

DATE: AUGUST 6, 2014

FROM: REAL ESTATE

SUBJECT: RESOLUTION NO. _____ – AGREEMENT BY AND AMONG THE CITY OF LOS ANGELES HARBOR DEPARTMENT, THE CITY OF LONG BEACH HARBOR DEPARTMENT, AND CAL PACIFIC LAND SERVICES, INC. FOR PROPERTY MANAGEMENT SERVICES FOR JOINTLY-OWNED RAILROAD PROPERTIES

SUMMARY:

On February 8, 2013, the City of Los Angeles Harbor Department (Harbor Department) released a Request for Proposals (RFP) to select a consultant to manage the properties that are jointly owned by the Harbor Department and the City of Long Beach Harbor Department (collectively, the Ports). Cal Pacific Land Services, Inc. (Cal Pacific) was selected as the best qualified of the five proposers that responded to the RFP to replace an existing Agreement with Paragon Partners, Ltd. (Paragon) to manage the jointly owned railroad properties. The existing Agreement with Paragon became effective December 11, 2002 and expires December 10, 2017.

Staff is proposing to enter into a five-year Agreement with Cal Pacific for the management and administration of property contracts (utility license agreements, leases and easements) and management and maintenance of all jointly-owned properties not under the responsibility of operating railroads or Alameda Corridor Transportation Authority (ACTA) contracts. The Agreement contains two, five-year options to renew. The renewal options, at the discretion of the Ports, will be based on annual operational performance evaluations, as well as monthly and annual monitoring of submitted financial reports and documentation. The cost of the Agreement will be split equally between the Ports.

RECOMMENDATION:

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

1. Find that in accordance with the Los Angeles City Charter Section 1022; it is more feasible for an outside contractor to perform with this work than City employee;
2. Approve the Agreement by and among the City of Los Angeles Harbor Department, the City of Long Beach Harbor Department, and Cal Pacific Land Services, Inc. for management and administration of the jointly-owned railroad properties;

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3. Authorize and Direct the Board Secretary to transmit the Agreement to the City Council for approval pursuant to City Charter Section 373;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the Agreement upon approval of the City Council; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – From 1992 to 1995, the Ports jointly purchased railroad properties between downtown Los Angeles and San Pedro Bay, formerly owned by the Southern Pacific Railroad, the Union Pacific Railroad (UPR), the Atchison, Topeka & Santa Fe Railway, and Burlington Northern Santa Fe Railway (BNSF). In addition, the Ports jointly own properties that ACTA initially acquired in connection with the development of the Alameda Corridor, which upon completion of the rail corridor was conveyed to the Ports. The Ports hold all railroad properties as tenants in common, whereby revenue and expenses derived from such properties is split equally between the Harbor Department and City of Long Beach Harbor Department as co-owners.

The Ports determined that a third-party property manager would be the most efficient manner of administering the jointly-owned properties not associated with the Alameda Corridor (a railway system that enables rail traffic to travel under street crossings, thereby reducing traffic delays and expediting transport of containerized cargo from the Ports to facilities near downtown, Los Angeles). As such, Paragon was selected through an RFP in 2001 and entered into an initial five-year agreement, subject to the Ports' option to renew the term for two consecutive renewal periods of five years each. The Port's reserved the right to terminate the Agreement with a ninety-day notice to Paragon.

In early 2012, the Ports made a determination not to exercise the final five-year renewal option commencing on December 11, 2012 because of the continuously slow progress on projects by Paragon. Instead, the Ports agreed to initiate a new RFP to select a new property management consultant. However, the Ports were unable to complete the RFP process prior to the commencement date of the final renewal period, so the Ports agreed to exercise the option to renew while continuing the RFP process.

On February 8, 2013, the Harbor Department released an RFP, to which five proposers responded. After the Ports' real estate personnel reviewed the responses and interviewed the potential firms, the Ports' selection committee, which consisted of four real estate personnel from the Ports, chose Cal Pacific as the best qualified to replace Paragon (Transmittal 1). Thereafter, the Ports' selection committee held numerous meetings over a six-month period, whereby the proposed Agreement was drafted based on current contractual terms, stronger operational performance evaluation, and a greater physical area to administer than the current Agreement with Paragon. In addition, the Ports' selection committee met with Cal Pacific and conducted a tour of the area of responsibility under the proposed Agreement to identify ongoing maintenance issues (e.g., graffiti, weed abatement and fence repair) and to determine the appropriate budget to handle such maintenance.

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Under the current Agreement, the Ports pay Paragon an annual amount of \$220,000 to administer railroad properties that equate to 38 miles of railroad track; while under the proposed agreement with Cal Pacific, the Ports will pay, on average, an annual amount of \$379,200 to administer railroad properties that equate to 49 miles of railroad track (Transmittal 2). The area of responsibility will be greater under the proposed Agreement because it will include jointly-owned properties located within the Harbor Department's jurisdiction that are currently administered by Harbor Department staff.

Major Terms of the Agreement (Transmittal 3)

Manager: California Pacific Land Services, Inc., a California corporation.

Area: The area consists of railroad properties formerly owned by Union Pacific Railroad and Burlington Northern & Santa Fe Railway, properties acquired by ACTA in connection with the construction of the Alameda Corridor.

Duties: The Manager shall manage and administer the property contracts, as well as manage and maintain the "Maintenance Area" (an area of the former UPR right-of-way through the City of Long Beach, where the right-of-way has been divided by sound walls, which the Ports, not the railroad operators, are responsible for maintaining); the "Landscape Area" (railroad properties located near the East Wilmington/Long Beach boundary limits, known as the Long Beach Lead); and all jointly-owned properties depicted on Exhibit A of the proposed Agreement. In addition, the Ports reserve the right to assign additional property management duties, as required. The Manager will use a form of lease as approved by the Ports, and each agreement negotiated by the Manager will be subject to the approval of the Board of Harbor Commissioners of the respective Ports. A list of duties is depicted on Exhibit C of the proposed Agreement.

Term: Five years, subject to the Ports' mutual and joint option to renew the term for two consecutive renewal periods of five years each, for a total not to exceed fifteen years from the effective date. The Ports may terminate the Manager's duties as to all or any portion of the property at any time upon ten days' written notice.

Cal Pacific will replace Paragon upon the expiration of a ninety days' written termination notice under the current Agreement, which will serve as a transition period.

Compensation: The Manager will be compensated by both Ports for its services at an amount not to exceed \$401,200 (includes new fencing at the intersection of Henry Ford/Alameda) in year one of the Agreement and thereafter \$379,200 annually for the remaining years of the initial five-year term. The maximum payable under this Agreement for the first five years, including reimbursable expenses (see Exhibit D), shall be One Million Nine Hundred Eighteen Thousand Dollars (\$1,918,000). The maximum payable under this Agreement for the Harbor Department for the first five years shall be Nine Hundred Fifty Nine Thousand Dollars (\$959,000).

If the Ports exercise one or both of the five-year renewal options available under this Agreement for each such renewal period, the rates depicted in Exhibit D for Manager Services and Subcontractor Services will be adjusted starting on the effective date of each renewal period at an amount equal to reflect the percentage increase over the

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previous five years (but not any decrease), if any, in the Consumer Price Index, or successor index selected by the Ports at their discretion. The cost of the Agreement will be split equally between the Ports.

Fidelity Bond: The Manager will maintain a fidelity bond in an amount equal to at least \$1,000,000 during the term of the Agreement and for a period of five years after the expiration of the term to ensure all revenues and expenses provided under this contract are accounted for properly.

Annual Budget: A detailed annual budget will be prepared and submitted by the Manager to the Ports for review and approval by April 15th of each year.

Insurance Requirements:

- Commercial General Liability with a limit not less than \$2 million per occurrence.
- Automobile Liability Insurance with coverage not less than \$1 million per accident.
- Workers' Compensation Insurance
- Professional Errors and Omissions Liability Insurance with a limit not less than \$2 million.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Agreement among the Ports and Cal Pacific for management of the Ports' jointly owned railroad rights-of-way. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2 (f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment effect.

FINANCIAL IMPACT:

Approval of the proposed five-year Agreement (with two additional five-year renewal options) with Cal Pacific would authorize the real estate services referenced herein in the amount of \$1,918,000. The \$1,918,000 will be equally apportioned between the Ports. The Harbor Department's obligation will be \$959,000 over the five years of the term of the Agreement. Funds for Fiscal Year 2014/2015 in the amount of \$175,000 have been included in the adopted budget in Account No. 54290, Center No. 0424, Program No. 000. Funds for future fiscal years will be requested to be budgeted as part of the annual budget adoption process. The Harbor Department's obligation to pay any amount due for any fiscal year after the current fiscal year is contingent upon the appropriation of funds for the purpose. The Harbor Department's fiscal year ends on June 30 of each calendar year. Accordingly, anything to the contrary notwithstanding, the Harbor Department may terminate any contract and its future monetary obligations effective as of the end of any fiscal year.

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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. Selection Matrix
2. Aerial Map
3. Agreement

FIS Approval: KP (initials)
CA Approval: JK (initials)



JACK C. HEDGE
Director of Real Estate



DAVID L. MATHEWSON
Interim Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

