

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 2/13/2014

Action Requested By:
Engineering

Agenda Item Type
Resolution

Subject Matter:

Assignment of Agreement with Littlejohn Engineering Associates, Inc.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into an agreement with Littlejohn Engineering Associates, Inc. d/b/a G. W. Jones & Sons Consulting Engineers to accept the assignment of the following contract owned by ICA Engineering, Inc. as of December 31, 2013-Res. No. 13-801.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Assignment of Agreement with Littlejohn Engineering Associates, Inc. d/b/a G. W. Jones & Sons Consulting Engineers to accept the assignment of contract owned by ICA Engineering, Inc. as of December 31, 2013. (See Exhibit A). Agreement is at no cost to the City.

Associated Cost:

Budgeted Item: Select...

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: Kathryn

Date: 2/5/14

revised 3/12/2012

hook
OK
2-4-14

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: **Engineering**

Council Meeting Date: **2/13/2014**

Department Contact: **Lynn Majors**

Phone # **256-427-5201**

Contract or Agreement: **Assignment of Agreement**

Document Name: **GW Jones/ICA Assignment Agreement/Old Hwy 20 PH III**

City Obligation Amount: **N/A**

Total Project Budget: **N/A**

Uncommitted Account Balance: **N/A**

Account Number: **N/A**

Procurement Agreements

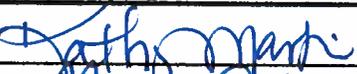
Not Applicable

Not Applicable

Grant-Funded Agreements

Select...

Grant Name:

Department	Signature	Date
1) Originating		2/4/13
2) Legal		2/10/14
3) Finance		2/13/14
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 14-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized, to enter into an agreement with Littlejohn Engineering Associates, Inc. d/b/a G. W. Jones & Sons Consulting Engineers for Assignment of the following Contract owned by ICA Engineering, Inc. - Resolution No. 13-801, as of December 31, 2013, in Huntsville, Alabama, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said contract is substantially in words and figures similar to that document attached hereto and identified as "Assignment of the following Contract with Littlejohn Engineering Associates, Inc. d/b/a G. W. Jones & Sons Consulting Engineers and the City of Huntsville, Alabama - Res. No. 13-801" consisting of a total of four (4) pages plus three (3) additional pages consisting of Exhibit "A", and the date of February 13, 2014, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 13th day of February, 2014.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 13th day of February, 2014.

Mayor of the City of Huntsville,
Alabama

Assignment of the following
Contract with Littlejohn
Engineering Associates, Inc. d/b/a
G. W. Jones & Sons Consulting
Engineers and the City of
Huntsville, Alabama - Res. No. 13-
801

ASSIGNMENT, ASSUMPTION, AND MODIFICATION AGREEMENT

THIS ASSIGNMENT, ASSUMPTION, AND MODIFICATION AGREEMENT (the "Agreement"), dated effective as of December 31, 2013, (the "Effective Date"), by and between **ICA ENGINEERING, INC.**, an Alabama corporation (the "Assignor"), **LITTLEJOHN ENGINEERING ASSOCIATES, INC. D/B/A G. W. JONES & SONS CONSULTING ENGINEERS**, (the "Assignee"), and **THE CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation (the "City").

WHEREAS, Assignor has closed its office located in Huntsville, Alabama; and

WHEREAS, Assignor has assigned their interests in the contract; and

WHEREAS, Assignor and Assignee have both agreed to this Agreement; and

WHEREAS, Assignee has agreed to accept all liability for the contract; and

WHEREAS, the Assignor and Assignee are parties to An Agreement, dated December 31, 2013, providing for the acquisition of the following Contract (Res. No. 13-801) owned by Assignor; and

WHEREAS, pursuant to the terms of the Purchase Agreement, the Assignor is required to assign certain contracts to the Assignee, and the Assignee is required to assume certain contracts and obligations of Assignor; and

WHEREAS, Assignor desires to assign to Assignee, all right, title and interest of Assignor to Assignee in the contract (Resolution No. 13-801) with the City described on Exhibit "A" attached hereto (the "Contract") and the City consents to the assignment of the Contract pursuant to the terms hereof.

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

**President of the City Council of the City
of Huntsville, AL**

Date: February 13, 2014

1. **ASSIGNMENT AND ASSUMPTION.** To the extent permitted by applicable law, the Assignor hereby assigns, transfers and releases to the Assignee all of the Assignor's right, title and interest in, to and under all of the Contract. Additionally, Assignee agrees to pay, perform and discharge as and when due each of the obligations, responsibilities and liabilities of the Assignor and/or Assignee under the Contract arising from and after the Effective Date. The City hereby consents to and joins in the assignment of the Contract by Assignor and the assumption of the Contract by Assignee.
2. **INSURANCE.** Assignee shall secure and maintain professional liability insurance, as described in the Contract, covering exposure relating to any work performed on the Contract both before and after the Effective Date. The insurance is to be placed with insurers with an A.M. Best's rating of no less than B+ V. The City shall be indicated as a certificate holder hereunder and Assignee shall furnish the City with the certificates of insurance reflecting the coverage required by this document. The A.M. Best rating and deductibles, if applicable, shall be indicated on the respective certificates of insurance for each insurance policy. The certificate of insurance for the insurance policy is to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of the required insurance policy at any time.
3. **BINDING EFFECT: AUTHORITY.** This Agreement shall inure to the benefit of and shall be binding upon the parties and their heirs, successors and assigns. The parties agree to do such other acts and to execute and deliver such further and additional instruments, agreements and other documents as may be necessary to evidence or carry out the provisions of this Agreement. The parties each represent and warrant that each has taken all action necessary to authorize the agreements set forth herein and that the execution, delivery, and performance of this Agreement by the parties shall not violate any agreement by which both parties hereto are bound.
4. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Assignor, Assignee, and the City with respect to the transactions contemplated herein, and supersedes all prior understandings or agreements between the parties relating to such transactions.
5. **GOVERNING LAW.** This Agreement shall be construed in accordance with and governed by the laws of the State of Alabama.
6. **EXECUTION BY COUNTERPART.** This Agreement may be executed by facsimile and in two (2) or more counterparts, each of which when so executed and delivered (including delivery by facsimile) shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

ASSIGNOR:

ICA ENGINEERING, INC.

By: Bruce H. Tuttle

Its: TW REGIONAL MANAGER

ATTEST:

[Signature]

ASSIGNEE:

**LITTLEJOHN ENGINEERING
ASSOCIATES, INC., D/B/A GW JONES &
SONS CONSULTING ENGINEERS**

By: [Signature]

Its: Principal

ATTEST:

[Signature]

CITY:

**THE CITY OF HUNTSVILLE,
ALABAMA**

ATTEST:

By: _____
Tommy Battle, Mayor

ASSIGNMENT, ASSUMPTION, AND MODIFICATION AGREEMENT
**Littlejohn Engineering Associates, Inc. d/b/a G. W. Jones & Sons Consulting
Engineers**

EXHIBIT "A"

<p><i>PROJECT NAME</i></p>
<p>Engineering Design Services for Old Highway 20-Phase III from Norfolk Southern Railroad to west of Segers Road, Project No. 65-13-RD06, Resolution No. 13-801</p>



February 6, 2014

**Via Facsimile with original
to follow Via U.S. Mail, postage prepaid**

**City of Huntsville Engineering
Attn: Kathy Martin
P.O. Box 308
Huntsville, AL 35804
Fax: (256) 427-5325**

Re: Request for Consent to Assignment of Agreement between City of Huntsville, Alabama and ICA Engineering, Inc. for Engineering Design Services for Old Highway 20-Phase III from Norfolk Southern Railroad to West of Segers Road, Project LD. Number 65-13-RD06, dated October 10, 2013 (the "Agreement").

Dear Kathy:

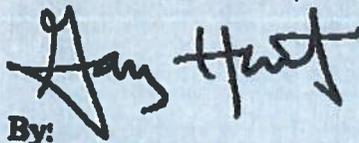
In connection with the transfer of certain of ICA Engineering, Inc.'s ("we" or "our") business assets, we write to notify you that, effective as of 11:59 p.m. CST, December 31, 2013 (the "Effective Date"), we intend to assign the above-referenced Agreement, including the assignment of all of our rights and the delegation of all of our performance under the Agreement, to Littlejohn Engineering Associates, Inc., a Tennessee corporation, located at 1935 21st Ave. South, Nashville, Tennessee 37212 (the "Assignee", and such assignment and delegation, the "Assignment"). Capitalized terms used but not defined herein have the meanings ascribed to them under the Agreement.

In accordance with Section 11.4 of the Agreement, we hereby request your consent to the Assignment as of the Effective Date. Please sign this letter to acknowledge your consent and return it via electronic mail to Gary Hunt, at ghunt@icaeng.com, with original to follow via U.S. Mail to ICA Engineering, Inc., Attn: Gary Hunt, 750 Old Hickory Boulevard, Suite 200, Brentwood, TN 37027, using the enclosed pre-addressed and stamped envelope. In the interest of time, we ask that you send us the signed consent by Wednesday, February 12, 2014.

If you have any questions regarding the Assignment or this request for consent, please direct them to Gary Hunt at ghunt@icaseg.com or (615) 377-4730.

We appreciate your assistance and thank you in advance for your patience as we work through this matter.

Very truly yours,
ICA ENGINEERING, INC.



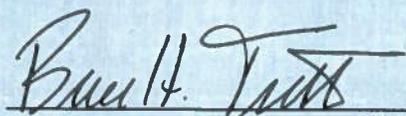
By: _____
Name: Gary Hunt
Title: Principal

cc: Littlejohn Engineering Associates, Inc., Attn: Jim Littlejohn, at jlittlejohn@leinc.com

The undersigned hereby consents to the Assignment as of the Effective Date:

CITY OF HUNTSVILLE, ALABAMA

By: _____
Name: _____
Title: _____
Date: _____



Brian Trotter, Principal
ICA Engineering



Jim Littlejohn, Principal
Littlejohn Engineering Associates, Inc.