

DATE: NOVEMBER 7, 2018

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND LANGDON BIOLOGICAL CONSULTING, LLC 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 Langdon Biological Consulting, LLC (LBC), San Pedro, California, to provide continuation of monitoring services of the endangered California least tern (CLT) nesting site on Pier 400. The endangered CLT bird species resides 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 LBC will authorize a three-year contract term for an amount not-to-exceed \$364,000. 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 exempt from the requirement of the California Environmental Quality Act (CEQA) under Article II, Section 2(f), of the Los Angeles City CEQA Guidelines;
2. Approve the Agreement with Langdon Biological Services, LLC, a Small Business Enterprise, for a term of three years for a not-to-exceed amount of \$364,000;
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:

Project Background/Context – The CLT, a federal and state endangered bird species, has historically nested in the Port. Monitoring of the CLT nesting site has occurred since 1978. In order 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 in May 1984. 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 in approximately three to five year intervals since that time. As the MOA is expired, it is anticipated that continuation of the MOA, will be requested of the Board prior to the 2019 nesting season. The MOA has in the past required that monitoring activities be carried out by persons possessing the applicable permits from USFWS and CDFW. Site monitoring and related activities (e.g., monitoring during dredging activities occurring in the nesting season) have also been a requirement of several 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. The productivity of the site has fluctuated significantly over the years, but peaked in 2005 with as many as 1,332 nests and was recognized as one of the largest nesting colonies in the state. More recently, productivity has declined; due in part to nature's limiting factors, such as number of birds in the colony and limited availability of food (small fish) in near-by waters. Food availability fluctuates yearly and is not in our control, but other, controllable factors such as site enhancement, predator management, and hazing other birds from nesting before they lay eggs, can greatly improve the nesting success of the birds that do occupy the site. Since 2012, the nesting site has had a large influx of elegant terns (approximately 16,000 birds) which are protected under the Migratory Bird Treaty Act (MBTA). Management of so many elegant terns requires a lot of time and strategic planning. When the CLT colony is smaller, it is more vulnerable to predators, which translates to an increased need for protection from monitors.

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.

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

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- monitoring of the CLT nesting site activity (number of nests, number of eggs laid, hatching success, mortality and successful fledglings) on Pier 400 (Transmittal 2);
- conducting CLT education programs for workers, as needed;
- performing services related to site preparation such as herbicide application and predator management;
- investigating other nesting birds around the Port, when needed;
- preparing an annual report on the breeding success on Pier 400, 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.

Pre-Request for Proposals Outreach – Prior to issuing the Request for Proposals (RFP) for monitoring services, the Harbor Department Human Resources Division concluded that no union notification was required, as it was determined that there are currently no City of Los Angeles (City) employees with the certification or experience required for work with the CLT.

Work Assignments – 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) anticipated participation level, and a cost estimate.

Selection Process – On June 7, 2018, 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 LBC and one from Rincon Consultants, Inc. The evaluation panel consisted of three City employees: two Environmental Specialists representing the Environmental Management Division, and the Exhibits and Collection Curator from the Cabrillo Marine Aquarium. Proposals were reviewed using evaluation criteria published in the RFP (Transmittal 3) and both proposers were invited to oral interviews that occurred August 23, 2018. Interview questions were developed in consultation with the Contracts and Purchasing Division (Transmittal 4). Oral interviews were used to explore and determine the breadth and depth of expertise these firms could provide in CLT monitoring, predator control and as-needed consultation on other bird species. The evaluation panel scored the two firms on the strength of both their written proposal and interview (Transmittal 5).

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Following the evaluation of the proposals and interviews, the evaluation panel found that LBC scored the highest and was recommended for contract negotiations and for award. The evaluation panel's recommendation is based on the findings and due diligence indicating that LBC:

- has the necessary permits to conduct this work;
- is highly respected by the USFWS and CDFW, and has been used in prior, successful consultation with these agencies;
- proposed to use personnel that have been involved in CLT monitoring for the Port since 1995;
- has conducted as-needed bird surveys as well as CLT monitoring during dredge events; and
- has a highly qualified, two-person team to conduct predator management. The team has a local presence, which is imperative for effective predator control.

The LBC team has the knowledge and experience needed to provide the CLTs the best possible chance for success. The previous contract was also awarded to LBC. This will provide invaluable continuity, expertise, and institutional knowledge.

The proposed Agreement with LBC is for an amount not-to-exceed \$364,000 over a three-year term. This amount is consistent with previous CLT monitoring contract amounts since 2012.

Small Business Enterprise and Local Business Enterprise Preference Programs – LBC is a qualified SBE and Very Small Business Enterprise (VSBE); therefore, 100% of the proposed Agreement will contribute towards the Harbor Department's SBE/VSBE objectives. The contract opportunity was also eligible for the new Local Business Enterprise Preference Program which provides for an eight percent (8%) preference for qualifying Local Business Enterprises (LBE). LBC, located in San Pedro, is a qualified LBE. Although the contract opportunity provided for an 8% preference for LBEs, LBC scored the highest, and as a LBE, the preference did not impact the final results.

ENVIRONMENTAL ASSESSMENT:

The proposed action is an approval of a proposed Agreement between the Harbor Department and LBC to provide CLT monitoring services. As an administrative action, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

Approval of the proposed three-year Agreement would authorize the not-to-exceed amount of \$364,000 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>
2018/2019	\$ 55,000
2019/2020	\$ 121,000
2020/2021	\$ 121,000
2021/2022	\$ 67,000
TOTAL	\$ 364,000

Funds for the current fiscal year in the amount of \$55,000 are available in Account 54260, Center 330, Program 000. Future year funds will be requested to be budgeted through the Harbor Department's annual budgeting process, upon Board approval.

The Harbor Department's obligation to pay any amount due thereunder for any City fiscal year after the current fiscal year is contingent upon the Board approval of funds for the purpose. The City's fiscal year ends on June 30. Accordingly, anything to the contrary notwithstanding, the Harbor Department may terminate any contract and its future monetary obligations thereunder, effective as of the end of the fiscal year.

CITY ATTORNEY:

The office of the City Attorney has prepared and approved this Agreement as to form and legality.

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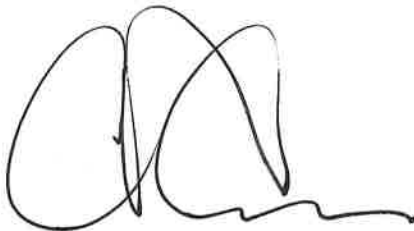
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TRANSMITTALS:

1. Agreement with Langdon Biological Consulting, LLC
2. California Least Tern Nesting Site
3. RFP Evaluation Criteria
4. Oral Interview Questions
5. Evaluation Scores

FIS Approval: MB
CA Approval: CB



CHRISTOPHER CANNON
Director of Environmental Management


MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:


FOR

EUGINE D. SEROKA
Executive Director

CC/YO
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