



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 9, 2012

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - APPROVAL OF PERSONAL SERVICES AGREEMENT WITH WESTON SOLUTIONS, INC., FOR AS-NEEDED BIOLOGICAL MITIGATION CREDIT NEGOTIATIONS SUPPORT SERVICES

SUMMARY:

The Environmental Management Division (EMD) recommends approval of an agreement with Weston Solutions, Inc. (Weston) (Agreement) located in Carlsbad, California to provide as-needed environmental services to assist the City of Los Angeles (City) Harbor Department (Harbor Department) in high level negotiations and habitat evaluations to obtain biological mitigation credits (mitigation credits) under the U.S. Army Corps of Engineers/Environmental Protection Agency 2008 Mitigation Rule (2008 Mitigation Rule). Examples of these services include assisting in identifying wetland restoration projects and other strategies to fulfill the Harbor Department mitigation needs; providing expert guidance on negotiating mitigation credits under the 2008 Mitigation Rule; and providing expert knowledge of coastal Southern California habitats, including those in the Los Angeles Harbor. The Agreement is for a term of three years for a total amount not-to-exceed \$350,000.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that in accordance with the City Charter Section 1022, work under the subject Agreement can be performed more feasibly by independent consultants, rather than by City employees;
2. Approve the personal services Agreement with Weston Solutions, Inc. for a term of three years for a total amount not-to-exceed \$350,000;
3. Authorize the Executive Director to execute and the Board Secretary to attest to said Agreement, for and on behalf of the Board; and
4. Adopt Resolution No. _____.

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DISCUSSION:

Background – Harbor Department development projects that include filling harbor waters require compensatory mitigation for the loss of open water marine habitat. The Harbor Department has fulfilled this requirement through the use of mitigation credits from biological mitigation banks that were established from onsite and offsite habitat creation, enhancement, or restoration projects. Onsite mitigation projects have included creation of aquatic habitat through construction of new harbor cuts in the inner harbor and creation of shallow water in the outer harbor. Two offsite biological mitigation banks have been established previously for the restoration of the Batiquitos and Bolsa Chica Wetlands.

The Harbor Department is considering construction of an approximate 200-acre landfill south of and contiguous to Pier 400 (Pier 500) in the Outer Los Angeles Harbor habitat. Among many requirements, the creation of this fill would require the equivalent of 200 Outer Harbor mitigation credits, more than is currently available in the Harbor Department mitigation banks. Due to the very specialized nature of this work and the timeframe which is being proposed to carry it forth, consultant support services are required to assist the Harbor Department in obtaining mitigation credits. Mitigation credits obtained through this process would be available for this or any other future fill.

Services to be Performed – Consultant support services are necessary to support the Harbor Department in obtaining mitigation credits for use in offsetting impacts to sensitive habitats that may result from Harbor Department development projects. Contractual services to be performed under the Agreement (Transmittal 1) include the following:

1. Identify options for obtaining mitigation credits within the necessary project timelines.
2. Negotiate/determine details of the mitigation credits, including credit ratios, cost and timing for use.
 - a. Work with the appropriate agencies to determine the ratio of deep water Outer Harbor habitat mitigation credits obtained relative to the acres of the mitigation project habitat created.
 - b. Estimate or determine the cost per mitigation credit
 - c. Negotiate with agencies regarding the timing of the receipt of mitigation credits relative to the construction of a mitigation project.
3. Establish the mitigation crediting system consistent with the umbrella mitigation bank that is currently being established by the Harbor Department.
4. Prepare the required regulatory and transactional documentation to support the procurement and use of mitigation credits.

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Pre-Request for Proposals Outreach - As part of a pre-Request for Proposals outreach, staff from EMD and the Human Resources Division conducted a Meet and Confer meeting with the SEIU (union) Local 721 on October 26, 2011. Paul Kim, the union representative, stated that the union had no objection to utilizing consultants to perform the services contained in the Request for Proposal (RFP) (Transmittal 2).

Also, prior to the issuance of the RFP, in conformance with the City Charter Section 1022 procedure, the Contracts and Purchasing Division notified eight major City departments with environmental staff and asked if those departments had personnel that could perform the above-referenced scope of services. Departments that were contacted either did not respond or responded that they lacked sufficient personnel to assist. Based on these findings, a Charter Section 1022 Determination was prepared on October 6, 2011, which found that the work proposed to be contracted can be performed more feasibly by a contractor than by City employees because: (1) there is insufficient existing City staff to perform the proposed work and additional staff cannot be trained in a timely manner to meet the Harbor Department's needs, and (2) the work is of limited scope and intermittent nature and it is unlikely that the City would be able to continue the employment of the persons hired for this project.

Work Assignments – Work assignments and services will be identified on an as-needed basis. The work will be authorized through a Project Directive (PD) process and approved by the Executive Director. Each PD will include a detailed scope of work, schedule, Small Business Enterprise (SBE) and Very Small Business Enterprise (VSBE) participation level, and a cost estimate.

Selection Process – On November 2, 2011, an RFP was released and posted on the Port of Los Angeles website and automatic email notifications were sent out to all those firms registered on the Los Angeles Business Assistance Virtual Network (LABAVN) under the applicable North American Industry Classification System Codes.

The Harbor Department received proposals from five firms. The proposal and interview evaluation panel consisted of four staff: two representing EMD, one from the Harbor Department Engineering Division, and one from the City of Los Angeles, Bureau of Sanitation, Environmental Monitoring Division. Proposals were reviewed using the selection evaluation form published in the RFP (Transmittal 3) and all five proposers were invited to oral interviews that occurred February 14-15, 2012. Oral interviews were evaluated using questions and criteria (Transmittal 4) developed specifically to explore and determine breadth and depth of the expertise that firms could provide in biological mitigation credit negotiations. To determine an integrated score, the proposals represented 40% and the interviews 60% of final scores. EMD consulted with and sought concurrence from staff of the Contracts and Purchasing Division regarding the evaluation process and the proportioning of the final scores.

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Following the evaluation of the proposals and interviews, the evaluation panel found that Weston scored the highest (Transmittal 5) and was recommended for contract negotiations and for award. The evaluation panel's recommendation is based on the findings that Weston has:

- Extensive experience in wetland restoration projects throughout Southern California that can provide the best opportunities for obtaining mitigation credits;
- In-depth understanding of challenges inherent in obtaining mitigation credits for a large port development project;
- An excellent working history and relationships with regulatory and resource agencies at the local, state and federal levels, and a good understanding of the negotiation process;
- Extensive experience in obtaining mitigation credits that can provide a diverse array of strategies and options to fulfill the Harbor Department's mitigation credit needs;
- Extensive knowledge of biological mitigation banking, including establishing mitigation banks and obtaining mitigation credits under the current 2008 Mitigation Rule; and
- Excellent knowledge of coastal Southern California habitats, including those in the Los Angeles Harbor that will be valuable during the credit valuation negotiations.

Weston is currently under contract to perform as needed water quality, sediment quality and biological resources services under Agreement No. 10-2895, approved by the Board on August 5, 2010.

Small Business Development Program – As specified in the RFP and based on the work to be performed, it was determined that the SBE requirement will be 0%. This is reflected in the consultant Agreement. However, two of Weston's three subconsultants qualify as SBEs. It is therefore expected that Weston will be able to achieve an SBE participation goal of at least 15% (\$52,500) and a VSBE goal of at least 5% (\$17,500). The composition of the consultant team is attached as Transmittal 6. The consultant will be required to submit a monthly subcontractor report indicating its level of compliance with these goals. Compliance will be monitored monthly by staff.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of an Agreement with Weston Solutions, Inc. for as-needed biological mitigation credit negotiation support services. As an administrative activity, the Director of Environmental Management has determined the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

The proposed 3-year Agreement authorizes a total amount not-to-exceed \$350,000. It is anticipated that funds for this Agreement will be expended in the following fiscal years (FY) as follows:

FY 2011/12	\$ 10,000
FY 2012/13	\$ 116,000
FY 2013/14	\$ 116,000
FY 2014/15	\$ 108,000
TOTAL	\$ 350,000

Funds for fiscal year 2011/12 in the amount of \$10,000 represent funding for the one remaining month of the current FY (June 2012) and are available in Account 54260, Center 1205, Program 000. For FY 2012/13, \$243,000 has been requested to be budgeted in the Harbor Department proposed budget in Account 54260, Center 1205, Program 000, subject to Board approval. Funding needed in future fiscal years will be requested through the annual budget adoption process upon Board approval.

The Harbor Department's financial obligations after the current fiscal year are contingent upon the Board appropriation of funds. If funds for any subsequent fiscal year were not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligations previously incurred. A funding-out clause is included in the Agreement.

ECONOMIC BENEFITS:

Approval of the proposed Agreement will have no direct employment impact for the five-county region since the company is outside region.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the agreement as to form and legality.

TRANSMITTALS:

1. Agreement with Weston Solutions, Inc.
2. SEIU Support Correspondence
3. RFP Selection Evaluation Form
4. Interview Evaluation Form
5. Proposal and Interview Evaluation Summary
6. Consultant Team Composition

FIS Approval: KR (initials)
CA Approval: gmc (initials)



CHRISTOPHER CANNON
Director of Environmental Management



MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
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BOARD MEETING: 05/17/11

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