

City of Fayetteville Staff Review Form

2021-1134

Legistar File ID

2/1/2022

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

Chris Brown

1/5/2022

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract with Garver, LLC. in the amount of \$75,300 for engineering design services to address maintenance issues associated with the E Lake Sequoyah Drive bridge pursuant to selection RFQ 21-01, Engineering and Architecture Selection 12.

Budget Impact:

4470.621.8810-5314.00

02108 Other Drainage Improvements

Account Number

Fund

02108.2201

Lake Sequoyah Bridge Rehabilitation

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 356,917.00

Funds Obligated \$ 106,793.59

Current Balance \$ 250,123.41

Does item have a cost? Yes

Item Cost \$ 75,300.00

Budget Adjustment Attached? No

Budget Adjustment \$ -

Remaining Budget \$ 174,823.41

V20210527

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

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

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

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

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

Comments:



**MEETING OF FEBRUARY 1, 2022**

**TO:** Mayor and City Council

**THRU:** Susan Norton, Chief of Staff  
Chris Brown, Public Works Director

**FROM:** Alan Pugh, Staff Engineer

**DATE:** January 3, 2022

**SUBJECT:** Approval of a contract with Garver, LLC. in the amount of \$75,300 for engineering design services to address maintenance issues associated with the E Lake Sequoyah Drive bridge pursuant to selection RFQ 21-01, Engineering and Architecture Selection 12.

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**RECOMMENDATION:**

Staff recommends approval of a contract with Garver, LLC. in the amount of \$75,300 for engineering design services to address maintenance issues associated with the E Lake Sequoyah Drive bridge pursuant to selection RFQ 21-01, Engineering and Architecture Selection 12.

**BACKGROUND:**

The bridge in question appears to have been in place since at least 1980 according to aerial photography. This bridge receives annual inspections from ARDOT similarly to all bridges within the area. The bridge needs several routine and important maintenance repairs according to ARDOT.

**DISCUSSION:**

In order to prevent the issues pointed out by the inspection process from becoming critical, staff recommends approving an engineering contract to produce construction documents to make the necessary repairs to the E Lake Sequoyah Dr bridge. The City staff recommends hiring a consultant to perform the specialized plans to repair the bridge issues pointed out by the state. Garver, LLC was chosen by the selection committee in order to provide these documents and the proposed contract is attached along with the latest inspection performed by ARDOT. The funding source for the repairs will be determined after the design is complete but will likely be CIP funds.

**BUDGET/STAFF IMPACT:**

The design for this project is proposed to be paid for with CIP funds, project 02108 Other Drainage projects.

**Attachments:**

Engineering Contract  
ARDOT Inspection

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

THIS AGREEMENT is made as of \_\_\_\_\_, 2021, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and 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 City Engineer is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The City Engineer 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 an Hourly basis as described in Appendix B.
- 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 insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation	Statutory
Employers' Liability	\$500,000 Each Accident
Commercial General Liability	
Bodily Injury and	\$1,000,000 Combined Single Limit
Property Damage	
Automobile Liability:	
Bodily Injury and	\$1,000,000 Combined Single Limit
Property Damage	
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, and
- 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.
- 6.6 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. Notwithstanding anything to the contrary herein, ENGINEER's proprietary, financial information is not subject to audit.

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 asserts 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 assertion, 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 damages in an amount up to the limits set forth in Section 7.8 below.

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 Mutual Waiver

7.7.1 Notwithstanding anything in this Agreement to the contrary, neither party (including its subconsultants, agents, assignees, affiliates and vendors) shall be liable to the other for any special, consequential, indirect, punitive, exemplary or incidental damages of any kind regardless of the cause or action (including negligence of any kind or character including gross negligence).

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

By: \_\_\_\_\_  
Mayor, Lioneld Jordan

ATTEST:

By: \_\_\_\_\_  
City Clerk

ENGINEER<sup>®</sup>

By:  \_\_\_\_\_  
Senior Project Manager, Ron Petrie

By:  \_\_\_\_\_  
Project Manager, Jeff Webb

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES



## **APPENDIX A – SCOPE OF SERVICES**

### **2.1 General**

Generally, the scope of services includes design and bidding services for improvements to the Lake Sequoyah Bridge located in Fayetteville, Arkansas. Improvements will consist primarily of bridge rehabilitation to address the deficiencies that were noted in the October 1, 2020 ARDOT Bridge Inspection Report.

These noted deficiencies in the report to be addressed include:

- Replacing the seal at the expansion joints and keeping the steel plates.
- Partial depth deck repair at designated locations.
- Provide epoxy overlay to seal the deck and cracks. This is a 1/4" to 3/8" overlay.
- Add structural steel plates to repair beam ends at location of section loss to the beam.
- Spot paint at beam ends where there is a section loss.
- Full slab removal and replacement at joints to repair deck deterioration (cantilevers only).
- Spall repairs at bents and abutments.
- Provide column encasement to address section loss at bents 8 and 11 at the water level.
- Clean debris accumulated on the South side of the substructure.
- Clean and paint rail.
- Remove all dirt and debris on the left and right curbs.

### **2.2 Surveys**

Design Surveys and Property Surveys are not anticipated to be necessary for this project and are excluded from the scope of services.

### **2.3 Geotechnical Services**

Geotechnical Services are not anticipated to be necessary for this project and are excluded from the scope of services.

### **2.4 Coordination**

Garver will furnish final plans to the following agencies: ARDOT, ADEQ, and USCOE for their review and comment.

Garver will also attend coordination meetings with the Owner and other agencies as required. Garver will prepare exhibits for these meetings when appropriate.

### **2.5 Environmental Services**

Garver will work to obtain the appropriate environmental permits for the project from the US Army Corps of Engineers (Nationwide Permit) and the Arkansas Department of Environmental Quality for a STAA and SWPPP.

### **2.6 Conceptual Design**

During the conceptual design phase of the project, Garver will conduct conceptual designs to prepare plans consisting of a cover sheet, typical section, and bridge layout; quantities; and an opinion of probable construction cost.

### **2.7 Final Design**

During the final design phase of the project, Garver will conduct final designs to prepare construction plans and specifications, for one construction contract, including construction details and quantities, special provisions, and opinion of probable construction cost. Garver will also make any needed plan changes as a result of the review of the final plans by the City, and prepare the construction documents as required to advertise for bids.

Garver will also prepare, submit, and coordinate approval of a Short Term Activity Authorization (STAA) with ADEQ.

## **2.8 Property Acquisition Documents**

Property Acquisition Documents are not anticipated for this project and are excluded from the scope of services.

## **2.9 Bidding Services**

During the bidding phase of the project, Garver will:

1. Prepare and submit Advertisement for Bids to newspaper(s) for publication as directed by the Owner. Owner will pay advertising costs outside of this contract.
2. Dispense construction contract documents to prospective bidders (at the approximate cost of reproduction and handling).
3. Support the contract documents by preparing addenda as appropriate.
4. Attend the bid opening.
5. Prepare bid tabulation.
6. Evaluate bids and recommend award.
7. Prepare construction contracts.

## **2.10 Construction Phase Services**

Construction phase services are excluded from the scope of services.

## **2.10 Project Deliverables**

The following will be submitted to the Owner, or others as indicated, by Garver:

1. Digital copies of the Conceptual Design with opinion of probable construction cost.
2. Digital copies of the Final Design with opinion of probable construction cost.
3. Digital copies of the Final Plans and Specifications to the Contractor.
4. Electronic files as requested.

## **2.11 Extra Work**

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

1. Structural review, inspection and calculations for the entire bridge structure.
2. Surveying and property acquisition documents.
3. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
4. Submittals or deliverables in addition to those listed herein.
5. Design of any utilities relocation including water and sewer.
6. Retaining walls or other significant structural design beyond that required to address the deficiencies as noted by the ARDOT inspection.
7. Street lighting or other electrical design.
8. Preparation of a Storm Water Pollution Prevention Plan (SWPPP).
9. Environmental Handling and Documentation (other than permits listed herein), including

- wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
10. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
  11. Construction Phase Services.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and Garver.

## **2.12 Schedule**

Garver 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>
Conceptual Design	45 Days From Notice to Proceed
Final Design	75 Days from Approval of Conceptual Design



**Appendix B**  
**City of Fayetteville**  
**Fayetteville Lake Sequoyah Bridge Rehabilitation**  
**Garver Hourly Rate Schedule: July 2021 - June 2022**

<b>Classification</b>	<b>Rates</b>
<b>Engineers / Architects</b>	
E-1.....	\$ 116.00
E-2.....	\$ 134.00
E-3.....	\$ 162.00
E-4.....	\$ 189.00
E-5.....	\$ 230.00
E-6.....	\$ 283.00
E-7.....	\$ 376.00
<b>Planners / Environmental Specialist</b>	
P-1.....	\$ 139.00
P-2.....	\$ 174.00
P-3.....	\$ 206.00
P-4.....	\$ 242.00
P-5.....	\$ 279.00
P-6.....	\$ 319.00
P-7.....	\$ 385.00
<b>Designers</b>	
D-1.....	\$ 108.00
D-2.....	\$ 126.00
D-3.....	\$ 150.00
D-4.....	\$ 174.00
<b>Technicians</b>	
T-1.....	\$ 85.00
T-2.....	\$ 107.00
T-3.....	\$ 130.00
<b>Surveyors</b>	
S-1.....	\$ 52.00
S-2.....	\$ 69.00
S-3.....	\$ 92.00
S-4.....	\$ 132.00
S-5.....	\$ 174.00
S-6.....	\$ 198.00
2-Man Crew (Survey).....	\$ 211.00
3-Man Crew (Survey).....	\$ 263.00
2-Man Crew (GPS Survey).....	\$ 231.00
3-Man Crew (GPS Survey).....	\$ 283.00
<b>Construction Observation</b>	
C-1.....	\$ 102.00
C-2.....	\$ 130.00
C-3.....	\$ 160.00
C-4.....	\$ 196.00
<b>Management/Administration</b>	
M-1.....	\$ 385.00
X-1.....	\$ 67.00
X-2.....	\$ 90.00
X-3.....	\$ 125.00
X-4.....	\$ 160.00
X-5.....	\$ 195.00
X-6.....	\$ 241.00
X-7.....	\$ 291.00

## Appendix B

### City of Fayetteville

### Fayetteville Lake Sequoyah Bridge Rehabilitation

#### FEE SUMMARY

<b>Title I Service</b>	<b>Estimated Fees</b>
Environmental Handling / Documentation	\$ 7,600.00
Conceptual Design	\$ 14,490.00
Final Design	\$ 46,430.00
Bidding Services	\$ 6,780.00
<b>Subtotal for Title I Service</b>	<b>\$ 75,300.00</b>

## Appendix B

### City of Fayetteville

### Fayetteville Lake Sequoyah Bridge Rehabilitation

#### ENVIRONMENTAL HANDLING / DOCUMENTATION

WORK TASK DESCRIPTION	E-6	E-4	P-2	P-1
	\$283.00	\$189.00	\$174.00	\$139.00
	hr	hr	hr	hr
<b>1. Project Management</b>				
Administration and Coordination	1	2	2	
Quality Control Review	1	2	4	
<b>Subtotal - Project Management</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>0</b>
<b>2. Environmental</b>				
Erosion Control Plans Coordination		1	1	10
Short Term Activity Authorization (STAA) Permit			1	2
ADEQ Coordination			2	4
Section 404 Nationwide Permit		1	2	10
<b>Subtotal - Environmental</b>	<b>0</b>	<b>2</b>	<b>6</b>	<b>26</b>

<b>Hours</b>	<b>2</b>	<b>6</b>	<b>12</b>	<b>26</b>
<b>Salary Costs</b>	\$566.00	\$1,134.00	\$2,088.00	\$3,614.00

**SUBTOTAL - SALARIES:** **\$7,402.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$22.00
STAA ADEQ Fee	\$150.00
Travel Costs	\$26.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES:** **\$198.00**

**SUBTOTAL:** **\$7,600.00**

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

**TOTAL FEE:** **\$7,600.00**

## Appendix B

### City of Fayetteville Fayetteville Lake Sequoyah Bridge Rehabilitation

#### CONCEPTUAL DESIGN

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	T-1
	\$283.00	\$230.00	\$189.00	\$162.00	\$134.00	\$116.00	\$85.00
	hr	hr	hr	hr	hr	hr	hr
<b>1. Project Management</b>							
Administration and Coordination	2		4				
Quality Control Review	2		4				
Submittals to Client	1		2				
<b>Subtotal - Project Management</b>	<b>5</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>2. Civil Engineering</b>							
Cover Sheet / Index			1			1	1
Typical Section			1			1	3
Meetings/Coordination with City	2		2				
Quantities			1			2	
Opinion of Probable Construction Cost	1		1				
<b>Subtotal - Civil Engineering</b>	<b>3</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>
<b>3. Structural Engineering</b>							
Evaluation of Existing Plans/Reports	2			4		4	
Layout/Elevation drawing	2			4		6	8
Cross-Sections	2			3		4	8
Opinion of Probable Construction Cost	2			4		4	
<b>Subtotal - Structural Engineering</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>18</b>	<b>16</b>
<b>Hours</b>	<b>16</b>	<b>0</b>	<b>16</b>	<b>15</b>	<b>0</b>	<b>22</b>	<b>20</b>
<b>Salary Costs</b>	\$4,528.00	\$0.00	\$3,024.00	\$2,430.00	\$0.00	\$2,552.00	\$1,700.00

**SUBTOTAL - SALARIES: \$14,234.00**

#### DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$68.00
Postage/Freight/Courier	\$50.00
Travel Costs	\$138.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$256.00**

**SUBTOTAL: \$14,490.00**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$14,490.00**

## Appendix B

### City of Fayetteville Fayetteville Lake Sequoyah Bridge Rehabilitation

#### FINAL DESIGN

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	T-1
	\$295.00	\$240.00	\$197.00	\$169.00	\$140.00	\$121.00	\$89.00
	hr	hr	hr	hr	hr	hr	hr
<b>1. Project Management</b>							
Administration and Coordination	2		4				
Quality Control Review	4		4				
<b>Subtotal - Project Management</b>	<b>6</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>2. Civil Engineering</b>							
Final Plans							
Typical Section			1			2	2
Maintenance of Traffic / Detour Plans			2			4	8
Erosion Control Plan			4			6	8
Coordination and Meetings with the City	2		4				
Coordination with ARDOT	2		4				
Specifications/Contract Documents			6				
Quantities			2			4	
Opinion of Probable Construction Cost			2			4	
<b>Subtotal - Civil Engineering</b>	<b>4</b>	<b>0</b>	<b>25</b>	<b>0</b>	<b>0</b>	<b>20</b>	<b>18</b>
<b>3. Structural Engineering</b>							
Final Plans							
On-site Measurements/Evaluation				8		8	
Bridge Repair Plan and Elevation Sheet	2			8		8	8
General Notes Sheet	2			6		8	8
Superstructure Repair Plan Sheets	8			12		32	40
Foundation Repair Detail Sheets	2			8		12	16
Structural Specifications	2			8		4	
Opinion of Probable Construction Cost	2			6		4	
Client Coordination/Comments	2			4		8	
<b>Subtotal - Structural Engineering</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>60</b>	<b>0</b>	<b>84</b>	<b>72</b>

<b>Hours</b>	<b>30</b>	<b>0</b>	<b>33</b>	<b>60</b>	<b>0</b>	<b>104</b>	<b>90</b>
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<b>Salary Costs</b>	\$8,850.00	\$0.00	\$6,501.00	\$10,140.00	\$0.00	\$12,584.00	\$8,010.00
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**SUBTOTAL - SALARIES: \$46,085.00**

#### DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$86.00
Postage/Freight/Courier	\$30.00
Travel Costs	\$229.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$345.00**

**TOTAL FEE: \$46,430.00**



## Appendix B

### City of Fayetteville Fayetteville Lake Sequoyah Bridge Rehabilitation

#### BIDDING SERVICES

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	T-1
	\$295.00	\$240.00	\$197.00	\$169.00	\$140.00	\$121.00	\$89.00
	hr	hr	hr	hr	hr	hr	hr
<b>1. Civil Engineering</b>							
Dispense plans and specs to prospective bidders			4				
Addendums/Inquiries			6				
Bid Opening			2				
Prepare bid tabulation			2				
Evaluate bids and recommend award			2				
Prepare construction contracts			4				
Notice to Proceed			1				
<b>Subtotal - Civil Engineering</b>	<b>0</b>	<b>0</b>	<b>21</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>2. Structural Engineering</b>							
Addendums/Inquiries	4			8			
<b>Subtotal - Structural Engineering</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Hours</b>	<b>4</b>	<b>0</b>	<b>21</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>Salary Costs</b>	<b>\$1,180.00</b>	<b>\$0.00</b>	<b>\$4,137.00</b>	<b>\$1,352.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
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<b>SUBTOTAL - SALARIES:</b>	<b>\$6,669.00</b>
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#### DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$101.00
Postage/Freight/Courier	\$10.00
Travel Costs	\$0.00

<b>SUBTOTAL - DIRECT NON-LABOR EXPENSES:</b>	<b>\$111.00</b>
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<b>TOTAL FEE:</b>	<b>\$6,780.00</b>
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**Bridge #19523**(Routine, Fracture Critical)  
**Lake Sequoyah Dr over Lake Sequoyah - Fayette.**

**Location: 1.1 Mi N Hwy 16**

**Team Lead:** Bob McEntyre **Inspection Date:** October 01, 2020



Latitude:36.05538, Longitude:-94.06706

Route:31857 Section:00 Log:0.2

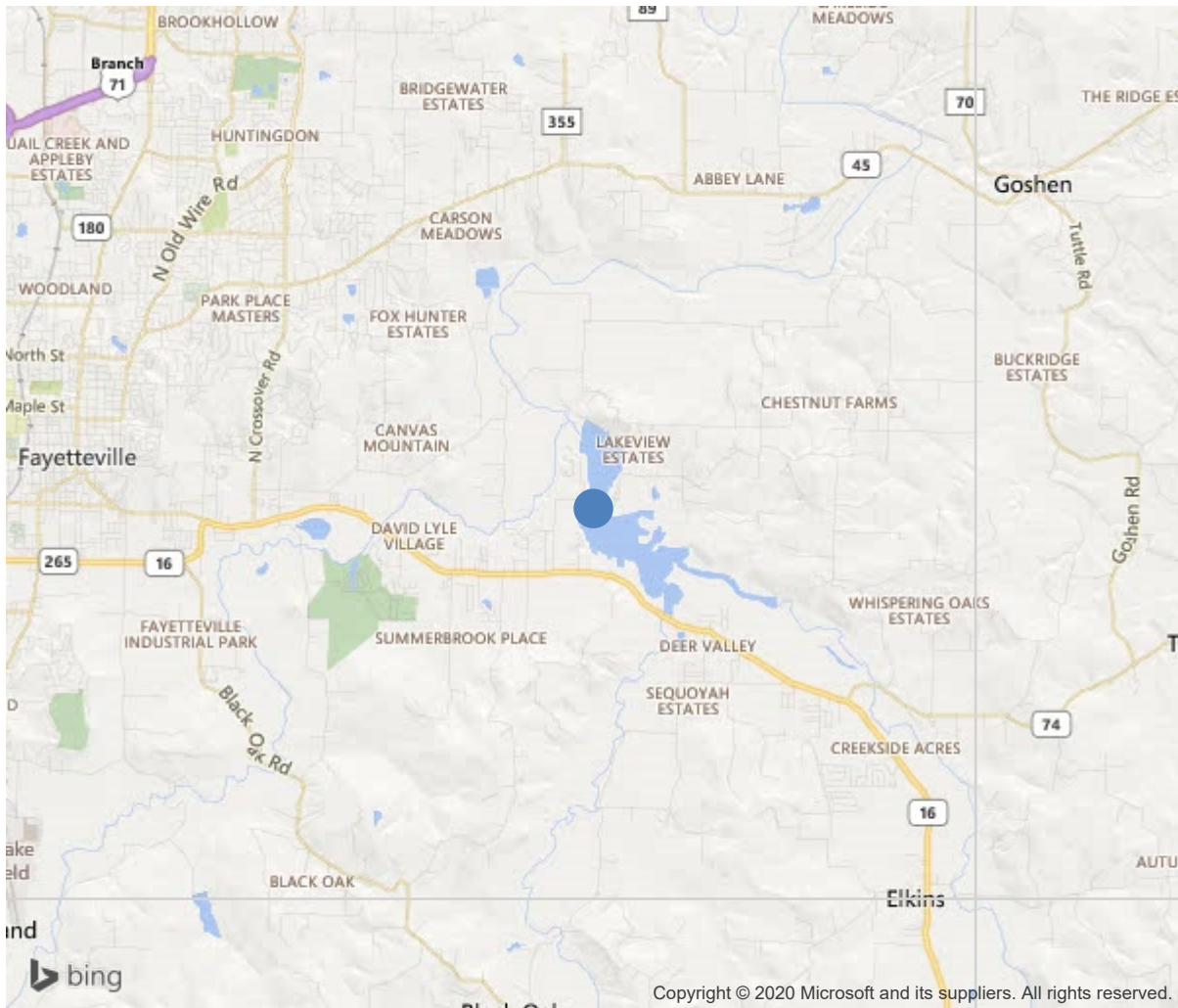
Arnold Road ID:72xELAKESEQUOYAHDRx1xA, Arnold Log mile:0.447

District 04, Washington County

Owner: 4-City or Municipal Highway Agency

Place Code: 23000 - FAYETTEVILLE

1.1 Mi N Hwy 16



36.05538, -94.06706

**Maintenance Needs**

**Date Reported:** 11/04/2011  
**Priority:** D- Routine  
**Type of Work:** Repair  
**Status:** Monitor  
**Component:** Miscellaneous

**Deficiency Description****Expansion joints -**

Some of the compression joint seals protrude above the driving surface of the deck. Rubber seals are deteriorated and are torn / ripped in several locations. Several seals have adhesion failure and can be removed by hand. The poured type expansion joint sealant at Bent # 12 has adhesion failure with debris impaction.

The undersurface of the concrete deck adjacent to the joint anchorage is fractured and breaking apart with concrete rubble on the intermediate bent caps. Deck joint anchorage has no apparent movement and sounds solid when impacted by traffic at this inspection.

**Remarks**

Bent # 11 expansion joint-Protruding above the assembly with damage to the seal.



Bent # 12 expansion joint seal has adhesion failure with debris impaction.





Bent # 13 expansion joint-Tears / rips.

Date Reported: 11/04/2011  
Priority: C - Important  
Type of Work: Repair  
Status: Monitor  
Component: Superstructure

### Deficiency Description

#### Superstructure -

The ends of the beams over the intermediate bents have flaking paint with corrosion with areas of section loss in some locations. The most notable areas are listed below:

Beam # 2 of spans # 2 and # 3 over bent # 3 have corrosion with up to 1/8" section loss to the web at the diaphragm connection.

Beam # 2 over bent # 7 has 1/8" section loss to web at the diaphragm connection with 1/8" section loss to the bottom flange in an area approximately 6" long.

The top flanges have isolated areas of rust forming under the transverse cracks in the deck.

There are no visible cracks apparent in the beams during this inspection.

### Remarks



Span 6, beam # 2 over bent 7 has corrosion at the diaphragm connection with up to 1/8" section loss.  
Photo 2.



Beam # 2 over bent # 7 has 1/8" section loss to web and bottom flange.



Beam # 2 of spans # 2 and # 3 over bent # 3 have corrosion with up to 1/8" section loss to the web at the diaphragm connection.





**Bridge #19523**(Routine, Fracture Critical)  
**Lake Sequoyah Dr over Lake Sequoyah - Fayette.**

**Location: 1.1 Mi N Hwy 16**

**Team Lead:** Bob McEntyre **Inspection Date:** October 01, 2020

**Date Reported:** 10/30/2014

**Priority:** D- Routine

**Type of Work:** Clean

**Status:** Monitor

**Component:** Deck

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### Deficiency Description

Deck -

The gutters on the left and right sides of structure have dirt and debris accumulation.

### Remarks

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The gutters on the left and right sides of structure have dirt and debris accumulation.



**Date Reported:** 10/27/2015  
**Priority:** D- Routine  
**Type of Work:** Repair  
**Status:** Monitor  
**Component:** Miscellaneous

---

### Deficiency Description

#### Bridge Railing -

The paint system is beginning to fail with rust beginning to show through the paint in some spans and on the bridge railing.

#### Remarks

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The paint system is beginning to fail with rust beginning to show through the paint in some spans and on the bridge railing.



The paint system is beginning to fail with rust beginning to show through the paint in some spans and on the bridge railing.

**Date Reported:** 11/07/2018  
**Priority:** B - Pressing; 6 month completion goal  
**Type of Work:** None  
**Status:** Monitor  
**Component:** Channel

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**Deficiency Description**

Channel -  
There is significant drift accumulation on the South side of the substructure.

**Remarks**

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There is significant drift accumulation on the South side of the substructure.



There is significant drift accumulation on the South side of the substructure.



**Date Reported:** 11/04/2011  
**Priority:** C - Important  
**Type of Work:** Repair  
**Status:** Monitor  
**Component:** Deck

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### Deficiency Description

Deck undersurface and exterior sides at expansion joint assemblies -  
Deck spalling with exposed reinforcing steel on the left and right exterior sides of deck and to the undersurface at the deck joints above bents.

### Remarks

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Deck spalling with exposed reinforcing steel on the left and right exterior sides of deck and to the undersurface at the deck joints above bents.



Deck spalling with exposed reinforcing steel on the left and right exterior sides of deck and to the undersurface at the deck joints above bents.

**Date Reported:** 11/04/2011  
**Priority:** D- Routine  
**Type of Work:** Repair  
**Status:** Monitor  
**Component:** Substructure

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### Deficiency Description

Abutment # 2 (East abutment)

East abutment has a 4' long spall with exposed reinforcing steel at the top of the stem wall near the center of the bent. Exposed reinforcing steel has initial section loss.

The top of Bent # 8 cap near centerline has a 12" long x 4" wide spall with exposed reinforcing steel.

### Remarks

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The top of Bent # 8 cap has a 12" long x 4" wide spall with exposed reinforcing steel along the backface edge.



East abutment has a 4' long spall with exposed reinforcing steel at the top of the stem wall near the center of the bent. Exposed reinforcing steel has initial section loss.



**Date Reported:** 11/04/2011  
**Priority:** C - Important  
**Type of Work:** Repair  
**Status:** Monitor  
**Component:** Deck

---

### Deficiency Description

#### Deck -

The driving surface of the deck has numerous areas of sealable transverse cracking and map cracking with areas of heavy / severe scaling in Spans # 6 and # 9.

Deck cracking appears to be over the reinforcing steel in all spans indicating that the reinforcing steel may have active corrosion.

Span # 7 has a 10" spall in the right wheel path. The area surrounding the spall appears to be delaminated.

Span # 10 has a 24" x 16" spall with exposed reinforcing steel.

Span # 11 has a 30" spall that exposes reinforcing steel in the right wheel path and a delaminated area on the left side near mid-span.

### Remarks

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Span # 7 has a 10" spall in the right wheel path.  
The area surrounding the spall appears to be delaminated.



Span 8-Transverse cracking.



There is areas of medium abrasion in span # 9 at bent # 9 and heavy abrasion adjacent to bent #10 expansion joint assembly. There is a 12" x 12" delaminated area near the right side adjacent to bent # 10 joint assembly.



Span # 10 has a 24" x 16" spall with exposed reinforcing steel in the right wheel path.





Span # 11-Spall with exposed reinforcing steel in left wheel path.



Span 12-Transverse cracking.

**Date Reported:** 11/30/2012  
**Priority:** G - General/ Preventive maintenance  
**Type of Work:** Repair  
**Status:** Monitor  
**Component:** Substructure

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**Deficiency Description**

Substructure -

The lower portions of the concrete columns near the water elevation have abrasion with up to 1 inch of concrete section loss in some locations.

**Remarks**

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Bent # 8-Abrasion to column at water elevation.



Bent # 11-Abrasion with section loss to column at water elevation.