedestrian access improvements at the study intersections for both 2030 and 2040. The purpose of this analysis is to establish the future needs of the study area.

Summary Documentation

Garver will document the results of the operational analyses completed for this study in a Draft Report. A PDF of the Draft Report shall be submitted to the City for review and comment. The City will review the Draft Report and provide comments. Once comments are resolved, Garver shall provide the Final Report in PDF format.

2.6 Environmental Services

Environmental Services are excluded from the scope of services for the Programming Phase.

2.7 Programming Phase

This programming phase will be for the purpose of determining the corridor improvements and defining the design scope to be included in future amendments. The programming phase is more specifically described below and on the attached **Exhibit A** RDG Planning & Design scope of services:

2.7.1 Kick-off Meeting with City Staff to review schedule and programming goals.

2.7.2 Meetings with key stakeholders/stakeholder groups. The scope includes eight (8) meetings.

2.7.3 Site visit by the Garver/RDG team with City participation. The consultant team will use the Attachment A as included in the attached RDG proposal as a starting point and may choose to amend the specific list of features. Categories include roadway, active transportation, environment, districts and enhancements. The resulting list will then direct the additional steps of the program scope identified in subsequent tasks.

2.7.4 Programming for placemaking concepts and diagram for the restaurant district. RDG and Garver will program and locate areas along the corridor to integrate placemaking concepts. This includes creating a placemaking diagram for the restaurant district.

2.7.5 Create design program for areas within the project boundary.

- A. Garver/RDG Team to create a program document based on input from the City and stakeholders.
- B. Create a preliminary cost opinion based on the design program.
- C. Coordinate with utility companies to determine options and estimated costs to relocate overhead utility lines.

2.7.6 Second site visit by the Garver/RDG team with the City.

- A. Presentation of the design program document to the City Council Transportation Committee.
- B. Presentation of the design program document to the business/property owners.
- C. Public meeting presentation of the design program.

2.7.7 Provide design program updates based on comments and feedback from the City, Street Committee, business/property owners, and the public.

2.8 Project Deliverables

The following will be submitted to the City, or others as indicated, by Garver:

- 1. One digital copy of the Traffic Study Report.
- 2. One digital copy of the Design Program Document.
- 3. Meeting minutes and public comments.
- 4. Electronic files as requested.

2.9 Extra Work

The following items are not included under this agreement but will be considered as extra work:

- 1. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
- 2. Submittals or deliverables in addition to those listed herein.
- 3. Geotechnical Services.
- 4. Engineering Design Services.
- 5. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
- 6. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- 7. Underground utility and stormwater surveys and property surveys.
- 8. Stormwater System Analysis.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and Garver.

2.10 Schedule

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Calendar Days</u>
Survey Control/LIDAR Survey	30 days from start date
Traffic Study	60 days from start date
Programming Phase	60 days from Traffic Study completion



Appendix B
City of Fayetteville
School/College Avenue Corridor Improvements
Garver Hourly Rate Schedule: July 2019 - June 2020

Classification	Rates
Engineers / Architects	
E-1.....	\$ 108.00
E-2.....	\$ 126.00
E-3.....	\$ 152.00
E-4.....	\$ 178.00
E-5.....	\$ 217.00
E-6.....	\$ 272.00
E-7.....	\$ 361.00
Planners / Environmental Specialist	
P-1.....	\$ 131.00
P-2.....	\$ 164.00
P-3.....	\$ 204.00
P-4.....	\$ 232.00
P-5.....	\$ 268.00
P-6.....	\$ 306.00
P-7.....	\$ 370.00
Designers	
D-1.....	\$ 101.00
D-2.....	\$ 118.00
D-3.....	\$ 141.00
D-4.....	\$ 164.00
Technicians	
T-1.....	\$ 79.00
T-2.....	\$ 100.00
T-3.....	\$ 122.00
Surveyors	
S-1.....	\$ 49.00
S-2.....	\$ 64.00
S-3.....	\$ 86.00
S-4.....	\$ 124.00
S-5.....	\$ 164.00
S-6.....	\$ 186.00
2-Man Crew (Survey).....	\$ 198.00
3-Man Crew (Survey).....	\$ 247.00
2-Man Crew (GPS Survey).....	\$ 218.00
3-Man Crew (GPS Survey).....	\$ 267.00
Construction Observation	
C-1.....	\$ 96.00
C-2.....	\$ 123.00
C-3.....	\$ 150.00
C-4.....	\$ 185.00
Management/Administration	
M-1.....	\$ 370.00
X-1.....	\$ 62.00
X-2.....	\$ 84.00
X-3.....	\$ 117.00
X-4.....	\$ 150.00
X-5.....	\$ 183.00
X-6.....	\$ 231.00
X-7.....	\$ 279.00

Appendix B

City of Fayetteville School/College Avenue Corridor Improvements

FEE SUMMARY

Title I Service	Estimated Fees	
Surveys	\$ 46,900.00	
Traffic Study	\$ 40,600.00	
<i>Project Programming - Garver</i>	\$ 56,850.00	
<i>Project Programming - RDG Planning & Design</i>	\$ 80,000.00	
Project Programming Total	\$ 136,850.00	
Subtotal for Title I Service	\$ 224,350.00	

I

Appendix B

City of Fayetteville School/College Avenue Corridor Improvements

SURVEYS

WORK TASK DESCRIPTION	E-3	S-5	S-4	2-Man Crew (Survey)	2-Man Crew (GPS Survey)	3-Man Crew (Survey)	X-1
	\$159.00	\$171.00	\$129.00	\$206.00	\$227.00	\$257.00	\$65.00
	hr	hr	hr	hr	hr	hr	hr
1. Project Management							
Administration and Coordination		4					
Quality Control Review		4	2				
Submittals to Client		2	2				
Subtotal - Project Management	0	10	4	0	0	0	0
2. Topographic Survey							
Establish Horizontal and Vertical Control		2	4	4	6		
Locate Control Points for LIDAR		4	4	4	20		
Topographic Surveys							
Data Processing/Preparation							
Subtotal - Topographic Survey	0	6	8	8	26	0	0
3. Property Survey							
Survey Layout Map							
Review of Existing Control Points							
Property Surveys							
Data Processing/Preparation							
Subtotal - Property Survey	0	0	0	0	0	0	0
Hours	0	16	12	8	26	0	0
Salary Costs	\$0.00	\$2,736.00	\$1,548.00	\$1,648.00	\$5,902.00	\$0.00	\$0.00

SUBTOTAL - SALARIES: \$11,834.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$10.00
Postage/Freight/Courier	\$0.00
Survey Supplies	\$16.00
Travel Costs	\$40.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$66.00

SUBTOTAL: \$11,900.00

SUBCONSULTANTS FEE: (Sky Systems, LLC) \$35,000.00

TOTAL FEE: \$46,900.00

Appendix B

**City of Fayetteville
School/College Avenue Corridor Improvements**

TRAFFIC STUDY

WORK TASK DESCRIPTION	E-5	E-4	E-3	E-2	E-1	T-2	T-1
	\$226.00	\$186.00	\$159.00	\$132.00	\$113.00	\$104.00	\$83.00
	hr	hr	hr	hr	hr	hr	hr
1. Data Collection							
Compile Existing Traffic Data	4			16			
Field Observation and Sample Counts				20			
Subtotal - Data Collection	4	0	0	36	0	0	0
2. Traffic Analysis							
Develop Existing Traffic Volumes	4			16			
Existing Operational Analysis	4			16			
Develop Future Year Traffic (2030/2040)	6			24			
Future Year Operational Analysis	20			64			
QA/QC	4						
Meetings/Coordination with City	8			4			
Draft Summary Documentation	8			32			
Final Summary Documentation	2			8			
Subtotal - Traffic Analysis	56	0	0	164	0	0	0
Hours	60	0	0	200	0	0	0
Salary Costs	\$13,560.00	\$0.00	\$0.00	\$26,400.00	\$0.00	\$0.00	\$0.00

SUBTOTAL - SALARIES: \$39,960.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$40.00
Postage/Freight/Courier	\$0.00
Travel Costs	\$600.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$640.00

SUBTOTAL: \$40,600.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$40,600.00

Appendix B

City of Fayetteville School/College Avenue Corridor Improvements

PROJECT PROGRAMMING

WORK TASK DESCRIPTION	E-6	P-1	E-4	E-3	E-2	E-1	T-1
	\$283.00	\$137.00	\$186.00	\$159.00	\$132.00	\$113.00	\$83.00
	hr	hr	hr	hr	hr	hr	hr
1. Project Management							
Administration and Coordination	6		4				
Quality Control Review	8		2				
Subtotal - Project Management	14	0	6	0	0	0	0
2. Project Programming							
Task 2.7.1 - Kickoff Meeting	3	3	3				
Task 2.7.2 - Stakeholder meetings (8 max)	6	20	10				
Task 2.7.3 - Site Visit #1 - Programming Scoping	8	24	12				
Task 2.7.4 - Placemaking Concepts	2	10	6				
Task 2.7.5 - Design Program							
A. Design Program Document Preparation	2	12	16			10	
B. Opinion of Probable Costs	2		24			30	
C. Utility relocation options	4		16			12	
Task 2.7.6 - Site Visit #2 - Program Presentations							
A. Transportation Committee presentation	6	12	8				
B. Business Owner presentation	4	12	4				
C. Public presentation	2	12	2				
Task 2.7.7 - Design Program Updates		5	4				
Subtotal - Project Programming	39	110	105	0	0	52	0
Hours	53	110	111	0	0	52	0
Salary Costs	\$14,999.00	\$15,070.00	\$20,646.00	\$0.00	\$0.00	\$5,876.00	\$0.00

SUBTOTAL - SALARIES: \$56,591.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$200.00
Postage/Freight/Courier	\$0.00
Travel Costs	\$59.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$259.00

SUBTOTAL: \$56,850.00

SUBCONSULTANTS FEE: (RDG Planning & Design) \$80,000.00

TOTAL FEE: \$136,850.00

scope of services

June 18, 2020

South School/College Avenue Corridor Streetscape Improvements

3004.140.00

Project Location:

College Avenue – North to Township and
School Avenue – Martin Luther King Jr Blvd to
Cato Springs Rd.
Fayetteville, Arkansas

Owner:

City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

Description:

The scope of this project is to provide programming services for the South School/College Avenue corridor streetscape improvements project. The area of proposed improvements is College Avenue – North to Township and School Avenue – Martin Luther King Blvd. to Cato Springs Road. Major program elements include, lane dieting, new sidewalks, driveway consolidation, utilities, bike lanes, bus stops, landscaping, placemaking and wayfinding. The preliminary budget for the project is \$10,000,000.

The program will identify key features and characteristics of the project, guiding the detailed design process. The issues and features that will be considered through the programming process will include but not be limited to the items listed in Attachment A.

Basic Services Overview:

RDG Planning & Design (RDG), as the sub consultant to Garver, will provide landscape architectural and planning services. Our basic services for this project will include:

- Task 1. Programming

Basic Services Workplan:

Task 1. Programming

Task 1.1 – Kickoff meeting with City Staff

- A. Review schedule and programming goals.

Task 1.2 – Meetings with key stakeholders/stakeholder groups. Scope includes 8 meetings.

Task 1.3 – Site Visit #1

- A. Site walk through with consultant team and City staff. On this site visit, the consultant team and city staff will use Attachment A as a starting point and may choose to delete or augment the specific list of features. The resulting list will then direct the additional steps of the program scope identified in Tasks 1.4 through 1.7.

Task 1.4 – Programming for Placemaking Concepts and diagram for restaurant district

- A. RDG with Garver and the City will program and locate areas along the corridor to integrate placemaking concepts. This includes creating a placemaking diagram for the restaurant district

Task 1.5 Create design program for areas within the project boundary

- A. RDG along with Garver will create a design program document based on input from City staff and stakeholders
- B. RDG will create a preliminary cost opinion for back of curb items based on the design program.



Task 1.6 – Site Visit #2

- A. Presentation of the design program document to the Transportation Committee
- B. Presentation of the design program document to business owners
- C. Public meeting presentation of the design program

Task 1.7 – Design program updates

- A. Revise design program based on comments from City staff and presentations to the Transportation Committee, business owners and the public.

Compensation:

Compensation shall be hourly not-to-exceed of **\$75,000**.

The above services shall be invoiced monthly.

Fees for the above services are subject to the terms and conditions of the contract, and compensation may be amended for additional services or changes to the contract schedule.

Reimbursable expenses are not included in the fees above and will be billed with monthly invoices.

Expenses shall not exceed **\$5,000**

END OF BASIC SCOPE OF SERVICES

Additional Value–Added Services (not included basic services)

RDG Planning & Design has been fortunate to collaborate with our clients on many meaningful projects. Through these experiences RDG have developed a deep expertise and have provided our clients with a variety of additional tools and resources. In addition to our basic services, below is an abbreviated list of value–added services, tools, and resources our consultant team could provide for your project if desired:

1. Additional meetings and presentations
2. Visual aids such as renderings, models, and animations

Excluded Services (not included basic services)

1. Environmental assessments, including wetland delineation, protected species and/or cultural resources investigations, tree surveys
2. Construction documentation and administration
3. Rebates, grants, or other funding applications
4. Life–cycle cost analysis
5. Operational and financial analysis
6. Environmental reviews, reports, or permits
7. All other scope and specialty services not specifically identified in basic services described herein



Attachment A Potential Program/Scope Issues

South School

Roadway

- Allocation of right of way
- Road section
- On–street parking – where will it be needed
- Access management – driveway containment, identify parking areas for modification and general approach.
- Medians

Active Transportation

- Bicycle facility – yes or no; if yes, what kind? Or hybrid where parking is needed? Alternates, like path connections to Greenway – need for local direct access to current and potential businesses
- Sidewalks – width, setback, shared use path
- Pedestrian crossing points
- 11th Street/Iron Skillet center situation – identify parking areas for modification and general approach.
- Transit – shelters/stops or pull–outs

Environment

- Stormwater management
- Materials
- Other sustainability issues

Enhancements

- Intersection Placemaking – 15th Street/MLK
- Lighting
- Tree/landscape standards
- Graphics – subdistrict identification
- Streetscape elements/art

North College

Roadway

- Road section – lane width, sidewalk setback and width
- Access management – driveway containment, identify parking areas for modification and general approach.
- Medians vs. two–way turn lane
- Intersection realignment or new locations – Green Acres Drive, Colt Drive connection
- Intersection redesign – Township, Poplar, Sycamore Protected intersection relevance)

Active Transportation

- Sidewalks – width, setback, shared use path
- Pedestrian crossing points
- Transit – shelters/stops or pull–outs, BRT geometrics

Environment/Sustainability

- Green Acres greenspace – reuse of vacated right–of–way
- Sublett Creek Greenway west of College
- Stormwater management
- Materials



Districts

- Restaurant District – district organization with shared access, branding, graphics, amenities, outdoor eating

Enhancements

- Public Spaces – Green Acres, Sublett Drainage, Poplar Trailhead
- Intersection Placemaking – North, Sycamore, Poplar, Township
- Lighting
- Tree/landscape standards – road and median
- Streetscape elements
- Public art

