

City of Fayetteville Staff Review Form

2021-0026

Legistar File ID

2/2/2021

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

Tim Nyander

1/12/2021

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of an Engineering Services Agreement with Development Consultants, Inc. in an amount not to exceed \$46,790.00 for design of a 12-inch diameter gravity Sanitary Sewer along Razorback Road.

Budget Impact:

5400.720.5700-5314.00

Water and Sewer

Account Number

Fund

02017.1

Sanitary Sewer Rehabilitation

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 6,778,958.00

Funds Obligated \$ 2,724,349.80

Current Balance **\$ 4,054,608.20**

Does item have a cost? Yes

Item Cost \$ 46,790.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget **\$ 4,007,818.20**

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF FEBRUARY 2, 2021

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff
Tim Nyander, Utilities Director

FROM: Corey Granderson, Utilities Engineer

DATE: January 11, 2021

SUBJECT: **Engineering Services Agreement with Development Consultants, Inc. for Design of a 12-inch Sanitary Sewer in Razorback Road**

RECOMMENDATION:

Staff recommends approval of an Engineering Services Agreement with Development Consultants, Inc. in an amount not to exceed \$46,790.00 for design of a 12-inch diameter gravity Sanitary Sewer along Razorback Road.

BACKGROUND:

The University of Arkansas intends to widen Razorback Road between Leroy Pond and Hotz Dr., including curb/gutter, drainage, sidewalk construction, and repaving. The City owns an aging 8" clay gravity sewer line in this portion of Razorback Road that needs to be upsized to a 12" PVC gravity sewer line in advance of this project.

DISCUSSION:

Development Consultants, Inc. (DCI) is the civil engineer designing the roadway project for the University and was formally selected by the City on December 17th, 2020 to provide engineering design for the gravity sewer replacement. This engineering contract is for the design of approximately 1,300 Linear Feet of 12-inch diameter PVC gravity sewer mains, with associated manholes and appurtenances. The engineering fee for design, bidding services, and construction observation are based on hourly fees and tasks, not to exceed \$46,790.00

BUDGET/STAFF IMPACT:

Funds are available in the Sanitary Sewer Rehabilitation/Replacement account.

Attachments:

Engineering Services Agreement
Appendix A – Scope of Services; Fees

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
DEVELOPMENT CONSULTANTS, INC.

Razorback Road Sewer Relocation: Design and Construction Management of a gravity sewer relocation project along the West side of Razorback Road, between Leroy Pond Drive and Markham Road.

THIS AGREEMENT is made as of _____, 2021, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Development Consultants, Inc. with offices in Fayetteville, Arkansas and Little Rock, Arkansas (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. If Construction Phase Services are to be provided by ENGINEER under this agreement, the construction phase services shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with the Arkansas Code Amended §22-9-101.

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 from the CITY OF FAYETTEVILLE to ENGINEER 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 its 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 The Utilities Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Utilities Director 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.
 - 3.1.6 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.

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for the Basic Services of the ENGINEER (as defined by Section 2 of this Agreement) is **\$45,790.00**. The maximum not-to-exceed amount authorized for Reimbursable Expenses is **\$1,000.00**.

Reimbursable Expenses shall be limited to title search, Geotechnical Investigation, utility location services, mileage, the Arkansas Department of Health review fee, ADEQ review fees, reproduction, delivery and printing costs.

5.2 The CITY OF FAYETTEVILLE shall compensate ENGINEER based on a Unit Price or Lump Sum basis as described in Appendix A.

5.2.1 The maximum not-to-exceed amount authorized for this Agreement is based upon the estimated fee scope, hours, costs, and expenses per phase. The estimated fee spreadsheets shall be included within Appendix A. The amount for any phase may be more or less than the estimate, however, the maximum not-to-exceed amount shall not be exceeded without a formal contract amendment.

5.3 Statements

5.3.1 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 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 professional engineering services.

5.4 Payments

5.4.1 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.

5.5 Final Payment

5.5.1 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 ENGINEER's 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:

Type of Coverage

Limits of Liability

Workers' Compensation Employers' Liability	Statutory \$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 Standards, Arkansas State Law, and the Rules and Regulations of the Arkansas Board of Licensure for Professional Engineers and Professional Surveyors. 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. ENGINEER agrees not to seek or accept any compensation or reimbursements from the CITY OF FAYETTEVILLE for engineering work it performs to correct any errors, omissions, or other deficiencies caused by ENGINEER's failure to meet customarily accepted professional engineering practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of ENGINEER.

6.2.2 In addition, ENGINEER will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by ENGINEER's Commercial General Liability and Automobile Liability Insurance policies.

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 for reasonable costs incurred and additional time required 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, CAD drawings, estimates, field notes, and project 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 The CITY OF FAYETTEVILLE acknowledges the ENGINEER's plans and specifications, including documents on electronic media ("delivered documents"), as instruments of professional services. Nevertheless, the delivered documents prepared under this Agreement shall be delivered to and become the property of CITY OF FAYETTEVILLE upon completion of services and payment if full of all monies due to ENGINEER. Except for the ENGINEER's services provided for by this Agreement as related to the construction and completion of the Project, the ENGINEER accepts no liability arising from the reuse of the delivered documents by the CITY OF FAYETTEVILLE, unless ENGINEER is retained by CITY OF FAYETTEVILLE to make modifications or otherwise reuse the delivered documents. Except where the CITY OF FAYETTEVILLE reuses the delivered documents subsequent to the completion of the Project, nothing contained in this paragraph shall alter the ENGINEER's responsibilities and obligations under this Agreement.

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:
113 West Mountain Street
Fayetteville, Arkansas 72701

ENGINEER's address:
1 East Center Street, Suite 290
Fayetteville, Arkansas 72701

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 or any Federal or State Agency'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 nor any Federal or State Agency'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 continent 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

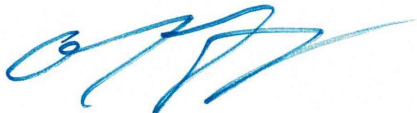
7.6.1 City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, 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: _____
Allen "Jay" Young

ATTEST:

By: _____
City Clerk

Title: Vice President _____

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX A

1. Scope/Schedule of Services Outline
2. Matrix for Tasks, Personnel, Hours, and Costs
3. Design Production Schedule
4. Hourly Rate Schedule
5. Certificate of Insurance Coverages



**SCOPE OF SERVICES
RAZORBACK ROAD GRAVITY SEWER IMPROVEMENTS
CITY OF FAYETTEVILLE, ARKANSAS
JANUARY 8, 2021**



TASK DESCRIPTION

TASK 1 – FINAL DESIGN PHASE

1. Participate in a project kickoff meeting with the Owner
2. Prepare a base drawing.
3. Prepare final design drawings and construction details.
 - a. Prepare and submit a 50% design review set of drawings, including a 50% cost estimate.
 - b. Participate in a 50% design review meeting with the Owner and prepare a meeting summary.
 - c. Prepare and submit a pre-final design review set of drawings, including a pre-final cost estimate.
 - d. Participate in a pre-final design review meeting with the Owner and prepare a meeting summary.
 - e. Prepare and submit a final design set of drawings and construction details sealed by a Professional Engineer licensed in the State of Arkansas, including a final cost estimate.
4. Prepare Specifications and Contract Documents. The City will provide templates for the front end documents.
5. Prepare the Arkansas Department of Environmental Quality (ADEQ) Storm Water Pollution Prevention Plan (SWP3)
6. Participate and schedule up to two (2) coordination meetings with any combination of the University of Arkansas Facilities Management, City of Fayetteville Water & Wastewater, and City of Fayetteville Engineering
 - a. Prepare meeting summaries.
7. Perform QAQC review of design documents.
8. Deliver one (1) reproducible full-size copy, two (2) half-size copies, and one (1) electronic copy of the Plans and Specifications to the City for their use.

TASK 2 –BIDDING & CONTRACT NEGOTIATION PHASE

1. Review construction documents with Contractor. Answer RFIs and prepare any necessary Addendums.
2. Review contractor pricing and prepare a recommendation to the City for the Award of a Construction Contract
3. Assist in the preparation of Contract Documents for execution between the City and Contractor.



**SCOPE OF SERVICES
RAZORBACK ROAD GRAVITY SEWER IMPROVEMENTS
CITY OF FAYETTEVILLE, ARKANSAS
JANUARY 8, 2021**



TASK 3 – CONSTRUCTION MANAGEMENT PHASE

1. Conduct a Preconstruction meeting with the Owner and Contractor.
2. Prepare a meeting summary.
3. Provide full-time observation during construction of the sewer line⁽¹⁾.
4. Conduct two (2) progress meetings.
5. Prepare meeting summaries.
6. Observe sanitary sewer testing.
7. Prepare, review, and coordinate the dissemination of construction documentation including material submittals, testing results, field orders, and change orders as directed by the Owner.
8. Review the Contractor's construction quantities and prepare monthly pay requests for the Owner's approval.
9. Conduct as-built surveys of completed sanitary sewer improvements.
10. Coordinate and conduct a final inspection with the Contractor and the Owner and prepare a punch list of deficient construction items for the Contractor to address.
11. Prepare record drawings of the completed Project and provide one (1) reproducible hard copy and one (1) electronic copy for the Owner's archives.

⁽¹⁾Based on 20 construction days and 3 hours per day dedicated to Sanitary Sewer observation

**FEE PROPOSAL
 RAZORBACK ROAD GRAVITY SEWER IMPROVEMENTS
 CITY OF FAYETTEVILLE, AR
 JANUARY 8, 2021**



Task 1 - Final Design Phase

Task	Engr III	Engr II	Field Survey	Tech III	Insp II	Total
1. Participate in a project kickoff meeting with the Owner	1	2			1	4
2. Prepare a base drawing		6				6
3. Prepare final design drawings and construction details						0
a) Prepare and submit a 50% design review set of drawings, including a 50% cost estimate	8	34				42
b) Participate in a 50% design review meeting with the Owner and prepare a meeting summary	2	2			2	6
c) Prepare and submit a pre-final design review set of drawings, including a pre-final cost estimate	8	32				40
d) Participate in a pre-final design review meeting with the Owner and prepare a meeting summary	2	3				5
e) Prepare and submit a final design set of drawings and construction details sealed by a Professional Engineer licensed in the State of Arkansas, including a final cost estimate	3	8			4	15
4. Prepare Specifications and Contract Documents. The City will provide templates for the front end documents.	0	8				8
5. Prepare the Arkansas Department of Environmental Quality (ADEQ) Storm Water Pollution Prevention Plan (SWP3)	1	8				9
6. Participate and schedule up to two (2) coordination meetings with University of Arkansas Facilities Management, City of Fayetteville	4	8			4	16
a) Prepare meeting summaries	0	2				2
7. Perform QAQC review of design documents	4	2			4	10
8. Deliver one (1) reproducible full-size copy, two (2) half-size copies, and one (1) electronic copy of the Plans and Specifications to the City for their use	0	1				1
TOTAL HOURS =	33	116	0	0	15	164
SUBTOTAL COST =						\$25,730

Task 2 - Bidding & Contract Negotiations Phase

Task	Engr III	Engr II	Field Survey	Tech III	Insp II	Total Hours
1. Review construction documents with Contractor. Answer RFIs and prepare any necessary Addendums	1	4			2	7
2. Review Contractor pricing and prepare a recommendation to the City for the Award of a Construction Contract	1	1			1	3
3. Assist in the preparation of Contract Documents for execution between the City and Contractor		4				4
TOTAL HOURS =	2	9	0	0	3	14
SUBTOTAL COST =						\$2,190

Task 3 - Construction Management Phase

Task	Engr III	Engr II	Field Survey	Tech III	Insp II	Total Hours
1. Conduct Pre-construction meeting with the Owner and Contractor	4				2	6
2. Prepare a meeting summary	2					2
3. Provide full-time observation during construction of the sewer line ⁽¹⁾		30			30	60
4. Conduct two (2) progress meetings	2	2			2	6
5. Prepare meeting summaries		2				2
6. Observe Sanitary Sewer Testing					8	8
7. Prepare, review, and coordinate the dissemination of construction documentation including material submittals, testing results, field orders, and change orders as directed by the Owner		8				8
8. Review the Contractor's constructed quantities and prepare monthly pay requests for the Owner's approval		6				6
9. Conduct as-built surveys of completed sanitary sewer improvements			8			8
10. Coordinate and conduct a Final Inspection with the Contractor and the Owner, and prepare a Punch List of deficient construction items for the Contractor to address					4	4
11. Prepare Record Drawings of the completed Project and provide one (1) reproducible hard copy and one (1) electronic copy for the Owner's archives				4		4
TOTAL HOURS =	8	48	8	4	46	114
SUBTOTAL COST =						\$17,870

(1) Based on 20 construction days and 3 hours per day dedicated to Sanitary Sewer observation

**FEE PROPOSAL
 RAZORBACK ROAD GRAVITY SEWER IMPROVEMENTS
 CITY OF FAYETTEVILLE, AR
 JANUARY 8, 2021**



Reimbursable Expenses

Item	Description	Total
1. ADH Review Fee	Review Fee	\$500
2. Reproduction & Printing	Copies of Plans and Specifications	\$500
Total Estimated Reimbursables		\$1,000

ENGINEERING SERVICES SUMMARY

Task 1	Final Design Phase	\$25,730
Task 2	Advertising and Bidding Phase	\$2,190
Task 3	Construction Management Phase	\$17,870
Task 4	Reimbursable Expenses	\$1,000
Total Engineering Fee - Not to Exceed		\$46,790

Owner: City of Fayetteville
 Consultant: DCI
 Project: Razorback Road Sanitary Sewer Improvements

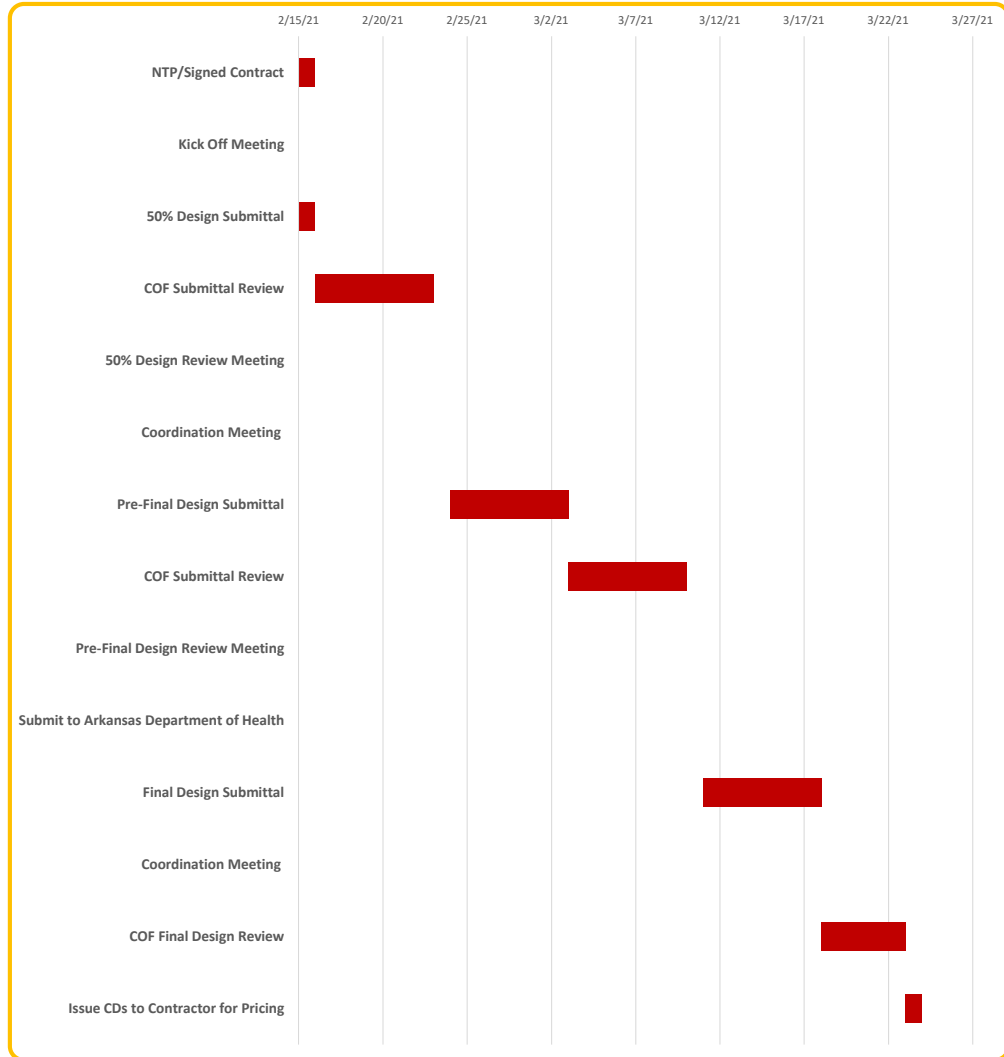


Date Updated: 01/08/2021

Task Name	Start Date*	End Date*	Duration
NTP/Signed Contract	2/15/2021	2/16/2021	1
Kick Off Meeting	2/15/2021	2/15/2021	0
50% Design Submittal	2/15/2021	2/16/2021	1
COF Submittal Review	2/16/2021	2/23/2021	7
50% Design Review Meeting	2/24/2021	2/24/2021	0
Coordination Meeting	2/25/2021	2/25/2021	0
Pre-Final Design Submittal	2/24/2021	3/3/2021	7
COF Submittal Review	3/3/2021	3/10/2021	7
Pre-Final Design Review Meeting	3/11/2021	3/11/2021	0
Submit to Arkansas Department of Health	3/11/2021	3/11/2021	0
Final Design Submittal	3/11/2021	3/18/2021	7
Coordination Meeting	3/19/2021	3/19/2021	0
COF Final Design Review	3/18/2021	3/23/2021	5
Issue CDs to Contractor for Pricing	3/23/2021	3/24/2021	1

*Start and End Dates are based on best available information and are expected to update as design progresses

Design Production Schedule



2021 - RATE SCHEDULE*

PERSONNEL

DOLLAR/HR.

Principal Civil Engineer (Engr III), PE	195.00
Senior Civil Engineer, PE	180.00
Civil Engineer, PE	170.00
Civil Engineer II (Engr II)	145.00
Civil Engineer I	130.00
Engineering Technician	110.00
Principal Landscape Architect, PLA	180.00
Landscape Architect, PLA	155.00
Landscape Architect II	130.00
Principal Land Surveyor (Insp II)	165.00
Land Surveyor, PLS	150.00
Survey Technician (Tech III)	110.00
Survey Party Chief	90.00
Survey Crew Member	75.00
Field Survey	165.00
Administrative	90.00

All expenses related to a specific project are passed on as a direct expense in addition to the rates shown. These expenses being mileage, shipping, reproduction, etc.

* Rates are subject to change annually at beginning of each new calendar year.





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/3/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER BXS Insurance PO Box 251510 Little Rock AR 72225-	CONTACT NAME: Amanda Palmer PHONE (A/C, No, Ext): 501-614-1571 E-MAIL ADDRESS: amanda.palmer@bxsi.com		FAX (A/C, No): 501-614-1425
	INSURER(S) AFFORDING COVERAGE		
INSURED Development Consultants Inc. 2200 N. Rodney Parham, #220 Little Rock AR 72212	DEVECON-01	INSURER A : RLI Insurance Company	NAIC # 13056
		INSURER B : Liberty Insurance Underwriters Inc	19917
		INSURER C :	
		INSURER D :	
		INSURER E :	

COVERAGES

CERTIFICATE NUMBER: 1752099523

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			PSB0008429	8/1/2020	8/1/2021	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PSA0002771	8/1/2020	8/1/2021	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			PSE0004187	8/1/2020	8/1/2021	EACH OCCURRENCE	\$ 1,000,000
							AGGREGATE	\$ 1,000,000
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			PSW0004693	8/1/2020	8/1/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER Y/N <input type="checkbox"/> N/A	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
B	Professional Liability			AEXNYABKK7N002	11/28/2020	11/28/2021	Each Occurrence Aggregate Limit	1,000,000 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

For Proposal Purposes
 2200 N. Rodney Parham #220
 Little Rock AR 72212

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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