

Staff Summary Report



Council Meeting Date: 1/22/09

Agenda Item Number: _____

SUBJECT: Request approval of an addendum to extend the existing contract with Southwest Micro Surfacing, LLC for an additional twelve months for arterial street renovation work.

DOCUMENT NAME: 20090122PWTG06 STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5401642

SUPPORTING DOCS: Yes

COMMENTS: Total cost for this addendum is \$1,217,051.92.

PREPARED BY: Theresa Galindo, Acting Engineering Contract Administrator (x8520)

REVIEWED BY: Andy Goh, Deputy PW Manager/City Engineer (x8896)

APPROVED BY: Glenn Kephart, Public Works Manager (x8205)

LEGAL REVIEW BY: Teresa Voss, Assistant City Attorney (x8814)

FISCAL NOTE: This is a bond-funded project. Sufficient funds are available in Capital Improvement Fund No. 5401642.

RECOMMENDATION: Approve addendum.

ADDITIONAL INFO: This maintenance contract with Southwest Micro Surfacing, LLC is for arterial street renovation including street resurfacing and sealing.

This addendum will include renovation work on Rio Salado Parkway, Scottsdale Road, Baseline Road, Priest Drive, and Warner Road.

This is the first addendum to the contract. The additional work covered by this addendum will increase the total cost of the contract from \$1,147,198 to \$2,364,249.92. Microsurfacing remains an important element of the City's pavement management program; staff recommends approval of the contract addendum. The unit cost amounts were negotiated by staff and are considered reasonable.

Southwest Micro Surfacing was originally selected through a bidding process pursuant to A.R.S. §34-201, et seq.

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

ADDENDUM NO. 1
TO CONTRACT (C2007-219) FOR
MAJOR STREET RENOVATION 2008-2010

PROJECT NO. 5401642

PROJECT NAME: MAJOR STREET RENOVATION 2008-2010

This Addendum No. 1 (“Addendum”) is made and entered into on the 22nd day of January 2009, by and between the City of Tempe, an Arizona municipal corporation, (“City”) and Southwest Micro Surfacing, LLC, an Arizona corporation, (“Contractor”).

RECITALS:

- A. The parties hereto entered into that certain Contract for Major Street Renovation 2008-2010 on or about December 6, 2007 (“Contract”), defining certain rights and obligations between the parties.
- B. The parties desire to further define their respective rights and obligations with respect to the services of the Contractor, period of service, compensation, non-discrimination and legal compliance.
- C. The parties intend that the following sections shall be integrated into the Contract in place of the former similarly identified section, if any, and that this Addendum be given the full force and effect of law as the Contract.

Now therefore, in consideration of the mutual promises and covenants as more particularly set forth below, the parties do hereby amend the Contract to read as follows:

I. The Contract term shall be extended through January 22, 2010.

II. The unit costs have been increased as outlined in Exhibit "A" attached hereto and incorporated herein by this reference.

III. The construction services for the extension shall be the same as those stipulated under the original contract.

IV. Scope of the Work. For services described in this Addendum, the method of payment shall be payment by installments. Total compensation for services performed shall not exceed \$1,217,051.92, which shall be payment in full for all labor, equipment, materials and supplies needed to perform these services.

V. Non-Discrimination and Legal Compliance. City is an equal opportunity, affirmative action employer. Contractor hereby covenants that it shall not discriminate unlawfully against any employee or applicant for employment, nor shall it deny the benefits of this Contract, to any person on the basis of race, color, national origin, physical or mental disability, age, gender or veteran status. Contractor covenants and agrees that it will comply in all respects with the applicable provisions of the Executive Order 11246, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Vietnam Era Veterans' Readjustment Assistance Act, the Rehabilitation Act, and any other applicable state and federal statutes, as amended to the extent applicable, governing equal opportunity. Contractor agrees to

post hereinafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this clause.

In addition, Contractor agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Arizona Fair and Legal Employment Act, along with all laws, rules and regulations attendant thereto. Contractor acknowledges that a breach of this warranty is a material breach of this Contract and Contractor is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Contractor. Contractor hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.

Contractor represents and warrants to City that neither Contractor nor any affiliate or representative of Contractor (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order No. 13224, 66 Fed.Reg. 49079 ("Order"); (ii) is listed on any other list of terrorists or terrorist organizations maintained

pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s); (iii) is engaged in activities prohibited in the Order; or (iv) has been convicted, pleaded *nolo contendere*, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering. In addition, Contractor certifies that it does not have a scrutinized business operation in either Iran or Sudan.

VI. All other provisions of the Contract not inconsistent with this Addendum shall remain binding on the parties hereto.

[SIGNATURE PAGE TO FOLLOW]

Major Street Renovation 2008-2010
Project No. 5401642

DATED this _____ day of _____, 2009.

CITY OF TEMPE, ARIZONA

By: _____
Mayor

By: _____
Public Works Manager

ATTEST:

Recommended By:

City Clerk

Deputy PW Manager/City Engineer

REVIEWED BY:

City Attorney

The CONTRACTOR warrants that the person who is signing this Agreement on behalf of the CONTRACTOR is authorized to do so and to execute all other documents necessary to carry out the terms of this Agreement.

CONTRACTOR
Southwest Micro Surfacing, LLC

By: _____
Name

Title

Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist