



CITY OF WASHINGTON, ILLINOIS

City Council Agenda Communication

Meeting Date: 02-07-2022

Prepared By: Dennis Carr – City Engineer

Agenda Item: Freedom Parkway Land Acquisition Services

Explanation: Freedom Parkway is slated to receive STBG funds which gives funding oversight of the project to IDOT. Since IDOT has oversight of the project, for the project to get the proper funding, it must follow a set of guidelines for ROW acquisition. While a majority of the ROW was acquired a number of years ago, there are 10 parcels we need to acquire permanent easement, temporary easement, or Right of Way from. The additional land acquisition is to maintain proper drainage, add sidewalk near Walmart, and to accommodate a truck turning movement onto northbound Cummings.

Hanson Professional Services performed the land acquisition services for both Centennial Drive and Bobolink and were able to secure the properties in a professional and timely manner. They have a strong Land acquisitions department and should be able to secure the properties in time to meet IDOT's schedule.

Fiscal Impact: ROW needs were found during the Phase 1 Engineering and were not identified before the current budget. Since 3 of the parcels might exceed the waiver evaluation fee limits, 3 appraisals and review appraisals were scoped as per IDOT's requirements. The total cost for the land acquisition services is \$51,750.

Recommendation/

Committee Discussion Summary: Staff recommends approval of the engineering services agreement with Hanson Professional Services in the amount not to exceed \$51,750.

Action Requested: Approval of the Engineering Services Agreement with Hanson Professional Services.

Hanson Professional Services Inc.
Professional Services Agreement (PSA)
LEGL0200- 22L0011

THIS PROFESSIONAL SERVICES AGREEMENT (PSA) is made this 7th day of February, 2022, between City of Washington, subsequently referred to as "Client," and Hanson Professional Services Inc., subsequently referred to as "Hanson."

By joining in this PSA, Client retains Hanson to provide professional services in connection with Freedom Parkway Extension Land Acquisition Services, subsequently referred to as "Project."

By this PSA, the scope of Hanson's services on Project is limited to that described in Attachment A.

The attached LEGL0250 Rev 1 - General Conditions (C-S) are incorporated into and made a part of this PSA.

Client agrees to compensate Hanson for providing the above services in the manner described in Attachment B.

Client and Hanson hereby agree to and accept the terms and conditions stated above, including terms and conditions stated in the attached General Conditions, the receipt of which is acknowledged.

Hanson Professional Services Inc.

City of Washington

By: 

By: _____

Title: Vice President

Title: _____

Date: February 1, 2022

Date: _____

Attachment A – Scope of Services

LEGL0200- 22L0011

Effective Date: 2/7/2022

Project Description:

The City of Washington is extending Freedom Parkway to Cummings Lane. The right-of-way corridor for the extension was previously secured. However, in order to construct the extension, several temporary easements and small areas of additional right-of-way are required. The project is being constructed with federal STU funds and requires the right-of-way to be certified by IDOT.

Services:

The Scope of Services to be provided is limited to the following:

Provide Land Acquisition Services for nine (9) parcels: Four (4) with proposed ROW and temporary easements, one (1) with permanent easement and temporary easement and four (4) with temporary easements.

Property Appraisal and Appraisal Review Services: Provide property appraisal services and review appraisal services in conformity with the IDOT Land Acquisition Guidelines and Uniform Standards of Professional Appraisal Practice (USPAP) associated with the proposed right-of-way, easement, and parcel purchases (as required). A total of ten (10) properties will be appraised. Waiver valuations will be assumed for seven (7) parcels and property appraisal/review appraisals will be assumed for three (3) parcels. It is assumed that a City Engineer will complete IDOT's 3-hour online course in order to sign the waiver valuations.

1. Prepare Market Study for property cost data
2. Prepare Waiver Valuations forms for seven (7) parcels for review and approval by the city engineer.
3. Appraisals and Appraisal Reviews (3)
 - a. Hanson will provide the City with property appraisal services and review appraisal services for the above assumed properties. The appraisals will involve a visual inspection of the subject property and comparable properties in the market area, an analysis of market trends and the application of valuation methods to arrive at an opinion of market value based upon relevant market evidence.
 - b. If Hanson concludes, during parcel inspection or during the course of preparing the appraisal report for a parcel, that a more complex appraisal report is required, then Hanson and the City will negotiate new compensation amounts appropriate for the change in appraisal reports.
4. Negotiations
 - a. Hanson will prepare offer documents and conveyance documents for ten (10) parcels as appropriate for the nature of property ownership. This effort will include an attempt to present the offer package in person to the property owner, if the property owner or their representatives are located near the project site, and a minimum of three personal contacts per parcel, if required, to reach a negotiated settlement.
 - b. In the event that settlement is reached, Hanson's negotiation efforts will be considered complete when the conveyance documents and documents to clear title encumbrances

- for each parcel are delivered to the City for approval and recording. In the event that settlement is not reached, Hanson's negotiation effort will be considered complete when each parcel is referred to the City for condemnation after attempts to negotiate the acquisition have failed and 120 days for the offer date have expired.
- c. Hanson will initiate negotiations upon the City's certification of the parcels' review appraisals or upon the City's certification of waiver valuations.
 - d. Hanson will prepare condemnation request packets, if necessary, if negotiations have failed and upon the direction of the City.

Attachment B – Charges for Services

LEGL0200- 22L0011

Effective Date: 2/7/2022

Basis of Charges:

Charges for professional services performed by our firm for all services listed in the Scope of Services will be made on the basis of a \$51,750 lump sum. Billings will be issued at least monthly, and will be based on the estimated percentage of the total Scope of Services that has been completed.

Lump Sum is broken down as follows:

Market Study		\$8,000
Waiver Valuations	7 @ \$1,000 ea. =	\$7,000
Appraisal	3 @ \$2,900 ea. =	\$8,700
Appraisal Reviews	3 @ \$1,350 ea. =	\$4,050
Negotiations	10 @ \$2,200 ea. =	\$22,000
Project Management		\$2,000

**Hanson Professional Services Inc.
General Conditions (C-S)**

Hanson Agreement: LEGL0200-22L0011

Agreement Date: February 7, 2022

Project Name: Freedom Parkway Land Acquisition

1. Invoices: Charges for services will be billed at least as frequently as monthly, and at the completion of the Project. CLIENT shall compensate HANSON for any sales or value added taxes which apply to the services rendered under this agreement or any addendum thereto. CLIENT shall reimburse HANSON for the amount of such taxes in addition to the compensation due for services. Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT unless agreed to in writing by HANSON. Invoices are delinquent if payment has not been received within 30 days from date of invoice. There will be an additional charge of 1 1/2 percent per month compounded on amounts outstanding more than 30 days. All time spent and expenses incurred (including attorney's fees) in connection with collection of any delinquent amount will be paid by CLIENT to HANSON per HANSON's current fee schedules.

2. Termination: This Agreement may be terminated by either party upon written notice. Any termination shall only be for good cause such as legal, unavailability of adequate financing or major changes in the scope of services. In the event of any termination, HANSON will be paid for all services and expenses rendered to the date of termination on a basis of payroll cost times a multiplier of 3.0 (if not previously provided for) plus reimbursable expenses, plus reasonable termination expenses, including the cost of completing analyses, records, and reports necessary to document job status at the time of termination.

3. Reuse of Documents: All documents including reports, drawings, specifications, and electronic media furnished by HANSON pursuant to this Agreement are instruments of its services. They are not intended or represented to be suitable for reuse by CLIENT or others on extensions of this project, or on any other project. Any reuse without specific written verification or adaptation by HANSON will be at CLIENT's sole risk, and without liability to

HANSON, and CLIENT shall indemnify and hold harmless HANSON from all claims, damages, losses and expenses including court costs and attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle HANSON to further compensation at rates to be agreed upon by CLIENT and HANSON.

4. Standard of Care: Services performed by HANSON under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other representation expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party. HANSON is not acting as a municipal advisor to CLIENT as defined by the Securities and Exchange Commission.

5. General Liability Insurance and Limitation: HANSON is covered by general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions, with limits which HANSON considers reasonable. Certificates of insurance shall be provided to CLIENT upon request in writing. HANSON shall not be responsible for any loss, damage or liability beyond the amounts, limits and conditions of such insurance. HANSON shall not be responsible for any loss, damage or liability arising from any act or omission by CLIENT, its agents, staff, other consultants, independent contractors, third parties or others working on the Project over which HANSON has no supervision or control.

6. Suspension of Services: If CLIENT fails to make payments when due or otherwise is in breach of this Agreement, HANSON may suspend performance of services upon five (5) calendar days' notice to CLIENT. HANSON shall have no liability whatsoever to CLIENT,

and CLIENT agrees to make no claim for any delay or damage as a result of such suspension.

7. Delays: The CLIENT agrees that HANSON is not responsible for damages arising directly or indirectly from any delays for causes beyond HANSON's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, epidemics, pandemics, war or other emergencies; failure of any government agency to act in a timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by HANSON to perform its services in an orderly and efficient manner, HANSON shall be entitled to negotiate a reasonable adjustment in schedule and compensation, or, if encountering severe disruptions or emergencies, shall be entitled to terminate services.

8. Consequential Damages: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither CLIENT nor HANSON, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for incidental, indirect, or consequential damages arising out of or connected in any way to this Project or this Agreement. This mutual waiver of consequential damages shall include, but not be limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict and implied warranty. Both CLIENT and HANSON shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project.

9. Contingency Fund: The CLIENT and HANSON acknowledge that changes may be required during construction because of possible omissions, ambiguities or inconsistencies in the plans and specifications and, therefore, that the costs of the project may exceed the construction contract sum. The CLIENT agrees to set aside a reserve in the amount of Five Percent (5%) of the actual project construction costs as a contingency reserve to be

used, as required, to pay for any such increased project costs. The CLIENT further agrees to make no claim by way of direct or third-party action against HANSON or sub-contractors and subconsultants with respect to any payments within the limit of the contingency reserve made to the construction contractors because of such changes or because of any claims made by the construction contractors relating to such changes.

10. Additional Limitation: In recognition of the relative risks and benefits of the Project to both the CLIENT and HANSON, the risks have been allocated such that the CLIENT agrees that for the compensation herein provided HANSON cannot expose itself to damages disproportionate to the nature and scope of HANSON's services or the compensation payable to it hereunder. Therefore, the CLIENT agrees to limit its remedies against HANSON arising from HANSON's professional acts, errors or omissions, in any action based on strict liability, breach of contract, negligence or any other cause of action, such that the total aggregate amount of the CLIENT's damages shall not exceed \$50,000 or HANSON's total net fee for services rendered on the Project, whichever is greater. This limitation pertains to HANSON and to its subcontractors and subconsultants, and applies as a single aggregate amount to all work performed under the Agreement, including all work performed under an amendment or modification. If CLIENT desires a limit greater than that provided above, CLIENT and HANSON shall include in this Agreement the amount of such limit and the additional compensation to be paid to HANSON for assumption of such additional risk. CLIENT must notify HANSON in writing, before HANSON commences any services, of CLIENT's intention to negotiate a greater limitation of remedies against HANSON and its associated impact on services, schedules, and compensation. Absent CLIENT's written notification to the contrary, HANSON will proceed on the basis that the total remedies against HANSON is limited as set forth above.

11. Personal Liability: It is intended by the parties to this Agreement that HANSON's services in connection with the Project shall not subject HANSON's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the CLIENT agrees that as the CLIENT's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against HANSON, a Delaware corporation, and not

against any of HANSON's individual employees, officers or directors.

12. Assignment: Neither party to this Agreement shall transfer, sublet, or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may become due, without the written consent of the other party. Subcontracting to subconsultants, normally contemplated by HANSON as generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

13. Statutes of Repose and Limitation: All legal causes of action between the parties to this Agreement shall accrue and any applicable statutes of repose or limitation shall begin to run not later than the date of Substantial Completion. If the act or failure to act complained of occurs after the date of Substantial Completion, then the date of final completion shall be used, but in no event shall any statute of repose or limitation begin to run any later than the date HANSON's services are completed or terminated.

14. Dispute Resolution: In an effort to resolve any conflicts that arise during the design and construction of this Project or following completion of this Project, the CLIENT and HANSON agree that all disputes between them arising out of or relating to this Agreement or this Project shall be submitted to nonbinding mediation.

15. Authority and Responsibility: HANSON shall not guarantee the work of any Contractor or Subcontractor, shall have no authority to stop work, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, and shall not be responsible for safety in, on, or about the job site or have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms or other work aids.

16. Right of Entry: CLIENT shall provide for HANSON's right to enter property owned by CLIENT and/or others in order for HANSON to fulfill the scope of services for this Project. CLIENT understands that use of exploration equipment may unavoidably cause some damage, the correction of which is not the responsibility of HANSON.

17. Utilities: CLIENT shall be responsible for designating the location of all utility lines and subterranean structures within the property line of the Project. CLIENT agrees to waive any claim against

HANSON, and to defend, indemnify and hold harmless from any claim or liability for injury or loss arising from HANSON or other persons encountering utilities or other man-made objects that were not called to HANSON's attention or which were not properly located on plans furnished to HANSON. CLIENT further agrees to compensate HANSON for any time or expenses incurred by HANSON in defense of any such claim, in accordance with HANSON's prevailing fee schedule and expense reimbursement policy.

18. Job Site: Services performed by HANSON during construction will be limited to providing assistance in quality control and to deal with questions by the CLIENT's representative concerning conformance with drawings and specifications. This activity is not to be interpreted as an inspection service, a construction supervision service, or guaranteeing the Contractor's performance. HANSON will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs. HANSON will not be responsible for the Contractor's obligation to carry out the work in accordance with the Contract Documents. HANSON will not be considered an agent of the owner and will not have authority to direct the Contractor's work or to stop work.

19. Opinions of Cost: Since HANSON has no control over the cost of labor, materials or equipment or over a Contractor's method of determining prices, or over competitive bidding or market conditions, its opinions of probable Project cost or construction cost for this Project will be based solely upon its own experience with construction, but HANSON cannot and does not guarantee that proposals, bids or the construction cost will not vary from its opinions of probable costs. If the CLIENT wishes greater assurance as to the construction cost, the CLIENT shall employ an independent cost estimator.

20. Shop Drawing Review: CLIENT agrees that HANSON's review of shop drawings, when such review is included in the scope of services, shall be solely for their conformance with HANSON's design intent and conformance with information given in the construction documents. HANSON shall not be responsible for any aspects of a shop drawing submission that affect or are affected by the means, methods, techniques, sequences and operations of construction, safety precautions and programs incidental thereto, all of which are the Contractor's responsibility. The Contractor will be responsible for

lengths, dimensions, elevations, quantities and coordination of the work with other trades. CLIENT warrants that the Contractor shall be made aware of its responsibilities to review shop drawings and approve them in these respects before submitting them to HANSON.

21. Record Drawings: CLIENT agrees that HANSON's preparation of record drawings, when such preparation is included in the scope of services and such preparation is based on information furnished by the Contractor and/or other third parties, will be made under the assumption that all furnished information is reliable and that HANSON cannot and does not warrant the accuracy of the furnished information. In the event that the scope of services additionally provides for HANSON to conduct surveys, investigations, and field measurements to collect or verify the information needed for the record drawings, HANSON will conduct such services with the Standard of Care as set forth in these General Conditions.

22. Confidentiality: Each party shall retain as confidential, all information and data furnished to it by the other party which are designated in writing by such other party as confidential at the time of transmission, and are obtained or acquired by the receiving party in connection with this Agreement, and said party shall not disclose such information to any third party.

23. Third-Party Beneficiaries: Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either CLIENT or HANSON. HANSON's services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against HANSON because of this Agreement or the performance or nonperformance of services hereunder. CLIENT and HANSON agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors, and other entities involved in this Project to carry out the intent of this provision.

24. Severability: If any term or provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, such holding shall be applied only to the provision so held, and the remainder of this Agreement shall remain in full force and effect.

25. Survival: Notwithstanding completion or termination of the Agreement for any reason, all rights, duties, obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

26. Entire Agreement: This Agreement is the entire Agreement between the CLIENT and HANSON. It supersedes all prior communications, understandings and agreements, whether written or oral. Both parties have participated fully in the preparation and revision of this Agreement, and each party and its counsel have reviewed the final document. Any rule of contract construction regarding ambiguities being construed against the drafting party shall not apply in the interpreting of this Agreement, including any Section Headings or Captions. Amendments to this Agreement must be in writing and signed by both CLIENT and HANSON.

27. Modification to the Agreement: CLIENT or HANSON may, from time to time, request modifications or changes in the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of HANSON's compensation, to which CLIENT and HANSON mutually agree shall be incorporated in this Agreement by a written amendment to the Agreement.

28. Governing Law: This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

29. Construction Phase Services without Design: If HANSON is undertaking a nontraditional service on CLIENT's behalf to provide Construction Contract Administration Services but not the design of the Project, CLIENT acknowledges that this arrangement, while suitable for the Project, creates additional risk for HANSON.

In consideration of the risks and rewards involved in this Project, CLIENT agrees, to the maximum extent permitted by law, to indemnify and hold harmless HANSON from any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising or allegedly arising from any negligent acts, errors or omissions by any other consultant employed by CLIENT on this Project and from any claims of copyright or patent infringement by HANSON arising from the use or reuse of any documents prepared or provided by CLIENT or any other consultants of CLIENT. CLIENT warrants that

any documents provided to HANSON by CLIENT or by any other consultants may be relied upon as to their accuracy and completeness without independent investigation by HANSON and that CLIENT has the right to provide such documents to HANSON free of any claims of copyright or patent infringement or violation of any other party's rights in intellectual property.