



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: JANUARY 8, 2013

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - AGREEMENT BETWEEN ENVIRONMENTAL AND GIS SERVICES, LLC AND THE CITY OF LOS ANGELES FOR MONITORING SERVICES OF THE CALIFORNIA LEAST TERN NESTING SITE

SUMMARY:

The endangered California least tern (CLT) (bird species) shares a home with the City of Los Angeles Harbor Department's (Harbor Department) largest container terminal on Pier 400. The Harbor Department maintains, monitors, and protects 15 of 484 acres on Pier 400 for the nesting of these indigenous birds. The proposed Agreement with Environmental and GIS Services, LLC (eGIS), Fullerton, California, provides the Harbor Department with the continuation of mandated monitoring services of the CLT nesting site on Pier 400. This action will authorize a three-year contract term for an amount not-to-exceed \$358,467.

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 Agreement with Environmental and GIS Services, LLC, a Small Business Enterprise, for a term of three years for a not-to-exceed amount of \$358,467;
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. _____.

DISCUSSION:

Project Background/Context - In May 1984, the Harbor Department entered into a Memorandum of Agreement (MOA) with the California Department of Fish and Game (CDFG), the U.S. Fish and Wildlife Service (USFWS), and the U.S. Army Corps of Engineers (COE) concerning the nesting of the CLT (a federal and state endangered

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species) currently on Pier 400 in the Port of Los Angeles (Port). The MOA was designed to resolve land use conflicts between CLT nesting and Port development in a manner that protects the interest of both. The MOA has been renewed in approximately three-year intervals since that time. In April 2012, the Board renewed the MOA and committed to monitor the CLT site until April 2017. The MOA requires that access to the nesting site and monitoring activities be carried out by persons possessing the applicable permits from USFWS and CDFG. Site monitoring and related activities (e.g., monitoring during dredging activities occurring in the nesting season) are also a requirement of several environmental documents, such as terminal improvements for Yusen Terminals Inc., APL and China Shipping Environmental Impact Reports (EIR) as well as the Channel Deepening EIR/Environmental Impact Statement (EIS).

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 reproductive success has improved significantly over the years. The tern colony grew from 134 nests in 1984 to as many as 1,332 nests in 2005 and is recognized as one of the largest nesting colonies in the state. The USFWS has commended the Harbor Department for their protection efforts. More recently, success declined to a low in 2011, due in part to limited availability of food (small fish) in the surrounding waters. Food availability fluctuates yearly, but factors such as site enhancement, monitoring and controlling predators can greatly affect the success of the site. In 2012, the site was more successful with 211 nests; however, an increase in site management could enhance fledgling success.

Services to be Performed - Consultant support services are necessary to assist the Harbor Department in complying with the MOA. 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 Pier 400 construction workers as needed;
- performing miscellaneous consulting services related to site preparation such as herbicide application, as well as investigating other nesting birds around the Port, where 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 turbidity in shallow water during Port dredging activities; and
- attending meetings as directed by Harbor Department staff.

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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. Based on these findings, a Charter Section 1022 Determination was prepared which found that the proposed work and staff needed under the proposed Agreement can be performed more feasibly by independent consultants rather than by City employees.

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) and Very Small Business Enterprise (VSBE) participation level, and a cost estimate.

Selection Process - On August 24, 2012, the RFP 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 (LABAVN) under the applicable North American Industry Classification System Codes. An email was also sent out to all permitted CLT biologists with a link to LABAVN.

The Harbor Department received two proposals, one from eGIS and one from Tierra Data Inc. on September 14, 2012. The evaluation panel consisted of four City employees: two Environmental Specialists representing the Environmental Management Division (EMD), a Principal Grounds Maintenance Supervisor from the Construction and Maintenance Division, and an Environmental Engineer from the Bureau of Sanitation, Watershed Protection Division. Proposals were reviewed using evaluation criteria published in the RFP (Transmittal 3) and both proposers were invited to oral interviews that occurred October 10, 2012. 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).

Following the evaluation of the proposals and interviews, the evaluation panel found that eGIS 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 eGIS:

- has the necessary permits to conduct this work;
- is highly respected by the USFWS and CDFG, and has been used extensively in prior, successful consultation with these agencies;
- has been involved in Pier 400 monitoring for the Port since 1995;
- has conducted as-needed bird surveys as well as dredge and turbidity monitoring; 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.

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The eGIS team has the knowledge and experience needed to provide the CLTs the best possible chance for success. The previous contract was awarded to Keane Biological, which is no longer operating in this capacity. The project manager and team members in eGIS have previously sub-contracted for Keane Biological. Kathy Keane, the former contractor, will function as a consulting scientist under the eGIS contract which will provide invaluable continuity, expertise, and institutional knowledge.

The proposed Agreement with eGIS is for an amount not-to-exceed \$358,467. This represents an increase in the amount from the current contract which is not-to-exceed \$300,000 for a three-year period (of which \$286,457 has been invoiced to date). The current contract expires May 18, 2013, however the three years of monitoring requirements spanning that contract have been fulfilled, the annual report has yet to be finalized, and there are additional survey needs for a bird species of special concern. The increase in contract amount is due to the need for additional monitoring hours, enhanced predator control, enhanced weed abatement and increased as-needed services. These needs are based on site experience over past years. For example, predator numbers around the Port have increased in recent years and in the 2012 nesting season night predation took a large toll on the colony, wiping out one quarter of the chicks in just a few nights.

Small Business Enterprise and Local Business Enterprise Preference Programs - eGIS is a qualified Small Business Enterprise (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). eGIS, located in Orange County, is a qualified LBE. Although the contract opportunity provided for an 8% preference for LBEs, eGIS scored the highest and as a LBE, the preference did not impact the final results.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a personal services agreement between the Harbor Department and eGIS to provide CLT monitoring services. As an administrative action, 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.

FINANCIAL IMPACT:

Approval of this three-year Agreement would authorize the not-to-exceed amount of \$358,467 for continued CLT nesting site consultant monitoring services at Pier 400. It is expected that funds under this Agreement will be expended as follows:

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<u>Fiscal Year</u>	<u>Amount</u>
2012/2013	\$ 70,000
2013/2014	\$117,648
2014/2015	\$127,819
2015/2016	<u>\$ 43,000</u>
TOTAL	\$358,467

eGIS will ensure that the Harbor Department is in compliance with the terms of the MOA with the CDFG, USFWS, and COE concerning the nesting of the CLT (a federal and state endangered species) on Pier 400 in the Port. The MOA was designed to resolve land use conflicts between the nesting of the CLT and the Port's development in a manner that protects the interest of both. Site monitoring and related activities are also a requirement of several environmental documents including projects such as Terminal Improvements for Yusen Terminals Inc., APL and China Shipping EIRs as well as the Channel Deepening EIR/EIS.

Funds for the current fiscal year in the amount of \$70,000 are available in Account 54260, Center 330, Program 000. Funds for fiscal year 13/14 in the amount of \$117,648 will be requested to be budgeted in Account 54260, Center 330, Program 000 during the upcoming budget cycle. 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.

ECONOMIC BENEFITS:

Approval of the proposed Agreement will support two direct and two secondary one-year equivalent jobs for the five-county region.

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CITY ATTORNEY:

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

TRANSMITTALS:

1. Agreement with eGIS
2. California least tern nesting site
3. RFP evaluation criteria
4. Oral interview questions
5. Evaluation Scores

FIS Approval: WR (initials)

CA Approval: me (initials)



CHRISTOPHER CANNON
Director of Environmental Management



MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

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BOARD MEETING: 1/3/2013

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