



FINANCE COMMITTEE AGENDA

Tuesday, November 28, 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 October 31, 2017 Meeting

Attachments

Minutes

3. Curtis Theatre Building Monitor and PA System Upgrade

Attachments

Agreement

4. Resolution for the Submittal of a Grant Application for the Construction of the SR-57 and Lambert Road Interchange Improvements, Phase 1, Project 7251, to the Orange County Transportation Authority for Funding Under the Comprehensive Transportation Funding Program

Attachments

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

Resolution

5. Amendment to Professional Services Agreement (PSA) with AKAL Consultants for Additional Project Management Services for the SR-57 and Lambert Road Interchange Improvements, Project 7251

Attachments

Amendment No. 3

DISCUSSION

6. Schedule Next Meeting: December 12, 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: Bill Gallardo

DATE: 11/28/2017

SUBJECT: Approval of Minutes of October 31, 2017 Meeting

Attachments

Minutes



FINANCE COMMITTEE MINUTES

Tuesday, October 31, 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: Mayor Cecilia Hupp, Council Member Marty Simonoff, Chris Emeterio, John Conklin, David Crabtree, Tony Olmos, Cindy Russell, Bill Bowlus, John Burks, Faith Madrazo, Lee Squire, Alicia Brenner, Ana Conrique and Neil Groom.

1. Matters from the Audience – *None*

CONSENT

2. Approval of Minutes of October 10, 2017 Meeting – *Receive and File.*
3. Contract with GRFCO, Inc. for Randolph Avenue Sewer Replacement, Project 7621, in the amount of \$724,650.00 – *Recommended for City Council approval.*
4. Budget Adjustments to the City Operating and Capital Improvement Program Budgets for Fiscal Year 2016-17 – *Recommended for City Council approval.*
5. Budget Adjustments to the Successor Agency to the Brea Redevelopment Operating Program Budgets for Fiscal Year 2016-17 – *Recommended for City Council approval.*

DISCUSSION

6. Schedule Next Meeting: November 14, 2017

Meeting adjourned: 8:41 AM

cc: Mayor Pro Tem Glenn Parker
Council Member Christine Marick
Council Member Steven Vargas

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 11/28/2017

SUBJECT: Professional Services Agreement with Trinity Sound Company to Provide Curtis Theatre Building Monitor and PA System Upgrade in the Amount of \$49,727.53

RECOMMENDATION

Award professional services agreement to Trinity Sound Company to provide Curtis Theatre building monitor and PA system upgrade in the amount of \$49,727.53.

BACKGROUND/DISCUSSION

In May 2017, the City Council approved a decision package to move forward with replacing the original and outdated building monitor and PA equipment to help increase efficiencies within the facility, as well as provide for a method to quickly respond in an emergency, which is currently lacking. Staff has received quotes from two contractors for this project and is now seeking the support of the City Council to award the contract to Trinity Sound Company.

Drawing more than 50,000 visitors annually, the Curtis Theatre is responsible for a number of programs contributing to the City's prestigious reputation for Cultural Arts. The Theatre presents and produces an annual season of live performances; cultivates collaborative partnerships with local theatrical production companies; and negotiates bringing notable guest performers to the 199 seat venue. While these performances have a regional draw, they also offer Brea residents - be it a parents night out, seniors on a fixed income, or young people - a cultural arts experience. Additionally, Theatre staff oversees a large-scale youth theatre program serving an average of 475 children playing to sold-out houses, while also providing volunteer opportunities for their parents. The Theatre also derives revenue from its Facility Rental Program, offering performance and meeting space for area schools, performing arts companies, businesses and faith-based organizations. Outside the facility, Theatre staff administers the annual Concerts in the Park Program and contributes to a number of City events.

The building monitor and PA system is used to transmit stage sound to Dressing Rooms A and B, the Green Room and Theatre office. In 2014, one of the amplifiers providing a stage feed to the dressing room malfunctioned, which can happen if used for an extended period of time. As a result, it is unavailable for rentals and programs like Brea's Youth Theatre. Currently, there is no comprehensive means of communication to all backstage areas, even in the event of an emergency. Furthermore, rental clients expect that there is an efficient call system to communicate among the various parts of the Theatre, something that is a standard feature in many civic-run or school performing spaces. The cost of a building monitor and PA system includes the following features: paging, recorded music/announcement playback

capabilities, stage monitoring and chiming. These features are interchangeable and customizable to 12 zones within the facility: Dressing Rooms A/B/C, Scene Shop, backstage restrooms, Green Room, office, lobby, lobby restrooms, lobby exterior, spot booth, tech booth, and Backstage SM Station.

Several vendors were contacted to provide a quote for this project; however, staff only received reasonable responses from the following vendors:

Vendor:	Quoted Amount:
Trinity Sound Company	\$49,727.53
Apex Audio	\$100,186.81

In addition to being the lowest bidder, Trinity Sound Company has also had previous experience working with the City of Brea on live events (Brea Fest, Concerts in the Park and the Centennial Parade), installing audio equipment at both the Brea Senior Center and the Brea Community Center, and maintaining a positive professional relationship with the Curtis Theatre while providing support on various performances, meetings, community programs and rentals.

SUMMARY/FISCAL IMPACT

This project will have a General Fund impact of \$49, 727.53.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Carrie Hernandez, Cultural Arts & Human Services Manager

Concurrence: Chris Emeterio, Assistant City Manager/Community Services Director

Neil Groom, Purchasing Agent

Attachments

Agreement

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF BREA
AND
TRINITY SOUND COMPANY**

This Agreement ("Agreement" or "Contract") is made and entered into this 21st day of Sept, 2017 ("Effective Date"), between the City of Brea, a municipal corporation (hereinafter referred to as "CITY") and Trinity Sound Company (hereinafter referred to as "CONTRACTOR").

I. Recitals

- A. CITY has solicited a request for proposal to upgrade the Curtis Theatre sound and monitoring equipment described in Exhibit A Scope of Services ("Services") from CONTRACTOR;
- B. CONTRACTOR has submitted a proposal in response thereto and represents CONTRACTOR is qualified and willing to perform such services;
- C. CITY has reviewed and evaluated the CONTRACTOR's proposal, representations, qualifications, pricing, and promises to perform;
- D. CITY desires to retain CONTRACTOR to provide the Exhibit A Services per Exhibit B Term and Compensation ("the Term" and "the Price").

II. Agreement

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

- A. CONTRACTOR agrees to provide the Services for the Term and the Price.
- B. CONTRACTOR agrees as follows:
 - 1. Upon receiving a written notice to proceed from CITY, CONTRACTOR shall commence performance in accordance with the required Services, all Federal, State, and CITY statutes, regulations, ordinances, and all applicable industry standards 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. CONTRACTOR shall furnish copies of said documents in such quantities as required by CITY. Thereafter, CITY may review and forward comments regarding said documents to CONTRACTOR for revisions. Thereafter, CONTRACTOR shall make such revisions to said documents and provide revised documents to CITY in such form and 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 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 CITY or CONTRACTOR, for the investigation and response to complaints.

C. CITY agrees to pay CONTRACTOR:

1. For required Services performed by CONTRACTOR at Exhibit B Compensation prices. Payment shall cover cost of all staff time and all other direct and indirect costs and fees, including work of employees, CONTRACTOR and subcontractors to CONTRACTOR.
2. Within a reasonable time after receipt of monthly invoices submitted by CONTRACTOR for charges in accordance with Exhibit B Compensation prices.

D. CITY agrees to provide to CONTRACTOR:

1. Information and assistance needed to enable CONTRACTOR to perform Services. Any and all such information and data so provided 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. CONTRACTOR shall make all initial contact with respect to 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.
2. 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. CITY may terminate this Agreement upon giving 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 on a pro-rata basis with respect to the percentage of the Services completed and the corresponding Price as of the date of termination.
2. 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.
3. CONTRACTOR may not terminate this Agreement except for cause.
4. 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. 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 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 CITY.

3. Any tort claims filed against 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 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.

H. Insurance:

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

I. 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.

J. 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.

K. 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.

L. Attorneys' Fees:

1. In the event any legal proceeding is instituted to enforce any term or provision of this 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.

M. Notices and Designated Representatives:

1. Any and all notices, demands, invoices, and written communications (notices) between Parties shall be addressed to the individuals set forth below who are primarily responsible for their respective parties' performance. Such notices shall be deemed as received by addressee within two working days after deposit in the United States mail or an express mail carrier or by verifiable electronic means.

CONTRACTOR

Trinity Sound Company
1240 E Ontario Av, Ste 102-190
Corona CA 92881
Devin Devore, Owner
909-923-6640
devin@trintysoundcompany.com

CITY

City of Brea
The Curtis Theatre
1 Civic Center Circle
Brea CA 92821
Tiina Mittler, Theatre Managing Director
714-944-1118
TiinaW@CityofBrea.net

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: Trinity Sound Company

Corporation Type: a California Corporation

Printed Name: Devin Devore

Title: Owner

Signature: 

Date: Sept 21st 2017

CITY

City of Brea

Corporation Type: a California Muncipal Corporation

Printed Name: Cecilia Hupp

Title: Mayor

Signature: _____

Date: _____

ATTEST

Printed Name: Lillian Harris-Neal

Title: City Clerk

Signature: _____

Date: _____

Attachments (incorporated documents):

Exhibit A – Scope of Services

Exhibit B – Term and Compensation

Exhibit C – Insurance Requirements

**EXHIBIT A
SCOPE OF SERVICES**

I. Services Summary

- A. CONTRACTOR shall provide upgrades to the Curtis Theatre sound and monitoring equipment for CITY's Curtis Theatre.
- B. CONTRACTOR shall provide additional as-needed repair and maintenance services.

II. Services Locations

- A. The Curtis Theatre, 1 Civic Center Circle, Brea CA 92821.
- B. Locations may vary for additional as-needed repair and maintenance services.

III. Services Schedule

- A. CONTRACTOR shall provide the Services based on a to-be-determined agreed-upon schedule.
- B. CONTRACTOR shall be available on an on-call basis for additional as-needed repair and maintenance services as follows:
 - 1. Routine work is when there is NO significant interruption in operation. CONTRACTOR must be at work site at agreed-upon time. Regular Time rates applies.
 - 2. Urgent work is when there is a partial malfunction causing any significant interruption. CONTRACTOR must be at work site at agreed-upon time within 8 working hours of notification, 24/7/365. Overtime Rates of up to 1.5 times the Regular rate may apply.
 - 3. Emergency work is when there is a complete malfunction causing a complete interruption. CONTRACTOR must be at work site at

agreed-upon time within 2 hours of notification, 24/7/365. Doubletime Rates of up to 2.0 times the Regular rate may apply.

4. Premium Time (Overtime, Double-time) work is when CITY requires work that is outside of CITY's normal operational hours. Any work that CITY permits for CONTRACTOR's convenience outside of CITY's normal operational hours is not subject to any Premium Time rates. Premium Time rates are based on CONTRACTOR'S Regular rates multiplied by the appropriate factor.
5. CONTRACTOR shall notify City Representative immediately of issues that prevent responding by the above required times.

IV. General Requirements

- A. CONTRACTOR shall at all times comply with all applicable federal, state and local laws, regulations, statutes, orders and policies throughout the term of this Agreement.
- B. CONTRACTOR shall perform the Services according to all applicable industry standards and guidelines.
- C. CONTRACTOR shall not disclose any information in any form to any party other than CITY, unless CITY authorizes.

V. Scope of Services – Minimum Requirements

- A. CONTRACTOR shall provide fully-trained employees that are deemed acceptable by CITY perform the Services.
- B. CITY will refuse to permit any employee of CONTRACTOR considered by CITY in its sole discretion to be unacceptable to perform Services.
- C. CONTRACTOR shall provide everything necessary to perform Services including but not limited to all services, management, supervision, labor, handling, analysis, reports, supplies, equipment, transportation, insurances,

and related items and services at the all-inclusive lump sum stated in Exhibit B Compensation.

- D. CONTRACTOR shall provide Installation, connectivity, integration, and programming of all of the equipment listed in Exhibit 1: Estimate 0916-8170 and Exhibit 2: Estimate 0917-8306.
- E. CONTRACTOR shall provide additional as-needed repair and maintenance services upon City's request based on the Services Schedule subsection and Exhibit B Compensation subsection.

End of Exhibit A

EXHIBIT B
TERM AND COMPENSATION

I. Term

- A. The term of the agreement will be until project has been completed based on the Services Schedule stated in Exhibit A and for the additional as needed repair and maintenance services for a one-year base period with up to four optional one-year extensions based on available budget appropriations for a maximum term of five years.
- B. 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.

II. Compensation

A. Services

- 1. The compensation shall be at the maximum lump sum amount of \$79,568.91 for the Services, which is the aggregate of Exhibit 1: Estimate 0916-8170 for \$49,727.53 and Exhibit 2: Estimate 0917-8306 for \$29,841.38.

B. Additional As Needed Repair and Maintenance Services

- 1. The compensation shall be at the maximum rate of \$95.00 per hour for Routine Service Time, which is subject to Urgent and Emergency Premium rates and a 12% markup over costs for materials for additional as needed repair and maintenance services.
- 2. Pricing for materials, equipment, services, G & A, overhead, and profit (Pricing Components) shall remain fixed for the one-year base period of the contract.

3. Pricing for each of the one-year extension terms shall be negotiated prior to the expiration date of the then current term based on Pricing Components and the the most recent available month for the applicable Los Angeles-Riverside-Orange County, CA Consumer Price Index (CPI) in effect for Orange County, CA.
4. The maximum sum payable is \$25,000.00 per year and the maximum aggregate amount is \$125,000.00 for the maximum term of five years.

End of Exhibit B

EXHIBIT C
INSURANCE REQUIREMENTS

I. Existing Coverage

- A. 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.

II. Coverage Requirements

- A. The following coverages will be provided by CONTRACTOR and maintained on behalf of CITY and in accordance with the requirements set forth herein:
1. 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.
 2. 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).
 3. General and Auto Liability Insurance Coverage shall be provided on a "per occurrence" basis and 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.

4. 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.
5. 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.
6. 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.

B. Additional insurance requirements:

1. 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.
2. 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.

3. 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.
4. 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.
5. 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.
6. 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.
7. 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 "A VII."

8. 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.
9. 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.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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

FROM: Bill Gallardo

DATE: 11/28/2017

SUBJECT: Resolution for the Submittal of a Grant Application for the Construction of the SR-57 and Lambert Road Interchange Improvements, Phase 1, Project 7251, to the Orange County Transportation Authority for Funding Under the Comprehensive Transportation Funding Program

RECOMMENDATION

Adopt Resolution Approving Application Submittal

BACKGROUND/DISCUSSION

The SR-57 and Lambert Road Interchange Improvement, Project 7251 ("Project") has been programmed within the Capital Improvement Program ("CIP") for over ten years. The Project Approval and Environmental Document ("PA&ED") Phase was completed in the Fall of 2015 with a preferred design alternative selected as Alternative 7A. The 7A Project will add a northbound loop on-ramp and realign northbound off-ramp; widen southbound ramps and bridge by the railroad; convert southbound exit ramp to a two (2) lane exit and widen Lambert Road from west State College.

The Project is currently in the design and right-of-way acquisition phases. The scope of work within the Design Professional Services Agreement with Parsons required completion of Plans, Specifications, and Estimates ("PS&E") for the overall Project. Parsons completed the 65% PS&E documents for the overall Project in December 2016. However, due to cost increases in construction from the PA&ED planning estimate and funding constraints for the overall project construction costs, a phasing plan concept was proposed to Caltrans in the Spring of 2016. Caltrans and Orange County Transportation Authority ("OCTA") staff accepted this phased approach in an effort to keep the Project moving forward. The proposed phasing allows the City and Caltrans to effectively secure grant funds for each phase and deliver much needed operational improvements to the interchange while waiting to secure 100% construction funds for the overall Project.

The phasing plan proposes four (4) phases for this Project. The first phase ("Phase 1") will improve the east side of the SR-57 Freeway Interchange by constructing the northbound loop on-ramp, realign the northbound off-ramp, and improve the existing northbound on-ramp. The succeeding phases 2-4 will be reprogrammed within the CIP pursuant to available grant funds from the State Transportation Improvement Program ("STIP") and OCTA in Fiscal Years 2018-19 thru 2022-23 respectively. The PS&E for Phases 2-4 will be completed from the current 65% level to 100% upon securing the necessary additional grant funds for these subsequent phases.

Currently, the PS&E for the Phase 1 Project is nearing 100% completion, pursuant to the decision to phase the Project. The design for the remaining phases has been shelved at the 65% level until additional grant funds are secured, which is anticipated to be by Fiscal Years 2018-19 and 2019-20. In 2016, the City secured funding from OCTA in the amount of \$5.9 million with reprogrammed grant funds from the STIP for Right-of-Way ("ROW") acquisition in the amount of \$9 million for a total of \$14.9 million. The ROW phase is completely funded and started with the anticipation of being complete by the third quarter of 2018. Since 2016, staff has been working on securing the necessary funds to complete the construction of the Phase 1 Project.

In October 2016, staff submitted a grant application for Construction funding for the Phase 1 Project to OCTA. The funding request was in the amount of \$12.4 million. However, due to limited funding in the program with many competing projects from other cities, OCTA was only going to fund approximately \$4 million of the \$12.4 million request, which would not have fully funded the Phase 1 construction. Therefore, staff decided to wait for the 2018 grant cycle to re-apply for the full funding amount for Phase 1 construction.

In August 2017, OCTA issued the 2018 Comprehensive Transportation Funding Program ("CTFP") Call for Projects for Measure M2 funding under the Regional Capacity Program ("RCP") and Project P Regional Traffic Signal Synchronization Program ("RTSSP"). These competitive Call for Projects are designed to supplement funding for streets and roads projects within Orange County.

On October 20, 2017, staff submitted an application for Construction funding for the Phase 1 Project to OCTA. The funding request is in the amount of \$12.8 million through the Freeway Arterial/Street Transition (FAST) program under the RCP. A draft Resolution was included as part of the OCTA application. However, in order for OCTA to consider the City's application complete, the attached final Resolution must be approved by the City Council. If successful, the construction funding would be programmed starting in FY 2018-19 at the earliest, or in FY 2019-20 pursuant to securing the ROW for the Phase 1 Project.

Additionally, staff has been working with OCTA and Caltrans to secure funding from the United States Department of Transportation's Infrastructure for Rebuilding America ("INFRA") competitive grant program, the United States Department of Transportation's Investment Generating Economic Recovery 2017 ("TIGER 2017") competitive grant program, and Caltrans State Highway Operations and Protection Program ("SHOPP") for the entire Project. If successful, the complete Project construction for all phases would be fully funded in FY 2018-19.

SUMMARY/FISCAL IMPACT

The amount budgeted for the overall Construction of the Project, including contingency, construction management, and inspection costs (soft costs), in the adopted FY 2017-18 Seven-Year CIP is approximately \$52.9 million. This number was based on the 65% PS&E cost estimate. The current 2017 cost estimate for the overall Project construction in FY 2018-19 is approximately \$71.5 million. The main cost increases from the 65% PS&E were due to added costs associated with extending the existing bridge over Lambert Road; lowering Lambert Road; the south off-ramp retaining wall, including the Phase 4 truck climbing lane interchange improvements; added sound walls at El Torrito and along the south On and north Off ramps; and other roadway work not included in the 2016 65% PS&E estimate that are required by Caltrans. Therefore, the updated cost increases in the overall Project construction coupled with the current funding constraints in the State and OCTA, necessitated the collective Caltrans, OCTA, and City staff to propose phasing the Project and looking to other grant and Caltrans funding opportunities with INFRA, TIGER 2017, and SHOPP.

The current Phase 1 construction cost is estimated at approximately \$21.5 million inclusive of contingency and soft costs, which has been increased from the 2017 CIP budget of \$19.8 as shown in FY 2018/2019. This represents an **8%** increase due to construction cost escalations and other improvements not identified in the 65% PS&E Phase 1 estimate. The estimated construction costs for the remaining phases 2, 3, and 4 is approximately \$53 million. The summary for Phase 1 Construction funding is as follows, which is also included in the OCTA Grant application:

Funding Sources	Amount
OCTA Grant (2018 Requested)	\$12,800,000
City Match (Fund 540)	\$8,700,000
Total	\$21,500,000

In October 2017, staff applied for Construction (Phase 1) funds for the Project as part of the OCTA's CTFP grant program. Given the limited availability of grant funding, staff requested \$12.8 million in construction funds with \$8.7 million matching funds coming from Traffic Impact Fees (Fund 540). If successful, the funds would be programmed and available as early as FY 2018-19. Staff will update the CIP Project Budget as part of the 2018 Annual CIP Update to reflect the approved OCTA grant funds, other grant funds secured, and increased Traffic Impact Fees (Fund 540) match. There will be no General Funds used for this Project and as such, there will be no General Fund Impact. Therefore, in order for OCTA to deem the City's application complete and potentially receive the grant funds, staff recommends the City Council adopt the attached Resolution.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Warren Coleman, Senior Management Analyst

Concurrence: Steve Kooyman, P.E., City Engineer and

Tony Olmos, P.E., Public Works Director

Attachments

Resolution

RESOLUTION NO.

A RESOLUTION OF THE BREA CITY COUNCIL APPROVING THE SUBMITTAL OF SR-57 & LAMBERT ROAD INTERCHANGE IMPROVEMENTS PROJECT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPREHENSIVE TRANSPORTATION PROGRAM

A. RECITALS:

(i) The City of Brea desires to implement the transportation improvements listed below; and

(ii) The City of Brea has been declared by the Orange County Transportation Authority to meet the eligibility requirements to receive M2 “Fair Share” funds; and

(iii) The City’s Circulation Element is consistent with the County of Orange Master Plan of Arterial Highways; and

(iv) The City of Brea will provide a minimum 25% in matching funds for the SR-57 & Lambert Road Interchange Improvements project as required by the Orange County Comprehensive Transportation Funding Programs Guidelines; and

(v) The Orange County Transportation Authority intends to allocate funds for transportation improvement projects within the incorporated cities and the County; and

(vi) The City of Brea will not use M2 funds to supplant Developer Fees or the other commitments; and

(vii) The City of Brea must include all projects funded by Net Revenues in the seven-year Capital Improvement Program as part of the Measure M2 Ordinance eligibility requirement.

(viii) The City of Brea authorizes a formal amendment to the seven-year Capital Improvement Program to add projects approved for funding upon approval from the Orange County Transportation Authority Board of Directors.

B. RESOLUTION:

NOW, THEREFORE, be it found, determined and resolved by the City Council of the City of Brea as follows:

1. The City Council of the City of Brea hereby requests the Orange County Transportation Authority allocate funds in the amounts specified in the City's application to said City from the Comprehensive Transportation Programs. Said funds shall be matched by funds from said City as required and shall be used as supplemental funding to aid the City in the improvement of the following:

- SR-57 & Lambert Road Interchange Improvements Project in the City of Brea (FAST Application for Construction Phase-1 Segment)

APPROVED AND ADOPTED this 5th day of December, 2017.

Mayor

ATTEST: _____
City Clerk

I, Lillian Harris-Neal, City Clerk of the City of Brea, do hereby certify that the foregoing Resolution was adopted by the City Council of the City of Brea, California at its regular meeting held on the 5th day of December 2017, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAINED: COUNCIL MEMBERS:

Dated: _____

City Clerk

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 11/28/2017

SUBJECT: Amendment to Professional Services Agreement (PSA) with AKAL Consultants for Additional Project Management Services for the SR-57 and Lambert Road Interchange Improvements, Project 7251

RECOMMENDATION

Approve Amendment No. 3 to Professional Services Agreement with AKAL Consultants for Additional Project Management Services for the SR-57 and Lambert Road Interchange Improvements, Project 7251.

BACKGROUND/DISCUSSION

The SR-57 Freeway/Lambert Road Interchange Improvement, Project 7251 (Project) has been programmed within the Capital Improvement Program for over ten years. The Project Approval and Environmental Document (PA&ED) phase was completed in the fall of 2015 with a preferred design alternative selected as Alternative 7A. The 7A project will add a northbound loop on-ramp and realign northbound off-ramp; widen southbound ramps and bridge by the railroad; convert southbound exit ramp to a two (2) lane exit; and widen Lambert Road from west State College.

Due to the complexity of the Project and Caltrans' involvement, staff identified the need to augment our in-house capability to manage the Project. On August 17, 2010, City Council approved a Professional Services Agreement (PSA) with AKAL Consultants (AKAL) in the amount of \$95,100 to provide project management services for the Project. A first Amendment in the amount of \$87,900 was approved by Council in October 2014. Due to delays in approval of the PA&ED resulting from additional technical studies required by Caltrans and the need to secure construction funding for this project, a second amendment in the amount of \$27,000 was approved by City Council on December 6, 2016 bringing the total contract to \$210,000.

The Project is currently in the design and right-of-way acquisition phases. The scope of work within the Design Professional Services Agreement with Parsons required completion of Plans, Specifications, and Estimates (PS&E) for the overall Project. Parsons completed the 65% PS&E documents for the overall Project in December 2016. However, due to cost increases in construction from the PA&ED planning estimate and funding constraints for the overall project construction costs, a phasing plan concept was proposed to Caltrans in the spring of 2016. Caltrans and Orange County Transportation Authority (OCTA) staff accepted this phased approach in an effort to keep the Project moving forward. The proposed phasing allows the City and Caltrans to effectively secure grant funds for each phase and deliver

much needed operational improvements to the interchange while waiting to secure 100% construction funds for the overall Project.

Currently, the PS&E for the Phase 1 Project is nearing 100% completion, pursuant to the decision to phase the Project. The design for the remaining phases has been shelved at the 65% level until additional grant funds are secured, which is anticipated to be by Fiscal Years 2018-19 and 2019-20. In 2016, the City, with assistance from AKAL, secured funding from OCTA in the amount of 5.9 million with reprogrammed grant funds from the STIP for Right-of-Way (ROW) acquisition in the amount of \$9 million for a total of \$14.9 million. The ROW phase is completely funded and has started with the anticipation of being complete by the third quarter of 2018. Since 2016, staff with assistance from AKAL, has been working on securing the necessary funds to complete the construction of the Phase 1 Project.

Additionally, staff and AKAL have been working with OCTA and Caltrans to secure funding from the United States Department of Transportation's Infrastructure for Rebuilding America ("INFRA") competitive grant program, the United States Department of Transportation's Investment Generating Economics Recovery 2017 ("TIGER 2017") competitive grant program, and Caltrans State Highway Operations and Protection Program ("SHOPP") for the entire project. If successful, the complete Project construction for all phases would be fully funded in FY 2018-19.

Therefore, in order for AKAL to continue to assist the City with the OCTA grant applications for construction funds as part of the Fiscal Year 2017-18 and 2018-19 Call For Projects grant cycle a third amendment of the PSA with AKAL is required. AKAL has been instrumental in assisting the City in securing grant funding from OCTA for PAED/PS&E and Right-of-Way in the amount of \$927,000 and approximately \$5.9 million respectively as well as assisting staff with other grant applications.

These above mentioned efforts will require additional management services and comprehensive coordination with OCTA and Caltrans by AKAL. Some of the continuing services to be provided by AKAL as a part of this third amendment are as follows:

- Provide assistance with M2 grant application (Construction phase 1);
- Review design consultant invoices and provide as-needed PM work;
- Perform design (PS&E) consultant performance evaluation for compliance with federal guidelines;
- Provide project review and attend PDT meetings;
- Provide assistance with OCTA semi-annual review; and
- Assist City staff with project audit reviews, grant reimbursement requests and miscellaneous project activities as directed by City Engineer

SUMMARY/FISCAL IMPACT

	Budget	Expenditures	Balance
Design	\$400,000	\$186,827	\$213,173
ROW	\$14,429,200	\$3,000	\$14,426,200
Total	\$14,829,200	\$189,827	\$14,639,373

The requested \$33,600 amendment to the existing PSA for project management and miscellaneous services would bring the current \$210,000 PSA to \$243,600. The table above depicts the current Fiscal Year (FY) 2017-18 Approved Budget for this project within the CIP inclusive of staff time, design consultant, and project management consultant:

Based on the remaining FY 2017-18 balance of \$14,639,373 there are sufficient funds to cover the additional \$33,600 amendment to AKAL's PSA. The Project's overall source of funds for Design and Right-Of-Way are from Fund 540 (Traffic Impact Funds), Federal and OCTA grants. Therefore, there is no fiscal impact to the General Fund. Approving a third amendment with AKAL will continue the project management services during the Construction Phases and assist the City with securing construction grant funds for the Project. With AKAL Consultant's broad knowledge of Federal and OCTA's guidelines, it would ensure compliance with this very complex Project.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Warren Coleman, Management Analyst

Concurrence: Steve Kooyman, P.E., City Engineer

Attachments

Amendment No. 3

AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT

This Amendment No. 1 to Professional Services Agreement is made and entered into this 5th day of December, 2017 by and between **AKAL Consultants** ("CONSULTANT") and the **CITY OF BREA** ("CITY").

A. Recitals.

(i) **On or about October 7, 2014**, CITY and CONSULTANT entered into an agreement for professional services, whereby CONSULTANT provides project management services for the SR-57 and Lambert Road Interchange Improvements project ("Agreement", hereinafter.)

(ii) The parties hereto desire to amend the Agreement to increase the contract amount from \$210,000 to \$243,600.

B. Amendment.

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

1. Notwithstanding any other provision therein, the amount of the Agreement is hereby increased from \$210,000 to \$243,600. Except as amended by this Amendment No. 3, all other terms and conditions of the Agreement remain unchanged.

2. **The persons** executing this Amendment No. 3 warrant that they are authorized to execute this First Amendment and that this Amendment is binding on the parties hereto.

NOW, WHEREFORE, the parties have executed this Amendment No. 3 as of the date first set forth above.

CITY OF BREA
A California municipal corporation

CONSULTANT

Cecelia Hupp, Mayor

Kanwal J. Singh, Principal Engineer
(dba of AAHK, Inc – a California Corporation)

Kanwal J. Singh, Secretary