

City of Fayetteville Staff Review Form

2021-0199

Legistar File ID

4/6/2021

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

Tim Nyander

3/16/2021

WASTEWATER TREATMENT (730)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a proposal from FTN Associates, Ltd. in an amount not to exceed \$45,000.00 for development of a Toxicity Reduction Evaluation (TRE) Action Plan for the West Side Water Resource Recovery Facility, and approval of a project contingency in the amount of \$9,000.00.

Budget Impact:

5400.730.5800-5314.00

Water and Sewer

Account Number

Fund

13018.1

Wastewater Treatment/Water Quality
Improvements

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 1,004,634.00

Funds Obligated \$ 145,816.49

Current Balance **\$ 858,817.51**

Does item have a cost? Yes

Item Cost \$ 54,000.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget **\$ 804,817.51**

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF APRIL 6, 2021

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: March 16, 2021

SUBJECT: FTN Associates, Ltd. – Proposal for Toxicity Reduction Evaluation (TRE) Action Plan for the West Side Water Resource Recovery Facility

RECOMMENDATION:

Staff recommends approval of a proposal from FTN Associates, Ltd. in an amount not to exceed \$45,000.00 for development of a Toxicity Reduction Evaluation (TRE) Action Plan for the West Side Water Resource Recovery Facility, and approval of a project contingency in the amount of \$9,000.00.

BACKGROUND:

Due to the failure of the toxicity testing at the West Side Plant in October and December of 2020, the Arkansas Department of Energy and Environment (AEE) is requiring the City of Fayetteville to conduct a Toxicity Reduction Evaluation (TRE). FTN Associates, Ltd. was selected to produce an action plan for conducting the TRE, to be reviewed and approved by AEE.

DISCUSSION:

FTN previously prepared a Toxicity Reduction Evaluation (TRE) Activities Plan for submittal to the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ), due March 21, 2021, per requirements of the facility's National Pollution Discharge Elimination System (NPDES) permit. The objective of the plan is to identify the cause(s) and/or source(s) of toxicity in routine biomonitoring tests and to identify options for its control or elimination.

FTN Associates was formally selected by the Engineering Selection Committee on March 4, 2021, RFQ 21-01 Selection #3 to submit a proposal for performing the TRE for the City of Fayetteville. This evaluation has the possibility of a 28 month duration, depending on the level of toxicity found (or not found).

The total fee for additional services (separate from the routine quarterly biomonitoring required by the permit and TRE laboratory testing) for the first year of the project will not exceed \$45,000 without prior approval from the City of Fayetteville. Staff requests a contingency in the amount of \$9,000.00 to cover any unforeseen costs that may arise during the project.

BUDGET/STAFF IMPACT:

Funds are available in the Wastewater Treatment – Water Quality Improvements account within the Water & Sewer fund.

Attachments:

Proposal from FTN Associates



water resources / environmental consultants

3 Innwood Circle, Suite 220 • Little Rock, AR 72211 • (501) 225-7779 • Fax (501) 225-6738

February 23, 2021
tnyander@fayetteville-ar.gov

Mr. Tim Nyander, Utilities Director
City of Fayetteville
Water & Sewer Services
2435 South Industrial Drive
Fayetteville, AR 72701

RE: Technical Support for Toxicity Reduction Evaluation and Associated Activities for the City of Fayetteville – West Side Wastewater Treatment Plant, AR0050288 (AFIN: 72-01033)
FTN No. P04370-2534-001

Dear Mr. Nyander:

FTN Associates, Ltd. (FTN) appreciates the opportunity to present the attached proposal for additional services to our existing contract. There is a significant level of uncertainty in budgeting for Toxicity Reduction Evaluation (TRE) projects because the cause or source of toxicity is usually unknown. If the solution is straightforward and discovered quickly, or if the toxicity disappears, the project will incur relatively little expense. However, greater expense will result if there are multiple toxicants and their identification is difficult. Accordingly, although the actual time frame for conducting a TRE is 28 months, we recommend phasing the budget one year at a time because there is typically a much clearer picture of the direction of the project, and its subsequent costs, after the first year if the toxicity source has not been identified.

Briefly, our recommended approach to conducting the TRE is as follows:

- The first task is to submit the TRE Activities Plan to the Arkansas Department of Energy and Environment, Division of Environmental Quality. The plan is very general and commits the City of Fayetteville – West Side Wastewater Treatment Plant (West Side WWTP) to nothing specific beyond performing the required reporting and dedicating resources and effort to address the toxicity issue.
- FTN will coordinate routine toxicity screening (every 3 to 5 weeks), with samples sent American Interplex Corporation in Little Rock, Arkansas. The purpose of this testing is to identify toxic samples to be used for further follow-up testing. This testing will continue for six months, after which the frequency might be reduced, depending on the results up to that point. Some TRE projects remain in this routine screening phase for the duration of the TRE due to lack of toxicity.
- Follow-up testing, when it occurs, generally involves a fairly extensive suite of toxicity/chemical tests, called a Phase 1 Toxicity Identification Evaluation (TIE) to identify the physical properties of the toxicant(s). Subsequent testing (Phase 2 and Phase 3 TIEs) attempts to identify and confirm toxicants suggested by the Phase 1 tests.

Mr. Tim Nyander
February 23, 2021
Page 2

- If the cause and/or source of the toxicity can be determined, the Final TRE Report will include a section on the recommended corrective action. The purpose of the TRE is only to identify the cause/source of toxicity and the method(s) for controlling it. The TRE does not involve implementing the controls or corrective action.

We appreciate the opportunity to assist you with this project. Please feel free to call me or Nick Siria at (501) 225-7779 if you have questions or need further clarifications on this proposal.

Respectfully submitted,
FTN ASSOCIATES, LTD.



Jeremy Rigsby
Aquatic Ecologist

JMR/dlc

Attachments

R:\PROJECTS\04370-2534-001\PROPOSALS\FINAL\2021-02-23 FTN PROPOSAL FOR ADDITIONAL SERVICES FAYETTEVILLE WEST SIDE WWTP TRE SUPPORT.DOCX 



water resources / environmental consultants

3 Innwood Circle, Suite 220 • Little Rock, AR 72211 • (501) 225-7779 • Fax (501) 225-6738

February 23, 2021
tnyander@fayetteville-ar.gov

Mr. Tim Nyander, Utilities Director
City of Fayetteville
Water & Sewer Services
2435 South Industrial Drive
Fayetteville, AR 72701

RE: Technical Support for Toxicity Reduction Evaluation and Associated Activities for the City of Fayetteville – West Side Wastewater Treatment Plant, AR0050288 (AFIN: 72-01033)
FTN No. P04370-2534-001

Dear Mr. Nyander:

In response to your request, FTN Associates, Ltd. (FTN) appreciates the opportunity to submit the following proposal for additional services to provide professional consulting services related to a Toxicity Reduction Evaluation (TRE) and associated activities for the City of Fayetteville – West Side Wastewater Treatment Plant (West Side WWTP), AR0050288 (AFIN: 72-01033), Fayetteville, Arkansas (the Project).

Our Additional Services will generally consist of support services for the TRE for the West Side WWTP all as set forth in the Scope of Work for Additional Services (Exhibit A) and subject to the Terms and Conditions for the City of Fayetteville (Exhibit B), which are attached to this letter.

You are expected to furnish us with full information as to your requirements including any special or extraordinary considerations for the Project or special services needed and also to make available all pertinent existing data. In addition, we request that you provide information concerning the potential health and/or physical hazards present at the facility to which FTN employees could be exposed. This information (i.e., Safety Data Sheets, etc.) is needed to ensure FTN's compliance with the OSHA Hazard Communication Standard.

Our fee for Additional Services will be based on time and materials using the Client Rates in Exhibit C for services rendered by our principals and employees engaged directly on the Project. The total fee for Additional Services (separate from the routine quarterly biomonitoring required by the permit and TRE laboratory testing) for the first year of the project will not exceed \$45,000 without prior approval from you. The first year of the project will begin with the notice to proceed and continue through the following 12 months.

We will bill you monthly for Services and Reimbursable Expenses with invoices to be paid within 30 days. Unless other arrangements are made, invoices will be sent to the Client electronically via email. Payments paid electronically through Automatic Clearing House (ACH) system are preferred, however, other methods will be accepted. The above financial arrangements are on the basis of prompt payment of our bills and the orderly and continuous progress of the Project.

Initial _____

Mr. Tim Nyander
February 23, 2021
Page 2

We expect to start our services promptly after receipt of your acceptance of this proposal. Additional information regarding the project schedule and deliverables is discussed in Exhibit A.

If there are protracted delays for reasons beyond our control, we would expect to negotiate with you an equitable adjustment of our compensation taking into consideration the impact of such delays, including but not limited to changes in price indices and pay scales applicable to the period when services are in fact being rendered.

This proposal, which includes Exhibits A, B, and C consisting of 4 pages, represents the entire understanding between you and us with respect to the Project and may only be modified in writing signed by both of us. If it satisfactorily sets forth your understanding of our agreement, we would appreciate your printing a complete copy of this letter, signing in the space below and initialing each page, and returning it to us. This proposal will be open for acceptance until March 23, 2021, unless changed by us in writing.

Thank you very much for the opportunity to present this proposal. Please do not hesitate to call me or Nick Siria at (501) 225-7779 if you have any questions relating to this proposal or additional services offered by FTN.

Respectfully submitted,
FTN ASSOCIATES, LTD.




Jeremy Rigsby
Aquatic Ecologist

Accepted this _____ day
of _____, 2021

By _____
Authorized Representative
City of Fayetteville

JMR/dlc

Attachments

R:\PROJECTS\04370-2534-001\PROPOSALS\FINAL\2021-02-23 FTN PROPOSAL FOR ADDITIONAL SERVICES FAYETTEVILLE WEST
SIDE WWTP TRE SUPPORT.DOCX 



Initial _____

EXHIBIT A

Scope of Work for Additional Services Technical Support for Toxicity Reduction Evaluation and Associated Activities for the City of Fayetteville – West Side Wastewater Treatment Plant (West Side WWTP), Fayetteville, AR

Attached to and made part of the letter agreement dated February 23, 2021, between FTN Associates, Ltd. (FTN) and City of Fayetteville (the Client), with respect to the project described therein. The project tasks and schedule follow.

PROJECT TASKS

TASK 1 — SUBMIT TRE ACTIVITIES PLAN TO DEQ

FTN previously prepared a Toxicity Reduction Evaluation (TRE) Activities Plan for submittal to the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ), due March 21, 2021, per requirements of the facility's National Pollution Discharge Elimination System (NPDES) permit. The objective of the plan is to identify the cause(s) and/or source(s) of toxicity in routine biomonitoring tests and to identify options for its control or elimination. The plan addresses aspects of TREs, such as project organization, toxicant identification, source evaluation, sampling plan, quality assurance, routine reporting, and project schedule.

TASK 2 — IMPLEMENT TRE ACTIVITIES PLAN

FTN will work closely with West Side WWTP staff and management to provide technical support to implement the TRE Activities Plan submitted under Task 1. This support will include coordination and design of toxicity screening tests, laboratory toxicity identification and source evaluation studies, interpretation and evaluation of laboratory data, regular and frequent communication and updates with West Side WWTP staff, and preparation and submittal of Quarterly TRE Activities reports to DEQ. Since this budget only covers activities completed through February 2021, preparation and submittal of the final TRE Report to DEQ is not included in this Task and will be completed under an approved budget for the remainder of the TRE.

TASK 3 — PROJECT COORDINATION

FTN will provide routine project coordination, including billing, progress reports, conference calls, and email updates.

PROJECT SCHEDULE

FTN anticipates that the project will last through April 2023. Since neither the identity nor the source of the cause of toxicity is known, FTN recommends a phased approach to funding the project, such that the direction and costs of the project at the end of year 1 (approximately February 2022) are reevaluated.



Initial _____

February 8, 2016

EXHIBIT B

Standard Terms and Conditions with the City of Fayetteville For FTN Contracts

1. Standard of Care The services provided by FTN shall be performed in accordance with generally accepted professional practice at the time when and the place where the services are rendered.
2. Independent Contractor FTN is an independent contractor and not an employee or agent of CITY OF FAYETTEVILLE. CITY OF FAYETTEVILLE is not responsible for any of its activities. Any taxes, licenses, permits, required filing of forms or any other conditions imposed upon or required to render FTN Services shall be satisfied by FTN at FTN's expense.
3. Insurance FTN shall procure and maintain insurance for protection from claims under workers' compensation acts. FTN shall procure and maintain liability insurance against claims based on FTN's negligence for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages based on FTN's negligence because of injury to or destruction of property including loss of use resulting therefrom.
4. Changes in Scope or Price Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.
5. Electronic Deliverables The deliverable documents under this agreement are provided for use and modification as needed by the City of Fayetteville. Any use or reuse of original or altered computer files by CITY OF FAYETTEVILLE or others without written verification by FTN for purposes other than for the specific purpose intended will be at CITY OF FAYETTEVILLE's risk and full legal responsibility. Any verification of such adaptation by CITY OF FAYETTEVILLE will entitle FTN to additional compensation at the then current rate.

The submitted data files are intended to work only as described. The files are compatible only with the software and operating platform described. FTN makes no warranty as to the compatibility of these files for versions of the software other than for those stated. FTN is not responsible for uses of the data outside of or beyond the scope of the Agreement.

Because data stored on electronic media can deteriorate undetected or can be modified without FTN's knowledge, CITY OF FAYETTEVILLE agrees that FTN will not be held liable for the completeness or correctness of the electronic media, with respect to its originally intended use as defined in the agreement, after an acceptance period of 30 days after delivery of the electronic files. FTN stands by the accuracy of sealed drawings that accompany submittals.

The electronic files are submitted to CITY OF FAYETTEVILLE for a 30-day Acceptance Period. During this period, CITY OF FAYETTEVILLE may review and examine these files; any errors, relative to the intended use of the files, detected during this time will be corrected by FTN as part of the basic agreement. Any changes requested after the Acceptance Period will be considered additional services to be performed on a time and materials basis, at the then current rates plus terms and conditions.

Initial _____



6. Termination This agreement may be terminated at any time, for any cause by either party upon thirty days written notice to the other party. In such event, CITY OF FAYETTEVILLE shall forthwith pay FTN in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, relationships and obligations created by this Agreement shall be terminated upon completion of all applicable requirements of this Agreement.
7. Assignment This Agreement shall not be assigned by FTN to any other party unless prior written approval is obtained from CITY OF FAYETTEVILLE. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. Limit of Liability It is understood that any and all professional liabilities incurred by FTN throughout the course of rendering professional services on this Project shall be limited to a maximum of the net fee received by FTN, not including reimbursable expenses and subconsultants, for all services rendered on the Project.
9. Confidentiality of Information No information concerning this Project shall be released by FTN, unless directed to do so by the City of Fayetteville or required by law. City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the (contractor) 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.”
10. Precedence These Standard Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition notice to proceed, or like document regarding FTN's services.
11. Severability If any of these Standard Terms and Conditions shall be finally determined to be invalid or unenforceable in whole or part, the remaining provisions hereof shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform this Agreement to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.
12. Survival These Standard Terms and Conditions shall survive the completion of the services under this Agreement and the termination of this Agreement for any cause.
13. Controlling Law This Agreement is to be governed by and construed in accordance with the laws of the State of Arkansas.



Initial _____

EXHIBIT C

2021 Fee Schedule¹ FTN Associates, Ltd.

<u>Labor Category</u>	<u>Hourly Rate</u>
Professional 7	\$ 215.00
Professional 6	190.00
Professional 5	170.00
Professional 4	150.00
Professional 3	135.00
Professional 2	115.00
Professional 1	105.00
Technician 4	105.00
Technician 3	95.00
Technician 2	85.00
Technician 1	70.00
Executive Assistant	76.00
Word Processing	66.00

Direct Expenses

All direct project expenses will be invoiced at cost plus 10 percent. Direct project expenses include such items as travel, meals, lodging, shipping, supplies, consultants, subcontractors, etc. Vehicle mileage will be charged at standard IRS rates.

A charge of 2 percent is applied to the total labor amount to cover communication charges and computer expenses associated with computer applications, data storage and backup.

Should back-up data be requested for reimbursable expenses, it will be provided for an administrative fee.

Payment Terms

Unless other arrangements are made in writing, invoicing will be monthly for services completed and will be sent via email to the Client. Payment is due in full within 30 days of invoice and are preferred to be paid electronically through Automated Clearing House (ACH) system; however, other methods are acceptable. A service charge of 1.5 percent per month will be charged on all balances over 30 days.

¹Effective January 1, 2021 – December 31, 2021



Initial _____