

CITY OF VIENNA
Special Council Session
Council Chambers
609 29th Street, Vienna, WV
6:00pm

AGENDA
September 15, 2022

Invocation and Pledge of Allegiance

Call to Order

Roll Call

Unfinished Business

1. None.

New Business

1. INTERNAL BUDGET REVISION #1
2. CONTRACT APPROVAL: Proposal for Subsurface Investigation and Geotechnical Report – Swimming Pool at Jackson Park – Vienna, West Virginia

Council Comments

Announcements

INTERNAL BUDGET REVISION FORM

CITY OF VIENNA

STATE APPROVAL NOT REQUIRED
REVISION WITHIN SAME ACCOUNT CATEGORY

FUND: GENERAL
FISCAL YR: 22-23
REV NO: 1
DATE: 09/12/2022

DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	BUDGET BEFORE CHANGE	EXPEN-DITURE CHG AMT	BUDGET AFTER CHANGE
POOL	542-15	MAINT BLDGS & GROUNDS	TRANSFER FUNDS TO COVER COST OF CORE DRILLING FOR THE POOL PROJECT	15,000	-15,000	0
	542-16	MAINT EQUIPMENT		7,500	-2,700	4,800
	542-58	CAPITAL OUTLAY - OTHER		285,500	17,700	303,200
TOTALS				308,000	0	308,000

RESULTS OF COUNCIL REVIEW:

AUTHORIZED SIGNATURE

____ APPROVED BY COUNCIL

____ DISAPPROVED BY COUNCIL

DATE

FINANCE DEPT USE ONLY:

REVISION COMPILED BY: _____ / _____

REVISION POSTED TO LOTUS BY: _____ / _____

REVISION POSTED TO BUDGETARY BY: _____ / _____
SIGNATURE DATE



September 13, 2022

Mayor Randall Rapp
City of Vienna
609 29th Street
Vienna, West Virginia 26105

Dear Mr. Rapp:

Subject: Proposal for Subsurface Investigation and Geotechnical Report
Swimming Pool at Jackson Park – Vienna, West Virginia
CEC Project 326-339

Civil & Environmental Consultants, Inc. (CEC) is pleased to present our proposal to provide the City of Vienna (City) with geotechnical engineering services to investigate the area surrounding the existing pool at Jackson Park in Vienna, West Virginia. Our proposal is based on the email Request for Proposal (RFP) received via email from Omni Associates (Omni) on August 23, 2022 and an email from the City on September 13, 2022. The following sections of this proposal include background information, purpose, scope of services, estimated costs and invoicing, schedule, and closing remarks.

1.0 BACKGROUND INFORMATION

The City has asked CEC to conduct a geotechnical evaluation of the area surrounding the existing pool in Jackson Park, Vienna, West Virginia. The pool is to be refurbished with new concrete decking constructed. In addition, a building on the southern side of the pool is to be demolished, with a new building constructed slightly further south in what is currently a grassy lawn area.

CEC is in receipt of photographs of the pool and a proposed boring layout. Based on the provided boring location plan, it is our understanding that 11 test borings are proposed. Seven (7) of the proposed borings will be advanced through the existing concrete decking surrounding the pool. A minimum width of eight (8) feet is necessary to provide access for the rig into the pool enclosure. An 8-foot wide area will only provide access if it can be approached head on by the drill rig. Therefore, it is possible that one (1) to two (2) sections of fence may need to be removed to provide access for the drilling equipment.

2.0 PURPOSE

The purpose of our geotechnical engineering services is to perform a subsurface investigation at the site to develop opinions on the soil, bedrock, and groundwater conditions, and present conclusions and recommendations for the proposed on-grade concrete and shallow foundation design.

3.0 SCOPE OF SERVICES

CEC proposes the following scope of services to achieve the above-stated purpose:

3.1 Planning, Coordination, and Site Reconnaissance

CEC will plan, coordinate, and execute the office and field work required to drill the test borings. A site-specific Health and Safety Plan (HASP) will be generated for the safety of CEC representatives and subcontractors working at the site.

3.2 Boring Location Stakeout

Eleven test borings are proposed to be drilled at the site based on the conceptual layout provided by Omni. A CEC representative will locate the proposed test borings in the field using a handheld GPS. CEC will coordinate placing the Miss Utility request at least three (3) business days prior to mobilizing to the site for drilling.

CEC notes, however, that the Miss Utility Service will not locate utilities on private property. It is assumed that the City will assist with locating all utilities not located by the Miss Utility service. City of Vienna maintenance staff should clear the proposed boring locations in the pool enclosure. CEC can meet with the maintenance staff prior to the drilling operations.

3.3 Test Drilling

CEC will subcontract with a local drilling contractor to perform the test borings. The drilling contractor will advance the eleven test borings to approximate depths of 20 feet or to auger refusal on bedrock. Soils will be sampled at intervals not greater than 3 feet with a split-spoon sampler using the Standard Penetration Test (SPT) in accordance with ASTM D1586. Rock coring is not planned for the project. It is understood that the boring locations as depicted on the conceptual boring layout may need to be changed to accommodate the drill rig.

3.4 Monitor Drilling and Log Samples

CEC will provide a qualified representative to monitor the test drilling, observe the materials encountered, prepare field logs, and make modifications to the drilling program, if necessary. Our representative will obtain water levels during and after completion of drilling. Our representative's field logs will be computer-generated and included in our report.

3.5 Laboratory Testing

CEC will subcontract a laboratory to perform geotechnical testing on select samples obtained during the test drilling. Based on the materials encountered, laboratory testing will likely include soil classification.

3.6 Analyses

CEC will review the results of the test drilling and laboratory testing, and perform geotechnical analyses to develop conclusions on the site soils, bedrock and groundwater conditions. CEC will also develop geotechnical recommendations for on-grade slab construction and the proposed shallow spread footing to support the building.

3.7 Report

CEC will prepare a geotechnical letter report summarizing the data obtained and presenting conclusions and recommendations in accordance with the purpose. The report will include a boring location plan, our field representative's logs, and laboratory test results. CEC will provide the City with a PDF copy of the geotechnical report.

4.0 ESTIMATED COSTS AND INVOICING

This drilling cost estimate is based on the maximum total drilling depth of 220 linear feet of soil and the following assumptions:

- City of Vienna maintenance staff will remove the fence panels necessary for the drill rig's access into the enclosed pool area prior to the drilling operations.
- The test drilling can be completed in three (3) days;
- The test borings advanced in the grassy areas will be backfilled using auger cuttings generated during drilling
- The seven (7) pool deck borings will be advanced using a concrete core bit and capped with concrete to match the surface covering at completion.
- Rutting and minor disturbance that could occur during drilling operations will not be repaired;
- The site and test boring locations are accessible using a track-mounted drill rig.

Drilling	\$9,200
Laboratory Testing	\$1,000
Geotechnical Field Work, Analysis and Letter Report	<u>\$7,500</u>
 Lump Sum Cost.....	 \$17,700

The total cost for test drilling may vary based on the actual quantity needed to complete the work. Additional drilling footage may be required depending upon site conditions. The fee for additional soil drilling will be \$30 per foot. CEC will notify you prior to incurring additional cost. Standby time for the drill crew is \$300/hour. Access to the borings in the pool deck must be provided for the drill rig access ahead of mobilization to the site.

Our Schedule of Terms and Conditions, which applies to the proposed work, is attached. Any changes to our Terms and Conditions must be agreed to in writing by both parties prior to your authorization to proceed. Your oral or written authorization to proceed will form a binding contract and indicates your acceptance of our Terms and Conditions. This project will be invoiced as a lump sum.

5.0 SCHEDULE

CEC is available to begin work on this project immediately. Currently, the drilling contractor's schedule requires approximately three (3) to four (4) weeks to mobilize. While waiting to mobilize the drill rig, the borings will be staked and a West Virginia 811 utility location notice will be placed as required by state law. Two (2) working days are required for the 811 request to clear the staked test boring locations prior to drilling.

The drilling will take approximately three (3) days to complete. The geotechnical laboratory testing program will require approximately one (1) to two (2) week after completion of drilling, and the report can be completed immediately after receipt of the laboratory test results. CEC can work with you to provide preliminary results and information if required to meet a compressed schedule.

6.0 CLOSING REMARKS

CEC appreciates this opportunity to be of service to the City of Vienna. We look forward to working with you toward the successful completion of this project.

Very truly yours,

CIVIL & ENVIRONMENTAL CONSULTANTS, INC.



Thomas Adams, P. E.
Senior Project Manager



L. Jane Hicks
Senior Project Manager

Attachment: CEC Terms and Conditions



1. AGREEMENT

The following terms and conditions ("TERMS") shall apply to and are an integral part of the attached proposal ("PROPOSAL") between Civil & Environmental Consultants, Inc. ("CEC") and the client ("CLIENT") named in the attached PROPOSAL. CLIENT's acceptance of the PROPOSAL includes acceptance of these TERMS and acceptance of this PROPOSAL shall form the entire agreement between the parties ("AGREEMENT"). In the event of a conflict or inconsistency between these TERMS and the PROPOSAL, these TERMS shall take precedence. Acceptance of the AGREEMENT by CLIENT will occur when CLIENT directs CEC, orally or in writing, to commence performance of its services.

2. STANDARD OF CARE

CEC shall perform its services consistent with the professional skill and care ordinarily provided by professionals, such as CEC, practicing in the same or similar locality under the same or similar circumstances and in effect at the time of performance. CEC provides no warranties or guarantees whether express or implied.

3. SITE ACCESS, SITE CONDITIONS AND SUBSURFACE FEATURES

CLIENT will grant or obtain free access to the site for all equipment and personnel for CEC to perform the services set forth in this AGREEMENT. CEC will take reasonable precautions to limit damage to the site, but it is understood by CLIENT that, in the normal course of the services, some damage may occur and the correction of such damage is not part of this AGREEMENT unless so specified in the PROPOSAL.

The CLIENT is responsible for the accuracy of locations for all subsurface structures and utilities. CEC will take reasonable precautions to avoid known subsurface structures, and the CLIENT waives any claim against CEC, and agrees to defend, indemnify, and hold CEC harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subsurface structures and utilities not identified or accurately located. In addition, CLIENT agrees to reimburse CEC for time and expenses incurred by CEC in defense of any such claim based upon CEC's current fee schedule and expense reimbursement policy.

CEC may, but is not required to, undertake an investigation to locate any utilities, structures or materials as CEC deems prudent. Such investigation by CEC shall not impose any additional obligation or liabilities on CEC and CLIENT agrees that such investigation, if undertaken, is for CEC's convenience only.

The CLIENT recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretation, and recommendations by CEC will be based solely on information available to CEC. CEC is responsible for the data, interpretations, and recommendations based on its services, but will not be responsible for other parties' interpretations or use of the information developed.

4. BIOLOGICAL POLLUTANTS, HAZARDOUS MATERIALS AND HAZARDOUS CONDITIONS

CLIENT warrants that a reasonable effort to investigate and inform CEC of known or suspected Biological Pollutants, Hazardous Materials and hazardous conditions on or near the site has been made by the CLIENT. The term "Biological Pollutants" includes, but is not limited to, molds, fungi, spores, bacteria, and viruses, and the by-product of any such biological organisms. The term "Hazardous Materials" shall mean any toxic substances, chemicals, pollutants, or other materials, in whatever form or state, including but not limited to smoke, vapors, soot, fumes, acids, alkalis, minerals, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollutant, that is known or suspected to adversely affect the health and safety of humans or of animal or plant organisms, or which are known or suspected to impair the environment in any way whatsoever. Hazardous Materials shall also include, but not be limited to, those substances defined, designated, or listed in Section 404 of the Solid Waste Disposal Act (42 USC Subsection 6903); Section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Subsection 9601(14)); as listed or designated under Sections 1317 and 1321(b)(2)(a) of the Title 33 (33 USC Subsections 1317 and 1321(b)(2)(a)); or as defined, designated, or listed under any other federal, state, or local law, regulation or ordinance concerning hazardous wastes, toxic substances, or pollutants.

CEC and CLIENT agree that when unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions are encountered it may be necessary for CEC to take immediate measures to protect health and safety. CEC agrees to immediately notify CLIENT when unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. In the event the site is not owned by CLIENT, CLIENT recognizes that it is the CLIENT's responsibility to inform the property owner of the discovery of unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions.

Notwithstanding any other provision of the AGREEMENT, CLIENT waives any claim against CEC, and to the maximum extent permitted by law, agrees to defend, indemnify, and hold CEC harmless from any claim, liability, and/or defense costs for injury or loss arising from CEC's discovery of unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions. CLIENT will be responsible for ultimate disposal of any samples secured by CEC which are found to be contaminated with Biological Pollutants and/or Hazardous Materials.

Nothing contained in this AGREEMENT shall be construed or interpreted as requiring CEC to assume liability for the generation, transportation, treatment, storage and/or disposal of hazardous waste within the meaning of the Resource Conservation and Recovery Act of 1976, as amended, or within the meaning of any similar federal, state, or local regulation or law.

If during remediation and/or construction activities waste manifests are required, CLIENT shall provide an authorized person to sign manifests or will provide CEC with a written limited power of attorney or agency agreement to sign manifests on CLIENT'S behalf.

5. EVOLVING TECHNOLOGIES

Services such as those provided by CEC may involve technologies which are new or emerging and these technologies may supersede current techniques. In addition, standards for our services, including statutes and regulations, may change with time. CLIENT understands that CEC's recommendations and/or services must be based upon the current Standard of Care utilizing established technologies and standards excluding new or emerging technologies unless agreed to by both parties in writing.

6. SAMPLE DISPOSAL

CEC will provide storage for samples collected for sixty (60) days. Further storage or transfer of samples can be made at CLIENT's expense and upon prior written request.

7. SAFETY/CONSTRUCTION OBSERVATION

CLIENT, its contractor or other representatives shall be solely responsible for working conditions on the site, including compliance with OSHA regulations and safety of all persons and property during the performance of the work. CEC will not be responsible for means, methods, techniques, sequences or procedures of construction including, but not limited to safety.

If CEC is retained by the CLIENT to provide a site representative for the purpose of observing specific portions of any construction work as set forth in the PROPOSAL, CEC will report observations and professional opinions. CEC's presence on the site does not in any way guarantee the completion or quality of the performance of the work by any party retained by the CLIENT to provide construction related services. CEC does not have the duty to reject or stop work of CLIENT or its agents unless contractually obligated.

8. BILLING AND PAYMENTS

8.1. General: Invoices will be submitted in accordance with the provisions outlined in the PROPOSAL. Payment is due from CLIENT thirty (30) days from the invoice date. If a retainer or pre-payment is required by the PROPOSAL, payment must be received by CEC prior to commencement of services. Payment shall be made as follows:

Electronic Payment:

PNC Bank, Pittsburgh, PA 15222
PNC Bank Routing #043000096
CEC Account #2272405
SWIFT & BIC Code: PNCCUS33
Remittance Detail: accountsreceivable@cecinc.com

Lockbox (regular mail):

Civil & Environmental Consultants, Inc.
P.O. Box 644246
Pittsburgh, PA 15264-4246

Any retainer shall be applied to the final invoice and unused funds, if any, returned to CLIENT. In the event CLIENT fails to pay CEC within thirty (30) days of invoice, CLIENT agrees that CEC will have the right to suspend performance of services after written notice to CLIENT. CEC will be entitled to interest of one and one half percent (1.5%) per month for past due amounts. CEC will be entitled to collect for time and expenses (per CEC's current fee schedules), attorneys' fees and other costs incurred by CEC for collection of past due amounts.

Our PROPOSAL does not include gross receipts taxes, business or occupation taxes or assessments that the municipality where the project is located may assess upon CEC or its subcontractors. If such taxes are or become a liability of CEC, the CLIENT agrees to reimburse CEC at cost.

8.2. Reimbursable Expenses: Direct non-salary expenses (e.g. Travel, Equipment, Subcontractors/Vendors) will be billed according to the terms of our PROPOSAL.

8.3. Litigation Services: If litigation services are not part of the PROPOSAL to which these TERMS are attached and are requested by CLIENT, the scope and fee schedule for the requested litigation services will be identified in a separate PROPOSAL. CLIENT shall reimburse CEC for costs incurred in responding to subpoenas or other legal requests related to the services provided by CEC under this AGREEMENT.

8.4. Design Build: If CLIENT requests CEC to perform design-build services, such services will be performed in accordance with separate TERMS and a PROPOSAL for such design-build services.

9. CHANGES

9.1. Changes: Upon a change in CEC's scope of services or discovery of unforeseen conditions, or any direction or instruction outside of the PROPOSAL, CEC will provide CLIENT with the estimated cost of performing the change and any change in the AGREEMENT schedule. Prior to CEC being required to implement the change, CLIENT shall authorize the requested change either verbally or in writing amending the AGREEMENT price and schedule.

9.2. Unauthorized Changes: If changes are made in CEC work products by CLIENT or persons other than CEC, any and all liability against CEC arising out of such changes is waived and CLIENT assumes full responsibility for such changes unless CLIENT has given us prior notice and has received written consent from CEC for such changes.

10. DELAYS

Delays not due to CEC shall result in an extension of the schedule equivalent to the length of delay. If such delays result in additional costs to CEC, the AGREEMENT price shall be equitably adjusted by the amount of such additional costs.

11. INSURANCE

CEC will maintain Workmen's Compensation Insurance as required by state law, General Liability Insurance for bodily injury and property damage with a limit of \$1,000,000 per occurrence and an aggregate limit of \$2,000,000 and Automobile Liability with a limit of \$1,000,000. Professional liability will be provided with a limit of \$1,000,000 per claim and \$1,000,000 in the aggregate, if applicable. CLIENT and/or the property owner will be listed as additional insured for General Liability Insurance upon CLIENT's written request.

12. ALLOCATION OF RISK

12.1. Limitation of Remedies: CLIENT agrees to limit CEC's liability for any claim arising from, or alleged to arise from any acts, errors or omissions in the performance of services under this AGREEMENT, whether such claim is based in negligence, breach of contract, or other legal theory to an aggregate limit of the amount of fees paid to CEC under this AGREEMENT, or \$50,000, whichever is greater, except for CEC's willful misconduct or gross negligence.

12.2. Waiver of Consequential Damages: CEC and CLIENT agree to waive any claim against each other for consequential, incidental, special or punitive damages.

12.3. Indemnification: CEC shall indemnify and hold harmless CLIENT from and against any and all claims, damages, or liability to the extent caused by the negligent performance of services under this AGREEMENT by CEC, including injuries to employees of CEC.

13. TERMINATION

This AGREEMENT may be terminated by either party seven (7) days after written notice: i) in the event of breach of any provision of this AGREEMENT; ii) if the CLIENT suspends the work for more than three (3) months in the aggregate; or iii) for CLIENT or CEC's convenience. In the event of termination for suspension or convenience, CEC will be paid for services performed prior to the date of termination plus reasonable termination and demobilization expenses, including, but not limited to the cost of completing analyses, records and reports necessary to document job status at the time of termination.

14. GOVERNING LAW

The law of the Commonwealth of Pennsylvania will govern the validity of these TERMS and the AGREEMENT, their interpretation and performance. If any of the provisions contained in these TERMS and the AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired.

15. DISPUTE RESOLUTION

15.1. Notice of Dispute: Within fifteen (15) days of the occurrence of any incident, act, or omission upon which a claim for relief may be based, the party seeking relief shall serve the other party with a written notice specifying the nature of the relief sought, the amount of relief sought, a description of the reason relief should be granted, and the provisions of this AGREEMENT that authorize the relief requested.

15.2. Meet and Confer: Within ten (10) days of receipt of the Notice of Dispute, the parties shall meet and confer in a good faith attempt to resolve the dispute. Participants in the meet and confer must have the authority to enter into a binding resolution on behalf of each party.

15.3. Jurisdiction and Venue: After completion of the meet and confer, either party may proceed to litigation. CEC and CLIENT agree that any court of record in Allegheny County, Pennsylvania, shall have the exclusive jurisdiction and venue over any claims relating to or arising under this AGREEMENT.

15.4. Waiver of Jury Trial: THE PARTIES AGREE AND IRREVOCABLY WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY ACTION, DISPUTE, PROCEEDING OR SUIT RELATING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT OR THE PROJECT.

16. ASSIGNMENT

CLIENT and CEC each binds itself and its successors and assigns to the other and its successors and assigns with respect to all covenants of this AGREEMENT. Neither CLIENT nor CEC shall assign, sublet or transfer any rights under or interest in this AGREEMENT without the prior written consent of the other party. This section shall not, however, apply to subrogation rights (if any) of any insurer of either party.

17. OWNERSHIP

CEC shall have title to all drawings, specifications or other documents ("WORK PRODUCT") furnished to CLIENT and intended for use in connection with projects under this AGREEMENT. CLIENT is granted a limited license to use and reproduce the WORK PRODUCT prepared by CEC for use in the execution of the project(s) under this AGREEMENT. The WORK PRODUCT is not to be used by CLIENT or other contractors, subcontractors, or material suppliers on other projects without the express written consent of CEC.

18. FILE RETENTION

Upon conclusion of the project, CEC's file on the project will be closed and may be sent offsite for storage. Unless CLIENT requests a longer retention period in writing, CEC reserves the right to destroy all file information seven (7) years after the project is closed.

19. SURVIVAL

In the event of termination, cancellation or avoidance of this AGREEMENT, the terms and conditions of Articles 3 (Site Access, Site Conditions and Subsurface Features), 4 (Biological Pollutants, Hazardous Materials and Hazardous Conditions), 5 (Evolving Technologies), 11 (Insurance), 12 (Allocation of Risk), 14(Governing Law), and 15 (Dispute Resolution) shall survive termination of the AGREEMENT.

END OF TERMS

