



City Council Agenda Report

Meeting Date: December 6, 2016

Department: Economic Development/
Community Preservation

SUBJECT:

CONSIDERATION OF CONTRACTS FOR RESOURCE AGENCY PERMIT IMPLEMENTATION, OVERSIGHT AND BIOLOGICAL MONITORING SERVICES FOR LAKE FOREST CIVIC CENTER PROJECT

RECOMMENDED ACTION(S):

1. Award a contract in the amount of \$228,328.90 to ICF Jones & Stokes, Inc. for Resource Agency Permit Implementation and Biological Monitoring Services associated with the Civic Center Project and authorize the Mayor to sign, and the City Clerk to attest the Agreement substantially in the form attached.
 2. Approve the First Amendment to the Agreement with Carlson Strategic Land Solutions, Inc. in the amount of \$91,834 for Biological Permit Resource Agency Implementation Oversight Services for the Civic Center Project and authorize the Mayor to sign, and the City Clerk to attest the First Amendment, substantially in the form attached.
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EXECUTIVE SUMMARY:

Earlier this year, the City received the required permits necessary to advance the Civic Center Project. These included approvals from the United States Army Corps of Engineers ("ACOE"), United States Fish and Wildlife Services ("USFWS"), California Department of Fish and Wildlife ("CDFW"), and Regional Water Quality Control Board ("RWQCB"). Due to the technical complexity of the regulatory permits, the City Council approved an agreement with Carlson Strategic Land Solutions ("Carlson Strategic") to assist with pre-construction phase permit implementation and compliance. Moving forward, in accordance with the mitigation measures outlined in these regulatory documents, the City must retain a qualified biologist to monitor the mitigation site during construction. In addition, the biologist will also prepare the required post-construction documentation and surveys necessary to satisfy the regulatory requirements of these permits.

On July 12, 2016, the City issued two Requests for Proposals ("RFP") for Resource Agency Permit Implementation Services and Biological Monitoring Services for the Civic Center Project. Carlson Strategic served as the City's

advisor during the RFP process. The City received proposals from eight vendors in response to the RFPs. Four of the vendors, submitted proposals for both RFPs. During the procurement process, staff identified cost-saving measures as result of combining the two proposals into one contract. Consequently, staff evaluated the combined scores and cost proposals of the top four firms. After a competitive process outlined in the City's Purchasing and Contracting Guidelines ("Purchasing Guidelines"), staff identified ICF Jones & Stokes, Inc. ("ICF") as the prevailing firm for both RFPs. The recommended contract award would allow the City to secure staff with the requisite qualifications and experience to continue meeting its requirements under the Regulatory Agency Permits. The total contract amount is \$228,328.90 over a five-year period. The contract contains provisions for three optional one-year extensions of term, if necessary. The City's Civic Center Project Fund, which is contained in the adopted 2015-2017 Capital Improvements Projects ("CIP") Budget, contains sufficient funds to support this activity.

While staff recommends combining some of the services noted in the two RFPs, there remains a need for oversight to implement the numerous requirements in the Regulatory Agency Permits. Consequently, staff also recommends retaining Carlson Strategic for the balance of the project and post-construction monitoring period to provide technical support to staff in the oversight of the ICF contract and special permits compliance. Given his experience during the pre-construction phase, Mr. Peter Carlson is the most knowledgeable party regarding the environmental requirements for the project. This is due to his work preparing and acquiring the regulatory permits as well the Addendum to the Environmental Impact Report ("EIR"). Mr. Carlson is familiar with the contents and history of each permit and has established effective working relationships with the permitting agencies. Further, staff believes that retaining Carlson Strategic creates greater efficiency in managing the numerous aspects of the regulatory permits given his extensive familiarity of the project. To facilitate the retention of Carlson Strategic throughout the Civic Center development, staff recommends approval of the First Amendment to the Agreement in the net amount of \$52,084, for a not-to-exceed total cost of \$91,834.

BACKGROUND:

The City's Civic Center Site ("Civic Center") is approximately twelve acres, with approximately eight acres of developable land. The Civic Center is located in an aquatic resource integrity area within a Special Area Management Plan ("SAMP"), meaning that a portion of the site includes a habitat that requires environmental mitigation work and oversight. Because of this, the City was required to obtain special permits from federal and state regulatory agencies (i.e., ACOE, USFWS, CDFW, and RWQCB). Collectively, these agencies are referenced in this report

as the Regulatory Agencies. As such, this element of the Civic Center project contains numerous technical requirements the City must meet in order to remain in compliance. To facilitate this process, the City Council entered into an agreement with Carlson Strategic on July 5, 2016, for Pre-construction Resource Agency Permit Implementation, which included serving as a consultant to the City during the RFP process in the selection of Construction and Post-Construction Phase Biological Monitors and continued Resource Agency Permit Implementation.

DISCUSSION:

The mitigation measures and conditions contained in the Regulatory Agency Permits require the establishment of a Mitigation Area that includes: 0.10 acre of new wetland waters 0.46 acre of associated riparian habitat; 0.10 acre of existing drainage; and 0.81 acre of associated riparian vegetation. Due to the technical complexity of the Regulatory Agency Permits, consultant services are needed to ensure all Regulatory Agency reporting and compliance requirements are met. These include numerous technical requirements and conditions that must be satisfied prior to, during, and post construction of the Mitigation Area. To ensure the City successfully meets its environmental requirements, it must retain qualified consultants with a proven track record of complying with various federal and state environmental mitigation measures, establishing riparian habitats, and preparing post-construction compliance reports.

Some areas the services identified in the two separate RFPs issued by the City contain overlapping and related elements. Consequently, depending on the relative qualifications and experience of prospective firms participating in an RFP process, staff understood that these services would either be performed under a single or multiple contracts. Given that the number of prospective firms and their relative experience were not known at the time, the City took a conservative approach and prepared two RFPs: one to oversee the implementation of the permits and a second RFP for biological monitoring services. Staff posted the draft RFPs on the City's website and addressed questions or comments from prospective consultants during the comment period. While the selection process below will provide an overview based on two RFPs issued early in the process, staff's ultimate recommendation is to combine these services under a single contract.

Request for Proposals (Resource Agency Permit Implementation Services)

The City provided the RFP for the Resource Agency Permit Implementation Services to nine firms and received five proposals. As initially proposed, this contractor would work collaboratively with staff and other consultants to ensure

that the environmental mitigation work and the associated reporting requirements meet the standards prescribed in the Regulatory Agency Permits. To evaluate the proposals, staff assembled a Selection Committee comprised of the Assistant City Manager, City Clerk, and Planning Manager. The scoring summary from the selection process is reflected below:

Table 1 – Resource Agency Permit RFP Technical and Qualifications Interview Scores

Firm	Technical Review			Subtotal	Qualifications Interview			Subtotal	Total
	Rater				Rater				
	1	2	3		1	2	3		
ECORP Corporation	70	85	73	228	80	78	71	229	457
ESA-PCR	82	90	98	270	85	89	89	263	533
ICF	95	88	75	258	89	96	93	278	536
LSA	82	88	90	260	62	73	72	207	467
VCS Environmental	64	83	78	225	83	85	87	255	480

ICF received the highest total score, followed closely by ESA-PCR. The Selection Committee felt ICF was the best qualified firm based on its breadth of knowledge relating to the project and regulatory permits, as well as its vast experience and expertise in the field in which the firm demonstrated extensive competency with similarly complex projects. Specifically, ICF has supervised numerous projects that involved permits from the federal and state level and successfully articulated its ability to develop a process by which to ensure the City meets the numerous requirements contained in each of the Regulatory Agency Permits. A few examples of ICF’s most notable projects include: Meadowpass Road Extension Mitigation Monitoring Project for the City of Walnut; Machado Lake Ecosystem Rehabilitation and Wilmington Drain Multi-Use Project for the City of Los Angeles; environmental planning and biological support for the Orange County Transportation Authority; and, on-call regulatory permitting services for Orange County Public Works.

Request for Proposals (Biological Monitoring Services)

The Biological Monitor will oversee Mitigation Site preparation activities including: planting; native seed mix application; the site’s maintenance program; overall site performance; and, post-construction reporting. Consequently, the Biological Monitor acts as the subject matter expert pertaining specifically to the soil, plants, invasive species, and other factors that determine whether a Mitigation Site will function as a viable and successful riparian habitat. During the construction phase, the Biological Monitor will supervise and direct the work of the Restoration Contractor: a separate contractor that will install the improvements to the

Mitigation Site. The Biological Monitor will also be responsible for coordinating with the Resource Agencies and the City’s other consultants regarding site status and preparation of annual site documentation.

The City provided the RFP for the Biological Monitoring Services to nine firms and received seven proposals. To evaluate the proposals, staff assembled a Selection Committee comprised of the Assistant City Manager, City Clerk, Development Services Director, and Assistant to the City Manager. The scoring summary is reflected below:

Table 2 – Biological Monitoring RFP Technical and Qualifications Interview Scores

Firm	Technical Review				Subtotal	Qualifications Interview				Subtotal	Total
	Rater					Rater					
	1	2	3	4		1	2	3	4		
BioResource Consulting	86	73	69	66	294	0	0	0	0	0	294
ESA-PCR	94	85	84	86	349	91	85	83	84	343	692
ICF	94	89	92	90	365	86	85	92	88	351	716
Ironwood	90	72	62	70	294	0	0	0	0	0	294
LSA	92	80	79	74	325	88	88	85	78	339	667
UltraSystems	86	79	79	80	324	72	76	73	62	283	607
VCS Environmental	93	80	88	84	345	94	92	94	94	374	719

As indicated in the above table, VCS Environmental received the highest total score, followed closely by ICF. Both VCS Environmental and ICF received high scores based on their vast experience with similar projects. Based on the scoring above, the Selection Committee felt that both VCS and ICF equally demonstrated an ability to perform the work. In such instances, the City considers whether costs are reasonable in each instance prior to making a final recommendation to the City Council.

Proposed Combination of Contract Services

As noted above, four firms submitted proposals for both RFPs. These firms also performed in the top range of scores, allowing for the possibility of combining these services with a single consultant. To understand the scoring based on this alternative scenario, staff reevaluated the combined scores and cost proposals of the top four firms. Table 3 below provides a summary of each firm’s scores for the Biological Monitoring Services RFP and the Resource Agency Permit Implementation Services RFP and the combined total scores.

Table 3 – Combined Biological Monitor and Resource Agency Permit Scores

Firm	Biological Subtotal	Resource Agency Permit Subtotal	Total	% of Total Points Possible (1,400)
ESA-PCR	692	533	1,225	88%
ICF	716	536	1,252	89%
LSA	719	480	1,199	81%
VCS Environmental	664	467	1,131	86%

As reflected above, along with achieving high scores through the individual selection processes, ICF received the highest cumulative score based upon its proposals and interviews. Consequently, based on the results of both selection processes and further evaluation of the combined scoring, ICF remained as one of the highest-rated firms. The scores, along with the firm’s staffing and related experience, created the potential of combining both RFPs and awarding a single contract to ICF.

Analysis of Cost Proposals

After concluding the interview process, staff opened the sealed cost proposals. ICF’s separate cost proposals equaled \$410,476.90 under separate agreements, which was reasonable relative to the other firms. However, after considering the potential of combining the consulting contracts, staff reevaluated cost proposals to assess potential cost savings to the City. As reflected below, when these services are combined, the City experiences cost savings. Specific to ICF, its total cost is reduced to approximately \$228,328.90. Table 4 below shows the proposed compensation rates from each of the top four firms.

Table 4 – Proposed Compensation Rates

Firm	Rates				Total Project Cost
	Principal	Project Manager	Biologist	Associate/ Consultant/ Admin	
ESA-PCR	\$170 - \$325	\$195 - \$215	\$95 - \$125	\$65 - \$100	\$304,447
ICF	\$150	\$123	\$120 - \$135	\$95	\$228,329
LSA	\$170 - \$325	\$140	\$100 - \$195	\$85	\$247,995
VCS Environmental	\$175 - \$245	\$139 - \$195	\$98 - \$185	\$95	\$221,770

Recommendation

Based upon the technical review, interview process, analysis of cost proposals, and reference checks, staff recommends an award of contract to ICF. Overall, the Selection Committee believes that ICF has a large and capable staff with a breadth of experience that will ensure the City's continued compliance with its permits. These services are technical in nature, requiring the expertise of staff with a complete understanding of the California Environmental Quality Act, the mitigation and compensatory measures in the City's Regulatory Agency Permits and the successful establishment of riparian habitats.

ICF's references include the Cities of Los Angeles, San Bernardino, Tustin, and Walnut; Orange County Transportation Authority; Orange County Public Works; CalTrans; and, Riverside County Transportation Department. These agencies provided highly favorable reviews of ICF's past work and recommended the company be retained by the City for the Civic Center Project. Given the results of the scoring by staff and the favorable references provided by other agencies, staff believes ICF will successfully perform the tasks required with this component of the Civic Center Project.

The 2015-2017 CIP Budget includes funding for professional services associated with the Civic Center Project. Staff will request additional contract funding in subsequent budget cycles based upon anticipated expenditure levels at that time. Consistent with the City's Purchasing Guidelines, the Finance Department prepared the contract and the City Attorney's Office reviewed and approved it as to form. The City's standard form agreement allows the City Manager to approve extra work up to 10% of the contract amount.

Permit Implementation Oversight

As noted, earlier this year, the City Council awarded a contract to Carlson Strategic Solutions Inc. Since receiving its final permit from the ACOE in May of this year, the City continued to advance design of the Civic Center while moving forward with implementation of the regulatory permits under the supervision of Carlson Strategic. Since that time, the City completed four key tasks:

- 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 and was submitted to CDFW on October 11, 2016.
- 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. The draft Restrictive Covenant was submitted to the ACOE for review on October 6, 2016.

- 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. The Letter of Assurance was submitted to USFWS on October 11, 2016.
- 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, 2016). The invasive species removal was completed on November 18, 2016.

During the RFP process for Construction and Post-Construction Phase Permit Implementation and Biological Monitoring, Mr. Carlson served as the City's advisor in this process. Mr. Carlson's technical expertise during evaluation of the proposals and recommendation for contract award to ICF proved invaluable and highlighted the continued need for technical consultant services to support the project throughout the construction and post-construction stages. While ICF is very capable of performing the work, staff desires to ensure that no element of the Regulatory Permits is left unaddressed; which otherwise could impose challenges in completion of the Civic Center Project.

Staff generally provides technical expertise in supervising the work of consultants and contractors. However, given the scale of the project along with the highly specialized knowledge surrounding regulatory permits, biological mitigation, and monitoring requirements, staff believes that additional consulting services would enhance the City's ability to ensure compliance with the numerous requirements associated with the Regulatory Agency Permits. Consequently, in addition to the contract award to ICF, staff also recommends amending the City's contract with Carlson Strategic Land Solutions, Inc. This would provide the City with the ability to ensure completion of all tasks associated with the Regulatory Permits and address other potential technical issues or questions from the regulatory agencies that may arise during the process.

Pursuant to the Purchasing Guidelines, staff is required to complete a vendor performance assessment during a proposed contract amendment. This assessment is used as a guide to determine whether a contract should be amended, renewed, or terminated based on performance in the following categories: performance of scope of services; timeliness; budget performance;

and customer service. Utilizing a detailed evaluation form, staff rated Carlson Strategic on a one to five scale for specific criteria contained in each category. A completed vendor assessment is provided in Attachment 3. The table below is a summary of Carlson Strategic's performance during the respective contract period.

Carlson Strategic Land Solutions Performance Review July 1, 2016, through November 30, 2016	
Category	Unsatisfied - Very Satisfied
Performance of Scope of Services	<input type="checkbox"/> Unsatisfied <input type="checkbox"/> Satisfied <input checked="" type="checkbox"/> Very Satisfied <input type="checkbox"/> N/A
Timeliness	<input type="checkbox"/> Unsatisfied <input type="checkbox"/> Satisfied <input checked="" type="checkbox"/> Very Satisfied <input type="checkbox"/> N/A
Budget Performance	<input type="checkbox"/> Unsatisfied <input type="checkbox"/> Satisfied <input checked="" type="checkbox"/> Very Satisfied <input type="checkbox"/> N/A
Customer Service	<input type="checkbox"/> Unsatisfied <input type="checkbox"/> Satisfied <input checked="" type="checkbox"/> Very Satisfied <input type="checkbox"/> N/A

The proposed First Amendment to the Agreement for Biological Resource Agency Permit Implementation adds the Oversight function and centralizes the coordination of the various consultants, contractors and city staff fulfilling the requirements to satisfy the overall Resource Agency permits. The initial agreement, approved by the City Council on July 5, 2016, is in the amount of \$39,750 for the term of one year. Several significant tasks under that agreement have been completed, as noted above, and the remaining tasks will continue under the proposed First Amendment. Staff recommends the City Council approve a First Amendment to the Agreement extending the term through the construction and post-construction monitoring phase (December 5, 2021), and increase compensation by \$52,084 for a new not-to-exceed cost of \$91,834. The Finance Department prepared the proposed First Amendment and City Attorney's Office reviewed and approved the attached First Amendment as to form (Attachment 4).

FISCAL IMPACT:

There are sufficient funds allocated in the 2015-2017 CIP to cover the cost of the proposed expenditures. The proposed First Amendment increases the Scope of Work by \$76,790. There is available capacity in the current Carlson Strategic Land Solutions agreement of \$24,856, resulting in a net increase of \$52,084 and a new not-to-exceed cost of \$91,834.

ATTACHMENTS:

1. Agreement with ICF
2. ICF Reference Check

3. Vendor Assessment Form for Carlson Strategic Land Solutions, Inc.
4. First Amendment to Agreement with Carlson Strategic Land Solutions, Inc.

Initiated By: Carlo Tomaino, Assistant to the City Manager
Amanda Wicker, Management Analyst

Submitted By: Debra Rose, Assistant City Manager

Approved By: Robert C. Dunek, City Manager