

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 2, 2024 AGENDA**

Subject:	Type:	Submitted By:
PROFESSIONAL SERVICES AGREEMENT – CENTRAL PARK LIGHTING PROJECT	◆ RESOLUTION ORDINANCE RECEIVE/FILE	CHRIS SOLBERG DEPUTY COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A resolution has been prepared to approve a Professional Services Agreement with Alvine Engineering to provide certain construction administration services in relation to the Central Park Phase III Improvements – Central Park Road and Pedestrian Lighting project in an amount not to exceed \$6,500.

FISCAL IMPACT

The FY23/FY24 Biennial Budget includes funding for these services.

RECOMMENDATION

Approval.

BACKGROUND

The Central Park Road and Pedestrian Lighting project requires certain Owner provided construction administration tasks for the project. This includes the review of contractor submittals, contractor requests for information or interpretation (RFI), and onsite observation and inspection. Although RDG managed the design of the project, Alvine Engineering conducted the development of the construction documents. This agreement with Alvine Engineering will allow for the engineering consultant who developed the construction documents to provide the project oversight needed.

A copy of the agreement is attached.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ALVINE ENGINEERING, OMAHA, NEBRASKA, FOR CERTAIN CONSTRUCTION ADMINISTRATION SERVICES IN RELATION TO THE CENTRAL PARK ROAD AND PEDESTRIAN LIGHTING PROJECT IN AN AMOUNT NOT TO EXCEED \$6,500.

WHEREAS, the Mayor and City of La Vista has determined that the construction of road and pedestrian lighting in Central Park is necessary; and

WHEREAS, an RFP process was completed and on January 2, 2019, the City Council selected RDG Planning and Design as the firm to provide said placemaking and landscape design services; and

WHEREAS, RDG Planning and Design subcontracted with Alvine Engineering to provide design services for the Central Park Improvements Phase III – Central Park Road and Pedestrian Lighting project; and

WHEREAS, the agreed upon scope was divided into two phases for this project and phase one services have been completed; and

WHEREAS, the FY23/FY24 Biennial Budget contains funding for this project; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secures Council approval prior to authorizing any expenditure over \$5,000.00.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska do hereby approve the professional services agreement with Alvine Engineering, Omaha, Nebraska to provide certain construction administration services in relation to the Central Park Road and Pedestrian Lighting Project in an amount not to exceed \$6,500 subject to any specified conditions of Council and any revisions that the City Administrator or City Engineer may determine necessary or advisable.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2024.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk



June 17, 2024
Revised June 25, 2024

City of La Vista
8116 Park View Boulevard
La Vista, Nebraska 68128

Attn: Christopher Solberg

Re: La Vista Central Park Site Lighting Construction Administration
Alvine No. 2024 1285

Dear Christopher:

Alvine Engineering is pleased to present this proposal for professional engineering services for the above-referenced project.

Project Description

This project consists of electrical engineering to support the design of the La Vista Central Park, including exterior lighting, lighting controls, and miscellaneous power.

Scope of Basic Services

Our services and proposed fees will be as indicated in the attached "Scope of Services" document.

If you have any questions or comments regarding this proposal, please contact us. If this proposal is acceptable in its present form, please return a signed copy to us for our records. We look forward to working with you on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Wurst", is written over a faint, light blue circular watermark.

Mary Wurst, P.E.
Associate Principal (NE)

LDD/mbh

Attachments

cc: Alvine Contract File
Luke Dolezal – Alvine Engineering

Basic Services Scope

Basic service phases include:

1. Construction Administration

Construction Administration Services

Alvine Engineering proposes to provide the following construction administration services:

1. Attend, prepare the agenda, and issue meeting minutes for a preconstruction meeting.
2. Respond to Contractor requests for information or interpretation (RFI).
3. Review submittals.
4. Prepare proposal requests.
5. Review payment applications.
6. Perform three, one-person trips to the project site to attend construction meetings and/or conduct observation of construction, including preparation of a final punch list.
7. Virtually attend, up to ten, contractor meetings.
8. Perform up to two, one-person trips to the project site for verification of punch list item completion.
9. Development of record drawings based on field as-built drawings provided by the Contractor.

Basic Services Scope Assumptions

Based on Alvine Engineering's understanding of the project requirements, the following are assumed:

1. Hazardous material remediation will be by others.
2. Alvine Engineering will receive cost estimate information at the completion of the construction document phase of the project and will receive schedule of values at bidding as well as at completion of the project.

Fees for Basic Services

This project will be billed on a lump sum basis of \$7,500.00 (Seven Thousand Five Hundred Dollars). Expenses are not anticipated.

Additional Services

If additional professional services or work outside the determined basic scope are required during the course of the project, they will be billed as negotiated per specific scope of services. Alvine Engineering will only proceed with additional services if approved in writing. Additional services will be billed as a separate fee on the project invoice.

All of the following items shall not be considered part of basic services:

1. IP Design Group services (typically under a separate agreement):
 - A. Acoustical consulting and design
 - B. Telecommunications systems design
 - C. Audiovisual systems design
 - D. Electronic security systems design, such as access control, video surveillance, or intrusion detection
2. LEED and/or WELL certification
3. Opinions of probable construction costs
4. Verification of:
 - A. Accuracy of existing drawings
 - B. Existing systems physical operating conditions
 - C. Existing systems performance and capacities

5. Design associated with new utility services not identified in the scope of basic design services
6. Additional site visits beyond those identified above during construction, including additional visits for preparation of phase punch lists and additional visits required to repeat punch lists in areas which were not sufficiently complete at the time of the initial punch list
7. Design required to accommodate unforeseen existing conditions
8. Post-punch list services:
 - A. Project closeout documentation

Billing

Monthly billing will be based on the following schedule or will follow the prime agreement:

Phase	Billing Percentage
Construction Administration	100%
Additional Services	As negotiated

Payment Schedule

Payment shall be within 30 days from the date of the invoice.

If the Client objects to any portion of an invoice, the Client shall so notify Alvine Engineering in writing within 10 calendar days of receipt of the invoice. The Client shall identify the specific cause of the disagreement and shall pay, when due, that portion of the invoice not in dispute.

If the Client, for any reason, fails to pay the undisputed portion of Alvine Engineering's services within 45 days of presentation, Alvine Engineering has the right to cease work on the project, and the Client shall waive any claim against Alvine Engineering from and against any claims for injury or loss stemming from cessation of service.

Ownership of Instruments of Services

All reports, plans, specifications, field data and notes, and other documents, including all documents on electronic media, prepared by Alvine Engineering as instruments of service shall remain Alvine Engineering property. Alvine Engineering shall retain all common law, statutory, and other reserved rights, including the copyright thereto.

General Terms and Conditions

See attached General Terms and Conditions document.

ACCEPTED:

Name

Title

Date

Client Purchase Order No. (if applicable)

Alvine Engineering

General Terms and Conditions

Standard of Care

1. In providing services under this Agreement, Alvine Engineering shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. Alvine Engineering makes no warranty, express or implied, as to its professional services rendered under this Agreement. Accordingly, the Client should prepare and plan for clarifications and modifications, which may impact both the cost and schedule of the Project.

General Conditions

1. Alvine Engineering shall not be responsible for the acts or omissions of the Client, Client's other Consultants, Contractors, Subcontractors, their agents or employees, or other persons performing any of the work.
2. Neither the professional activities of Alvine Engineering, nor the presence of Alvine Engineering employees and Subconsultants at a construction site, shall relieve the General 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 of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Alvine Engineering personnel 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. The Client agrees that the General Contractor is solely responsible for jobsite safety and warrants that this intent shall be made evident in the Owner's agreement with the General Contractor. The Client agrees that Alvine Engineering and Alvine Engineering's Consultants shall be indemnified and shall be made additional insureds under the General Contractor's general liability insurance policy.
3. Alvine Engineering has indicated herein to the Client the information needed for rendering of services hereunder. The Client shall provide to Alvine Engineering such information as is available to the Client and Client's Consultants and Contractors, and Alvine Engineering shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for Alvine Engineering to assure the accuracy, completeness, and sufficiency of such information. Accordingly, the Client agrees, to the fullest extent permitted by law, notwithstanding any other provisions of this Agreement, to indemnify and hold Alvine Engineering, its officers, partners, employees, agents, and Subconsultants (collectively, Alvine Engineering) harmless from any claim, liability, or cost, including reasonable attorneys' fees and defense costs for injury or loss arising or allegedly arising from errors, omissions, or inaccuracies in documents or other information provided by the Client to Alvine Engineering.
4. The Client agrees, notwithstanding any other provisions of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless Alvine Engineering, its officers, partners, employees, agents, and Consultants from and against any and all claims, suits, demands, liabilities, losses, or costs, including reasonable attorneys' fees and defense costs, resulting or accruing to any and all persons, firms, and any other legal entity, caused by, arising out of, or in any way connected with the detection, presence, handling, removal, abatement, or disposal or any asbestos or hazardous or toxic substances, product, or materials that exist on, about, or adjacent to the jobsite, whether liability arises under breach of contract or warranty, tort, strict liability, or statutory liability or any other cause of action. If the parties do not resolve a claim, dispute, or matter in question through mediation, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction.
5. In the event Alvine Engineering or any other party encounters asbestos or hazardous or toxic materials at the jobsite or any adjacent areas that may affect the performance of Alvine Engineering's services, Alvine Engineering may, at his or her option and without liability for consequential or any other damages, suspend performance of service on the project until the Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate, and/or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.
6. If, due to Alvine Engineering's negligence, a required item or component of the Project is omitted from Alvine Engineering's construction documents, Alvine Engineering shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will Alvine Engineering be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.
7. The Client shall promptly report to Alvine Engineering any defects or suspected defects in Alvine Engineering's services of which the Client becomes aware, so that Alvine Engineering may take measures to minimize the consequences of such a defect. The Client further agrees to impose a similar notification requirement on all Contractors in its Client/Contractor contract and shall require all subcontracts at any level to contain a like requirement. Failure by the Client and the Client's Contractors or Subcontractors to notify Alvine Engineering shall relieve Alvine Engineering of the costs or remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.
8. Alvine Engineering shall provide, with reasonable promptness, responses to requests from the Contractor for clarification and interpretation of the requirements of the contract documents. Such services shall be provided as part of the construction administration services. However, if the Contractor's requests for information, clarification, or interpretation are, in Alvine Engineering's professional opinion, for information readily apparent from reasonable observation of field conditions or a review of the contract documents, or are reasonably inferable therefrom, Alvine Engineering shall be entitled to compensation for additional services for time spent responding to such requests.
9. Alvine Engineering and the Client waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with this Contract.
10. In recognition of the relative risks and benefits of the project to both the Client and Alvine Engineering, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of Alvine Engineering and his or her Subconsultants to the Client 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 Alvine Engineering and his or her Subconsultants to all those

named shall not exceed ten times Alvine Engineering's total fee for services rendered. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising unless otherwise prohibited by law.

11. Any applicable sales tax on services shall be paid by the Client in addition to all stated fees outlined in this Agreement.
12. If the Client is in breach of the payment terms or otherwise is in material breach of this Agreement, Alvine Engineering may suspend performance of services upon five (5) calendar days' notice to the Client. Alvine Engineering shall have no liability to the Client, and the Client agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the Client. Upon receipt of payment in full of all outstanding sums due from the Client, or curing of such other breach that caused Alvine Engineering to suspend services, Alvine Engineering shall resume services, and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.
13. This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
14. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Alvine Engineering.
15. Titles in this document are for organization only. Provisions under a title are not limited by the scope of the title.
16. Alvine Engineering's commitments as set forth in this Agreement are based on the expectation that all of the services described in this Agreement will be provided. In the event Client later elects to reduce design professional's scope of services, Client hereby agrees to release, hold harmless, defend, and indemnify Alvine Engineering from any and all claims, damages, losses, or costs associated with or arising out of such reduction in services.
17. In accepting and utilizing any drawings, reports, and data on any form of electronic media generated and furnished by Alvine Engineering, the Client agrees that all such electronic files are instruments of service of Alvine Engineering, who shall be deemed the author, and shall retain all common law, statutory law, and other rights, without limitation, including copyrights. The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of the Consultant. The Client further agrees that Alvine Engineering shall have no responsibility of liability to the Client or others for any changes made by anyone other than Alvine Engineering or for any reuse of the electronic files without the prior written consent of Alvine Engineering. Any changes to the electronic specifications by either the Client or Alvine Engineering are subject to review and acceptance by the other party. If Alvine Engineering is required to expend additional effort to incorporate changes to the electronic file specifications made by the Client, these efforts shall be compensated for as Additional Services. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Alvine Engineering, its officers, directors, employees, and Subconsultants (collectively, Alvine Engineering) against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than Alvine Engineering or from any use or reuse of the electronic files without the prior written consent of Alvine Engineering. Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by Alvine Engineering, and Alvine Engineering makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall Alvine Engineering be liable for indirect or consequential damages as a result of the Client's unauthorized use or reuse of the electronic files.
18. The laws of the State of Nebraska shall apply.

Dispute Resolution

1. In an effort to resolve any conflicts that may arise during the design or construction of the project or following the completion of the project, the parties subject to this contract agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties agree otherwise. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the project is located unless another location is mutually agreed upon.