



Architecture
Civil Engineering
Land Surveying
Site Development

737 Rudder Road
St. Louis, Missouri 63026
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December 30, 2021

Mr. Eric Sterman
City Administrator
City of Ballwin
200 Park Drive
Ballwin, MO 63011

**RE: Proposal – Grant Application Services
Claymont Drive STP Project**

Dear Mr. Link:

Thank you for giving Cochran the opportunity to submit this proposal to provide STP application services for the above referenced project. In accordance with previous e-mail correspondence, we offer the following professional services:

SCOPE OF SERVICES:

1. **Application Phase** – we will prepare and submit the application in accordance with the attached cost estimate. The application is a very detailed and involved process; here are some of the questions and information required on the application:
 - a. Project map showing limits of improvements
 - b. Definition and description of roadway characteristics
 - c. Written description of proposed project
 - d. Proposed Cross Section
 - e. Detailed Map showing improvements and connections to transit Routes, activity centers, and schools
 - f. Written project justification – 1) proposed improvement, 2) transportation problem the improvement will address, 3) effect the improvement will have on the problem, and 4) transportation demand management strategies
 - g. Average daily traffic (ADT) counts
 - h. Pavement Condition – PASER Analysis
 - i. Description of bicycle and pedestrian elements
 - j. Detailed cost estimate
 - k. Project implementation schedule

FEE:

1. The total amount of fee to be paid for the “Application Phase” outlined in this proposal shall be a lump sum fee of \$5,000.00.

PAYMENT:

1. An invoice for progress payments will be submitted monthly during the performance period of this contract for professional services rendered. It is agreed that monthly progress payments for fees earned under this agreement are due and payable within thirty (30) days of submission of invoices.

Any invoices remaining unpaid beyond thirty (30) days will accrue interest at the rate of one and one-half (1½%) per month on the unpaid balance.

2. It is further understood that if the project is abandoned, or if any work being performed is suspended in whole or in part prior to the completion of any phase, payment will be due in direct proportion to the amount of work accomplished.
3. In addition, payment will be due for all reimbursable expenses incurred prior to receipt of written notice or such abandonment or suspension.

TIME OF PERFORMANCE:

We will make every effort to complete the project within the Owner's time frame and according to schedule. Cochran will not, however, be responsible for delays caused by events beyond our control.

TERMS AND CONDITIONS:

Attached to this proposal is a copy of the Cochran Standard Terms and Conditions. These terms and conditions shall apply to this proposal for professional services, which can also serve as a letter agreement. This document is enclosed for your review and reference.

GENERAL:

Cochran's reputation is based on understanding and meeting all the project objectives of our clients. We look forward to having an opportunity to demonstrate that responsiveness by providing timely and cost effective professional services.

If you would like to authorize Cochran to perform the professional services outlined in this proposal, please indicate your acceptance of the terms of this letter agreement by signing in the space provided below and returning one (1) copy for our contract files.

If you have any questions or changes regarding this proposal, please contact me at 314-842-4033. Thank you.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Sincerely,



Dave Christensen, P.E.
Vice President

Acceptance:
City of Ballwin

By: _____

Title: _____

Date: _____

Attachments – Cochran Standard Terms & Conditions
Cost Estimate

COCHRAN STANDARD TERMS AND CONDITIONS

1. Unless expressly stated in the attached proposal letter ("Proposal"), the Proposal must be accepted in writing within thirty days or the Proposal is void and unenforceable.
2. The acceptance of the Proposal is conditioned upon these Terms and Conditions and the terms of the Proposal, which shall be the only terms and conditions applicable to any agreement between Cochran and Client. Requesting performance of the work by Cochran, sending a notice to proceed with the work, or an acknowledgment of the Proposal by the issuance of a purchase order by Client, notwithstanding any terms additional to or different from those contained herein, shall be deemed to be an acceptance of these Terms and Conditions by Client.
3. The Proposal and these Terms and Conditions constitute the entire agreement ("Contract") between Cochran and the Client for the services identified in the Proposal. All prior proposals, negotiations, representations, recommendations, statements or agreements made or entered into prior to or contemporaneously with this Contract, whether oral or in writing, are superseded by this Contract unless they are expressly incorporated herein by reference. Any terms contained in any communication from Client which are inconsistent with the Contract shall not be binding upon Cochran.
4. Cochran may submit invoices on not less than a monthly basis. Cochran's invoices are due and payable within fifteen (15) days of the submission of each invoice. Interest will accrue at the rate of one and one-half percent (1.5%) per month on all unpaid invoices from the date payment was due. In the event that Client disputes an invoice, Client will pay the undisputed portion of the invoice and provide a written explanation to Cochran of the basis for Client's dispute. If Client fails to pay in full any of Cochran's invoices, Cochran may immediately, without waiving any other rights it may have, suspend work pending resolution of the payment dispute. Client's failure to pay any of Cochran's invoices in full shall be considered a material breach of this Contract.
5. Unless specifically stated to the contrary in the Proposal, reimbursable expenses are in addition to the amounts identified for Cochran's fees for basic and additional services. Reimbursable expenses shall include, but are not limited to: Client-authorized out-of-town travel, transportation, and subsistence expenses; fees paid for securing approval of jurisdictional authorities; postage, courier, or other delivery fees; material costs for models, mock-ups, or other presentation media; photographic film and development expenses.
6. This Contract is binding upon the heirs, successors and assigns of the parties hereto and may not be assigned by either party without the prior written consent of the other party.
7. Nothing in this Contract is intended to create any enforceable third party rights against Client or Cochran.
8. Cochran will perform all of its services consistent with that degree of skill and learning ordinarily used under the same or similar circumstances by the members of Cochran's profession working in the same locale.
9. If, and to the extent that Cochran's scope of work includes construction phase services, any such services shall be provided in accordance with and governed by the applicable terms of AIA Document A201 General Conditions of the Contract for Construction, 2007 Edition ("General Conditions") If there is a conflict between the General Conditions and this Contract, this Contract will control.
10. When making any interpretation or decision as required by the General Conditions, Cochran will not show partiality to any party, and shall not be liable for interpretations or decisions rendered in good faith.
11. Cochran has no responsibility or obligation to supervise or direct the work activities of the Client's employees and representatives, or any construction contractors, sub-contractors or any of their employees, or other persons not employed by Cochran.
12. Cochran will abide by any job-site safety programs identified in writing by the Client but will not be responsible for job-site safety of any persons not directly employed by Cochran.
13. Cochran has no responsibility or obligation with respect to the construction means, methods, sequencing or procedures of any construction contractors, sub-contractors or any of their employees.
14. Cochran is not responsible for the failure of any contractor to perform work properly and in accordance with any applicable documents, plans, specifications, codes or standards.
15. Cochran is not responsible for the identification of unsafe conditions, nor for the identification, handling, or removal of hazardous and/or toxic substances found on or brought to the site. Prior to the start of work, the Client shall disclose and identify in writing to Cochran, to the best of Client's knowledge, all hazardous and/or toxic substances located on the site.
16. Cochran will have no obligation to commence its work until receipt of a written notice-to-proceed from Client and all other information required to be provided by Client. Cochran shall complete its work within any time limits identified in the Proposal. Cochran shall be entitled to an extension of time for performance of its work due to any delays that are due to any cause beyond Cochran's reasonable control. In no event will Client be entitled to any costs, losses, expenses or damages (including, but not limited to, claims or damages attributable to home office overhead costs, loss of profits, loss of business opportunities and/or additional financing costs) as a result of any delay caused or attributable to Cochran.
17. Cochran and Client waive any and all claims against each other for consequential, indirect, incidental and special damages arising out of or relating to this Contract, the alleged breach thereof, and/or Cochran's work; including, but not limited to, lost profits, loss of business, financing costs, extended home office overhead and similar types of damages.
18. Provided that written notice of a material breach of this Contract has been provided to the defaulting party and the defaulting party has failed to cure or taken reasonable efforts to cure its default within seven (7) calendar days of its receipt of the notice, the non-defaulting party may terminate this Contract by sending notice of termination to the defaulting party.
19. If the Contract is terminated for any reason not attributable to Cochran, Client will pay for the work performed by Cochran up to the date of termination plus all of Cochran's costs related to the termination (e.g., close-out costs, costs of terminating contracts with consultants, etc.).
20. In the event that there are any changes in applicable laws, codes or regulations after the Contract is executed that result in the need for Cochran to perform additional services and/or incur additional costs, Client shall pay Cochran for said services and costs at the rates set forth in the Proposal.
21. All documents and electronic media produced by Cochran under this Contract ("Instruments of Service") shall be the property of the City.
22. Client and Cochran waive all rights against each other, any contractors and other professionals, and any of their respective consultants, contractors, suppliers, subcontractors, agents and employees, for damages caused by perils to the extent covered by insurance, except such rights as they may have to the insurance proceeds.
23. This Contract and the rights of the parties shall be governed by the laws of the State of Missouri.

24. Any claims, disputes, or other matters in question arising out of or relating to this Contract, the alleged breach thereof, and/or Cochran's work, at Cochran's sole election and discretion, shall be decided by binding arbitration in accordance with the Construction Industry Arbitration Rules of the AAA. A demand for arbitration must be made within a reasonable time, and before the expiration of the applicable statute of limitations. Unless it consents in writing, Cochran may not be joined in any other arbitration involving the same project. The arbitration shall be held where the project is located.
25. In the event of any dispute, claim, arbitration or litigation arising out of or relating to this Contract, the alleged breach thereof, and/or Cochran's work, the prevailing party shall be awarded its attorney's fees, expert witness fees, expenses, arbitration fees and expenses, and court costs at the trial and all appellate levels; including costs and fees related to collection efforts. Determination of which party prevailed shall be made by the judge or arbitrator(s). The determination shall be made by reviewing the claims resolved at trial or arbitration (which excludes any claims resolved prior to the taking of evidence), and then determining which party achieved the greater success by quantifying the amounts awarded the party recovering damages or obtaining relief and comparing that result to the relief and/or damages requested by that party at the trial or arbitration. If that party received less than 50% of the relief and/or damages it sought, then the other party prevailed. If that party receives more than 50% of the relief and/or damages it sought, then it prevailed. The judge or arbitrator(s) may consider the percentage of recovery when determining the amount of fees and expenses to be awarded to the prevailing party. If more than one claim is presented, then the judge or arbitrator(s) may elect to evaluate who is the prevailing party on a claim by claim basis, or in the aggregate as they deem appropriate. In making the determination of which party prevailed, the judge or arbitrator(s) shall take into consideration any settlement offers or demands made prior to trial or arbitration.
26. **THE TOTAL LIABILITY OF COCHRAN AND ANY OF COCHRAN'S CONSULTANTS FOR ANY ACTIONS, DAMAGES, CLAIMS, DEMANDS, JUDGMENTS, LOSSES, COSTS, OR EXPENSES (INCLUDING ATTORNEY'S FEES AND COURT OR ARBITRATION COSTS AND FEES) ARISING OUT OF OR RESULTING FROM COCHRAN'S OR ITS CONSULTANTS' NEGLIGENT ACTS, ERRORS, OMISSIONS OR BREACHES OF CONTRACT IS LIMITED TO THE LESSER OF THE CONTRACT PRICE OR THE AMOUNT OF PROFESSIONAL LIABILITY INSURANCE MAINTAINED BY COCHRAN AND AVAILABLE TO PAY SAID CLAIM. THIS LIMITATION OF LIABILITY IS APPLICABLE TO ALL CLAIMS THAT MAY BE ASSERTED AGAINST COCHRAN OR ITS CONSULTANTS ARISING OUT OF OR RELATING TO THE PROJECT OR THIS CONTRACT, WHETHER THE CLAIMS ARISE IN CONTRACT, TORT, STATUTE, OR OTHERWISE.**

Updated 01/2016

Initials _____

CONSTRUCTION COST ESTIMATE

STP Application - Due Feb. 10, 2022

City of Ballwin - Claymont Drive Improvement Project

No.	Description	Unit	Quantity	Unit Cost	Cost
1	Construction Mobilization	LS	1	60,000.00	\$60,000.00
2	Replace Non-Compliant ADA Ramps	SF	9,500	8.50	\$80,750.00
3	Misc. Curb Repair	LF	450	22.00	\$9,900.00
4	Partial Depth Pavement Repair	SY	350	20.00	\$7,000.00
5	Pavement Milling	SY	31,300	2.25	\$70,425.00
6	Asphalt Surface Course	TON	6,200	78.00	\$483,600.00
7	Street Lighting	EA	38	6,000.00	\$228,000.00
8	Restoration	LS	1	5,000.00	\$5,000.00
9	"Bicycles May Use Full Lane" Signs	EA	4	250.00	\$1,000.00
10	Construction Traffic Control	LS	1	10,000.00	\$10,000.00
Project Notes: 1. Project length equals approx. 1.6 miles 2. Project Limits - Clayton Road to Holloway Road			Construction Sub-Total		\$895,675
			10% Contingency		\$89,568
			Design Engineering		\$98,524
			Construction Engineering		\$73,893
			Project Total =		\$1,157,660
			Federal Share @ 80% =		\$926,128
			Local Share @ 20% =		\$231,532
EWGCC Application Fee (1/2% of Federal Funds Requested) =					\$4,631