



COUNCIL AGENDA: 10/17/06
ITEM: 2.6

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

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

SUBJECT: SEE BELOW

DATE: October 11, 2006

Approved

Date

10/11/06

COUNCIL DISTRICT: Citywide

SUBJECT: SECOND AMENDMENT AND CONTINUATION OF CONSULTANT AGREEMENT WITH PUBLIC MANAGEMENT ADVISORS LLC AND EXSTARE FEDERAL SERVICES GROUP, LLC

RECOMMENDATION

Approval of a Second Amendment and continuation to the Agreement with Public Management Advisors, LLC and Exstare Federal Services Group, LLC for consultant services for the Airport Concession Disadvantaged Business Enterprise Program at the Norman Y. Mineta San José International Airport, extending and continuing the term from August 31, 2006 to January 31, 2007 and increasing the maximum compensation by \$52,802 from \$97,875 to \$150,677.

CEQA: Resolution Nos. 67380 and 71451, PP06-156

OUTCOME

The continuation of the agreement will allow development of ACDBE participation goals for Airport management contracts similar to the work recently completed for Airport concessions.

BACKGROUND

On March 22, 2005, the Federal FAA published revised ACDBE regulations. The new ACDBE regulations revise and update FAA regulations concerning participation by ACDBEs in the concessions activities of airports receiving federal grants from the FAA Airport Improvement Program (AIP). In addition, the ACDBE regulations now incorporate airport management contracts, including shuttle, parking and CNG station management. The new ACDBE regulations make the airport concessions DBE rules parallel in many important respects to the FAA DBE regulations for federally assisted construction contracts.

The new Airport Concession DBE (ACDBE) regulations became effective April 22, 2005. These regulations require recipients of FAA grants to develop new programs for ACDBE participation in airport concession and management contracts. The City, as a recipient of FAA financial assistance for Airport development, is required to update its ACDBE program to comply with the new ACDBE regulations.

Public Management Advisors, LLC and Exstare Federal Services Group, LLC entered into a Consultant Agreement with the City in November 2005 in an amount not to exceed \$97,875 to develop an ACDBE Program. The original agreement was amended in April 2006 to extend the term. The recommended extension and increase in compensation will provide both the time and funding to address the Airport's management contracts as a possible component of the City of San José Airport Concession Disadvantaged Business Enterprise Program for the 2006-2008 period. Public Management Advisors, LLC and Exstare Federal Services Group, LLC are not currently working on the project, however the retroactive date will allow continuity to the contract.

ANALYSIS

On September 12, 2006 City Council approved the recommendation to:

- (a) Approve the City of San José Airport Concession Disadvantaged Business Enterprise Program in accordance with the regulations of the United States Department of Transportation;
- (b) Approve the annual Airport Concession Disadvantaged Business Enterprise Participation Targets for Airport car rental concessions and for all Airport concessions other than car rentals for federal fiscal years 2006 through 2008;
- (c) Authorize the City Manager to submit the City of San José Airport Concession Disadvantaged Business Enterprise Program and Participation Targets to the Federal Aviation Administration and to make or submit revisions that are necessary to comply with applicable federal regulations and to achieve the objectives of the Program.

The initial program for the ACDBE regulations in 49 CFR Part 23, covers the period between fiscal years 2006 to 2008. San José Airport management contracts were not included in the initial program since each of the timing of the contracts, assuming the exercise of options, currently extend beyond the review period. If the City were to decide not to pursue contract options, ACDBE participation goals and the relative availability of ready, willing and able ACDBEs in the geographic market area will need to be determined for the management contracts. The City is requesting the consultant to do the additional analysis to have the information available should the City choose not to exercise the contract extension options.

All the concessions and the management contracts will need to be reviewed again for the 2009-2011 period.

The new ACDBE regulations allow airports to conduct an availability analysis to determine overall participation goals and the relative availability of ready, willing and able ACDBEs in the geographic market area determined for concession opportunities, including management contracts. Availability analysis consists of documentation development and data review, outreach and methodology processes. In August 2005, the City of San José completed a nationwide Request for Qualifications (RFQ) process for consultant services for “Development of a Participation by Disadvantaged Business Enterprises in the Airport Concessions Program at the Normal Y. Mineta San José International Airport”. Four proposals were evaluated on nine separate elements, and the result was the selection of Public Management Advisors, LLC and Exstare Federal Services Group, LLC to assist staff with the development of the revised ACDBE Program.

Public Management Advisors, LLC and Exstare Federal Services Group, LLC have worked with Airport and City staff on this project since November 2005. The team has also worked with many community and individual stakeholders to develop the modified program for Airport concessions as recommended for Council approval on September 12, 2006. Work associated with ACDBE Program goal setting for Airport management contracts, such as Shuttle Bus Operations, Parking Management, Compressed Natural Gas (CNG) Station Management, and On-Demand Ground Transportation Dispatch Services is now requested.

POLICY ALTERNATIVES

Alternative # 1: Develop and initiate new RFP

Pros: None

Cons: Costs for staff time associated with RFP process and education of a possible new contractor may exceed contract amount.

Reason for not recommending: Delays associated with bring on a new consultant would limit City’s opportunity and flexibility with regard to management contract option periods.

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 Second Amendment to extend the term. Staff recommends that Council determine that it is not currently practicable to obtain three competitive proposals for continuing ACDBE consultant services at the Airport, based on the following considerations: the importance of maintaining continuity of reporting and analytic services with regard to researching management contracts ACDBE markets, goal setting and outreach; the proposed

contractor was identified through a national search that met all criteria; and the City is pleased with the expertise and performance of the contractor to date.

PUBLIC OUTREACH/INTEREST

- 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)**

While this contract amendment/extension is below the \$1 million threshold for Criteria 1, this memo is posted on the City's website for the October 17th Council Agenda.

COORDINATION

Preparation of this memorandum and the Second Amendment has been coordinated with the City Manager's Budget Office, Department of Public Work/Office of Equality Assurance and City Attorney's Office.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$52,802

2. AGREEMENT AMOUNT:

| | |
|--------------------|------------------|
| Original Agreement | \$ 97,875 |
| First Amendment | \$ 0 |
| Second Amendment | \$ <u>52,802</u> |
| TOTAL | \$150,677 |

3. SOURCE OF FUNDING: 523 – Airport Maintenance and Operations Fund

4. FISCAL IMPACT: The project has been reviewed and determined that it has no impact on the General Fund Operating Budget. Funding for the Second Amendment is fully funded in the 2006-2007 Adopted Operating Budget.

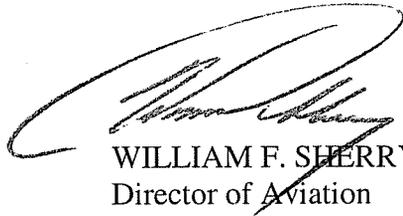
BUDGET REFERENCE

| Fund # | Appn # | Appn. Name | RC # | Total Appn | Amt. for Contract | 2006-2007 Proposed Budget Page* | Last Budget Action (Date, Ord. No.) |
|--------|--------|--------------------------------|-------|--------------|-------------------|---------------------------------|-------------------------------------|
| 523 | 0802 | Airport Non-Personal/Equipment | 11140 | \$36,772,206 | \$52,802 | Page XI-3 | N/A |

*The 2006-2007 Adopted Operating Budget was approved by City Council on June 27, 2006

CEQA

Resolution Nos. 67380 and 71451, PP06-156



WILLIAM F. SHERRY, A.A.E.
Director of Aviation

Please direct questions to William Sherry, Director of Aviation, at (408) 501-7669.