

CONTRACT FOR PROFESSIONAL SERVICES

This contract, made by and between the City of Independence, Missouri (hereinafter called City) and, Black & Veatch Corporation, a Delaware Corporation (hereinafter called consultant).

WITNESSETH:

WHEREAS, City requires design and construction phase services for the addition of lime slaking equipment at the Courtney Bend Water Plant and,

WHEREAS, consultant is prepared to provide said professional services and shall give consultation and advice to City during the performance of said services;

NOW THEREFORE, City and Consultant in consideration of the mutual covenants contained in this contract, agree as follows:

ARTICLE 1 – EFFECTIVE DATE

The effective date of this contract shall be November 1, 2020.

ARTICLE 2 – SERVICES TO BE PERFORMED BY CONSULTANT

Consultant shall perform the services set forth in the documents attached hereto and made a part of this contract, which include one or more of these documents: Request for Proposals, scope of work, statement of work, consultant's proposal, and pricing.

ARTICLE 3 – PERIOD OF SERVICE

The services shall be completed by May 1, 2022.

ARTICLE 4 – COMPENSATION

For services performed, the City shall pay the consultant, an amount not to exceed Four hundred forty-six thousand, four hundred six dollars (\$446,406).

Regular (e.g. monthly) invoices shall be submitted by the consultant to the City for payment of services performed and expenses incurred during the preceding month. Invoices shall indicate the hours expended for each individual person, the total labor billing, and a summary of other expenses and charges with supporting documentation.

The City's payment terms are Net 30. Payment will be made by the City within thirty (30) days of receipt of the complete invoice. The City's preferred method of payment is via City credit card with no added fees. If credit is not acceptable, payment will be made by check.

The City is exempt from State of Missouri sales and use taxes on purchases made directly for the City. Consultant shall not include any sales or use taxes on transactions between the consultant and City.

ARTICLE 5 – PERMITS AND LICENSES

The consultant shall procure all necessary local construction permits and licenses and a City of Independence occupation license, unless exempt under state law. Consultant will abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this contract is performed, and will require the same of all sub-consultants. The consultant must furnish and maintain certification of authority to conduct business in the State of Missouri.

ARTICLE 6 – OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by consultant as part of the services shall become the property of City, provided consultant has the unrestricted right to their use. Notwithstanding the foregoing, City accepts that any re-use of the documents or intellectual property shall be at City's sole risk and liability.

ARTICLE 7 – CHANGES, DELETIONS, OR ADDITIONS TO CONTRACT

Either party may request changes within the general scope of this Contract. If a requested change causes an increase or decrease in the cost or time required to perform this contract, City and consultant will agree to an equitable adjustment of the contract price, period of service, or both, and will reflect such adjustment in a change order or formal modification.

ARTICLE 8 – STANDARD OF CARE

Consultant shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily possessed and exercised by a peer professional under similar circumstances.

ARTICLE 9– LIABILITY AND INDEMNIFICATION

Having considered the potential liabilities that may exist during the performance of this contract and the consultant's fee, and in consideration of the mutual covenants contained in the contract, City and consultant agree to allocate and limit such liabilities in accordance with this article.

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City, its officers, directors, and employees against all damages liabilities or costs, including reasonable attorney fees and defense costs, to the extent caused by the consultant's negligent performance of professional services under this contract and that of its sub-consultants or anyone for whom the consultant is legally liable. Consultant shall indemnify City against legal liability for damages arising out of claims by consultant's employees.

ARTICLE 10 – INSURANCE

See attachment named "Insurance Requirements."

ARTICLE 11 – SHIPPING, TITLE AND RISK OF LOSS

All sales and deliveries are F.O.B. City.

ARTICLE 12 – DELAY IN PERFORMANCE

Neither City nor consultant shall be considered in default of this contract for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this contract, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restrains; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or consultant under this contract. If such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this contract.

ARTICLE 13 – TERMINATION

City may terminate or suspend performance of this contract for City's convenience upon written notice to consultant. Consultant shall terminate or suspend performance of the services on a schedule acceptable to City. If termination or suspension is for City's convenience, City shall pay consultant for all the services performed till the date of the termination by the City or suspension expenses. If contract is restarted, an equitable adjustment shall be made to consultant's compensation.

This contract may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this contract. The nonperforming party shall have 15 calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party. In the event that funding for the contract is discontinued, City shall have the right to terminate this contract immediately upon written notice to consultant.

ARTICLE 14– WAIVER

A waiver by either City or consultant of any breach of this contract shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 15 – SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this contract or the occurrence of any event rendering any portion or provision of this contract void shall in no way affect the validity or enforceability of any other portion or provision of this contract. Any void provision shall be deemed severed from this contract, and the balance of this contract shall be construed and enforced as if this contract did not contain the particular portion or provision held to be void. The parties further agree to amend this contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this article shall not prevent this entire contract from being void if a provision which is of the essence of this contract be determined void.

ARTICLE 16 – SUCCESSORS AND ASSIGNS

City and consultant each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to the contract and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this contract.

ARTICLE 17 – ASSIGNMENT

Neither City nor consultant shall assign any rights or duties under this contract without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this contract.

ARTICLE 18– THIRD PARTY RIGHTS

Nothing in this contract shall be construed to give any rights or benefits to anyone other than City and consultant.

ARTICLE 19– INDEPENDENT CONSULTANTS

Each party shall perform its activities and duties hereunder only as an independent consultant. The parties and their personnel shall not be considered to be employees or agents of the other party. Nothing in this contract shall be interpreted as granting either party the right or authority to make

commitments of any kind for the other. This contract shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

ARTICLE 20– AUDIT

Consultant agrees that the City, or a duly authorized representative, shall, until the expiration of three (3) years after final payment under this contract have access to and the right to examine and copy any pertinent books, documents, papers, records, or electronic records of the consultant involving transactions related to this contract.

ARTICLE 21 – EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract or purchase order, the consultant agrees as follows:

The consultant will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin or any other legally protected category. The consultant will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, age, color, religion, sex, or national origin. Such 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 consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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

The consultant will send to each labor union or representative of workers with which consultant has a collective bargaining agreement or other contract or understanding, a notice to be provided by a contract compliance officer advising the said labor union or workers' representatives of the consultant's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his or her books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the consultant's noncompliance with the non-discrimination clauses of this contract or purchase order with any of the said rules, regulations, or orders, this contract or purchase order may be canceled, terminated, or suspended in whole or in part, and the organization may be declared ineligible for any further government contracts or purchase order or federally assisted contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rules, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The consultant will include the entire text of this Equal Employment Opportunity section and its subsections in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965,

so that such provisions will be binding upon each sub-consultant or vendor. The consultant will take such action with respect to any sub-consultant or purchase order as the City may direct as a means of enforcing such provisions, including sanctions of noncompliance; provided, however, that in the event a consultant becomes involved in, or is threatened with litigation with a sub-consultant or vendor as a result of such direction by the City, the consultant may request the United States to enter into such litigation to protect the interest of the United States.

ARTICLE 22 – GOVERNING LAW

This contract shall be governed by the laws of the State of Missouri. The City and the consultant agree that the performance of this contract will be deemed to have occurred in the State of Missouri and that consultant's performance under this contract will be deemed the transaction of business in Missouri. Jurisdiction and venue for any claim or cause of action arising under this contract shall be exclusively in the Sixteenth Judicial Circuit of Missouri and the consultant submits to personal jurisdiction of and waives any personal jurisdiction or inconvenient forum objection to, that court.

ARTICLE 23 – COMMUNICATIONS

Any communication required by this contract to the consultant shall be made in writing to the authorized representative named on the completed front page or response page of the solicitation. Any communication required by this contract with the City shall be to:

Black & Veatch Corporation, 8400 Ward Parkway, Kansas City, MO 64114 Attn: Page Burks.

Nothing contained in this article shall be construed to restrict the transmission of routine communications between representatives of consultant and City.

ARTICLE 24 – SEPARATE CONTRACTS

City and consultant each reserve the right to, from time to time, enter into other contracts for specific projects. If such contracts are separately approved in writing by the parties, the terms and conditions of those contracts shall prevail for the specific projects set forth therein.

ARTICLE 25 – ENTIRE CONTRACT

This contract represents the entire agreement between the City and consultant. All previous or contemporaneous agreements, representations, promises and conditions relating the consultant's services described herein are superseded. The RFP including the terms and conditions, the consultant's response and written proposal, and purchase order (where applicable) shall constitute the entire contract. If these General Terms & Conditions be in conflict with any attached Special Conditions, the Special Conditions will supersede the General Terms & Conditions. In case of a discrepancy, the purchase order shall take precedence over the RFP and the RFP shall take precedence over the consultant's response and written proposal.

ARTICLE 26 – SURVIVAL OF TERMS

The following provisions shall survive the expiration or termination of this contract for any reason: if any payment obligations exist, Article 4 – Compensation; Article 5 – Permits and Licenses; Article 9 – Liability and Indemnification; Article 14 – Waiver; Article 15 – Severability; Article 17 – Assignment; Article 19 – Independent Consultants; Article 22 – Governing Law; Article 25 – Entire Contract; and this Article 26 – Survival of Terms.


IN WITNESS WHEREOF, City and consultant, by and through their authorized officers, have made and executed this contract.

City

By _____

Date _____

Consultant

By 

Title Associate Vice President

Date October 1, 2020

**EXHIBIT A
SCOPE OF SERVICES
TO
AGREEMENT FOR ARCHITECTURAL, ENGINEERING, AND LAND
SURVEYING SERVICES
FOR
THE CITY OF INDEPENDENCE, MISSOURI**

Owner: City of Independence, Missouri
Engineer: Black & Veatch Corporation
Project: Addition of Lime Slaking Equipment at Existing Lime Silo

The scope of services for this project is described in this Exhibit A. Compensation will be made in accordance with Exhibit B.

I. SCOPE

The OWNER has requested assistance from ENGINEER in preparing a Basis of Design Memorandum and technical specifications and associated technical drawings for the addition of new lime slaking equipment in a new structure adjacent to the existing lime silo.

The technical documents will be provided for OWNER's use in bidding the project. ENGINEER shall also provide assistance to OWNER in responding to technical questions during the bid period, reviewing associated shop drawing submittals, and providing periodic site inspection visits during the construction phase as indicated in the following scope.

Background

The 2002 WTP Expansion Project included design of a lime silo and RDP lime slaking system housed within the base of the silo. The silo facility design included additional space on the concrete foundation slab to accommodate installation of a future structure for housing additional lime slaking equipment. The basis for the original design assumed that one future slaker and corresponding control panel would be installed within the existing silo on the upper level, adjacent to the existing slaker installed under that project, and a new lime slaking building would be constructed directly adjacent to the existing silo to house an additional slurry tank, grit separator, and circulation pumps. The OWNER would now like the new building to house the new slaker and control panel in addition to the slurry tank, grit separator, and circulation pumps.

II. DESIGN ASSISTANCE

A. Basis of Design Memorandum

ENGINEER shall prepare a Basis of Design Memorandum (BDM) to define the scope and design approach for the project. The BDM shall include design criteria as well as preliminary facility plans and sections; architectural, structural, mechanical, electrical and instrumentation and control design criteria; preliminary Process & Instrument Diagrams (PIDs); and a preliminary project schedule. Design capacity of new lime slaking equipment will match the capacity of the existing equipment.

1. Conduct a project initiation meeting to clarify the OWNER's requirements for the project; establish design criteria; review available data; and present initial work plan and schedule. Data requested will include shop drawing data for existing lime slaking equipment. Prior to preparation of BDM, ENGINEER shall conduct an initial site visit to review the existing facilities. ENGINEER will coordinate with OWNER to gather necessary information if required to maintain schedule due to pandemic-based travel restrictions.
2. ENGINEER shall submit an electronic copy of the draft BDM to OWNER for review. A review meeting will be conducted by conference call with OWNER to discuss OWNER's review comments. The BDM will be revised as appropriate to reflect OWNER comments.
3. ENGINEER shall submit final electronic copy of the final BDM to OWNER.

B. Detailed Design

The technical documents prepared by ENGINEER shall use ENGINEER's standard formatting for technical specifications and drawings.

ENGINEER shall prepare technical specifications and drawings as required to describe the requirements for the modifications and improvements as defined in this scope of services. It is anticipated approximately 36 drawings and 40 technical specifications will be prepared by ENGINEER. OWNER shall prepare all other documents necessary for bidding of the work. OWNER shall be responsible for coordination with regulatory and permitting agencies.

Drawings will be prepared based on existing topographical survey and geotechnical data. No additional surveys will be performed, and no new soil borings will be obtained. Existing as-built drawings will be used as the basis for development of new drawings.

Documents shall be furnished to OWNER as an Appendix to be attached to OWNER's bidding documents. ENGINEER shall provide ENGINEER's professional seal on the Appendix cover sheet for the technical specification prepared by ENGINEER and on all drawings prepared by ENGINEER. Electronic copies of sealed documents will be submitted to Owner as pdf files.

1. Documents will be submitted to OWNER for review and comment at 50% and 90% design completion. A review meeting will be conducted with OWNER's staff at each completion milestone to discuss OWNER's review comments. Documents will be revised as appropriate to reflect OWNER comments. Review meetings will be held in person at OWNER's offices unless pandemic restrictions require the use of conference call reviews to maintain project schedule.
2. Coincident with submission of the 50% and 90% complete design documents to the OWNER, the ENGINEER will perform an independent internal quality control review of the documents. ENGINEER will prepare an Opinion of Probable Construction Cost (OPCC) consistent with the recommendation of the Association for Advancement of Cost Engineering (AACE) International Recommended Practice No. 18R with regard to methodology and accuracy. Class 3 and Class 2 OPCC s will be provided based on the 50% and 90% stages of design document development, respectively.
3. Provide electronic pdf files of the final technical specifications and drawings to the OWNER for use in preparing the bid documents.

IV. BIDDING ASSISTANCE

OWNER will administer bidding phase activities, including coordination of Contract Documents with prospective bidders. ENGINEER shall provide up to 44 hours of assistance for responding to bidder questions related to technical drawings and specifications prepared by ENGINEER.

ENGINEER shall provide assistance to OWNER in preparation of a scope of services for OWNER's use in obtaining the services of an independent testing facility for special inspections required by the building code and for construction materials testing. OWNER will procure special inspection services through direct contract with testing firm.

V. CONSTRUCTION PHASE ASSISTANCE

OWNER will administer construction activities and perform all inspections associated with all work not defined as part of ENGINEER's scope of service as described in the paragraphs that follow.

ENGINEER shall provide a technical review of CONTRACTOR's shop drawing submittals for the equipment identified in ENGINEER's technical specifications. ENGINEER shall provide review comments directly to OWNER.

Up to 28 hours of additional technical assistance shall be provided by ENGINEER for periodic structural, electrical, I&C, and process mechanical (chemical feed) site visits to observe construction. ENGINEER will not provide a resident project representative (RPR) for project inspection.

Upon completion of construction, OWNER will provide ENGINEER with field records and annotations from CONTRACTOR identifying changes made to the technical drawings during construction. ENGINEER shall update the technical drawings with information provided by OWNER and provide OWNER with a copy of the AutoCAD files and an electronic pdf copy of the conformed to construction record drawings.

ENGINEER shall not be responsible for obtaining permits for construction.

SCHEDULE OF HOURLY BILLING RATES AND CHARGES

1. Compensation for personnel used in the performance of engineering services shall be in accordance with the following hourly rates.

<u>Black & Veatch Job Classification</u>	<u>Hourly Billing Rate</u>
Principal in Charge	\$ 299
Project Manager	\$ 240
Engineering Manager	\$ 233
Project Control Specialist	\$ 130
Project Administrative Assistant	\$ 97
Civil QC	\$ 233
Civil Senior Engineer	\$ 170
Civil Engineer	\$ 150
Civil Designer	\$ 125
Senior Graphic Technician	\$ 145
Graphic Technician	\$ 107
Structural Admin./QC	\$ 210
Structural Senior Engineer	\$ 208
Structural Engineer	\$ 150
Architect QC	\$ 200
Architect	\$ 160
Architect Technician	\$ 134
Geotechnical Specialist	\$ 230
Mechanical Admin./QC	\$ 215
Mechanical Senior Engineer	\$ 185
Mechanical Engineer	\$ 155
Mechanical Technician	\$ 130
Chemical Feed Admin/QC	\$ 216
Chemical Feed Senior Engineer	\$ 205
Chemical Feed Engineer	\$ 155
Pump Specialist	\$ 250
Electrical Admin./QC	\$ 230
Sr. Electrical Engineer	\$ 225
Electrical Engineer	\$ 157
Electrical Drafting	\$ 120
I&C QC	\$ 250
Sr. I&C Engineer	\$ 189
I&C Engineer	\$ 126

<u>Black & Veatch Job Classification</u>	<u>Hourly Billing Rate</u>
I&C Drafting	\$ 120
QC Admin./Senior Engineer	\$ 249
QC Engineer	\$ 233
Process Admin./QC	\$ 316
Senior Process Engineer	\$ 240
Process Engineer	\$ 215
Process Designer	\$ 150
Senior Estimator	\$ 216
Resident Project Representative	\$ 175

2. Compensation for reimbursable expense items and other charges incurred in connection with the performance of the work shall be in accordance with the following schedule:

<u>Expense Item</u>	<u>Unit Cost</u>
Travel, Subsistence, and Incident Expenses	Net Cost
Automobile/Motor Vehicles – Local Mileage	Net Cost
Automobile/Motor Vehicles – Rental	Net Cost
Telephone and Telegraph Costs	*
Reproduction of Reports, Drawings & Specifications	*
Postage & Shipping Charges of Job-Related Materials	*
Computer Services	*
Photograph and Video Reproductions	Net Cost
Sub-Consultant Fees	Net Charge

* Applied to expense rate of \$8.75 per hour of salary billings.

**Independence, MO City of
Lime Slaker Addition
8-Jun-20**

Hourly Billing Rate:		\$299	\$240	\$233	\$155	\$187	\$170	\$168	\$164
Task/Level of Effort	Project Dir.	Project Mgr.	Eng. Mgr.	Civil Eng	Arch	Structural Eng	HVAC/Plumbing Eng	Chemical Feed Eng	
CONCEPTUAL DESIGN EVALUATION									
Slaker Layout Evaluation Technical Memorandum									
Subtotal - CONCEPTUAL DESIGN EVALUATION	0	0	0	0	0	0	0	0	
DETAILED DESIGN									
Initial Site Visit			4					4	
Basis of Design Memorandum		2	17	34	12	20	17	68	
Drawings and Specifications (50%, 90%, and Final)		2	82	105	172	71	238	89	
Subtotal - DETAILED DESIGN	0	4	103	139	184	91	255	161	
BIDDING ASSISTANCE									
Bid Phase Services			4	6	4	2	8	2	
Subtotal - BIDDING ASSISTANCE	0	0	4	6	4	2	8	2	
CONSTRUCTION PHASE SERVICES									
Submittal Review			14	28	40	42	68	44	
Construction Site Visit						12		8	
As-built drawings			2	6					
Subtotal - CONSTRUCTION PHASE SERVICES	0	0	16	34	40	54	68	52	
PROJECT ADMINISTRATION	2	32	38	24					
Subtotal - PROJECT ADMINISTRATION	2	32	38	24	0	0	0	0	
Totals	2	36	161	203	228	147	331	215	
Total Fee									

\$182	\$165	\$115	\$216	\$97	\$140					
Electrical Eng	I&C Eng	Technician	Estimating	Administrative Assistant	Project Controls	Total Staff Hours	Billing Rate Based Fee*	Consolidated Computer Costs**	Reimbursable Expenses	Total Fee
						0	\$0	\$0	\$0	\$0
						0	\$0	\$0	\$0	\$0
0	0	0	0	0	0	0	\$0	\$0	\$0	\$0
4						12	\$2,242	\$105	\$100	\$2,447
12	98	78		2		360	\$56,984	\$3,150	\$0	\$60,134
224	122	337	124	20		1586	\$258,111	\$13,878	\$300	\$272,289
						0	\$0	\$0	\$0	\$0
						0	\$0	\$0	\$0	\$0
240	220	415	124	22	0	1958	\$317,336	\$17,133	\$400	\$334,869
6	6	6				44	\$7,124	\$385	\$0	\$7,509
						0	\$0	\$0	\$0	\$0
						0	\$0	\$0	\$0	\$0
6	6	6	0	0	0	44	\$7,124	\$385	\$0	\$7,509
46	46			22		350	\$57,149	\$3,063	\$0	\$60,212
8						28	\$4,754	\$245	\$500	\$5,499
10	8	36				62	\$8,701	\$543	\$0	\$9,244
						0	\$0	\$0	\$0	\$0
						0	\$0	\$0	\$0	\$0
64	54	36	0	22	0	440	\$70,603	\$3,851	\$500	\$74,954
				32	34	162	\$27,656	\$1,418	\$0	\$29,074
						0	\$0	\$0	\$0	\$0
						0	\$0	\$0	\$0	\$0
0	0	0	0	32	34	162	\$27,656	\$1,418	\$0	\$29,074
310	280	457	124	76	34	2604	\$422,719	\$22,787	\$900	\$446,406
\$446,406										