

Council Member _____ introduced the following Resolution, which was seconded by Council Member _____.



RESOLUTION 050823-D

**A RESOLUTION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT
WITH INSITE ENGINEERING LLC
FOR MAIN WWTP INFLUENT SCREEN REPLACEMENT AND GRIT SYSTEM UPDATE**

WHEREAS, the Mayor and City Council of the City of Alabaster, Alabama, have determined that it is both wise and expedient to enter a professional services agreement with InSite Engineering, LLC for Main Waste Water Treatment Plant (WWTP) Influent Screen Replacement and Grit System Update; and

WHEREAS, said Work will include necessary field verification and surveying of site Civil, Electrical, and Structural Bid plans and specifications in coordination with survey data for 25 MGD Screen and Replacement Grit System Parts Replacement; and

WHEREAS, said project will include bidding and contracting period services, Construction Administration with resident observation and inspection services.; and

WHEREAS, Contract #3 will include the following:

• A Lump Sum amount of	\$1,500	Field Verification Measurements and Levels
• A Lump Sum amount of	\$64,800	Civil / Mechanical Design, Specifications, and Permits
• A Lump Sum amount of	\$20,500	Electrical Design / Specifications
• A Lump Sum amount of	\$16,500	Structural Design / Permit
• A Lump Sum amount of	\$4,000	Bidding and Contracting Period Services.
• An hourly amount (Est)	\$48,500	Construction Administration & Inspection Services For up to 120 Days (4 months of Construction)
• Reimb Expenses (Cost Plus 15%)	\$3,500	Reimbursables: Printing, Plotting, Mileage, Etc.
Total Contract Amount	\$159,300	

and;

WHEREAS, Agreement will not exceed **\$159,300** (see attached Exhibit "A") and will be paid from the Sewer Fund.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Alabaster, does hereby authorize Scott Brakefield, Mayor of the City of Alabaster and J. Mark Frey, City Clerk, to sign, attest and file all documentation necessary to enter into said contract.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

ADOPTED AND APPROVED THIS 8TH DAY OF MAY 2023.

ATTEST: CITY OF ALABASTER

J. Mark Frey, City Clerk

Sophie Martin, Council President

APPROVED

Scott Brakefield, Mayor

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

Prepared by
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE
and
Issued and Published Jointly by



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS
AMERICAN COUNCIL OF ENGINEERING COMPANIES
AMERICAN SOCIETY OF CIVIL ENGINEERS

**FOR
WWTP Influent Screen Replacement and Grit
System Update**

EJCDC E-520 Short Form of Agreement Between Owner and Engineer for Professional Services
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**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of _____ ("Effective Date") between
The City of Alabaster, Alabama ("Owner")
and Insite Engineering LLC ("Engineer")
Engineer agrees to provide the services described below to Owner for Main WWTP Influent Screen
Replacement and Grit System Update ("Project").

Description of Engineer's Services: Work will include necessary field verification and surveying of site
Civil, Electrical, and Structural Bid plans and specifications in coordination with survey data for 25 MGD Screen and Replacement Grit
System Parts Replacement. Includes bidding and contracting period services, Construction Administration with resident observation
and inspection services.

Owner and Engineer further agree as follows:

1.01 Basic Agreement

A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Engineer for such Services as set forth in Paragraph 9.01.

2.01 Payment Procedures

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project 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 reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Termination

A. The obligation to provide further services 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.
 - b. By Engineer:
 - 1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to 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 for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure 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 the receipt of notice by Engineer.

B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.01 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

6.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.01 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 Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

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EJCDC E-520 Short Form of Agreement Between Owner and Engineer for Professional Services
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8.01 Total Agreement

A. This Agreement (consisting of pages 1 to 4 inclusive together with any expressly incorporated appendix), 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.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Engineer.

E. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition).

F. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

G. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to the total amount of compensation received by Engineer, and (3) agree that any survey provided by the Engineer as part of this Agreement is provided solely as a convenience to the Owner at the direction of the Owner and that all liability for survey and surveying inaccuracies shall be borne fully by the surveying consultant and that Engineer has no liability for such work. Consultant shall carry insurance coverage.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

9.01 Payment (Lump Sum Basis)

A.			
1.	A Lump Sum amount of \$	1,500	Field Verification Measurements and Levels
2.	A Lump Sum amount of \$	64,800	Civil / Mechanical Design, Specifications, and Permits
3.	A Lump Sum amount of \$	20,500	Electrical Design / Specifications
4.	A Lump Sum amount of	16,500	Structural Design / Permit
5.	A Lump Sum amount of \$	4,000	Bidding and Contracting Period Services.
6.	A hourly amount (Est) \$	48,500	Construction Administration and Inspection Services For up to 120 Days (4 months of Construction)
7.	Reimb Expenses (Cost Plus 15%)	3,500	Reimbursable Expenses: Printing, Plotting, Mileage, Etc.
B.			
	Total Contract Amount \$	159,300	_____

OWNER UNDERSTANDS AND AGREES THAT THE OBLIGATION TO PAY FOR SERVICES IS IN NO WAY DEPENDENT ON OWNER'S ABILITY TO OBTAIN FINANCING, OBTAINING OF APPROVALS FROM ANY GOVERNMENTAL OR REGULATORY AGENCIES, REAL ESTATE CLOSING, RECEIPT OF PAYMENT FROM OTHER PARTIES, OR UPON OWNER'S SUCCESSFUL COMPLETION OF PROJECT.

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

OWNER: City of Alabaster, Alabama

ENGINEER: InSite Engineering, LLC

By: _____

By:  _____

Title: _____

Title: President

Date Signed: _____

Date Signed: 4/22/23

License or Certificate No. and State CA #2736 E

Address for giving notices:

Address for giving notices:
5800 Feldspar Way
Hoover, Alabama 35244
