Title: Supplemental Agreement with CBRE, Inc.

Location: District 4

Recommendation: Pass a Motion approving Supplemental Agreement No. 1 to City Agreement No. 2018-1406 in an additional amount of $59,350, for a new not-to-exceed amount including the supplemental agreement of $117,350.

Contact: Brian Wong, Debt Manager, (916) 808-5811, Office of the City Treasurer

Presenter: None

Attachments:
1-Description/Analysis
2-Supplemental Agreement No. 1 to City Agreement No. 2018-1406
Description/Analysis

Issue Detail: The City has used CBRE, Inc. Valuation & Advisory Services (CBRE) for the preparation of comprehensive updates to its Transient Occupancy Tax Report, as well as the preparation of its opinion letter associated with the C3 Project.

Given CBRE’s subject matter expertise regarding the local and regional hotel market, the City needs to engage CBRE, Inc. for the preparation of a comprehensive financial report associated with the contemplated Sacramento Tourism Infrastructure District (STID) bonds to provide a third-party analysis to bond investors and other stakeholders of the viability of using that assessment revenue stream for purposes of bond financing. The financial report will be included in the official statement of the STID bonds.

The City has previously entered into an agreement with CBRE, Inc. (City Agreement No. 2018-1406) totaling $58,000. The dollar amount of Supplemental Agreement No. 1 will increase the total amount of the agreement over $100,000.

Policy Considerations: The motion is necessary to comply with Section 3.64.030 of the City Code which requires Council approval of agreements over $100,000.

Economic Impacts: Not applicable.

Environmental Considerations: Not applicable.

Sustainability: Not applicable.

Commission/Committee Action: Not applicable

Rationale for Recommendation: Section 3.64.030 of the City Code specifies that the City Council shall authorize the execution of agreements for services where the amount to be expended under each such agreement equals or exceeds $100,000. The total dollar amount of City Agreement No. 2018-1406 is $58,000. With the addition of Supplemental Agreement No. 1 in the amount of $59,350, the new not-to-exceed amount including all supplemental agreements is $117,350.

Financial Considerations: The cost associated with Supplemental Agreement No. 1 is expected to be borne initially by the City Treasurer’s Office operating budget but will be reimbursed as part of the cost of issuance once the STID Bonds are issued in late-summer/early-fall 2019.
Local Business Enterprise (LBE): Not applicable.
SUPPLEMENTAL AGREEMENT

Project Title and Job Number: Convention Center Renovation and Expansion Project
Purchase Order #: Date: 06/17/2019

Supplemental Agreement No.: 1

The City of Sacramento ("City") and CBRE, Inc. Valuation & Advisory Services ("Contractor"), as parties to that certain Professional Services Agreement designated as Agreement Number 2018-1406, including any and all prior supplemental agreements modifying the agreement (the agreement and supplemental agreements are hereafter collectively referred to as the "Agreement"), hereby supplement and modify the Agreement as follows:

1. The scope of Services specified in Exhibit A of the Agreement is amended as follows:

   Refer to Attachment 1. In addition, the indemnification provisions in Exhibit F of Attachment 1 supersede Exhibit F of City Agreement No. 2018-1406.

2. In consideration of the additional and/or revised services described in section 1, above, the maximum not-to-exceed amount that is specified in Exhibit B of the Agreement for payment of Contractor's fees and expenses, is Increased/Decreased by $58,000, and the Agreement's maximum not-to-exceed amount is amended as follows:

   | Agreement's original not-to-exceed amount: | $58,000 |
   | Net change by previous supplemental agreements: | $0 |
   | Not-to-exceed amount prior to this supplemental agreement: | $58,000 |
   | Increase/Decrease by this supplemental agreement: | $59,350 |
   | New not-to-exceed amount including all supplemental agreements: | $117,350 |

3. Contractor agrees that the amount of increase or decrease in the not-to-exceed amount specified in section 2, above, shall constitute full compensation for the additional and/or revised services specified in section 1, above, and shall fully compensate Contractor for any and all direct and indirect costs that may be incurred by Contractor in connection with such additional and/or revised services, including costs associated with any changes and/or delays in work schedules or in the performance of other services or work by Contractor.

4. Contractor warrants and represents that the person or persons executing this supplemental agreement on behalf of Contractor has or have been duly authorized by Contractor to sign this supplemental agreement and bind Contractor to the terms hereof.

5. Except as specifically revised herein, all terms and conditions of the Agreement shall remain in full force and effect, and Contractor shall perform all of the services, duties, obligations, and conditions required under the Agreement, as supplemented and modified by this supplemental agreement.

Approval Recommended By:  

[Signature]
Project Manager

Approved By:  

[Signature]
Contractor

Approved By:  

[Signature]
City of Sacramento

Approved As To Form By:  

[Signature]
City Attorney

Attested To By:  

[Signature]
City Clerk

(Rev. 9-17-12)
June 18, 2019

Mr. Brian Wong
Debt Manager
City of Sacramento, Office of the City Treasurer
915 "I" Street, HCH – 3rd Floor
Sacramento, CA 95814

Re: Revenue Analysis of the Sacramento Tourism Infrastructure District
City of Sacramento, California

Dear Mr. Wong:

Pursuant to our recent discussions, we are pleased to submit this proposal to you to prepare a revenue analysis of the recently formed Sacramento Tourism Infrastructure District ("STID") for the City of Sacramento (the "City").

A Introduction and Scope of Work

As we understand it, the City is considering the use of STID revenues to fund various projects including the expansion of the Sacramento Convention Center (the "Center") and other permitted capital improvements. Associated with funding this expansion, the City has requested a detailed analysis of the hypothetical historical collections of the recently formed STID utilizing actual Sacramento Tourism and Marketing District ("STMD") collections, as well as determine whether the future STID collections would grow at similar/lower/higher rates as the Transient Occupancy Tax ("TOT") revenues provided in our analysis of TOT projections in October 2018.

We specifically understand that our report will be included in the Official Statement security offering document for financing the expansion.
We propose to provide the following scope of work:

- Utilize information provided by the City, along with our own knowledge of the local market, to identify the supply of hotels in the STID;
- Review the actual historical annual collection of hotel/motel STMD revenues as reported by the City of Sacramento;
- Determine the hypothetical historical collection of the recently formed STID for the same period as historical STMD collections;
- Work with local planning departments, major hotel companies, and local hotel owners and developers to identify hotels in the STID and surrounding competitive markets that are in the construction, development, or planning stages in order to identify proposed hotels with a likelihood of opening over the next five years;
- Review the trends in historical supply growth in Sacramento as a basis for our projections of long-term average annual supply growth;
- Through our own market research, review the historical supply and demand trends as well as average daily room rates ("ADR"), and total hotel/motel revenues for many of the individual hotels in the STID;
- Review the booking pace for events, attendees and hotel room nights on the books for the next five years including during and after the Center expansion;
- Research and analyze current economic and demographic trends in the City of Sacramento and Sacramento County to determine the trends' impact on future lodging demand within the market;
- Utilize Hotel Horizons – Sacramento®, an econometric forecasting model and publication produced by CBRE Hotels’ Americas Research, as a resource for estimating future growth in lodging supply, demand, and ADR;
- Based on all information gathered, develop a detailed annual forecast of future supply, demand, ADR, and the resulting total hotel/motel room revenue and tax revenue for the STID lodging market over the next 10 fiscal years (2019/20 to 2028/29). Beginning in fiscal year 2029/30, our forecast of future supply, demand, ADR, and hotel/motel room revenue will be based on market wide general assumptions for annual growth; and,
- Based on all information gathered, determine whether the future STID collections would grow at similar/lower/higher rates as the Transient Occupancy Tax ("TOT") revenue projections provided in our analysis in October 2018.
To provide you with an indication of our findings, we will furnish you with a summary report (30 to 40 pages) which will outline our analysis. This report will be consistent in structure and content to the reports previously issued to the City.

**B  Professional Fees**

Our professional fees for this assignment, based on our current hourly billing rates and the hours required, will be $50,000, inclusive of out of pocket expenses incurred relating to this assignment. Our fees will be billed and payable upon delivery.

Should you require Ms. Julie Purnell or other members of CBRE Hotels Advisory to attend or participate in any meetings either via conference call or in Sacramento associated with this analysis and offering (bond rating meetings, bond pricing meetings, etc.), we will bill you for the time and expenses associated with these meetings above and beyond the professional fees and out of pocket expenses stated above to complete the report.

As we understand it, you have requested that we participate in a 90-minute rating agency conference call with Moody’s on July 11th in the event questions arise regarding our report. Based on the participants envisioned to participate in the call, we expect the additional fee to be $1,350. Should the meeting last longer than 90 minutes, the fee would increase by the hourly rate of the individuals participating.

As we understand our report will be included in a security offering, we will require the issuing entity to agree to the terms of the Indemnification Provisions, a copy of which has been provided as Exhibit F to this proposal. The terms of Exhibit F will supersede the provisions outlined in the final Professional Services Agreement. Furthermore, CBRE Group, Inc. requires that our outside securities legal counsel review the security offering prior to issuance. The cost of this outside legal review is fixed at $8,000 and will be billed to you above our professional fees to complete the STID analysis.

**C  Timing**

Based on our recent discussions, we will provide the City with a draft report by June 28, 2019.
D Payment Instructions

As it is customary in assignments of this nature, we will bill you for all of our professional fees at the completion of our analysis and with the delivery of our draft report. If additional hourly fees are incurred, we will submit progress invoices on a monthly basis. Payment of our invoices is due within 30 days of receipt. Please send the payment to the attention of Ms. Sandy Jin at the address provided on the following page. Alternatively, we have provided our wire instructions in the addenda to this proposal.

Ms. Sandy Jin
Senior Accountant
CBRE Hotels Advisory
Salesforce Tower
415 Mission Street, Suite 4600
San Francisco, CA 94105

E Approval and Acceptance

If this letter correctly states the nature of the work to be undertaken and the arrangements are satisfactory, please sign the enclosed copy of this letter and return it to us as our authorization to commence the assignment. We appreciate the opportunity to submit this proposal and we look forward to working with you on this very interesting assignment.

Yours sincerely,

CBRE Hotels Advisory

[Signature]

Julie Purnell
Managing Director
julie.purnell@cbre.com | 415.772.0262

Approved and Accepted:

By: 
Title: 
Date: 
Exhibit F

Indemnification Provisions
EXHIBIT F

INDEMNIFICATION PROVISIONS

The INDEMNIFICATION PROVISIONS ("Provisions") are as follows:

1. **CBRE's Conditioned Consent.** CBRE has been engaged to perform a revenue analysis of the Sacramento Tourism Infrastructure District (the "Market Study") for the City of Sacramento (or the "Indemnifying Party") for the benefit of the Indemnifying Party. The Indemnifying Party intends to include information from the Market Study in connection with one or more securities offerings (each individually an "Offering" and collectively the "Offerings"). CBRE's consent to any use of the Market Study or any information contained therein in connection with any Offering is conditioned and dependent on these Provisions.

2. **Use of Market Study.** The Indemnifying Party shall not distribute, file, or otherwise make any materials incorporating or referencing the Market Study available to any third party, including without limitation incorporating or referencing the Market Study, in whole or in part, in any Offering, unless and until the Indemnifying Party has provided CBRE with complete copies of such materials, and CBRE has approved in writing the portions of the materials that reference CBRE or the Market Study. CBRE shall have seven business days to provide the Indemnifying Party with either its approval or revisions, or portions of the materials referencing CBRE or the Market Study will be deemed approved by CBRE. The Indemnifying Party shall not significantly modify such portions of the materials once approved by CBRE without CBRE's written consent. In the absence of satisfying the conditions of this paragraph, in no event shall the receipt of a Market Study by such party extend any right to the party to use and rely on such Market Study, and CBRE shall have no liability for such unauthorized use and reliance on any Market Study.

3. **Securities Counsel Fees.** The Indemnifying Party shall reimburse CBRE for its costs and expenses, including attorneys' fees, arising from legal review of the Offering materials on CBRE's behalf consistent with the letter from CBRE dated June 18, 2019.

4. **Indemnification.** The Indemnifying Party agrees to indemnify and hold harmless CBRE, its affiliates, and all of their respective directors, officers, employees, and agents (individually an "Indemnified Party", and collectively the "Indemnified Parties"), from and against any and all losses, claims, damages, liabilities and reasonable out-of-pocket expenses (including without limitation, costs of investigating, preparing or defending any claim or action) (individually a "Loss" and collectively "Losses"), arising out of or in connection with (i) any transaction relating to, or contemplated by, the Offering(s), (ii) the engagement of, or performance of, services contracted for by Indemnifying Party by any Indemnified Party relating to the Market Study, (iii) any actual or alleged untrue statement of a material fact, or the actual or alleged failure to state a material fact necessary to make a statement not misleading in light of the circumstances under which it was made with respect to all information furnished to any Indemnified Party or made available to a prospective party to a transaction relating to any Offering, (iv) any actual or alleged violation of applicable law by Indemnifying Party (including, without limitation, securities laws), (v) any negligent or intentional acts or omissions of Indemnifying Party (including the failure to perform any duty imposed by law), or (vi) any use of, or reliance upon, the Market Study, or the conclusions and contents thereof, by any other third parties not identified in the Market Study, including but not limited to a prospective party to a transaction relating to the Offering(s); provided, however, that the Indemnifying Party shall not be liable to an Indemnified Party and shall be reimbursed by CBRE for any fees or expenses paid consistent with this Agreement to the extent a court of competent jurisdiction determines by final judgment not subject to appeal that any Loss resulted from the gross negligence, fraud or willful misconduct of any Indemnified Party.

If any action or proceeding (including any governmental or regulatory investigation) is brought or
asserted against any Indemnified Party, such Indemnified Party shall notify the Indemnifying Party, in writing, and the Indemnifying Party shall promptly assume the defense thereof, including the employment of counsel reasonably satisfactory to CBRE and the Indemnified Parties, and the payment of all out-of-pocket fees and expenses incurred in connection with the defense thereof. All such fees and expenses (including attorneys’ fees and any fees and expenses incurred in connection with investigating or preparing to defend such action or proceeding) shall be paid to the Indemnified Party as incurred. Each Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the sole expense of the Indemnified Party, unless (a) the Indemnifying Party agrees, in writing, to pay such fees and expenses; or (b) the Indemnifying Party fails to promptly assume the defense of or to diligently defend against such action or proceeding.

The indemnity obligations of the Indemnifying Party contained herein shall be in addition to any liability or obligation the Indemnifying Party may otherwise have to the Indemnified Parties.

In the event that any Indemnified Party is called on to testify in any proceeding relating to the Market Study or the Offering(s), the Indemnifying Party agrees to pay the standard hourly rate established by CBRE for the time spent preparing for and attending such proceeding (or, if no such hourly rate has been established by CBRE, a reasonable hourly rate), plus reasonable out-of-pocket expenses incurred in connection therewith.

The obligations herein shall remain operative and in full force and effect regardless of (a) any investigation made by or on behalf of any Indemnified Party, (b) any termination of the agreement pursuant to which CBRE has conducted and provided the Market Study, or (c) any termination of the transactions contemplated by the Market Study and the Offering(s), and shall be binding upon and inure to the benefit of any successor, assign, heir or personal representative of each Indemnified Party.

5. LIMITATION OF LIABILITY. EXCEPT TO THE EXTENT ARISING FROM THESE PROVISIONS, NEITHER PARTY NOR ANY OF ITS AFFILIATE, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR CONTRACTORS SHALL BE LIABLE TO THE OTHER, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT OR OTHERWISE, FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES, AND AGGREGATE DAMAGES IN CONNECTION WITH THE AGREEMENT FOR EITHER PARTY (EXCLUDING THE OBLIGATION TO PAY THE FEES REQUIRED HEREUNDER) SHALL NOT EXCEED THE greater of the total fees payable to consultant under the agreement or ten thousand dollars ($10,000). THIS LIABILITY LIMITATION SHALL NOT APPLY IN THE EVENT OF A FINAL FINDING BY AN ARBITRATOR OR A COURT OF COMPETENT JURISDICTION THAT SUCH LIABILITY IS THE RESULT OF A PARTY’S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT.

6. General. These Provisions contain the full understanding between the parties hereto regarding CBRE’s consent to have the Market Study used consistent with these Provisions, and all prior agreements, discussions and negotiations are merged herein. If any provision of these Provisions is held invalid by a court of competent jurisdiction, the remainder of these Provisions shall remain in effect, and
the invalid provision shall be deemed amended to the extent necessary to make it valid. No waiver or amendment of any provision of these Provisions shall be binding on either party unless it is in writing. These Provisions shall be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflicts of laws.