

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 251-08

AN ORDINANCE

authorizing the City Manager to execute an agreement with Engineering Surveys and Services for engineering services relating to City contracted sewer district projects; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute an agreement with Engineering Surveys and Services for engineering services relating to City contracted sewer district projects. The form and content of the agreement shall be substantially as set forth in "Exhibit A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2008.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
THE CITY OF COLUMBIA, MISSOURI
And
ENGINEERING SURVEYS & SERVICES
1113 Fay Street, Columbia, MO 65201

THIS AGREEMENT made as of _____ day of _____, 2008, by and between the City of Columbia, Missouri, hereinafter called the CITY, and Engineering Surveys and Services, 1113 Fay Street, Columbia MO 65201, hereinafter called the ENGINEER.

WITNESSETH, that whereas the CITY intends to retain ENGINEER to perform duties as described below consisting of the following:

PROFESSIONAL SURVEYING SERVICES ON AN ONGOING BASIS

Now, therefore, in consideration of the mutual covenants set out herein the parties agree as follows:

ENGINEER shall serve as CITY's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY during the performance of his services. All services shall be performed under the direction of a professional engineer registered in the State of Missouri and qualified in the particular field.

SECTION 1 – SCOPE AND AUTHORIZATION OF SERVICES

1.1 ENGINEER shall not undertake to begin any of the services contemplated by this agreement until directed in writing to do so by CITY.

1.2 Authorized work may include services described hereafter as Scope of Work for Professional Surveying Services as set forth in Attachment A.

1.3 The ENGINEER represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required hereunder will be performed by the ENGINEER or under its supervision and all personnel engaged in the work shall be fully qualified and authorized or permitted under state and local law to perform such services.

Work or services covered by this agreement that are to be subcontracted are out lined in the Scope of Work for Professional Surveying Services (Attachment A). No other work or services covered by this Agreement shall be subcontracted without the prior written approval of the CITY and any work or services so subcontracted shall be subject to the provisions of this Agreement.

1.4 Extra Services

ENGINEER may perform services not specifically defined as may be authorized in writing by the CITY.

1.5 The ENGINEER shall furnish such periodic reports as the CITY may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred, and any other matters covered by this Agreement.

1.6 The ENGINEER shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Agreement and any other records as deemed necessary by the CITY to assure proper accounting for all project funds. These records must be available to the CITY or its authorized representatives, for audit purposes, and must be retained for three (3) years after expiration or completion of this Agreement.

SECTION 2 - RESPONSIBILITIES OF CITY

2.1 Provide full information as to CITY's requirements for the assigned work.

2.2 Assist ENGINEER by placing at ENGINEER's disposal available information pertinent to the assignment including previous reports and other data relative thereto, including the items outlined in Attachment A - "Scope of Work for Professional Surveying Services", dated August 1, 2008.

2.3 Guarantee access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services under this Agreement.

2.4 Examine all studies, reports, sketches, estimates, Bid Documents, Drawings, proposals and other documents presented by ENGINEER and render in writing decisions pertaining thereto.

2.5 Designate John Glascock as CITY's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY's policies and decisions with respect to materials, equipment, elements and systems to be used in the ASSIGNMENT, and other matters pertinent to the services covered by this Agreement.

SECTION 3 - PERIOD OF SERVICE

3.1 This Agreement will become effective upon the first written notice by CITY authorizing services hereunder.

3.2 This Agreement shall be applicable to all work assignments authorized by CITY subsequent to the date of its execution and shall be effective as to all assignments authorized for a period of 12 months from date of execution. City reserves the right to extend this agreement for two additional 12 month periods.

3.3 Services provided under this agreement shall be provided on an as needed basis. Professional surveying services shall be started within seven (7) calendar days of each individual request of testing services. Engineer shall provide written reports to the City within seven (7) calendar days of the completion of work. CITY shall have the right to establish performance times for individual phases or elements of the ASSIGNMENT by delivering a written schedule setting out the performance times to the ENGINEER.

SECTION 4 - PAYMENTS TO ENGINEER

4.1 Amount of Payment

4.1.1 For services performed, CITY shall pay ENGINEER the sum of amounts determined as follows:

4.1.1.1 For time spent by personnel, payment at the hourly rates indicated in the "Hourly Fee Schedule", date July 1, 2008 (attached). Such rates include overhead and profit. The schedule is effective to December 31, 2008, and may be revised thereafter.

4.1.1.2 For outside expenses incurred by ENGINEER, such as authorized travel and subsistence, commercial services, and incidental expenses, the cost to ENGINEER.

4.1.2 Total payment for the Scope of Services described herein **shall not exceed \$85,000 per year.**

4.2 Payments

4.2.1 The ENGINEER shall submit an invoice for services rendered to the CITY not more than once every month. Upon receipt of the invoice and progress report, the CITY will, as soon as practical, pay the ENGINEER for the services rendered, provided the CITY does not contest the invoice, to the extent of ninety-five percent (95%) of the

uncontested amount earned. Upon completion of each project and acceptance of the work by the CITY, the five percent (5%) of these services retained by the CITY will be paid to the ENGINEER.

SECTION 5 - GENERAL CONSIDERATIONS

5.1 Insurance

5.1.1 ENGINEER'S INSURANCE: ENGINEER agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as CITY's review or acceptance of insurance maintained by ENGINEER is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by ENGINEER under this contract.

Commercial General Liability ENGINEER agrees to maintain Commercial General Liability at a limit of liability not less than **\$2,000,000** combined single limit for any one occurrence covering both bodily injury and property damage, including accidental death. Coverage shall not contain any endorsement(s) excluding nor limiting Contractual Liability or Cross Liability. If the contract involves any underground/digging operations, the general liability certificate shall include X, C and U (Explosion, Collapse and Underground) coverage.

Professional Liability ENGINEER agrees to maintain Professional (Errors & Omissions) Liability at a limit of liability not less than **\$2,000,000** Per Occurrence. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, the CITY reserves the right, but not the obligation, to review and request a copy of ENGINEER's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, ENGINEER agrees to maintain a Retroactive Date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract, ENGINEER agrees to purchase a SERP with a minimum reporting period not less than two (2) year. The requirement to purchase a SERP shall not relieve ENGINEER of the obligation to provide replacement coverage.

Business Automobile Liability ENGINEER agrees to maintain Business Automobile Liability at a limit of liability not less than **\$2,000,000** combined single limit for any one occurrence and not less than \$150,000 per individual, covering both bodily injury, including accidental death, and property damage, to protect themselves from any and all claims arising from the use of the ENGINEER's own automobiles, teams and trucks; hired automobiles, teams and trucks; and automobiles both on and off the site of work. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event ENGINEER does not own automobiles, ENGINEER agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation Insurance & Employers' Liability ENGINEER agrees to take out and maintain during the life of this contract, Employers' Liability and Workers' Compensation Insurance for all of their employees employed at the site of the work, and in case any work is sublet, the ENGINEER shall require the subcontractor similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the ENGINEER. Workers' Compensation coverages shall meet Missouri statutory limits. Employers' Liability minimum limits shall be \$500,000 each employee, \$500,000 each accident and \$500,000 policy limit. In case any class of employees engaged in hazardous work under this contract is not protected under the Workers' Compensation Statute, the ENGINEER shall provide and shall cause each subcontractor to provide Employers' Liability Insurance for the protection of their employees not otherwise protected.

Additional Insured ENGINEER agrees to endorse CITY as an Additional Insured with a CG 2026 Additional Insured – Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability. The Additional Insured shall read "City of Columbia."

Waiver of Subrogation ENGINEER agrees by entering into this contract to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit ENGINEER to enter into a pre-loss agreement to waive subrogation without an endorsement, then ENGINEER agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should ENGINEER enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance ENGINEER agrees to provide CITY with Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. The Certificate(s) of Insurance shall name the City as additional insured in an amount as required in this contract and contain a description of the project or work to be performed.

Right to Revise or Reject CITY reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the CITY reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due of its poor financial condition or failure to operating legally.

5.1.2 HOLD HARMLESS AGREEMENT: To the fullest extent not prohibited by law, ENGINEER shall indemnify and hold harmless the City of Columbia, its directors, officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to attorney's fees) arising by reason of any act or failure to act, negligent or otherwise, of ENGINEER, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with ENGINEER or a

subcontractor for part of the services), of anyone directly or indirectly employed by ENGINEER or by any subcontractor, or of anyone for whose acts the ENGINEER or its subcontractor may be liable, in connection with providing these services except as provided in this Agreement. This provision does not, however, require ENGINEER to indemnify, hold harmless or defend the City of Columbia from its own negligence, except that ENGINEER agrees to defend, indemnify and hold and save harmless the CITY from any and all claims, settlements and judgments whatsoever arising out of the CITY's alleged negligence in hiring or failing to properly supervise the ENGINEER.

5.2 Professional Responsibility

5.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of its services and will carry out its responsibilities in accordance with customarily accepted good professional engineering practices. If the ENGINEER fails to meet the foregoing standard, ENGINEER will perform at its own cost, and without reimbursement from CITY, the professional engineering services necessary to correct errors and omissions which are caused by ENGINEER's failure to comply with above standard, and which are reported to ENGINEER within one year from the completion of ENGINEER's services for the PROJECT.

5.3 Estimates and Projections

Estimates 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 contractor's procedures and methods, unavoidable delays, construction contractor's methods of determining prices, economic conditions, competitive bidding or market conditions and other factors affecting such estimates or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, etc., will not vary from estimates and projections prepared by ENGINEER.

5.4 On-Site Services

Site visits by ENGINEER during construction shall not make ENGINEER responsible for construction means, methods, techniques, sequences or procedures; for construction safety precautions or programs; or for any construction contractor(s) failure to perform its work in accordance with the plans and specifications.

5.5 Changes

CITY shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation, upon execution of a mutually acceptable amendment or change order signed by an authorized representative of the CITY and the President or any Vice President of the ENGINEER.

5.6 Suspension of Services

Should CITY fail to fulfill its responsibilities as provided under Section 4 to the extent that ENGINEER is unduly hindered in his services or if CITY fails to make any payment to ENGINEER on account of its services and expenses within ninety (90) days after receipt of ENGINEER's bill therefor, ENGINEER may, after giving seven (7) days' written notice to CITY, suspend services under this Agreement until CITY has satisfied his obligations under this Agreement.

5.7 Termination

Services may be terminated by the CITY at any time and for any reason, and by the ENGINEER in the event of substantial failure to perform in accordance with the terms hereof by the CITY through no fault of the ENGINEER, by ten (10) days' notice. If so terminated, CITY shall pay ENGINEER all uncontested amounts due ENGINEER for all services properly rendered and expenses incurred to the date of receipt of notice of termination.

5.7.1 In the event of CITY's termination of the Agreement pursuant to the above section, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared under this Agreement, shall at the option of the CITY become its property.

Further, the ENGINEER shall not be relieved of any liability to the CITY for any damages sustained by the CITY by virtue of any breach of this Agreement by ENGINEER and the CITY may withhold any payments due the ENGINEER for the purpose of set-off until such time as the exact amount of damages to the CITY, if any, is determined.

5.8 Publications

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 in draft form for CITY's advance review. CITY will review such drafts promptly and will provide comments to ENGINEER. CITY may require deletion of proprietary data or confidential information from such publications but otherwise will not unreasonably withhold its approval. The cost of ENGINEER's activities pertaining to any such publication shall be paid entirely by the ENGINEER.

5.9 Successor and Assigns

CITY 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 nor ENGINEER shall assign, sublet or transfer his interest in the Agreement without the written consent of the other.

5.10 Rights and Benefits
ENGINEER's services will be performed solely for the benefit of the CITY and not for the benefit of any other persons or entities.

5.11 Compliance with Local Laws
The ENGINEER shall comply with all applicable laws, ordinances and codes of the state and city.

5.12 Entire Agreement
This Agreement represents the entire and integrated Agreement between the ENGINEER and CITY relative to the Scope of Services herein. All previous or contemporaneous agreements, representations, promises and conditions relating to ENGINEER's services described herein are superseded.

CITY OF COLUMBIA, MISSOURI

BY: _____
H. William Watkins, City Manager

ATTESTED BY:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Fred Boeckmann, City Counselor

ENGINEERING SURVEYS & SERVICES

BY: _____

BY: _____

CERTIFICATION: I hereby certify that this contract is within the purpose of the appropriation to which it is to be charged, Account No. _____, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

Lori B. Fleming, Director of Finance

ATTACHMENT "A"

SCOPE OF WORK FOR PROFESSIONAL SURVEYING SERVICES

August 1, 2008

1) INTRODUCTION

Under this agreement, Engineering Surveys & Services will provide professional surveying services to the City of Columbia on an as-needed basis.

2) SCOPE OF SERVICES

A general description of the Scope of Services included under this agreement is as follows:

a) **BOUNDARY SURVEYING**

- i) prepare boundary surveys for the City in accordance with the Missouri Minimum Standards for Property Boundary Surveys.

b) **TOPOGRAPHIC SURVEYING**

- i) prepare topographic surveys for the City
- ii) Survey utility locations which can be located by Missouri One Call

c) **CONSTRUCTION STAKING**

- i) provide construction staking for construction projects, including streets, sewers, and other utilities.

d) **PROPERTY DESCRIPTIONS**

- i) prepare property descriptions for easements.
- ii) prepare sketches of easements

3) SUMMARY OF AGREEMENTS WITH OTHER FIRMS

None

4) **SERVICES FURNISHED BY THE CITY**

- a) City shall provide written notification to Engineering Surveys & Services as to what services will be required for each project
- b) City shall provide all necessary maps, plans, plats, construction plans and specifications to Engineering Surveys & Services
- c) City shall provide digital aerial photography for the project area.

(5) **PROJECT TEAM**

Timothy J. Reed, P.L.S.....Principal/Project Manager
 Fred Carroz, P.L.S.....Surveyor
 Morton L. Ratliff, P.L.S.....Surveyor

Engineering Surveys and Services

Consulting Engineers, Geologists, and Land Surveyors
Analytical and Materials Laboratories

Larry L. Hendren, PE, RG
David A. Bennett, PE
Timothy J. Reed, PLS
Morton L. Ratliff, PLS
Bruce A. Dawson, PE
Richard J. Rolsing, PE
Christopher M. Wickern, PLS

Randall A. Lee, PE, RG
Timothy J. O' Connor, PE
Benjamin A. Ross, PE, PTOE
Clifford S. Jarvis, PE
Zachary K. Thomas, PE
Matthew A. Kriete, PE

1113 Fay Street
Columbia, Missouri 65201
Telephone 573-449-2646
Facsimile 573-499-1499
E-Mail ess@ess-inc.com
<http://www.ess-inc.com>

HOURLY FEE SCHEDULE

July 1, 2008

<u>Services of:</u>	<u>Rate:</u>
Firm Principal	\$110-130 /hour
Registered Professional Engineer	\$ 90-110 /hour
Registered Professional Land Surveyor	\$ 85-110 /hour
Project Surveyor	\$ 60-90 /hour
Engineer In Training	\$ 65-90 /hour
Engineering Technician	\$ 40-50 /hour
CAD Operator	\$ 45-60 /hour
Secretary	\$ 40-45 /hour
2 Man Field Crew	\$130-190 /hour
3 Man Field Crew	\$140-220 /hour
Computer	\$ 50 /hour
EDM Equipment	\$100 /day
Global Positioning System Equipment	\$200 /day
Drill Rig	\$ 100-\$150 /hour
Large Format Copies	\$ 3.50-\$ 5.50 each
Photocopies	\$ 0.20 each
Travel	\$ 0.60/mile

NOTES

1. The exact rate for field crew depends upon the composition of the crew involved.
2. Since charges are based on salary multiplier, all rates are subject to minor fluctuations as salaries change.
3. Overtime charges at 1.4 times above rates.

Other Offices

Jefferson City, Missouri • Sedalia, Missouri

Source
John Glascock

TO: City Council
FROM: City Manager and Staff *TB*
DATE: August 4, 2008
SUBJECT: Engineering Services Agreement – Professional Surveying Services

EXECUTIVE SUMMARY

Staff has prepared for Council consideration an ordinance authorizing the City Manager to execute a contract with Engineering Surveys and Services to provide professional surveying services for City contracted projects. The total contract amount will be a not to exceed amount of \$85,000. The ordinance will not require appropriation of funds.

Fiscal Impact

- Yes
- No

Other Info.

DISCUSSION

Public Works staff will be designing several sewer district projects over the next year. Due to the current survey workload and limited City staff, outside resources will be needed to keep several sewer district projects on schedule.

Under the proposed agreement, Engineering Surveys and Services would provide, on an "as needed" basis, professional surveying services for City projects that will be designed and inspected by Public Works staff.

The contract period for the agreement is twelve (12) months from the execution date of the agreement. The agreement also contains a provision that will allow the contract period to extend up to two (2) more years (3 years total). Each year will have a maximum not to exceed amount of \$85,000 (\$255,000 for the three year period).

The cost for the services provided under this engineering agreement will be charged to the construction project account that work is performed for.

Engineering Surveys and Services has been selected for this project in accordance with the City's Pre-Qualified Professional Consultant procurement guidelines based upon their understanding of the project requirements and their experience with similar projects.

The engineering contract not to exceed amount of \$85,000 represents the anticipated annual need for design geotechnical and construction material testing service needs for the next three years. Staff is recommending Council approval of the ordinance.

SUGGESTED COUNCIL ACTION

Approval of the ordinance.