



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: DECEMBER 8, 2015

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - AGREEMENT BETWEEN LANGDON BIOLOGICAL CONSULTING, LLC AND THE CITY OF LOS ANGELES HARBOR DEPARTMENT FOR MONITORING SERVICES OF THE CALIFORNIA LEAST TERN NESTING SITE

SUMMARY:

The Environmental Management Division recommends approval of an agreement between the City of Los Angeles, Harbor Department and Langdon Biological Consulting, LLC (LBC), San Pedro, California to provide continuation of monitoring services of the endangered California least tern (CLT) (bird species) nesting site on Pier 400. The CLT nesting site resides on a special 15-acre portion of the City of Los Angeles, Harbor Department's (Harbor Department) largest container terminal on Pier 400. The Harbor Department maintains, monitors, and protects this special area on Pier 400 for the nesting of these indigenous birds. Approval of this proposed Agreement will authorize a three-year contract for an amount not-to-exceed \$360,000. 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 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 Consulting, LLC, a Small Business Enterprise, for a term of three years for a not-to-exceed amount of \$360,000;
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 - In May 1984, 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 concerning the nesting of the CLT (a federal and state endangered 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 to five year intervals since that time. The MOA requires that access to the nesting site and 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) are also typically a requirement of environmental documents for Port development projects. In addition, and in accordance with the Migratory Bird Treaty Act (MBTA), bird surveys must also be conducted 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.

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. 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. Since 2012, the nesting site has had a large influx of elegant terns (approximately 16,000 birds) which are also protected under the MBTA. Management of the conspecifics in such large numbers requires a lot of time and strategic planning. In 2014, the site was more successful with 126 nests; however, an increase in site management (to control for predators and conspecifics) could enhance fledgling success. Smaller colonies are more vulnerable to predators and conspecific pressures which translate to an increased need for protection from monitors. Due to the anticipated El Niño rain events (which will cause an increase in weed growth) there is a potential for enhanced weed abatement needs and increased as-needed services due to the warmer climate that El Niño will bring. These needs are based on site experience over past years.

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);

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- 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.

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 July 31, 2015, 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 under the applicable North American Industry Classification System Codes.

The Harbor Department received two proposals, one from LBC and one from Marine Taxonomic Services on August 25, 2015. The evaluation panel consisted of three City employees: two Environmental Specialists representing the Environmental Management Division, and a Water Biologist from the City of Los Angeles 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 on September 16, 2015. 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 LBC scored the highest and was recommended for contract negotiations and for

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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 extensively in prior, successful consultation with these agencies;
- has been involved in Pier 400 monitoring for the Harbor Department 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.

The LBC team has the knowledge and experience needed to provide the CLTs the best possible chance for success.

The proposed Agreement with LBC is for an amount not-to-exceed \$360,000 over a three-year term.

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.

FINANCIAL IMPACT:

Approval of this three-year Agreement would authorize the not-to-exceed amount of \$360,000 for continued CLT nesting site consultant monitoring services at Pier 400. It is expected that funds under this Agreement will be expended as follows:

<u>Fiscal Year</u>	<u>Amount</u>
2015/2016	\$ 78,000
2016/2017	\$ 120,000
2017/2018	\$ 120,000
2018/2019	\$ 42,000
Total:	\$ 360,000

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Funds for the current fiscal year in the amount of \$78,000 are available in Account 54260, Center 0330, 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.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a personal services agreement between the Harbor Department and LBC to provide CLT monitoring services, which is an administrative activity. As such, the Director of Environmental Management has determined that the proposed action is 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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CITY ATTORNEY:

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


TRANSMITTALS:

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

FIS Approval:  (initials)
CA Approval:  (initials)



CHRISTOPHER CANNON
Director of Environmental Management


FOR MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:


FOR EUGENE D. SEROKA
Executive Director

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BOARD MEETING: 12/17/2015

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