

11662

TO: Board of Acquisition and Contract

FROM: John J. Hsu, PE
Commissioner of Public Works

DATE: August 31, 2010

SUBJECT: Second Amendment (of a Multi-Phased Agreement) to Agreement No. 06-934
In the matter of Engineering Services in connection with
Woodlands Legacy Field, Yorktown, New York
Consultant: Eberlin and Eberlin, PC
Amendment Amount: \$126,900.00

Authority of your Honorable Board is requested to amend the existing Agreement between the County of Westchester and Eberlin and Eberlin, PC, 247 Route 100, Suite 1003, Somers, New York 10589. The original Agreement dated October 26, 2006, was for design services associated with the proposed athletic fields and related facilities off Strang Boulevard in Yorktown, New York. The Agreement was thereafter amended pursuant to a Resolution approved December 4, 2008, to provide for erosion and sediment control self inspection services mandated by the New York State Department of Environmental Conservation (NYSDEC) and the New York City Department of Environmental Protection (NYCDEP) during the construction of Woodlands Legacy Field in Yorktown, New York.

Originally, construction of the Woodlands Legacy Field was to be completed by December 28, 2009. However, due to unforeseen conditions, including: (1) the Town of Yorktown's inability to complete its obligation for site preparation work which included tree clearing, excavation and shaping/grading to meet finished elevations; (2) adverse weather; and (3) poor site conditions, construction has been delayed by approximately one (1) year.

It is therefore requested that the existing Agreement be further amended to provide for continued erosion and sediment control self inspection services, weekly site visits, additional shop drawing review and full-time construction inspection services for a six (6) month period between July 1, 2010 to December 31, 2010. The consultant shall provide a certified professional in erosion and sediment control to determine whether the site is being managed in accordance with the Stormwater Pollution Prevention Plan (SWPPP), and whether the SWPPP recommended erosion and sediment controls are effective. If activities are not in accordance with the SWPPP, or if the SWPPP erosion and sediment controls are not effective, the certified professional inspecting the site shall recommend the necessary corrective actions. Inspections shall occur at least once a week and additional inspections shall be coordinated with anticipated rainfall events so that corrective measures can be made prior to these rainfall events. In addition the consultant shall coordinate with the NYSDEC and NYCDEP to implement any additional erosion and sediment controls and to modify the SWPPP as needed. For construction inspection services, the consultant shall monitor the construction procedures on the site to ensure compliance with the contract documents, coordinate scheduled activities of the contractors, submit construction progress reports and review and process contractors' applications for payment.

The objective of this project is to construct Woodlands Legacy Field and related facilities including parking spaces, access road, lighting, comfort station, landscaping and infrastructure. The additional services provided by the Consultant under this amendment will ensure continued professional services during the remaining construction phase. The erosion and sediment control self inspection services will ensure compliance with NYSDEC and NYCDEP requirements. Failure to undertake this work could result in violations of the State Pollutant Discharge Elimination System (SPDES) Permit for the project site subjecting the County to possible penalties and fines. This agreement will benefit the public as it will ensure that construction operations are safe

and environmentally compliant, thereby enhancing the health and general welfare of the residents of Westchester County.

The original intent of this Agreement was to have the engineering services performed in multiple phases as subsequent funding became available. The initial design phase defined the scope of work and the required budget for the final phase of design and construction administration, for which funding has been approved.

The engineering discipline encompassed in this Amendment is not new, but rather, it is an integral part of the project that involves the same degree of skill, experience and complexity as the expertise generally described in the original project. Accordingly, this type of engineering discipline was originally contemplated in the Professional Prequalification Board and Professional Selection Board process.

The fee for the above services is for an amount of \$126,900.00, pursuant to an approved budget, bringing the total Agreement plus Amendments to \$619,300.00. The completion date of the Agreement shall be extended to December 31, 2011 in order to accommodate the project close-out phase which includes final "as-built" drawing approvals and review of contractors' final payment requisition.

Proposed form of Resolution to accomplish the foregoing is attached hereto.

APPROVED BOARD OF ACQUISITION & CONTRACT - 9-10-2010 - JONAS MEIRA, SECRETARY

RESOLUTION

Upon communication from the Commissioner of Public Works, be it:

RESOLVED, that the existing Agreement between the County of Westchester and Eberlin and Eberlin, PC, 247 Route 100, Suite 1003, Somers, New York 10589, be amended to provide for continued erosion and sediment control self inspection services, weekly site visits, additional shop drawing review and full-time construction inspection services for a six (6) month period between July 1, 2010 to December 31, 2010. The consultant shall provide a certified professional in erosion and sediment control to determine whether the site is being managed in accordance with the Stormwater Pollution Prevention Plan (SWPPP), and whether the SWPPP recommended erosion and sediment controls are effective. If activities are not in accordance with the SWPPP, or if the SWPPP erosion and sediment controls are not effective, the certified professional inspecting the site shall recommend the necessary corrective actions. Inspections shall occur at least once a week and additional inspections shall be coordinated with anticipated rainfall events so that corrective measures can be made prior to these rainfall events. In addition the consultant shall coordinate with the NYSDEC and NYCDEP to implement any additional erosion and sediment controls and to modify the SWPPP as needed. For construction inspection services, the consultant shall monitor the construction procedures on the site to ensure compliance with the contract documents, coordinate scheduled activities of the contractors, submit construction progress reports and review and process contractors' applications for payment; and be it further

RESOLVED, that for the additional services rendered in accordance with the consultant's proposal for the third phase of this multi-phase project, Eberlin and Eberlin, PC, shall be paid a fee of \$126,900.00 pursuant to an approved budget, increasing the total maximum fee to \$619,300.00; and be it further

RESOLVED, that the completion date of the Agreement shall be extended to December 31, 2011 in order to accommodate the project close-out phase which includes final "as-built" drawing approvals and review of contractors' final payment requisition; and be it further

RESOLVED, that all other provisions of the existing Agreement shall remain in full force and effect; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purposes hereof.

JJH/PTK/AS

Original Agreement	\$	398,000.00	(Design Services)
First Amendment		94,400.00	(Erosion and Sediment Control Self Inspection Services)
This Amendment		<u>126,900.00</u>	(Construction Inspection Services)
TOTAL	\$	619,300.00	

Agreement No. 06-934

Account to be Charged/Credited	Fund	Dept	Major Program, Program & Phase or Unit	Object/ Sub Object	Trust Account	Dollars
	318	19	BLA0132S	6120-05		\$ 126,900.00

Budget Funding Year(s): 2010 Start Date: 09/15/10 End Date: 12/31/11
 (must match resolution)

Funding Source: Tax Dollars: 100% County Contractor Federal I.D. No./
 State Aid: _____ Social Security No.: 13-2768039
\$126,900.00 Federal Aid: _____ Vendor No.: _____
 (must match resolution) Other: _____
 Encumbrance No.: _____