



Staff Report

File #: 22-0719

REQUEST FOR CITY COUNCIL ACTION

DATE: 09/07/2022

TO: Honorable Mayor and City Council Members

FROM: Public Works Department

SUBJECT:

Professional Services Agreement with RailPros Field Services, Inc. for the McKinley Grade Separation Project.

EXECUTIVE SUMMARY:

City Council consideration to approve a Professional Services Agreement with RailPros Field Services, Inc. to provide Railroad Flagging Services for the McKinley Street Grade Separation Project in the amount of \$300,000. Railroad Flagging Services were originally to be provided by Burlington Northern and Santa Fe Railway Company for this project; however, due to a general shortage of personnel responsible for covering flagging throughout the entire southwest United States, Burlington Northern and Santa Fe Railway Company notified the City on August 17, 2022, that they would no longer provide staffing or coordination services to provide railroad flagging.

RECOMMENDED ACTION:

That the City Council:

- a. Approve a Professional Services Agreement with RailPros Field Services, Inc. for Railroad Flagging Services for the McKinley Grade Separation Project in the amount of \$300,000 for a term through September 1, 2024.
- b. Authorize the City Manager, or his designee, to execute the Professional Services Agreement with RailPros Field Services, Inc. in the amount of \$300,000, and to approve any modifications to the form of the Railroad Construction and Maintenance Agreement deemed necessary by the City Attorney, which do not impact the compensation to be paid and which are consistent with the Council's directions herein.
- c. Authorize the City Manager, or his designee, to approve necessary change orders and amendments up to a 20% contingency, or \$60,000, for a total of \$360,000.

- d. Authorize the Purchasing Manager to issue a purchase order to RailPros, in the amount of \$300,000.
- e. Reallocate up to \$360,000 from the Railroad Construction and Maintenance Agreement with Burlington Northern and Santa Fe Railway Company to the Professional Services Agreement with RailPros Field Services, Inc. to supply flagging personnel for the Project.

BACKGROUND & HISTORY:

Railroad Construction and Maintenance Agreement Background

On May 19, 2021, the City Council approved a Railroad Construction and Maintenance Agreement ("C&M Agreement") between the City and Burlington Northern and Santa Fe Railway Company ("BNSF Railway Company") for the McKinley Grade Separation Project (Project). The C&M Agreement was fully executed between both parties on June 24, 2021, compliant with City Council's May 19, 2021, authorization for execution.

BNSF Railway Corporation August 1, 2022, Flagging Policy Change

On August 17, 2022, representatives from BNSF Railway Corporation notified the City that due to a general shortage of personnel responsible for covering flagging throughout the entire southwest United States, BNSF Railway Corporation would no longer provide staffing or coordination services to provide railroad flagging. This policy is effective as of August 1, 2022, and only BNSF Railway Corporation authorized consultants will be allowed to provide flagging services on behalf of BNSF Railway Corporation. RailPros is the only authorized consultant to provide these services.

City staff is seeking approval for the execution of a Professional Services Agreement (PSA) directly with RailPros that would allow them to provide the railroad flagging services originally anticipated to be provided by BNSF Railway Corporation. Similar to the terms of the C&M Agreement, flagging services under the terms of this PSA would occur as follows:

1. City staff and/or authorized representatives from the construction management consulting firm would request a duration and flagging services necessary for work within the railroad right of way.
2. RailPros will provide the City with an estimated fee and scope of services for review and concurrence.
3. City staff will provide written authorization to proceed with each task request, such that the cumulative total of both the tasks completed/invoiced and the estimated fee associated with the task request does not exceed the approved total contract value.
4. RailPros would complete work and provide the City an invoice based on services completed.

ANALYSIS:

All work within the railroad right-of-way or work that has the potential to foul the track requires the presence of BNSF Railway Corporation authorized flagging personnel. The execution of this agreement and coordination through RailPros in lieu of BNSF has no functional difference to the overall execution of the project. Additionally, included with the \$918,736 for flagging services outlined in the C&M Agreement with BNSF (refer to Exhibit D, Page 5 of 5), the following was

estimated to be compensated to BNSF Railway Corporation by the City:

1. 7,200 Man Hours
2. 400 Days of a Car Rental

City staff anticipates approximately 120 standard workdays, 30 nights, weekends, or holidays, and approximately 120 hours of potential overtime for work that requires railroad flagging. Per the terms of the RailPros PSA, the new estimated compensation would be approximately \$300,000. Furthermore, due to BNSF Railway Corporation not providing these services to the City, they are not eligible for compensation through the terms of the C&M Agreement. Overall, City staff estimates the following potential savings based on the review of our current schedule:

Original estimate for flagging services to BNSF	\$918,736
Revised estimate for flagging services to BNSF	\$0
New estimate for flagging services to RailPros	\$300,000
Total estimated savings	\$618,736

FINANCIAL IMPACT:

This decision will not increase overall Project costs and expenditures; \$300,000 for the purchase order and the 20% contingency of \$60,000 is considered part of the costs included with BNSF Railroad Work, estimated at \$1,718,858. With this change in place, the City does not anticipate the need to have BSNF provide flagging services, and we also anticipate cost savings of up to \$618,736 pending the schedule maintaining, and no unforeseen conditions occur in the railroad right-of-way.

The table below represents available funding for the Project.

Project Funding	
Funding Source	Amount
State Senate Bill 132	\$84,450,000
Gas Tax	\$729,724
Transportation Development Act (TDA)	\$2,000,000
Transportation Uniform Mitigation Fees (TUMF)	\$1,626,084
Local Measure A	\$4,025,000
Trade Corridor Enhancement Program (TCEP)	\$10,300,000
Section 190 Grade Separation Program	\$5,000,000

Project Funding (Continued)	
Funding Source	Amount
BNSF Railroad Contributions	\$3,810,000
Western Municipal Water District Utility Contributions	\$1,439,143
Highway Railroad Safety Crossing Account (HRCSA)	\$2,876,960
City Development Impact Fees – Street/Signal	\$1,000,000
City Development Impact Fees – Drainage	\$1,000,000
Road Maintenance and Rehabilitation Account (RMRA)	\$500,000
RCTC – Measure A Regional Arterials	\$9,889,692
Total	\$128,646,603

The costs for this project are outlined as follows:

Project Expenditures	
Expenditure Source	Amount
Staff/Consulting Services (Design, Acquisition, Legal, and Project Management)	\$18,746,650
Construction Management Consulting Services	\$11,000,000
Right-of-Way & Utilities Expenditures	\$29,803,500
BNSF Railroad	\$1,718,858*
Building Demolition	\$187,530
Construction	\$60,899,929
Construction Contingency (10%)	\$6,090,000
Total	\$128,446,500

*Denotes the total BNSF Railroad costs of \$1,718,858, includes \$300,000 for the purchase order and the 20% contingency of \$60,000.

ENVIRONMENTAL ANALYSIS:

Per Public Resources Code Section 21080.13, all railroad grade separation projects which eliminates

an existing at-grade crossing are exempt from the laws for the California Environmental Quality Act (CEQA). As a grade separation project, this Project is statutorily exempt under the California Environmental Quality Act.

PREPARED BY: JOSHUA COSPER, P.E., P.L.S., CONSULTANT PROJECT MANAGER FOR THE MCKINLEY GRADE SEPARATION PROJECT

REVIEWED BY: SAVAT KHAMPHOU, PUBLIC WORKS DIRECTOR

Attachments:

1. Exhibit 1 - Construction and Maintenance Agreement (aka Overpass Agreement)
2. Exhibit 2 - Professional Services Agreement