



RECOMMENDATION TO AWARD CONTRACT FOR ON-CALL TRAFFIC SIGNAL AND STREET LIGHTING MAINTENANCE AND REPAIR SERVICES

January 24, 2012

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	<b>REPUBLIC ITS</b>	<b>TEAM ECONOLITE</b>
Rater A	174.5	161.5
Rater B	165	159.5
Rater C	161.75	158.5
<b>Totals</b>	<b>501.25</b>	<b>479.5</b>

FINANCIAL IMPACT

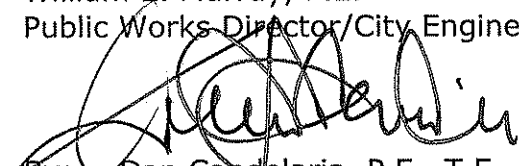
Impact to the General Fund is \$300,000, which has been previously approved in the 2011/12 budget.

RECOMMENDATION

It is recommended that the City Council:

- Award a consultant contract for on-call traffic signal and street lighting maintenance and repair services to Republic ITS; and
- Authorize the City Manager to execute the professional service agreement with Republic ITS in the amount not to exceed \$300,000.00, and make minor modifications as necessary, on behalf of the City.

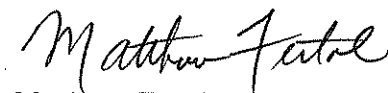
William E. Murray, P.E.  
Public Works Director/City Engineer



By: Dan Candelaria, P.E., T.E.  
City Traffic Engineer

Attachment: Republic ITS Consultant Agreement

**Recommended for Approval**



**Matthew Fertal**  
City Manager

**CONSULTANT AGREEMENT**

THIS AGREEMENT is made this 24th day of January, 2012, by the CITY OF GARDEN GROVE, a municipal corporation, ("CITY"), and REPUBLIC INTELLIGENT TRANSPORTATION SERVICES, INC., a California Corporation ("CONSULTANT").

**RECITALS**

The following recitals are a substantive part of this Agreement:

- 1. This Agreement is entered into pursuant to Garden Grove Council authorization dated January 24, 2012.
- 2. CITY desires to utilize the services of CONSULTANT to provide on-call traffic signal and street lighting maintenance and repair services as more specifically described in CONSULTANT'S Proposal, which is attached hereto as Exhibit "A" and incorporated herein.
- 3. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish services.

**AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. **Term of Agreement.** This Agreement shall cover services rendered from date of this agreement until compensation reaches the not to exceed amount, or sooner should the term of the contract be reached or Section 3.5 is enacted. The contract performance term is for three (3) years and allows for two 1-year extensions at the sole option of the City.
- 2. **Services to be Provided.** The services to be performed by CONSULTANT shall consist of the following: Furnish all labor, materials and equipment for on-call traffic signal and street lighting maintenance services at various city locations, as set forth in CONSULTANT'S Proposal attached hereto as Exhibit "A". The Proposal and this Agreement do not guarantee any specific amount of work.
- 3. **Compensation.** CONSULTANT shall be compensated as follows:
  - 3.1 **Amount.** CONSULTANT shall be compensated in accordance with the rate schedule set forth in Exhibit "A".
  - 3.2 **Not to Exceed.** Compensation under this Agreement shall not exceed \$300,000.00 (three hundred thousand dollars)..
  - 3.2 **Payment.** For work under this Agreement, payment shall be made per monthly invoice. For extra work not a part of this Agreement, a

written authorization by CITY will be required and payment shall be based on hourly rates as provided in Exhibit A.

3.3 General Prevailing Rate. CITY has ascertained from the State of California Director of Industrial Relations, the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime work in the locality in which the work is to be performed for each craft or type of work needed to execute this Contract, and copies of the same are on file in the Office of the City Engineer. The CONTRACTOR agrees that not less than said prevailing rates shall be paid to workers employed on this public works contract as required by Labor Code Section 1774 of the State of California.

3.4 Records of Expenses. CONSULTANT shall keep complete and accurate records of payroll costs, travel and incidental expenses. These records will be made available at reasonable times to CITY.

3.5 Termination. CITY and CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination. If the project is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. **Insurance Requirements**

4.1 Commencement of Work. CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.

4.2 Workers Compensation Insurance. For the duration of this Agreement, CONSULTANT and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable. The insurer shall waive its rights of subrogation against the CITY, its officers, officials, agents, employees, and volunteers.

4.3 Insurance Amounts. CONSULTANT shall maintain the following insurance for the duration of this Agreement:

- (a) Commercial general liability in the amount of \$1,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable); Insurance companies must be admitted and licensed in California and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY;

- (b) Automobile liability in the amount of \$1,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable) Insurance companies must be admitted and licensed in California and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY.
- (c) Professional liability in the amount of \$1,000,000 per occurrence; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

An Additional Insured Endorsement, **ongoing and completed operations**, for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to city's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, lease, hired, or borrowed by CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects to CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

- 5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONSULTANT in the event of

any default or breach by CITY, or for any amount, which may become due to CONSULTANT.

- 6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any activity pursuant to this Agreement.
- 7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
- 8. **Compliance With Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government.
- 9. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by CITY, unless disclosure is required by law.
- 10. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT shall be the property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.
- 11. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
- 12. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

(a) Address of CONSULTANT is as follows:

Steven Teal  
 REPUBLIC INTELLIGENT TRANSPORTATION SERVICES, INC.  
 1266 N. La Loma Circle  
 Anaheim, CA 92806

(b) Address of CITY is as follows (with a copy to):

Engineering:	City Attorney
Dan Candelaria, P.E., T.E.	City of Garden Grove
City of Garden Grove	P.O. Box 3070
P.O. Box 3070	Garden Grove, CA 92840
Garden Grove, CA 92840	

13. **CONSULTANT'S Proposal.** This Agreement shall include CONSULTANT'S proposal or bid which shall be incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
14. **Licenses, Permits and Fees.** At its sole expense, CONSULTANT shall obtain a **Garden Grove Business License**, all permits and licenses as may be required by this Agreement.
15. **Familiarity With Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.
16. **Time of Essence.** Time is of the essence in the performance of this Agreement.
17. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability and reputation of CONSULTANT, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONSULTANT. CITY will deal directly with and will make all payments to CONSULTANT.
18. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
19. **Indemnification.** To the fullest extent permitted by law, CONSULTANT agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONSULTANT, CONSULTANT'S agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT in the performance of the Agreement. The only exception to CONSULTANT'S responsibility to protect,

defend, and hold harmless CITY, is due to the negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

20. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by CITY and CONSULTANT.
21. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and CONSULTANT.
22. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.
23. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties
24. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

*[SIGNATURES ON FOLLOWING PAGE]*



**IN WITNESS THEREOF**, these parties hereto have caused this Agreement to be executed as of the date set forth opposite the respective signatures.

**"CITY"  
CITY OF GARDEN GROVE**

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_  
City Manager

**ATTEST**

**"CONSULTANT"  
REPUBLIC INTELLIGENT  
TRANSPORTATION SERVICES,  
INC.**

\_\_\_\_\_  
City Clerk

By: James A. Wagner  
Title: James A. Wagner, President

Dated: \_\_\_\_\_, 2012

Dated: January 18, 2012

**APPROVED AS TO FORM:**

\_\_\_\_\_  
X Dirk Glaser, Asst. Secretary

If CONSULTANT/CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY

[Signature]  
Garden Grove City Attorney

Dated: January 17, 2012