

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: May 22, 2023
Item No.: 10.d

Department Approval



City Manager Approval



Item Description: Approve Professional Services Agreement for Project 24-02, County Road B Reconstruction, Special Benefits Appraisal

1 **BACKGROUND**

2 County Road B from Eustis Street to Cleveland Avenue is scheduled for reconstruction in 2024.
3 City staff intends to bring the project’s feasibility study to Council this fall. As a part of the
4 feasibility study, a preliminary assessment roll will be proposed. Per the Roseville Assessment
5 Policy (adopted 12.12.2012) “appraisals shall be completed to determine the influence of an
6 improvement project on the value of the properties proposing to be assessed.” This is done to
7 confirm that the dollar amounts assessed do not exceed the benefit to the property.

8 BRKW Appraisals, Inc. provided the City with a proposal to perform the special benefit appraisals
9 for the thirty single family homes along Project 24-02 for the cost of \$16,000.

10 **POLICY OBJECTIVE**

11 It is City policy to keep City-owned infrastructure in good operating condition and to keep systems
12 operating in a safe condition.

13 **BUDGET IMPLICATIONS**

14 The total proposed cost of the proposal by BRKW Appraisals, Inc. is \$16,000 which would be paid
15 out of the street replacement fund.

16 **RACIAL EQUITY IMPACT SUMMARY**

17 There should be no equity impacts associated with this agreement.

18 **STAFF RECOMMENDATION**

19 Staff recommends the Council approve the Professional Services Agreement for Project 24-02,
20 County Road B Reconstruction, special benefits appraisal by BRKW Appraisals, Inc.

21 **REQUESTED COUNCIL ACTION**

22 Motion to approve the Professional Services Agreement for Project 24-02, County Road B
23 Reconstruction, special benefits appraisal by BRKW Appraisals, Inc.

Prepared by: Jennifer Lowry, Assistant Public Works Director/City Engineer

Attachments: A: Professional Services Agreement

**CITY OF ROSEVILLE
PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“Agreement”) is made on the _____ day of May, 2023, between the City of Roseville, a Minnesota municipal corporation (the “City”), and BRKW Appraisals, Inc., an Incorporation (the “Contractor”, each a “Party” and together the “Parties”).

- 1. Scope of Work.** The Contractor agrees to provide the professional services described in **Exhibit A** (“Work”) which is attached to this Agreement and incorporated by this reference. All Work provided by Contractor under this Agreement shall be provided in a manner consistent with the level of care and skill ordinarily exercised by professional consultants currently providing similar services.
- 2. Term and Termination.** The term of this Agreement will commence on May 29, 2023. Unless extended by written agreement of the Parties, this Agreement will terminate no later than December 31, 2023, or upon completion of the Work, whichever occurs first. This Agreement may be terminated earlier by either Party with or without cause, by delivering, a written notice at least thirty (30) days prior to the date of such termination to the other Party. The date of termination shall be stated in the notice. Upon termination the Contractor shall be paid for services rendered and eligible reimbursable expenses incurred by the Contractor through and until the date of termination. If the City terminates this Agreement for cause, the notice shall so-state, and no further payment shall be due to the Contractor following the delivery of the termination notice.
- 3. Compensation for Work.** The City agrees to compensate Contractor the in accordance with **Exhibit A** attached hereto for the Work. Any changes in the Work which may result in an increase to the compensation due the Contractor shall require prior written approval of the City.
- 4. Method of Payment.** Following the conclusion of each calendar month, Contractor must submit an itemized invoice detailing actual hours worked and actual expenses incurred for Work performed under this Agreement during the previous month. Invoices submitted shall be paid in the same manner as other claims made to the City. Invoices shall contain the following:

 - a. For compensation based on hours worked by various individuals, for each individual, their name, job title, the number of hours worked, rate of pay and description of the Work performed. For reimbursable expenses an itemized listing including, as applicable, receipts for such expenses.
 - b. Upon request of the City, Contractor must also provide the City’s project number, a progress summary showing the original (or amended) amount of the Agreement, the current billing, past payments, the unexpended balance due under the Agreement.
 - c. A statement dated and signed by the Contractor: “I declare under penalty of perjury that this account, claim, or demand is just and correct and that no part of it has been paid.”
- 5. Representatives and Notices:** The below-named individuals will act as the representatives of the Parties with respect to the work to be performed under this Agreement. Any termination

notice issued under this Agreement shall be either hand delivered or sent by U.S. Mail to the below-named individuals:

To City:

City of Roseville
2660 Civic Center Drive
Roseville, MN 55113
Attn: Jennifer Lowry, P.E., City Engineer

To Contractor:

BRKW Appraisals, Inc.
2100 Minneapolis Avenue
Minneapolis, MN 55406
Attn: Paul Gleason, MAI, Principal

6. Assignment or Subcontracting. The Contractor shall not assign or enter into subcontracts for services provided under this Agreement without the written consent of the City. If subcontracts are approved and entered into, the Contractor shall promptly pay any subcontractor involved in the performance of this Agreement as required by, and the Contractor shall otherwise comply with, the State Prompt Payment Act.

7. Independent Contractor. All Work provided pursuant to this Agreement shall be provided by Contractor as an independent contractor and not as an employee of the City for any purpose. Any and all officers, employees, subcontractors, and agents of Contractor, or any other person engaged by Contractor in the performance of the Work pursuant to this Agreement, shall not be considered employees of the City. Contractor, its employees, subcontractors, or agents shall not be entitled to any of the rights, privileges, or benefits of the City's employees, except as otherwise stated herein.

8. Annual Review. Following the anniversary date of each year of this Agreement, the City shall have the right to conduct a review of the performance of the Work performed by the Contractor under this Agreement. The Contractor agrees to cooperate in such review and to provide such information as the City may reasonably request. Following each performance review the Parties shall, if requested by the City, meet and discuss the performance of the Contractor relative to the remaining Work to be performed by the Contractor under this Agreement.

9. Compliance with Laws and Regulations. The Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations in the performance of the Work.

10. Non-Discrimination. During the performance of this Agreement, the Contractor shall not discriminate against any person, contractor, vendor, employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age. The Contractor shall post in places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. The Contractor shall incorporate the foregoing requirements in all of its subcontracts for Work done under this Agreement and will require all of its subcontractors performing such Work to incorporate such requirements in all subcontracts for the performance of the Work. The Contractor further agrees to comply with all aspects of the Minnesota Human Rights Act, Minnesota Statutes 363.01, et. seq., Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act.

11. Data Practices Act Compliance. Contractor acknowledges that all data provided, produced, or obtained under this Agreement shall be protected, maintained, and administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (the “Act”), and that with regard to such data Contractor must comply with the Act as if it were a government entity. Contractor will immediately report to the City any requests from third Parties for information relating to this Agreement.

12. Audit Disclosure. Under Minn. Stat. § 16C.05, subd. 5, Contractor’s books, records, documents, and accounting procedures and practices relevant to this Agreement, including books and records of any approved subcontractors, are subject to examination by the City and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years after the termination of this Agreement.

13. Indemnification. The Contractor agrees to defend, indemnify and hold the City, and its mayor, councilmembers, officers, agents, employees, and representatives harmless from and against all liability, claims, damages, costs, judgments, losses and expenses, including but not limited to reasonable attorney’s fees, arising out of or resulting from any negligent or wrongful act or omission of the Contractor, its officers, agents, employees, contractors and/or subcontractors, pertaining to the performance or failure to perform the Work. Nothing herein shall be construed as a limitation on or waiver of any immunities or limitations on liability available to the City under Minnesota Statutes, Chapter 466, or other law.

14. Insurance. Prior to starting the Work and during the full term of this Agreement, the Contractor shall procure and maintain insurance Contractor shall obtain, at Contractor's expense, as follows:

- a. Workers Compensation insurance in accordance with Minnesota law;
- b. Professional Liability Insurance covering any damages caused by an error, omission or any negligent act. AND/OR General Liability Coverage against claims for bodily injury, death, or property damage arising out of Contractor’s performance of duties under this Agreement;
- c. Automobile insurance for owned, hired and non-owned vehicles;
- d. Coverage shall be sufficiently broad to cover to all duties and obligations undertaken by Contractor in this Agreement including duties related to indemnification;
- e. Insurance must be on an “occurrence” basis, and, other than Workers Compensation, the limits of such policies must be no less than \$1,000,000 per occurrence and \$1,500,000 aggregate.

- f. Policies must be held by insurance companies licensed to do business in the state in Minnesota and having a current A.M. Best rating of no less than A-, unless otherwise agreed to by the City in writing.
- g. Contractor must provide a copy of: (i) a certification of insurance satisfactory to the City, and (ii) if requested, the Contractor's insurance declaration page, riders and/or endorsements, as applicable, which evidences the compliance with this Paragraph, must be filed with the City prior to the start of Contractor's Work. Such documents evidencing insurance shall be in a form acceptable to the City and shall provide satisfactory evidence that the Contractor has complied with all insurance requirements.

15. Ownership of Documents. All plans, diagrams, analysis, reports and information generated in connection with the performance of this Agreement (the "Information") shall become the property of the City, but the Contractor may retain copies of such documents as records of the services provided. The City may use the Information for any reasons it deems appropriate without being liable to the Contractor for such use. The Contractor shall not use or disclose the Information for purposes other than performing the Work contemplated by this Agreement without the prior consent of the City.

16. Conflicts. No salaried officer or employee of the City and no member of the City Council of the City shall have a financial interest, direct or indirect, in this Agreement. The violation of this provision shall render this Agreement void.

17. Waiver. Any waiver by either Party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement or either Parties' ability to enforce a subsequent breach.

18. Governing Law. This Agreement shall be controlled by the laws of the State of Minnesota. Any disputes, controversies, or claims arising under this Agreement shall be heard in the state or federal courts of Minnesota and the Parties waive any objections to jurisdiction.

19. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original.

20. Severability. The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.

21. Entire Agreement. Unless stated otherwise in this, the entire agreement of the Parties is contained in this Agreement. This Agreement supersedes all prior oral agreements and negotiations between the Parties relating to the subject matter hereof as well as any previous agreements presently in effect between the Parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the Parties, unless otherwise provided herein.

IN WITNESS WHEREOF, the undersigned Parties have entered into this Agreement as of the date set forth above.

CITY OF ROSEVILLE

BRKW Appraisals, Inc.

By: _____
Daniel J. Roe, Mayor

By: _____
Its: _____

By: _____
Patrick Trudgeon, City Manager

By: _____
Its: _____

May 16, 2023

Jennifer Lowry, P.E.
Assistant Public Works Director & City Engineer
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

Re: Proposal for Appraisal Services – Special Benefits Valuation
City of Roseville, MN – County Road B Reconstruction
Cleveland Avenue to Eustis Street

Dear Ms. Lowry:

By way of this letter, I am submitting a proposal for BRKW Appraisals, Inc. to provide the City of Roseville with a special benefits appraisal pertaining to the above referenced proposed improvement project, which includes full street reconstruction of County Road B as well as the addition of concrete curb/gutter and trails adjoining the reconstructed street, to commence and be substantially completed in 2024. I have reviewed two alternative layout maps you provided me showing the proposed improvements, with the primary difference between the two being that in some areas the adjoining trail is on the opposite side of the street in one layout versus the other.

It is my understanding that the construction of parking bays shown in both layouts may or may not end up being included in the final project design, which is still in the process of being developed. It is also my understanding that the focus of the special benefits appraisal should be only on the 30 single-family homes which have frontage on the section of County Road B to be reconstructed.

Purpose/Intended Use/Intended Users

The purpose of the appraisal is to provide an opinion of the increase in market value, if any, accruing to 30 single-family home subject properties in the project area as a result of the proposed street rehabilitation project. The intended use of the appraisals is for assisting City of Roseville officials in levying in an equitable manner special assessments to properties benefited by the improvement project. The intended users are officials of the City of Roseville. The client of the appraisal assignment would be the City of Roseville.

Subject Properties

Each single-family home which has frontage on County Road B in the project area will be included as a subject property to be valued in the special benefits appraisal. My research indicates there are 30 properties meeting these criteria. For clarification purposes, the westernmost property to be appraised has an address of 2377 County Road B W. and the easternmost property is addressed 2165 Cleveland Avenue N.

Scope of Work

Valuation Methodology: The special benefits appraisal will be based on a before-and-after valuation methodology. This involves developing an opinion of each property market value as it exists before the proposed project improvements, and also concluding an opinion of the market value of the property assuming the improvements are completed. The difference between the before and after values reflects an opinion of special benefit to the property resulting from the street improvement project.

All of the subject properties to be valued contain buildings and supporting site improvements. However, since the value benefits of street, utility and similar public improvement projects accrue to the land, rather than to the building improvements, in all cases the valuation will involve the land component of the properties only. The value contribution of the building and supporting site improvements located upon the land does not change as a result of the street project. Consequently, it is not necessary to include the buildings and site improvements on the land in the valuation.

The Sales Comparison Approach will be applied in valuing the land component of the subject properties in the before-project and after-project situations. In the Sales Comparison approach, the subject property land is compared to other reasonably similar land parcels which have recently sold. Adjustments to the comparable land sale prices are made for value-related differences between the subject and the comparables, the result of which is a range of indications of what the subject land would sell for if offered on the open market. The range of values is reconciled into a final single-point estimate of the subject property land value, before and after the project.

Report Type

The results of the appraisal of the subject properties will be communicated in one appraisal report. The appraisal will be presented in a **Restricted Appraisal Report** format, which meets the minimum requirements of content that must be contained in an appraisal report as mandated by the Uniform Standards of Professional Appraisal Practice (USPAP). In a Restricted Appraisal Report format, the focus is on stating the main points and conclusions of the appraisal process, rather than discussing in detail the properties and illustrating the valuation methodology used in arriving at the appraiser's value opinions. The appraisal process and its results are presented in a very brief manner, with significant supporting data, notes and analyses retained in the office work file of the appraiser.

The primary function of the Restricted Appraisal Report connected to this valuation assignment is to communicate to the client whether proposed or contemplated property assessments in accordance with the City special assessment policy can be sustained by at least an equal increase in the market value of the property as a result of the proposed improvement project; the primary function of the report is not to document and prove within the report how the appraiser's conclusion of any market value increase was reached. The Restricted Appraisal Report will contain, for each subject property, an opinion of the special benefit, if any, resulting from the proposed street improvement project, expressed as a total dollar amount.

The report will provide commentary on the various factors and circumstances influencing the final conclusions of benefit to the properties. The valuation methodology used to develop the opinions of special benefit will be described in a summarized manner. However, the report, due to its brevity, will not present comparable sale data or adjustment grids used to arrive at the value opinions.

Assuming that the appraisal is to be used internally by officials of the City of Roseville only (for the purposes of determining the increase in property market value relative to proposed or contemplated assessments), the Restricted Appraisal Report format should sufficiently serve the intended use and at the same time provide significant economies pertaining to the time spent writing the report versus completing the analysis and valuation. These economies are reflected in the proposed appraisal fee.

Given the brevity of the Restricted Appraisal Report format, it is restricted for use and designed to be read by the intended users only (in this case City of Roseville officials), since others not substantially familiar with the properties, project and/or valuation process may not fully understand the report without the supporting information retained in the appraisal work file.

To clarify the intent, limitations, and allowances of the Restricted Appraisal Report, it is appropriate for use within the immediate intended user base (City of Roseville officials/staff); it is not appropriate for dissemination to other groups beyond the intended user base, such as the public, via City Council meetings and/or Council packets posted on the city website. On the other hand, there is nothing inappropriate about the intended users quoting the conclusions of the appraisal report to others, including the stated opinions of special benefit, as long as the appraisal report itself is not presented for viewing by those beyond the intended user base, since the data and analysis supporting the opinions of special benefit is not included in the report.

Should any one or more property owners subsequently appeal a special assessment related to the project, at that point our firm would be able to follow up with a more comprehensive, detailed special benefits appraisal report, presented in an Appraisal Report format, addressing an individual property, with sufficient data and documentation such that the report could be used for settling the appeal or trying it in court. Additional appraisal fees and time would be necessary for our firm to provide such an expanded, individual property report for an appeal.

Proposed Appraisal Fee

Based on the anticipated scope of work involved in completing this assignment, I propose the following appraisal fee: **\$16,000**

Completion Date(s)

The appraisal report would be completed by **August 31, 2023**.

Deliverables

A high-quality, full-color electronic copy of the appraisal report, in .pdf format, will be emailed to you upon completion of the assignment. Should the need or desire arise for one or more hard copies of the report as well, our firm could print, bind and mail to you such hard copies, upon your request, with sufficient advance notice.

Thank you, Ms. Lowry, for the opportunity to submit this proposal. Please contact me at 651-646-6114, 612-229-9818 (direct line) or pgleason@brkw.com with any questions or comments you may have.

Sincerely,

BRKW APPRAISALS, INC.



Paul J. Gleason, MAI

Principal

Certified General Real Property Appraiser

MN License No. 4003073