



FINANCE COMMITTEE AGENDA

Tuesday, July 25, 2017

8:30 AM

Executive Conference Room, Level Three
Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California

MEMBERS: Council Member Christine Marick and Council Member Marty Simonoff
ALTERNATE: Mayor Cecilia Hupp

Materials related to an item on this agenda submitted to the Finance Committee after distribution of the agenda packet are available for public inspection in the third floor lobby of the Civic and Cultural Center at 1 Civic Center Circle, Brea, CA during normal business hours. Such documents may also be available on the City's website subject to staff's ability to post documents before the meeting.

CALL TO ORDER / ROLL CALL

1. Matters from the Audience

CONSENT

2. Approval of Minutes of June 27, 2017 Meeting

Attachments

Minutes

3. Agreement with Brea Olinda Unified School District for Building Utilities and Services

Attachments

Agreement

4. Professional Services Agreement to Provide Utility Cost Recovery and Reduction Services

Attachments

Exhibit A

NOTE: This agenda is subject to amendments up to 72 hours prior to the meeting date.

5. Rental of Digital Mailing System Equipment

Attachments

Quotation

DISCUSSION

6. Schedule Next Meeting: August 8, 2017

cc: Mayor Pro Tem Glenn Parker
Council Member Steven Vargas

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 990-7757. Notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

City of Brea

FINANCE COMMITTEE COMMUNICATION

FROM: City Manager

DATE: 07/25/2017

SUBJECT: Approval of Minutes of June 27, 2017 Meeting

Attachments

Minutes



FINANCE COMMITTEE MINUTES

Tuesday, June 27, 2017

8:30 AM

Executive Conference Room, Level Three

Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California

CALL TO ORDER / ROLL CALL

ATTENDEES: Council Member Christine Marick, Council Member Marty Simonoff, Chris Emeterio, David Crabtree, Tony Olmos, Cindy Russell, Kathie DeRobbio, Ron Krause, Faith Madrazo, Will Wenz, Alicia Brenner, Alex Escobar and Neil Groom.

1. Matters from the Audience – *None*

CONSENT

2. Approval of Minutes of June 13 Meeting – *Approved.*
3. Maintenance Agreement with Jamison Engineering Contractors, Inc. – *Recommended for City Council approval.*
4. Annual Vehicles and Equipment Purchase Plan for Fiscal Year 2017-18 – *The Committee discussed the Purchase Plan and requested to receive vehicle and equipment purchase updates throughout the year. Updates to the Finance Committee are to be presented as an informational item only as vehicles are purchased. Recommended for City Council approval.*
5. Amendment No. 6 to Professional Services Agreement with Ninyo and Moore for Additional Environmental and Geotechnical Services for the Tracks at Brea, Project 7873 – *Recommended for City Council approval.*

DISCUSSION

6. Schedule Next Meeting: July 11, 2017

Meeting adjourned: 8:44 AM

cc: Mayor Cecilia Hupp
Mayor Pro Tem Glenn Parker
Council Member Steven Vargas

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

DATE: 07/25/2017

SUBJECT: Agreement with Brea Olinda Unified School District for Building Utilities and Services

RECOMMENDATION

Approve Agreement

BACKGROUND/DISCUSSION

The Brea Olinda Unified School District, which has occupied 9,300 square feet of office space in Brea's Civic & Cultural Center since it was built, rents the space for \$1.00 per year. In addition to its office space, the School District uses the Council Chambers twice a month for School Board Meetings and has been assigned, without additional charge, 12 reserved parking spaces on Parking Level 2 (five spaces inside on P2 and seven spaces outside.)

The current Agreement for Building Utilities and Services between the City of Brea and the Brea Olinda Unified School District was approved in 2012 and expired on June 30, 2017.

That Agreement allows for annual rate changes based on the previous 12 months' actual operating costs for the percentage of the building used by the School District, as calculated by the Public Works Department. During fiscal year 2016-17, the School District paid \$6,261.10 per month for maintenance and operations, which is \$8.08 per square foot annually.

At this time, it is recommended that the City enter into a new five-year Agreement with the School District for building utilities and services, with annual adjustments based on the previous 12 months' actual operating costs, as calculated by the Public Works Department.

By way of illustrating the effect of annual adjustments, the rate for fiscal year 2016-17 was \$6,261.10 per month; which was a decrease of \$984.06 per month, or \$11,808.73 per year, compared to fiscal year 2015-16. While the rate for fiscal year 2017-18 will be \$7,146.16 per month; which is an increase of \$885.06 per month, or \$10,620.76 per year, compared to fiscal year 2016-17. In other words, over the years the amount has gone up and down based on actual costs.

The new five-year Agreement was reviewed and approved by the Brea Olinda Unified School District Board at their meeting on June 26, 2017.

SUMMARY/FISCAL IMPACT

The Brea Olinda Unified School District has occupied 9,300 square feet of office space in Brea's Civic & Cultural Center since it was built. The School District pays the City monthly for maintenance and operations charges based upon the square footage occupied. The current Agreement for building utilities and services between the City and the School District was approved in 2012 and expired on June 30, 2017. Staff is recommending that the City enter into a new agreement in order to recover costs for the next five years.

By renewing the Building Utilities and Services Agreement with the School District, the City will continue to recover actual maintenance and operations costs for the next five years.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Marie Dao, Management Analyst I

Concurrence: David Crabtree, Community Development Director
Kathie DeRobbio, Economic Development Manager

Attachments

Agreement

AGREEMENT
FOR
BUILDING UTILITIES AND SERVICES

This Agreement is made and entered into by and between the CITY OF BREA, a municipal corporation ("City" hereinafter) and BREA-OLINDA UNIFIED SCHOOL DISTRICT, a unified school district ("District" hereinafter).

WITNESSETH

A. Recitals.

(i) District currently leases space in City's Civic and Cultural Center for the operation of its district education center.

(ii) City provides building utilities and services for the maintenance and operation of the Civic and Cultural Center, and the cleaning of shared spaces at the Civic and Cultural Center.

(iii) District desires to obtain building utilities and services under the terms and conditions set forth herein.

B. Agreement.

NOW, THEREFORE, in consideration of the respective agreements herein contained, the parties hereto agree as follows:

1. City shall provide to District building utilities and services.
2. City shall allow District the use of the Council Chambers two (2) times per month, not to conflict with the City's use of this facility, for School Board meetings. In lieu of the Council Chambers, the City will provide another location within the Civic and Cultural Center for the School Board meetings, based on City's need for the Council Chambers.
3. City will provide District 12 reserved parking spaces on P2 of the Civic and Cultural Center: five (5) will be interior spaces and seven (7) will be exterior spaces.
4. City and District hereby agree that any person, firm or corporation providing services hereunder shall be deemed an independent contractor and in no way shall the same be deemed an officer, employee, or agent of District.
5. It is understood and agreed by the parties hereto that no alteration or variation of the terms and provisions of the Agreement shall be valid unless such alteration or variation is made in writing and duly executed by the parties.
6. This Agreement shall be effective through, and including June 30, 2022, unless sooner cancelled or modified. For each year, the maintenance and operations charges will be adjusted

on an annual basis by the previous 12 months' actual operating costs, as provided in the approved expenditure report prepared by the City of Brea's Public Works Department, with an additional adjustment based on the Police Department's use of space within the Civic and Cultural Center on a 24-hour basis.

The School District will be informed by the City of any adjustments to these charges by June of each year, if the annual cost report is available at that time. The annual adjusted rate will be effective with the July payment. Monthly charges shall be due and payable on or before the first day of each month without notice from the City.

7. Any notice or payment due hereunder shall be mailed or delivered to the respective parties as set forth below:

DISTRICT: Brea-Olinda Unified School District
Attention: Superintendent
1 Civic Center Circle
Brea, California 92821

CITY: City of Brea
Attention: Community Development Director
1 Civic Center Circle
Brea, California 92821

6. This Agreement may be terminated only for cause.

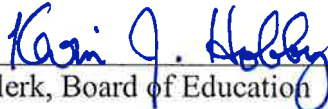
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below opposite the respective parties' signatures.

BREA-OLINDA UNIFIED SCHOOL DISTRICT

Dated: 6-26-17


President, Board of Education

Dated: 6-26-17


Clerk, Board of Education

CITY OF BREA

Dated: _____

Mayor

Dated: _____

City Clerk

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

DATE: 07/25/2017

SUBJECT: Professional Services Agreement to Provide Utility Cost Recovery and Reduction Services

RECOMMENDATION

1. Approve the professional services agreement with Cost Control Associates, Inc. to provide Utility Cost Recovery and Reduction Services;
2. Authorize the City Manager to exercise the optional one-year extensions; and
3. Authorize the City Manager to execute amendments for additional utility cost reduction services at the same rates, if desired.

BACKGROUND/DISCUSSION

The City of Brea has spent over \$1 million for utility expenses during the past fiscal year. With each passing year, energy costs continue to rise. After reviewing these expenditures, staff determined that the services of a consultant with expertise in utility cost reductions was necessary to assist the City in its cost reduction efforts.

In April 2017, City staff issued a Request for Proposal (RFP) #170424-1 seeking experienced firms to conduct a comprehensive assessment of the City of Brea's utility costs to help reduce future electric and gas costs and to recover past overpayments. While the comprehensive scope of services can be found in Exhibit A of the attached professional services agreement, along with compensation rates in Exhibit B, the following is a summary of those services:

1. Past Cost Recovery Services: consists of examining the bills of existing energy suppliers to identify errors, submit claims, and obtain refunds. This phase is expected to be completed within six months with ongoing utility bill monitoring commencing thereafter for the contract term.
2. Future Cost Containment Services: consists of performing a comprehensive comparative analysis of rate plans and/or providers for those energy services that can be purchased from alternate sources. This phase is expected to last between six to twelve months.

Request for proposals were sent to six firms and four of them submitted responses for the City's consideration. An evaluation team comprised of staff from Public Works and Administrative Services carefully reviewed and ranked the written proposals based on each company's qualifications, experience, necessary resources to perform the work and responsiveness to the City's needs and specifications.

Based on proposals that demonstrated a comprehensive list of services provided, public utilities cost reduction and recovery experience, and reasonable timeframes for completion of

the project, the evaluation team narrowed the selection down to the top two firms: Cost Control Associates and Troy and Banks. After conducting interviews, listening to presentations, reviewing the cost proposals, and receiving best and final responses from these two firms, Cost Control Associates was determined to be the best qualified firm. Additionally, Cost Control Associates had the lowest fee rates for cost recovery and reduction. Their rates are 20% for cost recovery and 23% for cost reductions. Since the potential amounts of recovery and reduction of utility costs will not be known until such time the refunds are received and the reductions are identified, the actual fees paid the consultant will be determined at those times.

While the initial focus will be on the 288 service accounts for electrical and the 12 service accounts for natural gas utilities, and though not specifically required in this RFP or in the PSA, staff was able to secure the same cost recovery and cost reduction rates for telecommunication and other utility rates, should those services be desired. After determination of the consultant's performance and results in recovering and reducing the electrical and natural gas accounts, staff may recommend amendments to this PSA to include the telecommunication and other utility rates for consideration. Staff recommends that the City Council authorize the City Manager to execute any such amendments without the need to return to City Council for approval and execution of same to expedite the additional cost recovery and reduction amounts.

SUMMARY/FISCAL IMPACT

There is no upfront fiscal impact to the City. All fees will be paid to the consultant only after refunds are received and cost reductions are realized. If there are no refunds or reductions, no fees will be paid to the consultant.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Neil Groom, Procurement and Contracts Administrator

Concurrence: Cindy Russell, Administrative Services Director

Attachments

Exhibit A

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF BREA AND
Cost Control Associates, Inc.**

This Agreement is made and entered into this _____ day of _____, 2017, between the City of Brea, a municipal corporation (hereinafter referred to as "CITY") and Cost Control Associates, Inc. (hereinafter referred to as "CONTRACTOR").

I. Recitals

- A. CITY has solicited and received a proposal from CONTRACTOR, in response to RFP # 170424-1, has reviewed the previous experience and evaluated the expertise of CONTRACTOR, and desires to retain CONTRACTOR to provide Utility Cost Recovery and Reduction Services per Exhibit A Scope of Services for the City of Brea Administrative Services Department.
- B. CONTRACTOR represents that CONTRACTOR is qualified to perform such services and is willing to perform such professional services.

II. Agreement

NOW, THEREFORE, it is agreed by and between CITY and CONTRACTOR as follows:

- A. Scope of Services: CONTRACTOR perform those services described in Recital I.A., above, and as more fully described in the Scope of Services attached hereto as Exhibit "A" and "B" incorporated by reference herein ("the Services").
- B. CONTRACTOR agrees as follows:
 - 1. Upon receiving specific instructions from the CITY to proceed, CONSULTANT shall forthwith commence performance hereunder in accordance with the Scope of Services attached hereto, and with all Federal, State, and City statutes, regulations, ordinances, and guidelines, all to the reasonable satisfaction of CITY.

2. CONTRACTOR shall supply copies of all required reports, writings, photographs and/or documents (hereinafter collectively referred to as "documents") including any supplemental documents to CITY, necessary for CONTRACTOR to perform the Services, or as otherwise specifically required hereunder. Copies of the documents shall be in such numbers as are required CITY. CITY may thereafter review and forward to CONTRACTOR comments regarding said documents and CONTRACTOR shall thereafter make such revisions to said documents as are deemed necessary. CITY shall receive revised documents in such form and in the quantities determined necessary by CITY.
3. CONTRACTOR shall, at CONTRACTOR'S sole cost and expense, secure and hire such other persons as may, in the opinion of CONTRACTOR, be necessary to comply with the terms of this Agreement. In the event any such other persons are retained by CONTRACTOR, CONTRACTOR hereby warrants that such persons shall be fully qualified to perform services required hereunder. CONTRACTOR further agrees that no subcontractor shall be retained by CONTRACTOR except upon the prior written approval of CITY.
4. CONTRACTOR, while fulfilling the terms of this Agreement, is performing as a representative of CITY and shall provide exceptional Customer Care. Any negative contact with staff, residents/citizens, businesses, visitors or other contractors shall be reported by CONTRACTOR immediately to CITY. CONTRACTOR's management and supervisory personnel shall intercede to resolve or mitigate the negative contact in conjunction with CITY staff. CITY and CONTRACTOR may agree in advance to a single person contact, a representative

of either the CITY or CONTRACTOR, for the investigation and response to complaints.

C. CITY agrees as follows:

1. To pay CONTRACTOR according to Exhibit B Compensation for the performance of the services required hereunder. This sum shall cover the cost of all staff time and all other direct and indirect costs and fees, including the work of employees, CONTRACTOR and subcontractors to CONTRACTOR. Payment to CONTRACTOR, by CITY, shall be made in accordance with the schedule set forth below.
2. Unless otherwise agreed upon, payments to CONTRACTOR shall be made by CITY in accordance with the invoices submitted by CONTRACTOR, on a monthly basis, and such invoices shall be paid within a reasonable time after said invoices are received by CITY. All charges shall be in accordance with CONTRACTOR's proposal either with respect to hourly rates or lump sum amounts for individual tasks
3. Additional services: Payments for additional services requested, in writing, by CITY shall be paid on a reimbursement basis in accordance with any agreed upon fee schedule established for CONTRACTOR's services. Charges for additional services shall be invoiced on a monthly basis and shall be paid by CITY within a reasonable time after said invoices are received by CITY.

D. CITY agrees to provide to CONTRACTOR:

1. Information and assistance as needed to enable CONTRACTOR to perform the Services. However, any and all information and data provided to CONTRACTOR pursuant to

this Agreement shall be forever maintained as confidential by CONTRACTOR, to the maximum extent permitted by law.

2. Assistance, if necessary, in obtaining information from other governmental agencies and/or private parties. However, it shall be CONTRACTOR's responsibility to make all initial contact with respect to the gathering of such information.

E. Ownership of Documents:

1. All documents prepared by CONTRACTOR pursuant to this Agreement shall be considered works made for hire and, together with all intellectual property rights arising therefrom, shall be deemed to be the property of CITY. CONTRACTOR hereby assigns to CITY any and all intellectual property rights to such documents not otherwise conveyed by this subsection E. CONTRACTOR shall not make and retain for its own use, copies of any documents prepared pursuant to this Agreement, without CITY's prior written consent.

F. Termination:

1. This Agreement may be terminated by CITY upon the giving of a written "Notice of Termination" to CONTRACTOR at least thirty (30) days prior to the date of termination specified in said notice. In the event this Agreement is so terminated, CONTRACTOR shall be compensated at CONTRACTOR's applicable hourly rates on a pro-rata basis with respect to the percentage of the Services completed as of the date of termination. CONTRACTOR shall provide to CITY any and all documents and reports, whether in draft or final form, prepared by CONTRACTOR as of the date of termination. CONTRACTOR may not terminate this Agreement except for cause. Termination or expiration of this Agreement does not

release CONTRACTOR from any and all claims, damages or other liability incurred prior to termination or expiration.

G. Notices and Designated Representatives:

1. Any and all notices, demands, invoices and written communications between the parties hereto shall be addressed as set forth in this subsection G. The below named individuals, furthermore, shall be those persons primarily responsible for the performance by the parties under this Agreement:

CONTRACTOR

Cost Control Associates, Inc.
310 Bay Road
Queensbury NY 12804
Keith Laake, President
518-798-4437
keith.laake@costcontrolassociates.com

CITY

City of Brea
Administrative Services Department
1 Civic Center Circle
Brea, CA 92821
Cindy Russell, Administrative Services Director
714-990-4418
CindyR@CityofBrea.net

2. Any such notices, demands, invoices and written communications, by mail, shall be deemed to have been received by the addressee forty-eight (48) hours after deposit thereof in the United States mail, postage prepaid and properly addressed as set forth above.

H. Indemnity:

1. CONTRACTOR and CITY agree that CITY, its elected officials, officers employees, agents and volunteers should, to the extent permitted by law, be fully protected from any loss, injury,

damage, claim, lawsuit, cost, expense, attorneys fees, litigation costs, defense costs, court costs or any other cost arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct in performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the CITY.

2. To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold CITY, its elected officials, officers employees, agents and volunteers free and harmless from any and all liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged, or threatened, actual attorneys fees and experts costs incurred by CITY, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in, arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct in CONTRACTOR's performance of this Agreement. All obligations under this provision are to be paid by CONTRACTOR as they are incurred by the CITY.
3. Any tort claims filed against the CITY related to CONTRACTOR's performance of this Agreement and subsequently tendered to CONTRACTOR shall be promptly investigated, and the resolution of such claims shall be promptly reported to the CITY.
4. The obligations of CONTRACTOR under this or any other provision of this Agreement will not be limited by the provisions of any workers compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under

such statutes or laws as to CITY, its employees, agents and officials.

5. CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those as set forth here in this section from each and every subcontractor, sub-tier contractor or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance or subject matter of this Agreement. Notwithstanding the foregoing, CONTRACTOR agrees to be fully and primarily responsible for all claims and liabilities arising out of the acts or omissions of any of its contractors and sub-tier contractors in the performance of this Agreement.

6. Failure of CITY to monitor compliance with these requirements imposes no additional obligations on CITY and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend CITY as set forth herein is binding on the successors, assigns or heirs of CONTRACTOR and shall survive the termination of this Agreement or this section.

I. Insurance:

1. Throughout the term of this Agreement, CONTRACTOR agrees to provide and maintain insurance as set forth in Exhibit "C" attached hereto and incorporated herein by reference.

J. Assignment:

1. No assignment of all or any part of this Agreement, and no subcontract to perform any obligation hereunder, shall be made, either in whole or in part, by CONTRACTOR without the prior written consent of CITY.

K. Independent Contractor:

1. The parties hereto agree that CONTRACTOR and its employees, officers and agents are independent contractors under this Agreement and shall not be construed for any purpose to be employees of CITY.

L. Governing Law:

1. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue for any litigation arising out of this Agreement shall be the Superior Court of the County of Orange.

M. Attorneys' Fees:

1. In the event any legal proceeding is instituted to enforce any term or provision of the Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the court to be reasonable.

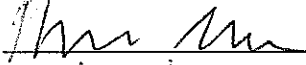
N. Entire Agreement:

1. This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party which is not embodied herein nor any other Agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing signed by all parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above:

CONTRACTOR

Contractor Name: Cost Control Associates, Inc.
Corporation Type: A New York corporation
Printed Name: Keith Laake
Title: President
Signature: 
Date: 7/14/2017

CITY

City of Brea
Corporation Type: A Muncipal corporation
Signature: _____
Printed Name: _____
Title: _____
Date: _____

ATTEST

Printed Name: Lillian Harris-Neal
Title: City Clerk
Signature: _____
Date: _____

Attachments: Exhibit A – Scope of Services
Exhibit B – Term and Compensation
Exhibit C – Insurance Requirements

EXHIBIT A SCOPE OF SERVICES

The Scope of Services, as may be modified through negotiation and/or by written addendum issued by the City, will be made a part of the Agreement.

A. Introduction

To provide City of Brea ("City") with Cost Recovery and Reduction Services for the purpose of obtaining refunds and identifying cost reductions in usage and consumption of all forms of utility services through audits of utility invoices identified by the City.

B. Description of Work

The City has agreements with utility Proposers for the supply of the following energy types:

- Electricity (288 service accounts)
- Gas (12 service accounts)

Thus far, in Fiscal Year 2016/17, City has spent approximately \$1.1 million for utility expenses. With every passing year, energy is costing more and more. As a consequence, the City has concluded that it requires the services of a Consultant with expertise in energy and cost reduction techniques to assist City in reducing its energy costs, including through the recovery of past overpayments, correction of existing incorrect billing rates (when compared with levels of energy usage), and/or reducing future energy costs by selecting alternate energy providers and/or optimizing price rates and/or recommending event timing. The utility audit program, as envisioned in the Scope of Services, consists of at minimum the following types of services:

1. Past Cost Recovery Services

Consists of examining the bills of existing energy suppliers to identify errors, submit claims, and obtain refunds.

The Past Cost Recovery Services portion of the Scope of Services is expected to be completed within six months with ongoing utility bill monitoring commencing thereafter for the contract term.

2. Future Cost Containment Services

Consists of performing a comprehensive comparative analysis of rate plans and/or providers for those energy services that can be purchased from alternate sources.

C. Services to be Provided

1. Utility Bills

Consultant shall provide Cost Recovery and Cost Containment Services for designated energy utility service accounts on behalf of the City.

2. Inclusion of Other Accounts and Programs

Consultant shall provide Cost Recovery and Cost Containment Services for designated energy service accounts as specified in (B) above. However, this agreement may be amended to include additional accounts and programs at the City's sole discretion or upon mutual agreement between the parties. The addition of any and all other City accounts may be initiated by the City or Consultant.

3. Description of Services

Providing Cost Recovery and Containment Services for designated utility accounts on behalf of the City as specified in (B), unless specifically excluded or provided otherwise in this agreement.

4. Exclusive – Non-Exclusive Agreement

City will issue a single contract award for the service. Consultant acknowledges and agrees that this contract is a non-exclusive contract. Consultant acknowledges and agrees that City has the discretion to enter into a non-exclusive contract with any Proposer for services, including Cost Recovery/Cost Containment Services. Consultant further acknowledges and agrees that this Contract would be non-exclusive and understands that other Proposers may, at the City's sole discretion, provide Cost Recovery and Cost Containment Services on behalf of the City during the term of this agreement or any period of renewal or extension. Consultant hereby releases and holds City harmless from any and all claims and/or liabilities arising from the non-exclusiveness of this Contract.

5. Non-Assignable Contract

This Contract is non-assignable by Consultant, unless Consultant obtains written consent and approval of the City.

End of Exhibit A

EXHIBIT B
TERM AND COMPENSATION

A. Term

1. The term of the agreement will be for three-year base period with up to two optional one-year extensions for a maximum term of five years.
2. For each of the one-year extension terms, City and Contractor must agree mutually to extend the term prior to the expiration date of the current term. There are not automatic extensions. City Manager, on behalf of the City, may authorize any mutually-agreed upon extensions.

B. Compensation

1. The compensation shall be at the maximum rate of twenty percent (20%) of the utility cost recovery refund amounts and twenty-three percent (23%) of the approved cost reduction amounts for the first 12 months following implementation of the change.
2. The rates after the base period shall remain fixed.

End of Exhibit B

EXHIBIT C
INSURANCE REQUIREMENTS

1. If CONTRACTOR uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. The following coverages will be provided by CONTRACTOR and maintained on behalf of CITY and in accordance with the requirements set forth herein:

A. Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or similar. Total limits shall be not less than two million dollars (\$2,000,000) per occurrence for all coverage and two million dollars (\$2,000,000) general aggregate.

B. CITY and its officers, agents and employees shall be named as additional insureds using ISO additional insured endorsement form CG 20 10 11 85 or similar (in no event will CITY accept an endorsement form with an edition date later than 1990).

C. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to CITY or any employee or agent of CITY. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum of \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy.

D. Coverage shall be in the following form as to any underlying coverage. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall

be no cross-liability exclusion. Policies shall have concurrent starting and ending dates.

E. Business Auto/Umbrella Liability Insurance. Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 or similar including symbol 1 (Any Auto). Limits shall be no less than one million dollars (\$1,000,000) per accident. Starting and ending dates shall be concurrent. If CONTRACTOR owns no autos, a non-owned auto endorsement to the General Liability policy drafted above is acceptable.

F. Workers' Compensation/Employers' Liability shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employers' liability limits shall be no less than one million dollars (\$1,000,000) per accident or disease. Employer's liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects the CITY, its officers, agents or employees.

2. Additional insurance requirements:

A. This Section supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

B. Nothing contained in this Section is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Section are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.

C. All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available, or applicable. Nothing contained in this Agreement or

any other agreement relating to the CITY or its operations limits the application of each insurance coverage.

D. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all-inclusive, or to the exclusion of other coverage, or a waiver of any type.

E. For purposes of insurance coverage only, this Agreement shall be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

F. All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit CONTRACTOR, and CONTRACTOR's agents, officers or employees from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against CITY.

G. Unless otherwise approved by CITY, CONTRACTOR's insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of "B+:VII."

H. In the event any policy of insurance required by this Agreement does not comply with these requirements or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONTRACTOR. Upon CONTRACTOR's failure to make such reimbursement within 30

days of written demand, CITY may deduct that sum from any monies due CONTRACTOR hereunder or otherwise.

I. CONTRACTOR agrees to provide evidence of the insurance required herein, satisfactory to CITY, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to CONTRACTOR's general liability and umbrella liability policy (if any) using ISO form CG 20 10 11 85 or similar. Certificate(s) are to reflect that the insurer will provide 30 days' notice of any cancellation of coverage. CONTRACTOR agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regarding to any notice provisions. CONTRACTOR agrees to provide complete copies of policies to CITY upon request.

J. CONTRACTOR shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof shall be furnished within 72 hours of the expiration of the coverage.

K. Any actual or alleged failure on the part of CITY or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of CITY or any additional insured, in this or any other regard.

L. CONTRACTOR agrees to require all subcontractors or other parties hired for this project to provide general liability insurance naming as additional insureds all parties to this Agreement. CONTRACTOR agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such

coverage is provided as required here. CONTRACTOR agrees to require that no contract used by any subcontractor, or contracts CONTRACTOR enters into on behalf of CITY, will reserve the right to charge back to CITY the cost of insurance required by this Agreement. CONTRACTOR agrees that upon request, all agreements with subcontractors or others with whom CONTRACTOR contracts on behalf of CITY will be submitted to CITY for review. Failure of CITY to request copies of such agreement will not impose any liability on CITY, its officers, agents, or employees.

M. If CONTRACTOR is a Limited Liability Company (LLC), general liability coverage must be amended so that the LLC and its managers, affiliates, employees, agents and other persons necessary or incidental to its operations are insureds.

N. CONTRACTOR agrees to provide immediate notice to CITY of any claim or loss against CONTRACTOR that includes CITY as a defendant. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims.

End of Exhibit C

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members
DATE: 07/25/2017
SUBJECT: Rental of Digital Mailing System Equipment

RECOMMENDATION

Authorize the Purchasing Agent to issue purchase orders to MailFinance for a total not-to-exceed \$26,885.40 (plus applicable taxes) based on a 60-month rental of digital mailing system equipment.

BACKGROUND/DISCUSSION

The City's reprographics services utilizes a digital mailing system (equipment) to facilitate its mail handling requirements. This equipment seals envelopes, meters the mail, and stamps the pre-printed postage on it, which results in a \$0.03 per piece discount on First Class mailings. The current equipment is at the end of its agreement period. Staff conducted a comparison to determine whether it was best to extend the agreement on the current equipment or to enter an agreement for new equipment. The determining factors included the age and normal life expectancy along with the maintenance costs and history of the current equipment compared to the costs of new equipment.

The current equipment rate is \$572 per month while comparable new equipment would be \$595 per month. Staff reviewed other functionally-equivalent equipment and found a unit that cost \$448 per month. To ensure that the proposed unit could meet the performance requirements, an offsite demonstration was conducted at a nearby company that currently uses the same model. It was determined this model would meet Brea's needs.

Staff received a price quote from National Joint Powers Alliance (NJPA) contractor, Neopost USA, who is a nationally-recognized digital, mailing, and shipping solution provider. NJPA is a public agency cooperative purchasing program that provides purchasing solutions to assist governmental entities in obtaining their requirements at competitive prices due to higher national volume levels. Use of these cooperative purchasing programs is authorized under section 3.24.170 of the Brea City Code. The rental of this unit will be administered through MailFinance, Neopost's finance arm. Purchase orders will be issued in 12-month increments for this 60-month rental.

SUMMARY/FISCAL IMPACT

The Fiscal Year 2017-18 budget has sufficient funding available in the Administrative Services Department's Purchasing Division Account (110-14-1441-4253).

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Neil Groom, Procurement and Contracts Administrator

Concurrence: Cindy Russell, Administrative Services Director

Attachments

Quotation

NJPA PO Instructions - LEASE

Send
Receive
Connect

All leased NJPA purchase orders must be made payable to MailFinance- Please send all purchase orders directly to Gary Goodson at g.goodson@neopost.com

Please make PO payable to:

MailFinance
478 Wheelers Farm Rd
Milford CT 06461

In Body of Purchase Order Please Enter Equipment Below & NJPA Contract Information:

IH700 Series Digital Mailing System w/30lb Remote Scale
Dynamic Inline Scale
High Capacity Output Conveyor Stacker

60 month lease term – billed quarterly - \$448.09 plus sales tax
Maintenance included
Meter rental included
Delivery, installation, & operator training included

NJPA Contract #041917-NPI
City of Brea Member ID#18490

PO must be made out to MailFinance
PO must acknowledge the entire term of the lease