

City of Fayetteville Staff Review Form

2019-0320

Legistar File ID

6/4/2019

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

Tim Nyander

5/16/2019

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the approval of Amendment No. 1 to the Agreement with Garver, LLC in the amount of \$246,475.00 for Engineering Services Associated with Water and Sewer Relocations for Arkansas Department of Transportation Job 040683, Widening of Highway 170 From Highway 62 to Clyde Carnes Road.

Budget Impact:

5400.720.5600.5314.00

Water and Sewer

Account Number

Fund

11011.1

Water/Sewer Relocations - Bond Projects

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 1,134,172.00

Funds Obligated \$ 163,905.68

Current Balance \$ 970,266.32

Does item have a cost? Yes

Item Cost \$ 246,745.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget \$ 723,521.32

V20180321

Purchase Order Number: \_\_\_\_\_

Previous Ordinance or Resolution # \_\_\_\_\_

Change Order Number: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Comments:



**MEETING OF JUNE 4, 2019**

**TO:** Mayor and City Council

**THRU:** Don Marr, Chief of Staff  
Tim Nyander, Utilities Director

**FROM:** Corey Granderson, Utilities Engineer

**DATE:** May 16, 2019

**SUBJECT:** **Amendment No. 1 to the Agreement with Garver, LLC for Engineering Services Associated with Water and Sewer Relocations for Arkansas Department of Transportation Job 040683, Widening of Highway 170 From Highway 62 to Clyde Carnes Road**

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**RECOMMENDATION:**

Staff recommends the approval of Amendment No. 1 to the Agreement with Garver, LLC in the amount of \$246,475.00 for Engineering Services Associated with Water and Sewer Relocations for Arkansas Department of Transportation Job 040683, Widening of Highway 170 From Highway 62 to Clyde Carnes Road.

**BACKGROUND:**

The City of Farmington has elected to widen and improve Highway 170 and is using Garver Engineering to design and oversee construction. The City of Fayetteville owns and operates several waterlines in this area that must be relocated. The project is estimated to be 72% Reimbursable to the City of Fayetteville. Garver has already been selected for this service and provided a conceptual design and cost estimates.

**DISCUSSION:**

The preliminary engineering design was completed by Garver in early 2019 (agreement attached). The proposed Amendment No. 1 will increase the scope and fees for Garver to complete the full engineering design, acquire easements, and provide construction phase observation and management as necessary. This engineering services contract amendment is based on scope of work and professional fees, not to exceed \$246,475.00.

**BUDGET/STAFF IMPACT:**

Funding for this project is available from the Water and Sewer Relocates account.

**Attachments:**

Contract with appendices, signed by Garver, LLC  
Preliminary Engineering Agreement



## **AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES**

**City of Fayetteville, Arkansas**

**Project No. 18048010**

### **CONTRACT AMENDMENT NO. 1**

This Contract Amendment No. 1, dated \_\_\_\_\_, 2019, shall amend the original contract between the CITY OF FAYETTEVILLE and GARVER, LLC (ENGINEER), dated November 19, 2018 referred to in the following paragraphs as the original contract.

This Contract Amendment No. 1 adds professional services for the:

**Fayetteville Highway 170 Water Relocations (ARDOT Job 04683)**

The original contract is hereby modified as follows:

### **APPENDIX A – SCOPE OF SERVICES**

#### **Section 2.3 Environmental Services**

Omit "Not Used" and add the following items as follows.

For environmental services, the ENGINEER will:

1. Prepare and obtain short term activity authorization(s) (STAA) from the Arkansas Department of Environmental Quality (ADEQ). The Scope of Services assumes two stream crossings. The ENGINEER will also pay the ADEQ fees, \$150 per each stream crossing for municipalities.
2. Prepare a stormwater pollution prevention plan (SWPPP). The Scope of Services assumes that surface disturbances will not exceed five acres. Accordingly, an ADEQ \$200 review fee is not required, and ADEQ approval of the SWPPP is not required.
3. The Scope of Services assumes that the environmental study area completed for the roadway improvements included the water line relocation area. THE ENGINEER will obtain approval from the US Army Corps of Engineers (USACE) to proceed under a nationwide 404 permit. The Scope of Services assumes the USACE request will be made concurrently with the roadway improvements. The Scope of Services assumes approval from the US Fish and Wildlife Services (USFWS) and Arkansas State Historic Preservation Office (SHPO) has been completed by others. The ENGINEER will include permit requirements within the construction contract documents for the water line relocations.

#### **Section 2.2 Final Design**

Omit "Not Used" and add the following items as follows.



### 2.2.1 Final Design

During the Final Design phase, the ENGINEER will:

1. Conduct final designs to prepare construction plans and specifications, for one construction contract, including final construction details and quantities, special provisions, and opinion of probable construction cost (OPCC) with a contingency range from -10 percent to +15 percent for construction completion. The ENGINEER will determine cost sharing percentages, corresponding to the length of water line abandonment within and outside the right of way. Based upon the percentages, the ENGINEER will estimate cost sharing amounts (including construction cost, professional services, easements, and other known cost). The ENGINEER will use CITY OF FAYETTEVILLE standard front end documents, including bid information, agreement, bonds and certificates, general conditions, supplementary conditions, and general requirements.
2. Conduct a meeting with the CITY OF FAYETTEVILLE to review and discuss the final design, including a schedule through construction completion. The ENGINEER will also coordinate and confirm existing utility locations and construction requirements with known utilities electronically. Upon incorporating CITY OF FAYETTEVILLE review comments, the ENGINEER will submit and coordinate approval with the Arkansas Department of Health (ADH) and ARDOT. ENGINEER will pay the ADH review fee in the amount of \$200. The Scope of Services assumes that an ARDOT Utility Permit is not required. The ENGINEER will make any needed plan changes as a result of special easement acquisition considerations, and prepare the construction documents as required to advertise for bids.

### 2.2.2 Property Acquisition Documents

The ENGINEER will provide mapping as required for preparing easement acquisition documents for the CITY OF FAYETTEVILLE'S use in acquiring the property. Documentation will include an individual tract map with description of permanent acquisition for each property. The CITY OF FAYETTEVILLE will provide a standard easement acquisition document or as an example for use by ENGINEER. The fee for providing property acquisition documentation is based on permanent easements for no more than 20 properties. The ENGINEER will stake easements at locations requested by the CITY OF FAYETTEVILLE. The Scope of Services assumes that the CITY OF FAYETTEVILLE will use property appraisals obtained by others for the roadway improvements.

## Section 2.3 Bidding Services

Omit "Not Used" and add the following items as follows.

During the bidding phase of the project, the ENGINEER will:

1. Prepare and submit advertisement for bids to the CITY OF FAYETTEVILLE for publication by the CITY OF FAYETTEVILLE. The CITY OF FAYETTEVILLE will pay advertising costs outside of this contract.
2. Provide construction contract documents to the CITY OF FAYETTEVILLE. The CITY OF FAYETTEVILLE will provide construction contract documents to prospective bidders.



3. Support the contract documents by preparing addenda as appropriate. The CITY OF FAYETTEVILLE will issue addenda to prospective bidders.
4. Participate in a pre-bid meeting.
5. Attend the bid opening.
6. Evaluate bids and recommend award. The CITY OF FAYETTEVILLE will prepare the bid tabulation.
7. Prepare construction contracts for execution by the CITY OF FAYETTEVILLE and contractor. The construction contracts will include addenda, and the ENGINEER will not conform the construction documents to reflect addenda.

#### **Section 2.4 Construction Phase Services**

Omit "Not Used" and add the following items as follows.

During the construction phase of work, ENGINEER will accomplish the following:

- A. Issue a Notice to Proceed letter to the Contractor and prepare and conduct a preconstruction meeting.
- B. Evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by ENGINEER on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. ENGINEER's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, ENGINEER shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.
- C. Issue instructions to the Contractor on behalf of the CITY OF FAYETTEVILLE and issue necessary clarifications (respond to requests for information (RFIs) regarding the construction contract documents.
- D. Review the Contractor's progress payment requests based on the actual quantities of contract items completed and accepted, and will make a recommendation to the CITY OF FAYETTEVILLE regarding payment. ENGINEER's recommendation for payment shall not be a representation that ENGINEER has made exhaustive or continuous inspections to (1) check the quality or exact quantities of the Work; (2) to review billings from Subcontractors and material suppliers to substantiate the Contractor's right to payment; or (3) to ascertain how the Contractor has used money previously paid to the Contractor.
- E. Maintain a set of working drawings and prepare and furnish record drawings.
- F. Provide full-time resident construction observation services for the 120-calendar-day construction contract performance time. The proposed fee is based on approximately 8 hours



- per day, 5 days per week, during the construction contract performance time. If the construction time extends beyond the time established in this agreement or if the CITY OF FAYETTEVILLE wishes to increase the time or frequency of the observation, the CITY OF FAYETTEVILLE will pay ENGINEER an additional fee agreed to by the CITY OF FAYETTEVILLE and ENGINEER. If the CITY OF FAYETTEVILLE wishes to decrease the time or frequency of observation, the proposed fee will decrease accordingly. The ENGINEER will rely upon observations provided by the CITY OF FAYETTEVILLE.
- G. Provide up to 12 hours of survey crew time for field checking quantities and contractor's layout. The ENGINEER will not be responsible for the contractor's means and methods, and the ENGINEER will act as the CITY OF FAYETTEVILLE's representative as defined in the General Conditions section of the contract documents.
  - H. When authorized by the CITY OF FAYETTEVILLE, prepare change orders for changes in the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the CITY OF FAYETTEVILLE will pay ENGINEER an additional fee to be agreed upon by the CITY OF FAYETTEVILLE and ENGINEER.
  - I. Participate in final project inspection, prepare punch list, review final project closing documents, and review and recommend final pay request.

Construction observation services will be provided by ENGINEER's Resident Project Representative (RPR), who will provide or accomplish the following:

- A. Consult with and advise the CITY OF FAYETTEVILLE during the construction period.
- B. Coordinate with the firm providing construction materials quality assurance testing under separate contract with the CITY OF FAYETTEVILLE.
- C. Maintain a file of quantities incorporated into the work, test reports, certifications, shop drawings and submittals, and other appropriate information.
- D. Maintain a project diary which will contain information pertinent to each site visit.

The proposed fee for Construction Phase Services is based on a 120-calendar-day construction contract performance time. If the construction time extends beyond the time established in this agreement, and the CITY OF FAYETTEVILLE wishes ENGINEER to continue the applicable Construction Phase Services, the CITY OF FAYETTEVILLE will pay ENGINEER an additional fee agreed to by the CITY OF FAYETTEVILLE and ENGINEER.

In performing construction observation services, ENGINEER will endeavor to protect the CITY OF FAYETTEVILLE against defects and deficiencies in the work of the Contractor(s); but ENGINEER cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction ENGINEER observes that the Contractor's work does not comply with the construction contract documents, the ENGINEER will reject defective work in accordance with the general conditions section of the contract documents.

## **Section 2.5 Project Deliverables**

Add the following section and items as follows.

### **2.5.2 Final Design**



The following will be submitted to the CITY OF FAYETTEVILLE, or others as indicated by the ENGINEER.

1. One hard copy and one PDF of the draft final design (full size drawings, half size drawings, specifications, OPCC, cost sharing percentages and totals, and project schedule).
2. Electronic PDF files to ARDOT and utilities.
3. Two full size copies to the ADH.
4. Electronic PDF of the bid documents (drawings and specifications).
5. Three copies of the construction contract documents for execution by the CITY OF FAYETTEVILLE and the contractor.
6. One full size copy of the executed construction contract documents (drawings and specifications with addenda) three copies to the contractor.
7. Use of these materials for modification, extension, or expansion of this Project or on any other project, unless under the direction of ENGINEER, shall be without liability to ENGINEER and ENGINEERS's consultants.

#### 2.5.3 Construction Phase Services

The following will be submitted to the CITY OF FAYETTEVILLE, or others as indicated by the ENGINEER.

1. One full size and electronic pdf and AutoCAD file of the record drawings.

#### Section 2.6 Extra Work

Omit "2.6.1 Conceptual Design" and replace the entire list of items (numbered 1 to 15) with the list of items below (numbered 1 to 12 below).

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

1. Redesign for the CITY OF FAYETTEVILLE's convenience or due to changed conditions after previous alternate direction and/or approval.
2. Submittals or deliverables in addition to those listed herein.
3. Geotechnical services.
4. Utility design beyond CITY OF FAYETTEVILLE owned water facilities.
5. Abstractor Record Research.
6. Arkansas Utility Protection Services (ARKUPS) utility marking.
7. Construction materials testing.
8. Property and topographic surveys, beyond verification of existing water lines.
9. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
10. Services after construction, such as warranty follow-up, operations support, etc.
11. Hydraulic modeling.
12. Start-up or operational assistance.

Extra Work will be as directed by the CITY OF FAYETTEVILLE in writing for an additional fee as agreed upon by the CITY OF FAYETTEVILLE and ENGINEER.



## Section 2.7 Schedule

Add the following section as follows.

### 2.7.2 Final Design

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

<u>Phase Description</u>	<u>Calendar Days</u>
Draft Final Design	45 days from start
Final Design	14 days from draft final design workshop and receipt of review comments
Property Acquisition Documents	30 days from draft final design workshop and receipt of review comments

## Section 3.0 Payment

Contract Amendment No. 1 adds \$246,475 to the fee. Add the table below, and replace "The total amount paid to ENGINEER under this agreement is estimated to be \$19,500" with "The total amount paid to the ENGINEER is estimated to be \$19,500 for work under the original agreement plus an estimated amount of \$246,475 for Contract Amendment No. 1.

Contract Amendment No. 1		
WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Property Acquisition Documents	\$40,000	Hourly Rate + Expenses
Environmental Services	\$4,000	
Final Design	\$52,200	
Bidding Services	\$5,000	
Construction Services	\$145,275	
ADDITIONAL TOTAL FEE	\$246,475	






This Amendment may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and ENGINEER have executed this Amendment effective as of the date last written below.

**CITY OF FAYETTEVILLE, ARKANSAS**

**GARVER, LLC**

By: \_\_\_\_\_  
Signature

By:  Digitally signed by Joe Dollerschell  
Date: 2019.05.07 09:00:07-05'00'  
Signature

Name: Lioneld Jordan  
Printed Name

Name: Joe Dollerschell  
Printed Name

Title: Mayor

Title: Vice President

Date: \_\_\_\_\_

Date: 05/07/2019

Attest: \_\_\_\_\_  
City Clerk, Sondra Smith

Attest:   
Senior Project Manager, Chris Buntin



**CITY OF FAYETTEVILLE**

**ARDOT JOB # 040683**

**Highway 170 Water Relocations**

**(Farmington) (South) Washington County**

**30% Conceptual Design Submittal**

**February, 2019**

<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Amount</b>
W1	Erosion Control	LS	1	\$10,000.00	\$10,000.00
W2	Traffic Control	LS	1	\$10,000.00	\$10,000.00
W3	Mobilization	LS	1	\$10,000.00	\$10,000.00
W4	Trench Excavation Safety	LS	1	\$5,000.00	\$5,000.00
W5	Construction Staking	LS	1	\$10,000.00	\$10,000.00
W6	Bonds and Insurance	LS	1	\$20,000.00	\$20,000.00
W7	Site Restoration	LS	1	\$75,000.00	\$75,000.00
W8	Material and Acceptance Testing	LS	1	\$10,000.00	\$10,000.00
W9	Flowable Fill Abandoned Water Lines Under Traffic	LS	1	\$25,000.00	\$25,000.00
W10	Site Photos and Audio/Video Recordings	LS	1	\$2,000.00	\$2,000.00
W11	Dewatering	LS	1	\$5,000.00	\$5,000.00
W12	Groundwater Mitigation Dam	EA	12	\$1,000.00	\$12,000.00
W13	12" PVC Water Line	LF	420	\$80.00	\$33,600.00
W14	8" PVC Water Line	LF	3,600	\$70.00	\$252,000.00
W15	2" Water Line	LF	110	\$45.00	\$4,950.00
W16	Water Service Line	LF	1,300	\$25.00	\$32,500.00
W17	Water Meter Setting	EA	20	\$1,500.00	\$30,000.00
W18	12"x12" Tapping Sleeve and Valve	EA	2	\$8,000.00	\$16,000.00
W19	8"x8" Tapping Sleeve and Valve	EA	1	\$6,000.00	\$6,000.00



**CITY OF FAYETTEVILLE**

**ARDOT JOB # 040683**

**Highway 170 Water Relocations**

**(Farmington) (South) Washington County**

**30% Conceptual Design Submittal**

**February, 2019**

W20	6"x6" Tapping Sleeve and Valve	EA	4	<u>\$5,000.00</u>	<u>\$20,000.00</u>
W21	Cut and Plug Existing 12" Water Line	EA	2	<u>\$2,000.00</u>	<u>\$4,000.00</u>
W22	Cut and Plug Existing 8" Water Line	EA	1	<u>\$1,750.00</u>	<u>\$1,750.00</u>
W23	Cut and Plug Existing 6" Water Line	EA	4	<u>\$1,500.00</u>	<u>\$6,000.00</u>
W24	8" Gate Valve	EA	12	<u>\$3,000.00</u>	<u>\$36,000.00</u>
	2" Ball Valve and Connection to Existing				
W25	2" Water Line	EA	3	<u>\$1,500.00</u>	<u>\$4,500.00</u>
W26	Fire Hydrant Assembly	EA	8	<u>\$5,000.00</u>	<u>\$40,000.00</u>
W27	Ductile Iron Fittings	LB	4,000	<u>\$15.00</u>	<u>\$60,000.00</u>
W28	24" Open Cut Steel Encasement	LF	20	<u>\$500.00</u>	<u>\$10,000.00</u>
W29	16" Open Cut Steel Encasement	LF	10	<u>\$400.00</u>	<u>\$4,000.00</u>
W30	Undercut and Backfill	CY	50	<u>\$25.00</u>	<u>\$1,250.00</u>
W31	Rock Excavation	CY	100	<u>\$200.00</u>	<u>\$20,000.00</u>
				Subtotal	<u>\$776,550</u>
				30% Design Contingency	<u>\$232,965</u>
				<b>30% Design - Total Opinion of Probable Construction Cost</b>	<b><u>\$1,009,515</u></b>



**CITY OF FAYETTEVILLE**  
**ARDOT JOB # 040683**  
**Highway 170 Water Relocations**  
**(Farmington) (South) Washington County**  
**30% Conceptual Design Submittal**  
**February, 2019**

	Length	Percentage
Water Line Abandoned (excluding services) within Existing Right of Way	1,129	<b>28%</b>
Water Line Abandoned (excluding services) outside Existing Right of Way	2,875	<b>72%</b>
	4,004	100.00%

	Estimated Amount
Easements	<u>\$50,000</u>
Conceptual Design	<u>\$19,500</u>
Property Acquisition Documents	<u>\$40,000</u>
Final Design	<u>\$52,200</u>
Bidding	<u>\$5,000</u>
Environmental	<u>\$4,000</u>
Construction (Potential to be reduced, depending upon City availability to help with inspection)	<u>\$145,275</u>
Permits and Fees	<u>\$1,000</u>
Property Acquisition Performed by the City	<u>\$0</u>
Construction Cost	<u>\$1,009,515</u>
<b>30% Design - Total Opinion of Probable Project Cost</b>	<b><u>\$1,326,490</u></b>
<b>City of Fayetteville Responsibility</b>	<b><u>\$374,028</u></b>
<b>City of Farmington Responsibility</b>	<b><u>\$952,462</u></b>

## APPENDIX B

### City of Fayetteville HWY 170 Water Relocations

#### PROPERTY ACQUISITION DOCUMENTS

WORK TASK DESCRIPTION	E-4	S-5	S-4	2-Man Crew (GPS Survey)
	\$173.00	\$159.00	\$120.00	\$212.00
	hr	hr	hr	hr
<b>1. Acquisition Documents</b>				
Project Management & Administration	4	12		
Permanent Easement Acquisition Documents up to 20 parcels	4	60	80	
Coordination with Owner	4	4		
Coordination with ARDOT	4	8		
Stake Easements		4	8	40
Owner Assistance Acquiring Easements	12	8	4	
<b>Subtotal - Civil Engineering</b>	<b>28</b>	<b>96</b>	<b>92</b>	<b>40</b>

<b>Hours</b>	<b>28</b>	<b>96</b>	<b>92</b>	<b>40</b>
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<b>Salary Costs</b>	\$4,844.00	\$15,264.00	\$11,040.00	\$8,480.00
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<b>SUBTOTAL - SALARIES:</b>	<b>\$39,628.00</b>
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#### **DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$226.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$50.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs @ IRS Rate	\$96.00

<b>SUBTOTAL - DIRECT NON-LABOR EXPENSES:</b>	<b>\$372.00</b>
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<b>SUBTOTAL:</b>	<b>\$40,000.00</b>
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<b>SUBCONSULTANTS FEE:</b>	<b>\$0.00</b>
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<b>TOTAL FEE:</b>	<b>\$40,000.00</b>
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APPENDIX B

City of Fayetteville  
HWY 170 Water Relocations

Environmental Services

WORK TASK DESCRIPTION	E-4	P-2	P-1	T-1
	\$173.00	\$159.00	\$127.00	\$77.00
	hr	hr	hr	hr
1. Civil Engineering				
Project Management and Administration	2	4		
ADEQ STAA (2 locations)			2	
SWPPP	1	4	12	1
Subtotal - Civil Engineering	3	8	14	1
2. Structural Engineering				
Retaining Wall Design				
Bridge				
Subtotal - Structural Engineering	0	0	0	0
3. Mechanical Engineering				
Subtotal - Mechanical Engineering	0	0	0	0
4. Electrical Engineering				
Subtotal - Electrical Engineering	0	0	0	0
Hours	3	8	14	1
Salary Costs	\$519.00	\$1,272.00	\$1,778.00	\$77.00

SUBTOTAL - SALARIES: \$3,646.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$54.00
Postage/Freight/Courier	\$0.00
ADEQ STAA Fees	\$300.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs @ IRS Rate	\$0.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$354.00

SUBTOTAL: \$4,000.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$4,000.00

**APPENDIX B****City of Fayetteville, Arkansas  
Highway 170 Water Relocations****FINAL DESIGN**

WORK TASK DESCRIPTION	E-4	E-1	T-2	X-2	C-2
	\$173.00	\$105.00	\$97.00	\$82.00	\$119.00
	hr	hr	hr	hr	hr
<b>1. Civil Engineering</b>					
Project Management and Administration	20				
Final Plans					
Plans (Water, Erosion, Traffic)	40	60	100		
Details	4	12	12		
Specifications/Contract Documents	8	16		16	
Utility Companies Coordination	12	12			
Meetings/Coordination with City	8				
Coordination with DOT	12				
Coordination with Health Department (ADH)	2	4			
Opinion of Probable Construction Cost	2	12			
Cost Sharing Analysis	2	8			
Final Review Comments	8	8	20		
QC Review	8				16
<b>Subtotal - Civil Engineering</b>	<b>126</b>	<b>132</b>	<b>132</b>	<b>16</b>	<b>16</b>
<b>2. Structural Engineering</b>					
<b>Subtotal - Structural Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>3. Mechanical Engineering</b>					
<b>Subtotal - Mechanical Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>4. Electrical Engineering</b>					
<b>Subtotal - Electrical Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Hours</b>	<b>126</b>	<b>132</b>	<b>132</b>	<b>16</b>	<b>16</b>
<b>Salary Costs</b>	\$21,798.00	\$13,860.00	\$12,804.00	\$1,312.00	\$1,904.00

**SUBTOTAL - SALARIES:** **\$51,678.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$222.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
ADH Review Fee	\$200.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs @ IRS Rate	\$100.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES:** **\$522.00**

**SUBTOTAL:** **\$52,200.00**

**SUBCONSULTANTS FEE:** **\$0.00**

**\$52,200.00**

## APPENDIX B

### City of Fayetteville, Arkansas Highway 170 Water Relocations

#### BIDDING SERVICES

WORK TASK DESCRIPTION	E-4	E-1	T-1
	\$173.00	\$105.00	\$77.00
	hr	hr	hr
<b>1. Civil Engineering</b>			
Project Management and Administration	4		
Addendums/Inquiries	4		4
Pre-Bid Meeting	4		
Bid Opening	2		
Evaluate bids and recommend award	4		
Prepare construction contracts	2		4
Notice to Proceed	2		
<b>Subtotal - Civil Engineering</b>	<b>22</b>	<b>0</b>	<b>8</b>
<b>2. Structural Engineering</b>			
Addendums			
<b>Subtotal - Structural Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>3. Mechanical Engineering</b>			
<b>Subtotal - Mechanical Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>4. Electrical Engineering</b>			
<b>Subtotal - Electrical Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>

Hours	22	0	8
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Salary Costs	\$3,806.00	\$0.00	\$616.00
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<b>SUBTOTAL - SALARIES:</b>	<b>\$4,422.00</b>
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#### **DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$518.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs @ IRS Rate	\$60.00

<b>SUBTOTAL - DIRECT NON-LABOR EXPENSES:</b>	<b>\$578.00</b>
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<b>SUBTOTAL:</b>	<b>\$5,000.00</b>
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<b>SUBCONSULTANTS FEE:</b>	<b>\$0.00</b>
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<b>TOTAL FEE:</b>	<b>\$5,000.00</b>
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## APPENDIX B

### City of Fayetteville, Arkansas Highway 170 Water Relocations

#### CONSTRUCTION PHASE SERVICES

WORK TASK DESCRIPTION	E-4	E-1	T-1	S-5	S-4	2-Man Crew (Survey)	C-3
	\$173.00	\$105.00	\$77.00	\$159.00	\$120.00	\$192.00	\$146.00
	hr	hr	hr	hr	hr	hr	hr
<b>1. Civil Engineering</b>							
Project Management and Administration	16						8
Preconstruction Meeting	8						4
Monthly Progress Meetings with Contractor/City	16						
Monthly Pay Requests	16						
Shop Drawings/Material Submittals	4	16					
Record Drawings	4	8	24				
On-Site Meetings and Periodic Inspection	40						
Resident Construction Observation, Full Time 120 Calendar Days, Potential for City to Provide Partial Observation							686
Field checking earthwork quantities, Contractor's layout, etc.				2	4	12	
Prepare Change Orders	8	12	12				
Prepare Field Orders	8	12	12				
Requests for Information	12						
Final Project Inspection and Punchlist	12						
Closeout and Final Cost Sharing	8	12	12				
<b>Subtotal - Civil Engineering</b>	<b>152</b>	<b>60</b>	<b>60</b>	<b>2</b>	<b>4</b>	<b>12</b>	<b>698</b>
<b>2. Structural Engineering</b>							
<b>Subtotal - Structural Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>3. Mechanical Engineering</b>							
<b>Subtotal - Mechanical Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>4. Electrical Engineering</b>							
<b>Subtotal - Electrical Engineering</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Hours</b>	<b>152</b>	<b>60</b>	<b>60</b>	<b>2</b>	<b>4</b>	<b>12</b>	<b>698</b>
<b>Salary Costs</b>	<b>\$26,296.00</b>	<b>\$6,300.00</b>	<b>\$4,620.00</b>	<b>\$318.00</b>	<b>\$480.00</b>	<b>\$2,304.00</b>	<b>\$101,908.00</b>

**SUBTOTAL - SALARIES: \$142,226.00**

**Hourly Rate Increase \$7,111.30**

#### DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$1,000.00
Postage/Freight/Courier	\$50.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs	\$1,999.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$3,049.00**

**SUBTOTAL: \$152,386.30**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$145,275.00**

## City of Fayetteville Staff Review Form

2018-0646

Legistar File ID

N/A

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Tim Nyander

11/13/2018

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

## Action Recommendation:

Staff recommends approval of an agreement with Garver, LLC in the amount of \$19,500.00 for engineering services associated with the water and sewer relocations for Arkansas Department of Transportation Job 040683, widening of Highway 170 from Highway 62 to Clyde Carnes Road.

## Budget Impact:

5400.720.5600-5314.00

Water and Sewer

Account Number

Fund

11011.1

Water/Sewer Relocations - Bond Projects

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 887,121.00

Funds Obligated \$ 377,041.37

Current Balance \$ 510,079.63

Does item have a cost? Yes

Item Cost \$ 19,500.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget \$ 490,579.63

V20180321

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

11/19/18

Original Contract Number:

Comments:



**CITY OF  
FAYETTEVILLE  
ARKANSAS**

**STAFF MEMO**

**TO:** Mayor Lioneld Jordan  
**THRU:** Don Marr, Chief of Staff  
**FROM:** Tim Nyander, Utilities Director  
**DATE:** November 9, 2018

**SUBJECT:**

Water Relocations required for ARDOT 040683 Hwy 170 Farmington, AR (Fayetteville owned water mains). Preliminary/Conceptual phase 1 contract with Garver, LLC.

Approval and signature for the attached engineering services contract with Garver, LLC in the not-to-exceed amount of \$19,500.00.

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**RECOMMENDATION:**

Fayetteville City Staff requests the approval and Mayor's signature for the attached engineering services contract with Garver, LLC in the not-to-exceed amount of \$19,500.00.

**BACKGROUND**

Farmington and ARDOT are widening Highway 170 from Highway 62 to Clyde Carnes Road (near the new Farmington High School). Utility relocations, including water main relocations have been requested.

The City of Fayetteville owns the water system in Farmington.

**DISCUSSION:**

The proposed contract is phase 1 of an anticipated larger future engineering services contract and will include conceptual design and opinions of probable costs.

Garver LLC is the Engineer for ARDOT and Farmington designing the widening of Hwy 170. Thus, Garver has the surveying and design information available that should result in reduced costs to Fayetteville for the engineering and the ultimate relocations.

Garver LLC has a long and successful history with water and sanitary sewer, including relocations, for the City of Fayetteville. Garver's Fayetteville office continues to perform very well for the City and approval is recommended.

**BUDGET/STAFF IMPACT:**

The proposed contract is hourly in the maximum not-to-exceed amount of \$19,500.00. Budgeted funds are available in Water/Sewer Relocations – Bond Projects.

**Attachments:**

Proposed Contract signed by Garver LLC

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

THIS AGREEMENT is made as of November 19, 2018, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and GARVER, LLC (hereinafter called ENGINEER).

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

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

**SECTION 1 - AUTHORIZATION OF SERVICES**

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

**SECTION 2 - BASIC SERVICES OF ENGINEER**

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

**SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE**

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

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

#### **SECTION 4 - PERIOD OF SERVICE**

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

#### **SECTION 5 - PAYMENTS TO ENGINEER**

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

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

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

### 5.3 Payments

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

### 5.4 Final Payment

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

## **SECTION 6 - GENERAL CONSIDERATIONS**

### 6.1 Insurance

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

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation 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 will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of ENGINEER.
- 6.3 Cost Opinions and Projections
- 6.3.1 Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.
- 6.4 Changes
- 6.4.1 CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of ENGINEER.
- 6.5 Termination
- 6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
- 6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
- 6.5.1.2 An opportunity for consultation with the terminating party prior to termination.
- 6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that ENGINEER is given:

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



6.7 Rights and Benefits

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

6.8 Dispute Resolution

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

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

6.8.3 Notice of Dispute

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

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

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

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

6.10 Publications

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

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

6.11 Indemnification

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

6.12 Ownership of Documents

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

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

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

6.13 Notices

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

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

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

6.14 Successor and Assigns

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

6.15 Controlling Law

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

6.16 Entire Agreement

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

**SECTION 7- SPECIAL CONDITIONS**

7.1 Additional Responsibilities of ENGINEER

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

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

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

7.2 Remedies

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

decided in a court of competent jurisdiction within Arkansas.

7.3 Audit: Access to Records

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

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

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

7.3.3.1 Negotiated prime agreements:

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

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

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

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

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

7.4 Covenant Against Contingent Fees

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

7.5 Gratuities

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

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

7.6 Arkansas Freedom of Information Act

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

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

CITY OF FAYETTEVILLE, ARKANSAS

ENGINEER

By:   
Mayor, Lioneld Jordan

By:  Digitally signed by Joe Dollerschell  
Date: 2018.11.09 09:02:05 -0800  
Vice President, Joe Dollerschell

ATTEST:

By:   
City Clerk

By:   
Senior Project Manager, Chris Buntin

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES



## APPENDIX A – SCOPE OF SERVICES

### 2.1 General

Generally, the scope of services includes professional services to relocate CITY OF FAYETTEVILLE owned water facilities to accommodate roadway improvements for Highway 62 – Clyde Carnes Road (Highway 170) (Farmington) (S), Washington County, Route 170, Section 2, Arkansas Department of Transportation (ARDOT) Job 040683.

### 2.2 Surveys

The ENGINEER will perform field locates for the existing water lines that are excavated by the CITY OF FAYETTEVILLE. The surveys will use the ARDOT control and base points for the roadway relocates and will not establish a new base system. Topographic, property, or detailed surveying is not included as part of the Scope of Services.

### 2.3 Environmental Services

Not Used

### 2.4 Conceptual Design

During the Conceptual Design phase, ENGINEER will:

1. Review current roadway drawings and available utility relocation plans by others, electronic drawing files (AutoCAD, GIS, or similar format) received from ARDOT.
2. Meet with CITY OF FAYETTEVILLE staff and perform field investigations to verify existing water line types, sizes, and locations. The CITY OF FAYETTEVILLE will excavate and verify water line locations, up to 12 locations requested by the ENGINEER, and the ENGINEER will survey locations of water line using ARDOT roadway control.
3. Prepare conceptual water line relocations. The relocations will be as required to accommodate roadway improvements, without improvements beyond minimum design standards (*2017 Edition of the Standard Specifications for Design and Construction of Water Lines and Sewer Lines* issued by the CITY OF FAYETTEVILLE). The Scope of Services assumes the roadway will no longer be an ARDOT highway. Specifically, ARDOT requirements (*2010 ARDOT Utility Accommodation Policy*) will not be used. The drawings will include a cover sheet, general sheet (legend with place holder for notes and survey control), plan and profile key map, and water relocation plans (1"=20' full size scale). The water relocation plans will provide space for profiles and show roadway improvements and available utility relocation plans by others. However, profile information will be excluded from the Conceptual Design. The drawings will exclude traffic control, erosion control, and construction details. The Conceptual Design will represent approximately 30 percent of final construction contract plans and exclude any specifications.
4. Prepare an opinion of probable construction cost including cost sharing, based upon required water line abandonment within and without the right of way. The ENGINEER will also provide an opinion of additional cost and cost sharing, corresponding to water line abandonment percentages. The additional costs will include professional services and easements. The costs will include a contingency range from -30% to +50% for construction completion.
5. Submit the draft conceptual drawings, cost, and schedule to construction completion to the CITY OF FAYETTEVILLE for review and comment. The ENGINEER will conduct a workshop with the CITY OF FAYETTEVILLE to review and discuss the Conceptual Design, and the ENGINEER will incorporate CITY OF FAYETTEVILLE review comments.



6. Submit the final Conceptual Design to ARDOT for review and comment and assist ARDOT with development of the Utility Agreement.

## **2.2 Final Design**

**Not Used**

## **2.3 Bidding Services**

**Not Used**

## **2.4 Construction Phase Services**

**Not Used**

## **2.5 Project Deliverables**

### **2.5.1 Conceptual Design**

The following will be submitted to the CITY OF FAYETTEVILLE, or others as indicated, by ENGINEER:

1. One hard copy of the Draft Conceptual Design (one set of full size drawings, one half size set of drawings, project cost, and project schedule).
2. One hard copy of the Final Conceptual Design (one set of full size drawings, one half size set of drawings, project cost, and project schedule).
3. Electronic PDF files to ARDOT.
4. Electronic PDF files to the CITY OF FAYETTEVILLE as requested.

## **2.6 Extra Work**

### **2.6.1 Conceptual Design**

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

1. Redesign for the CITY OF FAYETTEVILLE's convenience or due to changed conditions after previous alternate direction and/or approval.
2. Submittals or deliverables in addition to those listed herein.
3. Geotechnical services.
4. Utility design beyond CITY OF FAYETTEVILLE owned water facilities.
5. Final design, bidding, and construction services.
6. Abstractor Record Research.
7. Arkansas Utility Protection Services (ARKUPS) utility marking.
8. Preparation of a Storm Water Pollution Prevention Plan.
9. Construction materials testing.
10. Property and topographic surveys, beyond verification of existing water lines.
11. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
12. Services after construction, such as warranty follow-up, operations support, etc.
13. Coordination with any state agencies and any permits and permit fees.
14. Hydraulic modeling.
15. Start-up or operational assistance.



Extra Work will be as directed by the CITY OF FAYETTEVILLE in writing for an additional fee as agreed upon by the CITY OF FAYETTEVILLE and ENGINEER.

## 2.7 Schedule

### 2.7.1 Conceptual Design

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

<u>Phase Description</u>	<u>Calendar Days</u>
Draft Conceptual Design	30 days from receipt of utility plans and confirmation of CITY OF FAYETTEVILLE water line locations
Final Conceptual Design	7 days from workshop and receipt of review comments

## 3.0 Payment

For the work described under SECTION 2 - SCOPE OF SERVICES (except as may be modified for additional services required in a contract amendment), the CITY OF FAYETTEVILLE will pay ENGINEER on an hourly rate basis. The CITY OF FAYETTEVILLE represents that funding sources are in place with the available funds necessary to pay ENGINEER.

If any payment due ENGINEER under this agreement is not received within 60 days from date of invoice, ENGINEER may elect to suspend services under this agreement without penalty or liquidated damages assessed from the CITY OF FAYETTEVILLE.

The table below presents a summary of the fee amounts and fee types for this contract.

WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Conceptual Design	\$19,500	Hourly Rate + Expenses
TOTAL FEE	\$19,500	

The CITY OF FAYETTEVILLE will pay ENGINEER, for time spent on the project, at the rates shown in Appendix B for each classification of ENGINEER's personnel (may include contract staff classified at ENGINEER's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The total amount paid to ENGINEER under this agreement is estimated to be \$19,500. The actual total fee may not exceed this estimate without authorization from the CITY OF FAYETTEVILLE. The rates shown in Appendix B are subject to an annual rate increase on or about June, 2019, and a contract amendment will be required for annual rate increases.





Expenses other than salary costs that are directly attributable to performance of our professional services will be billed as follows:

1. Direct cost for travel, long distance and wireless communications, outside reproduction and presentation material preparation, and mail/courier expenses.
2. Direct cost for subcontract/subconsultant fees.
3. Charges similar to commercial rates for reports, plan sheets, presentation materials, etc.
4. The amount allowed by the Internal Revenue Service for mileage.
5. \$20 per hour for GPS survey equipment use for Environmental Services only, excludes design and property surveys.
6. Direct cost for ARKUPS and Arkansas Department of Health (ADH) review fee.

The CITY OF FAYETTEVILLE will pay ENGINEER on a monthly basis, based upon statements submitted by ENGINEER to the CITY OF FAYETTEVILLE for the scope of services described in this agreement. Payments not received within 60 days of invoice date will be subject to a one percent monthly simple interest charge.

As directed by the CITY OF FAYETTEVILLE, some billable work may have been performed by ENGINEER prior to execution of this agreement. Payment for this work will be made in accordance with the fee arrangement established herein, as approved by the CITY OF FAYETTEVILLE.

Additional Services (Extra Work). For work not described or included herein and for work beyond the total fee amount, a contract amendment will be required.



**APPENDIX B**

**Fayetteville Water Relocations for HWY 170  
(ARDOT Job 040683)**

**Garver Hourly Rate Schedule: July 2018 - June 2019**

<b>Classification</b>	<b>Rates</b>
<b>Engineers / Architects</b>	
E-1.....	\$ 105.00
E-2.....	\$ 122.00
E-3.....	\$ 148.00
E-4.....	\$ 173.00
E-5.....	\$ 210.00
E-6.....	\$ 264.00
E-7.....	\$ 351.00
<b>Planners / Environmental Specialist</b>	
P-1.....	\$ 127.00
P-2.....	\$ 159.00
P-3.....	\$ 198.00
P-4.....	\$ 225.00
P-5.....	\$ 261.00
P-6.....	\$ 297.00
P-7.....	\$ 359.00
<b>Designers</b>	
D-1.....	\$ 99.00
D-2.....	\$ 115.00
D-3.....	\$ 137.00
D-4.....	\$ 159.00
<b>Technicians</b>	
T-1.....	\$ 77.00
T-2.....	\$ 97.00
T-3.....	\$ 119.00
<b>Surveyors</b>	
S-1.....	\$ 47.00
S-2.....	\$ 62.00
S-3.....	\$ 84.00
S-4.....	\$ 120.00
S-5.....	\$ 159.00
S-6.....	\$ 181.00
2-Man Crew (Survey).....	\$ 192.00
3-Man Crew (Survey).....	\$ 239.00
2-Man Crew (GPS Survey).....	\$ 212.00
3-Man Crew (GPS Survey).....	\$ 259.00
<b>Construction Observation</b>	
C-1.....	\$ 93.00
C-2.....	\$ 119.00
C-3.....	\$ 146.00
C-4.....	\$ 179.00
<b>Management/Administration</b>	
M-1.....	\$ 359.00
X-1.....	\$ 60.00
X-2.....	\$ 82.00
X-3.....	\$ 114.00
X-4.....	\$ 145.00
X-5.....	\$ 178.00
X-6.....	\$ 227.00
X-7.....	\$ 270.00