

City of Fayetteville Item Review Form

2014-0189

Legistar File Number

May 6, 2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jesse Beeks / Barbara Olsen

Submitted By

Transportation Services

Department

Action Required:

A resolution awarding a contract to Garver, LLC in the amount of \$33,800 plus 10% contingency for a total of \$37,180 for survey and design services for the installation of a propane fueling system at the Happy Hollow maintenance site and a Budget Adjustment to move funds to the Fleet expense account.

Does this item have a cost? Yes

\$37,180.00

Cost of this request

\$0.00

Category or Project Budget

Shop Improvements

Program or Project Name

9700.1920.5801.00

Account Number

\$0.00

Funds Used to Date

Vehicles and Equipment

Program or Project Category

12007.1401

Project Number

-\$37,180.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item? No

Budget Adjustment Attached? Yes

V20130812

Previous Ordinance or Resolution # _____

Original Contract Number: _____



Comments:

[Signature] 4/18/14
Paul A. Beeks 4-22-2014
Ann Man 4-22-14
[Signature]



CITY COUNCIL AGENDA MEMO

MEETING OF [MONTH, DAY YEAR]

TO: Mayor and City Council

THRU: Terry Gulley, Director of Transportation *TG*

FROM: Jesse Beeks, Fleet Operations Superintendent

DATE: May 6, 2014

SUBJECT: Award a contract to Garver, LLC for survey and design services

RECOMMENDATION:

That City Council award a contract to Garver, LLC in the amount of \$33,800 plus a 10% contingency for a total of \$37,180 for survey and design services for the installation of a propane fueling system at the Happy Hollow maintenance site and a Budget Adjustment to move funds to the Fleet expense account.

BACKGROUND:

In late 2012 Fleet began a pilot program on propane use. It is very cost effective. In order to be able to install propane in more units, Fleet needs to install a propane fueling station that ties in with our automated Fuelmaster system and with FASTER for billing. This will allow us to have propane in many vehicles as data entry will be automatic, not done by hand as it is now.

DISCUSSION:

The first step is having an engineer provide survey and design services so that the propane station can be bid out.

BUDGET/STAFF IMPACT:

Propane is considerably less expensive than gasoline so it will save user divisions money to run vehicles and mowers on propane.

Attachments:

Two original copies of a contract with Garver, LLC

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH GARVER, LLC FOR SURVEYING AND DESIGN SERVICES RELATED TO THE INSTALLATION OF A PROPANE FUELING SYSTEM AT THE HAPPY HOLLOW MAINTENANCE SITE IN THE AMOUNT OF \$33,800.00, APPROVING A PROJECT CONTINGENCY OF \$3,380.00, AND APPROVING A BUDGET ADJUSTMENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to sign a professional engineering services agreement with Garver, LLC for surveying and design services related to the installation of a propane fueling system at the Happy Hollow maintenance site in the amount of \$33,800.00, and further approves a project contingency of \$3,380.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, attached hereto as Exhibit "A".

PASSED and APPROVED this 6th day of May, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

**City of Fayetteville, Arkansas
Budget Adjustment Form**

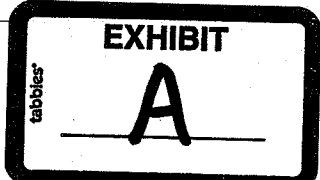
Budget Year	Division: Fleet Operations Department: Transportation Services	Request Date	Adjustment Number
2014		4/18/2014	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Funds are requested to be moved from fund balance to Fleet's project to cover Engineering expenses for survey and design on installation of a new propane fueling system at the Happy Hollow maintenance site.

<u>Jesse Beards</u> Division Head	<u>4/18/14</u> Date	Prepared By: <u>Barbara Olsen</u> Olsen, Barbara
<u>Paul Feal</u> Budget Director	<u>4/18/14</u> Date	Reference: _____
<u>Tom Gully</u> Department Director	<u>4/18/14</u> Date	Budget & Research Use Only Type: A B C <u>D</u> E P
<u>Paul a. Behr</u> Finance Director	<u>4-23-2014</u> Date	General Ledger Date _____
_____ Chief of Staff	_____ Date	Posted to General Ledger Initial _____ Date _____
_____ Mayor	_____ Date	Checked / Verified Initial _____ Date _____

		TOTAL BUDGET ADJUSTMENT		
Account Name	Account Number	Expense	Revenue	Project.Sub Number
Fixed assets	9700.1920.5801.00	37,180	-	12007 . 1401
Use of fund balance	9700.0970.4999.99	-	37,180	.
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AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GARVER, LLC

THIS AGREEMENT is made as of _____, 2014, 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 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 Transportation Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Transportation Director shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
 - 3.1.6 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to ENGINEER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

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

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for this Agreement is **\$33,800**. The CITY OF FAYETTEVILLE shall compensate ENGINEER based on a Unit Price basis as described in Appendix B. The hourly rates shown in Appendix B will be increased annually with the first increase effective June 1, 2014.
- 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:
Garver, LLC
2049 E. Joyce Blvd, Suite 400
Fayetteville, AR, 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 continent 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

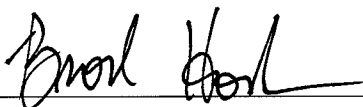
7.6.1 City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, 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 GARVER, LLC, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

GARVER, LLC

By : _____
Mayor, Lioneld Jordan

By:  _____

ATTEST:

By: _____
City Clerk

Title: EXEC VP _____

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX A – SCOPE OF SERVICES

2.1 General

Generally, the scope of services includes surveying and design of a new propane fueling station at the City of Fayetteville Maintenance Facility. Improvements will consist primarily of the installation of a 12,000 gallon above ground storage tank and fuel dispenser with a canopy.

2.2 Surveys

2.2.1 Design Surveys

Garver will provide field survey data for designing the project. This survey will not be tied to the Owner's control network.

Garver will conduct field surveys, utilizing radial topography methods, at intervals and for distances at the project site as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Garver will locate existing fuel tanks, fuel dispensers, power racks, power poles, the southeast corner of the maintenance building, and underground utilities marked by their owners and/or representatives. Garver will establish control points for use during construction.

2.2.2 Property Surveys

Property surveys are excluded from the scope of services.

2.3 Geotechnical Services

Geotechnical Services are excluded from the scope of services.

2.4 Coordination

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 Conceptual Design

Garver will proceed directly to the preliminary design.

2.6 Preliminary Design

The preliminary design phase submittal will include:

Production of contract plans and specifications for the design of a single above ground 12,000 gallon propane fuel tank and single dispenser. The tank will be located due west of the existing fuel tanks and the dispenser relatively north of the proposed tank. A separate power feed from the existing maintenance building will be designed to power the propane facility. The design will include a performance specification for a "package" skid-type of system with the tank manufacturer providing the design services for specific connections as required by the contract specifications. Specific design under this contract will be to compose those performance specifications and provide electrical and civil design for the site outside of the services provided by the manufacturer under the "package" system. Garver will provide electrical and civil site plans, civil grading plan, civil details, electrical power plan, and electrical details.

Design will include incorporating the City's existing FuelMaster system as well as a canopy over the dispenser with light.

Design will be completed to NFPA, NEC, State, and City codes.

Garver will complete electrical design calculations and require as part of the specifications for the Contractor to complete arc flash study requirements for the new system.

Opinion of Probable Construction Cost

The preliminary design phase will represent approximately 90 percent of final construction contract plans. This submittal will include technical specifications and "front end" contract documents. Garver will not begin final design until the preliminary design is approved by the Owner in writing.

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 final construction details and quantities, special provisions, and opinion of probable construction cost as required to advertise for bids.

2.8 Property Acquisition Documents

Property Acquisition Documents are excluded from the scope of services.

2.9 Bidding Services

Bidding Services are excluded from the scope of services.

2.10 Construction Phase Services

Construction Phase Services are excluded from the scope of services.

2.11 Project Deliverables

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

1. Three copies of the Preliminary Design with opinion of probable construction cost.
2. Three copies of the Final Design with opinion of probable construction cost.
3. Electronic files as requested.

2.12 Extra Work

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

1. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
2. Submittals or deliverables in addition to those listed herein.
3. Pavement Design.
4. Design of any utilities relocation.
5. Retaining walls or other significant structural design beyond that required for the tank support and canopy.
6. Preparation of a Storm Water Pollution Prevention Plan (SWPPP). The construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to DEQ.
7. Construction materials testing.
8. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
9. Large Scale Development.
10. Design of fueling system components beyond performance specification.

11. Perform arc flash calculations.
12. Bidding Services.
13. Construction Phase Services including record drawings.
14. Services after construction, such as warranty follow-up, operations support, etc.

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

2.13 Schedule

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work on a mutually agreeable schedule.



APPENDIX B
Fayetteville Propane Fueling Station
Garver Hourly Rate Schedule

Classification	Rates
Engineers / Architects	
E-1.....	\$ 92.00
E-2.....	\$ 107.00
E-3.....	\$ 129.00
E-4.....	\$ 150.00
E-5.....	\$ 183.00
E-6.....	\$ 228.00
M-1.....	\$ 300.00
Planners / Environmental Specialist	
P-1.....	\$ 108.00
P-2.....	\$ 137.00
Designers	
D-1.....	\$ 85.00
D-2.....	\$ 99.00
D-3.....	\$ 116.00
D-4.....	\$ 138.00
Technicians	
T-1.....	\$ 74.00
T-2.....	\$ 84.00
T-3.....	\$ 102.00
Surveyors	
S-1.....	\$ 44.00
S-2.....	\$ 55.00
S-3.....	\$ 72.00
S-4.....	\$ 105.00
S-5.....	\$ 138.00
S-6.....	\$ 163.00
2-Man Crew (Survey).....	\$ 169.00
3-Man Crew (Survey).....	\$ 210.00
2-Man Crew (GPS Survey).....	\$ 189.00
3-Man Crew (GPS Survey).....	\$ 230.00
Construction Observation	
C-1.....	\$ 82.00
C-2.....	\$ 114.00
C-3.....	\$ 128.00
C-4.....	\$ 163.00
Management/Administration	
M-1.....	\$ 300.00
X-1.....	\$ 52.00
X-2.....	\$ 71.00
X-3.....	\$ 99.00
X-4.....	\$ 135.00

APPENDIX B

CITY OF FAYETTEVILLE PROPANE FUELING STATION

FEE SUMMARY

Title I Services	Estimated Fees
Surveys	\$3,500.00
Preliminary Design	\$21,300.00
Final Design	\$9,000.00
Subtotal for Title I Services	\$33,800.00

APPENDIX B

**CITY OF FAYETTEVILLE
 PROPANE FUELING STATION**

SURVEYS

WORK TASK DESCRIPTION	E-6	E-3	S-5	S-4	S-3	2-Man Crew (Survey)	2-Man Crew (GPS Survey)
	\$228.00	\$129.00	\$138.00	\$105.00	\$72.00	\$169.00	\$189.00
	hr	hr	hr	hr	hr	hr	hr
1. Surveys - Topographic							
Horizontal and Vertical Control			1			1	2
Topographic Surveys			1			8	
Locate Utilities						2	
Data Processing/DTM Preparation			2	4			
Subtotal - Surveying	0	0	4	4	0	11	2
Hours	0	0	4	4	0	11	2
Salary Costs	\$0.00	\$0.00	\$552.00	\$420.00	\$0.00	\$1,859.00	\$378.00

SUBTOTAL - SALARIES: \$3,209.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$32.00
Survey Supplies	\$29.00
Travel Costs	\$30.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$91.00

SUBTOTAL: \$3,300.00

SUBCONSULTANTS FEE: (Arkups) \$200.00

TOTAL FEE: \$3,500.00

**APPENDIX B
CITY OF FAYETTEVILLE
PROPANE FUELING STATION**

PRELIMINARY DESIGN

WORK TASK DESCRIPTION	E-6	E-5	E-3	E-2	E-1	D-3	T-1	X-1
	\$228.00	\$183.00	\$129.00	\$107.00	\$92.00	\$116.00	\$74.00	\$52.00
	hr	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering								
Preliminary Site Visit & Coordination Meeting		3		3				
Project Management								
External Coordination								
City		2		2				
Internal				4				
Fuel System Layout				0				
Preliminary Plans - Civil								
Front End Plans				1			4	
Plan & Profile Sheets				4			8	
Grading				1			4	
Specifications				3				
Quantities				3				
Opinion of Probable Construction Cost				3				
QC Review		4		2			1	
Submit 90% Documents to City				1			1	2
Review Meeting with City		2		2				
Subtotal - Civil Engineering	0	11	0	29	0	0	18	2
2. Electrical Engineering								
Preliminary Site Visit & Coordination Meeting			4		4			
Project Management								
External Coordination								
City			1					
Fuel System Manufacturer			0		0			
Internal			2		2			
Fuel System Layout			0		0	0		
Research Applicable Clearances and NFPA Documents			0		0			
Design								
Circuit Calculations			1		4			
Voltage Drop Calculations			1		2			
Canopy with Light			4		8			
FuelMan Card Reader Design			2		8			
Preliminary Plans - Electrical								
Site Plan					2		6	
Power Plan					2		6	
One-Line Diagram					4	2	6	
Details / Risers			5		14	4	10	
Specifications			4		8			
Quantities			1		5			
Opinion of Probable Construction Cost			1		3			
QC Review		4	6		4			
Submit 90% Documents to City					1			
Review Meeting with City			2		2			
Subtotal - Electrical Engineering	0	4	34	0	73	6	28	0

Hours	0	15	34	29	73	6	46	2
Salary Costs	\$0.00	\$2,745.00	\$4,386.00	\$3,103.00	\$6,716.00	\$696.00	\$3,404.00	\$104.00
SUBTOTAL - SALARIES:		\$21,154.00						
DIRECT NON-LABOR EXPENSES								
Document Printing/Reproduction/Assembly	\$98.00							
Postage/Freight/Courier	\$10.00							
Travel Costs	\$40.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:		\$146.00						
TOTAL FEE:		\$21,300.00						

APPENDIX B

**CITY OF FAYETTEVILLE
 PROPANE FUELING STATION**

FINAL DESIGN

WORK TASK DESCRIPTION	E-6	E-5	E-3	E-2	E-1	D-3	T-1	X-1
	\$238.00	\$191.00	\$135.00	\$112.00	\$96.00	\$121.00	\$77.00	\$55.00
	hr	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering								
Project Management		2		2				
Final Plan Revisions				2			4	
Final Specification Revisions				1				
Quantities				1			2	
Opinion of Probable Construction Cost				1			2	
QC Review		2		2			1	
Sign Final Documents / Submit to City				2			1	1
Subtotal - Civil Engineering	0	4	0	11	0	0	10	1
2. Electrical Engineering								
Project Management			2		2			
Final Plan Revisions			4		12		16	
Final Specification Revisions			1		4			
Quantities			1		3			
Opinion of Probable Construction Cost			1		2			
QC Review		2	4		2			
Sign Final Documents / Submit to City			1		1			
Subtotal - Electrical Engineering	0	2	14	0	26	0	16	0

Hours	0	6	14	11	26	0	26	1
Salary Costs	\$0.00	\$1,146.00	\$1,890.00	\$1,232.00	\$2,496.00	\$0.00	\$2,002.00	\$55.00

SUBTOTAL - SALARIES: \$8,821.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$130.00
Postage/Freight/Courier	\$15.00
Travel	\$34.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$179.00

TOTAL FEE: \$9,000.00

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:	Date: A. 4 Garver, LLC
P.O Number:	Expected Delivery Date: Page 23 of 24

Vendor #: 52650	Vendor Name: GARVER ENGINEERING	Mail Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>	
Address:		Fob Point:	Taxable Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> Quotes Attached Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
City:	State:	Zip Code:	Ship to code: 50
Requester: BARBARA OLSEN		Requester's Employee #: 1940	Division Head Approval: <i>Jesse Beck</i>
		Extension: 3485	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	SURVEY AND DESIGN OF SITE FOR PROPANE	1	EA	33,800.00	\$33,800.00	9700.1920.5801.00	12007.1401		
2	TANK INSTALLATION AT HAPPY HOLLOW				\$0.00				
3	MAINTENANCE SITE, PER QUOTE AND CONTRACT				\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: **\$33,800.00**

Total: **\$33,800.00**

Approvals:

Mayor: _____	Department Director: _____	Purchasing Manager: _____
Finance & Internal Services Director: _____	Budget Manager: _____	IT Manager: _____
Dispatch Manager: _____	Utilities Manager: _____	Other: _____

