



Legislation Details (With Text)

File #: 21-0664 **Version:** 1 **Name:**

Type: Agreement **Status:** Passed

File created: 6/24/2021 **In control:** City Council

On agenda: 7/21/2021 **Final action:** 7/21/2021

Title: Third Amendment to the Professional Services Agreement with Biggs Cardosa Associates, Inc. for the McKinley Street Grade Separation Project, No. 2012-12.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Staff Report, 2. Exhibit 1 - Third Amendment to the Professional Services Agreement, 3. Exhibit 2 - Additional Work Request (2021-06-15)

Date	Ver.	Action By	Action	Result
7/21/2021	1	City Council	approved	Pass

REQUEST FOR CITY COUNCIL ACTION

DATE: 07/21/2021

TO: Honorable Mayor and City Council Members

FROM: Public Works Department

SUBJECT:

Third Amendment to the Professional Services Agreement with Biggs Cardosa Associates, Inc. for the McKinley Street Grade Separation Project, No. 2012-12.

EXECUTIVE SUMMARY:

City Council consideration for the approval of a Third Amendment to the Professional Services Agreement ("PSA") with Biggs Cardosa Associates, Inc., to provide engineering construction support, support the City's analysis of alternative staging and construction delivery methods, and maintain public outreach services through construction for the McKinley Street Grade Separation, Project No. 2012-12 that will increase the contract value from \$ 10,877,325 to \$12,023,838 for a total increase of \$1,146,513.

RECOMMENDED ACTION:

That the City Council:

- a. Approve the Third Amendment to Professional Services Agreement with Biggs Cardosa

Associates, Inc., to increase the total compensation by \$1,146,513 to provide engineering construction support, support the City's analysis of alternative staging and construction delivery methods, and maintain public outreach services through construction for the McKinley Street Grade Separation, Project No. 2012-12.

- b. Authorize the City Manager, or his designee, to execute the Third Amendment to the Professional Services Agreement with Biggs Cardosa Associates for a total contract amount of \$12,023,838.
- c. Authorize the Purchasing Manager to issue Change Order No. 3 to Purchase Order P20962 to Biggs Cardosa Associates, Inc., in the amount of \$1,146,513, which represents a cumulative total design cost increase of 22.3 percent.
- d. Authorize the City Manager, or his designee, to approve the appropriate change orders necessary for the execution of the work, in accordance with [Corona Municipal Code Section 3.08.080\(I\)](#) up to \$100,000.

BACKGROUND & HISTORY:

On July 18, 2018, the City Council authorized the City Manager to execute a Professional Services Agreement with Biggs Cardosa Associates, Inc., ("BCA") to provide environmental, right-of-way, and engineering design services for the McKinley Street Grade Separation Project ("Project"). The total compensation included in the initial contract was \$9,833,393, and the term of the agreement was from July 18, 2018, through June 30, 2021. BCA included a construction engineering support task in the amount of \$770,116 as part of their proposal to the City in response to the City's Request for Proposal Number 18-046CA. However, due to the preliminary stage of design available at the time and the uncertainty in construction support needs, City staff did not include this in the staff report recommendation to City Council, and therefore, it was not included in the July 18, 2018, City Council approval, nor was the service included in the overall fee for \$9,833,393.

BCA presented several design options to the City Council at the November 14, 2018, Study Session. Based upon direction from the City Council, BCA prepared the Plans, Specifications, and Estimates (PS&E) for the 6-lane road over rail design option. At the time, McKinley Street was identified as a 6-lane facility per the General Plan. The initial design concepts with the 6-lane facility involved substantial property impacts and construction costs well above the available budget. Thereafter, due to those concerns, the City Council formed the McKinley Grade Separation Peer Review Ad Hoc Committee ("Peer Review Committee") to perform an independent peer review of the Project design and costs. On March 20, 2019, the Peer Review Committee presented the peer review results to the City Council, and the City Council directed staff to conduct a Value Engineering Workshop.

On April 24-26, 2019, a Value Engineering Workshop was held to identify cost reduction measures and affordable innovations related to Project design alternatives and right-of-way savings based upon the Value Engineering Workshop recommendations. On July 24, 2019, the design team presented, and the Peer Review Committee concurred with, the modified Project plans, which reduces the Project to a 4-lane facility and realigns the loop road to reduce the impact on adjacent properties and businesses. The revised design minimized right-of-way impacts to the properties north of Sampson Avenue and east of McKinley Street. To support the Value Engineering Workshop and

roadway redesign efforts throughout this time, BCA provided additional services to the City. These additional services were approved by the City Council on August 21, 2019, as part of the First Amendment to the Professional Services Agreement, increasing the total contractual fee from \$9,833,393 to \$10,877,325.04 for a total increase of \$1,043,932.04.

The Second Amendment to the Professional Services Agreement was issued to only extend BCA's contract term from June 30, 2021, to December 31, 2023, and included no additional compensation. This amendment was executed in June 2021. Pending final approvals and planning for upcoming late July/early August public outreach efforts, the City opted to pursue a second amendment for the time extension only in lieu of adding it to this contract amendment request to avoid any lapse in services provided by BCA.

The scope of services included in BCA's initial contract required the consultant to provide public outreach through the design phase of the project through their sub-consultant Arellano Associates, Inc. ("AA"). This included the following services, all of which were complete to date:

- 1) Development of a Public Outreach Plan
- 2) Development of a Stakeholder Database
- 3) Development of Collateral Materials (i.e., logos, brochures, presentation information, etc.)
- 4) Miscellaneous Public Outreach Meetings/Key Business Stakeholder Meetings
- 5) Web Page/Social Media Engagement

Most recently, this included the November 17, 2020, and May 4, 2021, public outreach meetings, and the November 2-13, 2020, local business outreach meetings.

On April 7, 2021, the City Council authorized the City Manager to execute a Professional Services Agreement with Falcon Engineering Services, Inc. ("Falcon") to provide construction management and inspection services for a total contract amount of \$10,394,658. Initially, City staff intended to include similar public outreach efforts through the construction phase of the Project; however, Falcon did not include AA as part of their team and proposed to provide the services internally. Based upon the services provided by AA to date and through counsel from Riverside County Transportation Commission and Riverside County, City staff concluded the importance of maintaining the same public outreach consultant services throughout the Project construction phase and design phase in lieu of including a new consultant. Falcon had approximately \$325,000 in miscellaneous services removed during the negotiations associated with public outreach and outreach support. City staff limited their services to only providing, as necessary, information, photographs, and forecasts of construction activities to the City throughout construction. Knowing additional services would be necessary to provide construction engineering support services from BCA, City staff requested BCA to provide an additional services order proposal to include AA's services in lieu of working with Falcon to include within their Professional Services Agreement.

Lastly, the material unit prices for concrete, steel, and lumber have increased substantially as of December 2020 due to labor shortages and lack of production of materials as a result of the COVID 19 restrictions throughout 2020. Market trends show steel has nearly doubled in price and concrete/lumber are approximately 50% higher since December 2020. Additionally, the availability of steel is a growing concern as delays are evident in projects throughout Southern California in

obtaining and fabricating steel. With the design as proposed to build the bridge off-site and to move the bridge in place toward the latter end of the second stage of construction, where existing traffic is maintained on the east side at grade/major fills and wall construction are occurring on the west side of McKinley Street, the lack of availability of steel presents risks in potential delays to the overall construction of the Project. The current estimated costs for construction of the Project include conservative unit prices and contingencies; however, as part of the continuous risk mitigation planning, City staff has been working with Falcon and BCA to identify cost and time-saving alternatives to the overall staging plan for construction and how to allow more flexibility to the future contractor on means/methods of building the bridge.

The two primary alternatives BCA, Falcon, and City staff are under evaluation to incorporate into the final project design are listed below:

- 1) Alternative Construction Staging: Allowing contractors to bid an alternative staging concept that accelerates construction approximately six (6) months, making the Project overall duration 18 months. This involves the construction of fill and wall improvements on both sides simultaneously. However, additional lighting/safety, property access, fire/police department access, and truck traffic restrictions/considerations will have to be assessed with this concept. The City and BCA considered this option during the development of the preliminary design; however, chose not to include this due to concerns on the necessity for truck restrictions, police/fire access during construction, and overall lighting/safety with large temporary retaining walls on either side of the temporary travel lanes. At the time, there was no risk with steel availability, and the overall schedule for construction was not a concern. Given that steel availability is a growing concern, the benefits of this alternative would include: (a) allowing the steel bridge construction to be removed from the critical path for the overall schedule, which would allow the major roadway and wall construction to progress while bridge materials are ordered and delivered; (b) allowing the bridge fabrication and erection to end simultaneously with the roadway and wall construction; and (c) having traffic maintained through the center of McKinley Street for the majority of the construction. Staff estimates that - in addition to the 6-month time savings - this alternative could potentially result in construction cost savings between \$500,000 to \$3,000,000.
- 2) Alternative Bridge Erection & Fabrication Process: Allowing contractors to bid an alternative bridge erection and fabrication process that would occur in place, as opposed to building it off-site, near the current Denny's and Outback Steakhouse Restaurants then moving it in place through the use of Self-Propelled Modular Transporters ("SPMT's"). After conducting discussions with several of the Pre-Qualified Contractors, staff estimates that there could be potential cost savings in the magnitude of \$500,000 to \$2,000,000. Many have the materials on hand to build falsework for the bridge erection in place over the road. Although this was also an early consideration from the City and BCA during preliminary design efforts, this was not selected as: (a) California had more firms that provided SPMT oversight and implementation services in 2019 and 2020; however, due to COVID and the limited opportunities in providing their service, one of the major providers no longer services California resulting in higher premiums and costs to provide these services; (b) based on the project size and the anticipated project's/economic forecasts, City staff did not anticipate twelve (12) contracting firms to meet prequalification requirements, nor was it anticipated that many of these companies, which are nationwide firms, had much of the needed falsework

materials on-hand from recently completed projects to provide the temporary falsework system necessary to build the project in place.

City staff is not seeking direction from City Council for the alternatives listed above, these are the primary alternatives to help reduce cost and schedule impacts to the Project by staff, BCA, and Falcon. To continue these efforts, the City has requested an additional services proposal from BCA to provide services to evaluate and establish construction contract requirements for both alternatives that include temporary lighting; truck turn analysis, sight distance, modifications to signals for wireless emergency vehicle pre-emption systems, emergency lane clearing provisions, and traffic analysis. These services are to be complete prior to the anticipated late July 2021 commencement of advertisement for construction.

ANALYSIS:

The City of Corona could proceed with the following actions:

- 1) Approve the Third Amendment to the Professional Services Agreement with BCA per the Additional Services Request attached to this report.
- 2) Not Approve the Third Amendment to the Professional Services Agreement with BCA and request the City solicits bids through a request for proposals procurement process to provide these services.
- 3) Direct City staff to either reduce scope or continue negotiations with BCA to minimize costs and return at a later City Council Date to request approval of the Third Amendment to the Professional Services Agreement with BCA.

Approve Third Amendment Per the Current Scope/Fee for Additional Services

This is the most beneficial to maintain the ongoing schedule to provide public outreach services and include the analysis necessary for the risk mitigation items proposed above. There would be no delay to either the final pre-construction public outreach meeting scheduled tentatively at the end of July/early August 2021, nor would there be delays to the construction bid advertisement date at the end of July. The final pre-construction public outreach meeting will be an in-person event located within a community center or facility in the general project area. This generally requires 4-5 weeks of planning in advance to notify the public and secure/prepare the location. AA has tentatively identified a few facilities through the remaining portions of their contract; however, the City would have to postpone the final pre-construction public outreach meeting should BCA's agreement not be amended to include additional public outreach services with this Council meeting. Additionally, BCA needs approximately 3-4 weeks to complete the analysis of the risk mitigation items identified above and develop construction contract amendment modifications necessary to be included in the notice inviting bids documentation prior to the commencement of advertisement. Advertisement and issuing the notice inviting bids would be delayed should BCA's agreement not be amended to include these services.

Construction engineering support services will not be required until the award of construction anticipated in October 2021. These services are provided by the design engineer of record and, generally, they involve the following:

- 1) Responses to Requests for Information ("RFIs") from the contractor or Falcon are to clarify

the intent of the engineering design or calculations. Often, they involve the review of substitutions or specific submittals that may impact how the design was proposed, and that could have bearing or liability if it changes the intent or the way the project was designed in the manner proposed. The design engineer of record reviews these questions, clarifications, submittals, and substitutions against the project specifications and design requirements and provides necessary design calculations to provide responses to the contractor or Falcon.

- 2) Review and evaluation of the shop drawings and other bridge submittals such as the bridge geometric plan, tension calculations, and temporary falsework structural calculations/design to verify constructability and consistency with the project design.
- 3) Support in disputes between the City, Falcon, and contractor over potential change orders that involve validation of the design or intent of the design.

Falcon does not provide these services as they generally revolve around either clarification or additional details to contractors on the nature of the design as proposed. Falcon's review of RFIs, submittals, and clarification requests is limited to ensuring its consistency with the project contract documents and ensuring the contractor performs sound construction consistent with industry-accepted practices and standards. These services will be necessary, and the scope and fee as originally proposed are consistent with BCA's current request for the additional services.

Not Approve Third Amendment and Solicit New Bids Through Public Procurement

The following risks are present with this option:

- 1) City staff estimates up to \$15,000 to \$20,000 in time and materials are necessary to prepare the request for proposals documentation and conduct the public procurement process for these services.
- 2) Efficiencies of using the same design and public outreach consultants are potentially lost, likely resulting in more City time to provide a similar understanding and history of the project decisions; additionally, the selected consultants are not BCA and AA.
- 3) The City should not have a separate consultant to provide the construction engineering support services. It is critical the design engineer of record validates the intent and nature of the design through this process. The City would be responsible for the additional liability and risk in the event of a lawsuit should the clarifications or responses change the original intent of the design.

City staff to Continue Negotiations with BCA to Reduce Cost/Scope

The City has conducted negotiations to identify what staff believes is an appropriate scope of services that provides engineering construction support, supports the City's analysis of alternative staging and construction delivery methods, and maintains public outreach services through construction. Although City staff did not include the construction engineering support services as originally proposed due to concerns with the preliminary stage of design available in July of 2018 and the uncertainty in construction support needs, with the design completion and necessary approvals to occur within the month of July, City staff have reviewed the original scope and fee and feel it is

appropriately scoped given the complexity of the bridge design and surrounding infrastructure. City staff also feels it prudent to utilize BCA to finalize our evaluation of the risk mitigation items listed above, given the potential cost and time savings to the project. Lastly, City staff believes given the overall impacts to the miscellaneous properties and traffic circulation during construction, conducting quarterly public outreach meetings both in-person and virtually, maintaining the stakeholders log through construction, providing email and phone hotlines for the community and residents to solicit information and website/media outreach to broadcast projected construction activities is necessary throughout construction. The fees proposed are reasonable for the services included with the Additional Services Request.

Although City staff can continue negotiations, it would result in the reduction of services provided to reduce fees. Additionally, delays of up to 1 month would likely be expected to both the commencement of advertisement for construction and the final pre-construction public outreach meeting to conduct the additional scope and fee refinements, prepare a staff report and present this for Council's approval in a subsequent City Council meeting.

City staff's opinion is to move forward with approval of the Third Amendment to the Professional Services Agreement with BCA per the additional services request attached to this report.

FINANCIAL IMPACT:

The total for fees associated with the Additional Service Request as attached to this report and as proposed in the Third Amendment to the Professional Services Agreement with BCA is as follows:

- 1) Construction Engineering Support: \$770,116
- 2) Alternate Staging Concept Evaluation: \$62,232
- 3) Public Outreach Services During Construction: \$313,165
- 4) Total: \$1,145,513

As part of the City's negotiations with BCA for these additional items, BCA did not include sub-consultant markup fees for AA for the public outreach services.

Available funding for the Project is as follows:

Project Funding	
Funding Source	Amount
State Senate Bill 132	\$84,450,000
Gas Tax	\$229,724
Transportation Development Act	\$2,000,000
Transportation Uniform Mitigation Fees	\$1,630,114
Riverside County Transportation Commission Measure A	\$2,000,000
BNSF Railway Company Contributions	\$3,810,000*
CTC – Trade Corridor Enhancement Program (TCEP)	\$10,300,000
CPUC Section 190	\$5,000,000
CTC – Highway Railroad Crossing Safety Account (HRCSA)	\$2,876,000
Western Municipal Water District Contributions	\$1,400,000
Total	\$113,695,838

* Denotes the City has concluded the negotiations with BNSF for their share of contributions and is currently in the process of executing the Overpass Agreement as authorized per the City Council on May 19, 2021. The total BNSF contribution is \$3,810,000 and is no longer estimated.

The City has identified the following costs as part of the current Project budget:

Project Expenditures	
Expenditure Source	Amount
Design	\$12,023,838
Project Management	\$3,330,505
Construction Management and Inspection Services	\$11,000,000
Estimated BNSF Railway Company Fees/Costs	\$1,718,858
Demolition of Structures Located at 151 and 165 N. McKinley St	\$206,283
Construction, Right of Way, and Utility Relocation	\$85,416,354
Total	\$113,695,838

**Denotes this item includes Amendment Number 3 fees per the attached Additional Services Request.

*** Denotes this item is based upon the estimated costs as identified by BNSF in the Overpass Agreement to be executed between the City and BNSF as authorized by the City Council on May 19, 2021.

ENVIRONMENTAL ANALYSIS:

Per Public Resources Code Section 21080.13, all railroad grade separations projects which eliminates an existing at grade crossing is 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 - Third Amendment to the Professional Services Agreement
2. Exhibit 2 - Additional Work Request - June 15, 2021