



# City of Grand Island

Tuesday, February 12, 2013

Council Session

## Item G10

**#2013-33 - Approving Supplemental Agreement No. 2 with NDOR and Olsson Associates for Engineering Consulting Services Related to Grand Island Resurfacing - Various Locations**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

**From:** Scott Griepentstroh, Project Manager

**Meeting:** February 12, 2013

**Subject:** Approving Supplemental Agreement No. 2 with NDOR and Olsson Associates for Engineering Consulting Services Related to Grand Island Resurfacing - Various Locations

**Item #'s:** G-10

**Presenter(s):** Terry Brown, Interim Public Works Director

## **Background**

All agreements must be approved by the City Council.

The City and the Nebraska Department of Roads (NDOR) entered into an agreement, which was executed by the City on May 24, 2011 by Resolution No. 2011-125. This agreement specifies the various duties and funding responsibilities of this Federal-Aid project. The agreement requires that NDOR Standards and Specifications are to be used for design, construction inspection and quality control.

On September 27, 2011, by Resolution No. 2011-278 the City entered into an agreement with Olsson Associates for engineering consulting services for the Grand Island Resurfacing – Various Locations project. The work was to be performed at actual costs with a maximum amount of \$169,712.83, plus a fixed-fee-for-profit amount of \$21,274.82, for a total agreement amount of \$190,987.65. The fixed-fee is computed upon the direct labor or wage costs, indirect labor costs, indirect-non-labor costs, and direct payroll additives.

On March 26, 2012, by Resolution No. 2012-79 the City Council approved Supplemental Agreement No. 1 with Olsson Associates for engineering consulting services for the Grand Island Resurfacing – Various Locations project. The fixed fee amount was increased from \$21,274.82 to \$24,072.82, an increase of \$2,798.00. Actual costs are increased from \$169,712.83 to \$199,201.83, an increase of \$29,489.00. The total agreement is increased from \$190,987.65 to \$223,274.65, an increase of \$32,287.00.

## **Discussion**

It is necessary that Right-of-Way services, additional environmental documentation for Hazardous Materials Technical Reviews, additional construction engineering revisions and project management hours, not contemplated in the Original Agreement or Supplemental Agreement No. 1 be added under this supplemental agreement.

The original agreement is amended and the fixed-fee-for-profit is increased from \$24,072.82 to \$28,388.82, an increase of \$4,316.00. Actual costs are increased from \$199,201.83 to \$232,660.83, an increase of \$33,459.00. The total agreement amount is increased from \$223,274.65 to \$261,049.65, an increase of \$37,775.00 which the Consultant must not exceed without the prior written approval of the LPA. The City's estimated share will increase from \$44,654.93 to \$52,209.93, an increase of \$7,555.00.

Approval of the Environmental Document was received on January 28, 2013. Olsson Associates is developing final plans and specifications. Acquisition of construction easements is anticipated to begin in April 2013. Construction is anticipated to begin in late fall of 2013 or early spring of 2014.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve a resolution authorizing the Mayor to sign the Supplemental Agreement No. 2.

## **Sample Motion**

Move to approve the resolution.

**SUPPLEMENTAL AGREEMENT #2**  
**PRELIMINARY ENGINEERING & NEPA SERVICES**

CITY OF GRAND ISLAND, NEBRASKA  
OLSSON ASSOCIATES, INC.  
PROJECT NO. URB-5409(2)  
CONTROL NO. 42706  
VARIOUS LOCATIONS IN GRAND ISLAND

THIS SUPPLEMENTAL AGREEMENT, made and entered into by and between the City of Grand Island, Nebraska, hereinafter referred to as the Local Public Agency or "LPA," and Olsson Associates, Inc., hereinafter referred to as the "Consultant."

WHEREAS, the Consultant and the LPA entered into Engineering Agreement BK1184 executed by the Consultant on September 19, 2011 and executed by the LPA on September 27, 2011, hereinafter referred to as the "Original Agreement", and a supplemental agreement executed by the Consultant on April 4, 2012 and by the LPA on March 26, 2012, hereinafter referred to as "Supplemental Agreement No. 1", providing for preliminary engineering and NEPA documentation services for Project No. URB-5409(2), and

WHEREAS, it is necessary that ROW services, additional environmental documentation for Hazardous Materials Technical Reviews, additional CE revisions and project management hours, not contemplated in the Original Agreement or Supplemental Agreement No.1 be added under this supplemental agreement, and

WHEREAS, it is necessary to increase the Consultant's compensation by this supplemental agreement for the additional work necessary to complete the project, and

WHEREAS, it is the desire of the LPA that the project be constructed under the designation of Project No. URB-5409(2), as evidenced by the Resolution of the LPA dated the \_\_\_\_\_ day of \_\_\_\_\_, 2013, attached and identified as EXHIBIT "A" and made a part of this agreement, and

NOW THEREFORE, in consideration of these facts, the Consultant and LPA agree as follows:

SECTION 1. A Written Notice-to-Proceed was issued to the Consultant on January 14, 2013 to perform the additional work through Consultant Work Order 2. Any additional work or services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed is not eligible for reimbursement.

SECTION 2. The Consultant will perform the additional work stipulated in Consultant Work Order 2, which is attached as Exhibit "B" and hereby made a part of this supplemental agreement.

SECTION 3. For the work required, Section 7 of the Original Agreement is hereby amended and the fixed-fee-for-profit is increased from \$24,072.82 to \$28,388.82, an increase of \$4,316.00.

Actual costs are increased from \$199,201.83 to \$232,660.83, an increase of \$33,459.00. The

total agreement amount is increased from \$223,274.65 to \$261,049.65, an increase of \$37,775.00 which the Consultant must not exceed without the prior written approval of the LPA.

SECTION 4. The Consultant will be paid the additional fee on the same terms stipulated in the Original Agreement and, except as specifically amended by this supplemental agreement, all terms and conditions of the Original Agreement on Project No. URB-5409(2), executed by the Consultant on September 19, 2011 and executed by the LPA on September 27, 2011 and Supplemental Agreement No. 1 executed by the Consultant on April 4, 2012 and executed by the LPA on March 26, 2012 shall remain in full force and effect.

SECTION 5. The completion date as outlined in Section 6. NOTICE TO PROCEED AND COMPLETION of the Original Agreement shall be removed.

SECTION 6. CONSULTANT CERTIFICATIONS

The undersigned duly authorized representatives of the Consultant, by signing this agreement, hereby swears, under the penalty of law, the truth of the following certifications, and agrees as follows:

**A. Neb. Rev. Stat. § 81-1715(1).** I certify compliance with the provisions of Section 81-1715 and, to the extent that this contract is a lump sum or actual cost-plus-a-fixed fee professional service contract, I hereby certify that wage rates and other factual unit costs supporting the fees in this agreement are accurate, complete, and current as of the date of this agreement. I agree that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the LPA determines the contract price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

**B. Neb. Rev. Stat. §§ 81-1717 and 1718.** I hereby certify compliance with the provisions of Sections 81-1717 and 1718 and, except as noted below neither I nor any person associated with the firm in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position involving the administration of federal funds:

1. Has employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Consultant) to solicit or secure this agreement, or
2. Has agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
3. Has paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement, except as here expressly stated (if any).

**C. Certification Regarding Debarment, Suspension, and Other Responsibility Matters- Primary Covered Transactions.** Section C1 below contains 10 instructions that consultant agrees to follow in making the certifications contained in C2.

**1. Instructions for Certification**

- a. By signing this agreement, the Consultant is providing the certification set out below.
- b. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this project. The Consultant shall

- submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the State's determination whether to enter into this agreement. However, failure of the Consultant to furnish a certification or an explanation will disqualify the Consultant from participation in this agreement.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the State determined to enter into this agreement. If it is later determined that the Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the State may terminate this agreement for cause or default.
- d. The Consultant shall provide immediate written notice to the State if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- f. The Consultant agrees that should the proposed covered transaction be entered into, it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the State before entering into this agreement.
- g. The Consultant further agrees to include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the State without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. The Consultant in a covered transaction may rely upon a certification of a prospective Subconsultant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Consultant may decide the method and frequency by which it determines the eligibility of its principals.
- i. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if the Consultant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the State may terminate this agreement for cause or default.

2. **Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions**

- a. By signing this agreement, the Consultant certifies to the best of its knowledge and belief, that it and its principals:
  - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - ii. Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph a.ii above; and
  - iv. Have not within a three-year period preceding this agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. Where the Consultant is unable to certify to any of the statements in this certification, such Consultant shall attach an explanation to this agreement. I acknowledge that this certification is to be furnished to the State and the FHWA in connection with this agreement involving participation of federal-aid highway funds and is subject to applicable, state and federal laws, both criminal and civil.

#### SECTION 7. (LPA) CERTIFICATION

By signing this agreement, I do hereby certify that, to the best of my knowledge, the Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this agreement involving participation of Federal-Aid highway funds and is subject to applicable state and federal laws, both criminal and civil.

#### SECTION 8. ALL ENCOMPASSED

This Supplemental Agreement, the Original Agreement, and any previous supplements thereto (hereinafter collectively "The Agreement"), embodies the entire agreement of the Parties. Except for the terms of The Agreement, there are no promises, terms, conditions, or obligations other than contained therein, and The Agreement supersedes all previous communications, representations, or other understandings, either oral or written thereto.

IN WITNESS WHEREOF, the parties have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

After being duly sworn on oath, I do hereby acknowledge the foregoing certification and state that I am authorized to sign this agreement for the firm.

EXECUTED by the Consultant this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

OLSSON ASSOCIATES, INC.  
Randall J. Kaster, P.E.

\_\_\_\_\_  
Principal

STATE OF NEBRASKA            )  
  )ss.  
DOUGLAS COUNTY            )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

EXECUTED by the LPA this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF GRAND ISLAND  
Jay Vavricek

\_\_\_\_\_  
Mayor

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Clerk

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
Form of Agreement Approved for  
Federal Funding Eligibility:

\_\_\_\_\_

\_\_\_\_\_  
Date



## Consultant Work Order (Local Projects)

Project No.: URB-5409(2)	Control No.: 42706
Consultant: (Name and Representative) Olsson Associates	Agreement No.: B/C 1184-2
LPA: (Name and Representative) City of Grand Island	Work Order No.: 2
	Const. Change Order No.: (if applicable) NA

All parties agree the following described work needs to be performed by the consultant as part of the referenced project. All parties concur and hereby give notice to proceed based on the following: justification to modify contract, scope of services, deliverables, schedule, and estimated total fee. All other terms of existing agreements between the parties are still in effect. It is understood by all parties that the work described herein will become part of a future supplement to the agreement indicated above.

Justification to modify agreement: (Include scope of services, deliverables, and schedule)

Original scope of services assumed no ROW taking or easements would be need. Additional ROW services includes ROW offer reviews, ROW/Easement staking for negotiations, negotiations kick-off meeting, ROW negotiations coordination (3 months); bi-weekly negotiations meetings (6 meetings); plan revisions based on negotiations. 34 Tracts are required for this project. Additional services also include 8 additional months of Project Management. Additional Environmental Documentation includes Hazardous Materials Technical Review revisions and additional CE revisions. Original Scope included 6 hours for Haz Mat Review. FHWA has significantly changed the Haz Mat Review requirements, thus the need for additional hours. Original Scope include one round of CE comments, and we have completed 3 and anticipate 2 more for the project.

Work Title	Summary of Fee	
ADDITIONAL PROJECT MANAGEMENT Additional ROW Acquisition Services ADDITIONAL ENVIRONMENTAL DOCUMENTATION	A. Total Direct Labor Cost	= 12,235.00
	B. Overhead (Factor * X A)	= 21,224.00
	C. A + B	= 33,459.00
	D. Profit/Fee (Factor ** x C)	= 4,316.00
	E. Direct Non-Labor Cost	= 0.00
	F. Subconsultant Services	= 0.00
TOTAL FEE: C + D + E + F		= \$37,775.00
Total Fee Notes: See Attached Documents.		
<input type="checkbox"/> ESTIMATED TOTAL FEE:		
<input checked="" type="checkbox"/> FINAL TOTAL FEE:		

Work Order Authorization – May be granted by email and attached to this document.

Consultant:

Timothy A. Golka  
Name  
Timothy A. Golka  
Signature  
12/30/12  
Date

LPA:

Scott A. Grienerstraw  
Name  
Scott A. Grienerstraw  
Signature  
12/30/12  
Date

LPD PC (for Preliminary Engineering) and State Rep. (for Construction Engineering):

Jennifer Thompson  
Name  
Jennifer Thompson  
Signature  
1/14/13  
Date

FHWA: Thompson

Howard A. Schwab  
Name  
Howard A. Schwab  
Signature  
1/14/13  
Date

Notice to Proceed Date:

1-14-13

Notice to Proceed  
will be granted by  
email by LPD PC.

Distribution: Consultant, LPA – RC, State Rep., FHWA, LPD PC, NSOR Agreements Engineer, Highway Funds Manager

DR Form 250, October 2010

Olsson Associates  
201 East 2nd Street  
Grand Island, NE 68802

**WORK ORDER #02 - Additional ROW  
Acquisition Services**

[illegible]

**Project No. URB-5409(2)  
Grand Island Resurfacing  
Grand Island, Nebraska**

## RESOLUTION 2012-33

WHEREAS, on May 24, 2011, by Resolution No. 2011-125 the Grand Island City Council approved entering into an agreement with the Nebraska Department of Roads for the Grand Island Resurfacing – Various Locations project to specify the various duties and funding responsibilities of this Federal-Aid project.; and

WHEREAS, on September 27, 2011, by Resolution No. 2011-278 the Grand Island City Council approved entering into an agreement with Olsson Associates for engineering consulting services for such project; and

WHEREAS, on March 26, 2012, by Resolution No. 2012-79 the Grand Island City Council approved entering into Supplemental Agreement No. 1 with Olsson Associates for additional Right-of-Way and design services, which were not contemplated in the original agreement; and

WHEREAS, the work was to be performed at actual costs with a maximum amount of \$199,201.83, plus a fixed-fee-for-profit amount of \$24,072.82, for a total agreement amount of \$223,274.65, and

WHEREAS, the original agreement is now being supplemented for Right-of-Way services, additional environmental documentation for Hazardous Materials Technical Reviews, additional construction engineering revisions and project management hours, not contemplated in the Original Agreement or Supplemental Agreement No. 1; and

WHEREAS, the original agreement is amended and the fixed-fee-for-profit is increased from \$24,072.82 to \$28,388.82, an increase of \$4,316.00. Actual costs are increased from \$199,201.83 to \$232,660.83, an increase of \$33,459.00. The total agreement amount is increased from \$223,274.65 to \$261,049.65, an increase of \$37,775.00 which the Consultant must not exceed without the prior written approval of the LPA; and

WHEREAS, the City's share for preliminary engineering costs for this project are estimated to be \$52,209.93; and

WHEREAS, Supplemental Agreement No. 2 to the original agreement with Olsson Associates is required to proceed with this project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Supplemental Agreement No. 2 with Olsson Associates for engineering consulting services related to Grand Island Resurfacing – Various Locations is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

- - -

Approved as to Form	by _____
February 8, 2013	City Attorney

Adopted by the City Council of the City of Grand Island, Nebraska, February 12, 2013.

---

Jay Vavricek, Mayor

Attest:

---

RaNae Edwards, City Clerk