



FINANCE COMMITTEE AGENDA

Tuesday, July 10, 2018

8:30 AM

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

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

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 12, 2018 Meeting

Attachments

06-12-18 Minutes

3. Agreement with UniFirst Corporation for Public Works Uniforms and Related Services

Attachments

Agreement

4. Enhancements to Brea Superblock I Parking Structure (P3), Project 7903

5. Cooperative Agreement, Project Baseline Agreement and Funding Summary between the City of Brea and the State of California Department of Transportation (Caltrans) for the SR 57/Lambert Road Interchange Improvement Project (CIP 7251) - Construction

Attachments

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

Cooperative Agreement

6. Purchase of Reserve Fire Truck - 1998 American LaFrance 105' Aerial Ladder
7. Purchasing Activity under Special City Council Authorization Period Ending June 30, 2018
8. Annual Vehicles and Equipment Purchase Plan for Fiscal Year 2018-19

Attachments

FY 2018-19 Vehicles and Equipment Purchase Plan

9. Software/Hardware Maintenance Support and Online Subscription Service Agreements

DISCUSSION

10. Schedule Next Meeting: Tuesday, July 31, 2018

cc: Mayor 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: 07/10/2018
SUBJECT: Approval of Minutes of June 12, 2018 Meeting

Attachments

06-12-18 Minutes



FINANCE COMMITTEE MINUTES

Tuesday, June 12, 2018

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 Glenn Parker, Council Member Marty Simonoff, Chris Emeterio, Wolfgang Knabe, Cindy Russell, Steve Kooyman, Faith Madrazo, Sean Matlock, Lee Squire, Alicia Brenner and Ana Conrique

OTHER ATTENDEES: Roger Alfaro (Vavrinek, Tryne, Day & Co, LLP), Jessica Anderson (Vavrinek, Tryne, Day & Co, LLP) and Don Parker (Brea resident)

1. Matters from the Audience – *Don Parker spoke and provided comments on item No. 4 and No. 7. His written comments were received and are available on the City's website.*

CONSENT

2. Approval of Minutes of May 29, 2018 Meeting – *Receive and file.*
3. Fire/Rescue Utility Terrain Vehicle (UTV) – *Staff to provide Committee with a copy of the Cash Donation Policy. Recommended for City Council approval.*
4. Adopt Resolution Appropriating Additional Funds for Lagos de Moreno Park Project – *Committee discussed and recommended to forward to City Council for further discussion.*
5. Approval of Fiscal Year 2018-19 Property Tax Rate to Fund the City's Paramedic Program – *Committee discussed and recommended to forward to City Council for further discussion.*
6. Approval of Fiscal Year 2018-19 Appropriations Limit – *Recommended for City Council approval.*
7. Comprehensive Annual Financial Report for the City of Brea for Fiscal Year Ended June 30, 2017 – *Committee discussed and recommended to forward to City Council for further discussion.*

DISCUSSION

8. Schedule Next Meeting: June 26, 2018 – *Meeting re-scheduled to a future date and time.*

Meeting adjourned: 8:54 AM

cc: Mayor Pro Tem Christine Marick

Council Member Cecilia Hupp
Council Member Steven Vargas

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 07/10/2018

SUBJECT: Agreement with UniFirst Corporation for Public Works Uniforms and Related Services

RECOMMENDATION

Approve Agreement and Authorize City Manager to execute agreement with UniFirst Corporation to provide Public Works uniforms and related services.

BACKGROUND/DISCUSSION

Per department policy, each full-time and part-time Public Works field employee is required to wear a uniform. In an effort to maintain consistency and suitability of uniforms for the nature of work being performed, the Department has an established practice of purchasing uniforms and arranges for uniform laundering services for its field employees.

The Public Works Department has contracted with various uniform companies over the years to provide uniforms, uniform laundering services, as well as a number of ancillary services such as safety and scraper mats for the City's Maintenance Yard facility, and shop rags and fender covers for the Fleet Division. Typically, the City has found it cost-effective to enter into multi-year and/or cooperative agreements with companies providing aforementioned services and products.

The uniform agreement currently in place is with the Cintas Corporation. The agreement went into effect July 2015 and was in effect under the National Joint Powers Alliance (NJPA) cooperative pricing through June 2018. Prior to the expiration of the contract, staff began the process of evaluating current services against other market options. In order to provide the City with more time to evaluate other contract options, Cintas agreed to proceed on a month-to-month basis beginning July 2018.

In addition to Cintas, two other uniform companies have been evaluated, Aramark and UniFirst. Of the three companies, UniFirst Corporation rose to the top. They currently participate in a NJPA cooperative pricing contract, which the City has used in the past for a variety of other purchases. Unlike the City's current uniform provider, UniFirst manufactures some of Public Works' most commonly used uniform products in-house. This has resulted in significant costs savings to the overall contract.

The current annual contract with Cintas averages approximately \$1,667/month year-to-date. Based on UniFirst's proposal which utilizes NJPC cooperative pricing and has a five-year term, the monthly average is anticipated to be \$978. This savings of \$689/month translates

to an overall cost savings of \$41,340 over the duration of the five-year contract term, relative to the City's current uniform provider.

Staff is recommending that Council approve the agreement with UniFirst Corporation for a not-to-exceed amount of \$70,500 over a five (5) year term. This amount assumes an average yearly cost of \$14,100 per year with a contingency of \$2,360 to cover uniforms for unforeseen staffing variances throughout the year.

SUMMARY/FISCAL IMPACT

Public Works field employees are required to wear standardized uniforms in the day-to-day performance of their work duties. The Public Works Department contracts with a uniform company to provide uniforms, uniform laundering, and ancillary services. The current uniform agreement with Cintas Corporation is based on NJPA cooperative pricing and expired on June 30, 2018. The City has transitioned to a month-to-month arrangement with Cintas in order to explore other market options.

After evaluating three companies, UniFirst Corporation is being recommended to provide the mentioned uniform services. Based on the cost proposal submitted by UniFirst, the City is anticipated to save approximately \$41,340 over the duration of the five-year contract term, relative to the City's current uniform provider.

Therefore, staff recommends that the City Council approve the agreement and authorize the City Manager to execute the agreement with UniFirst Corporation in the amount of \$70,500 over a five year period, approximately \$14,100 per year. Sufficient funding for uniforms and related services were budgeted in the FY 2018-19 Public Works Budget and will be included in subsequent operating budgets. Funding is/will be distributed across a variety of funds, according to the Public Works Divisions in which the employees utilizing the uniform and uniform services reside. Funding sources include General Fund (110), CFD (360), Water (420), Sewer (430), Sanitation (440), Equipment and Vehicle Maintenance (480), and Building Occupancy (490). No additional appropriation is necessary.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Gillian Lobo, Senior Management Analyst

Concurrence: Tony Olmos, P.E., Public Works Director

Attachments

Agreement

NEW ACCOUNT ☒ EXISTING ACCOUNT ☐INSTALLATION DATE _____
MM/DD/YYYY**CUSTOMER SERVICE AGREEMENT**

COMPANY NAME (Customer) City of Brea LOC. NO. 325
 ADDRESS 545 N. Berry St. ROUTE NO. _____
Brea, CA 92821 DATE _____
 PHONE (714) 990-7760 SIC/NAICS _____

The undersigned (the "CUSTOMER") orders from UniFirst Corporation and/or UniFirst Holdings, Inc, d.b.a. UniFirst and/or UniFirst Canada LTD. ("UNIFIRST") the rental service(s) at the prices and upon the conditions outlined:

MERCHANDISE SERVICED								
ITEM DESCRIPTION	LOST/ DAMAGED REPLACEMENT CHARGE	SERVICE FREQUENCY	NO. OF PERSONS/ ISSUE PER PERSON	TOTAL NO. OF CHANGES/ PIECES	PRICE PER CHANGE/ PIECE	STANDARD/ NON- STANDARD ¹	TOTAL FULL SERVICE	TOTAL VAL-U-LEASE ²
0102 - LS 65/35 Workshirt	10.75	1		121	.15	S	18.15	
0202 - SS 65/35 Workshirt	9.00	1		181	.12	S	21.72	
1002 - 65/35 Plain front Pant	14.45	1		317	.20	S	63.40	
3002 - LS Coverall 65/35	22.80	1		5	.30	S	1.50	
12KB - 65/35 Cellphone Shorts	24.28	1		16	.23	S	3.68	
04UM - SS Micro Check Shirt	12.20	1		66	.17	S	11.22	
03UM - LS Micro Check Shirt	14.30	1		59	.21	S	12.39	
76GA - Dust Mats 3x5	35.10	1		1	1.28	S	1.28	
76GB - Dust Mats 4x6	53.75	1		1	2.05	S	2.05	
76GC - Dust Mats 3x10	71.75	1		1	2.57	S	2.57	
5388 - Scraper Mat 3x5	48.95	1		5	1.28	S	6.40	
9852 - Safety Message Mats	46.15	1		4	1.45	S	5.80	
7521 - Fender Covers	3.45	1		5	.55	S	2.75	
8023 - Red Shop Towels	.25	2		125	.07	S	8.75	
Minimum weekly charge applies, equal to 75% of the initial weekly install value.								

OTHER CHARGES	AMOUNT
Garment preparation per piece	.50
Name emblem per piece	.35
Company emblem per piece	1.30
Direct Embroidery: Wearer name per piece	1.55
Company name per piece	2.60

OTHER CHARGES	AMOUNT
Non-stock sizes per piece	N/A
Special cuts per piece	N/A
Restock/Exchange per piece	N/A
Automatic Wiper Replacement	2% @ .25
Automatic Linen Replacement	N/A
DEFE (See description on reverse side)	10.00

PAYMENT TERMS: C.O.D. ☐ E.F.T. ☐ Approved Charge³ ☒

COMMENTS
Emblem Fees and preparation charges are waived for initial installation of services at each customer site. Incremental Up-Charges for non-standard sizes is not waived. REFERENCE ADDENDUM A OF NJPA TERMS AND AGREEMENTS

Approved charge: CUSTOMER agrees to make payments within 30 days of invoice receipt. A late charge of 1½% per month (18% per year) for any amount in arrears may be applied.⁴

The undersigned agrees to all terms on the reverse and attests to have the authority to execute for the named CUSTOMER, and to approve use of any personalization – including logos or brand identities – that has been requested.

SALES REP: _____
SALES REP (Print Name) _____ DATE _____ACCEPTED: _____
CUSTOMER (Signature) _____ DATE _____ACCEPTED⁵: _____
LOCATION MANAGER (Signature) _____ DATE _____

CUSTOMER (Print Name and Title) _____

LOCATION MANAGER (Print Name and Title) _____

EMAIL _____

¹ Out-sizes of otherwise Standard Merchandise are deemed to be Non-Standard Merchandise.² Merchandise which is Val-U-Leased is not cleaned by UniFirst.³ Charge status contingent upon continuing credit worthiness and may be revoked at UniFirst's discretion.⁴ All returned checks and declined credit/debit cards subject to \$35 processing fee.⁵ This Agreement is effective only upon acceptance by UniFirst Location Manager.

NEW ACCOUNT ☐ EXISTING ACCOUNT ☐INSTALLATION DATE _____
MM/DD/YYYY**CUSTOMER SERVICE AGREEMENT**

COMPANY NAME (Customer) City of Brea LOC. NO. 325
 ADDRESS 545 N. Berry St. ROUTE NO. _____
Brea, CA 92821 DATE _____
 PHONE (714)990-7760 SIC/NAICS _____

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MERCHANDISE SERVICED								
ITEM DESCRIPTION	LOST/ DAMAGED/ REPLACEMENT CHARGE	SERVICE FREQUENCY	NO. OF PERSONS/ ISSUE PER PERSON	TOTAL NO. OF CHANGES/ PIECES	PRICE PER CHANGE/ PIECE	STANDARD/ NON- STANDARD ¹	TOTAL FULL SERVICE	TOTAL VALU-LEASE ²
10B6 - Cellphone Pants	26.57	1		65	.25	S	16.25	
1034 - Standard Shorts	11.30	1		42	.16	S	5.92	
3115 - Coveralls	24.00	1		21	.37	S	7.77	
04MR - Polos	17.70	1		2	.20	N	.40	
0138 - Traditional Stripe Shirt	12.80	1		9	.19	S	1.71	
DEFE (3 Locations)				3	10.00		30.00	
Automatic Wiper Replacement							1.25	
Minimum weekly charge applies, equal to 75% of the initial weekly install value.							225.76	

OTHER CHARGES	AMOUNT
Garment preparation per piece	.50
Name emblem per piece	.35
Company emblem per piece	1.30
Direct Embroidery: Wearer name per piece	1.55
Company name per piece	2.60

OTHER CHARGES	AMOUNT
Non-stock sizes per piece	N/A
Special cuts per piece	N/A
Restock/Exchange per piece	N/A
Automatic Wiper Replacement	2% @ .25
Automatic Linen Replacement	N/A
DEFE (See description on reverse side)	10.00

PAYMENT TERMS: C.O.D. ☐ E.F.T. ☐ Approved Charge³ ☒

COMMENTS
Emblem Fees and preparation charges are waived for initial installation of services at each customer site. Incremental Up-Charges for non-standard sizes is not waived. REFERENCE ADDENDUM A OF NJPA TERMS AND AGREEMENTS

Approved charge: CUSTOMER agrees to make payments within 30 days of invoice receipt. A late charge of 1½% per month (18% per year) for any amount in arrears may be applied.⁴

The undersigned agrees to all terms on the reverse and attests to have the authority to execute for the named CUSTOMER, and to approve use of any personalization – including logos or brand identities – that has been requested.

SALES REP: _____
SALES REP (Print Name) _____ DATE _____ACCEPTED: _____
CUSTOMER (Signature) _____ DATE _____ACCEPTED⁵: _____
LOCATION MANAGER (Signature) _____ DATE _____

CUSTOMER (Print Name and Title) _____

LOCATION MANAGER (Print Name and Title) _____

EMAIL _____

¹ Out sizes of otherwise Standard Merchandise are deemed to be Non-Standard Merchandise.² Merchandise which is Val U-Leased is not cleaned by UniFirst.³ Charge status contingent upon continuing credit worthiness and may be revoked at UniFirst's discretion.⁴ All returned checks and declined credit/debit cards subject to \$35 processing fee.⁵ This Agreement is effective only upon acceptance by UniFirst Location Manager.

CUSTOMER SERVICE AGREEMENT TERMS

REQUIREMENTS SUPPLIED. Customer orders from UniFirst Corp. ("UniFirst") the rental garments and/or other items of the type specified in this Agreement ("Merchandise") and related pickup/delivery and maintenance services (collectively with Merchandise, "Services") for all of Customer's requirements therefor, at the prices and upon the terms and conditions set forth herein. Additional Services requested by Customer, verbally or in writing, will also be covered by this Agreement. All rental Merchandise supplied to Customer remains the property of UniFirst. Customer warrants that it is not subject to, and that this Agreement does not interfere or conflict with, any existing agreement for the supply of the Merchandise or Services covered.

PERFORMANCE GUARANTEE. UNIFIRST GUARANTEES TO DELIVER HIGH-QUALITY SERVICE AT ALL TIMES. All items of Merchandise cleaned, finished, inspected, repaired and delivered by UniFirst will meet or exceed industry standards, or non-conforming items will be replaced by the next scheduled delivery day at no cost to Customer. Items of rental Merchandise requiring replacement due to normal wear and tear will be replaced at no cost to Customer, save for any applicable personalization and setup charges.

Customer expressly waives the right to terminate this Agreement during the initial term or any extension thereof for deficiencies in the quality of Services unless: (1) complaints are first made in writing to UniFirst which set forth the precise nature of any deficiencies; (2) UniFirst is afforded at least 60 days to correct any deficiencies complained of; and (3) UniFirst fails to correct those deficiencies complained of within 60 days. In the event Customer complies with the foregoing and UniFirst fails to correct such deficiencies, Customer may terminate this Agreement by written notice to UniFirst, providing that all previous balances due to UniFirst have been paid in full and that all other conditions to terminate have been satisfied. Any delay or interruption of the Services provided for in this Agreement by reason of acts of God, fires, explosions, strikes or other industrial disturbances, or any other cause not within the control of UniFirst, shall not be deemed a breach or violation of this Agreement.

TERM AND RENEWAL. This Agreement is effective when signed by both the Customer and UniFirst Location Manager and continues in effect for 60 months after installation of Merchandise (for new customers) or any renewal date. This Agreement will be renewed automatically and continuously for multiple successive 60-month periods unless Customer or UniFirst gives written notice of non-renewal to the other at least 90 days prior to the next expiration date.

PRICES AND PAYMENTS. Prices are based on 52 weeks of service per year. Any increase(s) to Service Frequency could result in additional charges. On an annual basis, the prices then in effect will be increased by the greater of the annual percent increase in the Consumer Price Index - All Urban Consumers, Series ID: CUUOQOOSAG, other goods and services, or by 5%. Additional price increases and other charges may be imposed by separate written notice or by notation on Customer's invoice. Customer may, however, decline such additional increases or charges by notifying UniFirst in writing within 10 days after receipt of such notice or notation. If Customer declines said additional price increases, UniFirst may terminate this Agreement. Customer also agrees to pay the other charges and minimum weekly charge herein specified. Charges relating to a wearer leaving Customer's employ can be terminated by (1) giving notice thereof to UniFirst and (2) returning or paying for any missing Merchandise issued to that individual. Any Merchandise payments required pursuant to this Agreement will be at the replacement price(s) then in effect hereunder. If an authorized Customer representative is not available to receive and acknowledge delivery of Merchandise, Customer authorizes UniFirst to make delivery and assumes responsibility for related charges/invoices.

If Customer fails to make timely payment, UniFirst may, at any time and in its sole discretion, terminate this Agreement by giving written notice to Customer, whether or not UniFirst has previously strictly enforced Customer's obligation to make timely payments. Customer agrees to pay, and will pay, all applicable sales, use, personal property and other taxes and assessments arising out of this Agreement.

DEFE CHARGE. Customer's invoices may also include a DEFE charge to cover all or portions of certain expenses including:

D = DELIVERY, or expenses associated with the actual delivery of Services and Merchandise to Customer's place of business, primarily Route Sales Representative commissions, management salaries, vehicle depreciation, equipment maintenance, insurance, road use charges and local access fees.

E = ENVIRONMENTAL, or expenses (past, present and future) UniFirst absorbs related to wastewater testing, purification, effluent control, solids disposal, supplies and equipment for pollution controls and energy conservation and overall regulatory compliance.

F = FUEL, or the gas, diesel fuel, oil and lubricant expenses associated with keeping UniFirst's fleet vehicles on the road and servicing its customers.

E = ENERGY, primarily the natural gas UniFirst uses to run boilers and gas dryers, plus other local utility charges.

MERCHANDISE. Customer acknowledges and agrees to notify all employees that Merchandise supplied is for general occupational use and, except as expressly specified below, affords no special user protections. Customer further acknowledges that: (1) Customer has unilaterally and independently determined and selected the nature, style, performance characteristics, number of changes and scope of all Merchandise to be used and the appropriateness of such Merchandise for Customer's specific needs or intended uses; (2) UniFirst does not have any obligation to advise, and has not advised, Customer concerning the fitness or suitability of the Merchandise for Customer's intended use; (3) UniFirst makes no representation, warranty or covenant regarding the performance of the Merchandise (including without limitation Flame Resistant and Visibility Merchandise); and (4) UniFirst shall in no way be responsible or liable for any injury or harm suffered by any Customer employees while wearing or using any Merchandise. Customer agrees to indemnify and hold harmless UniFirst and its employees and agents from and against all claims, injuries or damages to any person or property resulting from Customer's or Customer's employee use of the Merchandise, whether or not such claims, injuries or damages arise from any alleged defects in the Merchandise.

Flame Resistant ("FR") Merchandise supplied hereunder is intended only to prevent the ignition and burning of fabric away from the point of high heat impingement and to be self-extinguishing upon removal of the ignition source. FR items will not provide significant protection from burns in the immediate area of high heat contact due to thermal transfer through the fabric and/or destruction of the fabric in the area of such exposure. FR items are designed for continuous wear as only a secondary level of protection. Primary protection is still required for work activities where direct or significant exposure to heat or open flame is likely to occur.

Visibility Merchandise is intended to provide improved conspicuity of the wearer under daylight conditions and when illuminated by a light source of sufficient candlepower at night. It is Customer's responsibility to determine the level of conspicuity needed by wearers under specific work conditions. Further, Customer agrees that Visibility Merchandise alone does not ensure conspicuity of the wearer and that additional safety precautions may be necessary. The Visibility Merchandise supplied satisfied particular ANSI/SEA standards only when they were new and unused and only if so labeled. Customer acknowledges that usage and laundering of Visibility Merchandise may adversely affect its conspicuity.

Healthcare/Food-Related Customer acknowledges that: (1) UniFirst does not guarantee or warrant that the Merchandise selected by Customer or that processed garments delivered by UniFirst will be appropriate or sufficient to provide a hygienic level adequate for individual Customer's needs; and (2) optional poly-bagging is recommended to reduce the risk of cross-contamination of Merchandise, and the failure to utilize such service may adversely affect the efficacy of UniFirst's hygienic cleaning process.

(* Poly-bag services incur additional charges)

If any Merchandise supplied hereunder is Merchandise that: (1) UniFirst does not stock for whatever reason (including due to style, color, size or brand); (2) consists of non-UniFirst manufactured or customized FR Merchandise; or (3) consists of Merchandise that has been permanently personalized (in all cases known as "Non-Standard Merchandise"), then, upon the discontinuance of any Service hereunder at any time for any reason, including expiration, termination, or cancellation of this Agreement, with or without cause, deletion of any Non-Standard Merchandise from Customer's Service Program, or due to employee reductions (in each case a "Discontinuance of Service"), Customer will purchase at the time of such Discontinuance of Service all affected Non-Standard Merchandise items then in UniFirst's inventory (in-service, shelf, as well as any manufacturer's supplies ordered for Customer's use), paying for same the replacement charges then in effect.

Customer agrees not to contaminate any Merchandise with asbestos, heavy metals, solvents, inks or other hazardous or toxic substances ("contaminants"). Customer agrees to pay UniFirst for all Merchandise that is lost, stolen, damaged or abused beyond repair. As a condition to the termination of this Agreement, for whatever reason, Customer will return to UniFirst all standard Merchandise in good and usable condition or pay for same at the replacement charges then in effect.

OBLIGATIONS AND REMEDIES. If Customer breaches or terminates this Agreement before the expiration date for any reason (other than for UniFirst's failure under the performance guarantee described above), Customer will pay UniFirst, as liquidated damages and not as a penalty (the parties acknowledging that actual damages would be difficult to calculate with reasonable certainty) an amount equal to 50 percent of the average weekly amounts invoiced in the preceding 26 weeks, multiplied by the number of weeks remaining in the current term. These damages will be in addition to all other obligations or amounts owed by Customer to UniFirst, including the return of Standard Merchandise or payment of replacement charges, and the purchase of any Non-Standard Merchandise items as set forth herein.

This Agreement shall be governed by New York law (exclusive of choice of law). If a dispute arises from or relates in any way to this Agreement or any alleged breach thereof at any time, the parties will first attempt to resolve the claim or dispute by negotiation at agreed time(s) and location(s). All negotiations are confidential and will be treated as settlement negotiations. Any matter not resolved through direct negotiations within 30 days shall be resolved exclusively by final and binding arbitration, conducted in the capital city of the state where Customer has its principal place of business (or some other location mutually agreed), pursuant to the Commercial Arbitration Rules of the American Arbitration Association; and, governed by the Federal Arbitration Act, to the exclusion of state law inconsistent therewith. The parties will agree upon one (1) Arbitrator to settle the controversy or claim. The successful or substantially prevailing party in any proceeding, including any appeals thereof (as determined by the Arbitrator/court) shall recover all of its costs and expenses including, without limitation, reasonable attorney fees, witness fees and discovery costs, all of which shall be included in and as a part of the judgment or award rendered hereunder. This provision for Arbitration is specifically enforceable by the parties; the Arbitrator shall have no power to vary or ignore the provisions hereof; and, the decision of the Arbitrator in accordance herewith, may be entered in any court having jurisdiction thereof. Customer acknowledges that, with respect to all such disputes, it has voluntarily and knowingly waived any right it may have to a jury trial or to participate in a class action or class litigation as a representative of any other persons or as a member of any class of persons, or to consolidate its claims with those of any other persons or class of persons. If this prohibition against class litigation is ruled to be unenforceable for any reason in any proceeding, then the prohibition against class litigation shall be void and of no force and effect in that proceeding.

MISCELLANEOUS. The parties agree that this Agreement represents the entire agreement between them. In the event Customer issues a purchase order to UniFirst at any time, none of the standard pre-printed terms and conditions therein shall have any application to this Agreement, or any transactions occurring pursuant hereto or thereto. UniFirst may, in its sole discretion, assign this Agreement. Customer may not assign this Agreement without the prior written consent of UniFirst. Customer agrees that in the event it sells or transfers its business, it will require the purchaser or transferee to assume all obligations and responsibilities under this Agreement, provided that such assumption shall not relieve Customer of its liabilities hereunder; and provided further that any failure by a purchaser or transferee to assume this Agreement shall constitute a breach and early termination of this Agreement resulting in the obligation to pay all amounts on account thereof as set forth in this Agreement. Neither party will be liable for any incidental, consequential, special or punitive damages. In no event shall UniFirst's aggregate liability to Customer for any and all claims exceed the sum of all amounts actually paid by Customer to UniFirst. In the event any portion of this Agreement is held by a court of competent jurisdiction or by a duly appointed arbitrator to be unenforceable, the balance will remain in effect. All written notices provided to UniFirst must be sent by certified mail to the attention of the Location Manager. In Texas and certain other locations, UniFirst's business is conducted by, and the term "UniFirst" as used herein means, UniFirst Holdings, Inc. d.b.a. UniFirst.

ACCEPTED. Customer Signature _____ Date _____ (I have read and agree to all of the above Terms.)

Program Product and Rates Exhibit A (Continued)

REQUIREMENTS SUPPLIED. The Customer orders from UniFirst Corp. (together with its subsidiaries, "UniFirst") rental and related services for all of Customer's requirements for garments and other items ("Merchandise") or the type listed on the reverse at the prices and upon the terms and conditions outlined. Additional Merchandise requested by Customer, in writing, will also be covered by this Agreement. All rental Merchandise supplied to Customer remains the property of UniFirst.

PERFORMANCE GUARANTEE. UNIFIRST GUARANTEES TO DELIVER HIGH QUALITY SERVICE AT ALL TIMES. All items of Merchandise cleaned, finished, inspected, repaired and delivered by UniFirst will meet or exceed its quality standards, or non-conforming items will be replaced by the next scheduled delivery day at no cost to Customer. Items of rental Merchandise requiring replacement due to normal wear and tear will be replaced at no cost to Customer.

Customer expressly waives the right to terminate this Agreement during the initial term or any extension thereof for deficiencies in services and/or quality of Merchandise unless: (1) complaints are first made in writing to UniFirst which set forth the precise nature of any deficiencies; (2) UniFirst is afforded at least fourteen (14) calendar days to correct any deficiencies complained of; and (3) UniFirst fails to correct those deficiencies complained of within fourteen (14) days; (4) Customer does not appropriate the required funding for the Merchandise. In the event UniFirst fails to correct such deficiencies, Customer may terminate this Agreement by written notice to UniFirst providing that all other conditions to terminate have been satisfied. Any delay or interruption of the service provided for this Agreement, by reason of acts of God, fires, explosions, strikes or other industrial disturbances, or any other cause not within the control of UniFirst, shall not be deemed a breach or violation of this Agreement.

TERM AND RENEWAL. This agreement is effective when signed by both the Customer and UniFirst Location Manager and continues in effect for 60 months after installation of Merchandise (for new customers) or of any renewal date. Customer will have the option to terminate this agreement after 36 months for any reason, given that UniFirst is provided a 60-day notice of service cancellation. This Agreement will be renewed automatically and continuously for multiple successive one (1) month periods unless Customer or UniFirst gives written notice of non-renewal to the other at least 30 days prior to the next expiration date.

PRICES AND PAYMENTS. All charges are based upon the total Merchandise covered by this Agreement and may change as the amount of such Merchandise is increased or decreased. Customer agrees to pay the additional service-related charges listed on the front of this Agreement. Charges relating to an individual leaving the Customer's employ can be terminated by giving notice to UniFirst and by returning or paying for any Merchandise issued to that individual. Any Merchandise payments required pursuant to this Agreement, will be at UniFirst list replacement price(s) then in affect.

Each year, either upon the anniversary date of this Agreement, the price then in effect will be negotiated but shall not be increased by more than the annual percent increase in the Consumer Price Index - All Urban Consumers, Series ID: CUUROOOSAG, other goods and services

Prices are based on fifty-two weeks of service per year. Customer agrees to pay all accurate charges on receipt of invoice within 30 calendar days or, if a pre-approved charge customer, per standard terms. If Customer fails to make payment within 45 calendar days, UniFirst may terminate this Agreement by giving written notice to Customer. Customer agrees to pay, and will pay, all applicable sales, use, personal property and other taxes and assessments arising out of this Agreement. Customer agrees to a weekly service charge, as indicated.

DEFE CHARGE. Customer's Invoices may include a DEFE CHARGE, that may vary for different customer, to cover all or only portions of certain expenses including:

D = DELIVERY, or expenses associated with the actual delivery of services and products to customer's places of business.

E = ENVIRONMENTAL, or expenses for any future regulatory compliance.

F = FUEL, or increases or decreases that vary from the 2018 IRS Standard Mileage Rate per business mile.

E = ENERGY, increases or decreases in the natural gas local utility charges.

MERCHANDISE. Customer acknowledges that the Merchandise supplies is for general occupational use and, unless otherwise specified, affords no special wearer protections. Customer agrees to notify employees to that effect. If the Merchandise supplied is designated as flame resistant ("FR"), it is Intended only to prevent the ignition and burning of fabric away from the point of high heat impingement and to be self-extinguishing upon removal of the ignition source. Flame resistant garments will not provide significant protection from burns in the immediate area of high heat contact, due to thermal transfer through the fabric and/or destruction of the fabric in the area of such exposure. Flame resistant garments are designed for continuous wear as secondary level of protection. Primary protection is still required for work activities where direct or significant exposure to heat or open flame is likely to occur. Customer acknowledges that UniFirst makes no representation, warranty or convent regarding the flame resistant characteristics of FR garments or their fitness or suitability for Customers intended use. UniFirst advises that only special FR emblems be used on FR garments.

If the Merchandise supplies visibility wear, it is intended to provide improved conspicuity of the wearer under daylight conditions and when illuminated by a light source of sufficient candlepower at night. It is Customer's responsibility to determine the level of conspicuity needed by wearers under specific work conditions. Further, Customer agrees that the garments alone do not ensure conspicuity or the wearer and that additional safety precautions may be necessary. The garments supplied satisfy particular ANSI/SEA standards only if so labeled, Customer acknowledges that UniFirst makes no representation, warranty or covenant regarding the visibility performance of garments or their suitability for Customer's intended use.

To the extent permitted by law, the City will indemnify, defend and hold Vendor, its directors, owners, employees, and agents, harmless with respect to any and all claims for damages for bodily injury, death, and/or property damage to the extent arising out of the City's active negligence, as established by a final court decision or agreement of the parties.

To the extent permitted by law, the Vendor will indemnify, defend and hold City, its elected officials, officers, employees, and agents, harmless with respect to any and all claims for damages for bodily injury, death, and/or property damage to the extent arising out of the Vendor's active negligence, as established by a final court decision or agreement of the parties.

UniFirst assumes no liability for any injury, personal or otherwise. Customer agrees not to knowingly contaminate any Merchandise with asbestos, heavy metals, solvents, inks, or other hazardous or toxic substances ("contaminants"), Customer agrees to pay UniFirst for all Merchandise that is lost, stolen, damaged or abused beyond repair while in Customer's care, custody, and control.

If any Merchandise supplied hereunder is Merchandise that UniFirst normally does not stock (including styles, colors, sizes or brands), or has been permanently personalized, ("Non-Standard Merchandise") then, upon the discontinuance of any service hereunder at any time for any reason, including expiration, termination, or cancellation of this Agreement, with or without cause, deletion of any Non-Standard Merchandise from Customer's service program, or due to employee reductions (in each case a "Discontinuance of Service"), Customer will purchase at the time of such Discontinuance of Service all affected Non-Standard Merchandise items then in UniFirst's inventory (in-service, shelf, as well as any manufacturer's supplies which shall not exceed 5% spares to Merchandise ratio ordered for Customers use), paying for same the replacement charges then in effect.

As a condition to the termination of this Agreement, for whatever reason, Customer will return to UniFirst all standard Merchandise in good and usable condition or pay for Merchandise that is lost, stolen, damaged or abused beyond repair while in Customer's care, custody, and control. Merchandise that was deemed to have met or exceeded the normal wear and tear conditions will not be eligible for payment.

Program Product and Rates

Exhibit A (Continued)

OBLIGATIONS AND REMEDIES. If Customer breaches or terminates this Agreement before the expiration date for any reason (other than for UniFirst's failure under the performance guarantee described above), Customer will return of Merchandise or the payment of replacement charges and the purchase of any non-standard merchandise items as set forth herein.

GOVERNING LAW: 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.

ATTORNEYS' FEES: 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.

MISCELLANEOUS. The parties agree that this Agreement represents the entire agreement between them. UniFirst may assign this Agreement with approval by Customer. In the event any portion of this Agreement is held by a court of competent jurisdiction or by a duly appointed arbitrator to be unenforceable, the balance will remain in effect. All written notices provided to UniFirst must be sent to the attention of the Location Manager. In Texas and certain other locations, UniFirst's business is conducted by, and the term "UniFirst" as used herein, means UniFirst Holdings, Inc. dba UniFirst.

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 07/10/2018

SUBJECT: Enhancements to Brea Superblock I Parking Structure (P3), Project 7903

RECOMMENDATION

Authorize staff to issue Request for Proposals and obtain bids to install/construct Enhancements for Brea Superblock I Parking Structure (P3), Project 7903

BACKGROUND/DISCUSSION

On April 19, 2016, the City Council awarded a Design-Build Contract ("Contract") to McCarthy Builders, Inc. ("McCarthy") in the amount of \$8,927,383 with a 6% construction contingency amount for a total design-build budget of \$9,463,026 for the Brea Superblock I Parking Structure (P3), CIP Project No. 7903 ("Project"). The Project replaced the 178-stall surface parking lot with a 4 level, 477-stall reinforced concrete parking structure in the Downtown area adjacent to the old Tower Records and Buffalo Wild Wings buildings along S. Orange Avenue. The total approved budget for the Project including the conceptual Design-Build bid documents, Request for Proposal, Construction, and Construction Engineering was \$10,503,000.

On January 11, 2018, the Project was considered complete, and on February 20, 2018, the City Council accepted the Contract as complete and the Notice of Completion was filed and recorded by the County of Orange, which started the one year warranty period. The total final Contract amount for the Design-Build Contract was \$9,236,742 and the final pre-Design, Construction Engineering, and Staff costs for the Project to date is approximately \$789,878, which leaves approximately \$476,380 remaining in the budget.

Staff is currently reviewing some potential projects outside of the McCarthy contract to enhance the new Parking Structure, as previously discussed in the February 20, 2018 Staff Report. Some of the items being considered include:

1. **Electric Vehicle Charging Stations Purchase and Installation (estimate \$106,000)**
 - The parking structure provides 13 stall locations ready for EV Charging stations to be installed. Staff has been working with several vendors to obtain quotes to install the stations. One of the vendors, EV Connect, Inc., was successful in obtaining a Grant from the Electrify America Program in the amount of approximately \$66,000 that will provide four (4) dual stations (total of 8) of the 13 EV Charging Stations. Staff is also looking into another grant using Air Quality Management District Funds for the remaining 5 stations, estimated at \$40,000. This grant program requires a 25% match, which can be achieved from the Electrify America Program grant. Therefore, there should be minimal impact to the remaining Project budget.

2. **Video Camera Installation (estimate \$85,000)** - Currently there are 18 overhead locations ready for cameras, as well as 2 locations for license plate readers at the parking structure entrances. Staff is currently working on an RFP for the Security Camera Replacement Project at the Brea Community Center and recommends adding the Parking Structure (P3) scope of work for the cameras to this RFP, which could reduce the overall costs based on an economy of scale assessment.
3. **S. Orange Ave., Birch Street, and Alleyway Pavement Rehab (estimate \$75,000)** - Staff has evaluated the pavement conditions within this area of the Parking Structure and would recommend the pavement rehab work due to the current assessed poor pavement conditions. This portion of Orange Avenue is not programmed within the 2017 Pavement Management Plan until after 2024.
4. **Solar Panel Installation (TBD)** - The parking structure was constructed to support the installation of a solar panel power system, which would be located along the center columns on the top level. Staff has been working with vendors and seeking potential grants to develop the plans and specifications for this work.
5. **Parking Blade Sign on Birch Street (estimate \$35,000)** - This was a request from the Brea Downtown Owners Association to add a 22' high by 3.25' wide parking sign on Birch Street and would be similar to the blade sign on the Orange Avenue side of P3. This added sign would enhance the visual directional location of the parking structure for vehicles diving east/west on Birch Street.

Based on the remaining balance of \$476,380 for the Project, staff is seeking City Council's approval to issue Request for Proposals and obtain bids for the list of additional improvements to enhance this area within the remaining budget prior to closing out the Project.

SUMMARY/FISCAL IMPACT

The following Table depicts the proposed enhancement improvements for the Parking Structure (P3) for the City Council's consideration.

Enhancement ID	Enhancement Description	Estimated Cost
1	Electric Vehicle Charging Stations Purchase and Installation (see Note)	(\$106,000)
2	Video Camera Installation	(\$85,000)
3	S. Orange Ave., Birch Street, and Alleyway Pavement Rehab	(\$75,000)
4	Solar Panel Installation	(TBD)
5	Parking Blade Sign on Birch Street	(\$35,000)
Subtotal		(\$301,000)
Remaining Project Funding		\$476,380
Net Remaining Funding Balance		\$175,380

Note: As stated previously, staff is seeking to secure grant funds for Item No. 1 - Electric Vehicle Charging Stations and Installation, which would off-set the cost of the improvements. Therefore, the true net remaining fund balance within the table would be \$281,380, which could be used to assist with the funding of Item No. 4 - Solar Panel Installation once the estimated cost and scope of work has been determined.

Staff is seeking City Council's approval to issue Requests for Proposals and obtain bids for the list of improvement enhancements for the Parking Structure (P3). Staff will return to the City Council upon obtaining proposals and bids for the work prior to implementation.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Steve Kooyman, P.E., City Engineer

Concurrence: Tony Olmos, P.E., Public Works Director

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 07/10/2018

SUBJECT: Cooperative Agreement, Project Baseline Agreement and Funding Summary between the City of Brea and the State of California Department of Transportation (Caltrans) for the SR 57/Lambert Road Interchange Improvement Project (CIP 7251) - Construction

RECOMMENDATION

1. Approve the Cooperative Agreement, Project Baseline Agreement and Funding Summary between the City of Brea and Caltrans; and
2. Authorize the City Manager to execute the Cooperative Agreement and any subsequent amendments to the Cooperative Agreement, Project Baseline Agreement and/or Funding Summary upon approval as to form by the City Attorney

BACKGROUND/DISCUSSION

The State Route (SR) 57 & Lambert Road Interchange Improvements (Project), Project 7251, was initiated in 1999 between the City of Brea and the State of California Department of Transportation (Caltrans) to address traffic congestion on Lambert Road at the SR 57 interchange and at the adjacent intersection of Lambert Road and State College Boulevard. In 2007, the Project Study Report was completed and the Project was formally programed in the City's 2008 Capital Improvement Program (CIP) budget as well as Caltrans' annual budget.

In 2009, the City and Caltrans entered into a Cooperative Agreement for the Project to complete the Project Approval and Environmental Development (PA&ED), Right-Of-Way (R/W), and Plans, Specifications, and Estimate (PS&E) Phases. The PA&ED Phase was completed in November 2015, with the approval of the Project Report and Environmental Document. As part of the PA&ED, the preferred Project Alternative 7A was selected, which proposes to add a northbound loop on-ramp and realign the northbound off-ramp; widen southbound ramps and bridge over the railroad; convert southbound exit ramp to a two (2) lane exit and widen Lambert Road from west State College.

Since November 2015, the City along with Parsons (Design Consultant), have been working with Caltrans to complete the PS&E Phase. In early November 2017, staff from Caltrans, OCTA, and the City began discussions on funding the entire Project (all four phases) using various funding sources from the United States Department of Transportation's Infrastructure for Rebuilding America (INFRA) competitive grant program and the California State Transportation's Trade Corridor Enhancement Program (TCEP). Furthermore, it was suggested that Caltrans would be the more appropriate agency to take the lead on this

effort and Advertise, Award, and Administer (AAA) the construction contract, with City oversight. It is anticipated that the 100% PS&E package for the entire Project will be ready for bid by September with right-of-way acquisition certification by Caltrans in November 2018. Therefore, the main scope of work as identified within the current Cooperative Agreement with Caltrans would be considered complete.

In November 2017 and January 2018, OCTA and Caltrans submitted the appropriate documentation for both grant programs with an estimated total construction and construction engineering cost of \$77 million. This cost estimate included the additional work related to the Phase 4 bridge widening truck climbing lanes component; the added sound walls along the northbound and southbound on-ramps; some modifications to the retaining walls at the southbound off-ramp; design updates based on the Caltrans Standard Specifications and Plans; and Caltrans AAA costs. On May 16, 2018, the CTC approved the TCEP grant application (\$65.7 million) as part of the Road Repair and Accountability Act of 2017 (SB1). Additionally, the City was successful in obtaining a grant award for \$12 million from OCTA through the Competitive Measure M2 grant program to fund the construction of the Phase 1 portion of the Project by the OCTA Board at their June 2018 meeting. Furthermore, OCTA was recently notified that the INFRA grant will not be accepted for the FY 2018-19 grant cycle. However, with the TCEP and M2 Grant Funds, the Project is considered fully funded.

In late May 2018, after the City and Caltrans were successful in obtaining the CTC approval to program the TCEP grant funds for the Project in FY 2018-19, staff from both agencies worked collaboratively to prepare the Construction Phase Cooperative Agreement between the two parties. This Construction Cooperative Agreement ("Agreement") provides the necessary requirements for the City and Caltrans to complete all tasks cooperatively through the construction of the Project. Caltrans is considered the Implementation Agency which will AAA the Project while the City is considered the Sponsor Agency (collectively referred to as the "Partners"). This Agreement also includes a Funding Summary that provides the breakdown of the funding and the categories of the expenditures, which will be adhered to throughout the term of the Agreement. This Funding Summary may need to be updated from time-to-time as funding details change.

Additionally, based on the SB1 TCEP funding, Caltrans and the City are required to enter into a Project Baseline Agreement, which is a required document to be executed by the CTC at time of final fund appropriations. Both the Agreement and Project Baseline Agreement have been reviewed as to form by the City Attorney. Therefore, staff is seeking City Council's consideration to approve the Agreement inclusive of the Project Baseline Agreement as attached.

SUMMARY/FISCAL IMPACT

The Project is fully funded as depicted in the following table and as identified within the adopted 2018 CIP:

FUNDING SOURCE	BUDGET AMOUNT
Fund 540 (Traffic Impact)	\$12.55 million
Federal Grants (TCEP/TEA)	\$66.63 million
County Grants (OCTA M2)	\$18.94 million
State Grants (STIP)	\$9.00 million
TOTAL	\$107.12 million

The current 100% PS&E Construction Estimate for this Project with escalation costs is approximately \$66.3 million with \$16+ million for Construction Engineering, which is for Caltrans AAA costs with City oversight. There is also some Landscaping work and mitigation measures that are estimated to cost approximately \$4.1 million. Therefore, the 2018 CIP Budget depicts a \$70.8 million construction cost, which includes the \$4.1 million. The Landscape work (estimated to cost \$1.6 million for design, bid, and construct) will be completed under a separate Contract with Caltrans, which will require a separate Cooperative Agreement. The remaining \$2.5 million will be used for the restoration work as required mitigation for the Project. The following table provides the full breakdown of the estimated costs:

EXPENSE CATEGORY	COST ESTIMATE
Design	\$7.87 million
Right of Way	\$12.46 million
Construction	\$70.79 million
Construction Engineering	\$16.00 million
TOTAL	\$107.12 million

Based on the tables above, the Project is considered fully funded. Therefore, there will be no General Fund Impact from this action or the Project.

The Project proposes to add a northbound loop on-ramp and realign the northbound off-ramp; widen the southbound ramps and bridge over the railroad; convert southbound exit ramp to a two (2) lane exit and widen Lambert Road from west State College. In order to continue with the approval process with Caltrans taking the lead AAA efforts for construction as the Implementing agency, Caltrans requires the City to enter into a Cooperative Agreement. Furthermore, based on the recent SB1 funding as programmed by the CTC at their May 16, 2018 Board meeting, the City and Caltrans are required to enter into a Project Baseline Agreement. Both of these agreements have been reviewed as to form by the City Attorney and are ready for the City Council's approval. Therefore, staff is recommending the City Council consider approving the Cooperative Agreement with the attached Project Baseline Agreement and authorize the City Manager to execute said agreements with any subsequent amendments upon final approval as to form by the City Attorney (see

Cooperative Agreement with Project Baseline Agreement attached).

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Steve Kooyman, P.E., City Engineer

Concurrence: Tony Olmos, P.E., Public Works Director

Attachments

Cooperative Agreement

COOPERATIVE AGREEMENT COVER SHEET

Work Description

Contribute toward State Route 57 and Lambert Road Interchange Improvement. Reconfigure existing diamond interchange to loop ramp, add southbound lane on off-ramp

Contact Information

CALTRANS

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CITY OF BREA

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This AGREEMENT is not approved for the following reasons:

1. Spending > Caltrans is spending local federal funds: OCA to review to ensure the non-federal match has been provided.

Please note:

1. Caltrans administered funds must be expended proportionally with all other funds. All project funds must be shown in the Funding Summary. Local funds committed to the project cannot be omitted from the funding summary.

COOPERATIVE AGREEMENT

This AGREEMENT, effective on _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

City of Brea, a body politic and municipal corporation or chartered city of the State of California, referred to hereinafter as CITY.

RECITALS

1. PARTNERS are authorized to enter into a cooperative agreement for improvements to the state highway system (SHS) per the California Streets and Highways Code sections 114 and 130.
2. For the purpose of this AGREEMENT, *contribute toward State Route 57 and Lambert Road Interchange Improvement. Reconfigure existing diamond interchange to loop ramp, add southbound lane on off-ramp* will be referred to hereinafter as PROJECT. The project scope of work is defined in the PROJECT initiation and approval documents (e.g. Project Study Report, Permit Engineering Evaluation Report, or Project Report).
3. All responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENTS will be referred to hereinafter as OBLIGATIONS:
 - CONSTRUCTION SUPPORT
 - CONSTRUCTION CAPITAL
4. This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between PARTNERS regarding the PROJECT.

5. The following work associated with this PROJECT has been completed or is in progress:
 - CITY approved the Mitigated Negative Declaration on March 2, 2015 (Cooperative Agreement No. 12-617).
 - CITY approved the Finding of No Significant Impact on March 2, 2015 (Cooperative Agreement No. 12-617).
 - CITY is developing the R/W Certification (Cooperative Agreement No. 12-617).
 - CITY is developing the Plans, Specifications and Estimate (Cooperative Agreement No. 12-617).
6. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.
7. PARTNERS hereby set forth the terms, covenants, and conditions of this AGREEMENT, under which they will accomplish OBLIGATIONS.

RESPONSIBILITIES

Sponsorship

8. CITY is the SPONSOR for the PROJECT COMPONENTS in this AGREEMENT.

Funding

9. FUNDING PARTNERS, funding sources, funding limits, spending limits, and invoicing/payment details are documented in the FUNDING SUMMARY. The FUNDING SUMMARY is incorporated and made an express part of this AGREEMENT.

PARTNERS will execute a new FUNDING SUMMARY each time the funding details change. The FUNDING SUMMARY will be executed by a legally authorized representative of the respective PARTNERS. The most current fully executed FUNDING SUMMARY supersedes any previous FUNDING SUMMARY created for this AGREEMENT.

Replacement of the FUNDING SUMMARY will not require an amendment to the body of this AGREEMENT unless the funding changes require it.

10. PARTNERS will not incur costs beyond the funding commitments in this AGREEMENT.

If an IMPLEMENTING AGENCY anticipates that funding for the WORK will be insufficient to complete the WORK, the IMPLEMENTING AGENCY will promptly notify the SPONSOR.

11. Unless otherwise documented in the FUNDING SUMMARY, all fund types contributed to a PROJECT COMPONENT will be spent proportionately within that PROJECT COMPONENT.
12. Unless otherwise documented in the FUNDING SUMMARY, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
13. All costs incurred for WORK except those that are specifically excluded in this AGREEMENT are OBLIGATIONS COSTS. OBLIGATIONS COSTS are to be paid from the funds shown in the FUNDING SUMMARY. Costs that are not OBLIGATIONS COSTS are to be paid by the PARTNER incurring the costs from funds that are outside the scope of this AGREEMENT.

Implementing Agency

14. CALTRANS is the IMPLEMENTING AGENCY for CONSTRUCTION.
15. Any PARTNER responsible for completing WORK shall make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT COMPONENT work that may occur under separate agreements.

CEQA/NEPA Lead Agency

16. CALTRANS is the CEQA Lead Agency for the PROJECT.
17. CALTRANS is the NEPA Lead Agency for the PROJECT.

Environmental Permits, Approvals and Agreements

18. PARTNERS will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTNER's responsibilities in this AGREEMENT.
19. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.

20. The SPONSOR is responsible for executing the mitigation commitments detailed in the United States Fish and Wildlife Biological Opinion with associated OBLIGATION COSTS.
21. The PROJECT requires the following environmental requirements/approvals:

ENVIRONMENTAL PERMITS/REQUIREMENTS
National Pollutant Discharge Elimination System (NPDES), State Water Resources Control Board
State Waste Discharge Requirements (Porter Cologne), Regional Water Quality Control Board
United States Fish and Wildlife Service Biological Opinion

Construction

22. As IMPLEMENTING AGENCY for CONSTRUCTION, CALTRANS is responsible for all CONSTRUCTION SUPPORT WORK except those CONSTRUCTION SUPPORT activities and responsibilities that are assigned to another PARTNER in this AGREEMENT and those activities that may be specifically excluded.
23. Physical and legal possession of right-of-way must be completed prior to construction advertisement, unless PARTNERS mutually agree to other arrangements in writing. Right of way conveyances must be completed prior to OBLIGATION COMPLETION, unless PARTNERS mutually agree to other arrangements in writing.
24. CALTRANS will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code. By accepting responsibility to advertise and award the construction contract, CALTRANS also accepts responsibility to administer the construction contract.
25. If the lowest responsible construction contract bid is greater than the funding commitment to CONSTRUCTION CAPITAL, PARTNERS must agree in writing on a course of action within fifteen (15) working days. If no agreement is reached within fifteen (15) work days the IMPLEMENTING AGENCY shall not award the construction contract.
26. CALTRANS will implement changes to the construction contract through Change Orders. PARTNERS will review and concur on all Change Orders over \$200,000 within five (5) working days.
27. After OBLIGATION COMPLETION SHS maintenance will be handled through an existing maintenance agreement.

28. Upon OBLIGATION COMPLETION, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the SHS within SHS right-of-way as part of WORK become the property of CALTRANS.

CALTRANS will not accept ownership or title to any materials or equipment constructed or installed outside the SHS right-of-way.

Schedule

29. PARTNERS will manage the schedule for OBLIGATIONS through the work plan included in the PROJECT MANAGEMENT PLAN.

Additional Provisions

30. PARTNERS will perform all OBLIGATIONS in accordance with federal and California laws, regulations, and standards; FHWA STANDARDS; and CALTRANS STANDARDS.
31. Each PARTNER will ensure that personnel participating in OBLIGATIONS are appropriately qualified or licensed to perform the tasks assigned to them.
32. PARTNERS will invite each other to participate in the selection of any consultants who participate in OBLIGATIONS.
33. CITY will issue any encroachment permits that are necessary for WORK within its jurisdiction and outside the SHS right-of-way. CITY will provide encroachment permits to CALTRANS, its contractors, consultants and agents, at no cost.
34. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the PROJECT COMPONENT WORK.
35. If any PARTNER discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTNER will notify all PARTNERS within twenty-four (24) hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and a plan is approved for its removal or protection.
36. PARTNERS will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the PROJECT in confidence to the extent permitted by law and where applicable, the provisions of California Government Code section 6254.5(e) shall protect the confidentiality of such documents in the event that said documents are shared between PARTNERS.

PARTNERS will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the PROJECT without the written consent of the PARTNER authorized to release them, unless required or authorized to do so by law.

37. If a PARTNER receives a public records request pertaining to OBLIGATIONS, that PARTNER will notify PARTNERS within five (5) working days of receipt and make PARTNERS aware of any disclosed public documents. PARTNERS will consult with each other prior to the release of any public documents related to the PROJECT.
38. If HM-1 or HM-2 is found during a PROJECT COMPONENT, the IMPLEMENTING AGENCY for that PROJECT COMPONENT will immediately notify PARTNERS.
39. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing SHS right-of-way. CALTRANS will undertake, or cause to be undertaken, HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to the PROJECT schedule.

The cost for HM MANAGEMENT ACTIVITIES related to HM-1 found within the existing SHS right-of-way is not an OBLIGATIONS COST and CALTRANS will pay, or cause to be paid, all costs for HM-1 ACTIVITIES.

40. CITY, independent of the PROJECT, is responsible for any HM-1 found within the PROJECT limits and outside the existing SHS right-of-way. CITY will undertake, or cause to be undertaken, HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to the PROJECT schedule.

The cost of HM MANAGEMENT ACTIVITIES related to HM-1 found within the PROJECT limits and outside of the existing SHS right-of-way is not an OBLIGATIONS COST and CITY will pay, or cause to be paid, all costs for such ACTIVITIES.

41. If HM-2 is found within the PROJECT limits, the public agency responsible for the advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM MANAGEMENT ACTIVITIES related to HM-2.
42. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.
43. The IMPLEMENTING AGENCY for each PROJECT COMPONENT will furnish PARTNERS with written quarterly progress reports during the implementation of OBLIGATIONS in that component.

44. Any PARTNER that is responsible for completing OBLIGATIONS will accept, reject, compromise, settle, or litigate claims arising from those OBLIGATIONS.
45. PARTNERS will confer on any claim that may affect OBLIGATIONS or PARTNERS' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTNER will prejudice the rights of another PARTNER until after PARTNERS confer on the claim.
46. If the PROJECT expends state or federal funds, each PARTNER will comply with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTNERS will ensure that any for-profit party hired to participate in the OBLIGATIONS will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the PROJECT these principles and requirements apply to all funding types included in this AGREEMENT.
47. PARTNERS will maintain, and will ensure that any party hired by PARTNERS to participate in OBLIGATIONS will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.
48. PARTNERS will maintain and make available to each other all OBLIGATIONS-related documents, including financial data, during the term of this AGREEMENT.

PARTNERS will retain all OBLIGATIONS-related records for three (3) years after the final voucher.

49. PARTNERS have the right to audit each other in accordance with generally accepted governmental audit standards.

CALTRANS, the state auditor, FHWA (if the PROJECT utilizes federal funds), and CITY will have access to all OBLIGATIONS-related records of each PARTNER, and any party hired by a PARTNER to participate in OBLIGATIONS, for audit, examination, excerpt, or transcription.

The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation. The auditing PARTNER will be permitted to make copies of any OBLIGATIONS-related records needed for the audit.

The audited PARTNER will review the draft audit, findings, and recommendations, and provide written comments within thirty (30) calendar days of receipt.

Upon completion of the final audit, PARTNERS have thirty (30) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

Any audit dispute not resolved by PARTNERS is subject to mediation. Mediation will follow the process described in the General Conditions section of this AGREEMENT.

50. If the PROJECT expends state or federal funds, each PARTNER will undergo an annual audit in accordance with the Single Audit Act and the federal Office of Management and Budget (OMB) Circular A-133.
51. If the PROJECT expends federal funds, any PARTNER that hires an A&E consultant to perform WORK on any part of the PROJECT will ensure that the procurement of the consultant and the consultant overhead costs are in accordance with Chapter 10 of the *Local Assistance Procedures Manual*.
52. If WORK stops for any reason, each PARTNER will continue to implement all of its applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, as they apply to each PARTNER's responsibilities in this AGREEMENT, in order to keep the PROJECT in environmental compliance until WORK resumes.
53. The cost of awards, judgments, or settlements generated by OBLIGATIONS is an OBLIGATIONS COST.
54. The cost of legal challenges to the environmental process or documentation is an OBLIGATIONS COSTS.
55. Fines, interest, or penalties levied against a PARTNER are not an OBLIGATIONS COST and will be paid, independent of OBLIGATIONS COST, by the PARTNER whose action or lack of action caused the levy.
56. The cost of any engineering support performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.

57. If there are insufficient funds available in this AGREEMENT to place PROJECT right-of-way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY will fund these activities until such time as PARTNERS amend this AGREEMENT.

That IMPLEMENTING AGENCY may request reimbursement for these costs during the amendment process.

58. If there are insufficient funds in this AGREEMENT to implement applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, and/or approvals that are in effect at a time that WORK stops, each PARTNER accepts responsibility to fund their respective OBLIGATIONS until such time as PARTNERS amend this AGREEMENT.

Each PARTNER may request reimbursement for these costs during the amendment process.

ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017 (SB 1)

59. In those instances where PARTIES have signed a PROJECT scope, cost, and schedule and benefit baseline data agreement (BASELINE AGREEMENT), PARTIES agree to abide by the terms and conditions of that PROJECT BASELINE AGREEMENT. The PROJECT BASELINE AGREEMENT is attached to and made a part of this AGREEMENT, by reference.
60. Notwithstanding anything to the contrary in this AGREEMENT, PARTIES are not permitted to make changes to the scope, cost, schedule or benefits of the PROJECT, unless approved by CTC.
61. PARTIES will meet the requirements of The Road Repair and Accountability Act of 2017 (SB 1), Chapter 5, Statutes of 2017, California Transportation Commission (CTC) Resolution G-18-09: SB1 Accountability and Transparency Guidelines, and the CTC's Trade Corridor Enhancement Program (TCEP) Guidelines Resolution G-17-32.

PARTIES agree that contributed funds originating from the TCEP can be expended on any item identified in the PROJECT. Should a SPONSOR nominated project encounter a cost over-run, TCEP will not fund the cost increase. Any costs increases should be funded from other fund sources.

GENERAL CONDITIONS

62. PARTNERS understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTNER initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.
63. All CALTRANS' OBLIGATIONS under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, programming of funds by the California Transportation Commission (CTC) and the allocation thereof by the CTC.
64. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless CITY and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
65. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CITY under this AGREEMENT. It is understood and agreed that CITY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
66. PARTNERS do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights in parties not signatory to this AGREEMENT. PARTNERS do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling OBLIGATIONS different from the standards imposed by law.

67. PARTNERS will not assign or attempt to assign OBLIGATIONS to parties not signatory to this AGREEMENT without an amendment to this AGREEMENT.
68. CITY will not interpret any ambiguity contained in this AGREEMENT against CALTRANS. CITY waives the provisions of California Civil Code section 1654.

A waiver of a PARTNER's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.

69. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.
70. If any PARTNER defaults in its OBLIGATIONS, a non-defaulting PARTNER will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTNER fails to do so, the non-defaulting PARTNER may initiate dispute resolution.
71. PARTNERS will first attempt to resolve AGREEMENT disputes at the PROJECT team level. If they cannot resolve the dispute themselves, the CALTRANS district director and the executive officer of CITY will attempt to negotiate a resolution. If PARTNERS do not reach a resolution, PARTNERS' legal counsel will initiate mediation. PARTNERS agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTNERS from full and timely performance of OBLIGATIONS in accordance with the terms of this AGREEMENT. However, if any PARTNER stops fulfilling OBLIGATIONS, any other PARTNER may seek equitable relief to ensure that OBLIGATIONS continue.

Except for equitable relief, no PARTNER may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTNERS will file any civil complaints in the Superior Court of the county in which the CALTRANS district office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located.

72. PARTNERS maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.
73. If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.

74. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTNERS will amend this AGREEMENT to include completion of those additional tasks.
75. Except as otherwise provided in the AGREEMENT, PARTNERS will execute a formal written amendment if there are any changes to OBLIGATIONS.
76. When WORK performed on the PROJECT is done under contract and falls within the Labor Code section 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771, PARTNERS shall conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTNERS shall include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts. Work performed by a PARTNER's own employees is exempt from the Labor Code's Prevailing Wage requirements.
77. If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTNERS shall conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. § 276(a).

When applicable, PARTNERS shall include federal prevailing wage requirements in contracts for public work. WORK performed by a PARTNER's employees is exempt from federal prevailing wage requirements.

78. PARTNERS agree to sign a CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expire by the statute of limitations.
79. PARTNERS intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the OBLIGATIONS. The requirements of this AGREEMENT shall preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

DEFINITIONS

AGREEMENT – This agreement including any attachments, exhibits, and amendments.

CALTRANS STANDARDS – CALTRANS policies and procedures, including, but not limited to, the guidance provided in the Project Development Procedures Manual (PDPM) and the CALTRANS Workplan Standards Guide for the Delivery of Capital Projects (WSG) [which contains the CALTRANS Work Breakdown Structure (WBS) and was previously known as the WBS Guide] and is available at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.

CEQA (California Environmental Quality Act) – The act (California Public Resources Code, sections 21000 et seq.) that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those significant impacts, if feasible.

CFR (Code of Federal Regulations) – The general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

CONSTRUCTION – See PROJECT COMPONENT.

CONSTRUCTION CAPITAL – See PROJECT COMPONENT.

CONSTRUCTION SUPPORT – See PROJECT COMPONENT.

CLOSURE STATEMENT – A document signed by PARTNERS that verifies the completion of all OBLIGATIONS included in this AGREEMENT and in all amendments to this AGREEMENT.

DFM (Department Furnished Materials) – Construction materials or equipment supplied by CALTRANS. DFM was previously referred to as State Furnished Materials (SFM).

FHWA – Federal Highway Administration.

FHWA STANDARDS – FHWA regulations, policies and procedures, including, but not limited to, the guidance provided at www.fhwa.dot.gov/topics.htm.

FUNDING PARTNER – A PARTNER that commits funds in this AGREEMENT to fulfill OBLIGATIONS. A FUNDING PARTNER accepts the responsibility to provide the funds it commits in this Agreement.

FUNDING SUMMARY – An executed document that names FUNDING PARTNER(S), includes a FUNDING TABLE, SPENDING SUMMARY, deposit amounts, and invoicing and payment methods.

FUNDING TABLE – The table that designates funding sources, types of funds, and the **PROJECT COMPONENT** in which the funds are to be spent. Funds listed on the **FUNDING TABLE** are “not-to-exceed” amounts for each **FUNDING PARTNER**.

GAAP (Generally Accepted Accounting Principles) – Uniform minimum standards and guidelines for financial accounting and reporting issued by the Federal Accounting Standards Advisory Board that serve to achieve some level of standardization. See <http://www.fasab.gov/accepted.html>.

HM-1 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law whether it is disturbed by the **PROJECT** or not.

HM-2 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by the **PROJECT**.

HM MANAGEMENT ACTIVITIES – Management activities related to either **HM-1** or **HM-2** including, without limitation, any necessary manifest requirements and disposal facility designations.

IMPLEMENTING AGENCY – The **PARTNER** responsible for managing the scope, cost, and schedule of a **PROJECT COMPONENT** to ensure the completion of that component.

NEPA (National Environmental Policy Act of 1969) – This federal act establishes a national policy for the environment and a process to disclose the adverse impacts of projects with a federal nexus.

OBLIGATIONS – All **WORK** responsibilities and their associated costs.

OBLIGATION COMPLETION – **PARTNERS** have fulfilled all **OBLIGATIONS** included in this **AGREEMENT** and have signed a **CLOSURE STATEMENT**.

OBLIGATIONS COST(S) – The cost(s) to complete the responsibilities assigned in this **AGREEMENT**. Costs that are specifically excluded in this **AGREEMENT** or that are not incurred in the performance of the responsibilities in this **AGREEMENT** are not **OBLIGATIONS COSTS**.

OBLIGATIONS COSTS are to be paid from the funds shown in the **FUNDING SUMMARY**. Costs that are not **OBLIGATIONS COSTS** are to be paid by the party that incurs the cost from funds that are outside the scope of this **AGREEMENT**.

PARTNER – Any individual signatory party to this **AGREEMENT**.

PARTNERS – The term that collectively references all of the signatory agencies to this AGREEMENT. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one PARTNER's individual actions legally bind the other PARTNER.

PROJECT COMPONENT – A distinct portion of the planning and project development process of a capital project as outlined in California Government Code, section 14529(b).

- **PID (Project Initiation Document)** – The work required to deliver the project initiation document for the PROJECT in accordance with CALTRANS STANDARDS.
- **PA&ED (Project Approval and Environmental Document)** – The work required to deliver the project approval and environmental documentation for the PROJECT in accordance with CALTRANS STANDARDS.
- **PS&E (Plans, Specifications, and Estimate)** – The work required to deliver the plans, specifications, and estimate for the PROJECT in accordance with CALTRANS STANDARDS.
- **R/W (Right of Way)** – The project components for the purpose of acquiring real property interests for the PROJECT in accordance with CALTRANS STANDARDS.
 - **R/W (Right of Way) SUPPORT** – The work required to obtain all property interests for the PROJECT.
 - **R/W (Right of Way) CAPITAL** – The funds for acquisition of property rights for the PROJECT.
- **CONSTRUCTION** – The project components for the purpose of completing the construction of the PROJECT in accordance with CALTRANS STANDARDS.
 - **CONSTRUCTION SUPPORT** – The work required for the administration, acceptance, and final documentation of the construction contract for the PROJECT.
 - **CONSTRUCTION CAPITAL** – The funds for the construction contract.

PROJECT MANAGEMENT PLAN – A group of documents used to guide the PROJECT's execution and control throughout that project's lifecycle.

QMP (Quality Management Plan) – An integral part of the PROJECT MANAGEMENT PLAN that describes IMPLEMENTING AGENCY's quality policy and how it will be used.

SHS (State Highway System) – All highways, right-of-way, and related facilities acquired, laid out, constructed, improved, or maintained as a state highway pursuant to constitutional or legislative authorization.

SPENDING SUMMARY – A table that identifies the funds available for expenditure by each **PARTNER**. The table shows the maximum reimbursable expenditure for each **PARTNER** in each **PROJECT COMPONENT**.

SPONSOR – Any **PARTNER** that accepts the responsibility to establish scope of the **PROJECT** and the obligation to secure financial resources to fund the **PROJECT COMPONENTS** in this **AGREEMENT**. A **SPONSOR** is responsible for adjusting the **PROJECT** scope to match committed funds or securing additional funds to fully fund the **PROJECT COMPONENTS** in this **AGREEMENT**. If this **AGREEMENT** has more than one **SPONSOR**, funding adjustments will be made by percentage (as outlined in Responsibilities). Scope adjustments must be developed through the project development process and must be approved by **CALTRANS** as the owner/operator of the **SHS**.

WORK – All efforts to complete the **OBLIGATIONS** included in this **AGREEMENT** as described by the activities in the **CALTRANS Workplan Standards Guide for the Delivery of Capital Projects (WSG)**.

SIGNATURES

PARTNERS are empowered by California Streets and Highways Code section 114 and 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT.

Signatories may execute this AGREEMENT through individual signature pages provided that each signature is an original. This AGREEMENT is not fully executed until all original signatures are attached.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Adnan Maiah
Acting District 12 Director

Certified as to funds:

Neda Saber
District Budget Manager

CITY OF BREA

Bill Gallardo
City Manager

Attest:

City Clerk

Approved as to form and procedure:

James Markman
City Attorney

FUNDING SUMMARY NO. 01

<u>FUNDING TABLE</u>					
<u>IMPLEMENTING AGENCY →</u>			<u>CALTRANS</u>		
Source	FUNDING PARTNER	Fund Type	CONST. SUPPORT	CONST. CAPITAL	Totals
FED	CITY	STIP/RIP		9,000,000	9,000,000
FED	CITY	SB1-TCEP (Local)	0	27,055,000	27,055,000
FED	CALTRANS	SB1-TCEP (State)	16,000,000	22,650,000	38,650,000
LOCAL	CITY	ORAM2RC-OCTA M2	1,000,000	9,798,000	10,798,000
Totals			17,000,000	68,503,000	85,503,000

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<u>SPENDING SUMMARY</u>						
Fund Type	CONST. SUPPORT		CONST. CAPITAL			Totals
	<u>CALTRANS</u>	CITY	<u>CALTRANS</u>	DFM CALTRANS	DFM CITY	
State Funds						
STIP/RIP		0	9,000,000	0	0	9,000,000
SB1-TCEP(State)	16,000,000	0	21,653,860	996,140	0	38,650,000
SB1-TCEP (Local)	0	0	26,569,000		*486,000	27,055,000
Local Funds						
ORAM2RC – OCTA M2	0	1,000,000	** 9,798,000	0	0	10,798,000
Totals	16,000,000	1,000,000	67,020,860	996,140	*486,000	85,503,000

* RE Office acquire by CITY

**\$2.5Million will be paid by the City for the mitigation measure from ORAM2RC funds

Funding

1. In accordance with the Caltrans Federal-Aid Project Funding Guidelines, PARTNERS must obtain approval from the Federal Highway Administration prior to any PROJECT funding changes that that will change the federal share of funds.

Invoicing and Payment

2. PARTNERS will invoice for funds where the SPENDING SUMMARY shows that one PARTNER provides funds for use by another PARTNER. PARTNERS will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, CITY will pay invoices within five (5) calendar days of receipt of invoice.
3. If CITY has received EFT certification from CALTRANS then CITY will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
4. CALTRANS will draw from state and federal funds that are provided by CITY without invoicing CITY when CALTRANS administers those funds and CALTRANS has been allocated those funds by the CTC and whenever else possible.
5. When a PARTNER is reimbursed for actual costs, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTNERS will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTNERS will invoice or refund as necessary to satisfy the financial commitments of this AGREEMENT.

CONSTRUCTION SUPPORT

6. No invoicing or reimbursement will occur for the CONSTRUCTION SUPPORT PROJECT COMPONENT.

CONSTRUCTION CAPITAL

7. CALTRANS will invoice and CITY will reimburse for actual costs.

DEPARTMENT FURNISHED MATERIALS (DFM)

8. No invoicing or reimbursement will occur for DFM.

Signatures

PARTNERS are empowered by California Streets and Highways Code sections 114 and 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this FUNDING SUMMARY on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this FUNDING SUMMARY.

Signatories may execute this FUNDING SUMMARY through individual signature pages provided that each signature is an original. This FUNDING SUMMARY is not fully executed until all original signatures are attached.

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

Adnan Maiah
Acting District 12 Director

Date _____

Neda Saber
District Budget Manager

Gina Schumacher
HQ Accounting

CITY OF BREA

Bill Gallardo
City Manager

Date _____

Attest:

City Clerk

Approved as to form and procedure:

James Markman
City Attorney

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 07/10/2018

SUBJECT: Purchase of Reserve Fire Truck - 1998 American LaFrance 105' Aerial Ladder

RECOMMENDATION

Approve the purchase of a Fire Truck for reserve use for \$49,999 from the City of Vernon.

BACKGROUND/DISCUSSION

The Brea Fire Department has one (1) 2007 Pierce Dash Ladder Truck (Truck 2) stationed at Fire Station 2. Currently, there is no reserve truck in the City and when Truck 2 is out of service for repair, the crew has to staff an engine to respond.

The staffing of an engine rather than a truck is problematic because the Department has no ability to ladder an incident for a building more than three-stories. In addition, the Truck carries a significant amount of equipment for special operations such as extrication which engines do not.

Originally, Fire Station 2 was housed with a Truck and an Engine Company, but due to budget issues Engine 2 was taken out of service. To compensate, Truck 2 was retrofitted with a water tank (Truck 2 was not purchased with a tank) so it could respond to calls requiring water by itself. Due to high usage of over the years and more so the retrofit of the truck, Truck 2 has been out of service a fair amount of time. In fact, this past year, the out of service time increased tremendously. We are now at the point where it would benefit the Department to have a reserve truck.

Truck 2 is anticipated to be replaced as a first line apparatus in 2027 after twenty (20) years of service. However, as mentioned, with the additional call load due to the loss of Engine 2 being put out of service and the mechanical issues stemming from the tank conversion, it may need to be replaced sooner. Until a replacement is acquired and Truck 2 is put in reserve, we need a reserve truck to make sure our service levels meet our Community's needs. Just within the last week, the City of Vernon advertised to the Fire Community the selling of their reserve ladder truck which prompted this opportunity to add a necessary piece of apparatus to the fleet.

SUMMARY/FISCAL IMPACT

Members of our Department and Public Works staff took a look at the apparatus and recommended to purchase. The truck is a 1998 American LaFrance 105' Aerial Ladder. The cost is \$49,999 and the mileage is 40,161. Public Works anticipates that we would need to put about \$10,000 in it for air conditioning work, lights, tires, and other repairs. The maintenance per year on the apparatus would be about \$10,000. A brand new truck would cost at least \$1.2 million. We are also looking into ways of sharing reserve apparatus with the City of Fullerton to be more efficient and effective.

It is respectfully requested that this purchase is approved and we are allowed to proceed with obtaining this apparatus from the City of Vernon.

The purchase of this reserve Fire Truck as well as any repairs needed are not budgeted. Funding for the purchase would need to be appropriated from either General Fund (110) Reserves or Equipment & Vehicle Maintenance Fund (480) Reserves. The appropriation for this purchase will be addressed in the first round of FY 2018-19 Budget Adjustments.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Wolfgang Knabe, Fire Chief

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 07/10/2018

SUBJECT: Purchasing Activity under Special City Council Authorization Period Ending June 30, 2018

RECOMMENDATION

Receive and file.

BACKGROUND/DISCUSSION

The City Council of the City of Brea has requested updates on purchasing activity under special City Council authorization for purchases of vehicles, software renewals, and the City Manager's authority under the Purchasing Ordinance. The following items are grouped as aforementioned showing the authorizing document and date; a narrative of the particular purchases; and the Purchasing Agent issued Purchase Orders.

Vehicle Purchases (authorized July 11, 2017)

For vehicles included in the Annual Vehicles and Equipment Purchase Plan for Fiscal Year 2017-18, the Purchasing Agent issued Purchase Orders:

- On January 25, 2018, PO #218183, in the amount of \$669,182, was issued to South Coast Fire Equipment for the purchase of one new 2018 Pierce Enforcer Fire Pumper for use by Brea Fire. This item was approved by the City Council on January 16, 2018.
- On February 2, 2018, PO #218192, in the amount of \$34,847.24, was issued to National Auto Fleet Group (NAF) for one 2018 Ford F250 Utility Truck with Service Body for use by Public Works Water Division. This item was a budget carryover from Fiscal Year 2016-17. The total purchase price was about \$153 lower than the budgeted amount. When the new truck is received, the current vehicle will be auctioned.
- On April 4, 2018, PO #218223, in the amount of \$50,960.49, was issued to National Auto Fleet Group (NAF) for one 2018 Chevrolet Tahoe for use by the City Manager. The cooperative agreement price was \$10,960.05 lower than the manufacturer's list price. The total purchase price was about \$960.49 more than the budgeted amount. The City Manager's current vehicle, a 2012 GMC Yukon had about 138,000 miles on it, and the Kelly Blue Book trade-in value was between \$10,000 to \$12,000. When it was auctioned on June 4, 2018, it yielded \$17,395 so the net cost of the new vehicle was \$33,565.49, creating an overall savings of \$16,434.51.

Summary: The vehicle purchase prices versus budgeted amounts resulted in a savings of

about \$21,674 or 7.66%. The Fire Pumper was \$69,182.37 over the budgeted amount due largely to compounding inflationary factors in addition to equipment modernization costs and regulatory requirements. Overall, the rolling equipment was about \$47,509 or 5.38% over the line item budgeted amounts; however, the Fiscal Year 2017-18 Budget has sufficient funding available in the Public Works Department, Equipment Maintenance Division, Expenditure Accounts for Field and Shop Equipment and Mobile Equipment (480-51-5161-4641) to cover these purchases.

Software Renewals (authorized August 15, 2017)

For software renewals included in the Fiscal Year 2017-18 Budget, the Purchasing Agent issued Purchase Orders:

- No purchase orders were issued in excess of \$25,000 for this reporting period.

City Manager's Authorization (BMC ss3.24.210)

For urgent items or work included in the Fiscal Year 2017-18 Budget, the Purchasing Agent issued Purchase Orders:

- No purchase orders were issued in excess of \$25,000 for this reporting period.

SUMMARY/FISCAL IMPACT

The City Council adopted Fiscal Year 2017-18 Budget has sufficient funding available for these purchases.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Neil Groom, Procurement and Contracts Administrator

Concurrence: Cindy Russell, Administrative Services Director

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 07/10/2018

SUBJECT: Annual Vehicles and Equipment Purchase Plan for Fiscal Year 2018-19

RECOMMENDATION

Authorize the Purchasing Agent to issue purchase orders in an amount not-to-exceed \$612,550 for various City vehicles and equipment described in the Annual Vehicles and Equipment Purchase Plan for Fiscal Year 2018-19.

BACKGROUND/DISCUSSION

Each fiscal year, the vehicles and equipment (Equipment) used by various City departments are assessed to determine whether it is best to continue maintenance, to retire, replace, or add new units. The determining factors include excessive mileage; unit hours; age and normal life expectancy; maintenance costs and history; and safety and environmental impacts. The attached equipment list indicates the replacements that were approved in the new fiscal year budget. This list provides the equipment descriptions, quantities, estimated costs, and departments where they will be assigned. For this fiscal year, the requirements are for replacements only, no additional units are planned. The Purchasing Division will solicit bids for the listed equipment per the formal bidding requirements of the Brea Municipal Code, or utilize competitively bid national cooperative agreements or piggybackable contracts, whichever provides the best available pricing and is in the best interests of the City.

Staff requests that Council authorize the Purchasing Agent to issue purchase orders immediately after completing the best available pricing analysis, without the need to return to City Council for approval of the individual awards, in order to ensure the needed equipment is replaced in a timely fashion and without interruption in service; to meet manufacturer production cutoff dates; to take advantage of incentives and discounts; and to expedite the purchase of these items. Should any of the listed equipment be limited to a single source, the Purchasing Agent will verify and document the reasons for the sole source procurement prior to award.

To help facilitate operational and budgetary requirements, staff requests that Council authorize the Equipment Maintenance Supervisor and Purchasing Agent to make changes in the type and quantity of the listed equipment, subject to budget appropriations and the not-to-exceed amount requested.

SUMMARY/FISCAL IMPACT

The City Council adopted Fiscal Year 2018-19 Budget has sufficient funding available for the requested not-to exceed amount for these purchases in the Public Works Department, Equipment Maintenance Division, expenditure accounts for Field and Shop Equipment and Mobile Equipment (480-51-5161-4641 and 4621).

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Neil Groom, Procurement and Contracts Administrator

Concurrence: Cindy Russell, Administrative Services Director

Attachments

FY 2018-19 Vehicles and Equipment Purchase Plan

VEHICLE REPLACEMENT SCHEDULE
Fiscal Year 2018-19

DEPARTMENT	UNIT #	BUDGETED	REPLACEMENT
POLICE			
PARKING CONTROL PICKUP	29034	\$ 30,000	1/2 Ton Pickup
BMW MOTORCYCLE	1129	\$ 28,000	BMW
CROWN VIC SEDAN-PSO (993)	28008	\$ 32,000	Ford UV
DETECTIVE SEDAN	1224	\$ 30,000	SUV/Sedan
DETECTIVE SEDAN	1325	\$ 30,000	SUV/Sedan
CROWN VIC SEDAN-PATROL (961)	1022	\$ 35,000	Ford UV
CROWN VICSEDAN-PATROL (952)	1208	\$ 35,000	Ford UV
CROWN VIC SEDAN-PATROL (956)	1222	\$ 35,000	Ford UV
FIRE			
SUV-PREVENTION	27009	\$ 35,000	Ford UV
PUBLIC WORKS			
1/2 TON PICKUP- W	1007	\$ 26,000	1/2 Ton Pickup
1/2 TON PICKUP-W	1115	\$ 26,000	1/2 Ton Pickup
3/4 TON PICKUP-W	27003	\$ 30,000	1/2 Ton Pickup
3/4 TON UTILITY-W	27004	\$ 35,000	3/4 Ton Utility
PARKING LOT SWEEPER-S	22020	\$ 100,000	Mini Sweeper
480-5161-4641	Total	\$ 507,000	
PUBLIC WORKS			
ABRASIVE SAW	1210	\$ 1,500	Same
ABRASIVE SAW	1228	\$ 1,500	Same
ARROWBOARD TRAILER -W	27021	\$ 6,000	Same
BALLFIELD MACHINE -P	27023	\$ 24,000	Same
BACKPACK BLOWER - P	1027	\$ 600	Same
BACKPACK BLOWER -S	1110	\$ 600	Same
BACKPACK BLOWER -S	1232	\$ 600	Same
EDGER (POWER TRIM) -WC	1305	\$ 700	Same
HEDGE TRIMMER -S	29033	\$ 600	Same
MID-TINE ROTOTILLER -P	25014	\$ 1,000	Same
MOWER REEL -P	26021	\$ 1,700	Same
MOWER ROTARY -SP	1304	\$ 1,300	Same
PORTABLE STEAM CLEANER -B	27012	\$ 15,000	Same
PORTABLE STEAM CLEANER -SP	28011	\$ 15,000	Same
PUMP 4" (Trash) -W	22006	\$ 2,000	Same
REFERENCE SOFTWARE - TOOL	2015	\$ 5,000	Same
TRAILER-P	85027	\$ 6,000	Same
TRIMMER -P	1211	\$ 450	Same
TORO UTILITY VEHICLE -SP	28027	\$ 22,000	Same
480-5161-4621	Total	\$ 105,550	
Grand Total		\$ 612,550	

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 07/10/2018

SUBJECT: Software/Hardware Maintenance Support and Online Subscription Service Agreements

RECOMMENDATION

1. Authorize the Purchasing Agent to approve renewal agreements with various support services providers for the life of the computer software or hardware and for online software subscription services; and
2. Authorize the Purchasing Agent to issue purchase orders for these renewal agreements and subscription services that do not to exceed available budget appropriations.

BACKGROUND/DISCUSSION

To help ensure the functionality of Brea's network infrastructure, servers, and personal computers, the City uses computer hardware/software maintenance and support agreements and online vendor-hosted software subscription services for required updates, technical support, and software customizations.

These agreements are typically proprietary to the companies that provide the particular software application or hardware device. Some of these support and online subscription services may be available through cooperative agreements while very few are obtained through solicitation of competitive offers. For the support providers obtained through competitive bidding, it is common to continue to stay with the same vendor for the duration of the City's use of the program.

The current fiscal year total of these agreements is \$623,439. The majority of these agreements are within the Purchasing Agent's authority to approve on an annual basis. This year, there are four agreements that are over the Purchasing Agent's authority to approve dollar amount of \$25,000:

- **ActiveNet** for Community Services registrations and activities;
- **Spillman** for the CAD/RMS software for the police dispatch and record management system;
- **County of Orange** for the 800 Mhz public safety radio backbone system; and
- **Superion** for the City's financial software

The proprietary agreements and subscription services typically are based on a fixed annual increase from the vendor that are not subject to negotiation. For the agreements that may be acquired through cooperative agreement and/or competitive bidding, the Purchasing Agent, the Information Technology Division, and/or user department periodically will seek whichever means offers the best available pricing solution for Brea.

Staff requests that Council authorize the Purchasing Agent to approve the renewal of the existing software/hardware maintenance support and online service agreements without having to return to the City Council for approval of each agreement that exceeds \$25,000. The Purchasing Agent will continue to submit periodic reports to the Finance Committee of any agreements approved under this authorization. Any award recommendations of new software systems and the initial software support agreements that exceed the formal procurement threshold, will continue to be presented to the City Council for their review and consideration.

SUMMARY/FISCAL IMPACT

Since a majority of the hardware/software maintenance and support renewal agreements and online subscription services are proprietary, have fixed annual increases and are not subject to negotiation, and in an effort to help ensure continuity of service from the support providers, staff requests that Council authorize the Purchasing Agent to approve these agreements and issue as-needed purchase orders based on available budget appropriations for the fiscal year in which they occur.

The City Council adopted Fiscal Year 2018-19 Budget has sufficient funding available for these purchases. There is no additional fiscal impact based on this action.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Neil Groom, Procurement and Contracts Administrator

Concurrence: Cindy Russell, Administrative Services Director and
Randy Hornsby, IT Manager
