



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: William F. Sherry, A.A.E.

SUBJECT: SEE BELOW

DATE: 9-22-06

Approved

Date

9/26/06

COUNCIL DISTRICT: Citywide

SUBJECT: FIFTH AMENDMENT TO CONSULTANT AGREEMENT WITH DAVID J. POWERS & ASSOCIATES, INC. FOR AIRPORT ENVIRONMENTAL ANALYSIS SERVICES, INCREASING MAXIMUM COMPENSATION BY \$250,000 FOR THE AIRPORT OBSTRUCTION STUDY

RECOMMENDATION

Approve a Fifth Amendment to the Consultant Agreement with David J. Powers & Associates, Inc. for Airport environmental analysis services, increasing the maximum cost of the Agreement by \$250,000 (from \$370,000 to \$620,000) for additional work on the Airport Obstruction Study.

CEQA: Resolution Nos. 67380 and 71451, PP 06-143

OUTCOME

Approval of the proposed amended Consultant Agreement will provide sufficient funding to complete the time-critical Airport Obstruction Study and allow for follow-on technical services.

BACKGROUND

The consultant firm of David J. Powers & Associates, Inc. has been providing a variety of ongoing and as-needed environmental analysis services related to Airport development and operation under a Consultant Agreement originally approved in 2003. The Agreement has been amended four times to date. The Third Amendment, approved 1/10/06, and the Fourth Amendment, approved 5/9/06, increased the maximum compensation to cover the cost of several upcoming tasks including the Airport Obstruction Study, currently underway by specialized subconsultants to David Powers, to assess the compatibility of aircraft operations and high-rise building development in the Airport vicinity. As the estimated cost of the study has continued to

increase due to its technical complexity and associated need for extensive coordination with staff, the Consultant Agreement needs to be amended accordingly.

ANALYSIS

The objective of the Airport Obstruction Study, initiated in January 2006, is to identify potential maximum building heights in the Airport vicinity based on existing high-rise buildings, Federal Aviation Administration (FAA) imaginary surface standards ("FAR Part 77"), and airline operational procedures for clearing obstructions in emergency reduced-power situations ("FAR Part 25"). In coordination with the Planning, Building & Code Enforcement Department and the Redevelopment Agency, the focus of the study to date has been on developing technical information for possible City refinement of goals and policies for downtown development.

Because initiating this study was deemed to be time-critical, i.e., due to increased developer interest in constructing downtown high-rise buildings within the Airport's flight corridors and consequent airline concern that such development could adversely impact existing and future airline service, staff had recommended that its preparation be assigned to the City's existing Airport environmental services consultant through an amended Consultant Agreement (approved by Council 1/10/06). In turn, the environmental services consultant contracted with specialized technical subconsultants. The scope of work developed by staff and the consultant team consisted of several defined tasks at an initial estimated cost of \$80,000.

As the study has progressed, the scope of work has expanded and the associated cost of consultant services has increased. A subsequent Consultant Agreement amendment (approved by Council 5/9/06) added \$120,000, primarily for the recommended inclusion of a supplemental set of FAA obstruction criteria in the analysis of the downtown portion of the study area. Other scope of work issues that have continued to increase consultant efforts include: assistance in identifying and resolving data problems associated with existing building elevations/locations (e.g., the Adobe buildings as previously reported to Council); additional consultation with airlines to ensure correct understanding and depiction of each individual airline's engine-out emergency procedures; preparation of several site-specific analyses for potential high-rise project proposals; preliminary assessment of airline operational restrictions and economic implications of potential high-rise development scenarios; and number and frequency of meetings with City staff regarding study methodology, data issues, preparation of exhibits, and draft findings and recommendations. At this point, the analysis of the downtown area is being completed and staff anticipates scheduling a study session with Council to present the issues and findings, subsequently followed by Council consideration of policy recommendations, possibly within the November-December timeframe.

Because the focus of the study to date has been on the downtown analysis, other components of the study workscope remain to be completed, including identification of maximum building heights in the rest of the Airport vicinity (outside of downtown), training City staff on technical airspace issues and utilization of the database product incorporating all the obstruction surfaces, and review and update of the Airport's technical airspace drawings required by the FAA. These remaining tasks are expected to be completed within 2-3 months of Council action on the downtown findings/recommendations. In addition, once the study is completed and the

consultant's database is turned over to the City, it is anticipated that continued technical guidance on maintaining/updating the database, along with coordination with the FAA to update federal databases determined by the study to be seriously deficient, will be needed. The additional \$250,000 proposed under this latest Consultant Agreement amendment would provide for sufficient funds to allow subconsultant completion of these remaining Airport Obstruction Study tasks and related follow-on services, as well as for the continuation of other as-needed Airport environmental consulting services performed by David J. Powers & Associates until the June 2007 termination date of the City's agreement. Depending on the status of the study and other environmental services work during the next few months, staff will consider whether to recommend another amendment to this Consultant Agreement to increase compensation and/or extend the termination date, or to undertake an RFQ process for a new agreement.

The City's Local Preference Ordinance (Municipal Code Chapter 4.06) requires that the City obtain three competitive proposals, if practicable, on all professional services contracts with a payment amount exceeding \$5,000. For professional services contracts where price is not the determinative factor, proposers that qualify as local business enterprises are to be given a credit equal to five percent of the total points used to determine the most advantageous proposal to the City. Local business enterprises that also qualify as small business enterprises are to be given an additional credit equal to five percent of the total points used to determine the most advantageous proposal to the City.

Unless Council determines that it is not practicable for the City to obtain three competitive proposals, the Local Preference Ordinance requirements apply to consultant agreement amendments such as the proposed fifth amendment to increase maximum compensation. Staff recommends that Council determine that it is not practicable to obtain three competitive proposals for the additional consultant services included in the proposed fifth amendment, because a continuation of the consultant's services is critical to accomplishing the expert and often time-critical environmental analyses referenced above.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The proposed Consultant Agreement amendment does not meet the above criteria.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

The consultant services covered under this Agreement support the ongoing operation and development of the Airport consistent with the goals and policies of the City General Plan and Airport Master Plan. This project is also consistent with the Guiding Principles for Budget and Financial Management (Document: Mayor's 2006-2007 Revised June Budget Message, p.9) to "Preserve our options for the future as much as possible".

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$250,000

Original Agreement	\$100,000
First Amendment (time extension)	--
Second Amendment (time extension)	--
Third Amendment	150,000
Fourth Amendment	120,000
Fifth Amendment	<u>250,000</u>
TOTAL	\$620,000

2. COST ELEMENTS OF AGREEMENT:
Professional Services \$250,000

3. SOURCE OF FUNDING: 527 – Airport Renewal and Replacement Fund

4. FISCAL IMPACT: The amended agreement will have no adverse impact on the General Fund operating budget.

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BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn. 2006-2007	Amt. for Contract	2006-2007 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
527	4007	Advanced Planning	\$709,000	\$250,000	V-992	N/A

CEQA

Resolution Nos. 67380 and 71451, PP 06-143

Frank Kurbude
for WILLIAM F. SHERRY, A.A.E.
Director of Aviation
Airport Department

For questions please contact William Sherry, Director of Aviation, 501-7670.

WFS:CG