

City of Fayetteville Staff Review Form

2019-0504

Legistar File ID

9/17/2019

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

Tim Nyander

8/19/2019

WASTEWATER TREATMENT (730)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of an Engineering Services Agreement with Jacobs Engineering Group, Inc. in the amount of \$254,108.00 for biosolids master planning services associated with the City of Fayetteville’s wastewater treatment operations.

Budget Impact:

5400.730.5800-5314.00

Water and Sewer

Account Number

Fund

02017.1

Sanitary Sewer Rehabilitation

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 5,744,732.00

Funds Obligated \$ 2,205,123.00

Current Balance **\$ 3,539,609.00**

Does item have a cost? Yes

Item Cost \$ 254,108.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget **\$ 3,285,501.00**

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF SEPTEMBER 17, 2019

TO: Mayor and City Council

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

FROM: Corey Granderson, Utilities Engineer

DATE: August 19, 2019

SUBJECT: Engineering Services Agreement with Jacobs Engineering Group, Inc. for Biosolids Master Planning Associated with Wastewater Treatment Operations

RECOMMENDATION:

Staff recommends approval of an Engineering Services Agreement with Jacobs Engineering Group, Inc. in the amount of \$254,108.00 for biosolids master planning services associated with the City of Fayetteville's wastewater treatment operations.

BACKGROUND:

Currently undigested sludge from both the West Side Wastewater Treatment Plant (WWTP) and the Noland WWTP are dewatered with belt filter presses and the cake is hauled to the Biosolids Management Site (BMS) on the City owned farm (670 acres) across river from the Noland Plant. The BMS includes 6 Parkson Solar dryers (2011) and one Fenton batch indirect dryer (2012) that is powered by natural gas. The dried product is a Class A biosolids product which is sold to 25-30 farmers for \$20/ton. In 2017, the BMS processed roughly 3,200 tons of product. The solar drying system and the batch drying system are operating near capacity and periodically, these systems are unable to process all solids produced by the two WWTPs resulting in unclassified solids being hauled over 110 miles away for landfill disposal.

DISCUSSION:

Because of increasing solids production, the City's interest in energy optimization (Energy Action Plan), and the need to provide a more dependable and sustainable solids management system, a solids management plan is needed to identify management options consistent with achieving these goals. The steps to develop a solids management plan for the City includes the following activities.

1. Assessment of Existing Conditions
2. Evaluation Criteria Development and Identification of Appropriate Technology
3. Plant Simulation Evaluations
4. Cost Evaluations
5. Implementation Planning

On May 7, 2019, Jacobs Engineering was formally selected per RFQ #19-01, Selection #6 to provide engineering planning services associated with this study. The not-to exceed fee associated with each task and the overall level of effort is \$254,108.00.

BUDGET/STAFF IMPACT:

Funds are available in the Sanitary Sewer Rehabilitation account.

Attachments:

Engineering Services Agreement
Appendix A – Scope of Services; Fees

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
JACOBS ENGINEERING GROUP INC.

THIS AGREEMENT is made as of _____, 2019, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Jacobs Engineering Group Inc. (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 its services under this Agreement.
 - 3.1.4 Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
 - 3.1.5 The Utilities Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Utilities Director shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
 - 3.1.6 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to ENGINEER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

- 4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. ENGINEER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. 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 is **\$254,108.00**. The CITY OF FAYETTEVILLE shall compensate ENGINEER based on a Not to Exceed 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 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 aggregate

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 accordance with standard of care recognized for professionals performing the same or similar services 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 or ENGINEER'S failure to exercise reasonable skill, care, and diligence in performing contractual services. JACOBS makes no warranty, expressed or implied, beyond its professional responsibilities as set forth in this subsection.

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, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. ENGINEER may retain reproduced copies of drawings and copies of other documents.

6.12.2 Engineering documents, computer models, drawings, specifications and other hard copy or electronic media 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:
113 West Mountain Street
Fayetteville, Arkansas 72701

ENGINEER's address:
401 S Boston Ave.
Suite 330
Tulsa, OK 74103

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 this Agreement and 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.

7.7 LIMITATION OF LIABILITY.

7.7.1 Notwithstanding any other provision of this Agreement, neither party shall have liability to the other for contingent, consequential or other indirect damages including, without limitation, damages for loss of use, revenue or profit; operating costs and facility downtime; or other similar business interruption losses, however the same may be caused. The limitations and exclusions of liability set forth in this Article shall apply regardless of the fault, breach of contract, tort (including negligence), strict liability or otherwise of either party or their respective employees, or subconsultants.

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

CITY OF FAYETTEVILLE, ARKANSAS

JACOBS ENGINEERING GROUP INC.

By : _____
Mayor, Lioneld Jordan


By: Robert Frear
PRINTED NAME & TITLE OF PERSON SIGNING

ATTEST:

By: _____

City Clerk

Title: Manager of Projects

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

Appendix A – Biosolids Master Plan Scope of Services

1. Project Description

The City of Fayetteville currently hauls dewatered sludge from the West Side Waste Water Treatment Plant (WWTP) and the Noland WWTP to a Biosolids Management Site (BMS) on a City owned farm. The sludge is dried at the BMS and roughly 3,200 tons per year of Class A biosolids are sold to local farmers for \$20 per ton. The dryers at the BMS are operating near capacity and sometimes sludge from the WWTPs must be hauled to a landfill.

Two goals listed in the City's Energy Action Plan are to install renewable energy generation technologies at the WWTPs to offset the high cost of electricity and to reduce greenhouse gas emissions 40% by the year 2030. A biosolids master plan is needed to identify solutions for the increasing solids production, energy optimization, and to improve the dependability and sustainability of the City's solids management system for the future. Jacobs' Biosolids Master Plan will provide the City a coarse level assessment and comparative analysis of alternatives for decision-making. The biosolids master plan will be the basis for subsequent phases to provide detailed analysis, costing alternatives, and firm budgetary estimates. The biosolids master plan will be developed through a series of meetings, workshops, and technical memorandums (TMs). The tasks to complete the Biosolids Master Plan Project include:

- I. Assessment of existing conditions
- II. Evaluation criteria development and identification of appropriate technology solutions
- III. Plant simulation evaluations
- IV. Cost evaluations
- V. Implementation planning

These tasks are described in detail in the following sections. A TM will be completed during each task, and each the TMs listed below will become a chapter in the overall Final Master Plan delivered with the completion of the final task.

- I. TM 1 – Planning Criteria Memo
- II. TM 2 – Results of Modeling and Short List Alternatives
- III. TM 3 – Cost Evaluations and Alternative Analysis
- IV. TM 4 – Phasing and Implementation

City staff and WWTP operations will play an integral role throughout the development of the Biosolids Master Plan Report. Jacobs is relying on their attendance and participation during portions of the site visits and all workshops. The project schedule is built on Jacobs' execution and timely input and responses from key City staff.

1.1 Task 1: Assessment of Existing Conditions

This task includes an evaluation of all solids handling processes at both WWTPs to determine performance, capacities and conditions of existing equipment at the solids thickening, pumping, dewatering and drying facilities. Monthly operations reports, supplied by Plant Operations, will provide the majority of required data. Estimates of future quantities of solids production will be made to determine appropriate sizing of solids management equipment in the near term (next 5 years) and into the future (20 years). This analysis will be used to develop appropriate sizing criteria for all solids handling system components such that any deficits in capacity needs and the timing of equipment upgrades to eliminate those deficits will be identified for future planning tasks. Jacobs has been informed by the City that biosolids treatment systems after dewatering cannot be performed at the West Side plant due to promises made when the West Side plant was sited and built in 2008. Therefore, the focus of capacity and options analysis will be on those systems available at the Noland plant and the BMS facilities.

1.1.1 Task 1 Deliverables

- Project Kick-off and site visit and evaluation of existing solids handling facilities
 - Planned for four (4) Jacobs employees to attend site visit: Project Manager, Senior Technical Consultant, Project Engineer, and Technician
 - Duration is expected to be five (5) days
- Draft and final TM 1 summarizing:
 - Estimated solids production over next 5-20 years from both West Side and Noland WWTPs
 - Establish equipment sizing criteria for solids handling facilities
 - Solids handling capacity analysis of Noland WWTP systems and BMS facilities
- Conference call with City of Fayetteville Staff to review TM 1 findings

1.2 Task 2: Evaluation Criteria Development and Identification of Appropriate Technology Solutions

Criteria used in previous City planning exercises will be used to develop appropriate evaluation criteria for comparing potential solids management alternatives. These criteria will be defined in Workshop #1 with City stakeholders and the relative importance of these criteria determined for use in future non-monetary scoring of various alternatives. In Workshop #2, a wide range of biosolids management options as compared to the status quo will be identified for consideration by the stakeholder team. These potential technology solutions will be defined in a collaborative process to identify those options that should be considered further. The evaluation criteria previously defined will then be applied against the remaining potential technology solutions aimed at meeting City goals. For example, since energy reduction is a substantial goal, biosolids management options which have potential to recover energy would score more favorably. The ability of a solution to manage not only WWTP solids, but other suitable wastes (such as fats, oils and grease (FOG) or clean source-separated food wastes) will be considered to allow future waste management synergies between the City and those of other local institutions such as the University of Arkansas. Identification of options that utilize or re-purpose existing assets to achieve desired goals will be considered. At the conclusion of this criteria development and technology options identification, a list of up to six (6) potentially viable alternatives will be developed for further evaluation.

1.2.1 Task 2 Deliverables

- Delivery of Workshop # 1 and meeting summary
 - Planned for four (4) Jacobs employees to attend workshop: Project Manager, Senior Technical Consultant, Project Engineer, and Technician
 - Workshop duration is expected to be one (1) day
- Delivery of Workshop # 2 and meeting summary
 - Planned for four (4) Jacobs employees to attend workshop: Project Manager, Senior Technical Consultant, Project Engineer, and Technician
 - Workshop duration is expected to be one (1) day
- Memo summarizing up to six (6) potential alternatives for further evaluation

1.3 Task 3: Plant Simulation Evaluations

The existing whole plant simulation models for the West Side and Noland WWTPs will be updated and modified to analyze and evaluate the alternatives identified in Task 2 to determine overall impacts on process performance, energy recovery and use of existing assets (tankages and equipment). Outputs of the simulations will include overall energy balances, greenhouse gas emissions, and process performance compared to status quo. The outputs of this modeling exercise will be presented in a third workshop and used to define a short list of 3 alternatives for further investigation and refinement.

1.3.1 Task 3 Deliverables

- Whole plant simulation model development of the alternatives identified in task 2.
- Workshop # 3 to present results of modeling
 - Planned for four (4) Jacobs employees to attend workshop: Project Manager, Senior Technical Consultant, Project Engineer, and Technician
 - Workshop duration is expected to be one (1) day
- Draft and Final TM 2 summarizing results of modeling and suggest short list of up to 3 alternatives for further investigation

1.4 Task 4: Cost Evaluations

The simulation models will form the basis for conducting capital, O&M and life-cycle cost analysis of the remaining short-listed alternatives identified in Task 3. Comparative cost evaluations will be developed to include vendor quotes for large equipment and cost estimating data from Jacobs project experience. Jacobs cost estimating tools will be used to compare capital, O&M and life-cycle costs for each alternative. These costs will then be considered alongside the non-monetary evaluation criteria identified in Task 2 to develop a cost-benefit analysis. A fourth interactive workshop will be held with City stakeholders to fully vet the alternatives and select the best biosolids management solutions for the City.

1.4.1 Task 4 Deliverables

- Cost analysis of the short-listed alternatives identified in task 3.
- Workshop # 4 to present results of cost analysis
 - Planned for four (4) Jacobs employees to attend workshop: Project Manager, Senior Technical Consultant, Project Engineer, and Technician (if required)
 - Workshop duration is expected to be one (1) day
- Draft and Final TM 3 summarizing results of cost evaluations and alternatives analysis

1.5 Task 5: Implementation Planning

Implementation of selected alternative(s) will be further defined in terms of phasing, scheduling and budget planning to ensure the design and building of appropriate technology solutions with the right capacity will be developed at the right time to meet the City's near-term and long-term needs.

1.5.1 Task 5 Deliverables

- Draft and Final TM 4 summarizing phasing and implementation plan

- **Draft and Final Master Plan Report**
- Meeting to discuss next steps and deliver Final Master Plan Report including all TM's.
 - Planned for two (2) Jacobs employees to attend workshop: Project Manager and Senior Technical Consultant
 - Meeting duration is expected to be one (1) day
 - Jacobs will prepare PowerPoint slides with an executive summary on the findings and recommendations of the Final Master Plan Report for presentation to the Water, Sewer, and Solid Waste Committee.
 - Jacobs' Project Manager and Senior Technical Consultant will attend the Water, Sewer, and Solid Waste Committee meeting, assuming it is scheduled the same day as the final meeting.

1.6 Project Management

Project coordination and management will take place through a combination of status reporting and regular phone and e-mail communications with key project personnel. The project team will review project management protocols as described in the Project Management Plan (PMP), discuss deliverables and the project schedule, and address project concerns throughout the project duration. Jacobs will be responsible for submitting invoices and accompanying status reports.

One kick-off meeting will be conducted prior to the start of Task 1. This meeting will include key personnel from both the Jacobs team and City staff and will review project scope and communication plans and identify a tentative schedule of activities.

1.6.1 Deliverables

- Project Management Plan (PMP) – including defined client and Jacobs project organization, communication, project cost control procedures, document control, engineering health and safety considerations, change management, and other project management requirements
- Project schedule
- Monthly or milestone reports

1.6.2 Schedule

The attached preliminary schedule, Enclosure 1 to Appendix A, provides dates from notice to proceed through the final report.

1.6.3 Compensation

Compensation shall be on a Not to Exceed basis, and the total project compensation will not exceed \$254,108 without written authorization from the Client Project Manager. Refer to Enclosure 2 to Appendix A for a detailed man-hour and cost breakdown. An organizational chart for Jacobs employees working on the project is provided in Enclosure 3 to this Appendix.

BIOSOLIDS MASTER PLAN PRELIMINARY SCHEDULE

Appendix A
Enclosure 1

ID	Task Name	Duration	Start	Finish	Predecessors	Jul	Aug	Sep	Oct	Nov	Dec	2020	Jan	Feb	Mar	Apr	May	Jun	Jul	
1	Biosolids Master Plan	242 days	Fri 7/5/19	Mon 7/6/20																
2	Agenda Items due for Water, Sewer, and Solid Waste Committee Meeting	0 days	Fri 7/5/19	Fri 7/5/19																
3	Fayetteville Water, Sewer, and Solid Waste Committee Meeting	0 days	Tue 7/9/19	Tue 7/9/19																
4	City Council Meeting	0 days	Tue 9/3/19	Tue 9/3/19																
5	Process Engineer Contract	15 days	Tue 9/3/19	Mon 9/23/19	4															
6	Notice to Proceed	0 days	Mon 9/23/19	Mon 9/23/19	5															
7	Task 1: Assessment of Existing Conditions	20 days	Fri 10/11/19	Fri 11/8/19																
8	Facility Site Visit and Evaluation	5 days	Fri 10/11/19	Fri 10/18/19	6FS+13 days															
9	Future Solids Production Estimate	5 days	Mon 10/21/19	Fri 10/25/19	8															
10	Develop Sizing Criteria	5 days	Mon 10/21/19	Fri 10/25/19	8															
11	Develop Draft TM 1	5 days	Mon 10/28/19	Fri 11/1/19	9,10															
12	Develop Final TM 1	5 days	Mon 11/4/19	Fri 11/8/19	11															
13	Task 2: Evaluation Criteria Development	34 days	Tue 11/12/19	Thu 1/16/20																
14	Development of Evaluation Criteria	5 days	Tue 11/12/19	Mon 11/18/19	12															
15	Identification of Appropriate Technology Solution	5 days	Tue 11/12/19	Mon 11/18/19	12															
16	Workshop 1 and 2 Preparation	4 days	Tue 11/19/19	Fri 11/22/19	15															
17	Workshop 1	1 day	Tue 12/3/19	Tue 12/3/19	16FS+1 day															
18	Workshop 2	1 day	Wed 12/18/19	Wed 12/18/19	17FS+10 days															
19	Consideration of Repurposing Existing Assets	5 days	Thu 12/19/19	Tue 1/7/20	18															
20	Develop memorandum of six options	5 days	Wed 1/8/20	Tue 1/14/20	19															
21	Finalize memorandum	2 days	Wed 1/15/20	Thu 1/16/20	20															
22	Task 3: Plant Simulations Evaluations	33 days	Fri 1/17/20	Thu 3/5/20																
23	Modification and update of PRO2D	5 days	Fri 1/17/20	Fri 1/24/20	21															
24	PRO2D Updates for Graphic Outputs	5 days	Fri 1/17/20	Fri 1/24/20	21															
25	Modeling of Six Options and Rough Costing	10 days	Mon 1/27/20	Fri 2/7/20	24,23															
26	Workshop 3 Preparation	2 days	Mon 2/10/20	Tue 2/11/20	25															
27	Workshop 3	1 day	Thu 2/20/20	Thu 2/20/20	26FS+5 days															
28	Develop Draft TM 2	5 days	Fri 2/21/20	Thu 2/27/20	27															
29	Develop Final TM 2	5 days	Fri 2/28/20	Thu 3/5/20	28															
30	Task 4: Cost Evaluations	44 days	Fri 3/6/20	Wed 5/6/20																
31	Capital, O&M, and Life Cycle Cost of Three Alternatives	20 days	Fri 3/6/20	Thu 4/2/20	29															
32	Compare Cost to Non-monetary Criteria for Cost-benefit Outputs	20 days	Fri 3/6/20	Thu 4/2/20	29															
33	Workshop 4 Preparation	5 days	Fri 4/3/20	Thu 4/9/20	32															

JACOBS

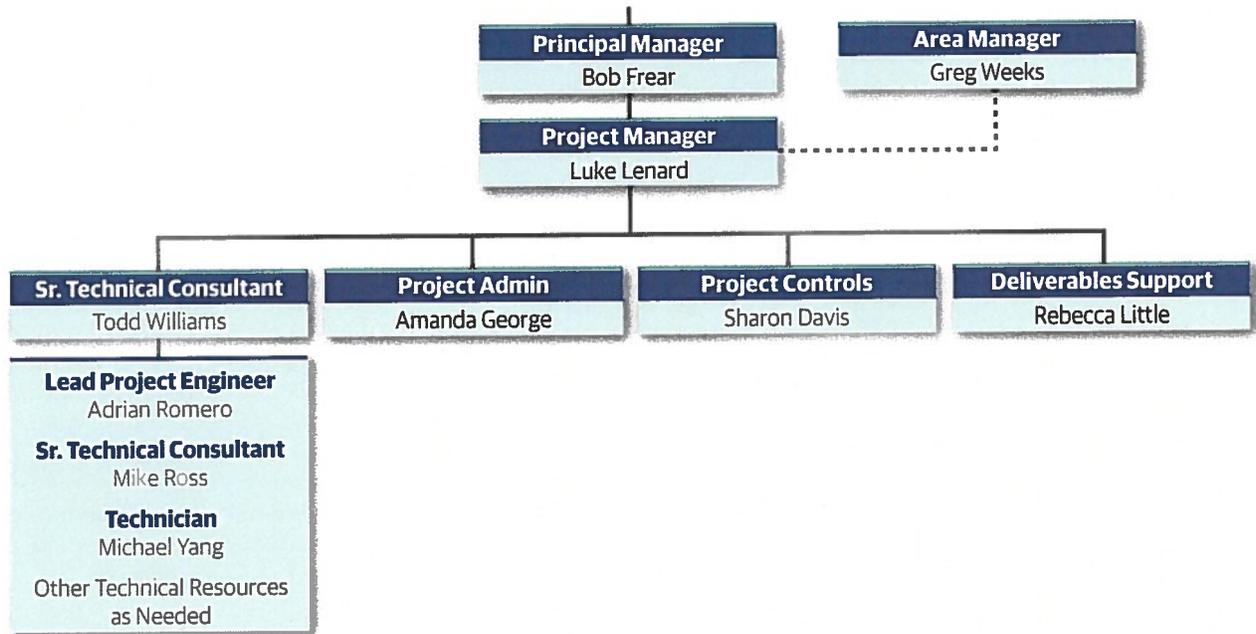
Task		Project Summary		Manual Task		Start only		Deadline	
Split		Inactive Task		Duration only		Finish-only		Progress	
Milestone		Inactive Milestone		Manual Summary Roll up		External Tasks		Manual Progress	
Summary		Inactive Summary		Manual Summary		External Milestone			

BIOSOLIDS MASTER PLAN PROJECT

Appendix A
Enclosure 2

			Principal Manager	Project Manager	Sr. Technical Consultant	Lead Project Engineer	Sr. Technical Consultant	Project Admin	Technician	Project Controls	Deliverables Support
Role											
Rate			\$225	\$160	\$190	\$125	\$190	\$85	\$130	\$140	\$85
Hours by Employee			29	202	276	576	76	68	262	10	40
Cost by Employee			\$6,525	\$32,320	\$52,440	\$72,000	\$14,440	\$5,780	\$34,060	\$1,400	\$3,400
Task	Hours	Cost									
Task 1 - Assessment of Existing Conditions	312	\$ 55,077.00									
Facility Site Visit and Evaluation	128	\$ 19,080.00		8	40	40			40		
Future Solids Production Estimate	50	\$ 7,530.00		4	6	10	10		20		
Develop Sizing Criteria	34	\$ 4,880.00		4	6	8			16		
Develop Draft and Final TM	100	\$ 13,980.00	4	16	16	24		8	24		8
Expenses		\$ 9,627.00									
Task 2 - Evaluation Criteria Development and Identification of Appropriate Technology Solutions	288	\$ 51,859.00									
Development of Evaluation Criteria	16	\$ 2,460.00		2	6	8					
Identification of Appropriate Technology Solutions	28	\$ 4,160.00		4	8	16					
Workshop 1 Preparation and Delivery	66	\$ 9,960.00		10	16	24	4		12		
Workshop 2 Preparation and Delivery	66	\$ 9,960.00		10	16	24	4		12		
Consideration of Repurposing Existing Assets	38	\$ 5,700.00		6	16	8	8		8		
Development of TM with Six Short-listed Options	74	\$ 10,240.00		6	12	32	4		12		8
Expenses		\$ 9,379.00									
Task 3 - Plant Simulation Evaluations	386	\$ 60,549.00									
Modification and update of PRO2D	16	\$ 2,520.00				8	8				
PRO2D Updates for Graphic Outputs	24	\$ 3,460.00		2	6	16					
Modeling of Six Options and Rough Costing	162	\$ 23,120.00		2	16	80	24		40		
Prepare Workshop Materials	40	\$ 5,580.00			8	24			8		
Workshop 3 Preparation and Delivery	64	\$ 9,520.00		12	16	24			12		
Develop Draft and Final TM	80	\$ 10,950.00	2	8	8	30	10	10	4		8
Expenses		\$ 5,419.00									
Task 4 - Cost Evaluations	282	\$ 44,789.00									
PRO2D Updates for Graphic Outputs	104	\$ 14,300.00		4	16	60			24		
Modeling of Three Options and Rough Costing	16	\$ 2,390.00			6	10					
Prepare Workshop Materials	22	\$ 3,160.00			6	12			4		
Workshop 3 Preparation and Delivery	52	\$ 7,960.00		12	16	24					
Develop Draft and Final TM	88	\$ 11,580.00	2	6	12	32		10	18		8
Expenses		\$ 5,419.00									
Task 5 - Implementation Planning	166	\$ 25,789.00									
Develop Phasing and Scheduling Plan	24	\$ 3,660.00		4	8	12					
Prepare Draft and Final Report	98	\$ 12,470.00	4	8	8	34	4	24	8		8
Final Meeting	44	\$ 7,760.00	8	12	16	8					
Expenses		\$ 1,899.00									
Project Management	105	\$ 16,045.00									
Project Management Plan	16	\$ 2,750.00	2	12	2						
Progress Reports	55	\$ 7,725.00	5	24				16		10	
Coordination	34	\$ 5,570.00	2	32							
Total	1539	\$ 254,108.00									

APPENDIX A ENCLOSURE 3
BIOSOLIDS MASTER PLAN PROJECT
ENGINEERING ORGANIZATIONAL CHART



JUNE 12, 2019