

City of Fayetteville Staff Review Form

2019-0112

Legistar File ID

3/5/2019

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

Jesse Beeks/Sara Glenn

2/13/2019

FLEET OPERATIONS (770)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

City Council approve the proposed fixed fee contract with deMx Architecture in the amount of \$90,800, which includes Schematic Design, Construction Documents, Bidding & Negotiations, and Construction Administration Services. The proposed schedule is to advertise for Bids for the Construction in the Summer of 2019. A contingency of \$9,000 is also requested.

Budget Impact:

9700.770.1920-5804.00

Shop

Account Number

Fund

18021.1

Fleet Car Wash

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 873,000.00

Funds Obligated \$ -

Current Balance \$ 873,000.00

Does item have a cost? Yes

Item Cost \$ 90,800.00

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 782,200.00

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF MARCH 5, 2019

TO: Mayor and City Council

THRU: Terry Gulley, Director of Transportation

FROM: Jesse Beeks, Fleet Operations Superintendent

DATE: February 13, 2019

SUBJECT: Fleet Vehicle Wash Project

RECOMMENDATION:

City Council approve the proposed fixed fee contract with deMx Architecture in the amount of \$90,800, which includes Schematic Design, Construction Documents, Bidding & Negotiations, and Construction Administration Services. The proposed schedule is to advertise for Bids for the Construction in the Summer of 2019. A contingency of \$9,000 is also requested.

BACKGROUND:

Currently the City utilizes three separate vehicles wash facilities. For average size vehicles, this service is out sourced to a local vendor. For larger vehicles or vehicles with equipment, there is a wash bay located at the west end of the Fleet shop. There is also an outside spray located at the Parks building.

DISCUSSION:

There are multiple ongoing issues with the current facilities. The out sourced vendor cost rises each year, the Fleet shop wash is in disrepair, and the outside spray at Parks produces odors and debris from the trash trucks. To solve these issues, it is proposed to build a new wash facility with both a large and average size wash, and a spray wash bay, all in one location. After completion, the existing fleet shop bay will be converted into a much-needed work bay to maintain our expanding fleet.

BUDGET/STAFF IMPACT:

The total budget for this project is \$873,000.00 and is already included in the approved Budget. A 10% contingency is also requested.

Attachments:

deMx Architecture Proposal
Contract



RFQ 18-01, Engineering & Architectural Services – Selection 9
PROFESSIONAL SERVICES CONTRACT FOR ARCHITECTURAL SERVICES
Project: Fleet Truck & Car Wash Facility

THIS AGREEMENT is made this _____ day of _____, 2019 by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE OR CITY) and DEMX Architecture, P.A. with its principal office located in Fayetteville, Arkansas (hereinafter called DEMX).

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

DEMX shall serve as CITY OF FAYETTEVILLE's professional architectural consultant in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of DEMX's services. All services shall be performed under the direction of a professional architect registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by DEMX under this Agreement, such services shall be executed under the observation of a professional architect registered in the State of Arkansas in accordance with 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 DEMX.

- 1.2 Assignments from CITY OF FAYETTEVILLE to DEMX may include services described hereafter as Basic Services or as Additional Services of DEMX.
- 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 ARCHITECT

- 2.1 Perform professional design services in connection with the Project as hereinafter stated.
- 2.1.1 The Scope of Services to be furnished by DEMX during this project is included in Appendix A, last dated 02/11/2019 attached hereto and made part of this Agreement.
- 2.2 DEMX shall coordinate their activities and services with the CITY OF FAYETTEVILLE. DEMX and CITY OF FAYETTEVILLE agree that DEMX has full responsibility for the architectural services.
- 2.2.1 DEMX shall fully disclose any sub-consultants in Appendix A.
- 2.2.2 Any contractor or third party involved in cost estimates shall be excluded from being able to provide a bid on the project.

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 DEMX:
- 3.1.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 3.1.2 Assist DEMX by placing at DEMX's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 3.1.3 Obtain for DEMX access to property reasonably necessary for DEMX to perform its services under this Agreement.
- 3.1.4 Examine all studies, reports, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by DEMX and render in writing decisions pertaining thereto.

- 3.1.5 The Facilities Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. Such person 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 will review all documents and provide written comments to DEMX 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. DEMX 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.
- 4.3 DEMX shall provide a schedule of its services and include such schedule with the scope in Appendix A.

SECTION 5 - PAYMENTS TO ARCHITECT

- 5.1 The maximum not-to-exceed amount authorized for this Agreement is \$90,800 US DOLLARS.
- 5.2 The CITY OF FAYETTEVILLE shall compensate DEMX based upon progress payments 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 in 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 consistent with DEMX'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 DEMX and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the professional architectural services.

5.4 Payments

5.4.1 All accepted invoices are payable upon receipt and generally due within thirty (30) days. If a portion of DEMX'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 DEMX 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, DEMX 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 DEMX 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 DEMX.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

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

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

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

6.1.2 CITY OF FAYETTEVILLE and DEMX waive all rights of subrogation against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of DEMX'S services. A provision similar to this shall be incorporated into all construction contracts entered into by the CITY OF FAYETTEVILLE, and all construction contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and DEMX for damage covered by any construction contractor's property insurance.

6.2 Professional Responsibility

6.2.1 DEMX will exercise reasonable skill, care, and diligence in the performance of DEMX's services and will carry out its responsibilities in accordance with customarily accepted professional architectural practices, CITY OF FAYETTEVILLE Standards, Arkansas State Law and the Rules and regulations of the Arkansas State Board of Licensure For Architects, Landscape Architects and Interior Designers. CITY

OF FAYETTEVILLE will promptly report to DEMX any defects or suspected defects in DEMX's services of which CITY OF FAYETTEVILLE becomes aware, so that DEMX can take measures to minimize the consequent of such defect. DEMX agrees not to seek or accept any compensation or reimbursements from the CITY OF FAYETTEVILLE for architectural work it performs to correct any errors, omissions or other deficiencies caused by DEMX's failure to meet customarily accepted professional architectural practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of DEMX.

6.2.2 In addition DEMX 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 DEMX's Commercial General Liability and Automobile Liability Insurance policies.

6.3 Cost Opinions and Projections

6.3.1 Cost opinions and projections prepared by DEMX relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on DEMX 's experience, qualifications, and judgment as a design professional. Since DEMX 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, DEMX does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by DEMX.

6.4 Changes

6.4.1 CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of DEMX'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 DEMX.

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 DEMX 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 DEMX at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of DEMX's default.

6.5.4 If termination for default is effected by DEMX, 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 DEMX for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by DEMX 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, DEMX 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 DEMX 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 DEMX to fulfill contractual obligations, it is determined that DEMX 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 DEMX are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond DEMX's reasonable control, DEMX shall be entitled to additional compensation and time for reasonable costs incurred by DEMX in temporarily closing down or delaying the Project.
- 6.7 Rights and Benefits
- 6.7.1 DEMX'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 DEMX 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 DEMX 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 DEMX 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 DEMX 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 DEMX 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 DEMX for services rendered by DEMX.
- 6.10 Publications
- 6.10.1 Recognizing the importance of professional development on the part of DEMX's employees and the importance of DEMX's public relations, DEMX may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to DEMX'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 DEMX. 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 DEMX's activities pertaining to any such publication shall be for DEMX'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 DEMX 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. DEMX may retain reproduced copies of drawings and copies of other documents.

6.12.2 The CITY OF FAYETTEVILLE acknowledges the DEMX'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 the CITY OF FAYETTEVILLE upon completion of the services and payment in full of all monies due to DEMX. Except for the DEMX's services provided for by this Agreement as related to the construction and completion of the Project, the DEMX accepts no liability arising from any reuse of the delivered documents by the CITY OF FAYETTEVILLE, unless DEMX 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 DEMX'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. DEMX 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

Fayetteville, AR 72701

DEMX's address:

104 N East Avenue

Fayetteville, AR 72701

6.14 Successor and Assigns

6.14.1 CITY OF FAYETTEVILLE and DEMX 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 DEMX 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, in the County of Washington, without regard to any conflicts of law provisions.

6.16 Entire Agreement

6.16.1 This Agreement represents the entire Agreement between DEMX 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 DEMX a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by DEMX, 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 DEMX:

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 DEMX of responsibility to its standard of care set forth in Section 6.2.1. Except as set forth in this Agreement, 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 DEMX shall be and shall remain liable, in accordance with applicable law, for direct third-party property and personal injury damages to CITY OF FAYETTEVILLE to the extent caused by DEMX's negligent performance of the Services furnished under this Agreement; DEMX shall not be liable for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

7.1.3 In no event will DEMX be liable for any special, indirect, or consequential damages including, without limitation, damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of OWNER, or governmental fines or penalties.

7.1.4 To the fullest extent permissible by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of DEMX, its officers, directors, shareholders, employees, agents, and consultants, and any of them, to CITY OF FAYETTEVILLE and anyone claiming by, through or under CITY OF FAYETTEVILLE, for any and all claims, losses, liabilities, costs or damages whatsoever

arising out of, resulting from or in any way related to the Project or this Agreement from any form of negligence, professional errors or omissions (including breach of contract or warranty) of DEMX, its officers, directors, employees, agents or consultants, or any of them, SHALL NOT EXCEED One Million Dollars (\$1,000,000). The parties agree that specific consideration has been given by the DEMX for this limitation and that it is deemed adequate.

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 DEMX 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 DEMX shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement and for three (3) years from the date of final payment under this Agreement, in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. DEMX shall also maintain the financial information and data used by DEMX 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. DEMX 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 DEMX;
- 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 DEMX represents 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 DEMX for the purpose of securing business. For breach or violation of this representation, CITY OF FAYETTEVILLE shall have the right to terminate 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 DEMX or any of DEMX'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 DEMX 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 DEMX as it could pursue in the event of a breach of the Agreement by DEMX.

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 for records kept solely and only in the possession of DEMX, to the extent required by law, DEMX will 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 DEMX, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

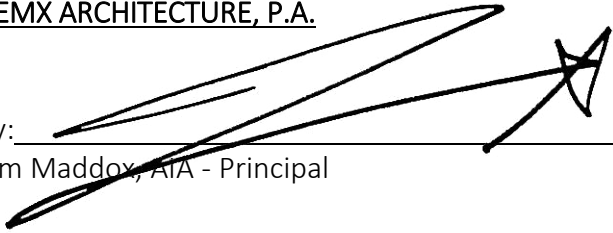
By: _____
Lioneld Jordan, Mayor

ATTEST:

By: _____
Sondra E. Smith, City Clerk

DEMX ARCHITECTURE, P.A.

By: _____
Tim Maddox, AIA - Principal

A handwritten signature in black ink, appearing to read 'Tim Maddox', is written over a horizontal line. The signature is stylized with a large, sweeping loop and a sharp, angular end.

Title: _____

END OF AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES

PROPOSAL

Wade Abernathy, Division Manager Facilities & Building Construction
Facilities Management, City of Fayetteville
115 S. Church Ave.
Fayetteville, AR 72701

RE: A new Fleet Truck & Car Wash Facility for the City of Fayetteville, Arkansas

General Program

This proposal is for the professional design services for a new fleet truck and car wash facility to be located between S Happy Hollow Road and S Armstrong Ave in Fayetteville, Arkansas. The proposed facility will include one enclosed drive thru truck wash bay (20'W x 70'L x 17'H), one enclosed drive thru car wash bay (20'W x 50'L x 12'H), one covered manual wash bay, and an equipment/ storage room. The building will need to be heated (infrared heaters), but not air-conditioned. The wash bays will be key code accessed. The building materials and finishes need to be easily cleaned, maintained, and non-corrosive. Although the City will need seek LEED Certification, the use of sustainable materials and practices is encouraged.

Project Team

Architecture: deMx architecture (Timothy W Maddox, AIA)
MEP Engineering: GA Engineers Inc (Greg Anderson, PE)
Structural Engineering: Myers-Beatty Engineering, PLLC (Jim Beatty, PE)
Civil Engineering/ Landscape Architecture: Olsson (Brad Hammond, PE)

Documents and Services

Documents and Services are to be furnished as required by the scope of the project:

Schematic Design

- Preliminary Site Plan and Floor Plan
- Preliminary Exterior Elevations and Building Sections
- Preliminary 3D Exterior Renderings
- Preliminary Structural Engineering Design
- MEP Engineering Narrative
- Preliminary Civil Engineering Design (see attached scope by Olsson)
- Large Scale Development (LSD) Submittal and Meetings
- Preliminary Cost Estimate

Construction Documents

- Floor Plan, Reflected Ceiling Plan, and Roof Plan
- Equipment Plan
- Exterior Elevations
- Wall Sections, Building Sections, and Details
- Interior Elevations and Details
- Door & Window Schedules

Structural Engineering Plans and Details
MEP Engineering Plans and Details
Civil Engineering Plans and Details (see attached scope by Olsson)
Project Specifications Book

Bidding & Negotiations

Answer Bidder Questions and Issue Addenda if required
Engage with General Contractor awarded the project

Construction Administration

Construction Observation and Field Reports (typically bi-weekly)
Submittal and Shop Drawing Review
RFIs, Supplemental Drawings, and Sketches as required
Process Change Orders
Process Contractor Applications for Payment
Punch List and Project Close Out

Fee Schedule

The architectural/ civil, MEP, and structural engineering fee shall be based on a lump sum (not-to-exceed) of **\$90,800.00**. This fee includes all documents and services listed above.

The architectural/ MEP and structural engineering fee will be distributed as follows:

Schematic Design	30%
Construction Documents	45%
Bidding & Negotiations	5%
Construction Administration	20%

Any additional services not outlined in this proposal can be provided based on standard hourly rates. See the attached deMx architecture hourly rate schedule.

The architectural/ engineering fee does not include:

- Building permit or Arkansas State Health Department fees
- LEED documentation and certification
- Reimbursable expenses (large format printing and postage/courier services)
- Subsurface (geotechnical) investigation
- Topographic survey and tree location

Invoices shall be made monthly and/or at milestones during the project and are due upon receipt.

Thank you,



Tim Maddox, AIA – Principal
deMx architecture

DEMX architecture Standard Hourly Rates

The following is a breakdown of hourly rates per position for 2019 :

Classification	Hourly Rate	
Principal	\$150.00	TM
Project Architect IV	\$135.00	JC
Project Architect III	\$125.00	
Project Architect II	\$115.00	SM
Project Architect I	\$105.00	BC
Project Manager III	\$105.00	
Project Manager II	\$ 95.00	SS, KH
Project Manager I	\$ 85.00	
Interior Designer III	\$105.00	
Interior Designer II	\$ 95.00	
Interior Designer I	\$ 75.00	MB, CB
Draftsperson III	\$ 85.00	
Draftsperson II	\$ 75.00	
Draftsperson I	\$ 65.00	TT
Office Administrator/ Clerical	\$ 50.00	

Hourly rate schedules will be adjusted annually each January 1.



December 4, 2018

Mr. Tim Maddox, AIA
deMx Architecture
104 N. East Ave.
Fayetteville, AR 72701

Re: Revised Proposal for Civil Engineering Services
Fayetteville Fleet Truck & Car Wash Facility

Dear Tim,

Olsson Associates (Olsson) is excited to join deMx Architecture in execution of the Fayetteville Fleet Truck & Car Wash project. We are pleased to submit the following proposal for both basic design services and additional services related to Large Scale Design (LSD) submittals to the City of Fayetteville.

The general scope of the project includes the following:

1. Site improvements for the Fleet Truck & Car Wash Facility, including paved drives in and out of the facility. Low Impact Development principles will be considered and integrated into the site design if feasible, although LEED Certification will not be pursued.
2. Extension to the Happy Hollow Road drive from the existing paving area at the Transfer Station south through the future scale facility and connecting with Armstrong Road.

The proposed detailed scope of work for each phase, are set forth below.

Basic Services Design Phase

Olsson will provide site civil and landscape architectural design services for the facility, including the following:

1. Update of the existing survey (if required.)
2. Civil Site Plan and Details
3. Site Grading and Drainage Plan
4. Landscape Plan in accordance with City of Fayetteville ordinances
5. Sediment Control Plan and Details

Design Phase Force Main Relocation

1. Utility Relocation Plan, including plan and profile of a necessary relocation of an existing sewer force main

Bid Phase

Olsson will provide assistance during the bid phase, including the following:

1. Providing answers to bidder questions forwarded from your office
2. Input on necessary addenda (addenda to be prepared by deMx)

Construction Administration Phase (Basic Services)

Olsson will provide assistance during the construction phase, including the following:

1. Review of submittals regarding site improvements forwarded by your office
2. Attendance of preconstruction conferences required by the city
3. Three (3) site visits by project professionals

Construction Administration Phase (Basic Services)

1. Construction observation of the force main relocation as required by the City of Fayetteville and Arkansas Department of Health

Additional Services Related to Large Scale Development (LSD) Review Process

Olsson will coordinate the LSD submittal and review process, including:

1. Creation of LSD sheets from design plans, and packaging architectural sheets provided by deMx and utility sheets provided by MEP consultant
2. Preparation of Tree Preservation and Site Analysis Plan
3. Coordination of submissions to planning office and Planning Commission
4. Preparation and submittal of Grading Permit Application
5. Preparation and submittal of a drainage report meeting City of Fayetteville ordinances
6. Attendance at Technical Plat Review

EXCLUDED SERVICES:

1. Surveying
2. Architectural and MEP services
3. LSD presentation boards
4. SWPPP Permitting (it is assumed that the disturbed area will be less than one acre)
5. LEED Certification
6. Bidding coordination/services not included above
7. Construction observation of any elements other than the force main relocation
8. Environmental permitting or biological surveys

9. Review fees related to LSD submittals, city reviews, and permitting.

If you have any questions regarding this proposal, please do not hesitate to call. If you are in agreement with this proposal, we are prepared to enter into an agreement with deMX. We appreciate this great opportunity to work with deMX on this important project, and we look forward to contributing to your success.

Sincerely,

A handwritten signature in blue ink that reads "Brad B. Hammond". The signature is written in a cursive, flowing style.

Brad Hammond, P.E.
Fayetteville Team Leader