

## APPENDIX A — SCOPE OF SERVICES

### **General**

Generally, the scope of services includes surveying, design, environmental, preparation of property acquisition documents (including property owner negotiations), bidding services, and construction services for improvements to the Fletcher Road. The improvements will include approximately 1,600 feet of half width collector road, complete with a 6' sidewalk section, along with drainage improvements between the east property of the Springdale School of Innovation and the intersection of Piazza Road.

### Schematic Drawings – 30% Plans

#### **Design and Property Surveys**

CK Civil Engineering LLC will perform property and topographic surveys under a subconsultant agreement with CK Civil Engineering LLC, at locations shown along the City of Tontitown Master Street Plan (MSP) for Fletcher Road between Springdale School of Innovation and the intersection of Piazza Road. In total, four properties are anticipated for survey. Any additional properties shall be considered additional work.

CK Civil Engineering LLC will coordinate ARKUPS (Utility Marking) and survey visible utilities as well as those underground utilities marked by their owners and/or representatives.

CK Civil Engineering LLC will establish a control point under a subconsultant agreement with CK Civil Engineering LLC for use during construction, and control will be based upon Arkansas State Plane North (horizontal datum) and NAVD88 (vertical datum).

#### **Geotechnical Services**

CK Civil Engineering LLC will coordinate geotechnical needs with a geotechnical consultant, as a subconsultant to CK Civil Engineering LLC, for the design of the improvements. CK Civil Engineering LLC will begin coordination upon approval of the Task Order.

#### **Coordination**

CK Civil Engineering LLC will furnish electronic plans to known utility owners potentially affected by the project at each stage of development. CK Civil Engineering LLC will include the surveyed locations of the observable and marked utilities in the construction plans. CK Civil Engineering LLC will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies.

#### **Environmental Services**

During the environmental phase of the project, CK Civil Engineering LLC will proceed with the following after approval of the Task Order

CK Civil Engineering LLC will perform with a geotechnical consultant a wetlands delineation for areas inside the MSP right of way. CK Civil Engineering LLC will submit a wetland report to the US Army Corps of Engineers and request authorization to proceed under a nationwide 12 permit if required. Preparation of an individual permit is Extra Work.

CK Civil Engineering LLC will prepare and submit a stormwater pollution prevention plan

(SWPPP) to the Arkansas Department of Environmental Quality. The Owner will reimburse CK Civil Engineering LLC the \$200 annual fee(s). CK Civil Engineering LLC will also provide storm water training during the pre-construction conference to the contractor(s).

The Schematic Design phase submittal will include drawings, a drainage report, and an opinion of the probable project cost. The drawings will represent approximately 30 percent of the final construction contract plans, the drawings will be based upon surveyed topographic data. The drainage report will evaluate the hydrology and hydraulics of stormwater in the vicinity of the project area.

This Conceptual Design will be for the purpose of coordinating the proposed improvements with the Owner, utility companies, environmental agencies, geotechnical, and property owners where an easement is needed. CK Civil Engineering LLC and the Owner will coordinate easements with the property owners. CK Civil Engineering LLC will not begin Preliminary design and ROW/easement acquisitions until the conceptual design is approved by the Owner in writing.

#### Design Documents – 60% Plans

##### **Design Documents Design**

The Design Documents phase submittal will include drawings and details and an opinion of probable project cost. The preliminary design phase will represent approximately 60 percent of final construction contract plans. This submittal will not include technical specifications or “front end” contract documents. CK Civil Engineering LLC will update and refine the opinion of probable cost, and continue to coordinate the project with others defined above. CK Civil Engineering LLC will conduct a workshop with the Owner to review and discuss the submittal. CK Civil Engineering LLC will not begin final design and preparation of easements acquisition documents until the preliminary design is approved by the Owner in writing.

##### **Property Acquisition Documents**

Upon Owner approval of the Preliminary Design, CK Civil Engineering LLC through a subcontractor will provide mapping as required for preparing easement acquisition documents for the Owner’s use in acquiring the properties. Documentation will include (1) an individual tract map as “Exhibit A” and (2) a legal description of permanent and temporary easements as “Exhibit B” for each property. CK Civil Engineering LLC will utilize the Owner’s standard easement language (provided by the Owner’s attorney) for each property. The fee for providing property acquisition documentation is based on permanent easements and temporary construction easements for no more than four (4) properties. CK Civil Engineering LLC will negotiate the easements with the Owner, and CK Civil Engineering LLC will record through a subcontractor easements at the respective county circuit clerk’s office. CK Civil Engineering LLC’s fee includes the recording fees as an expense, and CK Civil Engineering LLC’s fee includes up to 40 hours for property owner negotiations. CK Civil Engineering LLC will also stake easements through a subcontractor, if required, during property negotiations.

#### Construction Documents – 100% Plans

##### **Construction Documents**

During the final design phase of the project, CK Civil Engineering LLC will conduct final designs to prepare construction plans and specifications, including final construction details and quantities, special provisions, and refine the total project cost. CK Civil Engineering LLC will prepare the construction documents (using CK Civil Engineering LLC standard specifications) as required to advertise for bids. The construction documents will be one set of

plans (Cover Sheet, Index, General Notes, Legend, Survey Control, Plan and Profiles, Traffic Control Plans and Details, Erosion Control Plans and Details, and Construction Details) and one set of specifications. CK Civil Engineering LLC will also continue to coordinate the project with others. CK Civil Engineering LLC will conduct a workshop with the Owner to review and discuss the submittal. The Owner will reimburse CK Civil Engineering LLC for all permits and review fees.

### **Bidding Services**

During the bidding phase of the project, CK Civil Engineering LLC will:

- 1) Prepare and submit the Advertisement for Bids to the Owner for publication in the newspaper(s). The Owner will pay advertising costs outside of this contract.
- 2) Dispense construction contract documents to prospective bidders.
- 3) Support the contract documents by preparing addenda as appropriate.
- 4) Prepare and conduct a pre-bid meeting at the city facilities.
- 5) Attend the bid opening.
- 6) Prepare bid tabulation.
- 7) Evaluate bids and recommend awards.
- 8) Attend and present bid recommendations to the City Council.
- 9) Upon City Council approval, prepare up to three construction contracts.

### Construction Administration

#### **Construction Phase Services (one contractor)**

During the construction phase of work, CK Civil Engineering LLC will accomplish the following.

- 1) Issue Notice to Proceed letter to the Contractor and prepare and attend preconstruction meeting.
- 2) Attend monthly (up to 6) progress/coordination meetings with the Owner and Contractor.
- 3) Evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by CK Civil Engineering LLC on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. CK Civil Engineering LLC's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, CK Civil Engineering LLC shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.
- 4) Issue instructions to the Contractor on behalf of the Owner and issue necessary clarifications (respond to RFIs) regarding the construction contract documents.
- 5) Review the monthly progress payment requests by contractor, up to twelve, based on the actual quantities of contract items completed and accepted, and will make a recommendation to the Owner regarding payment. CK Civil Engineering LLC's recommendation for payment shall not be a representation that CK Civil Engineering LLC has made exhaustive or continuous inspections to (1) check the quality or exact quantities of the Work; (2) to review billings from Subcontractors and material suppliers

to substantiate the Contractor's right to payment; or (3) to ascertain how the Contractor has used money previously paid to the Contractor.

- 6) Maintain a set of working drawings and prepare and furnish record drawings (one set of drawings for all improvements).
- 7) Provide part-time resident construction observation services for the 180-calendar-day construction contract performance time. The proposed fee is based on approximately 2 hours per day, 5 days per week, during the 180-calendar-day construction contract performance time. If the construction time extends beyond the time established in this agreement or if the Owner wishes to increase the time or frequency of the observation, the Owner will pay CK Civil Engineering LLC an additional fee agreed to by the Owner and CK Civil Engineering LLC. The construction contract will include liquidated damages, to be paid to the Owner, for contractor delays.
- 8) Provide up to 40 hours of survey crew time for field checking quantities, contractor's layout, etc.
- 9) When authorized by the Owner, prepare change orders for changes in the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the Owner will pay CK Civil Engineering LLC an additional fee to be agreed upon by the Owner and CK Civil Engineering LLC.
- 10) Participate in final project inspection, prepare punch list, review final project closing documents, and submit final pay request.

Construction observation services will be provided by CK Civil Engineering LLC's Resident Project Representative, who will provide or accomplish the following:

- 1) Consult with and advise the Owner during the construction period.
- 2) Coordinate with the firm providing construction materials quality assurance testing under separate contract with the contractor (Owner and CK Civil Engineering LLC approved subcontractor).
- 3) Maintain a file of quantities incorporated into the work, test reports, certifications, shop drawings and submittals, and other appropriate information.
- 4) Maintain a project diary which will contain information pertinent to each site visit.

The proposed fee for Construction Phase Services is based on a 180-calendar-day construction contract performance time. If the construction time extends beyond the time established in this agreement, and the Owner wants CK Civil Engineering LLC to continue the applicable Construction Phase Services, the Owner will pay CK Civil Engineering LLC an additional fee agreed to by the Owner and CK Civil Engineering LLC.

In performing construction observation services, CK Civil Engineering LLC will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor; but CK Civil Engineering LLC cannot guarantee the performance of the Contractor, nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor takes or should take. However, if at any time during construction CK Civil Engineering LLC observes that the Contractor's work does not comply with the construction contract documents, CK Civil Engineering LLC will notify the Contractor of such non-compliance and instruct them to correct the deficiency and/or stop work, as appropriate for the situation. CK Civil Engineering LLC will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, CK Civil Engineering LLC will notify the Owner immediately, so that appropriate action under the Owner's contract with the Contractor can be taken.

#### Project Deliverables

The following will be submitted to the Owner, or others as indicated, by CK Civil Engineering LLC:

- 1) Electronic copies of all correspondence, deliverables, recorded easements,

- and shop drawings/submittals.
- 2) One hard copy of all deliverables (Conceptual, Preliminary, Final, and Bid) to the Owner, and the drawings will be full size.
  - 3) Hard copy of deliverables to others as required for review and permit approvals.
  - 4) Three sets of the Contract Documents for execution by the Owner and Contractor, one of the original sets will be filed with CK Civil Engineering LLC. The Contractor will be required pay the circuit clerk recording fees.
  - 5) Three copies of the executed Contract Documents to the Contractor, and one copy to the Owner.
  - 6) One hard copy of the record drawings.

Extra Work

In addition to items previously identified herein, the following items are not included under this agreement but will be considered as extra work:

- 1) Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
- 2) Submittals or deliverables in addition to those listed herein.
- 3) Design of any utilities relocation.
- 4) Retaining walls or other significant structural design beyond that required for improvements.
- 5) Large Scale Development permits and fees (to be coordinated by and paid by the Owner if required).
- 6) Construction materials testing (to be paid by the Contractor by an approved independent testing)
- 7) Environmental including wetlands mitigation plans and work beyond the initial clearance letters to state and federal agencies.
- 8) Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- 9) Professional services for extra work resulting from easement acquisition negotiations.
- 10) Legal services for any condemnation of easements.
- 11) Services after construction, such as warranty follow-up, operations support, etc.
- 12) Construction services for more than one construction contract.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and CK Civil Engineering LLC.

Schedule

CK Civil Engineering LLC shall begin work under this Agreement within ten (10) days of a signed Task Order and shall complete the work in accordance with the schedule below:

Phase Description	Calendar Days
Design Survey	60 Days from signed Task Order
Geotechnical	60 Days from signed Task Order
Environmental	60 Days from signed Task Order*
Schematic Design	90 Days from signed Task Order
Design Documents	45 Days from Approval of Schematic Design
Property Acquisition Documents	21 Days from Approval of Preliminary Design
Final Design	45 Days from Approval of Preliminary Design

\*Engineer or it sub consultants are not liable for delays based on extended Corp of Engineering or U.S. Game and Wildlife Service

## APPENDIX B — Terms and Conditions

1. **Authorization to Proceed:** Signing this document authorizes CKCE to begin work as outlined. This document constitutes the entire agreement.
2. **Termination:** Either the Owner or the Engineer may terminate the agreement by giving 15 business days of written notice to the other party. In such case, the Owner shall forthwith pay the Engineer in full for all work previously authorized and performed plus all expenses incurred prior to the effective date of termination. The Engineer reserves the right to suspend services if invoiced fees are not remitted within 30 days of the invoice date. Otherwise, any obligations and relationships created by this Agreement terminate upon completion of all applicable requirements of this Agreement.
3. **Consultants:** The Engineer may retain consultants qualified for the work of this project when deemed necessary but shall not engage a consultant to whom the Owner has a reasonable objection.
4. **Legal Requirements:** "Legal Requirements" means all applicable federal, state, and local laws, codes, ordinances, rules, regulations, orders, and decrees of any governmental or quasi-governmental entity having jurisdiction over the Project, the practices involved in the Project, and the Services. The laws of the State of Arkansas shall govern this project.
5. **Hazardous Materials:** "Hazardous Materials" means any material, waste, substance, or chemical deemed hazardous under applicable legal requirements or regulated for handling, storage, remediation, or disposal. The Engineer and its consultants do not have, and cannot reasonably obtain, insurance for claims arising from professional services related to hazardous materials, including asbestos and other pollutants. The Owner agrees not to bring claims against the Engineer or its consultants, except for negligence, for services related to the investigation or remediation of hazardous substances. If the Engineer encounters hazardous materials, they will immediately inform the Owner.
6. **Ownership of Documents:** All models, photographs, plans, drawings, specifications, and other documents prepared by the Engineer or its consultants pursuant to this Agreement are instruments of professional service ("Instruments of Service"). The Engineer hereby grants to the Owner and its successors in interest to the Project an irrevocable license to utilize the plans, drawings, and specifications with respect to the construction, maintenance, repair, alteration, expansion, modification, and reconstruction of the Project. The Engineer shall retain ownership of all electronic Instruments of Service. The Engineer shall retain all common law, statutory, or other reserved rights therein and shall have the right to retain reproducible copies of the Instruments of Service and to reuse information and design concepts contained in them in the normal course of the Engineer's business. Should the Engineer or the Owner utilize the Instruments of Service on another project, the party utilizing the Instruments of Service shall indemnify, defend, and hold harmless the other from any and all liability, claims, suits, or demands associated with, resulting, or emanating from or related to the use thereof.
7. **Payments:** Invoices will be rendered at the completion of each service. Cancellation of the project after the start of services will be billed hourly not to exceed the overall established fee. Invoices past 60 days due will be subject to a monthly service charge of 1.5% which will be assessed in compliance with Arkansas usury laws. Should the account be placed for collection with an outside collector, the cost of such collections will be added to the principal amount owing. Reimbursable expenses such as travel expenses, printing, shipping, plan review & permitting fees, and other expenses directly attributed to the projects will be billed at direct cost without markup. Any other expenses incurred by CKCE on behalf of the Owner will be billed at actual cost.
8. **Indemnification:** The Engineer shall indemnify and hold harmless the Owner and the Owner's officers and employees from and against damages, losses, liabilities, judgments, and reasonable

and actual defense-related costs (including court costs and fees and expenses of attorneys, accountants, experts, and investigators) arising from or related to claims by third parties to the extent they are caused by the negligent acts or omissions or willful misconduct of the Engineer or its employees.

9. **Certifications:** Engineer and/or Engineer's consultants shall not be required to sign any documents, no matter by whom requested, that would result in Engineer and/or Engineer's consultants having to certify, guarantee, or warrant the existence of conditions whose existence Engineer and/or Engineer's consultants cannot ascertain. Owner also agrees not to make the resolution of any dispute with Engineer and/or Engineer's consultants or payment of any amount due to Engineer in any way contingent upon Engineer and/or Engineer's consultants signing any such certification.
10. **Jobsite Safety:** Neither the professional activities of Engineer or Engineer's consultants, nor the presence of Engineer, Engineer's consultants, or their respective employees and sub-consultants at a construction site, shall relieve the Contractor and any other entity of their obligations, duties, and responsibilities, including but not limited to construction means, methods, sequence, techniques, or procedures necessary for performing, superintending, or coordinating all portions of the Work in accordance with the Contract Documents and any health or safety precautions required by any applicable laws or regulations. Engineer and/or Engineer's consultants and their respective employees and sub-consultants have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. Owner agrees that the Contractor is solely responsible for jobsite safety and warrants that this intent shall be made evident in Owner's agreement with the Contractor.
11. **Limitation of Liability:** In recognition of the relative risks and benefits of the Project to both Owner and Professional, the risks have been allocated such that the Owner agrees to the fullest extent permitted by law to limit the liability of Engineer and Engineer's consultants and to all construction contractors and subcontractors on the Project for any and all claims, losses, costs, damages of any nature whatsoever, or claims expenses from any cause or causes so that the total aggregate liability of Engineer and Engineer's consultants to all those named shall not exceed the limits of the contract. Such claims and causes include but are not limited to negligence, professional errors or omissions, strict liability, breach of contract, or warranty.
12. **Betterment:** If due to Engineer's and/or Engineer's consultant's error, any required construction item or component of the Project is omitted from Engineer's and/or Engineer's consultant's construction documents, Engineer and/or Engineer's consultants shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the Project or otherwise adds value or betterment to the Project. In no event will Engineer and/or Engineer's consultants be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the Project.
13. **Unforeseen Conditions:** Engineer shall not be responsible for unforeseen field conditions or any existing conditions concealed by the existing finishes that cannot be investigated by reasonable non-destructive visual observation.
14. **Estimates:** All estimates provided by the Engineer, including but not limited to quantities, costs, and schedules, are based on experience, industry practices, and software calculations. These estimates are provided for informational purposes only and are subject to change due to market conditions, actual field conditions, and other factors beyond the Engineer's control. The Professional does not guarantee the accuracy of these estimates and assumes no liability for any discrepancies or variances that may arise. The Owner acknowledges and agrees that the Professional shall not be held responsible for any costs, expenses, or losses incurred due to reliance on these estimates. If the project comes in and the lowest bid is above the estimate for the project, the owner understands the Engineer will not have to re-design the project without additional compensation.

15. **Force Majeure:** CKCE is not responsible for delays or failures caused by events beyond its control, including natural disasters, strikes, or other force majeure events.
16. **Dispute Resolution:** Any disputes arising from this Agreement shall be first mediated in good faith by the parties prior to the initiation of litigation. The laws of the State of Arkansas shall govern the interpretation of the Agreement and resolution of any issues, as well as all related defenses, counterclaims and cross claims, which may arise in connection with the Agreement or between the parties, without regard to its conflicts of law principles. The place of execution and jurisdiction governing the Agreement is the State of Arkansas. Any and all claims or causes of action related in any way to this Agreement shall be filed only in the courts of the State of Arkansas for Washington County or the United States District Court for the Western District of Arkansas, which shall have exclusive jurisdiction over any disputes which arise between the parties under this Agreement, whether in law or in equity. Each of the parties expressly agrees, consents, and stipulates that venue shall be exclusively within said courts. Each of the parties expressly agrees, consents and stipulates to the exercise of personal jurisdiction over it and subject matter jurisdiction over any such controversy arising between the parties being only in the courts listed herein.
17. **Insurance Requirements:** CKCE will maintain appropriate insurance coverage and provide proof of insurance upon request.
  - a. Automobile Insurance \$500,000
  - b. General Liability \$1,000,000
  - c. Professional Liability \$2,000,000
  - d. Workers compensation Statutory Limit
18. **Amendments:** Any amendments or modifications to this agreement must be made in writing and signed by both parties.
19. **Severability:** If any provision of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.
20. **Entire Agreement:** This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, or agreements, whether written or oral. This agreement shall bind the Owner, Engineer, and their successors, executors, administrators, and assigns of such other party in respect to all covenants or agreements without the written consent of the other party. Nothing included in these documents shall be construed as creating personal liability by any officer or agent to any public body which may be a party hereto.
21. **Immunity:** The Owner is a political subdivision of the State of Arkansas and is entitled to statutory immunity pursuant to Ark. Code. Ann. § 21-9-301. Nothing in the Agreement between CKCE and the Owner shall be construed as a waiver of any immunities available to the Owner, its officers, agents and employees, or of the Owner's right to assert in good faith all claims and defenses available to it in any proceeding.