

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 17, 2024 AGENDA**

Subject:	Type:	Submitted By:
PROFESSIONAL SERVICES AGREEMENT – SOUND STUDY	◆ RESOLUTION ORDINANCE RECEIVE/FILE	BRUCE FOUNTAIN COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A resolution has been prepared to approve a Professional Services Agreement with WJHW, Inc. to provide an update to the 2017 sound study in relation to the Astro Amphitheater in the amount of \$13,000.

FISCAL IMPACT

The FY23/FY24 Biennial Budget provides funding for the study.

RECOMMENDATION

Approval.

BACKGROUND

In 2017 AECOM completed the “New Amphitheater Feasibility Study” in conjunction with Hunden Strategic Partners. Within the study was a sound study completed by WJHW, a sub-consultant of AECOM’s on the project. It has been determined that an update to this sound study is needed to assess the impact of the Astro Amphitheater on adjoining properties. The updated study will measure existing sound levels at one of the events and update the sound model for the area, and provide potential mitigation recommendations.

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 MJHW, INC., CARROLLTON, TEXAS TO PROVIDE AN UPDATE TO THE 2017 SOUND STUDY IN THE 84TH STREET REDEVELOPMENT AREA IN AN AMOUNT NOT TO EXCEED \$13,000.00.

WHEREAS, the Mayor and City of La Vista has determined that the update to the sound study is necessary; and

WHEREAS, an RFP process was completed and on November 1, 2016, the City Council selected AECOM Economics to prepare a feasibility study for a proposed amphitheater; and

WHEREAS, AECOM subcontracted with WJHW, Inc. to provide sound study services in relation to the New Amphitheater Feasibility Study project; and

WHEREAS, the FY23/24 Biennial Budget contains funding for this study; 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 WJHW, Inc., Carrollton, Texas, to provide certain professional services to update a prior sound study in an amount not to exceed \$13,000 subject to any specified conditions of Council and any revisions that the City Administrator may determine necessary or advisable.

PASSED AND APPROVED THIS 17TH DAY OF SEPTEMBER 2024.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk



August 28, 2024

Mr. Christopher Solberg
Deputy Community Development Director
City of La Vista
8116 Park View Blvd
La Vista, NE 68128

Via Email: [cсолberg@cityoflavista.org](mailto:csolberg@cityoflavista.org)

Re: **LA VISTA, NE – AMPHITHEATER UPDATED SOUND STUDY**
WJHW PROPOSAL FOR ACOUSTICAL ASSESSMENT

Dear Christopher:

Thank you for requesting a proposal from WJHW, Inc. for acoustical measurements and assessment at the La Vista, NE central park and the Astro Theater amphitheater. The scope below is based on the phone conversation between WJHW and City staff on August 16, 2024.

PROJECT UNDERSTANDING

We understand there are concerns from residents surrounding the Central Park area regarding sound from the Astro Theater amphitheater. From our phone call, we understand that there are no noise level limits for the theater, but they do adhere to a curfew with concerts ending by 10:30 pm Friday and Saturday, and ending by 10:00 pm on other nights. The complaints from residents have come during activities in the afternoon (sound check) as well as performances during the late evening.

SCOPE OF SERVICES

WJHW will provide acoustic design review and recommendations based on the acoustical performance desired by the Owner.

SITE MEASUREMENTS

We will:

- Make one (1) trip to La Vista, Nebraska to measure sound levels during a concert at the Astro Theater, including during sound check and the concert itself, and ambient measurements just before and after the concert. Measurements will include positions within the amphitheater at the audio control booth and in the surrounding community.

- While on site, we will review the existing acoustic treatments at the amphitheater and discuss operational and architectural changes that could be made to reduce sound levels within the community.
- Provide a report documenting the measurement methodology and conditions, and results from the acoustic testing.

ACOUSTIC MODELING AND RECOMMENDATIONS

We will:

- Create a model of the existing amphitheater and sound system within Soundplan, using the sound and observational data collected during our site observations
- Compare the predicted sound levels to those measured during the concert
- Model sound mitigation option(s) to determine the expected improvement to the nearby residences
- Provide a report with recommended sound mitigation (both operational and architectural) and predicted sound levels

FEES

We propose to perform the efforts described in the “Scope of Services” section of this proposal for the following fixed fees:

	Fee
Site Measurements	\$8,000
Acoustic Modeling & Recommendations	\$5,000
TOTALS	\$13,000

WJHW's fees assume that all services shall be accepted as part of this proposal. WJHW reserves the right to renegotiate our fee estimates should the project's final program, design direction and scope differ from what is outlined above.

INVOICING AND PAYMENTS

Unless otherwise stated in the proposal/agreement, WJHW will invoice monthly based on percentage of completion. Payment from Architect to WJHW shall be made upon receipt of payment by the Owner to the Architect.

WJHW, Inc.

Designers and Planners for Sound, Video, Multi-Media,
Telecommunication, Broadcast, Theatre & Acoustics

PROJECT TRIPS

WJHW has assumed one trip to La Vista, Nebraska for our site measurements. Expenses associated with travel outside DFW will be charged at our cost. Expenses may include, but not be limited to, the cost for coach air travel, rental car, hotel, sustenance during travel, parking, and personal car mileage.

OPTIONAL ADDITIONAL SERVICES

The following efforts can be provided as an additional service upon request for the following fees including expenses:

Acoustical Site Visit – Additional Site Testing	\$6,000
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WJHW will make a one (1) day trip to the site at the request of the Owner or Architect to perform acoustical measurements at an additional concert. Our findings will be summarized in a letter, as appropriate, to convey changes or results needed to meet the intent of the acoustical recommendations.

EXCLUSIONS

The following services are not a part of our basic services but can be addressed in an addendum to this proposal if deemed necessary:

- Environmental assessment or building shell noise mitigation
- Any design/redesign of systems that may become necessary to accommodate changes in the approved program after release of the CD documents.
- Attendance at regularly scheduled, i.e., weekly design or construction meetings.
- Preparation or coordination of Contractor As-Built Drawings.
- Computer generated modeling and auralizations utilizing software such as EASE, CATT-Acoustic, or similar software.

OTHER PROJECT PROVISIONS

Responsibilities

VALUE ENGINEERING: If “value engineering” (cost reduction through eliminating, reducing or substitution) recommendations are made by any party that are contrary to WJHW’s recommendations or accepted practice and WJHW objects to any of these recommendations, WJHW will so state in writing.

If the Architect or Owner requires the incorporation of changes to the project documents to which WJHW has objected, the Architect and Owner agree, to the fullest extent permitted by law to waive all claims against WJHW and to indemnify and hold harmless WJHW from any damages, liabilities, or costs, including reasonable attorney’s fees and the cost of defense, which arise in connection with or as a result of the incorporation of such changes required by the Architect or Owner.

RE-DESIGN: WJHW will perform programming, analysis and design work one time. If we are requested to provide re-design or value engineering changes, after our design is issued for bid and/or incorporated, due to something beyond our control (change in overall project budget, changes based on the Architect’s or Owner’s request, etc.), we would be pleased to comply on an additional services basis, either hourly or for a negotiated fee.

ADDITIONAL SERVICES: The need to perform Additional Services may arise as the Project proceeds. If that occurs, WJHW will notify the Owner and Architect for direction. Additional Services, if approved, shall be provided on either hourly basis or for a negotiated fee, plus reimbursable expenses.

SEAL: There is no “seal” for our design services; therefore, the contract documents produced will not be sealed by WJHW.

BIM TOOLS (REVIT) STATEMENT: WJHW has the capability of preparing our documents in Revit for the design development and construction document phases as directed. It is understood, that due to the lack of REVIT capabilities to model small items that every element of the technical systems may not be fully represented in 3D. These items will be shown on our 2D drawings.

STANDARD OF CARE: WJHW will endeavor to perform our services in accordance with generally accepted standards of practice in effect at the time of performance. WJHW owes no fiduciary responsibility to any party involved in this agreement.

EXCLUSION: Any services not specifically described in our scope of services as basic services are specifically excluded from the services that WJHW will provide on this assignment.

LIMITATIONS OF CONSTRUCTION RESPONSIBILITIES: WJHW shall not have control over, or charge of, and shall not be responsible for, construction, means, methods, schedules, or delays, or for safety precautions and programs in connection with the Work.

INSURANCE

WJHW carries Professional Liability, General Liability and Workers Compensation in accordance with typical requirements, and will, upon request, provide a certificate of insurance. Increases in insurance coverage limits beyond these limits which are carried by WJHW as directed by Architect or Owner can be added to our proposal as a line item or invoiced as a reimbursable expense.

Our coverage amounts and limits are:

Coverage Type	Per Occurrence	Aggregate/Limit
General Liability	\$1,000,000	\$2,000,000
Automobile	\$1,000,000	n/a
Umbrella	\$5,000,000	\$5,000,000
Workers Comp	\$1,000,000	\$1,000,000
Professional Liability	\$5,000,000	\$5,000,000

MISCELLANEOUS

GOVERNMENT FEES: The professional fees listed in the proposal/ agreement do not include any government-imposed fees, duties, taxes (excise or otherwise), accounting costs associated with computing these costs or other costs, which are not specifically contained within the professional fees or the reimbursable expenses. Any such fees or taxes, which are imposed on the professional services provided by WJHW, will be added to our invoices.

INDEMNIFICATION: WJHW, Architect and Owner agree to indemnify and hold each other harmless from and against any and all claims, liabilities, suits, demands, losses, damages, costs and expenses (including reasonable attorneys' fees and costs of defense), to the extent caused by the negligent acts, errors, or omissions of the other, or anyone for whose acts either of them may be legally liable.

ENTIRE AGREEMENT: This proposal/agreement contains the entire agreement between the parties and supersedes all prior oral and written agreements. No waiver of modification to the terms of this agreement is valid unless contained in a written document signed by WJHW.

TERMINATION

WJHW, Inc.

Designers and Planners for Sound, Video, Multi-Media,
Telecommunication, Broadcast, Theatre & Acoustics

This Agreement may be terminated by either party upon no less than seven (7) days written notice should the other party substantially fail to perform in accordance with the terms of this Agreement.

Thank you for giving us this opportunity to be of service. Please let me know if you have any questions or find that you need anything additional from us.

Best Regards,

WJHW, Inc.



Emily Piersol, PE
Associate

ACCEPTED:

By

Title

Date