

DATE: APRIL 19, 2022

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - AGREEMENT BETWEEN RINCON CONSULTANTS, INC. AND THE CITY OF LOS ANGELES HARBOR DEPARTMENT FOR MONITORING SERVICES OF THE CALIFORNIA LEAST TERN NESTING SITE

SUMMARY:

Staff recommends approval of a proposed Agreement between the City of Los Angeles Harbor Department (Harbor Department) and Rincon Consultants, Inc. (Rincon), which is based in Los Angeles, California, to provide continuation of monitoring services of the endangered California least tern (CLT) nesting site on Pier 400. The endangered CLT bird species nests annually on Pier 400, adjacent to the Port of Los Angeles' (Port) largest container terminal. The Harbor Department maintains, monitors, and protects 15 acres on Pier 400 for the nesting of these endangered birds. Approval of the proposed Agreement with Rincon will authorize a three-year contract term for an amount not-to-exceed \$426,218. The Harbor Department is financially responsible for expenses incurred under the proposed Agreement.

RECOMMENDATION:

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

1. Find that the Director of Environmental Management has determined that the proposed action is administratively and categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) and Article III Class 1(9) and Class 6(2) of the Los Angeles City CEQA Guidelines;
2. Approve the Agreement with Rincon Consulting, Inc., for a term of three years for a not-to-exceed amount of \$426,218;
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. _____.

DATE: APRIL 19, 2022

PAGE 2 OF 6

**SUBJECT: MONITORING SERVICES OF THE CALIFORNIA LEAST TERN
NESTING SITE**

DISCUSSION:

Project Background/Context – The CLT is a federal and state endangered bird species that has historically nested in the Port. Monitoring of the CLT nesting site has occurred since 1978. In May 1984, as one condition to construct Pier 400, the Harbor Department entered into a Memorandum of Agreement (MOA) with the California Department of Fish and Wildlife (CDFW), the U.S. Fish and Wildlife Service (USFWS), and the U.S. Army Corps of Engineers. The MOA was designed to resolve land use conflicts between the CLT nesting and Port development in a manner that protects the interests of both. The MOA has been renewed by the resource agencies every three to five years since that time. While the MOA is currently expired, it is anticipated that it will be renewed again in 2022. However, the CLT and their nesting habitat continue to be protected under the Migratory Bird Treaty Act (MBTA), and both the Federal and California Endangered Species Act (ESA and CESA). One of the biggest threats to CLT at the Pier 400 nesting site is predation by birds such as falcons and ravens, as well as mammals such as feral cats. Monitoring activities are to be carried out by persons possessing the applicable permits from USFWS and CDFW. Other related management activities, such as monitoring during dredging activities occurring in the nesting season, have also been required in environmental documents and permits.

Since its inception, monitoring of the nesting site has been very successful in allowing Port project activities to proceed without harm to the CLT. Over the past three nesting seasons the number of nests has been at or near 200. The number of successful nests at the site fluctuates over time due in part to factors such as number of birds that arrive at the colony, availability of food (small fish) in near-by waters, pressure from other bird species, predation, and human disturbances. Both the number of birds and food availability fluctuate yearly and are not in our control, but management of controllable factors, such as site enhancement, predator management, reduction of human impacts, and hazing other birds from nesting before they lay eggs, can greatly improve the nesting success of the birds that occupy the site. The Pier 400 Least Tern Nesting Site is one of the most well-managed sites in the State and is important to the breeding success of species.

In addition to CLT colony monitoring, the Harbor Department is required to conduct bird surveys, in accordance with the MBTA, prior to ground disturbance, tree trimming, and other activities with the potential to impact birds, particularly during the spring and summer months when birds are nesting.

DATE: APRIL 19, 2022

PAGE 3 OF 6

SUBJECT: MONITORING SERVICES OF THE CALIFORNIA LEAST TERN NESTING SITE

Services to be Performed – Consultant support services are necessary to assist the Harbor Department in complying with the anticipated MOA, and requirements of the ESA, CESA and MBTA. Contractual services to be performed under the proposed Agreement (Transmittal 1) include:

- monitoring of the CLT nesting activity (number of nests, number of eggs laid, hatching success, mortality, and successful fledglings);
- conducting CLT education programs for workers, as needed;
- performing services related to site preparation such as herbicide application and predator management;
- continual predator management during the nesting season;
- investigating other nesting birds around the Port, when needed;
- preparing an annual report on the breeding success on Pier 400 (Transmittal 2), documenting the findings of the monitoring program, and providing a comparison with other CLT nest sites in Los Angeles and Orange Counties;
- monitoring of CLTs near Harbor Department dredging activities, as needed; and
- attending meetings as directed by Harbor Department staff.

Selection Process – On September 21, 2021, the RFP for CLT Monitoring and Associated Studies was posted on the Port’s website, and automatic email notifications were sent out to all firms registered on the Los Angeles Business Assistance Virtual Network under the applicable North American Industry Classification System Codes.

The Harbor Department received two proposals, one from Langdon Biological Consulting, LLC and one from Rincon Consultants, Inc. This is consistent with the response to past RFPs, as historically the Harbor Department has only received one or two proposals due to the highly specialized, seasonal nature of the work. The proposal and interview evaluation panel consisted of two EMD staff and the Education and Collections Curator from the Cabrillo Marine Aquarium. Proposals were reviewed using evaluation criteria published in the RFP and both proposers were invited to oral interviews that occurred November 5, 2021 (Transmittal 3). Interview questions were set up in consultation with the Contracts and Purchasing Division (Transmittal 4). Oral interviews were used to further explore the breadth and depth of expertise the firms had to provide CLT monitoring, predator control, as-needed consultation regarding other bird species, and cost controls. The evaluation panel completed the evaluation scoring on the combined strength of the written proposal and interview (Transmittal 5).

Following evaluation of proposals and interviews, the evaluation panel finds that the Rincon team is the most qualified proposer and meets or exceeds all necessary qualifications and experience to provide CLT monitoring and reporting and other related

DATE: APRIL 19, 2022

PAGE 4 OF 6

SUBJECT: MONITORING SERVICES OF THE CALIFORNIA LEAST TERN NESTING SITE

support services. The evaluation panel's recommendation is based on the following findings regarding the Rincon team:

- Extensive experience in CLT monitoring and other endangered birds in southern California;
- Necessary permits to perform this work;
- Ability to advise the Harbor Department on the optimum conditions for CLT nesting;
- In-depth understanding and incomparable experience related to predator management, responsiveness, and control;
- Excellent working history and relationships with regulatory and resource agencies at the local and state level;
- A large team with a local presence to conduct regular monitoring and nest counts, promptly respond to predator management needs, and other miscellaneous emergency bird response needs;
- Experience with other nesting sites in southern California;
- Coordination with a certified herbicide applicator with the capability of spraying the site;
- Electronic and GIS data collection and reporting processes; and
- Experience in monitoring impacts of dredging on foraging behavior.

Based on these considerations, it is the panel's recommendation for the Harbor Department to enter into a three-year consultant agreement with Rincon.

The proposed Agreement with Rincon is for an amount not-to-exceed \$426,218 over a three-year term. This amount is a fourteen percent increase over the previous agreement, however, the agreement amount has not increased since 2012, and it is the lowest proposed amount.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of an Agreement between the Harbor Department and Rincon to provide continuation of monitoring services of the CLT nesting site, which is an administrative activity, an activity involving maintenance of wildlife habitat areas to protect wildlife resources, and an activity involving basic data collection, field testing, research, experimental management and resource activities of City Departments which do not result in serious or major disturbances to an environmental resource. Therefore, the Director of Environmental Management has determined that the proposed action is administratively and categorically exempt from the requirements of CEQA in accordance with Article II Section 2(f) and Article III Class 1(9) and Class 6(2) of the Los Angeles City CEQA Guidelines.

DATE: APRIL 19, 2022

PAGE 5 OF 6

**SUBJECT: MONITORING SERVICES OF THE CALIFORNIA LEAST TERN
NESTING SITE**

FINANCIAL IMPACT:

Approval of the proposed three-year Agreement would authorize the not-to-exceed amount of \$426,218 for continued CLT nesting site consultant monitoring services at Pier 400. It is expected that funds under this proposed Agreement will be expended as follows:

| <u>Fiscal Year</u> | <u>Amount</u> |
|--------------------|-------------------|
| 2021/2022 | \$ 50,000 |
| 2022/2023 | \$ 142,000 |
| 2023/2024 | \$ 142,000 |
| 2024/2025 | <u>\$ 92,218</u> |
| TOTAL | \$ 426,218 |

Funds for the current fiscal year in the amount of \$50,000 are available in Account 54260 (Environmental Assessment Services), Center 330 (Environmental Management), Program 000 (Base Budget). Future year funds will be requested to be budgeted through the Harbor Department's annual budgeting process, upon Board approval.

The Harbor Department's financial obligations after the current fiscal year are contingent upon the Board appropriation of funds. If any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreements, the Agreements shall be terminated. However, such termination shall not relieve the parties of liability for any obligations previously incurred.

CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the subject proposed Agreement as to form and legality.

DATE: APRIL 19, 2022

PAGE 6 OF 6

SUBJECT: MONITORING SERVICES OF THE CALIFORNIA LEAST TERN
NESTING SITE

TRANSMITTALS:

1. Agreement with Rincon Consultants, Inc.
2. California Least Tern Nesting Site
3. RFP Evaluation Criteria
4. Oral Interview Questions
5. Evaluation Scores

FIS Approval: JAS
CA Approval: SO

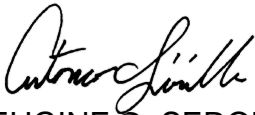


CHRISTOPHER CANNON
Director of Environmental Management

Michael DiBernardo

MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



for EUGINE D. SEROKA
Executive Director

CC/yo
AUTHOR: RACHEL MCPHERSON
ADP No.: 800429-518

FILE: Y:_ADMIN_BOARD REPORTS_WATER QUALITY\CA LEAST TERN MONITORING AGREEMENT\RINCON 2022\Environmental_CLT Monitoring_Board
Report - FINAL.docx
UPDATED: 4/19/2022 2:45 PM - YO