

Department of Engineering
Tim Bryan, P.E., County Engineer

3137 South Liberty Street, Canton, MS 39046
Office (601) 790-2525 FAX (601) 859-3430

MEMORANDUM

October 28, 2020

To: Sheila Jones, Supervisor, District I
Trey Baxter, Supervisor, District II
Gerald Steen, Supervisor, District III
Karl Banks, Supervisor, District IV
Paul Griffin, Supervisor, District V

From: Tim Bryan, P.E.
County Engineer

Re: Modification of Contract for Design and Construction Administration Services
MCEDA Madison Mega Site Utility Infrastructure in Support of Project Pine

The Engineering Department requests that the Board approve the modified design contract for Civil Link reducing the fees from \$751,239.00 down to \$660,607.50. This contract was originally approved on August 3, 2020. It needs to be reduced as there were some fees on the original contract outside of the amounts MDA agreed to reimburse.

SHEILA JONES
District One

TREY BAXTER
District Two

GERALD STEEN
District Three

KARL BANKS
District Four

PAUL GRIFFIN
District Five



July 17, 2020

Madison County Board of Supervisors
P.O. Box 608
Canton, Mississippi 39046

Attn: Gerald Steen
President
Madison County Board of Supervisors

Re: Project Pine – MEGA Site Utilities
Contract for Design and Construction Administration Services
MCEDA Madison Mega Site Utility Infrastructure in Support of Project Pine

Dear Mr. Steen and Board,

Civil-Link appreciates the opportunity to provide this contract for professional services for civil engineering design, topographic surveying and construction administration of the MCEDA Madison Mega Site Utility Infrastructure in support of Project Pine in Canton, MS. Civil-Link will coordinate all onsite utility design with CMU who will ultimately own and operate all water sewer and natural gas facilities.

Onsite Utilities will include the following:

1. Water Line extension from HWY 22 to end of proposed roadway/NE corner of Project Pine. Water line to be sized based upon ongoing CMU water system hydraulic study anticipated to either 16" or 18". Submit for approval by CMU and Mississippi Department of Health
2. Sewer Improvements including onsite sewer pump station, force main from pump station to existing MCWWA/CMU 24-inch force main along the north property line of the mega site. Wet well to be sized for future capacity, pumps to be sized on anticipated near future flows in coordination with CMU and the MCWWA. Submit for approval by CMU and Mississippi Department of Environmental Quality
3. Natural Gas extension from HWY 22 to the end of proposed roadway/NE corner of Project Pine to be sized in coordination with CMU and anticipated future growth.
4. Elevated Water Tank (1 MG) to be located in coordination with CMU and ongoing water system hydraulic study: Submit for approval by CMU and Mississippi Department of Health

5779 Getwell Road, Bldg B • Southaven, MS 38672 • Phone: (662) 510 -2169 • Fax: (662) 510 -2197

Each utility will be located with GPS for final mapping and transfer of utilities to CMU for ownership and operation. Civil-Link will prepare necessary easement and as-built drawings to be provided to CMU upon completion.

Civil-Link will coordinate utility installation with roadway construction so that project timelines can be met for service requirements.

Civil-Link proposes to provide the above scope of services and fees below per the Opinion of Probable Construction Cost related to the proposed improvements:

Utility and Fee Structure per the Opinion of Probable Construction Cost funded by MDA:

Water: Construction Cost	\$ 741,800.00	
Engineering Design and CE&I	\$ 111,270.00	
Testing	\$ 11,127.00	REMOVE Testing and Environmental Permitting Fees
Environmental Permitting	\$ 11,127.00	

CAW

Sewer: Construction Cost	\$ 648,500.00	
Engineering Design and CE&I	\$ 97,275.00	
Testing	\$ 9,727.50	REMOVE Testing and Environmental Permitting Fees
Environmental Permitting	\$ 9,727.50	

CAW

Natural Gas:		
Construction Cost	\$ 247,750.00	
Engineering Design and CE&I	\$ 37,162.50	
Testing	\$ 3,7126.25	REMOVE Testing and Environmental Permitting Fees
Environmental Permitting	\$ 3,7126.25	

CAW

Elevated Water Tank (1 MG)		
Construction Cost	\$ 2,766,000.00	
Engineering Design and CE&I	\$ 414,900.00	
Testing	\$ 41,490.00	REMOVE Testing Fees
Environmental Permitting	N/A	

CAW

Total Construction Cost Onsite Utilities:	\$ 4,404,050.00	
Total Engineering Design and CE&I	\$ 660,607.50	
Total Testing	\$ 66,060.75	REMOVE Testing and Environmental Permitting Fees
Total Environmental Permitting	\$ 24,570.75	

CAW

Total Engineering Design, CE&I, Testing and Environmental Permitting: \$ 751,239.00

NEW TOTAL FEES \$660,607.50

Chad A. W.
8-31-20



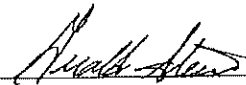
Civil-Link looks forward to beginning development of plans for review and approval and construction to support this project.

Please let me know if you have any questions or comments.

Sincerely,



Chad A. Wages, P.E.
Engineering Manager
Civil-Link

Approved by: 

Madison County Board of Supervisors
Gerald Steen
President

Cc: Shelton Vance
County Administrator

Tim Bryan
County Engineer



EXHIBIT A
GENERAL TERMS AND CONDITIONS

1. **Relationship Between Engineer and Client.** Engineer shall serve as Client's professional engineering consultant in those phases of the Project to which this Agreement applies. The relationship is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client.
2. **Responsibility of the Engineer.** Engineer ~~will strive to perform services under this Agreement in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement or in any report, opinion, document, or otherwise.~~
- Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any agreement between the Client and any other party concerning the Project, the Engineer shall not have control of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction; or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any contractor or subcontractor, or any other engineer, architect or consultant not under contract to the Engineer to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project.
- Engineer shall determine the amounts owing to the construction contractor and recommend in writing payments to the contractor in such amounts. By recommending any payment, the Engineer will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made to check the quality or quantity of the contractor's work.
3. **Responsibility of the Client.** Client shall provide all criteria and full information as to his requirements for the Project, including budgetary limitations. Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project.
- Client shall give prompt written notice to the Engineer whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services, or any defect or nonconformance in the work of any construction contractor.
- Client shall examine all documents presented by Engineer, obtain advice of an attorney or other consultant as Client deems appropriate for such examinations and provide decisions pertaining thereto within a reasonable time so as not to delay the services of the Engineer.
4. **Designation of Authorized Representatives.** Each party shall designate one or more persons to act with authority in its behalf with respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the party.
5. **Ownership of Documents.** Drawings, specifications, reports and any other documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be the property of Client. Engineer shall have the right to retain copies of all documents and drawings for its files.
6. **Reuse of Documents.** All documents, including drawings and specifications, furnished by Engineer pursuant to this Agreement, are intended for use on the Project only. They should not be used by Client or others on extensions of the Project or on any other project. Any reuse, without written verification or adaptation by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting therefrom.
7. **Opinions of Cost.** Since the Engineer has no control over the cost of labor, materials, equipment or services furnished by the contractor, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, the Engineer cannot and does not guarantee that proposals, bids or actual construction costs will not vary from his opinions or estimates of construction costs.
8. **Changes.** Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments; and Engineer and Client shall negotiate appropriate adjustments in fee and/or schedule acceptable to both parties to accommodate any changes.
9. **Delays.** If the Engineer's services are delayed by the Client, or for other reasons beyond the Engineer's control, for more than one year, the fee provided for in this Agreement shall be adjusted equitably.
10. **Subcontracts.** Engineer may subcontract portions of the services, but each subcontractor must be approved by Client in writing.
11. **Suspension of Services.** Client may, at any time, by written order to Engineer, require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the services covered by the order. Client, however, shall pay all costs associated with suspension including all costs

hereby warrants that, if he knows or has any reason to assume or suspect that hazardous materials may exist at the project site, he will inform Engineer in writing prior to initiation of services under this Agreement.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Engineer agrees to notify Client as soon as practically possible should unanticipated hazardous or suspected hazardous materials be encountered. Client waives any claim against Engineer and agrees to indemnify, defend and hold Engineer harmless from any claim or liability for injury or loss arising from Engineer's encountering unanticipated hazardous materials or suspected hazardous materials. Client also agrees to compensate Engineer for any time spent and expenses incurred by Engineer in defense of any such claim.

As noted by AM

21. Risk Allocation. The Client recognizes that Engineer's fee includes an allowance for funding a variety of risks which affect the Engineer by virtue of his agreeing to perform services on the Client's behalf. One of these risks stems from the Engineer's potential for human error. In order for the Client to obtain the benefits of a fee which includes a lesser allowance for risk funding, the Client agrees to limit the Engineer's liability to the Client and all construction contractors arising from the Engineer's professional acts, errors or omissions, such that the total aggregate liability of the Engineer to all those named shall not exceed \$50,000 or the Engineer's total fee for the services rendered on this project, whichever is greater.

22. Anticipated Change Orders. Client recognizes and expects that a certain amount of imprecision and incompleteness is to be expected in construction contract documents; that contractors are expected to furnish and perform work, materials and equipment that may reasonably be inferred from the contract documents or from the prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for; and that a certain amount of change orders are to be expected. As long as Engineer provides services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions, client agrees not to make any claim against Engineer for cost of these change orders unless these costs become a significant part of the construction contract amount. In no case will Client make claim against Engineer for costs incurred if the change order work is a necessary part of the Project for which Client would have incurred cost if work had been included originally in the contract documents unless Client can demonstrate that such costs were higher through

issuance of the change order than they would have been if originally included in the contract documents in which case any claim of Client against Engineer will be limited to the cost increase and not the entire cost of the change order.

As noted by AM

23. Payment. Engineer shall submit monthly statements to Client. Payment in full shall be done upon receipt of the invoice. If payments are delinquent after 30 days from invoice date, the Client agrees to pay interest on the unpaid balance at the rate of one percent per month. Payment for Engineer's services is not contingent on any factor except Engineer's ability to provide services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

24. Force Majeure. Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control, including, but not limited to, acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.

25. Compliance with Laws. To the extent they apply to its employees or its services, the Engineer shall comply with all applicable United States, state, territorial and commonwealth laws, including ordinances of any political subdivisions or agencies of the United States, any state, territory or commonwealth thereof.

26. Separate Provisions. If any provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions shall be valid and binding.

As noted by AM

27. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the principal place of business of the Engineer. State of Mississippi.

28. Amendment. This Agreement shall not be subject to amendment unless another instrument is executed by duly authorized representatives of each of the parties.

29. Entire Understanding of Agreement. This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of this Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.

necessary to maintain continuity and the staff required to resume the services upon expiration of the suspension of work order. Engineer will not be obligated to provide the same personnel employed prior to suspension when the services are resumed in the event the period of any suspension exceeds 30 days. Client will reimburse Engineer for the costs of such suspension and remobilization.

12. **Termination.** This Agreement may be terminated by either party upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.

13. **Notices.** Any notice or designation required to be given by either party hereto shall be in writing and, unless receipt of such notice is expressly required by the terms hereof, it shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereinafter furnish to the other party by written notice as herein provided.

14. **Indemnification.** Engineer shall indemnify and hold harmless Client from Client's loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage arising out of the sole negligent act, error or omission of Engineer.

As Modified
~~Client shall indemnify and hold harmless Engineer from Engineer's loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error or omission of Client.~~

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties) which caused the personal injury or property damage.

Client shall not be liable to the Engineer, and the Engineer shall not be liable to the Client, for any special, incidental or consequential damages, including, but not limited to, loss of use and loss of profit, incurred by either party due to the fault of the other, regardless of the nature of this fault, or whether it was committed by the Client or the Engineer or their employees, agents or subcontractors, by reason of services rendered under this Agreement.

15. **Legal Proceedings.** In the event Engineer's employees are at any time required by Client to provide testimony, answer interrogatories or otherwise provide information ("testimony") in preparation for or at a trial, hearing, proceeding or inquiry ("proceeding") arising out of the services that are the subject of this Agreement, where Engineer is not a party to such proceeding, Client will compensate Engineer for its services

and reimburse Engineer for all related direct costs incurred in connection with providing such testimony. This provision shall be of no effect if the parties have agreed in a separate agreement or an amendment to this Agreement to terms which specifically supersede this provision, nor shall this provision apply in the event Client engages Engineer to provide expert testimony or litigation support, which services shall be the subject of a separate agreement or an amendment to this Agreement.

16. **Successors and Assigns.** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.

17. **Insurance.** Within the context of prudent business practices, Engineer shall endeavor to maintain workmen's compensation and unemployment compensation of a form and in an amount as required by state law; comprehensive general liability with maximum limits of \$500,000/\$1,000,000; automotive liability with maximum limits of \$500,000/\$500,000; and professional liability insurance with an annual limit of \$500,000. Client recognizes that insurance market is erratic and Engineer cannot guarantee to maintain the coverages identified above.

18. **Information Provided by the Client.** The Engineer shall indicate to the Client the information needed for rendering of services hereunder. The Client may elect to provide this information (including services by others) to the Engineer. In this case, the Client recognizes that the Engineer cannot assure the sufficiency of such information. Accordingly, the Engineer shall not be liable for any claims for injury or loss arising from errors, omissions or inaccuracies in documents or other information provided by the Client. In addition, the Client agrees to compensate the Engineer for any time spent or expenses incurred in defending such claim or in making revisions to his work as a direct or indirect result of information provided by the Client which is insufficient.

19. **Subsurface Conditions and Utilities.** Client recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of Engineer or Engineer's subconsultants with appropriate equipment may fail to detect certain hidden conditions. Client also recognizes that actual environmental, geological and geotechnical conditions that Engineer properly inferred to exist between sampling points may differ significantly from those that actually exist.

Engineer will locate utilities which will affect the project from information provided by the Client and utility companies and from Engineer's surveys. In that these utility locations are based, at least in part, on information from others, Engineer cannot and does not warrant their completeness and accuracy.

20. **Hazardous Materials.** When hazardous materials are known, assumed or suspected to exist at a project site, Engineer is required to take appropriate precautions to protect the health and safety of his personnel, to comply with the applicable laws and regulations and to follow procedures deemed prudent to minimize physical risks to employees and the public. Client