



Council Meeting: October 20, 2009

SUBJECT: Modify an Existing Contract for Design and Construction Support Services for the Mathilda Avenue Bridge Overhead Rehabilitation Project (F0910-34)

BACKGROUND

The design of the Mathilda Avenue Overhead Rehabilitation Project (Public Works Project No. TR-02/03-07, Federal Project No. BRLS-5213(018)) was anticipated to be completed in calendar year 2004. Since then the project scope has expanded to include two parking lots, retaining wall aesthetics, streetlights, utility relocation and structural soil work. The total number of construction plan sheets has increased from 153 as originally estimated to 256, while the engineer's estimate for construction has increased from \$10 million to \$26 million. Approval is therefore requested to modify an existing contract with Mark Thomas & Co. Inc. for design and construction support services for the Mathilda Avenue Bridge Overhead Rehabilitation Project for additional post design services in the amount of \$161,445.

DISCUSSION

The original design contract awarded in 2003 was in the amount of \$1,623,260, with a design contingency of \$160,000 (RTC # 03-244). The contract was amended in August 2005 to add \$68,500 for an expanded Environmental Impact Report (EIR)(RTC #05-200). A second amendment was issued July 2007 to increase the total not to exceed value of the project by \$556,773 and increased the contingency to \$220,000 for additional services related to project delay and results of the EIR (RTC #07-222). When the estimated project construction cost exceeded \$25 million, a Value Engineering Study required by the California Department of Transportation (Caltrans) as part of the grant funding process resulted in a third amendment increasing the value of the contract by \$263,292 (RTC # 08-353). The total value of the design contract, including the three amendments, is \$2,511,825, plus the \$220,000 contingency. The proposed fourth amendment would increase the total contract value to \$2,673,270.

Caltrans has now issued the notice to proceed for the construction portion of the project, which staff is in the process of bidding. The proposed contract modification will be necessary because the overall increased complexity in project scope will require additional post design and construction support services throughout the life of the construction project that were not envisioned

when the original contract was awarded. At the earliest opportunity, staff will also bring forward an additional contract for construction management services.

FISCAL IMPACT

Budgeted funds are available in Project 822710, Mathilda Avenue Railroad Overpass Improvements. This project is funded by a Caltrans administered grant which pays 88.53% of the total project costs. The City is pursuing other grant funds to cover the City's 11.47% share.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

RECOMMENDATION

It is recommended that Council modify the existing contract with Mark Thomas and Co., in substantially the same format as the attached Draft Fourth Amendment to Consultant Services Agreement, and increase the total not-to-exceed amount by \$161,445, from \$2,511,825 to \$2,673,270.

Reviewed by:

Mary J. Bradley, Director of Finance

Prepared by: Pete Gonda, Senior Management Analyst, Finance

Reviewed by:

Marvin Rose, Director of Public Works

Approved by:

Gary M. Luebbers
City Manager

Attachments

A. Draft Fourth Amendment to Consultant Services Agreement

DRAFT

**FOURTH AMENDMENT TO CONSULTANT SERVICES AGREEMENT
BETWEEN THE CITY OF SUNNYVALE AND MARK THOMAS & CO, INC.,
FOR DESIGN AND CONSTRUCTION SUPPORT SERVICES
FOR THE MATHILDA AVENUE OVERHEAD BRIDGE REHABILITATION
PROJECT**

This Fourth Amendment to Service Agreement, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY") and MARK THOMAS & CO., INC, a California corporation ("CONSULTANT").

WHEREAS, on August 14, 2003, CITY and CONSULTANT entered into a Consultant Services Agreement whereby CONSULTANT would provide professional services necessary for investigation, environmental and right-of-way analysis, design, preparation of construction drawings and contract specifications, consultation services during construction and other services required to complete the project known as Mathilda Avenue Overhead Bridge Rehabilitation (Project No. TR-02/03-07); and

WHEREAS, an Amendment to the Consultant Services Agreement, dated August 3, 2005, added an Environmental Impact Report to the services to be performed by CONSULTANT and increased the value of the Agreement by \$68,500.00, for a total contract not-to-exceed value of \$1,691,760.00; and

WHEREAS, a Second Amendment to the Consultant Services Agreement dated July 5, 2007 added additional professional services for scope of service changes and project delay as a result of the environmental process on the project and increased the value of the contract by \$556,773.00 for a total contract not-to-exceed value of \$2,248,533.00; and

WHEREAS, a Third Amendment to the Consultant Services Agreement Dated December 16, 2008 added additional professional services for PS&E revisions as required by a Value Engineering Study required by CalTrans and increased the total value of the contract by \$263,292.00 for a total contract not to exceed value of \$2,511,825.00; and

WHEREAS, the parties now agree that a Fourth Amendment to said Agreement is advisable;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS FOURTH AMENDMENT TO CONSULTANT SERVICES AGREEMENT:

1. Section 1 – Services by CONSULTANT – Scope of Work (Exhibit "A");

Add additional professional post design services for bidding assistance, construction support and as-built records per the attached Additional Budget Request document dated 9/28/2009 (File No. 22-53001-B, Letter No. 231).

2. Section 4 – Payment of Fees and Expenses – Compensation (Exhibit "B")

Basic Compensation (Section 1.0) for Basic Services (1.1) add the following:

Additional post design services for bidding assistance, construction support
And as-built records - \$161,445.00

Basic Services total is increased to \$2,673,270.00

All other terms and conditions remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement Amendment.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

MARK THOMAS & CO., INC
("CONSULTANT")

By _____
City Attorney

By _____

Name and Title



MARK THOMAS & COMPANY, INC.
Providing Engineering, Surveying and Planning Services

1960 Zanker Road
San Jose, CA 95112
PHONE (408)453-5373
FAX (408) 453-5390

September 28, 2009

File No. 22-53001-B
Letter #231

Mr. Manny Kadkhodayan, P.E.
City of Sunnyvale
Public Works Department
456 West Olive Avenue
Sunnyvale, CA 94088-3707

Re: Mathilda Avenue Overhead Rehabilitation Project – Supplemental Budget for Post Design Services

Dear Mr. Kadkhodayan:

After careful review of the budget for post design services for the Mathilda Avenue Rehabilitation project, we feel that the budget will not be sufficient and respectfully request for supplement.

As you are aware, the fee was originally negotiated in 2002 with anticipation that majority of the design would be performed in 2003 and 2004. Since then, the project scope has expanded. For example, the project has added two parking lots, retaining wall aesthetics, streetlights, utilities, and structural soils. The total number of plan sheets has increased from 153 as originally estimated to 246 while the estimated construction cost has also increased from \$10M to \$26M. Additionally, the labor costs for our project teams have experienced an increase of 50% and more during the past 7-year span.

Therefore, for the project team to provide post design services, we would need a contract amendment as follows:

Task Name	Original Estimated Budget	New Estimated Budget	Additional Budget
Bidding Assistance	\$7,196	\$35,329	\$28,133
Construction Support	\$69,909	\$187,564	\$117,655
As-built Records	\$10,265	\$25,922	\$15,657
Total	\$87,370	\$248,815	\$161,445

We believe that our requested additional compensation in the amount of \$161,445 is reasonable. The total estimated fee for construction support is within 1% of the estimated construction cost. (The ASCE average ranges from 1 to 2%). As per the original agreement, our post design services will be billed on a time and material basis. When the budget has expended to 70%, we will notify the City and provide the updated estimate.