



City of Grand Island

Tuesday, September 25, 2012

Council Session

Item G15

**#2012-268 - Approving Agreement for Appraisal Services for the
US-30 Drainage Improvement Project**

Staff Contact: Terry Brown, Interim Public Works Director

Council Agenda Memo

From: Scott Griepentstroh, Project Manager

Meeting: September 25, 2012

Subject: Approving Agreement for Appraisal Services for the US-30 Drainage Improvement Project

Item #'s: G-15

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

Background

All agreements must be approved by the City Council.

The purpose of the US-30 Drainage Improvement project is to construct storm sewer to the detention cell at the former location of the Wasmer Elementary School from connections on Second Street at Logan Street, Broadwell Avenue, and Madison Street. The improvements will significantly reduce the likelihood of flooding during storm events on Second Street. The project includes constructing drainage inlets on First Street and Division Street between Logan Street and Madison Street, which will provide drainage relief in those areas as well.

This project will receive Federal Funding through the Surface Transportation Program (STP). The Federal Highway Administration (FHWA) has agreed to participate on 77% of the construction costs, which STP funding would then be applied on an 80/20 basis. The actual funding split for construction costs will be 61.6% Federal Aid and 38.4% local funds. FHWA agreed to participate 100% on the costs for Preliminary Engineering, the National Environmental Policy Act (NEPA) clearance process, and costs for acquisition of temporary and permanent easements (80% Federal Aid and 20% Local Funds).

Nineteen temporary easements are required for installation of private water services in accordance with Grand Island City Code, for reconstruction of sidewalks ramps in accordance with the Americans with Disabilities Act and for construction of storm sewer pipe. A permanent easement is required at one location for storm sewer pipe.

The Responsible Charge for this project is qualified to develop appraisal documents and conduct negotiations for most of the easements that are being acquired due to their simplicity and estimated value.

Discussion

The law governing acquisition and relocation on federally assisted projects is Public Law 91-646; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly called the Uniform Act. The procedures to comply with this Act are found in Section 49, Part 24 of the Code of Federal Regulations. On federally funded transportation projects requiring acquisition of right-of-way, Local Public Agencies are required to present to NDOR a Right-of-Way Certificate that certifies property was acquired in accordance with the Uniform Act.

As per the *Right-of-Way Acquisition Guide for Local Public Agencies*, formal property valuation documents are required for each parcel to be acquired. On the US-30 Drainage Improvement Project, "Compensation Estimates" for three tracts must be prepared by a qualified appraiser who is on the current NDOR Approved Appraiser List.

Selection of the appraiser was made in accordance with the *Right-of-Way Acquisition Guide for Local Public Agencies*. The Appraisal Services Contract must be executed before preparation of the Compensation Estimates can begin. The basis of the final fee is as follows.

Compensation Estimates – 2 Tracts at \$900.00 Each = \$1,800.00

Following completion and approval of the Compensation Estimates, another agreement will be required for Negotiation Services.

Approval of Environmental Documents was received in July. Approval of 90% Plans and acquisition of easements are anticipated to be completed in the next four months. Construction of this project is anticipated to begin in 2013.

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 the agreement with Steve Medill, Capital Appraisal Company, LLC for appraisal services for the US-30 Drainage Improvement project.

Sample Motion

Motion to approve the agreement.

APPRAISAL SERVICES CONTRACT

This agreement, entered into this 18 day of Sept, 2012, by the City of Grand Island, (herein called "Local Public Agency") and Steve Medill, Capital Appraisal Company, LLC, (herein called "Appraiser") agrees:

In return for the total fee of \$1,800, as itemized in Appendix C, it is agreed that the Appraiser will furnish to the Local Public Agency valuation documents in accordance with the Appraisal Services Specifications, of which a copy is attached and made a part of this contract. These valuation documents will be used in connection with the acquisition of right of way for:

Project: URB-30-4(158)

C. N.: 42650

Location: US-30 Drainage Improvement, Grand Island, NE

An additional fee will be negotiated with the Appraiser for each additional parcel added to this contract.

The fee for supplemental or revised valuation documents, as a result of changes in the taking caused by the Department, will be negotiated with the Appraiser.

The billing statement for the valuation documents will be submitted to the Local Public Agency at the time of delivery of the project report and all individual parcel valuation reports. Payment of eighty percent (80%) of the total fee will be paid at that time. The balance of the total fee will be paid within ninety (90) days, providing the project report and valuation reports are found to be acceptable and in accordance with the contract upon Local Public Agency review. In the event the project report or valuation reports are found unacceptable by reason of noncompliance with the terms of this contract, or by reason of improper valuation technique, the final payment shall be withheld until such valuations have been revised or supplemented, without additional cost to the Local Public Agency, and found acceptable.

In the event a dispute arises concerning a question or fact in connection with the work not specifically covered or referenced by any other terms of this contract, the Local Public Agency's management will determine the final position. Where no agreement can be reached, this contract shall be terminated. The contract may also be terminated when, in the opinion of the Local Public Agency, the Appraiser's services are unsatisfactory, or because of the Appraiser's failure to prosecute the work with due diligence, or within the time limits specified in this agreement, or because of the Appraiser's disability or death. In such an event, the work, which has been completed, when the notice of termination is given by the Local Public Agency, becomes the property of the Local Public Agency. The Local Public Agency's management shall arbitrate settlement for the completed work.

The Appraiser, as a condition of the above lump fee, agrees to attend necessary meetings and conferences with representatives of the Local Public Agency, the Nebraska Department of Roads and the United States Federal Highway Administration to discuss the various aspects and phases of the work required by this contract. However, it is agreed that additional payment for conferences with Local Public Agency attorneys for testimony in court or witness fees for appearance in court shall be \$700.00 for each half day or portion thereof, or \$1,400.00 per day for any part of a day exceeding a half day.

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All expenses incurred by the Appraiser are considered to be their liability and are not to become an expense to the Local Public Agency except as provided for in this agreement.

The Appraiser agrees to furnish the completed valuation assignment to the Local Public Agency on or before 10/31/12. Supplemental or revised valuation reports caused by the Local Public Agency's actions will be cause to change this to a later date only by mutual written agreement between the parties to this contract. It is further agreed by the Appraiser that they will furnish the Local Public Agency a written progress report of the work accomplished on the Project as requested.

A penalty of \$1.00 per normal working day will be assessed against and deducted from the agreed-upon Fee, as per this contract, of \$1.00 for each normal working day that the completed assignment is overdue. A normal working day is defined as Monday through Friday. Any extension beyond the agreed-upon completion date of 10/31/12 will be only by mutual written agreement between the parties of this contract.

The Appraiser warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Appraiser, to solicit or secure this contract, and that they have not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Appraiser, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract, except for paragraph III, subparagraph O, of the Appraisal Services Specifications. For breach or violation of this warranty, the Local Public Agency shall have the right to annul this contract without liability.

The Appraiser agrees that they will prepare the valuation reports of the property involved independent of any other Appraiser employed by the Local Public Agency in the same work and that they will not furnish to any other person or persons, except on proper order of court, a copy of the valuation reports or the information contained therein. The restriction, however, does not imply that the Appraiser may not use information obtained in the completion of the valuation reports in the course of their usual profession.

The valuation reports are agreed to be confidential between the parties hereto, and a breach of such confidence shall be considered material breach of this contract unless the disclosure of the contents of the report shall be in response to a subpoena or other lawful court order.

It is understood and agreed that law, regulations, or economic conditions may subsequently affect the value fixed by the Appraiser in their report and that same is valid only for a reasonable time after submission.

It is agreed that each party hereto will furnish any available information in its possession to the other upon request, if such information be necessary to the terms of this contract.

It is the intention of the parties that the valuation documents and services contracted for are the personal services of the Appraiser as named. Subletting or transferring the work contracted for in this agreement is expressly prohibited and failure to comply shall be deemed a material breach of the contract.

The Appraiser agrees to abide by the provisions of the Nebraska Fair Employment Practice Act as provided by Nebraska Revised Statute, Section 48-1101 through 48-1126 (Reissue 1988), and all regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49 CFR, Parts 21 and 27, the Minority Business Enterprises Policy and the Drug-Free Workplace Policy as set forth in Appendix "A" attached hereto and hereby made a part of this agreement.

Any notice provided for or concerning this agreement shall be in writing and shall be deemed sufficiently given when sent by mail if sent to the respective address of each party.

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

EXECUTED by the Appraiser this 18 day of Sept, 2012.



Witness



Appraiser

EXECUTED by this day of , 20 .

Local Public Agency

APPROVED:

Authorized Signature

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RESOLUTION 2012-268

WHEREAS, the City of Grand Island, in accordance with the Right-of-Way Acquisition Guide for Local Public Agencies, has negotiated appraisal services with Capital Appraisal Company, LLC for the US 30 Drainage Improvement Project; and

WHEREAS, such services include Compensation Estimates of \$1,800.00, with the possibility of half day (\$700) and daily (\$1,400) rates being applied, per contract, should attendance at meetings pertaining to this project become necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the agreement between the City of Grand Island and Capital Appraisal Company, LLC for appraisal services in connection with the US 30 Drainage Improvement Project 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.

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Adopted by the City Council of the City of Grand Island, Nebraska, September 25, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 21, 2012	☐ City Attorney