



515 Lincoln Highway
Rochelle IL 61068
ph 815 562 9087
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www.fehr-graham.com

April 5, 2012

Mr. David Plyman
City Manager
City of Rochelle
420 North Sixth Street
Rochelle, IL 61068

Re: Proposal for Professional Services

Dear Mr. Plyman,

In response to our recent discussions and the announcement of the \$2.49 MIL EDA grant, the following is our proposal for the professional services associated with the engineering and grant administration services related to the additional infrastructure to be constructed with these grant funds. For the purposes of this proposal, the said rail design includes the expansion of the rail system adjacent to the BNSF as well as the extension of the rail system adjacent to Coated Sand Solutions. Further, Fehr Graham will provide construction observation and project management services during the construction phase for the entire \$5.0 MIL project. The information below is our understanding of the scope of services and the associated fees.

RAIL EXTENSION DESIGN

Utilizing the previously completed topographic survey as a base drawing, Fehr Graham will prepare detailed engineering drawings of the additional rail improvements. These engineering services will include preparing the necessary design drawings and specifications to facilitate construction. Design drawings will include a rail removal plan, turnout design, rail and ballast design, erosion control plan and traffic control plan. For purposes of this proposal, the rail design includes the extension of the easternmost track adjacent to the BNSF between Steward Road and Illinois River Energy, as well as extending the rail service line to Coated Sand Solutions easterly to the end of the rail right-of-way. Upon completion of the plans, Fehr Graham will coordinate the bidding process, review the bids, and make a recommendation to the Rochelle City Council.

All engineering drawings and specifications will be prepared in accordance with general practice and in conformance with the City of Rochelle regulations and AREMA specifications. Civil Drawings will be provided in hard copy only unless otherwise agreed upon. A Professional Engineer seal will be affixed on each drawing and signed in accordance with the State of Illinois Department of Professional Regulation requirements.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

The Illinois Environmental Protection Agency (IEPA), in accordance with the Clean Water Act, requires a *National Pollutant Discharge Elimination System (NPDES)* storm water permit for any construction project in which one acre or more is disturbed. The NPDES permit requires a site specific Storm Water Pollution Prevention Plan (SWPPP) which details the management practices and erosion control measures which are to be utilized to reduce or eliminate pollution due to storm water runoff. Should the project meet the above-referenced disturbed area criteria, Fehr Graham will prepare and submit the Notice of Intent (NOI) application and the SWPPP for the construction project necessary to secure the NPDES permit. Said submittal will be prepared in accordance with NPDES permit and IEPA guidelines.

CONSTRUCTION ENGINEERING

Fehr Graham will provide construction engineering and construction management for the duration of the project. Services include construction observation and documentation, materials inspection and certification, and contractor coordination. We will also provide construction staking and layout services, geotechnical testing, and erosion control inspections. Fehr Graham will also be responsible for all aspects of construction contract management, including all change orders and pay requests.

GRANT ADMINISTRATION

Fehr Graham will provide grant administration services associated with the EDA grant. Services include meeting all EDA documentation requirements during the project review and construction phases. We will also prepare and submit reimbursement requests, quarterly status reports, construction certifications, project closeout documents, and all other documentation and coordination as required by the EDA.

FEE SCHEDULE

Fehr-Graham & Associates is prepared to complete the work detailed in this proposal for the following fee schedule:

Rail Extension Design	\$ 89,100
Storm Water Pollution Prevention Plan	\$ 2,700
Construction Engineering (Time and Materials - Not to Exceed)	\$160,000
Grant Administration	\$ 60,000

PROJECT SCHEDULE

We can begin work on the project immediately upon receipt of your Notice to Proceed.

AUTHORIZATION

Thank you for the opportunity to prepare this proposal for your project. I trust that the information we have provided is in line with your expectations. Should you like for us to proceed with this project, please sign the attached Order for Professional Services and return the Engineer's Copy to my attention. Please keep the Client Copy for your records. Should you have any questions or concerns, please do not hesitate to contact our office.

Respectfully submitted,



Noah Carmichael, PE
Project Manager

enclosure

NJC:rf

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515 Lincoln Highway,
Rochelle, IL 61068-0459
ph 815-562-9087
fax 815-562-4233
www.fehr-graham.com

ORDER FOR PROFESSIONAL ENGINEERING OR SURVEYING SERVICES

Client Mr. David Plyman
City of Rochelle
420 North Sixth Street
P.O. Box A
Rochelle, IL 61068

815-561-2000

Description of Services:

City of Rochelle - Rail Extension Design

Fehr Graham will provide professional services by completing the rail extension design, the Storm Water Pollution Prevention Plans (SWPPP), construction engineering services and grant administration services for the proposed expansion of the rail system adjacent to the BNSF.

COST: The fee for performing the above services is \$311,800, as follows:

Rail Extension Design	\$ 89,100
Storm Water Pollution Prevention Plan	\$ 2,700
Construction Engineering (T&M – Not to Exceed)	\$160,000
Grant Administration	\$ 60,000

The attached General Conditions are incorporated into and made a part of this Agreement.

ACCEPTED AND AGREED TO:

I/we, the undersigned, authorize Fehr-Graham & Associates, to provide services as outlined above, and also agree that I/we are familiar with and **ACCEPT THE TERMS OF THE ATTACHED GENERAL CONDITIONS.**

CLIENT:

ENGINEER:

Signature _____

By  _____

Title _____

Title Member

Date Accepted _____

Date Proposed April 5, 2012

NJC 12-263

Client's Copy



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CLIENT:

ENGINEER:

Signature _____

By  _____

Title _____

Title Member

Date Accepted _____

Date Proposed April 5, 2012

NJC 12-263

Engineer's Copy

GENERAL CONDITIONS TO AGREEMENT FOR PROFESSIONAL SERVICES

1. The Client orders the professional services of Fehr-Graham & Associates hereinafter called "The Engineer" as described herein.
2. The Engineer agrees to furnish and perform the professional service described in this Order in accordance with accepted professional standards. Engineer agrees to provide said services in a timely manner, provided, however, that Engineer shall not be responsible for delays in completing said services that cannot reasonably be foreseen on date hereof or for delays which are caused by factors beyond his control or delays resulting from the actions of inaction of any governmental agency. Engineer make no warranty, expressed or implied, as to his findings, recommendations, plans and specifications or professional advice except that they were made or prepared in accordance with the generally accepted engineering practices.
3. It is agreed that the professional services described in the Order shall be performed for Client's account and that Client will be billed monthly for said services. A 1½% per month service charge will be incurred by Client for any payment due herein and not paid within 30 days of such billing which is equal to an ANNUAL PERCENTAGE RATE OF 18%. Partial payments will be first credited to the accrued service charges and then to the principal.
4. The Client and the Engineer each binds himself, his partners, successors, executors, and assigns to the other party to this agreement and to the partners, successor, executors, and assigns of such other party in respect to this agreement.
5. The Client shall be responsible for payment of all costs and expenses incurred by the Engineer for his account, including any such monies that the Engineer may advance for Client's account for purposes consistent with this Order.
6. The Engineer reserves the right to withdraw this Order if not accepted within 30 days.
7. A claim for lien will be filed within 75 days of the date of an invoice for services (last day of services rendered) unless the account is paid in full or other prior arrangements have been made. All attorney fees incurred by the Engineer due to the filing of said lien or the foreclosure thereof shall be borne by the Client.

In the event suit must be filed by Engineer for the collection of fees for services rendered, Client will pay all reasonable attorney's fees and court costs.

If Client defaults in payment of fees or costs due under the terms of this Order and Engineer incurs legal expenses as a result of such failure, Client shall be responsible for payment for Engineer's reasonable attorney fees and costs so incurred.

8. The Engineer shall present, for the consideration of the Client, engineering and technical alternatives, based upon its knowledge and experience in accordance with accepted professional standards, with selection of alternatives and final decisions as requested by the client to be the sole responsibility of the Client.
9. Construction Phase Activities (When applicable) - In connection with observations of the work of the Contractor(s) while it is in progress the Engineer shall make visits to the site at intervals appropriate to the various stages of construction as the Engineer deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of the Contractor(s)'s work. Based on information obtained during such visits and on such observation, the Engineer shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and the Engineer shall keep the Client informed of the progress of the work.

The purpose of the Engineer's visits to the site will be to enable the Engineer to better carry out the duties and responsibilities assigned to and undertaken by the Engineer during the Construction Phase, and, in addition, by exercise of the Engineer's efforts as an experienced and qualified design professional, to provide for the Client a greater degree of confidence that the completed work of the Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the Contractor(s). The Engineer shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall the Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to Contractors(s) furnishing and performing their work. Accordingly, the Engineer can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

10. Estimates of Fees – When fees are on a time and material basis the estimated costs required to complete the services to be performed are made on the basis of the Engineer's experience, qualifications, and professional judgment, but are not guaranteed. If the costs appear likely to exceed the estimate in excess of 20%, the Engineer will notify the Client before proceeding. If the Client does not object to the additional costs within seven (7) days of notification, the increased costs shall be deemed approved by the Client.
11. The Engineer is responsible for the safety on site of his own employees. This provision shall not be construed to relieve the Client or the Contractor(s) from their responsibility for maintaining a safe work site. Neither the professional services of the Engineer, nor the presence of his employees or subcontractors shall be construed to imply that the Engineer has any responsibility for any activities on site performed by personnel other than the Engineer's employees or subcontractors.
12. Original survey data, field notes, maps, computations, studies, reports, drawings, specifications and other documents generated by the Engineer are instruments of service and shall remain the property of the Engineer. The Engineer shall provide copies to the Client of all documents specified in the Description of Services.

Any documents generated by the Engineer are for the exclusive use of the Client and any use by third parties or use beyond the intended purpose of the document shall be at the sole risk of the Client. To the fullest extent permitted by law, the Client shall indemnify, defend and hold harmless the Engineer for any loss or damage arising out of the unauthorized use of such documents.

13. No claim may be asserted by either party against the other party unless an action on the claim is commenced within two (2) years after the date of the Engineer's final invoice to the Client.
14. If a Client's Purchase Order form or acknowledgment or similar form is issued to identify the agreement, authorize work, open accounts for invoicing, provide notices, or document change orders, the preprinted terms and condition of said Purchase Order shall be superceded by the terms hereof.
15. Standard of Care – Services performed by Engineer under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other representation expressed or implied, and no warranty or guarantee is included or intended in any report, opinion or document under this agreement.
16. Liability Insurance – Consultant will maintain such liability insurance as is appropriate for the professional services rendered as described in this Order. Consultant shall provide Certificates of Insurance to Client, upon Client's request, in writing.
17. Indemnification and Limitation of Liability – Client and Consultant each agree to indemnify and hold the other harmless, including their respective officers, employees, agents, members, and representatives, from and against liability for all claims, costs, losses, damages and expense, including reasonable attorney's fees, to the extent such claims, losses, damages or expenses are caused by the indemnifying party's acts, errors or omissions.

The Client understands that for the compensation herein provided Engineer cannot expose itself to liabilities disproportionate to the nature and scope hereunder. Therefore, the Client agrees to limit Engineer's liability to the Client arising from Engineer's professional acts, errors or omissions, such that the total aggregate liability of Engineer shall not exceed \$50,000 or Engineer's total fee for services rendered on this Project, whichever is less.

18. Allocation of Risk – Engineer and Client acknowledge that, prior to the start of this Agreement, Engineer has not generated, handled, stored, treated, transported, disposed of, or in any way whatsoever taken responsibility for any toxic substance or other material found, identified, or as yet unknown at the Project premises. Engineer and Client further acknowledge and understand that the evaluation, management, and other actions involving toxic or hazardous substances that may be undertaken as part of the Services to be performed by Engineer, including subsurface excavation or sampling, entails uncertainty and risk of injury or damage. Engineer and Client further acknowledge and understand that Engineer has not been retained to serve as an insurer of the safety of the Project to the Client, third parties, or the public.

Client acknowledges that the discovery of certain conditions and/or taking of preventative measures relative to these conditions may result in a reduction of the property's value. Accordingly, Client waives any claim against Engineer and agrees to indemnify, defend, and hold harmless Engineer and its subcontractors, consultants, agents, officers, directors, and employees from any claim or liability for injury or loss allegedly arising from procedures associated with environmental site assessment (ESA) activities or the discovery of actual or suspected hazardous materials or conditions. Client releases Engineer from any claim for damages resulting from or arising out of any pre-existing environmental conditions at the site where the work is being performed which was not directly or indirectly caused by and did not result from, in whole or in part, any act or omission of Engineer or subcontractor, their representatives, agents, employees, and invitees.

If, while performing the Services set forth in any Scope of Services, pollutants are discovered that pose unanticipated or extraordinary risks, it is hereby agreed that the Scope of Services, schedule, and costs will be reconsidered and that this Agreement shall immediately become subject to renegotiation or termination. Client further agrees that such discovery of unanticipated hazardous risks may require Engineer to take immediate measures to protect health and safety or report such discovery as may be required by law or regulation. Engineer shall promptly notify Client upon discovery of such risks. Client, however, hereby authorizes Engineer to take all measures Engineer believes necessary to protect Engineer and Client personnel and the public. Furthermore, Client agrees to compensate Engineer for any additional costs associated with such measures.

19. In the event of legal action to construe or enforce the provisions of this work order, the prevailing party shall be entitled to collect reasonable attorney fees, court costs and related expenses from the losing party and the court having jurisdiction of the dispute shall be authorized to determine the amount of such fees, costs and expenses and enter judgment thereof.
20. Termination – The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) 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. In the event of any termination, Engineer will be paid for all services rendered to the date of receipt of written notice of termination, at Engineer's established chargeout rates, plus for all Reimbursable Expenses including a 15% markup.
21. Provision Severable – The unenforceability or invalidity of any provisions hereof shall not render any other provisions herein contained unenforceable or invalid.
22. Governing Law and Choice of Venue – Client and Consultant agree that this Agreement will be governed by, construed, and enforced in accordance with the laws of the State of Illinois which is the principal place of business of Consultant. If there is a lawsuit, Client and Consultant agree that the dispute shall be submitted to the jurisdiction of the Courts of the 15th Judicial Circuit, Stephenson County, Illinois.