



Department of Public Works

January 16, 2015
CIP STL261

James Frost, P.E.
Senior Principal Engineer
Kleinfelder, Inc.
550 West C Street, Suite 1200
San Diego, California 92101

SUBJECT: Contract re-Assignment from Simon Wong Engineering, Inc. to Kleinfelder, Inc.

Dear Mr. Frost:

Per your request we submitting Consent to Assignment and Novation Agreement for the above Contract. If you have any questions please call me @ (619) 476-2301

Jose Luis Gomez P.E., P.L.S.
Principal Civil Engineer
Engineering-Project Delivery

CONSENT TO ASSIGNMENT AND NOVATION AGREEMENT

This Consent to Assignment and Novation Agreement ("Assignment Agreement") is entered into this 18th day of December, 2014, by and between Simon Wong Engineering, Inc. ("SWE"), Kleinfelder, Inc. ("Kleinfelder") and City of Chula Vista (called "Owner").

WHEREAS, SWE and Owner entered into the following Agreement:
Willow Street Bridge over Sweetwater River

and

WHEREAS, SWE and Kleinfelder are both wholly owned subsidiaries of The Kleinfelder Group, Inc. and as part of an ongoing integration of The Kleinfelder Group, Inc.'s U.S. operations, SWE desires to assign and otherwise transfer certain of its existing contracts to Kleinfelder effective January 1, 2015, including the above noted Agreement(s); and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

(a) The parties agree to the following facts:

- (1) The term "the contracts", as used in this Agreement, means the above contracts and purchase orders and all other contracts and purchase orders, including all modifications, made between the Owner and SWE before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the Owner or SWE has any remaining rights, duties, or obligations under these contracts and purchase orders). Included in the term "the contracts" are also all modifications made under the terms and conditions of these contracts and purchase orders between the Owner and Kleinfelder, on or after the effective date of this Agreement.
- (2) As of January 1, 2013, The Kleinfelder, Inc. acquired all of the shares of SWE.
- (3) By virtue of the above transaction, SWE became a wholly owned subsidiary of the Kleinfelder, Inc.
- (4) Kleinfelder has assumed all obligations and liabilities of SWE under the contracts by virtue of the above transaction.
- (5) Kleinfelder is in a position to fully perform all obligations that may exist under the contracts.
- (6) It is consistent with the Owner's interest to recognize Kleinfelder as the successor party to the contracts.
- (7) Evidence of the above transaction has been attached to this document.

- (b) In consideration of these facts, the parties agree that by this Agreement—
- (1) SWE confirms the assignment of the contracts to Kleinfelder, and waives any claims and rights against the Owner that it now has or may have in the future in connection with the contracts.
 - (2) Kleinfelder agrees to be bound by and to perform each contract in accordance with the conditions contained in the contracts. Kleinfelder also assumes all obligations and liabilities of, and all claims against, SWE under the contracts as if Kleinfelder were the original party to the contracts.
 - (3) Kleinfelder ratifies all previous actions taken by SWE with respect to the contracts, with the same force and effect as if the action had been taken by Kleinfelder.
 - (4) The Owner recognizes Kleinfelder as SWE's successor in interest in and to the contracts. Kleinfelder by this Agreement becomes entitled to all rights, titles, and interests of SWE in and to the contracts as if Kleinfelder were the original party to the contracts. Following the effective date of this Agreement, the term "Contractor" or "Consultant" as used in the contracts, shall refer to Kleinfelder.
 - (5) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the Owner against SWE.
 - (6) All payments and reimbursements previously made by the Owner to SWE, and all other previous actions taken by the Owner under the contracts, shall be considered to have discharged those parts of the Owner's obligations under the contracts. All payments and reimbursements made by the Owner after the date of this Agreement in the name of or to SWE shall have the same force and effect as if made to Kleinfelder, and shall constitute a complete discharge of the Owner's obligations under the contracts, to the extent of the amounts paid or reimbursed.
 - (7) SWE and Kleinfelder agree that the Owner is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Owner in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contracts.
 - (8) SWE guarantees payment of all liabilities and the performance of all obligations that Kleinfelder—
 - (i) Assumes under this Agreement; or
 - (ii) May undertake in the future should these contracts be modified under their terms and conditions. SWE waives notice of, and consents to, any such future modifications.
 - (9) The contracts shall remain in full force and effect, except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the date first written above.

Owner: City of Chula Vista

By: _____

Print: _____

Title: _____



JOSE LUIS GOMEZ

Principal Civil Engineer

Kleinfelder, Inc.

By: _____

Print: _____

Title: _____



William Siegel

President & CEO

Simon Wong Engineering, Inc.

By: _____

Print: _____

Title: _____



Simon Wong

Vice President