

**Consulting Services Contract
City of Waukesha – Ayres Associates, Inc.**

**Project Name: Survey and Plat Preparation Services for the 2022 Surface Transportation Program (STP) St.
Paul Ave. Reconstruction**

This Contract is by and between the City of Waukesha, a Wisconsin municipal corporation, referred to herein as the City; and Ayres Associates, Inc., N17 W24222 Riverwood Drive, Suite 310, Waukesha, WI 53188-1132, referred to herein as the Consultant. Together, the City and Consultant are referred to as the Parties.

Recitals

The City published a Request for Proposals, referred to as the RFP, for consulting services in connection with the following Project:

**Survey and Plat Preparation Services for the 2022 Surface Transportation Program (STP) St.
Paul Ave. Reconstruction**

The RFP contained a specific Scope of Work to be incorporated into the successful bidder's contract.

The Consultant submitted a proposal in response to the RFP, and was selected by the City to be awarded the contract for the Project.

The Consultant is willing to perform consulting services according to the Scope of Work stated in the RFP and the Consultant's responsive Proposal, as modified by the Parties, and to accept the award of the contract for the Project.

Now, therefore, the City and the Consultant agree and contract as follows:

1. **Scope of Work.** The Consultant shall perform the Work described on Schedule A-Scope of Work, Schedule B-Price, according to the terms and conditions of this Contract. Schedule A and B are incorporated into this Contract by reference.
2. **Standard of Work.** Consultant will perform the Work according to generally-accepted industry practices in the professions of the individual employees performing the Work for Consultant.
3. **Payment.** The City shall pay to Consultant \$19,891.30 for performance of the Work in compliance with the terms and conditions of this Contract. Consultant shall invoice the City, monthly. No more than 90% of the Contract Price shall be payable before Consultant's Work is complete and delivered to the City. All invoices shall be payable net 30 days.
4. **Time.** Consultant shall commence the Work as promptly after execution of this Contract as is possible, and shall complete the Work no later than December 31, 2021, subject only to delays for circumstances beyond Consultant's control, provided Consultant re-commences work promptly in good faith upon the return of normal circumstances.
5. **Ownership of Work Product.** All materials produced in the performance of the Work shall be the sole property of the City, and shall be kept confidential and not disclosed to any third party without the prior written permission of the City.
6. **Changes.** This Contract can only be amended by the written, mutual agreement of the Parties. No change to the scope of the Work, or the total amount to be paid to Consultant, shall be effective unless done by the written mutual agreement of the Parties.
7. **Indemnification.** Consultant shall indemnify, defend, and hold the City and its officials and employees harmless from any and all third-party claims, demands, causes of action, lawsuits, judgments, penalties, and other liabilities of any kind to the extent that they arise out of or in connection with Consultant's negligence or intentional misconduct, including court costs and actual attorney fees.

8. **Insurance.** Consultant shall maintain insurance of the following kinds and for not less than the following limits, at Consultant's sole expense, at all times during the performance of the Work. Policies shall be occurrence, and not claims-made, policies, except for professional errors and omissions policies. Consultant shall obtain an endorsement making the City an additional insured, and Consultant's insurance shall be primary, not excess, and non-contributory. All policies shall be from insurers licensed to issue such policies in Wisconsin. Upon the execution of this Contract, Consultant shall deliver a certificate of insurance to City showing that all requirements of this section are met.
- a. Commercial general liability, including products-completed operations, \$1,000,000 per occurrence, \$2,000,000 aggregate per project.
 - b. Automobile liability, \$1,000,000 bodily injury, \$1,000,000 property damage.
 - c. Excess liability-umbrella, \$5,000,000.
 - d. Worker compensation, statutory requirements.
 - e. Professional liability-errors and omissions, \$2,000,000, with extended-reporting period endorsement.
9. **Record Keeping.** Consultant shall keep all documents and records generated in the performance of the Work for no less than 7 years after completion of the Work, and shall make them available to the City at the City's request. Consultant acknowledges that such documents and records may be subject to Wisconsin's Open Records Law.
10. **Cooperation by City.** The City shall cooperate with the Consultant in the performance of the Work, and shall respond timely to all reasonable requests for information and access.
11. **Parties Are Independent Contractors.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions.
12. **Governmental Immunities, Liability Limits, and Notice Requirements Preserved.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities, notice requirements, or limitations of liability imposed by Wis. Stats. §893.80 or any other law.
13. **Permits and Licenses.** Consultant shall be responsible, at Consultant's expense, for obtaining all permits and licenses required for the performance of the Work.
14. **Assignment Prohibited.** This Contract, and the Consultant's responsibility to perform the Work under this Contract, may not be assigned by the Consultant without the City's written consent.
15. **Notices.** All notices required by this Contract, and all other communications between the Parties, shall be addressed as follows:

To the City: Attention: Craig Ausen, P.E.
City of Waukesha
130 Delafield Street
Waukesha WI 53188

To Consultant: Attention: Nathan A. Vaughn, P.L.S.
Ayes Associates, Inc.
N17 W24222 Riverwood Drive, Suite 310
Waukesha, WI 53188-1132

16. **Corporate Authorization.** The individuals executing this Contract on behalf of the Consultant warrant and represent that they are duly authorized to bind the Consultant to this Contract. Consultant warrants and represents that the execution of this Contract is not prohibited by the Consultant's articles of incorporation, by-laws, operating agreement, or other internal operating orders, or by any applicable law, regulation or court order. Consultant shall provide proof upon request.
17. **Assistance of Counsel, Voluntary Contract.** The Consultant acknowledges that it has either had the assistance of legal counsel in the negotiation, review and execution of this Contract, or has voluntarily waived the opportunity to do so; that it has read and understood each of this Contract's terms, conditions and provisions, and their effects; and that it has executed this Contract freely and not under conditions of duress.
18. **Adequacy of Consideration.** The Parties acknowledge that the consideration expressed in this Contract is adequate and sufficient to make the obligations contained in this Contract binding upon the Parties.
19. **Costs of Enforcement.** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.
20. **Severability.** If any term of this Contract is held unenforceable by a court having jurisdiction, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it will be so severed, and the remainder of this Contract will remain in effect and enforceable.
21. **Survival and Parties Bound.** Unless specifically limited in this Contract, any term, condition or provision of this Contract will survive the execution of this Contract or any stated time periods, to the extent necessary for their performance. This Contract is binding upon, and inures to the benefit of, the Parties' successors, assigns, heirs, executors, trustees and personal representatives.
22. **Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. If a lawsuit arises out of this Contract, it shall be filed in the state Circuit Court for Waukesha County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.
23. **Integration, Construction of Contract.** This Contract constitutes the entire agreement of the Parties formed as a result of the City's RFP and the Consultant's responsive proposal. All other agreements and understandings of the parties with respect to the subject matter expressed in this Contract are unenforceable. If there are any conflicts among the terms of this Contract and any documents incorporated into this Contract, including Schedule A and B, then the terms of this Contract shall control.
24. **Termination.** Either party may terminate this Contract without cause by giving written notice of termination to the other party, with termination to occur no sooner than 20 days after delivery of the notice. Upon termination, Consultant shall be paid for all Work completed as of the date of termination.
25. **Limitation of Liability.** Consultant shall not be liable for incidental or consequential contract damages.
26. **Confidentiality; Public Records.** All documents created pursuant to this Contract, and all documents delivered to the City, are public records and will be subject to disclosure to the public under Wisconsin's Open Records law.
27. **Effective Date.** This Contract shall be effective as of the latest date of execution shown below.

City of Waukesha

By Shawn N. Reilly, Mayor
Date:_____

Attested by Gina L. Kozlik, City Clerk
Date:_____

To certify that funds are provided for payment:

Richard L. Abbott, Director of Finance
Date:_____

Ayres Associates, Inc.

By (print name)_____
Title:_____
Date:_____

By (print name)_____
Title:_____
Date:_____

Schedule A

Scope of Work

W. St Paul Avenue is a major arterial roadway on the border of downtown Waukesha. The majority of land use along W. St Paul Avenue is commercial in nature. The roadway currently consists of a poor condition 40'-48' wide urban cross section with sidewalks on both sides of the street throughout most of the project limits. The existing right-of-way for W. St Paul Avenue varies from 60 to 70 feet wide. It is anticipated that ROW will need to be acquired for the roadway reconstruction project. The roadway and utility reconstruction plan for W. St Paul Avenue will be designed by the City of Waukesha.

Design Survey/Existing Topo/Existing Surface

- As directed by the City of Waukesha, consultant shall survey W. St Paul Avenue from the specified project limits. The consultant may complete this work by either conventional survey or by Lidar. At any time, the City of Waukesha may request supplemental survey if needed. Survey shall be in the City of Waukesha datum. Consultant shall survey all pertinent information within and beyond the Right-of-Way by +/- 25'. At a minimum, survey shots at every 25', low points, high points, and horizontal changes will be required.
- Additional survey at all pedestrian ramps will be required.
- Consultant shall use the City of Waukesha 3-Letter Codes for survey shots
- Consultant shall provide the City of Waukesha with txt comma delimited (PNEZD) format of survey shots.
- Consultant shall coordinate with Diggers Hotline for all utility markings. The consultant shall survey all utilities within the project area.
- Consultant shall also collect all sanitary and storm sewer structure measure downs. The consultant shall use the City of Waukesha's measure down sheet to collect this data.
- Consultant shall provide the City of Waukesha an existing topo file from the existing survey and all existing utilities. The City of Waukesha will build the existing pipe networks. The file shall be completed in AutoCAD Civil 3D 2018 format. All linework shall be on the correct layer based on the WisDOT Civil 3D standards and template.
- Consultant shall provide the City of Waukesha an existing surface based on the survey. The file shall be completed in AutoCAD Civil 3D 2018 and per the WisDOT Civil 3D standards. Surface shall be created from break lines. Elevations shall be at the City of Waukesha datum.
- List of control points
- ROW plat survey

Project Plat

- Consultant shall prepare a plat per the WisDOT standards, provide Right-of-Way staking, and Right-of-Way staking acquisitions with City guidance.
- Consultant shall provide the City Right-of-Way line work at all major milestones or as requested by the City. The line work shall be completed in AutoCAD Civil 3D 2018 per the WisDOT Civil 3D standards and template. The linework shall be completed in a separate file from the sheet file (base file).

MAJOR PROJECT ELEMENTS

- Existing survey of W. St Paul Avenue for design purposes.
- Existing measure downs of storm and sanitary structures within the project limits. Consultant shall use the City of Waukesha's measure down sheet.
- Existing topo of the project limits. Topo files shall be completed in AutoCAD Civil 3D 2018.
- Existing surface of the project limits. Surface file shall be completed in AutoCAD Civil 3D 2018.
- Project Plat

ADDITIONAL PROJECT ELEMENTS INCLUDE:

- Provide at a minimum the following meetings with the City of Waukesha:
 - Initial kickoff meeting
- Consultant shall work with the City to develop the delivery schedule. Consultant shall submit studies/reports/plans/specials/estimate for review at the following City project milestones:
 - Survey Deliverables (10/18/2019)
 - 30% (2/1/2020) (Tentative)
 - 60% (7/1/2020) (Tentative)
 - Preliminary Plat (7/1/2020) (Tentative)
 - 1078 (9/1/2020) (Tentative)
 - Final Plat (9/1/2020) (Tentative)
 - Draft PS&E (5/1/2021) (Tentative)
 - Final PS&E (8/1/2021)
 - Let (12/14/2021)

ITEMS AVAILABLE FROM THE CITY INCLUDE:

- Scanned images of design and/or as-built plans, may be available.
- City GIS data.
- Electronic copy or link to the City of Waukesha's measure down sheet.

AGENCY AND UTILITY INVOLVMENT:

The Department of Public Works anticipates that the following organizations (but not restricted to) will have some involvement in this project:

- City of Waukesha Community Development Department
- City of Waukesha Parks, Recreation, and Forestry Department
- City of Waukesha Board of Public Works
- City of Waukesha Common Council
- Wisconsin DNR
- WisDOT
- Wisconsin Historical Society
- Any other permitting agencies
- Other Project Consultants

Ayres Project Understanding and Approach

Ayres Associates brings the survey/platting expertise, resources, and staffing to accomplish this project within budget and on time.

With survey staff based in Waukesha, we provide an efficient focus on getting the fieldwork done timely and in accordance with the Wisconsin Department of Transportation Facilities Development Manual.

The scope of services calls for a full topographical survey to include 25 feet beyond the right-of-way each way along approximately 2,100 feet of West St. Paul Avenue, beginning 200 feet southwest of the intersection of Mountain Avenue and continuing northeast 200 feet past the intersection of Madison Street. The topographical survey will extend 200 feet up each street, including Mountain Avenue, Emily Street, Fuller Street, 200 feet north on Madison Street, and approximately 300 feet south on Madison Street, stopping at the bridge deck over the Fox River. Twenty-five-foot cross sections will be recorded, including high/ low points and horizontal directional changes.

All data recorded will be in State Plane 1927 horizontal coordinate system (ground) and City of Waukesha vertical datum.

All storm and sanitary sewer structures within the topographical limits will be inventoried as well as the next structure beyond the limits. Approximately 70 storm and sanitary structures are within the limits, and the City of Waukesha's measure-down sheet will be used to inventory each structure. Water valves will be located at the center of the cover, but a depth to valve nut will not be provided.

The right-of-way plat portion of this project will consist of 21 parcels throughout the project area. We will collect the necessary field data while completing the topographic survey for the project. This will include the necessary section corners, property corner location, and right-of-way information for us to develop the existing right-of-way base map. We will research all survey and right-of-way information of record through the City of Waukesha and Waukesha County. When field information is collected, we will work with the City of Waukesha to obtain the needed title reports and review them to add to our right-of-way analysis and work with the City throughout the platting and acquisition process.

Project Schedule

Ayres Associates will be on site to start project within three days of the contract being signed. Project milestones will be delivered as follows:

Project Milestone	Time Frame
Topographical base map	Within two weeks of project commencement
Existing right-of-way of West St. Paul Avenue	Within three weeks of project commencement
Right-of-way plat	Per real estate and acquisition schedule

Schedule B - Price

DRAFT INTERNAL ESTIMATE

Project ID 2718-04-01
West St. Paul Avenue
Mountain Avenue to Madison Street
Waukesha County

Created By:

Revised By:

FIIPS C/E Budget

\$\$\$

Overhead Rate:

1.65

Fixed Fee

7.3%

[illegible]

DRAFT DIRECT EXPENSE ESTIMATE

Project ID 2718-04-01

West St. Paul Avenue

Mountain Avenue to Madison Street

Waukesha County

	ITEM	Amount	Type	Rate	Total
	MILEAGE	140	MILES	\$0.540	\$75.60
	PARKING	0	DAY	\$10.00	\$0.00
	DIGITAL LEVEL	1		\$39.45	\$39.45
	GPS	3		\$38.90	\$116.70
	TOTAL STATION	11		\$57.30	\$630.30
	RESEARCH				\$0.00
	LODGING	0	NIGHT	\$100.00	\$0.00
	LUNCH	0	MEAL	\$10.00	\$0.00
	DINNER	0	MEAL	\$17.00	\$0.00
	TOTAL		\$0.00	\$273.19	\$862.05

DRAFT HOURS ESTIMATE

Project ID 2718-04-01
West St. Paul Avenue
Mountain Avenue to Madison Street
Waukesha County

SECTION	TASK DESCRIPTION	Proj. Man. \$53.50		PLS \$36.50		Survey Crew Chief \$27.50		CADD Tech \$29.00		Survey Tech \$23.00		Support Staff \$22.50		Total Direct Labor	
		hrs	Dollars	hrs	Dollars	hrs	Dollars	hrs	Dollars	hrs	Dollars	hrs	Dollars	hrs	Dollars
A	GENERAL	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
B	DESIGN REPORTS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
C	DATA GATHERING	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
D	ENVIRONMENTAL DOCUMENTATION	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
E	AGENCY COORDINATION	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
F	RAILROAD / UTILITY COORDINATION	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
G	PUBLIC INVOLVEMENT	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
H	MEETINGS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
I	ALTERNATIVE ANALYSIS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
J	SURVEYS	3	\$160.50	8	\$292.00	73	\$2,007.50	-	\$0.00	21	\$483.00	-	\$0.00	105	\$2,943.00
K	SOILS AND SUBSURFACE INVESTIGAIONS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
L	ROADWAY PLANS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
M	STRUCTURE SURVEY	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
N	TRAFFIC ANALYSIS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
O	PLANS, SPECIFICATONS, & ESTIMATES (PS&E)	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
P	TRANSPORATION PROJECT PLATS	3	\$160.50	44	\$1,606.00	20	\$550.00	41	\$1,189.00	10	\$230.00	2	\$45.00	120	\$3,780.50
Q	SERVICES PROVIDED BY THE DEPARTMENT	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
R	PRELIMINARY STRUCTURE PLANS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
S	FINAL STRUCTURE PLANS	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00	-	\$0.00
	TOTAL	6	\$321	52	\$1,898	93	\$2,558	41	\$1,189	31	\$713	2	\$45	225	\$6,724

2.67%

23.11%

41.33%

18.22%

13.78%

0.89%