Supplemental Material

For

City of Sacramento

City Council
Financing Authority
Housing Authority
Redevelopment Agency

Agenda Packet

Submitted: March 13, 2008

For the Meeting of: March 18, 2008

☐ Additional Material

X Revised Material

TITLE: AGREEMENTS: CROCKER ART MUSEUM EXPANSION AND RENOVATION PROJECT (CF60, M13000100)

Please disregard the previous report. The attached report contains updated information.

Contact Information: Cynthia Kranc, Facilities Manager, 808-2258

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REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

CONSENT
March 18, 2008

Honorable Mayor and
Members of the City Council

Title: Agreements: Crocker Art Museum Expansion and Renovation Project (CF60, M13000100)

Location/Council District: 216 O Street, Council District 1

Recommendation: Adopt a **Resolution:** 1) Authorizing the City Manager or the City Manager's designee to execute an assignment of the Crocker Art Museum Association (CAMA) professional services agreement with Gwathmey, Siegel & Associates, the Project Architect; 2) authorizing payment to Gwathmey, Siegel & Associates for construction phase services performed prior to this assignment, in the amount of $44,148; and 3) authorizing the City Manager or the City Manager's designee to execute a Professional Services Agreement with Shaw Environmental in an amount not to exceed $194,030 for toxic remediation services for the Crocker Art Museum Expansion and Renovation Project (the "Project").

Contact: Cynthia Kranc, Facilities Manager, 808-2258

Presenters: Not Applicable

Departments: Department of General Services

Division: Facilities & Real Property Management

Organization No: 3289

Description/Analysis:

Issue: On December 4, 2007, the City Council adopted Resolution No. 2007-884 approving the Project budget and Resolution No. 2007-885 awarding the Construction Phase Amendment for the Project, and authorizing the City Manager to execute an assignment of the construction phase portion of CAMA's agreement with the Project Archeologist from CAMA to the City. At that time, staff informed the City Council that it would return for approval of the assignment of the Architect's agreement provided for in the Project budget. This report requests approval of the assignment of this agreement from CAMA to the City. This report also requests approval to pay the Architect for services performed since the construction phase was authorized on December 4, 2007, which cost is included in the approved budget.

Prior to the off-site work for the Project, the City's on-call toxic remediation consultant sampled soil for lead. The lead content was within acceptable levels. However, prior to on-site excavation, more comprehensive environmental testing was performed and portions of the soil were found to be outside of acceptable ranges. Shaw Environmental, an approved on-call toxic remediation consultant for the City, performed the remediation work for the basement and auditorium building areas. As excavation proceeded for the south building area and soil testing was performed, additional remediation was deemed necessary. The total amount of the necessary on-site remediation, however, exceeds the monetary limit set for the on-call agreement. Pursuant to the approved On-Call Consultant List guidelines, City Council approval is required if costs exceed the established limits. This report requests approval of an additional professional services agreement with Shaw Environmental for the lead abatement and remediation services needed for the Project.

Policy Considerations: The recommended actions are consistent with the previous City Council actions and approvals for the Project, summarized in the Background Information included in Attachment 1.

Committee/Commission Action: Not applicable

Environmental Considerations: The City Council certified the Environmental Impact Report, approved the Mitigation Monitoring Plan, and adopted the Findings of Fact and Statement of Overriding Considerations for the Project on October 25, 2005. On October 22, 2006, the City Council approved an Addendum to the Environmental Impact Report for the demolition of the Herold Wing.

Rationale for Recommendation: Gwathmey Siegel & Associates was hired by CAMA through a competitive, qualification-based process. Gwathmey Siegel & Associates is the Architect of Record for the Project, and as such, will monitor quality issues and conformance with the construction documents. Due to the length of time that it has taken to reach the start of construction, there are additional architectural costs for which CAMA has negotiated an additional fee, in the amount of $278,710. CAMA will be solely responsible for payment of this additional fee, at no risk to the City.

Immediate remediation of the lead soil discovered in the basement and auditorium areas was necessary in order to keep the construction project on schedule. This emergency need was addressed by the City's use of Shaw Environmental, an approved on-call consultant, and was within the department's authority. Despite the discovery, the Project schedule has successfully been maintained, and daily Project delay costs have been avoided. As the south building area was cleared, it was discovered to also contain above-normal levels of lead soil. Several proactive measures employed during the remediation process greatly reduced the amount of soil that was exported, thus minimizing the cost impact to the Project.

A new agreement with Shaw Environmental is required to complete the remediation of the south building area. Impacts, both in terms of cost and schedule have been greatly minimized through the use of the on-call services of Shaw Environmental. As required by the On-Call Consultant List guidelines, staff has returned for approval of the new agreement with Shaw Environmental.

Financial Considerations: On December 4, 2007, City Council adopted Resolution No. 2007- 884 approving the Project budget, in the amount of $84 million. The approved budget includes the construction phase services to be performed by Gwathmey Siegel & Associates and its engineering consultants. This report requests approval to pay for a portion of these services that have already been performed, in the amount of $44,148. CAMA will fund an additional $278,710 in accordance with the Amendment to the Agreement Between Owner and Architect (on file with the City Clerk) at no risk to the City.

Costs in the amount of $194,030 for the handling and disposal of the lead contaminated soil will be funded from the project contingency, included in the approved Project budget. City Risk Management has filed a claim with the City's insurance carrier that provides coverage for unknown environmental site conditions such as lead soil. If the claim is approved, the cost to the Project would be reduced to $100,000, the amount of the deductible.

Emerging Small Business Development (ESBD): Due to the extensive, and highly specialized scopes of many of the Project subcontracts, the City Office of Small Business (OSB) waived Emerging and Small Business Enterprise (ESBE) requirements for the Project. However, Rudolph & Sletten, Inc., in conjunction with OSB staff, conducted an extensive outreach to local chambers of commerce and the small business community in an effort to include emerging/small business participation in the Project. Shaw Environmental is not a certified small business with the City.
The percentage attained for the overall Project is approximately 8%, which is roughly $6 million. For FY2006/07, the Department of General Services achieved an ESBD percentage of 62%.

Respectfully Submitted by: _____
Cynthia Kranc
Facilities Manager

Approved by: _____
Reina J. Schwartz
Director, Department of General Services

Recommendation Approved:

for Ray Kerridge
City Manager

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Attachment 1

BACKGROUND:

In October 2000, the Crocker Art Museum Association (CAMA) presented a proposed process and timeline for a Master Plan development for the Crocker Art Museum to the City Council. Since that time, the City and CAMA have been working together on the preconstruction phases of the Crocker Art Museum Expansion and Renovation Project (the "Project"). Currently, off-site improvements are under construction along with demolition and site activities. State-funded Prop 40 improvements to the existing Museum were completed September 1, 2007. Additional Project milestones that have occurred include:

On December 3, 2002:

- The City Council adopted Resolution No. 2002-799 authorizing execution of a Memorandum of Understanding (the "MOU") between the City and CAMA that outlined the roles and responsibilities of the City and CAMA throughout the preconstruction and construction phases of the Project, and authorizing CAMA to release a Request for Qualifications (RFQ)/Request for Proposals (RFP) for the selection of a Construction Manager/General Contractor (CM/GC) for the Project. A panel comprised of CAMA and City representatives unanimously selected Rudolph & Sletten, Inc. as the Construction Manager for the Project through a competitive, qualification-based selection process.

On March 11, 2003:

- The City Council adopted Resolution No. 2003-117, suspending competitive bidding for the construction of the Project, as it is permitted to do under Section 3.60.170D of the Sacramento City Code, which allows competitive bidding to be suspended if the City Council determines, on a 2/3 vote, that it is in the best interests of the City to do so.

On November 4, 2004:

- The City Council adopted Resolution No. 2004-854 authorizing CAMA to proceed with the design development phase.

On December 7, 2004:

- The City Council adopted Resolution No. 2004-919 approving the Crocker Art Museum Business Plan and recognizing increased annual General Fund costs in an amount of $541,000 beginning in FY2008.

On October 25, 2005:

- The City Council adopted Resolution No. 2005-780 certifying the Environmental Impact Report, approving the Mitigation Monitoring Plan, and adopting the Findings of Fact and Statement of Overriding Conditions and Resolution No. 2005-781 approving the design of the Project. Staff updated the City Council on the status of the CAMA Capital Project Phase 2.

On February 7, 2006:

- The City Council adopted Resolution No. 2006-104 approving the Community Reinvestment Capital Improvement Program (CRCIP) project list, which included the Crocker Art Museum Expansion and Renovation Project.

On December 6, 2005:

- The City Council adopted Resolution No. 2005-876 approving the vacation and realignment of 2nd Street.

On April 18, 2006:

- The City Council approved the final Tier I and Tier II project list and bridge financing which included a $2 million dollar CRCIP contribution, $8 million from Sacramento Housing and Redevelopment Agency bond funds and a $12 million bridge loan for the Project.

On August 22, 2006:

- The City Council adopted Resolution No. 2006-623 approving an Addendum to the Final Environmental Impact Report for the Project approving the demolition of the Herold Wing and design of a replacement structure.

On March 20, 2007:

- The City Council adopted Resolution No. 2007-162 authorizing the City Manager to execute a construction contract with Rudolph & Sletten, Inc. for public improvements to the existing Museum, funded by the State of California under the California Cultural and Historical Endowment (CCHE) Grant and authorizing CAMA to execute an agreement with Rudolph & Sletten, Inc. for construction management services for the Project. CAMA's use of Rudolph & Sletten, Inc. prior to that time was in accordance with the City Manager's authority.

On May 29, 2007:

- The City Council adopted Resolution No. 2007-320 authorizing the City Manager to execute a construction contract with Rudolph & Sletten, Inc. in an amount not to exceed $3.34 million for the off-site and site improvements for the Project, in anticipation of the Project construction in winter 2007.

On June 5, 2007

- The City Council adopted Resolution No. 2007-362 approving the First Amendment to the MOU, outlining the construction protocol between the City and CAMA and approving the CAMA Business Plan, Capital Project Phase 2.

- CAMA reported on the overall success of the fundraising campaign. The City Council approved the naming of the new wing of the Project as "The Teel Pavilion" in honor of the Teel family, a campaign leader and major donor.

- The City Council authorized Rudolph & Sletten, Inc., the approved Construction Manager for the Project, to solicit bids from prospective subcontractors for the construction phase of the Project.

On September 4, 2007:

- The City Council adopted No. Resolution 2007-652 authorizing staff to develop an alternate construction funding strategy for the Project and directing staff to return to Council in advance of the award of the guaranteed maximum price with a contract for: a) detailing, fabrication and installation of steel; b) disconnecting the fire alarm system in the Herold wing: c) rerouting water pipes; d) demolishing the Herold Wing; and e) site de-watering to prepare for construction of a basement.

On September 25, 2007:

- The City Council adopted Resolution No. 2007-704 authorizing the City Manager to execute a contract for construction activities with Rudolph & Sletten, Inc., the approved Construction Manager for the Project, for: detailing, fabrication and installation of steel; b) disconnecting the fire alarm system in the Herold wing: c) rerouting water pipes; d) demolishing the Herold Wing; and e) site de-watering to prepare for construction of a basement.

On December 4, 2007:

- The City Council adopted Resolution No. 2007- 884 approving the Project budget; directing staff to implement the construction-funding strategy for the Project; authorizing the City Manager to execute the Second Amendment to the Memorandum of Understanding ("Second Amendment") between the City and the Crocker Art Museum Association ("CAMA"), City Agreement number 2002-0215; authorizing the City Manager to execute loan and security agreements with CAMA related to a $12 million Community Reinvestment Capital Improvement Program ("CRCIP") bond proceeds loan for the construction of the Project; appropriating $100,000 from City Facilities Deferred Maintenance Capital Improvement Project (CE21) for the Project; and authorizing the City Manager to recognize cash contributions deposited into the Crocker Construction Fund (Fund 717) received from the Crocker Art Museum Association (CAMA) and adjust the Project budget for these contributions.
- The City Council adopted Resolution No. 2007- 885 approving the guaranteed maximum price (GMP) for the Project in an amount not to exceed $74,489,026; authorizing the City Manager and CAMA to execute the Construction Phase Amendment with the Construction Manager, Rudolph & Sletten, Inc., in an amount not-to-exceed the GMP; for this Project, increasing the maximum amount for change orders that may be approved by the City Manager, or the City Manager's designee, from $100,000 to $250,000; and authorizing the City Manager to execute an assignment of the construction phase portion of CAMA's agreement with the Project Archeologist from CAMA to City.

On December 18 2007:

- The City Council adopted Resolution No. 2007-925 approving construction testing agreements.

RESOLUTION NO. 2008-XXXX

Adopted by the Sacramento City Council

March 18, 2008

AUTHORIZING ASSIGNMENT OF THE CROCKER ART MUSEUM ASSOCIATION (CAMA) AGREEMENT WITH GWATHMEY, SIEGEL & ASSOCIATES, THE PROJECT ARCHITECT, FROM CAMA TO CITY; AUTHORIZING PAYMENT TO GWATHMEY, SIEGEL & ASSOCIATES FOR CONSTRUCTION PHASE SERVICES ALREADY PERFORMED; AND AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH SHAW ENVIRONMENTAL FOR TOXIC REMEDIATION SERVICES FOR THE CROCKER ART MUSEUM EXPANSION AND RENOVATON PROJECT IN AN AMOUNT NOT TO EXCEED $194,030 (CF60, M13000100)

A. On December 3, 2002, the City Council approved a Memorandum of Understanding (the "MOU") (Resolution 2002-799) that outlined the roles and responsibilities of the City of Sacramento and the Crocker Art Museum Association ("CAMA") throughout the preconstruction and construction phases of the Crocker Art Museum Expansion and Renovation Project (the "Project"). In the MOU, CAMA was authorized to hire consultants to perform preconstruction services for the Project. CAMA entered into a consultant agreement with Gwathmey Siegel & Associates to provide architectural services for the Project.

B. On October 24, 2006, the City Council adopted Resolution No. 2006-784 approving an on-call list for consultants to provide services to the City. Shaw Environmental is an approved on-call consultant.

C. On December 4, 2007, the City Council adopted Resolution No. 2007-885 approving the Project budget for the Crocker Art Museum Expansion and Renovation Project in an amount of $84 million, which includes the fees for the construction phase services to be provided by Gwathmey Siegel & Associates and its engineering consultants. A portion of these services have already been performed.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Manager or the City Manager's designee is authorized to execute the Assignment of Agreement assigning CAMA's agreement with the Project Architect, Gwathmey Siegel & Associates, from CAMA to the City.

Section 2. The City Manager or the City Manager's designee is authorized to pay Gwathmey, Siegel & Associates for construction phase services performed prior to this assignment, in the amount of $44,148.

Section 3. The City Manager or the City Manager's designee is authorized to execute a Professional Services Agreement with Shaw Environmental in an amount not to exceed $194,030 for lead soil abatement for the Crocker Art Museum Expansion and Renovation Project.