



City Council Agenda Report
Meeting Date: July 5, 2016
Department: City Manager

SUBJECT:

AWARD OF CONTRACT FOR PRECONSTRUCTION PHASE RESOURCE AGENCY PERMIT IMPLEMENTATION SERVICES FOR LAKE FOREST CIVIC CENTER PROJECT

RECOMMENDED ACTION(S):

1. Award a contract in the amount of \$39,750 to Carlson Strategic Land Solutions Inc. for Preconstruction Phase Resource Agency Permit Implementation Services associated with the Civic Center Project.
 2. Authorize the Mayor to sign, and the City Clerk to attest the contract with Carlson Strategic Land Solutions Inc.
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EXECUTIVE SUMMARY:

The City's Civic Center site is located in an aquatic resource integrity area within the Special Area Management Plan ("SAMP") which required special permits to develop the City's site. In April of this year, the City received its final permit from the United States Army Corps of Engineers ("ACOE"). Given the City's schedule to begin grading in Fall 2016, the timeframe to meet preconstruction permit requirements necessitates the immediate retention of a consultant. The requirements include a variety of work, including the preparation of technical documents which must be approved by federal and state resource agencies 60 days prior to the start of construction.

Under limited circumstances, the City's Purchasing and Contracting Guidelines ("Purchasing Guidelines") allow exemptions to a proposal process as authorized by the City Council. Staff is recommending the City Council approve an Agreement with Carlson Strategic Land Solutions under the exception for services that are unique due to availability and fitness for a particular use. Mr. Peter Carlson of Carlson Strategic Land Solutions was the lead consultant retained by the Irvine Ranch Water District ("IRWD") that worked with the resource agencies to acquire the Civic Center Project permits. Consequently, Mr. Carlson has extensive familiarity with the Civic Center Project and ACOE imposed conditions of approval for the permits, as well as established relationships with staff at the permitting agencies. Staff believes the limited

timing associated with the implementation of the permits, the City's desire to expedite the Civic Center Project, and Mr. Carlson's specific knowledge of the permit requirements, warrant an exemption from the procurement process in the Purchasing Guidelines. The proposed Agreement would provide a one-year term, with two one-year additional options, and \$39,750 contract authority to perform these services.

BACKGROUND:

The Civic Center is located within the San Diego Creek Watershed and is identified by the ACOE as an aquatic resource integrity area within the SAMP. Essentially, this means that the Civic Center Site contains a perennial drainage area, under the jurisdiction of the United States Federal Government that is a protected resource. Consequently, the Civic Center Project could not occur without special permission to enable the eventual development of the land adjacent to the protected resource area.

Pursuant to the Serrano Summit Development Agreement, the IRWD was responsible for obtaining permits on the City's behalf. Under contract to IRWD, Mr. Peter Carlson acted as the lead consultant for this effort, which spanned three years. Overall, the Civic Center project includes permits from the ACOE, the United States Department of Fish and Wildlife, the California Department of Fish and Wildlife ("CDFW"), and the Regional Water Quality Control Board ("Resource Agencies"). The Regulatory Agency Permits associated with these approvals contain various technical requirements and conditions that must be satisfied prior, during, and post construction.

DISCUSSION:

Since receiving its final permit from the ACOE in April of this year, the City has continued to advance the design of Civic Center while planning for the implementation of the regulatory permits. Over the course of the next few months, this will necessitate entering into contracts with environmental specialists to ensure the City's compliance with these conditions. To that end, staff will issue Requests for Proposals for Biological Monitoring Services and Resource Agency Permit Implementation Consulting for the construction phase of the Civic Center Project in early July. As discussed below, however, the first of these is a proposed contract that will enable to City to advance pre-construction regulatory requirements associated with the Civic Center Project.

Pre-Construction Resource Agency Requirements

The permits require completion of the several items prior to construction, including, but not limited to, the following:

- Long Term Habitat Management Plan (LTHMP) – The LTHMP must clearly describe management and maintenance activities to retain habitat value for fish and wildlife resources in the project area in perpetuity. The Plan must be submitted 60-days prior to the start of construction.
- Restrictive Covenant – All habitat mitigation areas and avoided stream habitat must be placed within a perpetual biological Conservation Easement or other type of formal Deed Restriction. The Restrictive Covenant must be submitted to the CDFW for approval 60 days prior to the start of construction.
- Government Letter of Assurance – The City is required to post financial assurance in the form of a Government Letter of Assurance for the estimated cost of implementing the approved Habitat Maintenance and Monitoring Plan prior to the start of construction.
- Invasive Species Removal – The City is required to provide \$15,000 to conduct invasive species removal within Serrano Creek, north of Dimension Drive, within City limits, in 2016 after riparian bird breeding season (i.e., after September 15).

While staff is actively working on completing these items, consultant services are needed to provide technical expertise and knowledge. For example, the LTHMP requires specialized knowledge of both the Civic Center mitigation area and the required components of such a plan. Further, while staff will prepare a Government Letter of Assurance, assistance will be needed to coordinate with the Regulatory Agencies to ensure the letter is accepted and approved in a timely manner. Also prior to construction, the City must retain a Biological Monitor, a qualified biologist specializing in establishing successful riparian habitats, to fulfill additional CDFW permit requirements.

Consultant services are needed to provide technical support to staff to ensure the additionally selected consultant satisfies the entire breadth of the technical requirements of the Regulatory Permits. As discussed below, staff believes that the timing and technical complexity associated with these requirements warrants a sole-source contract to secure a consultant to assist with this work.

Purchasing Guidelines Exceptions

The City's Purchasing Guidelines establish the procedure to select vendors. Services of a professional or technical nature typically necessitate a Request for

Proposals (“RFP”) process that includes a review of proposals and interviews by a Selection Committee comprised of staff. This process uses an aggregate scoring system to determine the most qualified vendor for that contract, which is ultimately presented to the City Council for consideration. Overall, a standard RFP selection process and award of contract typically takes twelve weeks to complete. Given the timing of the award of the ACOE permit, it would have been difficult to undertake the RFP process for preconstruction permit implementation services and maintain the City’s desired schedule.

Under limited circumstances, Chapter 4, Subsection B of the Purchasing Guidelines enables the City to award a contract without a purchasing process. One of these circumstances allows the City to award a sole-source contract because of its availability or fitness for a particular use. As described, the City is required to satisfy certain permit conditions prior to the start of construction. The professional services, therefore, needed include technical environmental knowledge and its application specifically to the Civic Center Regulatory Permits. Ideally, the selected consultant must have a high degree of familiarity with the permits and Civic Center project to complete the work efficiently in a short amount of time.

Award of Contract to Carlson Strategic Land Solutions

The extensive efforts to obtain the Resource Agency Permits were led by Mr. Peter Carlson, who was then a Vice-President with Vandermost Environmental Services (“VCS”). Mr. Carlson was employed by VCS since 1999 and, prior to that, worked as an environmental planner for 12 years with the cities of Newport Beach and Laguna Niguel. Recently, Mr. Carlson left VCS to start his own environmental consulting firm, known as Carlson Strategic Land Solutions.

As described earlier, the Regulatory Permits contain various conditions that must be coordinated with both Federal and State Resource Agencies. Mr. Carlson is extensively familiar with both the representatives of the Resource Agencies and the implementation strategies to satisfy the conditions imposed by such permits. Mr. Carlson has demonstrated his ability to work collaboratively with representatives of Federal and State resource agencies and has a detailed and thorough understanding of the technical documents specific to the Civic Center Project.

At this stage, the selection of a consultant through an RFP process would likely mean that the start of construction for the Civic Center Project would be delayed due the deadlines associated with the environmental documents noted in this report. Consequently, staff believes that given the condensed timeline imposed by the issuance of ACOE permit and the technical nature of the work, the City should retain a consultant with immediate expertise and familiarity with the Civic

Center Project and its associated permits. Given these considerations, staff recommends an award of contract Carlson Strategic Land Solutions.

Carlson Strategic Land Solutions is proposing a rate of \$200/hour for the firm's President and \$150/hour for a Project Manager. Staff compared these hourly rates to rates gathered during a procurement process conducted by staff in January 2006 for Regulatory Support Services. The Carlson Strategic Land Solutions rates appear to be consistent with other firms in the area providing similar services, as shown below. Based on the review of other firms' rates, staff finds Carlson Strategic Land Solutions' rates reasonable.

Table 1 - Comparable Firms and Rates

Firm	Rates
ICF Jones & Stokes (Irvine, CA)	Project Director \$210/hour Managing Consultant \$180/hour Senior Consultant \$160/hour
Michael Baker International (Irvine, CA)	Vice Principal \$210/hour Project Manager \$205/hour
LSA (Irvine, CA)	Principal \$315 - \$165/hour Associate \$200 - \$85/hour

Staff also conducted a reference check of Mr. Carlson to assess his performance for other comparable projects. Overall, Carlson Strategic Land Solutions received very positive comments from its references; the City of Ontario, the New Home Company, and the Irvine Ranch Water District. Each reference indicated that they were pleased with Mr. Carlson depth of knowledge, that the work prepared by Mr. Carlson was of high quality, and that deadlines associated with each projects were met. The reference check is attached to this report for the City Council's information (Attachment 2).

The proposed Agreement with Carlson Strategic Land Solutions will assist staff with the implementation of several critical-path items, some of which are required to be completed 60-days prior to the start of construction. In many instances, staff will be completing items that Mr. Carlson will submit and work with the appropriate agency to gain approval. The firm will also provide the City with guidance on potential design changes to the Civic Center site plan in relation to California Environmental Quality Act impacts or Resource Agency permit compliance.

Staff recommends the City enter into a one (1) year agreement with Carlson for

Preconstruction Phase Resource Agency Permit Implementation Services for a total not-to-exceed cost of \$39,750. The City Attorney's Office reviewed and approved the attached Agreement as to form.

FISCAL IMPACT:

Total compensation is for a not-to-exceed amount of \$39,750. There are sufficient funds in the 2-Year CIP Budget for the proposed agreement.

ATTACHMENTS:

1. Agreement with Carlson Strategic Land Solutions for Environmental Project Management Services
2. Reference Check

Initiated By: Carlo Tomaino, Assistant to the City Manager
Submitted By: Debra Rose , Assistant City Manager
Approved By: Robert C. Dunek, City Manager