

JAN 21 2008

**ORDINANCE NO. 2624**

  
City Clerk

**AN ORDINANCE TO REFORM CITY OF COLUMBIA, ILLINOIS ORDINANCE NO. 2589 AND THEN RECIND THAT ORDINANCE AND TO ENACT THIS ORDINANCE TO ALLOW A FIRST AND SECOND AMENDMENT TO A PUBLIC WORKS ENGINEERING AGREEMENT DATED NOVEMBER 14, 2005 BETWEEN THE CITY OF COLUMBIA, ILLINOIS AND HORNER & SHIFRIN, INC. FOR THE DESIGN AND CONSTRUCTION ENGINEERING SERVICES REQUIRED FOR THE CONSTRUCTION OF THE FISH LAKE INTERCHANGE ON FEDERAL HIGHWAY I-255 IN THE CITY OF COLUMBIA, ILLINOIS TO INCLUDE THE AMENDED COMPLETION DATE AND THE FULL AMOUNT OF THE PROJECT COSTS REQUESTED BY HORNER & SHIFRIN FOR THE SUBJECT AMENDMENTS IN SEPTEMBER, 2007**

WHEREAS, the City of Columbia, Illinois (the "City") made and entered into a Public Works Contract on November 14, 2005 to employ Horner & Shifrin, Inc. to provide the engineering and related services required for the location and construction of a highway interchange at or near the Fish Lake Overpass on Federal Aid Highway I-255 in the City and in conjunction therewith the City made and entered into an Indemnity Agreement with Columbia Crossing, LLC, to require that said developer will make all payments due from the City under said Public Works Contract with Horner & Shifrin, Inc. and made and entered into an agreement with Horner & Shifrin, Inc., whereby said engineering company agreed to rely upon said developer for the payments due under the Public Works Contract and to release the City from any liability or obligation to pay the same except for payments the City would receive from the developer to be used for the payments due Horner & Shifrin, Inc. under said Public Works Contract;

WHEREAS, prior to September, 2007, the developer requested and Horner & Shifrin, Inc. provided and is providing additional engineering and construction related services under said Public Works Contract as the result of an expanded scope of work required by the Federal Highway Administration and/or the Illinois Department of Transportation which required two (2) amendments of the original November 14, 2005 Public Works Contract; and,

WHEREAS, the City Council originally enacted ordinance No. 2589 on September 4, 2007 which was to authorize payment to Horner & Shifrin, Inc. but only for the portion of the new and additional work that had actually been performed up to the time of the enactment of that ordinance (notwithstanding the ordinance in the form enacted included the full amount requested in the contract amendments as originally proposed instead of the amounts that actually were approved by the City Council) and the City Council has now determined and decided that the contact amendments as

originally requested by Horner & Shifrin (in the amount of \$95,360.00 for the 1<sup>st</sup> amendment and \$156,500.00 for the 2<sup>nd</sup> amendment) should be authorized and approved;

WHEREAS, it is necessary and appropriate that the City shall enact this Ordinance to: (i) reform Columbia, Illinois Ordinance No. 2589 to correct the amounts stated therein to be paid under those amendments which the city council authorized to be paid to Horner & Shifrin by virtue of those contract amendments on September 4, 2007 (which was for sums less than requested by the developer and Horner & Shifrin); (ii) to then rescind said ordinance No. 2589, as reformed; (iii) to reauthorize the two (2) amendments to said Public Works Contract between Columbia Crossing, LLC, and the City for the full amounts requested by Horner & Shifrin and the developer in September, 2007, to increase the scope of services and work involved in said Public Works Contract and to change the contract Completion Date to 04/02/08; and, (iv) for the purpose of approving the form of the said amendments.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** Columbia City Ordinance No. 2589, enacted September 4, 2007, entitled:

“AN ORDINANCE TO ALLOW TWO (2) AMENDMENTS TO A PUBLIC WORKS ENGINEERING AGREEMENT DATED NOVEMBER 14, 2005 BETWEEN THE CITY OF COLUMBIA, ILLINOIS AND HORNER & SHIFRIN, INC. FOR THE DESIGN AND CONSTRUCTION ENGINEERING SERVICES REQUIRED FOR THE CONSTRUCTION OF THE FISH LAKE INTERCHANGE ON FEDERAL HIGHWAY I-255 IN THE CITY OF COLUMBIA, ILLINOIS”

is hereby changed, amended and reformed, retroactive to September 4, 2007, to change the amount the City's City Council authorized to be added to the subject Public Works Contract as stated in said ordinance by Amendment No. 1 from \$95,360.00 to \$77,909.12 and to change the total contract price of the subject Public Works Contract by virtue of said Amendment No. 1 from the amount as stated in said ordinance in the sum of \$1,340,360.00 to \$1,322,909.12; and, to change the amount the City's City Council authorized to be added to the subject Public Works Contract as stated in said ordinance by Amendment No. 2 from \$156,500.00 to \$124,700.00 and to change the total contract price of the subject Public Works Contract as stated in said ordinance by virtue of said Amendment No. 2 from \$1,496,860.00 to \$1,447,609.12;

**Section 3.** Columbia City Ordinance No. 2589, enacted September 4, 2007, as reformed by this ordinance, is hereby rescinded and rendered of no further force or effect.

**Section 4.** The First Amendment to the Public Works Contract aforesaid, being entitled "Exhibit 'F' - Amendment No. 1 to Agreement for Professional Services" which is attached hereto as Exhibit "1" and by reference made part hereof, which amendment adds an additional cost of Ninety-Five Thousand Three Hundred Sixty-Five Dollars (\$95,360.00) to the original Public Works Contract amount of One Million Two Hundred Forty-Five Thousand Dollars (\$1,245,000.00), and increases the contract price to One Million Three Hundred Forty Thousand Three Hundred Sixty Dollars (\$1,340,360.00) and which extends the Contract Completion Date from November 14, 2005 to April 2, 2008 is hereby authorized and approved as to form. The Mayor is hereby authorized and directed to execute the same, for and on behalf of the City, in as many counterparts as the Mayor shall determine; and, the City Clerk is hereby authorized and directed to attest the same and to affix thereto the corporate seal of the City.

**Section 5.** The Second Amendment to the Public Works Contract aforesaid, being entitled "Exhibit 'F' - Amendment No. 2 to Agreement for Professional Services" which is attached hereto as Exhibit "2" and by reference made part hereof, which amendment adds an additional cost of One Hundred Fifty-Six Thousand Five Hundred Dollars (\$156,500.00) to the original Public Works Contract amount of One Million Two Hundred Forty-Five Thousand Dollars (\$1,245,000.00) and which increased the contract price to One Million Four Hundred Ninety-Six Thousand Eight Hundred Sixty Dollars (\$1,496,860.00) and which extends the Contract Completion Date from October 5, 2007 to April 2, 2008, is hereby authorized and approved as to form. The Mayor is hereby authorized and directed to execute the same, for and on behalf of the City, in as many counterparts as the Mayor shall determine; and, the City Clerk is hereby authorized and directed to attest the same and to affix thereto the corporate seal of the City.

**Section 6.** This Ordinance shall be in full force and effect, from and after its passage and approval, as provided by law.

Alderman Row moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf  
and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 21<sup>st</sup> day of January, 2008.

  
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KEVIN B. HUTCHINSON, Mayor

ATTEST:

  
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WESLEY J. HOEFFKEN, City Clerk

(SEAL)