

BILL NO. 2025-022

ORDINANCE NO. 8704

A SPECIAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AUTHORIZING THE EXECUTION OF AMENDMENT NO. 5 WITH OWN INC., OVERLAND PARK, KANSAS, FOR PERMITTING SERVICES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI, THAT:

Section 1. The City Manager, or his designee, is hereby authorized to execute Amendment No. 5 to the agreement with OWN, Inc. of Overland Park, Kansas, for permitting services related to the Walton Lake Project.

Section 2. The cost associated with this amendment is Twenty-Four Thousand Thirty-Four Dollars and No Cents (\$24,034.00), which is necessary for permitting requirements for the Walton Lake Project.

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada, Missouri, this 1st day of July, 2025.



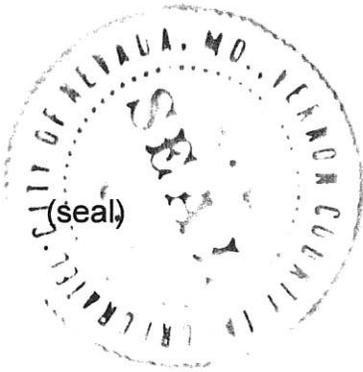
ATTEST:


CYNTHIA DYE, CITY CLERK


CAROL BRANHAM, MAYOR

CERTIFICATION

I, Cynthia Dye, the undersigned City Clerk of the City of Nevada, Missouri, hereby certify that the attached copy of **Ordinance No. 8704** adopted by the City Council of the City of Nevada on July 1, 2025, is a true and correct copy, as the same appears of record in my office and that the same has not been amended or repealed.



City of Nevada
State of Missouri



Cynthia Dye, City Clerk

Signed and sealed this 2nd day of July 2025.

AGENDA ITEM
JUNE 17, 2025

Subject: Permitting fees for Walton Lake drainage
Department: Parks and Recreation

Notes:

- Amendment No. 5 in the amount of 22,034 should finalize the permitting through the Corps of Engineers to complete the Walton Lake project.

AMENDMENT TO LETTER OF AGREEMENT FOR PROFESSIONAL SERVICES



June 10, 2025

City of Nevada, Missouri
Parks and Recreation Department
Richard Brockman
200 N Ash Street
Nevada, MO 64772

Re: **OWN Amendment #5 to Letter of Agreement for Professional Services dated 09/09/2022, Proposal # PJC-035B-Izaak Walton Park: Lake & Park Improvements**

Dear Mr. Brockman,

This Amendment is hereby attached to and made part of the Letter of Agreement for Professional Services dated 09/09/2022 between City of Nevada, Missouri ("Client") and OWN, Inc. (formerly Anderson Engineering, Inc.). OWN's additional scope of services for this Supplemental Agreement are as provided below. OWN would like to request consideration for the effort required concerning an U.S. Army Corps of Engineers (USACE) Individual 404 permit. This means the project undergoes a site-specific regulatory review rather than administrative review if the project meets applicable parameters. This also includes a separate 401 Water Quality certification that is obtained through the Missouri Department of Natural Resources (MDNR). The 401 water quality certification is a USACE individual permit requirement.

USACE is requiring an individual permit be submitted for this project. An Individual Permit requires more effort to provide supporting documentation in specific format to meet regulatory requirements of several agencies.

OWN requested Supplemental Agreement #3 in the amount of \$10,800 which was executed by the City of Nevada on June 20th, 2024. It covered typically required permits for this type of project, they included:

- USACE 404 Nation-Wide Permit, NWP
- National Historic Preservation Act, NHPA, section 106
- Missouri Department of Natural Resources, MDNR Land disturbance permit which requires a Stormwater Pollution Prevention Plan (SWPPP)
- MDNR Dredging Permit MO-G690000

OWN has submitted applications for all the permits referenced in Supplemental Agreement #3 noted above. In addition, we have submitted a USACE Individual Permit application package on behalf of the City of Nevada. However, with that effort we have exceeded our contract billing limit of Supplemental Agreement #3. In good faith we continued to negotiate permit requirements with USACE staff hoping for a resolution. However, that has not been the case. We have expended \$12,839.50 over the Supplemental Agreement #3 fee amount of \$10,800. After meeting with Nevada staff, OWN leadership has written off \$6,804.50 leaving a balance of \$6,034.00. We ask that Nevada consider payment for this effort, as it was already extended on behalf of Nevada moving the project toward final approval.

Unfortunately, the USACE 404 Individual Permit process typically takes twelve months to obtain a permit after initial application submission. The process typically follows the pattern of owner/consultant submitting application package, USACE issues review comments, OWN/City of Nevada responds to comments, USACE issues public notice, OWN revises design to incorporate USACE revisions and responds to public comments after which USACE issues permits to City upon approval of OWN and City responses.

AMENDMENT TO LETTER OF AGREEMENT FOR PROFESSIONAL SERVICES



Individual USACE 404 permits may also require compensatory mitigation for jurisdictional wetland impacts created by the project construction. They can be met by offsetting physical improvements to degraded streams and/or purchasing credits from a mitigation bank which manages large tracts of wetlands to offset construction project impacts. At this point, we are unsure if or how much compensatory mitigation will be required for proposed Izaak Walton Lake improvements.

All Terms and Conditions remain the same unless specifically modified herein. OWN's scope of services for this Supplemental Agreement is as follows:

ADDITIONAL SCOPE OF SERVICES

USACE INDIVIDUAL PERMIT IMPACTS

The USACE Individual permit requirements have a domino effect on environmental permitting effort required because the USACE Individual permit requirement triggers an in-depth review from several other regulatory agencies. MDNR has required information above and beyond what is required in the USACE 404 Nationwide permitting process. We understand this project may require a cultural resources study, which is an archaeological investigation to ensure no historical artifacts are in the project area. This is referred to as an "Area of Potential Effects" (APE) study. The typical sub-consultant fees are around \$15,000 and take twelve months to schedule, perform and approve. Based on conversations regarding this project, USACE is concerned that project contractors may cut into the soil horizon in the spoil drying area on school property and disturb historical artifacts. We will advise the City if USACE formally requires an APE study and/or compensatory mitigation measures for temporary jurisdictional wetlands impacts.

Unfortunately, our operating costs rise on a project which we have little control regarding timing. As noted above we ask for consideration of \$6,034 expended previously on out-of-scope services concerning USACE Individual 404 permit negotiations and responses to USACE.

We estimate an additional \$16,000 of OWN staff's effort may be required to obtain the permit which is necessary for the project to move forward. Therefore, we respectfully request that the City of Nevada consider approval of Supplemental agreement request #5 in the amount of \$22,034.00.

TOTAL AMENDMENT FEE **\$22,034.00**

TOTAL REVISED CONTRACT FEE including AMENDMENT 1, 2, 3, 4 & 5 plus reimbursables:

Original Contract	\$177,300.00
Amendment #1	\$45,000.00
Amendment #2	\$2,500.00
Amendment #3	\$10,800.00
Amendment #4	\$8,000.00
<u>Amendment #5</u>	<u>\$22,034.00</u>
TOTAL REVISED CONTRACT FEE	\$265,634.00

Compensation

These Amended services will add **\$22,034.00 (Twenty-Two Thousand Thirty-Four Dollars)** to our original Agreement plus additional reimbursable expenses. Additional services will be invoiced in accordance with the terms of the original Agreement unless otherwise stated herein. This amendment does not include any fees for potentially required mitigation credits or APE study referenced above.

AMENDMENT TO LETTER OF AGREEMENT FOR PROFESSIONAL SERVICES



Schedule Modifications

OWN will begin to perform its services under this Amendment upon signing. Please note that we cannot continue to expend efforts on behalf of Nevada until these supplemental agreements are finalized.

This Amendment, along with any other previous Amendments to the original 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.

If this Amendment satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain a copy for your files and return an executed original to OWN. 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. Client warrants that it is either the legal owner of the property to be improved by this project or that Client is acting as the duly authorized agent of the legal owner.

Sincerely,

OWN, Inc.

A handwritten signature in black ink, appearing to read "T. Scott Edgar", written over a horizontal line.

T. Scott Edgar, P.E., CFM
Senior Project Manager

By signing below, you acknowledge that you have full authority to bind Client to this Amendment. Your signature indicates authorization to proceed and that you have reviewed and accepted this Amendment.

City of Nevada, Missouri

Signature: A handwritten signature in blue ink, appearing to read "Gary Edwards", written over a horizontal line.

Name: Gary Edwards

Title: City Manager

Date: _____

Client Representative (if different from above): _____