

RESOLUTION No. 2022 - 12  
A RESOLUTION APPROVING CERTAIN CONTRACT; AUTHORIZING THE  
MAYOR AND CITY CLERK TO EXECUTE AND PERFORM CERTAIN  
AGREEMENT; AND FOR OTHER PURPOSES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEARCY, TO-WIT:

WHEREAS, the City of Searcy has been presented a certain agreement associated with the operations of the City of Searcy, for the purpose of the engineering, surveying, architectural, and geotechnical design services on the proposed Tennis and Pickleball facility at Berryhill Park.

namely an agreement with:

A. Davidson Engineering. PLLC

(whether one or more, the "Agreement") copies of which have been submitted to the Searcy City Council; and

WHEREAS, the City of Searcy wishes to approve the execution of, ratify the terms of and perform under the conditions contained in, the Agreement.

NOW, THEREFORE, be it resolved by the City Council of the City of Searcy, Arkansas, to-wit:

Section 1. That the Searcy City Council approves and ratifies the terms, conditions and obligations of the Agreement.

Section 2. That the Searcy City Council authorizes and directs the Mayor and City Clerk to execute, and perform under the terms of, the Agreement.

Section 3. That the Mayor is authorized to take all actions determined to be necessary, in the sole and exclusive determination of the Mayor, in the performance of all obligations, duties and responsibilities associated with the Agreement.

Section 4. To the extent permitted by law, the requirement of competitive bidding with respect to the services to be provided pursuant to the Agreement is waived, but subject to any budgeting laws of the State of Arkansas applicable to the City.

PASSED AND ADOPTED this 12<sup>th</sup> day of April, 2022.

/s/ Kyle Osborne

Mayor of Searcy

ATTEST:

/s/ Jerry Morris  
City Clerk

**AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ (“Effective Date”) between CITY OF SEARCY (“Owner”) and Davidson Engineering, PLLC (“Engineer”).

Owner’s Project, of which Engineer’s services under this Agreement are a part, is generally identified as follows:

**City of Searcy – Berryhill Park Racquet Complex**

Engineer’s services under this Agreement are generally identified as follows (“Services”):

**Schedule I Services – Civil Engineering Design Services**

-Civil Engineering Design Services and Production of Construction Plans to include:

- Demolition and Erosion Control Plan
- Civil Site Plan
- Grading and Drainage Plan
- Site Utility Plan
- Site Detail Sheets

- Utility Relocation Coordination
- Coordination with City of Searcy and City Engineer’s Office
- Production of Construction Specifications
- Bidding Services
- Project Administration

**Schedule II Services – Architectural Design Services**

-Architectural Design of the proposed structure to include:

- Floor Plan
- Roof Plan
- Elevations
- Reflected Ceiling Plan
- Schedules
- Structural Engineering
- MEP Engineering
- Sections
- Digital Model

**Schedule III Services – Topographic Survey**

**Schedule IV Services – Geotechnical Investigation**

**Schedule V Services – Services During Construction (As requested by Owner)**

On-site construction inspection (as requested by the Owner)

Any other services required during construction, and requested in writing by the Owner

Owner and Engineer further agree as follows:

**1.01 Basic Agreement and Period of Service**

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above (“Additional Services”).
- B. Engineer shall complete its Services within the following specific time period: If no specific time period is indicated, Engineer shall complete its Services within a reasonable period of time.
- C. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer’s Services is impaired, or Engineer’s Services are delayed or suspended, then the time for completion of Engineer’s Services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.

**2.01 Payment Procedures**

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.
- B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

**2.02 Basis of Payment—Lump Sum**

- A. Owner shall pay Engineer for Services as follows:
  - 1. A lump sum amount of \$52,900.00 for Schedule I Services.
    - a. (This amount equals 5.25% of the construction estimate of all site related items (excluding building construction cost).)
  - 2. A lump sum amount of \$13,900.00 for Schedule II Services.

3. A lump sum amount of \$3,950.00 for Schedule III Services.
4. A lump sum amount of \$4,850.00 for Schedule IV Services.
5. A sum of hourly rates plus reimbursable expenses for Schedule V Services.
  - a. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services.
  - b. Engineer's Standard Hourly Rates are attached as Appendix 1.
6. A sum of hourly rates plus reimbursable expenses for any additional services.
  - a. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services.
  - b. Engineer's Standard Hourly Rates are attached as Appendix 1.

### 3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:
  1. For cause,
    - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
    - b. By Engineer:
      - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
      - 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.I.
  - c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.
  - d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the

same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

#### 4.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

5.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner:

Engineer: Davidson Engineering, PLLC

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

By: B.D.

Print name: \_\_\_\_\_

Print name: Bear Davidson, PE

Title: \_\_\_\_\_

Title: President

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

Date Signed: 1.21.2022

Engineer License or Firm's Certificate No. (if required):

State of: Arkansas (19096)

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

210 West Arch Avenue, Suite D

Searcy, AR 72143



This is **Appendix 1, Engineer's Standard Hourly Rates**, referred to in and part of the Short Form of Agreement between Owner and Engineer for Professional Services dated [ ] .

**Engineer's Standard Hourly Rates**

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**A. Standard Hourly Rates:**

1. Standard Hourly Rates are set forth in this Appendix 1 and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Paragraphs 2.01, 2.02, and 2.03, and are subject to annual review and adjustment.

**B. Schedule of Hourly Rates:**

Billing Class	Rate
Professional Engineer	\$ [ 130 ]/hour
Drafter/Technician	\$ [ 68 ]/hour
Admin. Asst.	\$ [ 40 ]/hour
Professional Surveyor	\$ [ 135 ]/hour
Surveying Technician	\$ [ 68 ]/hour
Survey Field Work – One Man Crew	\$ [ 112 ]/hour
Survey Field Work – Two Man Crew	\$ [ 150 ]/hour

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**Appendix 1, Standard Hourly Rates Schedule.**

EJCDC® E-520, Short Form of Agreement Between Owner and Engineer for Professional Services.  
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**BERRYHILL PARK RACQUET COMPLEX**  
**Preliminary Project Cost Estimate**  
**18-Nov-21**  
**6 Tennis Courts - 8 Pickleball Courts**



Item No.	Description	Units	Estimated Quantity	Unit Cost	Subtotal
1	Remove and Dispose of Existing Concrete Courts, Associated Fencing, Lighting, etc.	SY	5,920	\$10.00	\$59,200.00
2	Unclassified Excavation	CY	675	\$18.00	\$12,150.00
3	Select Fill Material	CY	300	\$28.00	\$8,400.00
4	Wire-Backed Silt Fence	LF	1,200	\$3.00	\$3,600.00
5	B-Stone Temporary Haul Road	SY	335	\$11.00	\$3,685.00
6	5" Post-Tensioned Concrete Slab	SY	5,680	\$70.00	\$397,600.00
7	Acrylic Athletic Surface and Striping	SY	5,680	\$15.00	\$85,200.00
8	5" Concrete Sidewalk Paving	SY	835	\$53.00	\$44,255.00
9	Court Lighting Poles	EA	38	\$2,000.00	\$76,000.00
10	LED Court Lighting Fixtures and Associated Underground Electric	EA	56	\$3,000.00	\$168,000.00
11	42" Brick Pony Wall	LF	119	\$170.00	\$20,230.00
12	Steel Slat Park Benches with Black Powder-Coat	EA	14	\$800.00	\$11,200.00
13	Three-Row, 15' Long, Aluminum Bleachers	EA	8	\$3,500.00	\$28,000.00
14	Picnic Tables and Chairs, with Black Powder-Coat	EA	3	\$1,500.00	\$4,500.00
15	2" Caliper Trees	EA	8	\$500.00	\$4,000.00
16	Solid Bermuda Sodding	SY	2,500	\$7.00	\$17,500.00
17	Compacted Class 7 Gravel Base	TONS	40	\$30.00	\$1,200.00
18	2" Hot-Mix Asphalt for Trail Repair	SY	80	\$60.00	\$4,800.00
19	10' Tall, Vinyl-Coated Chain Link Fence with Wind Screens	LF	1,600	\$28.00	\$44,800.00
20	42" Tall, Black Vinyl-Coated Chain Link Fence	LF	1,230	\$18.00	\$22,140.00
21	Restroom & Concession Facility (Brick Masonry, Standing Seam Metal Roof)	SF	574	\$200.00	\$114,800.00
22	6" DIP Waterline	LF	185	\$75.00	\$13,875.00
23	6" Fire Hydrant Assembly	EA	1	\$12,000.00	\$12,000.00
24	6"X2" Tapping Saddle and Gate Valve and Meter Setter	EA	1	\$4,500.00	\$4,500.00
25	2" Muniopex Water Service Line	LF	100	\$35.00	\$3,500.00
26	4" Sanitary Sewer Service	LF	130	\$55.00	\$7,150.00
				<b>Total</b>	<b>\$1,172,285.00</b>
				Contingency (7.5%)	\$87,921.38
<b>TOTAL ESTIMATED CONSTRUCTION COST</b>					<b>\$1,260,206.38</b>
				Engineering Design Fees (Estimate)	\$63,400.00
				Architectural Design Fees (Estimate)	\$9,200.00
				Topographic Survey (Estimate)	\$6,500.00
				Geotechnical Investigation (Estimate)	\$5,500.00
<b>PRELIMINARY ESTIMATED PROJECT COST</b>					<b>\$1,344,806.38</b>

