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866.866.2741
info@weareown.com

CIVIL ENGINEERING

STRUCTURAL ENGINEERING

LAND SURVEYING

FIELD SERVICES

Project Proposal for

Park Stormwater Improvements

Between 444 and 512 West Logan Street (West of Route 174).



City of Republic
Stefani Fitzpatrick-Duncan
4221 S. Wilsons Creek Blvd.
Republic, MO 65738

July 18, 2024

Proposal # PSP40-24-2979

Prepared by OWN, Inc., 3213 S. West Bypass, Springfield, MO 65807

LETTER OF AGREEMENT FOR PROFESSIONAL SERVICES



July 18, 2024

City of Republic
Stefani Fitzpatrick-Duncan
4221 S. Wilsons Creek Blvd.
Republic, MO 65738

**Re: OWN Proposal # PSP40-24-2979
Park Stormwater Improvements**

Dear Ms. Fitzpatrick-Duncan,

Thanks for the opportunity to provide the City of Republic ("Client") with a letter of agreement for professional services related to the Meyer Park Stormwater Improvements ("Project") generally located between 444 and 512 West Logan Street. It is our understanding that the project will be located on approximately 7 acres of currently open land on the south side of West Logan Street approximately 700 feet west of West Avenue in the city. The Project is proposed to consist of new stormwater improvements that will make the property more suitable for further development into a public park. We believe that the improvements should be accompanied with a Letter of Map Revision (LOMR) which would be submitted to FEMA for the proposed grading changes to the current special flood hazard area (Zone AE) that encumbers the property. Please find our proposed Scope of Services for this project outlined below.

OWN, Inc. (hereafter referred to as "OWN") agrees to provide our services generally per the attached General Conditions and the following scope presented in this letter collectively hereinafter referred to as the "Agreement".

SCOPE OF SERVICES

The Scope of Services outlined below is based on our conversations with you and other City staff, recent visits to the site for observation, and the resources provided to us regarding the project. A site exhibit is attached for reference.

SURVEYING

- **TOPOGRAPHIC SURVEY:** We will perform a topographic survey of the area to be used as we believe is needed for the layout and design of improvements. Topographic features as depicted on the survey exhibit to be shown may include roads, fences, tree lines, culverts, driveways, structures and any above utilities located by the utility owner and/or their representatives. The topographic survey will be performed on the horizontal datum of the Missouri State Plane Coordinate System of 1983, West Zone and the North American Vertical Datum of 1988. Various control points and a temporary benchmark will be set for the Project. Vertical relief will be depicted with contours at one-foot intervals and spot elevations will be shown on hard surfaces. Our proposed lump sum fee for Topographic Surveying is as follows:

\$3,600

- **SURVEY – EASEMENT LEGAL DESCRIPTIONS AND EXHIBITS (IF NEEDED):** Legal descriptions for easement dedications may be provided as requested by the Client. Each legal description may include a written description of the easement (Exhibit A) and a schematic drawing (Exhibit B).

Hourly (NTE \$1,800)



- **SURVEY – CONSTRUCTION STAKING:** One set of construction stakes may be provided for the proposed stormwater improvements. Our fee for construction staking shall be per our attached hourly rates with a not-to-exceed cost as stated. Additional staking or restaking may result in additional charges. Restaking costs may be billed directly to the Contractor or applicable party.

Hourly (NTE \$3,200)

- **SURVEY – RECORD DRAWINGS OF IMPROVEMENTS (IF NEEDED):**

Survey of the constructed stormwater improvements may be prepared for the FEMA LOMR submittal and/or to reflect constructed conditions. Additional Surveys that are required due to the need to reflect contractor error may result in additional charges. Our fee for Record Drawings shall be per our attached hourly rates with a not-to-exceed cost as follows:

Hourly (NTE \$2,800)

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- **DRAINAGE IMPROVEMENT STUDY & REPORTS**

A drainage study will be prepared to determine the hydrology and hydraulics of the pre and post stormwater improvement scenarios. Stormwater modeling will be in general consideration of the City of Republic standards. This study will include the following:

- Digital Drainage hydraulics, hydrology and detention routing modeling with Autodesk Civil 3D Hydraflow extension.
- HECRAS analysis of proposed stormwater improvements
- Creation of Report summarizing results
- Calculation tables and exhibits needed for report

Our proposed lump sum fee for a Drainage Improvement Study (and Reports) is as follows:

\$3,400

- **FEMA LOMR SUBMITTAL PREPARATION FOR FLOODPLAIN ALTERATIONS:**

A FEMA LOMR submittal will be prepared for alterations to the effective special flood hazard area. The LOMR submittal will include the following:

- Effective Flood Insurance Study hydrologic and hydraulic models obtained from FEMA.
- Pre-Improvement HECRAS model using survey topography for the project site.
- Post Improvement HECRAS model using as-built data.
- Preparing FEMA LOMR submittal forms as needed.

The Client will be responsible for payment of LOMR submittal and FEMA fees.

Our proposed lump sum fee for FEMA LOMR preparation is as follows:

\$4,200

- **STORMWATER IMPROVEMENT PLANS**

Stormwater improvement plans will be prepared for the proposed improvements. Plan sheets may include site layout, grading, and stormwater detention plans. In addition, a Stormwater Pollution Prevention Plan (SWPPP) along with an associated erosion and sediment control plan will also be prepared as part of the Missouri Department of Natural Resources Construction Land Disturbance Permit. Our proposed lump sum fee for Stormwater Improvement Plans is as follows:

\$7,400



BID ADMINISTRATION ASSISTANCE (IF REQUESTED)

- **BID PHASE SERVICES:**

- Prepare Typical Bid Documents based EJCDC documents
- Coordinate provision of plans to bidders
- Respond to Bidder questions RFI's and contractor related questions
- Attendance at a Bid meeting (if needed) Periodic site visits to review construction progress
- Provide review of bids and general bid tabulation
- Assist with coordination of a Notice of Award, Contract, and Notice To Proceed

We propose assistance be provided as needed per our hourly rates as needed.

Hourly (NTE \$4,500)

CONSTRUCTION SUPPORT SERVICES (IF REQUESTED)

- **CONSTRUCTION PHASE SERVICES:**

- Attendance at a preconstruction meeting (if needed)
- Review and respond to RFI's and contractor related questions
- Periodic site visits to review construction progress
- Preparation of change order documents due to construction related issues
- Review of contractor pay applications

We propose assistance be provided as needed per our hourly rates with a not to exceed as follows:

Hourly (NTE \$4,800)

CONSTRUCTION MATERIALS TESTING:

Our staff may provide materials testing including soils and concrete. We propose assistance be provided as needed per our hourly rates with a not to exceed value as follows:

Hourly (NTE \$2,300)

PROJECT MEETINGS (IF REQUESTED)

- OWN may attend additional meetings to those previously indicated when requested or required. We propose assistance be provided as needed per our hourly rates with a not to exceed value as follows:

Hourly (NTE \$1,800)

BASE FEE FOR THE ABOVE SERVICES

\$21,800

NOT TO EXCEED FEE FOR ALL SERVICES (INCLUDING OPTIONAL)

\$39,800



Reimbursable Expenses

The Client shall be responsible for all reimbursable expenses incurred during the project, including a 15% markup on up-front reimbursable expenses if required to be paid by OWN. Typical reimbursable expenses may include travel, mileage, printing, delivery or courier services. The Client is responsible for city submittal fees, city review fees, state submittal fees, state review fees, permit fees, etc.

Assumptions

OWN has made several assumptions in the preparation of this proposal. These assumptions and subsequent explanations are as follows.

- OWN assumes that all right-of-ways, easements, property ownership issues, and private utilities affecting the project will be provided by Client to OWN. OWN will make a Utility Locate call to identify public utilities; however, OWN assumes that all public utilities will be located accurately by the Utility Locator. OWN also assumes that all private utilities will be marked properly by the owner. OWN cannot be held liable for any mis-marked or unmarked utilities, which may result in plan revisions, project delays, change orders, and/or additional services.
- Any available construction details as well as prior approved plans for similar facilities that the Client has in its possession will be provided to OWN.
- Previous design information for relevant previous improvements will be provided where possible and our designs are subject to any errors or omissions therein.
- Construction documents will be prepared based on direction from the Client. Any significant changes or modifications may be considered additional services and result in additional fees for our services.
- Any existing easements, covenants, restrictions or encumbrances that affect the subject property shall be provided to us by the Client.
- OWN does not anticipate any site retaining walls on this project. OR if included, retaining wall structural design and global stability is to be by others.

Additional Service Items

Should Client request work not specifically described and included in this Agreement, such as additional services, OWN shall provide the Client with a written scope and fee for these services. OWN shall not commence work on additional services without Client's prior approval in writing or as otherwise authorized.

The following services, in addition to any items not specifically listed in our scope of services, can potentially be provided by OWN but are not included herein:

- | | |
|--|---|
| • Any improvements not specifically mentioned above, that are determined necessary by the traffic study. | vaults, meters and service laterals. |
| • Any utility relocation designs including water mains, sanitary sewer mains, manholes, valves, | • Pad site grading for potential uses. |
| | • Retaining wall design. |
| | • Roadway, Parking and/or Sidewalk improvement designs. |

COMPENSATION

Compensation for OWN's services shall be a combination of Lump Sum fixed fee plus hourly services per the scope and fees previously stated herein and in accordance with the current OWN Fee Schedule at the time of service as attached hereto. Our Fee Schedule is subject to adjustment on an annual basis from the date of this agreement. Reimbursable expenses are in addition to the amounts shown herein.



These financial arrangements are proposed with the assumption that Project invoices will be paid promptly and the Project will progress orderly and continuously. Invoices are due upon receipt regardless of whether the Client has been, or is to be, reimbursed by any other party. In the event Client disputes any invoice item, Client shall give OWN written notice of such disputed item within five (5) days after receipt of such invoice and shall pay to OWN the undisputed portion of the invoice according to the General Conditions hereof. A service charge of 1.5% per month is assessed on accounts 45 days past due.

SCHEDULE FOR SERVICES

Unless otherwise agreed, OWN would expect to begin performing its services under this Agreement upon Client signature at OWN's discretion or mutually agreed schedule, exclusive of delays beyond OWN's control.

TERMS AND CONDITIONS

1. General Conditions and our Fee Schedule (if hourly) are provided for Client review and approval and are made part of this Agreement. OWN's fee schedule is subject to annual calendar year adjustments.
2. Due to the very limited benefit OWN will derive from this Project compared to that of other parties involved, including CLIENT, CLIENT AGREES THAT TO THE FULLEST EXTENT PERMITTED BY LAW TO LIMIT THE TOTAL LIABILITY OF OWN, INC. TO CLIENT, OR ANY OTHER PARTY USING OR RELYING ON OWN's WORK, FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATING TO THE WORK, THE PROJECT, OR THIS AGREEMENT FROM ANY CAUSE OR CAUSES INCLUDING BUT NOT LIMITED TO NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, OR BREACH OF AGREEMENT, TO THE GREATER OF THE TOTAL AMOUNT PAID BY THE CLIENT FOR THE SERVICES UNDER THIS AGREEMENT OR AN AGGREGATE TOTAL OF \$25,000 FOR ALL PARTIES, WHICHEVER IS THE GREATER.

The Agreement represents the entire understanding between Client and OWN with respect to the Project and may only be modified in writing signed by both parties. This proposal will be open for acceptance for a period of thirty (30) days from the date set forth above, unless changed by OWN in writing.

LETTER OF AGREEMENT FOR PROFESSIONAL SERVICES



Thank you for the opportunity to provide professional services for this project, we look forward to working together soon. Let us know if you have any questions or need any additional information. Please sign in the space provided and return an executed original to OWN.

Sincerely,

OWN, Inc.

Andrew Novinger, PE
Public Infrastructure Department Manager • Infrastructure

Andy Powell, PLS
Survey Department Manager

The signer below acknowledges they have full authority to bind the Client to this Agreement. The signature indicates authorization to proceed and that the Client has reviewed and accepted this Letter of Agreement for Professional Services and General Conditions.

City of Republic

Signature: _____

Name: _____

Title: _____

Date: _____

Client Representative (if different from above): _____

Client Accounts Payable Information

AP Contact Name: _____ AP Contact Phone Number: _____

AP Email Address: _____

GENERAL CONDITIONS TO PROPOSED LETTER OF AGREEMENT FOR PROFESSIONAL SERVICES



1. PAYMENT TERMS: OWN will submit invoices to CLIENT monthly and/or upon completion of services. Payment is due upon receipt regardless of whether CLIENT has been, or is to be, reimbursed by any other party. CLIENT agrees to pay a service charge of one-and-one-half percent (1½%) per month on accounts 45 days past due. If requested by CLIENT, LIEN WAIVERS WILL BE PROVIDED UPON PAYMENT. All collection costs, including OWN's reasonable attorney fees will be assessed to CLIENT which CLIENT agrees to pay.

2. INSURANCE: OWN agrees to maintain statutory Worker's Compensation, Employer's Liability Insurance, General Liability Insurance, and Automobile Insurance coverage for the duration of this Agreement. Additionally, OWN will maintain Professional Liability Insurance for OWN's negligent acts, errors, or omissions in providing Services pursuant to this Agreement. Certificates of insurance evidencing such coverage will be provided, if requested.

3. STANDARD OF CARE: OWN will use that degree of care and skill ordinarily exercised under similar conditions by members of the profession currently practicing in the same or similar locality and at the same time. OWN agrees to perform the services in as timely a manner as is consistent with the professional standard of care and to comply with applicable laws, regulations, codes and standards that relate to the services and that in effect as of the date when the services are provided. NO OTHER REPRESENTATION, WARRANTY, OR GUARANTEE EXPRESSED OR IMPLIED IS MADE OR INTENDED BY PROPOSAL, SERVICES PERFORMED OR BY FURNISHING ORAL OR WRITTEN REPORTS.

4. RISK ALLOCATION: Due to the very limited benefit OWN will derive from this Project compared to that of other parties involved, including CLIENT, CLIENT AGREES THAT TO THE FULLEST EXTENT PERMITTED BY LAW TO LIMIT THE TOTAL LIABILITY OF OWN, INC. TO CLIENT, OR ANY OTHER PARTY USING OR RELYING ON OWN'S WORK, FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATING TO THE WORK, THE PROJECT, OR THIS AGREEMENT FROM ANY CAUSE OR CAUSES INCLUDING BUT NOT LIMITED TO NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, OR BREACH OF AGREEMENT, TO THE GREATER OF THE TOTAL AMOUNT PAID BY THE CLIENT FOR THE SERVICES UNDER THIS AGREEMENT OR AN AGGREGATE TOTAL OF \$25,000 FOR ALL PARTIES, WHICHEVER IS THE GREATER.

5. RIGHT-OF-ENTRY: CLIENT shall furnish right-of-entry on the property for OWN employees, agents, and subcontractors to perform the service and represents that it has obtained the needed permits and licenses for the Project. OWN will take reasonable precautions to minimize damage to the property caused by its operations, but have not included in the fee the cost of restoration of damage which may result. If CLIENT desires OWN to restore the property to its former condition, OWN will accomplish this and add the cost to the fee.

6. OWNERSHIP OF DOCUMENTS: Unless provided otherwise, all documents including but not limited to drawings, electronic files, specifications, reports, boring logs, field notes, laboratory test data, calculations and estimates prepared by OWN as instruments of service pursuant to this Agreement, shall be the sole property of OWN. CLIENT agrees that all documents of any nature furnished to CLIENT or CLIENT's agents or designate, if not paid for, will be returned upon demand and shall not be used by CLIENT for any purpose whatsoever. CLIENT further agrees that under no circumstance shall any documents produced by OWN, pursuant to this Agreement, be used at any location or for any Project not expressly provided for in this Agreement without the written permission of OWN. Any unauthorized use or modification of such documents shall be at CLIENT'S sole risk

and CLIENT shall indemnify, defend and hold harmless OWN against any liability arising from or related to such unauthorized use or modification. At the request and expense of the CLIENT, OWN will provide the CLIENT with copies of documents created in the performance of the work for a period not exceeding one year following completion of service.

7. DELIVERY OF ELECTRONIC FILES: In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by OWN, the CLIENT agrees that all such electronic files are instruments of service of OWN, who shall be deemed the author, and shall retain all common law, statutory law and other rights, 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 OWN. The CLIENT further agrees to waive indemnify the OWN against any and all claims against OWN resulting in any way from any unauthorized changes to or reuse of the electronic files for any other Project by anyone other than OWN. The CLIENT and OWN agree that any electronic files furnished by either party shall conform to the specifications agreed upon in the contract. Any changes to the electronic specifications by either the CLIENT or OWN are subject to preview and acceptance by the other party. Additional services by OWN made necessary by changes to the electronic file specifications shall be compensated for as Additional Services.

Electronic files furnished by either party shall be subject to an acceptance period of 30 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by OWN and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless OWN, its officers, directors, employees and sub- consultants (collectively, OWN) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than OWN or from any reuse of the electronic files by CLIENT or anyone else to whom CLIENT has provided the electronic files without the prior written consent of OWN.

Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by OWN and OWN makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall OWN be liable for indirect or consequential damages as a result of OWN's services or the CLIENT's use or reuse of the electronic files.

8. SAFETY: Should OWN provide any services at the job site during construction, CLIENT AGREES that, in accordance with generally accepted construction practices, the contractor will be solely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work, and compliance with OSHA regulations, and these requirements will apply continuously and not limited to normal working hours.

9. NO RESPONSIBILITY FOR CONTRACTOR'S PERFORMANCE: OWN



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shall have no control over and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for construction safety precautions and programs. OWN shall not be responsible for safety precautions, the quality of any contractor's work, acts or omissions of any contractor, subcontractor, supplier, or other person at the Project site, or for the failure of any of them to carry out their work in accordance with all applicable laws, regulations, codes and standards, or the construction documents.

10. CLIENT'S OBLIGATIONS: CLIENT shall, at its sole expense: (i) provide all information and documentation regarding CLIENT requirements, the existing site, and planned improvements necessary for the orderly progress of the services; (iii) site restoration and repair, as needed following field investigations; (iv) establish and update a Project budget, which shall include a contingency to cover additional services as may be required by changes in the design or services; and (v) timely respond to requests for information and timely review and approve all design deliverables. OWN shall be entitled to rely on all information and services provided by CLIENT.

11. ENVIRONMENTAL HAZARDS: CLIENT acknowledges that the services do not include the detection, investigation, evaluation, or abatement of environmental conditions encountered by OWN in performance of the services, including but not limited to mold, lead, asbestos, PCBs, hazardous substances (as defined by Federal, State or local laws or regulations), contaminants, or toxic materials that may be present at the Project site. CLIENT shall indemnify, defend and hold OWN harmless from and against any and all claims relating to the actual or alleged existence or discharge of such materials.

12. LOCATION OF EXISTING MAN-MADE OBJECTS AND DIFFERING, CONCEALED OR UNKNOWN CONDITIONS: It shall be the responsibility of the CLIENT or his authorized representative to disclose the presence and accurate location of all subsurface man-made objects relative to the work being performed. Furthermore, IF OWN encounters conditions at the Project site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the information provided to OWN or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities provided for in this Agreement, OWN will, if practicable, promptly notify CLIENT before conditions are disturbed. Subsurface condition identification is limited to only those points where samples are taken. The nature and extent of subsurface condition variations across the site may not become evident until construction. OWN assumes no liability for site variations differing from those sampled or changed conditions discovered during construction. If the differing, concealed, or unknown conditions cause an increase in OWN's cost of, or time required for performance of any part of the Services, OWN's compensation and time for performance will be equitably increased. CLIENT AGREES to waive, indemnify, defend and save harmless OWN from all claims, suits, losses and expenses (including but not limited reasonable attorney's fees) resulting from

differing, concealed or unknown conditions.

13. SUSPENSION OF SERVICES/TERMINATION: OWN may suspend performance immediately upon becoming aware of a breach of the terms of this agreement by the other party and provide notice of its intention to terminate. In the event OWN determines there may be a significant risk that OWN's invoices may not be paid on a timely basis OWN may suspend performance and/or retain any reports or other information until Client provides OWN with adequate assurances of payment. The filing of a voluntary or involuntary bankruptcy petition, appointment of a receiver, assignment for the benefit of creditor or other similar act of insolvency shall constitute a breach. Termination will become effective fourteen (14) calendar days after receipt of notice by the breaching CLIENT unless the event(s) giving rise to the breach are remedied within that time frame.

14. FORCE MAJEURE: OWN will not be liable to CLIENT for delays in performing the services or for any costs or damages that may result from: labor strikes; riots; war; acts of terrorism; pandemics; epidemics; acts or omissions of governmental authorities, the project CLIENT or third parties; extraordinary weather conditions or other natural catastrophes; acts of God; unanticipated site conditions; or other acts or circumstances beyond the control of OWN.

15. INDEMNITY: OWN agrees to indemnify and hold harmless the CLIENT and its officers, directors and employees from and against losses, damages, judgments and expenses (including reasonable attorney's fees) (collectively "Losses") provided that such Losses are caused, on a comparative basis of fault, by the negligent acts, errors and omissions of OWN or their consultants in the performance of the services pursuant to this Agreement.

16. NO THIRD-PARTY BENEFICIARIES: This Agreement is solely for the benefit of OWN and CLIENT. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of OWN or CLIENT in favor of such third parties. Further, OWN assumes no obligations or duties other than the obligations to CLIENT specifically set forth in this Agreement. OWN shall not be responsible for CLIENT obligations under any separate agreement with any third-party.

17. GOVERNING LAWS: This Agreement shall be governed in all respects by the laws of the State of Missouri.

18. CERTIFICATIONS/CONSENTS: OWN shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement, and shall not be required to sign any documents that would result in OWN having to certify the existence of conditions whose existence OWN cannot ascertain. Any certificate will state that it is based on the best of the OWN's knowledge, information and belief.