

June 7, 2023

Shaun Mueller, EDFP  
Development Project Manager/Economic Development  
City of West Allis  
7525 W. Greenfield Avenue  
West Allis, WI 53214

Re: 6771 W. Mitchell Street Parking Lot – Civil Engineering

Dear Mr. Mueller:

Thank you for the opportunity to submit this proposal for professional services for the proposed parking lot on the approximately 1.5-acre Community Development Authority lot on W. Mitchell Street. This letter presents our proposed scope of services, time schedule, fee, and contract terms and conditions.

## Project Description

It is our understanding that the Project will consist of a new parking lot on the 1.5-acre lot at 6771 W. National Avenue and landscape areas. Local stormwater management rules including MMSD Chapter 13 will be complied with. Minor landscape improvements and lighting may be requested by the City. The Consultant has relied upon the following information and assumptions in preparation of this Agreement:

- This project will require permits through the City of West Allis for site grading, utilities(abandonment), and for the Construction Storm water permit.
- It is assumed that no off-site improvements (or design) are required for utilities and/or street improvements.
- The Client, or owner, will provide the geotechnical information for the project including pavement thickness recommendations and also for use in stormwater management facilities.
- It is understood that the proposed uses are permitted. No zoning services are anticipated or provided.

## Scope of Services

### Task 1.0 Preliminary Services

To assist the Client with due diligence and programming for the parking lot, the Consultant will prepare the following due diligence tasks:

**Task 1.1 Kickoff Meeting** – The Consultant will attend one kickoff meeting with the City of West Allis to discuss the concept site plan. The intent of this meeting is to obtain further information and comments that may be important to the development of the project.

### Task 2.0 Survey

The Consultant will utilize the already completed ALTA/NSPS Land Title Survey provided by the City of West Allis.

### **Task 3.0 Schematic Design Services**

To assist the Client with schematic programming for the development, the Consultant will prepare up to two schematic level site plans to analyze alternate parking configurations.

### **Task 4.0 Site Plan Submittal Documents**

Preliminary Engineering Drawings will be prepared to develop a higher level of exhibits for the City to understand the overall development concept. The following plans will be included:

- Civil Cover Sheet
- Existing Conditions Plan – This plan will show survey information that is provided by the Client.
- Site Plan – This plan will show the parking lot and storm sewer with critical dimensions. The site plan will utilize the City of West Allis dimensional requirements per the City published zoning code requirements (i.e., setbacks, parking, and driveway/street widths).
- Grading Plan – This plan will show one-foot contours of a grading concept as well as proposed parking, driveway, stormwater improvements, and key elements of the grading. Photometric and Site Lighting Plan is not included but can be provided as an additional service.

### **Task 5.0 Final Engineering Plans**

The consultant will prepare the final construction documents for the parking lot and stormwater improvements design. This task includes the following plans.

- Cover Sheet
- General Notes – The General Notes will provide general notes to be utilized for general conformance with industry standards and specifications. These notes are not intended to be full specifications and/or imply contractor means or methods.
- Existing Conditions Plan – The Consultant will utilize the survey provided by the Owner.
- Site Plan – This plan will show site features that relate to site improvement. This plan will indicate the general horizontal control elements.
- Paving Plan – This plan will show the pavement sections to be utilized onsite based on the recommendations prepared by the Owner's geotechnical engineer. The Consultant is not responsible for pavement design.
- Erosion Control Plan – This plan will show proposed measures that are to be used by the contractor to reduce sediment as required by the construction stormwater permit. This plan is not intended to show every phase of construction. The Contractor is responsible for implementing adjustments and any additional measures that may be required for intermediate construction phasing and temporary conditions.

- Grading Plan – This plan will show proposed contours and spot elevations to assist the contractor in constructing the onsite grading and drainage facilities of the site.
- Utility Plan – This plan will show storm sewer utilities for the proposed improvements. Dry utilities (gas, electric, and telephone) will be shown on the plan for reference if the utility provides the design information in a timely manner. It is assumed no off-site public utility extensions or improvements will be required for the development. Profiles are not included; however, they can be provided as an additional service. The rim, invert, size, and crossing information will be provided at junction points and critical crossing points.
- Project specifications and bidding documents will be provided for a public City of West Allis bidding process.
- General Details – General details will be provided to assist the contractor in understanding certain aspects of the project. If available, standard details from the municipality will be utilized on this plan.

### **Task 6.0 Landscape**

**Task 6.1 Landscape Plan** – The Consultant will provide a landscape planting plan per the City of West Allis requirements. This scope of services does not include custom details for site and landscape specialty or custom furnishings (i.e.. custom designed benches, site art, etc.). They may be provided as an additional service if requested.

### **Task 7.0 Storm Water Pollution Prevention Plan (SWPPP)**

The Consultant will prepare a Storm Water Pollution Prevention Plan (SWPPP) for the onsite improvements per the City of West Allis, WDNR and MMSD Chapter 13 requirements. The Consultant will submit the SWPPP for the project. The Owner is responsible for the NOI application fees, Endangered Species and Environmental review (if needed), and implementation of the NOI requirements. Environmental contamination analysis and requirements will be coordinated and designed by the City of West Allis Environmental Consultant for this site.

### **Task 8.0 Contractor Coordination and Construction Phase Services**

Efforts in this task may include bid assistance, site visits, shop drawing reviews, pay application review assistance, substantial completion, review and preparation of as-built plans. Survey services are not included in this task but can be provided as an additional service. The means, methods, and safety of the site are assumed to be the responsibility of the contractor and/or Owner.

### **Task 9.0 Additional Services**

Any effort beyond the scope of services mentioned in previous tasks will be provided as an additional service and billed on a time and materials basis. Minor efforts that do not require a formal amendment will be completed under this task. For larger tasks that the Owner may request, a formal amendment may be authorized.

Items that may be provided as an additional service may include, but are not limited to:

- Photometric or lighting plans
- Site electrical design
- Structural Design – other than noted in the tasks above
- Environmental or Endangered Species permitting or reporting
- Geotechnical Services
- Items not specifically provided in the scope of services
- Participating in site visits, meetings, or presentations beyond that listed in the scope of services.
- Coordinating or providing special inspection services during construction.

**Responsibilities of Owner and Others**

OWNER shall provide the following in a timely manner so as not to delay the services of CONSULTANT:

- Environmental, Endangered Species, and Environmental reports and permitting (if needed)
- Geotechnical Report with Pavement Recommendations and infiltration soil properties
- An executed copy of this Agreement

**Time Schedule**

The services from the Consultant will be provided in a reasonable and expeditious manner.

**Fee**

Below is a summary of the tasks included in Attachment A. Compensation for the tasks shall be as shown below:

<b>Task 1.0 Preliminary Services</b>			
<b>Task 1.1</b>	<b>Kick-off Meeting</b>	<b>\$1,250</b>	<b>LS</b>
<b>Task 3.0 Schematic Design Services</b>			
<b>Task 3.1</b>	<b>Schematic Site Plan</b>	<b>\$4,000</b>	<b>LS</b>
<b>Task 4.0 City of West Allis Site Plan Submittal Documents</b>		<b>\$6,000</b>	<b>LS</b>
<b>Task 5.0 Final Engineering Plans and Specifications and Bid Docs</b>		<b>\$21,000</b>	<b>LS</b>
<b>Task 6.0 Landscape Plan</b>		<b>\$3,000</b>	<b>LS</b>
<b>Task 7.0 Storm Water Pollution Plan</b>		<b>\$7,000</b>	<b>LS</b>
<b>Task 8.0 Contractor Coordination and Construction Phase Services</b>			<b>T&amp;M</b>
<b>Task 9.0 Additional Services</b>			<b>T&amp;M</b>

**LS = Lump Sum** - Services noted as “LS” will be provided on a lump sum basis. All permitting, application, and similar project fees will be paid directly by the Owner.



**T&M = Time and Materials** - Services shown as "T&M" will be provided on a Time and Materials basis, as requested by the Owner. Labor fee will be billed according to our Standard Hourly Rate Schedule, which may adjust annually. An amount equal to 5% of the labor effort will be added to each invoice to cover allocation items such as in-house duplicating, local mileage, postage, and electronic computing.

**Contract Terms and Conditions**

Attached are "Contract Terms and Conditions" which will apply to the services, and which are incorporated into this proposal by reference.

**Acceptance**

If this proposal and terms and conditions are acceptable to you, a signature on the enclosed copy of this letter will serve as our authorization to proceed.

This proposal is valid until September 15, 2023 unless extended by us in writing.

Proposed by Consultant:

Ayres Associates Inc

Manager – Engineering Services

Accepted by Client:

\_\_\_\_\_  
Client's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Attachments: Contract Terms and Conditions



**AYRES ASSOCIATES  
CONTRACT TERMS AND CONDITIONS**

- 1. Performance of Services:** Consultant shall perform the services outlined in its proposal to Owner in consideration of the stated fee and payment terms.
- 2. Billing and Payment:** Invoices for Consultant's services shall be submitted to Owner on a monthly basis. Invoices shall be due and payable within 30 days from date of invoice. If any invoice is not paid within 30 days, Consultant may, without waiving any claim or right against Owner, and without liability whatsoever to Owner, suspended or terminate the performance of services. Accounts unpaid 30 days after the invoice date will be subject to a monthly service charge of 1.5% on the unpaid balance, or the maximum rate of interest permitted by law, if less. The amount of any excise, value-added, gross receipts, or sales taxes that may be imposed on payments shall be added to Consultant's compensation. No deductions or offsets shall be made from Consultant's compensation or expenses on account of any setoffs or back charges.
- 3. Access to Site:** Owner shall furnish right-of-entry on the project site for Consultant and, if the site is not owned by Owner, warrants that permission has been granted to make planned explorations pursuant to the scope of services. Consultant will take reasonable precautions to minimize damage to the site from use of equipment, but has not included costs for restoration of damage that may result and shall not be responsible for such costs.
- 4. Location of Utilities:** Consultant shall use reasonable means to identify the location of buried utilities in the areas of subsurface exploration and shall take reasonable precautions to avoid any damage to the utilities noted. However, Owner agrees to indemnify and defend Consultant in the event of damage or injury arising from damage to or interference with subsurface structures or utilities which result from inaccuracies in information or instructions which have been furnished to Consultant by others.
- 5. Hazardous Materials:** In the event that unanticipated potentially hazardous materials are encountered during the course of the project, Owner agrees to negotiate a revision to the scope of services, time schedule, fee, and contract terms and conditions. If a mutually satisfactory agreement cannot be reached between both parties, the contract shall be terminated and Owner agrees to pay Consultant for all services rendered, including reasonable termination expenses.
- 6. Insurance:** Consultant shall maintain Workers' Compensation, General Liability, and Automobile Liability Insurance during its services for Owner. Consultant shall furnish a Certificate of Insurance to Owner upon written request. Owner agrees that Consultant shall not be liable or responsible to Owner for any loss, damage, or liability beyond the amounts, limits, exclusions, and conditions of such insurance.
- 7. Limitation of Professional Liability:** Owner agrees to limit Consultant's professional liability to an amount of \$50,000 or Consultant's fee, whichever is greater. In the event that Owner does not wish to limit Consultant's professional liability to this sum, Consultant agrees to raise the limitation of liability to a sum not to exceed \$1,000,000 for increased consideration of ten percent (10%) of the total fee or \$500, whichever is greater, upon receiving Owner's written request prior to the start of Consultant's services.
- 8. Opinions of Probable Costs:** Consultant's opinions of probable project costs are made on the basis of Consultant's experience, qualifications and judgment; but Consultant cannot and does not guarantee that actual project costs will not vary from opinions of probable cost.
- 9. Construction Review:** Consultant does not accept responsibility for the design of a construction project unless the Consultant's contract includes review of the contractor's shop drawings, product data, and other documents, and includes site visits during construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents.
- 10. Construction Observation:** On request, Consultant shall provide personnel to observe construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents. This construction observation shall not make Consultant a guarantor of the contractor's work. The contractor shall continue to be responsible for the accuracy and adequacy of all construction performed. In accordance with generally accepted practice, the contractor will be solely responsible for the methods of construction, direction of personnel, control of machinery, and falsework, scaffolding, and other temporary construction aids. In addition, all matters related to safety in, on, or about the construction site shall be under the direction and control of the contractor and Consultant shall have no responsibility in that regard. Consultant shall not be required to verify any part of the work performed unless measurements, readings, and observations of that part of the construction are made by Consultant's personnel.
- 11. Standard of Performance:** The standard of care for all professional services performed or furnished by Consultant under this contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant does not make any warranty or guarantee, expressed or implied, nor is this contract subject to the provisions of any uniform commercial code. Similarly, Consultant will not accept those terms and conditions offered by Owner in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

**12. Ownership of Documents:** All documents produced by Consultant under this contract are instruments of Consultant's professional service and shall remain the property of Consultant and may not be used by Owner for any other purpose without the prior written consent of Consultant.

**13. Electronic Files:** Owner and Consultant agree that any electronic files furnished by either party shall conform to the specifications agreed to at the time this contract is executed. Electronic files furnished by either party shall be subject to an acceptance period of 60 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. Owner is aware that differences may exist between the electronic files delivered and the printed hard-copy documents. In the event of a conflict between the hard-copy documents prepared by Consultant and electronic files, the hard-copy documents shall govern.

**14. Financial and Legal Services:** Consultant's services and expertise do not include the following services, which shall be provided by Owner if required: (1) Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services; (2) Legal services with regard to issues pertaining to the Project as Owner requires, Contractor(s) raises, or Consultant reasonably requests; and (3) Such auditing services as Owner requires to ascertain how or for what purpose any Contractor has used the money paid.

**15. Termination of Services:** This contract may be terminated at any time by either party should the other party fail to perform its obligations hereunder. In the event of termination for any reason whatsoever, Owner shall pay Consultant for all services rendered to the date of termination, all reimbursable expenses incurred prior to termination, and reasonable termination expenses incurred as the result of termination.

**16. Controlling Law:** This contract is to be governed by the law of the place of business of Consultant at the address in its proposal to Owner.

**17. Assignment of Rights:** Neither Owner nor Consultant shall assign, sublet or transfer any rights under or interest in this contract (including, but without limitation, moneys that may become due or moneys that are due) without the written consent of the other, except to the extent mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this contract. Nothing contained in this paragraph shall prevent Consultant from employing such independent subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

**18. Third Party Benefits:** This contract does not create any benefits for any third party.

**19. Dispute Resolution:** Owner and Consultant agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under the following dispute resolution provision. If direct negotiations fail, Owner and Consultant agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this contract or the breach thereof to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association effective on the date of this contract prior to exercising other rights under law.

**20. Exclusion of Special, Indirect, Consequential, and Liquidated Damages:** Consultant shall not be liable, in contract or tort or otherwise, for any special, indirect, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, claim of third parties, or similar damages arising out of or connected in any way to the project or this contract.

**21. Betterment:** If, due to Consultant's negligence, a required item or component of the project is omitted from the construction documents, Consultant's liability shall be limited to the reasonable cost of correction of the construction, less what Owner's cost of including the omitted item or component in the original construction would have been had the item or component not been omitted. It is intended by this provision that Consultant will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the project.

**22. Amendments:** This contract may only be amended, supplemented, modified, or canceled by a duly executed written instrument.