

REQUEST AUTHORIZATION FOR MAYOR AND FINANCE OFFICER TO SIGN PROFESSIONAL SERVICES AGREEMENT OR AMENDMENT

Date: 5/14/2006

Project Name & Number: 2006 Bridge Inspections (Off System), ST06-1568B

CIP #: 50630

Project Description: This request is for City of Rapid City Bridge inspections for those bridges that are not on the State Inventory and inspected jointly with the SDDOT. This is in addition to the inspections of On System bridges.

Consultant: Brosz Engineering, Inc.

Original Contract Amount: \$8,437.57

Original Contract Date:

Original Completion Date: 1 Nov. 2006

Amendment Number:

Amendment Description:

Current Contract Amount: \$8,437.57

Current Completion Date: 1 November, 2006

Change Requested:

New Contract Amount: \$8,437.57

New Completion Date:

Funding Source This Request:


Amount	Dept.	Line Item	Comments
\$8,437.57	8910	4223	Inspection of City owned small bridges not on the SDDOT inventory.
\$8,437.57	Total		

Agreement Review & Approvals


Project Manager

5/15/06
Date

Division Manager

 5-15-06
Date


Department Director

5/15/06
Date

City Attorney

Date

ROUTING INSTRUCTIONS

Route two originals of the Agreement for review and signatures.
 Finance Office - Retain one original
 Project Manager - Retain second original for delivery to Consultant
 cc: Public Works
 Engineering
 Project Manager

FINANCE OFFICE USE ONLY

(Note to Finance: Please write date of Agreement in appropriate space in the Agreement document)

Date	Initials	Approved
5/16/06	as	<input checked="" type="radio"/> Y <input type="radio"/> N
		<input type="radio"/> Y <input checked="" type="radio"/> N

AGREEMENT BETWEEN CITY OF RAPID CITY AND BROSZ ENGINEERING, INC
FOR
PROFESSIONAL ENGINEERING SERVICES

This contract dated _____, 2006 between the City of Rapid City (herein referred to as the CITY), and Brosz Engineering, Inc. (herein referred to as the ENGINEER), in consideration of their mutual covenants herein agree in respect of the performance of professional Engineering services by the ENGINEER and the payment for those services by the CITY as set forth below and in the Attachment A and B.

I. PROJECT SCOPE OF SERVICES

The ENGINEER will provide bridge inspection and inventory services on 24 off system vehicle and pedestrian bridges in Rapid City. This will include an initial inspection of 6 vehicle bridges and a cursory review of the general condition of 18 pedestrian bridges as shown on Attachment A of this contract.

II. PROJECT GENERAL CONTRACT CONDITIONS

A. OWNERSHIP OF WORK PRODUCT

Upon final payment as herein provided the inspection reports provided by ENGINEER in connection with its performance under this Agreement shall become the property of the CITY. The CITY hereby grants the ENGINEER the unrestricted right to retain copies of such materials and information, and to use these materials and information in the normal course of the ENGINEER's business for any lawful purpose.

It is agreed that neither party will be responsible for the other's use of these materials and information for purposes other than the Project, unless there is a written agreement between the parties specifying otherwise.

B. TERMINATION

This Agreement may be terminated in whole or in part by either party in the event of substantial failure by either party to fulfill its obligations under this Agreement through no fault of the terminating party, provided, however, that no termination may be effected unless the other party is given 1) not less than ten (10) calendar days' written notice of intent to terminate, and 2) an opportunity for consultation with the terminating party prior to termination. The party receiving the notice will have ten (10) calendar days from receipt thereof to cure the alleged default.

If termination for default is effected by the CITY, and equitable adjustment in the compensation provided for in this Agreement shall be made, but 1) no amount shall be allowed for anticipated profit on unperformed services or other work, and 2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the CITY because of the ENGINEER's default; provided that nothing herein is intended to limit CITY's right to seek damages for any default.

If termination for default by the CITY is effected by the ENGINEER, or if the Project, or any part thereof is canceled as provided in "Cancellation of the Work Section" of this Agreement, the equitable adjustment shall include payment to the ENGINEER for services performed and expenses incurred up to the date of termination consistent with the payment provisions of "Payment to ENGINEER Section", in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the date of the termination notice.

Upon receipt of a termination notice, the ENGINEER shall promptly discontinue all effected work, unless the notice directs otherwise, and shall promptly deliver to the CITY all plans, specifications, drawings, estimates, data, reports, and such other information and materials accumulated by ENGINEER in performing services hereunder, whether complete or in process.

If, after termination by the CITY for default, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been a cancellation of the Project under "Cancellation of the Work Section" hereof, and an equitable adjustment of the compensation shall be made as provided in Subsection C of this Part.

C. CANCELLATION OF WORK

The CITY may, without being in default under this Agreement, cancel all or any portion of the services provided under this Agreement by giving twenty (20) days written notice to the ENGINEER. In the event of such cancellation the CITY shall pay to the ENGINEER all compensation earned up to the effective date of cancellation, and an equitable adjustment in compensation shall be made to provide the ENGINEER with reasonable compensation for the costs of winding down its services and canceling its performance of services under this Agreement, including those relating to commitments which had become firm prior to the date of the termination notice. Upon cancellation the ENGINEER shall turn over to the CITY all data, plans, specifications, drawings, and information gathered or developed for any uncompleted services covered by the Agreement.

D. MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the construed in accordance with the laws of the State of South Dakota.

This Agreement constitutes the entire agreement among the parties with reference to the services described herein, and shall not be amended or modified except in writing and signed by an authorized representative of each party. This Agreement supersedes all prior negotiations, representations or agreements, whether oral or written, relating to the services herein described.

This Agreement may not be assigned or transferred by any party hereto without the prior written consent of the other parties. This Agreement and the covenants herein contained, shall insure to the benefit of, and be binding upon the successors and assigns of the respective parties hereto.

Should any part, term or provision of this Agreement be determined by the Courts to be illegal, unenforceable, or in conflict with any law, the validity of the remaining portions or provisions shall not be affected thereby, and an equitable adjustment to the Agreement with respect to the effected part, term or provision shall be made by the parties.

The ENGINEER shall perform the services described herein as an independent contractor, and not as an employee of the CITY. The ENGINEER will not use the CITY's equipment, supplies or facilities.

The ENGINEER shall be responsible for all taxes, assessments, permit fees or other charges pertaining to its performance of the services pursuant to this Agreement, including exclusive liability for all contributions, taxes or payments required to be made on account of the ENGINEER's employees under State and Federal laws relating to unemployment compensation, worker's compensation, income tax, social security, or other legislation requiring the payment of similar contributions or taxes.

The ENGINEER shall comply with all applicable Federal, State and local laws, regulations and ordinances with reference to the services performed hereunder.

Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance is prevented or delayed by any cause which is beyond the reasonable control of the affected party, and the time of performance of either party hereunder shall in such event be extended for a period equal to any time lost as a result thereof, and an equitable adjustment shall be made in the compensation by mutual consent.

The ENGINEER will maintain and provide necessary supporting documentation for audit purposes during the term hereof and for a period of one year after the completion of services hereunder. Accounting records shall be kept on the basis of generally accepted accounting principles. Records shall be available to the CITY or its authorized agents and representatives upon request during normal business hours at mutually convenient times.

ENGINEER agrees to defend, indemnify and hold the CITY, its officers, agents, and employees harmless from and against any and all actions, claims, suits, damages, liability or proceedings of any kind or character whatsoever, including reasonable attorney's fees, which may arise from or in connection with the negligent performance of services hereunder. This section does not require the ENGINEER to defend or indemnify the CITY, its officers, agents or employees from claims or liability arising solely from the acts or omissions of the CITY, its officers, agents or employees.

During the term of this Agreement, the ENGINEER shall maintain in effect at all times, and provide proof of such coverage to the CITY, insurance coverage for this Project at the limits set forth herein:

Commercial General Liability Insurance: The ENGINEER shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit. Such insurance shall include state employees as additional insured, shall contain no

special limitations on the scope of its protection afforded to state employees, and shall be primary with respect to any insurance or self-insurance programs covering state employees.

Professional Liability Insurance: The ENGINEER shall maintain professional liability insurance with a limit of not less than \$250,000 per occurrence. Such insurance shall be continued for a minimum of three years after the date of the certification of the final Consultant's payment request.

Business Automobile Liability Insurance: The ENGINEER shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

Workers' Compensation Insurance: The ENGINEER shall maintain Workers' compensation and employer's liability insurance as required by South Dakota law.

Certificates of Insurance: Upon request, ENGINEER shall furnish the CITY with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and provide that such insurance shall not be canceled, except on 30 days' prior written notice to the CITY. ENGINEER shall furnish copies of insurance policies if requested by the CITY.

Any notice provided for or permitted by this Agreement shall be sufficient when mailed by registered or certified mail, return receipt requested, postage prepaid; sent by telegram, or telex, or telecopy or other similar facsimile communication, confirmation received; or when given by telephone, and confirmed in writing sent by any of the above methods on the same day; addressed to the parties as shown on the Executed Agreement, or such other address as may be provided by any party by notice, and shall be deemed effective upon receipt:

E. PAYMENTS TO THE ENGINEER

The amounts due shall be paid to the ENGINEER on a monthly basis, on actual services performed. ENGINEER will submit monthly invoices with each request for payment. Payment will be made in accordance with SDCL Ch. 5-26 upon receipt of a properly completed voucher and supporting invoice. ENGINEER's expenses will not be paid as a separate item.

F. BASIS OF COMPENSATION

The ENGINEER shall be paid at the normal hourly rates and chargeable expenses up to a maximum of \$ 8,437.57 or as approved by separate agreements. The hourly rates and estimated hours to complete this work are shown on the Attachment B. If the ENGINEER anticipates that this amount will be exceeded, he shall first gain permission to exceed from the CITY. The rates may change on an annual basis.

ATTACHMENT A

Proposed Scope of Services For Inspection of the City of Rapid City's Off System and Pedestrian Bridges

Brosz Engineering will provide the following services on 24 off system vehicle and pedestrian bridges in Rapid City. This will include a full initial inspection of 6 vehicle bridges and a cursory review of the general condition of 18 pedestrian bridges. Brosz Engineering will provide the following information on all structures:

- GIS location of all structures
- Establish a base inventory and description of each structure including:
 1. Location
 2. Establish a structure number for all bridges
 3. Structure Type – Beams/Deck/Berms/Railing
 4. Type of traffic carried
 5. Feature crossed
 6. Recommend first inspection date and frequency of follow up inspections

Traffic Bridges needing Inspection this year – 6 Bridges

- Bridge to Meadowbrook Golf Course parking area near Clubhouse
- Cherry Avenue/San Francisco St structure – south of Fairgrounds
- Sioux Avenue structure at Nash Finch
- Cherry Avenue/drainage flume structure
- Aspen Avenue structure – same drainage way as Cherry Avenue
- Birch Avenue structure

Note: There is also a bridge on Magic Canyon Road that may be a private structure. If this is a private bridge, we will not do this inspection.

Pedestrian Bridges – Review, inventory and future inspections – 18 Bridges

- Brosz Engineering will make a "Cursory" review of the following non-critical pedestrian structures and make recommendations for establishing a scheduled inspection cycle. If cursory review detects apparent problems, we will recommend an immediate inspection

Structures Include:

Canyon Lake "Island Bridge"
Old Storybook Island Bridge
Sioux Park Bridge
Bike Path Bridge --Hardees on West Main
Executive Gold Course at 11th
LaCroix Golf Link
Over Lime Creek – W Chicago/W St Louis

Golf cart bridges on Meadowbrook (6)
Display Gardens Bridge
6th Street/Memorial Park Bridge
Canyon Lake Jackson Park Path
7th Street Memorial Park Path Bridge
Path Bridge at Mt View and Omaha

Attachment B

Maximum Limiting Fees for Engineering Services Required for the Inspection and Inventory Services on 24 Off System Vehicle and Pedestrian Bridges

Services Required	Estimated Hours	Total Hourly Rate	Estimated Cost
Engineer I	50	\$ 29.00	\$ 1,450.00
Senior Engineering Tech.	50	\$ 28.00	\$ 1,400.00
Engineer Technician 2	10	\$ 13.20	\$ 132.00
TOTAL LABOR			\$ 2,982.00
OVERHEAD (145.0%)			<u>\$ 4,323.90</u>
SUBTOTAL			\$ 7,305.90
FIXED FEE (15%)			<u>\$ 1,095.89</u>
SUBTOTAL			\$ 8,401.79
CAPITAL COST OF MONEY (1.2%)			\$ 35.78
TOTAL ESTIMATED ENGINEERING AMOUNT			<u>\$ 8,437.57</u>

CONTACT PERSONS

CITY: Joe Jagodzinski, Project Manager
 Consultant: David Jagim, Manager

WORK ORDER COMPLETION DATE DECEMBER 31, 2006

APPROVED BY:

Consultant:



David J. Jagim, Manager
Brosz Engineering, Inc.

Authorized by:

Jim Shaw, Mayor
City of Rapid City

Attest:

James F. Preston, Finance Officer
City of Rapid City

**APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE**

Lawyer 5/15/06
Attorney Date