

City of Fayetteville Staff Review Form

2022-0366

Legistar File ID

5/17/2022

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

Chris Brown

4/20/2022

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a professional services agreement with Olsson, Inc. in the amount of \$201,840, pursuant to RFQ#21-01 selection 9, for the development of a Lake Fayetteville Water Quality Study and approval of a budget adjustment.

Budget Impact:

2246.800.9716-5860.02	American Rescue Plan Act																														
Account Number	Fund																														
20023.2021	American Rescue Plan Grant Funding 2021																														
Project Number	Project Title																														
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Budgeted Item?</td> <td style="width: 20%;"><u>Yes</u></td> </tr> <tr> <td>Does item have a cost?</td> <td><u>Yes</u></td> </tr> <tr> <td>Budget Adjustment Attached?</td> <td><u>Yes</u></td> </tr> </table>	Budgeted Item?	<u>Yes</u>	Does item have a cost?	<u>Yes</u>	Budget Adjustment Attached?	<u>Yes</u>	<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Current Budget</td> <td style="width: 10%;">\$</td> <td style="width: 10%;"></td> <td style="width: 10%; text-align: right;">1,236,900.00</td> </tr> <tr> <td>Funds Obligated</td> <td>\$</td> <td></td> <td style="text-align: right;">18,000.00</td> </tr> <tr> <td style="border-top: 1px solid black;">Current Balance</td> <td style="border-top: 1px solid black;">\$</td> <td style="border-top: 1px solid black;"></td> <td style="border-top: 1px solid black; text-align: right; border: 1px solid black;">1,218,900.00</td> </tr> <tr> <td>Item Cost</td> <td>\$</td> <td></td> <td style="text-align: right;">201,840.00</td> </tr> <tr> <td>Budget Adjustment</td> <td>\$</td> <td></td> <td style="text-align: right;">201,840.00</td> </tr> <tr> <td style="border-top: 1px solid black;">Remaining Budget</td> <td style="border-top: 1px solid black;">\$</td> <td style="border-top: 1px solid black;"></td> <td style="border-top: 1px solid black; text-align: right; border: 1px solid black;">1,218,900.00</td> </tr> </table>	Current Budget	\$		1,236,900.00	Funds Obligated	\$		18,000.00	Current Balance	\$		1,218,900.00	Item Cost	\$		201,840.00	Budget Adjustment	\$		201,840.00	Remaining Budget	\$		1,218,900.00
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Remaining Budget	\$		1,218,900.00																												

Purchase Order Number: _____

Previous Ordinance or Resolution # V20210527
_____ **82-21** _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF MAY 17, 2022

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff
Chris Brown, City Engineer

FROM: Alan Pugh, Staff Engineer

DATE: April 20, 2022

SUBJECT: **Approval of a professional services agreement with Olsson, Inc. in the amount of \$201,840, pursuant to RFQ#21-01, selection 9, for the development of a Lake Fayetteville Water Quality Study.**

RECOMMENDATION:

Staff recommends approval of a professional services agreement with Olsson, Inc. in the amount of \$201,840, pursuant to RFQ#21-01, selection 9, for the development of a Lake Fayetteville Water Quality Study.

BACKGROUND:

On March 2, 2021, the Fayetteville City Council approved resolution 82-21 indicating a desire that the City work with environmental partners to clean up and protect the Lake Fayetteville watershed with the goal of maintaining water quality in the lake that would support primary contact. The resolution also requested that the City contract with an experienced firm to help analyze the lake and produce a watershed strategy and implementation plan.

DISCUSSION:

As a result of resolution 82-21, staff began the process of procuring an outside consultant to aide with the development of the watershed strategy and implementation plan. Of the field of candidates, three firms were chosen for interviews by the selection committee and each provided references which were also interviewed. Ultimately, Olsson, Inc was selected based on their qualifications and the process of negotiating a contract began. The proposed contact can be found attached.

BUDGET/STAFF IMPACT:

This project is funded by the American Rescue Plan Act Funding 2021

Attachments:

Professional Services Agreement

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

LAKE FAYETTEVILLE WATERSHED STUDY

THIS AGREEMENT is made as of _____, 2022, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Olsson, 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 Public Works Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Public Works 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 in Appendix A.

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for this Agreement is **\$201,840.00**. The CITY OF FAYETTEVILLE shall compensate ENGINEER based on a Unit Price or Lump Sum basis as described in Appendix A.
- 5.2 Statements
 - 5.2.1 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for professional services consistent with ENGINEER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by ENGINEER and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated

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

5.3 Payments

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

5.4 Final Payment

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

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

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

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

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

6.1.2 CITY OF FAYETTEVILLE and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services.

6.2 Professional Responsibility

6.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of ENGINEER.

6.3 Cost Opinions and Projections

6.3.1 Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.

6.4 Changes

6.4.1 CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of ENGINEER.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

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

6.7 Rights and Benefits

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

6.8 Dispute Resolution

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

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

6.8.3 Notice of Dispute

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

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

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

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

6.10 Publications

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

CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

6.11 Indemnification

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

6.12 Ownership of Documents

6.12.1 All documents provided by CITY OF FAYETTEVILLE including original drawings, 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:
302 E. Millsap Road
Fayetteville, Arkansas 72703

6.14 Successor and Assigns

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

6.15 Controlling Law

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

6.16 Entire Agreement

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

SECTION 7 - SPECIAL CONDITIONS

7.1 Additional Responsibilities of ENGINEER

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

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

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

7.2 Remedies

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

7.3 Audit: Access to Records

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

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

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

7.3.3.1 Negotiated prime agreements:

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

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

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

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

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

7.4 Covenant Against Contingent Fees

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

7.5 Gratuities

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

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

7.6 Arkansas Freedom of Information Act

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

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

CITY OF FAYETTEVILLE, ARKANSAS


OLSSON, INC.

By: _____
Mayor, Lioneld Jordan

By: 
Brent Johnson, PE, Team Leader

ATTEST:

By: _____
City Clerk

By: 
Chris Hall, PE, Team Leader

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

**CITY OF FAYETTEVILLE, AR
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX A – SCOPE OF SERVICES

Lake Fayetteville Watershed Study

Project Overview

To investigate the current state of water quality in Lake Fayetteville, short- and long-term strategies to improve the water quality and what impacts these strategies will have to the future water quality.

Project Scope

1. Project Management and Coordination

- a. Coordinate regular progress meetings with City staff; document all meetings, noting key decisions and action items. Meet with client as needed throughout the design process to review project issues.
- b. Conduct up to five (5) meeting with local partner or stakeholder groups
- c. Prepare for and attend two (2) City Council meetings to present findings and recommendations
- d. Prepare monthly project status report and supply to City
- e. Develop an overall project schedule

2. Studies and Gap Analysis: Review Existing Conditions and Analysis

- a. Collect and review available project data provided by the City and identified stakeholders (Watershed Conservation Resource Center, Illinois River Watershed Partnership, City of Springdale, Botanical Gardens)
 - i. Previous plans, reports and water quality studies (residential and commercial development)
 - ii. Previous permit submittals and regulatory agency correspondence
 - iii. Lake sediment sampling and testing records
 - iv. Water quality sampling records within, upstream and downstream of Lake Fayetteville
 - v. Lake and watershed GIS mapping
 - vi. Original dam and spillway plans
 - vii. Current and anticipated future pollutant loadings (sediment and phosphorus being the main focus)
 - viii. Upper Illinois Watershed Best management Practices

3. Collection of Additional Data

- a. Sediment and water sampling, testing, report

- i. Field Exploration: obtain sediment samples for analysis at ten (10) locations to varying depths within the Lake.
 - ii. Laboratory Services: Visual soil classification, hydrometer analysis, mechanical sieve analysis, chemical analysis, and Atterberg limit test. Soil samples will also be tested for heavy metals and potential harmful contaminants that may require special remediation measures.
 - iii. Engineering Analysis and Report Preparation
 - 1. Test boring logs will be provided and will include a description and classification of the sediment, as well as approximated sediment depths and soil classification.
 - 2. Laboratory analysis to determine the nutrient content of the sediment along with heavy metals, petroleum and other potential contaminants. Laboratory evaluation to determine if the existing soil characteristics of the lake sediment are suitable for reuse as part of topsoil or general fill material.
 - iv. Water sampling throughout the water column to include any additional parameters that may be contributing to poor water quality such as pH, dissolved oxygen, temperature, Secchi Disk reading, soluble phosphorus and other nutrients and common contaminants such as herbicides/pesticides and bacteria
- b. Bathymetric survey: Conduct a survey of the lake pool area to determine water depth to sediment and approximate depth of sediment throughout the lake. Approximately 130 probes will be taken with a rod to native ground in the lake. A soil probing plan will be prepared prior to collecting the data. It is anticipated that a majority of the probes will be collected on the upper half of the lake.
 - c. Vegetation Surveys: investigate the presence vegetation in the Lake, types of vegetation and if it is contributing to or resulting from water quality issues within the Lake at different times of the year in consideration of algal blooms, presence, or other phosphorus absorbing vegetation.
 - d. Deliverables: Watershed and site base maps; bathymetric survey map, geotechnical/water quality report and report of findings.

4. Watershed Analysis and Project Identification

- a. Pollutant Loading Estimations: Conduct watershed annual pollutant (sediment and nutrient) load estimations for current and anticipated future conditions. Identify and quantify future water quality threats to the lake.
 - i. Evaluate in-lake treatment using aluminum sulfate to inactivate phosphorus
- b. Watershed Best Management Practices: Evaluate the feasibility and effectiveness of potential BMP packages to be implemented upstream of the lake include stream restoration, streamside wetlands creation/retention and detention. Development

- conceptual plans of recommended BMPs. Coordinate results with all local entities impacted.
- c. Evaluate and Select Sediment Disposal Options: Develop recommendations on the safe/efficient disposal of any material removed from the lake.
 - i. Sediment Removal and Disposal Method Evaluation
 - 1. Evaluate and quantify local demand for sediment
 - 2. Investigate alternative disposal methods
 - 3. Evaluate removal techniques such as drawdown or dredging for immediate and continued sediment removal as necessary to maintain water quality
 - ii. Method Review and Selection
 - 1. Present findings to the City staff along with recommended sediment management methods.
 - 2. Based on analysis and discussion, select the appropriate techniques and use for final plan development
 - d. Deliverables: pollutant loading calculations, map of watershed BMPs, proposed BMPs ranked by their costs and effectiveness

5. Implementation

Based on the information reviewed and decisions reached, developed 30% concept design and supporting report that outlines the improvements, methods, long term management actions, total estimated project costs and estimated annual cost of operation.

- a. Sediment Removal and Disposal
 - i. Indicated where sediment will be hydraulically dredged and mechanically excavated including depth and volume of material
 - ii. Develop sediment disposal plan
- b. Development of Concept Plans
 - i. Develop concept plans for current and future sediment loads
 - ii. Development conceptual water quality enhancements that can be implemented
- c. Preliminary assessment of state and federal permitting requirements
 - i. Evaluate regulatory requirements and necessary permits in order to perform the recommended work.
- d. Agency funding
 - i. Work with the city to determine potential funding sources including, but not limited to, state and federal grants as well as local partner participation
- e. Long-Term Management and Maintenance Program
 - i. Outline annual maintenance program
 - ii. Outline continued water quality improvements that may be phased due to initial cost restrictions
- f. Final Report: Prepare a final report that summarizes the results of the study

- i. Watershed planning, analysis and recommended BMPs and enhancement projects to improve and sustain water quality
- ii. Identify the necessary sediment removal program including the operations, timing, volumes and ongoing costs

Assumptions and Exclusions:

- Sediment samples to be collected may be restricted by the excessive depth of the water in the lake. A sediment sampling plan will be prepared following the completion of the bathymetric survey.
- Bathymetric probe locations will be determined following the bathymetric survey of the lake and may not cover the entire area of the lake.

Project Schedule

Olsson expects to begin its services under the Agreement within seven (7) working days of a Notice to Proceed (NTP) and shall complete all work as described in the Scope of Services above within 365 days from NTP.

Compensation

CITY OF FAYETTEVILLE shall pay to Olsson, Inc. on the basis of Olsson's standard hourly rates in effect at the time the work is performed, plus reimbursable expenses. Rates are adjusted annually at the beginning of each calendar year. Olsson agrees to keep the CITY OF FAYETTEVILLE apprised in a timely manner of costs incurred. The maximum not-to-exceed amount for the services described in the Scope of Services above is **\$201,840.00**.



Summary of Professional Hourly Fees
City of Fayetteville, AR - Lake Fayetteville Watershed Study

TASK DESCRIPTIONS	Staff Assignment: Approx. Hourly Rate:	Project Manager	Technical Leader	Sr. Engineer	Associate Engineer	Sr. Scientist	Assoc. Scientist	Landscape Arch.	Eng. Tech.	Admin. Asst.	Lisc. Surveyor	Survey Crew	Total Hours	Total Hourly Fee	Expenses
1/21/2022															
1. Project Management & Facilitation															
A) Coordination meetings with City staff		12	4		8								24	\$3,700	\$600
B) Coordination meetings with project partners and stakeholders		10	10		10								30	\$5,900	\$600
C) City council presentations		6			6								12	\$2,130	\$200
D) Monthly project status report		4		6									10	\$2,090	
E) Project schedule		2		6	2								10	\$1,940	
2. Studies and Gap Analysis: Review Existing Conditions and Analysis															
A) Collect and review available data		4			80				8				92	\$12,860	
3. Collection of Additional Data															
A) Sediment and water sampling		8		2	40	16			28				94	\$13,730	\$17,500
B) Bathymetric survey and analysis									60			40	220	\$32,600	\$10,000
C) Vegetation Surveys (assume 5 visits)		2				30			40		3		75	\$10,850	\$200
D) Deliverables		10					4						14	\$2,550	
4. Watershed Planning & Analysis															
A) Pollutant loading estimations and short-term treatment				8	68	8			24				108	\$15,160	
B) Watershed BMP				12	40				16				68	\$9,660	
C) Evaluate and Select Sediment Disposal Options				12	40				16				68	\$9,660	
D) Deliverables			8	12	40				16				76	\$11,540	
V. Implementation															
A) Sediment removal and disposal				4	16								20	\$3,060	
B) Development of concept plans				12	24			16	32				94	\$11,780	
C) Permitting requirements						20	16			4			40	\$5,900	
D) Agency/Funding		8				4							12	\$2,520	
E) Long term management & maintenance		2	12	8	8	8							26	\$4,790	
F) Final Report		4		16	24								56	\$10,320	
Total All Phases		72	34	98	406	86	30	16	240	4	43	120	1,149	\$172,740	\$29,100
Total Hourly Fees & Expenses														\$201,840	



General Infrastructure

LABOR RATE BILLING SCHEDULE 2022

LABOR RATES

<u>Description</u>	<u>Range</u>
Senior Professional.....	175 - 280
Project Principal.....	140 - 250
Project Professional.....	130 - 180
Associate Professional	115 - 135
Assistant Professional.....	85 - 130
Design Associate	110 - 160
Senior Technician	80 - 120
Associate Technician	50 - 80
Assistant Technician	40 - 50
*Senior Surveyor.....	110 - 150
*Survey Crew.....	130 - 175
*Construction Services.....	50 - 240
Administrative/Clerical.....	45 - 110

Note:

1. Special Services not included in the above categories will be provided on a Special Labor Rate Schedule. Special rates include but are not limited to Power Delivery, Survey, Field Operations, Special Inspection, Construction Observation, Geotechnical, Non-Destructive Testing, Drilling, Executive Staff.
2. Rates are subject to change based upon updates to Billing Rates for the upcoming year.

*Not inclusive of all services. Refer to Note 1.

REIMBURSABLE EXPENSE SCHEDULE

The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project shall be included in periodic billing as follows:

<u>Classification</u>	<u>Cost</u>
Automobiles (Personal Vehicle)	\$0.56/mile*
Suburban's and Pick-Ups	\$0.75/mile*
Automobiles (Olsson Vehicle)	\$85.00/day
Other Travel or Lodging Cost	Actual Cost
Meals	Actual Cost
Printing and Duplication including Mylars and Linens	
In-House	Actual Cost
Outside	Actual Cost+10%
Postage & Shipping Charges for Project Related Materials including Express Mail and Special Delivery	Actual Cost
Film and Photo Developing	Actual Cost+10%
Telephone and Fax Transmissions	Actual Cost+10%
Miscellaneous Materials & Supplies Applicable to this Project	Actual Cost+10%
Copies of Deeds, Easements or other Project Related Documents	Actual Cost+10%
Fees for Applications or Permits	Actual Cost+10%
Sub-Consultants	Actual Cost+10%
Taxes Levied on Services and Reimbursable Expenses	Actual Cost

*Rates consistent with the IRS Mileage Rate Reimbursement Guidelines (Subject to Change).