



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: DECEMBER 13, 2022**

**FROM: PUBLIC WORKS DEPARTMENT      WARDS: 1 AND 2**

**SUBJECT: FIRST AMENDMENT TO PROFESSIONAL CONSULTANT SERVICES AGREEMENT FOR PLANS, SPECIFICATIONS, AND ESTIMATE PHASE OF THE THIRD STREET GRADE SEPARATION PROJECT WITH HDR ENGINEERING, INC., OF OMAHA, NEBRASKA, EXTEND TERM THROUGH DECEMBER 31, 2025 AND INCREASE IN THE AMOUNT OF \$306,850.81 FOR A TOTAL CONTRACT AMOUNT OF \$2,591,943.81**

## **ISSUE:**

Approval of the First Amendment to the Professional Consultant Services Agreement for Plans, Specifications, and Estimate Phase of the Third Street Grade Separation Project with HDR Engineering, Inc., of Omaha, Nebraska, to extend the term through December 31, 2025 and increase compensation in the amount of \$306,850.81, for a total contract amount of \$2,591,943.81.

## **RECOMMENDATIONS:**

That the City Council:

1. Approve the First Amendment to the Professional Consultant Services Agreement for Plans, Specifications, and Estimate Phase of the Third Street Grade Separation Project with HDR Engineering, Inc., of Omaha, Nebraska, to extend the term through December 31, 2025, and increase compensation in the amount of \$306,850.81, for a total contract amount of \$2,591,943.81; and
2. Authorize the City Manager, or designee, to execute the First Amendment to the Professional Consultant Services Agreement, including making minor and non-substantive changes.

## **BACKGROUND:**

On April 11, 2017, the City Council received a report on the review and prioritization of potential railroad grade separations along the Burlington Northern Santa Fe (BNSF) railroad at Jackson Street, Mary Street, Spruce Street, and Third Street. Following this report, the City Council approved the Third Street/BNSF line as the top priority railroad grade separation and directed the Public Works Department to issue a Request for Proposals to complete the Project Approval and Environmental Document phase of the Third Street Grade Separation.

On July 24, 2018, the City Council approved an agreement with the Western Riverside Council of Governments (WRCOG) for \$4.0 million in Transportation Uniform Mitigation Fee (TUMF) funding to fund the Project Approval and Environmental Document phase (PA&ED); and the Plans, Specifications, and Estimates (PS&E) phases of the Third Street Grade Separation project.

On December 18, 2018, the City Council approved a Professional Consultant Services Agreement with HDR Engineering, Inc., of Omaha, Nebraska, for the PA&ED phase of the Third Street Grade Separation in the amount of \$646,649.

On June 16, 2020, the City Council (1) approved the First Amendment to the Professional Consultant Services Agreement with HDR Engineering, Inc., of Omaha, Nebraska, to amend the consultant's scope of services; (2) authorized the City Manager, or designee, to execute the First Amendment to the Professional Consultant Services Agreement with HDR Engineering, Inc., including making minor and non-substantive changes; and (3) authorized the Public Works Department to prepare and submit a grant application in the amount of \$15 million to the California Transportation Commission (CTC) for Senate Bill 1-Trade Corridor Enhancement Program (TCEP) funds.

On January 5, 2021, the City Council (1) approved the Second Amendment to the Professional Consultant Services Agreement with HDR Engineering, Inc., of Omaha, Nebraska, to amend the consultant's scope of services and extend the term of the agreement; (2) authorized the City Manager, or designee, to execute the Second Amendment to the Professional Consultant Services Agreement with HDR Engineering, Inc., including making minor and non-substantive changes.

On March 23, 2021 the City Council (1) approved the Federal Funding Cooperative Agreement with the Riverside County Transportation Commission for \$18 million in federal Congestion Mitigation and Air Quality Improvement Program funds for the right-of-way phase of the Third Street Grade Separation project; (2) approved Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement with the Western Riverside Council of Governments to increase the funding amount by \$4.25 million, to a total of \$8.25 million, for the right-of-way phase of the Third Street Grade Separation project; (3) approved the Professional Consultant Services Agreement with HDR Engineering, Inc., of Omaha, Nebraska, for the Plans, Specifications, and Estimate phase of the Third Street Grade Separation in the amount of \$2,285,093; (4) authorized the City Manager, or designee, to execute the agreements with Riverside County Transportation Commission, Western Riverside Council of Governments, and HDR Engineering, Inc., including making minor non-substantive changes; (5) by at least five affirmative votes, authorized a supplemental appropriation and increase in revenues in the amount of \$18.0 million in federal Congestion Mitigation and Air Quality funds to the Capital Outlay-Grants Fund for the Third Street Grade Separation project; and (6) by at least five affirmative votes, authorized a supplemental appropriation and increase in revenues in the amount of \$4.25 million in Transportation Uniform Mitigation Fee funds to the Transportation Uniform Mitigation Fee (TUMF) Fund for the Third Street Grade Separation project account.

On May 24, 2022, the City Council (1) approved a Preliminary Engineering Services Agreement with BNSF Railway Company for the design phase of the Project; and (2) authorized the City Manager, or designee, to execute the agreement, including making minor and non-substantive changes.

## **DISCUSSION:**

The Third Street Grade Separation project proposes to construct a railroad underpass at Third Street and the BNSF railroad tracks. Third Street will be lowered from about Vine Street to Park Avenue and a bridge will be constructed to convey rail traffic. The project will require the realignment of Commerce Street, construction of slopes, retaining walls, storm water pump station, and relocation of wet and dry utilities.

The consultant has submitted a request for additional out of scope work related to the environmental studies required by Caltrans for the Project (Attachment 1). These studies will determine the type and extent of hazardous materials that may be present in properties that are to be acquired for the Project. The consultant has agreed to provide the additional services for a fee of \$306,850.81 resulting in a total revised contract amount of \$2,591,943.81.

Section 1104 of Purchasing Resolution 23914 states the requirements for Change Orders and amendments to existing agreements. 1104(d) states that Awarding Entity Approval is required when “A Contract amendment which extends the term of the agreement beyond one year of the original expiration date”.

The Purchasing Manager concurs that the recommendation to approve the amendment is in compliance with Purchasing Resolution 23914.

## **STRATEGIC PLAN ALIGNMENT:**

This item contributes to **Strategic Priority 6 - Infrastructure, Mobility, and Connectivity Strategic Priority** and **Goal 6.2** – Maintain, protect, and improve assets and infrastructure within the City’s built environment to ensure and enhance reliability, resiliency, sustainability, and facilitate connectivity, and **Goal 6.3** – Identify and pursue new and unique funding opportunities to develop, operate, maintain, and renew infrastructure and programs that meet the community’s needs.

This item aligns with each of the five Cross-Cutting Threads:

1. **Community Trust** – The Project will improve multimodal mobility and reliability by eliminating the at-grade BNSF rail crossing.
2. **Equity** – The Project will improve safety and air quality for residents traveling to and from Downtown and within Eastside and Downtown neighborhoods that are SB 535 disadvantaged communities.
3. **Fiscal Responsibility** – The Project will use TUMF funds to design these valuable infrastructures to the City and the region. The Project will help realize stakeholders’ vision of transforming Third Street into a vibrant corridor lined by higher-density housing and a revamped stock of industrial and research buildings.
4. **Innovation** – The Project will have a unique effective engineering solution referred to as “no shoofly concept” allowing relocation of the existing BNSF tracks without the need to construct temporary tracks, resulting in substantial reduction in project cost, and construction duration.

5. **Sustainability & Resiliency** – The construction materials specified for this project are considered best practices in the industry and are expected to last well into the future. The Project improves the resiliency of the freight and passenger rail system and will keep the freight system moving and not disrupting the nationwide supply chain.

**FISCAL IMPACT:**

The fiscal impact of this action is \$306,850.81. Sufficient funds are budgeted and available in the Transportation Uniform Mitigation Fee Fund - Public Works – Capital Improvement – Streets Project - Third Street/ BNSF Grade Separation project account number 9990119-440315.

Prepared by: Gilbert Hernandez, Public Works Director  
Certified as to  
availability of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial Officer/City Treasurer  
Approved by: Kris Martinez, Assistant City Manager  
Approved as to form: Phaedra A. Norton, City Attorney

Attachment: First Amendment to Professional Consultant Services Agreement with HDR Engineering