



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: FEBRUARY 4, 2025

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 requests approval of a proposed Agreement between the City of Los Angeles Harbor Department (Harbor Department) and Rincon Consultants, Inc. (Rincon), 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 nests annually on Pier 400, adjacent to the Port of Los Angeles's (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 will authorize a three-year contract term for an amount not-to-exceed \$529,089. The Harbor Department is financially responsible for payment of 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 Classes 1(9) and 6(2) of the Los Angeles City CEQA Guidelines;
2. Find that in accordance with the City of Los Angeles Charter Section 1022, work under the subject Agreement can be performed more feasibly by independent consultants rather than by City employees;
3. Approve the Agreement with Rincon Consulting, Inc., for a term of three years and not-to-exceed amount of \$529,089;
4. Authorize the Executive Director to execute and the Board Secretary to attest to said Agreement for and on behalf of the Board; and
5. Adopt Resolution No. _____.

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DISCUSSION:

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 a condition to construct Pier 400, the Harbor Department entered into a Memorandum of Agreement (MOA) with the State of 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 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 2025. Additionally, 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 people possessing applicable permits from USFWS and CDFW. Other related management activities, such as monitoring during dredging activities occurring in the nesting season, are required in some 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 number of nests has been at or near 200 in recent nesting seasons; however, the last two seasons have resulted in far fewer reported sightings and no fledglings. The fluctuation in the number of successful nests at the site may be due to factors such as the number of birds that arrive at the colony, availability of food (small fish) in nearby waters, pressure from other bird species, predation, and human disturbances. Both the number of birds and food availability fluctuate yearly and are not in the Port's 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, provide the best conditions for nesting success of the birds that occupy the site.

In addition to CLT colony monitoring, the Harbor Department is required to conduct bird surveys throughout the Port, 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 requirements of the ESA, CESA and MBTA. Contractual services to be performed under the proposed Agreement (Transmittal 1) include:

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- 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 August 23, 2024, 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 Regional Alliance Marketplace for Procurement under the applicable North American Industry Classification System Codes.

The Harbor Department received two proposals, 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 evaluation panel consisted of two EMD staff and one Environmental Specialist from the Port of Long Beach. Proposals were reviewed using evaluation criteria published in the RFP (Transmittal 3). The evaluation committee determined proposal evaluation results were sufficient and interviews were not necessary (Transmittal 4).

Following evaluation of proposals, the evaluation panel determined 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 support services. The evaluation panel’s recommendation is based on the following findings regarding the Rincon team:

- Extensive experience in monitoring CLT 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;

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- 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; and
- Experience in monitoring impacts of dredging on foraging behavior.

Based on these considerations, and the fact that their bid was lower than the other firm, 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 \$529,089 over a three-year term.

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 Classes 1(9) and 6(2) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed three-year Agreement would authorize the not-to-exceed amount of \$529,089 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> |
|--------------------|-------------------------|
| 2024/25 | \$ 58,788 |
| 2025/26 | \$176,363 |
| 2026/27 | \$176,363 |
| 2027/28 | <u>\$117,575</u> |
| TOTAL | <u>\$529,089</u> |

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Funds for the current fiscal year in the amount of \$58,788 are available in Account 541100 (Environmental Assessment Services), Division 42010 (Environmental Management). 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 Agreement, the Agreement 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 proposed Agreement as to form and legality.

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TRANSMITTALS:

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

FIS Approval: JS
CA Approval: JL



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UPDATED: 2/4/2025 9:04AM - MRX