

ITEM #21

Staff Report

REQUEST FROM RANDALL CORPORATION TO MODIFY DEVELOPER'S AGREEMENT FOR THE GRAND ASPEN SUBDIVISION, 4TH ADDITION

August 9, 2011

Background:

On August 4, 2011, the City Council received a letter from Scott Renaud representing the Randall Corporation and Campus Crest Ames L.L.C., requesting modification to Paragraph #3 of the Developer's Agreement for Grand Aspen's 4th Addition. You will recall that the City Council previously approved a request from the Randall Corporation to facilitate the development of the Campus Crest apartment development by accelerating the construction of the Grand Avenue Extension project from S. 16th Street north to serve as the entry road to the new apartment complex.

In return for this accelerated commitment to construct this segment of public street, the City required the property owner at the time, the Randall Corporation, to commit to construct a second lane on the south side of S. 16th Street to complete the widening of the street adjacent to non-University property. Rather than require a bond or letter of credit to secure this commitment, the Developer's Agreement provided that "the City shall not issue any occupancy permits for the site until the construction of the fourth lane is completed to the satisfaction of the City's Engineer." (See paragraph 3 of attached agreement.)

Normally, this type of request would be placed around the Council dais and a decision would be first made whether or not to refer the item to the staff to be placed on a future agenda. In this instance, time is of the essence. The new owner, Campus Crest Ames L.L.C., has indicated to our Inspections staff that they intend to be ready for occupancy of the first building by August 15th, which is prior to the Council's next meeting after the July 9th meeting. If normal protocol is followed, the Inspections staff will be required to deny occupancy on August 15th, even if all other code requirements have been met.

In order to avoid this detrimental situation for the new owner, the Randall Corporation and Campus Crest Ames L.L.C. are requesting that the last line of paragraph 3 be stricken. It is their position that this security is no longer needed since the required fourth lane is under contract to Con-Struct of Ames to be completed by November/December of this year. That work will be completed by Con-Struct in conjunction with their contracted work for the City to extend Grand Avenue.

Options:

- 1) As requested, the City Council can modify the Developer's Agreement by eliminating the last line of paragraph 3 if the City Council is confident that there is

no longer a need to secure the obligation to construct the fourth lane along S. 16th Street, since a contractual obligation now exists with Con-Struct Inc. to complete the project in November/December.

- 2) The City Council can modify the last line in paragraph 3 of the Developer's Agreement by requiring the City to withhold occupancy permits on only some portion of the apartment buildings until the street widening is completed. Under this option, at least the first buildings that are completed before November can be occupied.
- 3) The City Council can modify the Developer's Agreement by eliminating the last line of paragraph 3, but add a requirement for a bond or letter of credit to secure the promise to complete the street widening by November/December. Under this option, all of the buildings can be occupied when ready.
- 4) The City Council can deny the request to modify the Developer's Agreement by eliminating the last line of paragraph 3. Under this option there is a likelihood that the Inspections Division will be required to deny occupancy of buildings even if they meet all other code requirement. This will cause inconvenience to both The Grove and to its tenants.

Staff Comments:

It should be noted that the original agreement called for the City's obligation to construct the Grand Avenue Extension project by May 1, 2011 as long as the Developer had obtained a building permit, zoning permit, or any other permit of the City with respect to any excavation, or construction on the site by March 1, 2011. (Site plan documents were conditionally approved on March 28, 2011 and a building permit was issued on April 6, 2011.) However, in order to take advantage of available federal funding that would reduce the needed property tax support, the City needed to delay the completion of the project.

Arrangements have been made with the property owner to allow access into the site prior to the completion of the City's project. Therefore, it should be pointed out that the City itself has taken additional time to complete its obligation as compared to the date originally agreed to with the property owner. Granting additional time for the Developer to complete its obligation seems fair. The main question is how, or if, this obligation needs to be secured.

**CONTRACT DOCUMENTS
FOR
SOUTH 16TH STREET LANE WIDENING
DIVISION 3 – SOUTH SIDE LANE
RANDALL CORPORATION**

Ames, Iowa

2011



**FOX Engineering, Inc.
1601 Golden Aspen Drive, St. 103
Ames, Iowa 50010
(515) 233-0000
(800) 433-3469**

FOX Project Number 5032-06A

THIS AGREEMENT is by and between Randall Corporation ("Owner") and Con-Struct, Inc. ("Contractor").

ARTICLE 1 – WORK

- ## ARTICLE 2 – THE PROJECT

- ## ARTICLE 3 – ENGINEER

- ## ARTICLE 4 – CONTRACT TIMES

- EJCDC C-520 Agreement Between Owner and Contractor for Construction Contract (Stipulated Price)
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ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A below:

- A. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

Item No.	Description	Unit	Estimated Quantity	Unit Price	Bid Price
Division 3 – South 16th Street Widening – South Side					
3.1	Mobilization	LS	1	\$5,280.00	\$5,280.00
3.2	Traffic Control	LS	1	\$3,680.00	\$3,680.00
3.3	Gravel Removal	CY	130	\$2.20	\$286.00
3.4	Pavement Removal, 8" PCC	SY	55	\$19.20	\$1,056.00
3.5	Excavation, Class 10	CY	525	\$3.40	\$1,785.00
3.6	Abandon Existing Sanitary Sewer Main	LS	1	\$740.00	\$740.00
3.7	Extend 8" Sanitary Sewer	LF	30	\$76.30	\$2,289.00
3.8	6" Slotted PVC Subdrain	LF	195	\$15.00	\$2,925.00
3.9	Subdrain Clean out	EA	1	\$520.00	\$520.00
3.10	Storm Sewer, Type SW-507 Intake Tops	EA	1	\$840.00	\$840.00
3.11	Storm Sewer, Type SW-541 Intake Tops	EA	2	\$950.00	\$1,900.00
3.12	Subgrade Preparation, 8-inch	SY	1,025	\$0.40	\$410.00
3.13	Subbase, (IA DOT Granular Subbase), 6-inch	TON	330	\$23.90	\$7,887.00
3.14	Paving, PCC, 8-inch	SY	800	\$38.30	\$30,640.00
3.15	Road Stone, Class A	TON	45	\$20.20	\$909.00
3.16	Pavement Markings	LS	1	\$2,100.00	\$2,100.00
Total of All Bid Prices					\$63,247.00

The Bid prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the first day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR

Randall Corporation
By: E. R. R. R.
Title: pres

Con-Struct, Inc.
By: H. F.
Title: pres

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: St. J. Harris

Title: _____

Title: Project Manager

Address for giving notices:

Address for giving notices:

420 South 17th Street

305 S Dayton Ave.

Ames, IA 50010

Ames, IA 50010

License No.: _____

(Where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

Agent for service of process:
