

RESOLUTION NO. 2368

RESOLUTION AUTHORIZING THE EMPLOYMENT OF A.L. FRANKS  
ENGINEERING, INC.

Whereas, the City of Monticello is from time to time in need of engineering services for projects of varies size and complexity;

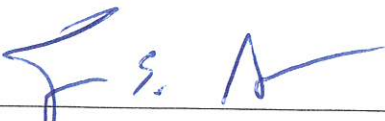
Whereas, the qualification of A.L. Franks Engineering, Inc. to perform engineering services for the City of Monticello has been reviewed;

Whereas, A.L. Franks Engineering, Inc. is approved to perform engineering services for the City of Monticello subject to approval of the City Council on a project basis.

It is, therefore, by the Monticello City Council, resolved as follows:

1. That A.L. Franks Engineering, Inc. is approved to provide engineering services for the City of Monticello on a project basis as more particularly set forth in Agreement Exhibit 1 hereto, subject to approval by the Monticello City Council on a separate work order basis for each project.

ADOPTED on this 26 day of September, 2023.

  
\_\_\_\_\_  
Mayor

Attested by:   
\_\_\_\_\_  
City Clerk

# EXHIBIT 1

## AGREEMENT FOR ENGINEERING SERVICES

STATE OF: ARKANSAS

COUNTY OF: DREW

THIS AGREEMENT made, entered into and executed this the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the

### CITY OF MONTICELLO

hereinafter called the "Owner", acting herein, by and through one of its officers, who is duly authorized to act for and in behalf of said Owner, and

### A.L. FRANKS ENGINEERING, INC.

hereinafter called the "Engineer", acting herein, by and through one of its officers, who is duly authorized to act for and in behalf of said Engineer for preparation infrastructure or other improvements. Such improvements are hereinafter called the "Project".

NOW, THEREFORE, THE Owner and the Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

## **SECTION I - EMPLOYMENT OF ENGINEER**

In the event of the employment by Owner of the Engineer and the Engineer's agreement to perform services in connection with any of the construction work and related improvements anticipated herein, the Owner agrees to pay to the Engineer compensation as hereinafter provided. The parties acknowledge that Owner is under no obligation to Engineer to offer such employment but is free to employ any other engineer for the performance of the anticipated project work irrespective of whether this contract has been terminated in accordance with Section XI. The Engineer will be compensated for any and all preliminary work performed to develop the project in accordance with the schedule of fees or hourly rates contained in the appropriate work order in accordance with Section II.

## **SECTION II - WORK ORDERS**

The total of all work to be performed under this Agreement shall be divided by the Owner and shall be authorized by the Owner in writing to the Engineer in the form of Work Orders. Such Work Orders shall be serially numbered and dated, shall set forth in reasonable detail the scope and limitation of the engineering services desired by the Owner thereunder, and shall show the fee basis, approximate total amount of engineering fee, and approximate date, as necessary, of completion of the services authorized. Where applicable, Work Orders shall show the estimated cost of the construction work for which engineering services are being authorized.

The Engineer shall acknowledge receipt and acceptance of each Work Order in writing or reject same, stating the reasons therefor. No commitment shall have been made by the Owner, and the Engineer is under no obligation to commence the work,

until such a Work Order has been made by the Owner and accepted by the Engineer, both in writing.

### **SECTION III - CHARACTER AND EXTENT OF SERVICES**

The Engineer shall render the following professional services necessary for the development of the Project.

A. Preliminary Phase:

1. Attend preliminary conferences with the Owner regarding the Project;
2. Prepare a preliminary engineering study, and report if applicable, on the Project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the Owner, to include preliminary layouts, sketches and cost estimates for the Project, and to set forth clearly the Engineer's recommendations.
3. Furnish the Owner three (3) copies of the preliminary report, if applicable, (additional copies will be furnished to the Owner at direct cost of reproduction).

B. Design Phase:

1. Establish the scope of any soil and foundation investigations or any special surveys and tests which may be required for design, and arrange for such work to be done;
2. Furnish to the Owner, where applicable, the engineering data necessary for applications for routine permits required by local, State, and Federal authorities (as distinguished from detailed applications and supporting documents for government grants, planning advances, or permits);

3. Prepare detailed contract drawings and specifications for construction authorized by the Owner;
4. Prepare detailed cost estimates and bidders' proposal forms for authorized construction;
5. Furnish the Owner three (3) sets of copies of plans, specifications, notice to bidders, and bidders' proposals (all copies in excess of three (3) shall be paid for by the Owner at cost of reproduction).

C Construction Phase :

1. Assist the Owner in securing bids;
2. Assist the Owner in the opening, tabulation and analysis of bids, and furnish recommendations on the award of contracts;
3. Assist in the engineering phases of the preparation of formal contract documents for the award of contracts;
4. Make periodic visits to the site (as distinguished from the continuous services of a resident Project Representative) to observe the progress and quality of the work, and to determine in general if the work is proceeding in accordance with the Contract Documents. In performing these services, the Engineer will endeavor to protect the Owner against defects and deficiencies in the work of contractors, but he will not be required to guarantee the performance of their contracts, nor will he be responsible for the actual supervision of construction operations;
5. Consult and advise with the Owner during construction; issue all instructions to contractors requested by the Owner; and prepare routine change orders if required;
6. Review shop and working drawings furnished by contractors for compliance with design concept and with information given in

contract documents (contractors will be responsible for dimensions to be confirmed and correlated at job site);

7. Review laboratory, shop, and mill tests of material and equipment;
8. Prepare monthly and final estimates for payments to contractors;
9. Conduct, in company with the Owner's representatives, a final inspection of the Project;
10. Revise contract drawings, with the assistance of the resident Project Representative, to show the work as actually constructed, and furnish one (1) set of prints of the revised drawings to the Owner.

D. General:

The Engineer shall provide consultation and advice to the Owner during the performance of his services.

## **SECTION IV - PERIOD OF SERVICE**

The services called for in Section III-A (Preliminary Phase) of this agreement shall be completed and the report, if applicable, submitted within the earliest reasonable period following the receipt by the Engineer of notice to proceed.

After receipt from the Owner of acceptance of the Preliminary Phase services, indicating any specific modification or changes in scope desired by the Owner, and upon authorization from the Owner, the Engineer will proceed with the performance of the services called for in Section III-B (Design Phase) of this agreement, so as to deliver completed contract drawings, specifications and estimates of cost for all authorized design on the Project.

Following award by the Owner of a construction contract or contracts, the Engineer will proceed with the performance of the services called for in Section III-C (Construction Phase) of this Agreement.

The services called for in Section III-D of this agreement shall be continuing function of the Engineer for the Owner, and shall not cease until termination of this agreement.

This agreement shall remain in force for a period which may reasonably be required for design, award of contracts and construction of the Project, including extra work and any required extensions thereto.

The final acceptance by the Owner of each construction contract in the Project shall serve as evidence of completion, on the part of the Engineer, of all services of the Project.

## **SECTION V - COORDINATION WITH THE OWNER**

The Engineer shall hold periodic conferences with the Owner, or his representatives, to the end that the Project, as perfected, shall have full benefit of the Owner's experience and knowledge of existing needs and facilities and to be consistent with his current policies and construction standards. To implement this coordination, the Owner shall make available to the Engineer for use in designing and constructing the Project, all existing plans, maps, field notes, statistics, computations and other data in his possession relative to existing facilities and to the Project.

## SECTION VI - BASIS OF COMPENSATION

For and in consideration of the services to be rendered by the Engineer, the Owner shall pay, and the Engineer shall receive, the fees hereinafter set forth for the Preliminary, Design, and Construction Phases of the work. Where the fee is based on a percentage of construction cost, the fee for each separate phase shall be based on the "Construction Cost" of all work authorized by the Owner at one time, and handled by the Engineer in accordance with this agreement.

"Construction Cost" is defined as the total cost to the Owner for the execution of the work on each construction project, excluding fees or other costs for engineering and legal services and the cost of land, rights-of-way, legal and administrative expenses, but including the direct cost to the Owner of all construction contracts, items of construction, including labor, materials and equipment, required for the completed work (including extras), which have been delivered and checked and approved by the Engineer, and the total value at site of Project of all labor, materials and equipment purchased or furnished directly by the Owner for the Project.

Payment for services shall be at an agreed lump sum amount or on a monthly billing basis at an agreed Schedule of Fee basis with reimbursement for direct non-labor and subcontract expenses at invoice cost plus a twenty percent (20%) service charge.

A. Additional Services and Charges:

Additional services to be performed by the Engineer, if authorized by the Owner, which are not included in the above described Preliminary, Design, and Construction Phases, and their basis of charges are described as follows:

1. Additional Services

- a. Field surveys for preliminary and design, and other field investigations;



- b. Field layouts, and services of resident Project Representative during construction;
- c. Investigations involving detailed consideration of operation, maintenance and overhead expenses; and the preparation of rate schedules, earning and expense statements, feasibility studies, -appraisals, valuations, assessment schedules, and material audits or inventories required for certification of force account construction performed by Owner;
- d. Making necessary land surveys, establishing boundaries, monuments, and preparing deed, right-of-way, and easement descriptions;
- e. Preparation of applications and supporting documents for Federal aid programs and State assistance and permits;
- f. Preparation of any required infiltration/inflow studies, operation and maintenance manual, user charges, or environmental impact assessments or statements; or performing operator training.

2. Basis of Charges

An agreed lump sum; or an agreed "Schedule of Fees" with reimbursement for direct non-labor expense and subcontract expense at invoice cost plus a twenty percent (20%) service charge;

B. Interest on Delayed Payments:

Any payments, not in dispute, not made within thirty (30) days on statements rendered in accordance with the above provisions shall be

subject to a charge for interest at the rate of ten percent (10%) per annum, beginning thirty (30) days from the date of the statement.

C. Services Not Included:

The Engineer's services will not include the sampling and testing of materials, such as soils, concrete, reinforcing steel, sewage samples, etc., as this is a service rendered by commercial testing laboratories; however, the Engineer will recommend the type and number of such tests to the Owner and recommend testing agencies to perform this function. The Engineer will assist in planning and inspecting soil borings, foundation investigations, and samples and tests as may be required, in arranging for such services to be performed on behalf of the Owner, and in interpreting the results.

## **SECTION VII - EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this agreement:

- A. The employer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Employer will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such an action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Employer agrees to post in a conspicuous place, available to employees and applicants for

employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

- B. The employee will, in all solicitations or advertisements for employees placed by or on behalf of the Employer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

## **SECTION VIII - REVISION TO DRAWINGS AND SPECIFICATIONS**

The Engineer will make, without expense to the Owner, such revisions of the preliminary drawings as may be required to meet the needs of the Owner, but after a definite plan has been approved by the Owner, if a decision is subsequently made by the Owner, which, for its proper execution, involves extra services and expenses for changes in, or additions to the drawings, specifications or other documents, or if the Engineer is put to labor or expense by delays imposed on him from causes not within his control, such as by the delinquency or insolvency of contractors, etc., the Engineer shall be compensated for such extra services and expense, which services and expense are not to be considered as covered by the services and charges described in Sections III and IV above. Compensation for such extra services shall be as per the agreed "Schedule of Fees" plus reimbursement for direct non-labor expense and subcontract expense at invoice cost plus a ten percent (10%) service charge.

## **SECTION IX - OWNERSHIP OF DOCUMENTS**

All documents, estimates, specifications, field notes, and data are the property of the Owner. Engineer may retain copies thereof for his use. Engineer may retain original drawings upon providing Owner with reproducible copies which shall become the property of Owner who may use them for any purpose Owner may choose. The

Engineer is held harmless for any reproduction or use of the plans for other than their intended purpose.

## **SECTION X - LIMITATION OF LIABILITY**

The Owner agrees to limit the Design Professional's liability to the Owner and to all construction Contractors and Subcontractors on the project, due to the Design Professional's professional negligent acts, errors or omissions such that the total aggregate liability of A.L FRANKS ENGINEERING, INC. to all those named shall not exceed \$5,000 or the amount of the Design Professional's fee, whichever is greater.

## **SECTION XI - OWNERS RIGHT TO AUDIT**

For all Work Orders issued to the Engineer, subsequent to this agreement, which amount to \$2,500.00 or more, for work to be performed on Projects in which funds are acquired by the Owner from a Federal agency for Project construction, the Engineer hereby authorizes and agrees that the Owner, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

## **SECTION XII - TERMINATION**

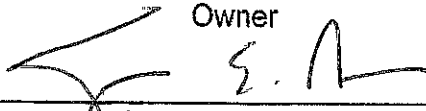
The Owner may terminate this agreement at any time by a notice in writing to the Engineer. Upon receipt of such notice, the Engineer shall, unless the notice directs otherwise, immediately discontinue all services in connection with the performance of this agreement and shall proceed to cancel promptly all existing orders and contracts

insofar as such orders or contracts are chargeable to this agreement. As soon as practicable after receipt of notice of termination, the Engineer shall submit a statement showing in detail the actual services performed under agreement to the date of termination. The Owner shall then pay the Engineer promptly that proportion of the prescribed fee for which the reasonable value (quantum) of the services actually performed under this agreement bear to the reasonable value of the total services called for under this agreement, less such payments on account of the fee as have been previously made. Copies of all completed or partially completed designs, plans and specifications prepared under this agreement shall be delivered to the Owner when and if this agreement is terminated, but subject to the restrictions as to their use, as set forth above.

The Owner and the Engineer each binds himself and his partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this agreement; except as above, neither the Owner nor the Engineer shall assign, sublet or transfer his interest in this agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the Owner.

IN TESTIMONY OF WHICH this instrument has been executed on behalf of the above-named Engineer and has been executed on behalf of the Owner in two (2) counterparts each of equal force, on the day and year first above written.

CITY OF MONTICELLO, ARKANSAS

BY  Owner  
\_\_\_\_\_  
Jason Akers, Mayor

ATTEST \_\_\_\_\_

(Seal)

A.L. FRANKS ENGINEERING, INC.  
Engineer

BY \_\_\_\_\_  
Anthony L. Franks, President/CEO

ATTEST \_\_\_\_\_