



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edward K. Shikada

SUBJECT: SAN JOSE CONSERVATION
CORPS MASTER AGREEMENT

DATE: 12-16-09

Approved

Date

12/16/09

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Accept this report on the status of the City's master agreement with the San Jose Conservation Corps.

BACKGROUND

On January 12, 1988, the City Council approved a master agreement with the San Jose Conservation Corps (SJCC) to perform various community improvement and conservation activities with four (4) annual options to extend the agreement by one year. Since that time the Council has approved two new master agreements, one in June 2002 and the second in August 2007, both with four one-year options to renew. The Master Agreement has enabled the City to utilize the SJCC to accomplish significant projects for a number of City departments including: neighborhood improvements, parks maintenance, tree planting, neighborhood beautification, graffiti abatement, housing rehabilitation, and recycling at City facilities.

Under the Master Agreement with the SJCC, the City Manager has the authority to approve special projects that do not exceed \$250,000 without obtaining competitive bids or seeking City Council approval. Under the terms of the Master Agreement, the City and SJCC mutually agree to projects using a Special Project Approval Form. Departments, City Manager's Office (CMO) and SJCC representatives sign approval of the service contract prior to the start of each project. Departments oversee completion of work and process payments for delivery of services however, the City Manager is ultimately responsible for coordinating the progress and performance of service projects undertaken pursuant to the agreement.

In the spring of 2009, the City Auditor's Office completed an audit of the SJCC. The audit described findings and recommendations to improve the City's oversight of SJCC's agreements. The audit further concluded that the City overpaid the SJCC more than the actual costs of

services received from 2004-08, and identified several areas where the City could strengthen control over the administration of the master agreement.

On June 18, 2009, the Public Safety, Finance, and Strategic Support (PSFSS) Committee accepted the audit report and the SJCC's proposed action plan to restate financial statements, and directed staff to return to PSFSS Committee in September of 2009. The PSFSS Committee is scheduled to hear a report at its December 17th meeting to consider referring the update of the audit of the Conservation Corps to the full Council. The City also entered into negotiations to resolve the disputed overpayments identified in the audit. It is the Administration's intent to have a settlement agreement ready for approval by the time this item reports out to the City Council on January 12, 2010.

Since release of the audit, the SJCC has taken significant steps to improve its fiscal management, including cost accounting and policies, with active engagement from its Board of Directors. This time also provided the Administration with the much needed opportunity to evaluate Departments' use of the master agreement in consideration of the audit findings. The City's current master agreement with the SJCC is set to expire on December 31, 2009. The Administration may extend the master agreement through January 31, 2010 to allow for the Council's consideration of the audit and the settlement agreement. Future agreements will not be performed under a master agreement administered by the CMO. Agreements will be department specific utilizing standard terms and conditions, and integrating lessons learned from the audit. Departments are evaluating service delivery models, including the option to continue contracted services with the SJCC, and will provide future services through regular contracting procedures.

ANALYSIS

The City's Partnership with the SJCC over the past 21 years has provided a valuable service to our community by supporting job training opportunities for at-risk youth, and at the same time, deliver core City services. Over the past six months, the CMO worked closely with the SJCC and Departments to enhance communication, mobilize technical assistance for the SJCC, and provide administrative guidance on best practices and procedures under the master agreement.

Prior to exercising the City's most recent option to extend the City's Master Agreement (June 2008) with the SJCC, action was taken to solicit feedback from departments and the SJCC and provide clarifications on the document. A quarterly meeting with all parties was also been initiated to enhance coordination and identify and resolve new issues. Action was also taken to require under the City's Master Agreement with the SJCC additional information on project approval forms, documentation on direct costs and timekeeping records with invoices, and to provide guidance to Departments for approving new projects and processing payment of invoices.

Given the longstanding relationship between the City and the SJCC, the Administration has also reinforced the significance of strengthening the SJCC's fiscal management capacity. The SJCC has had a high level of Board engagement and made improvements in financial management, including: 1) developing a new accounting policies and procedures manual, 2) participating in an all-day organizational assessment using the City's QLBS nonprofit assessment tool through the

Office of Economic Development, 3) consulting with SCORE advisors, 4) engaging an accounting firm to provide consulting to the SJCC's accounting department, and 5) developing an indirect cost model.

With the goal of continuing to strengthen the administrative oversight and accountability of agreements, the Administration is not proceeding with the use of this umbrella agreement through the CMO to carry out community service projects. In lieu of the master agreement, departments will follow regular contracting procedures either with service-specific agreements with SJCC, competitive selection, or other. This course of action is taken in order to increase Departments' accountability for service agreements and ensure cost effective service delivery.

Increase Accountability for Service Agreements

For contract monitoring to be most effective, positive and proactive management of the terms and conditions of the contract, including deliverables to reduce the risk of non-compliance, errors, and issues of occurring, is essential. Currently, multiple approvals are involved for individual projects involving SJCC, multiple departments, and the CMO both before a project begins and throughout invoicing and payment. Restructuring service agreements around specific department needs will increase the accountability for contract management by reducing unnecessary approval steps and better aligning with existing departmental approval and management systems, improve the monitoring of terms and conditions to specific work, streamline fiscal management, and enhance communication with SJCC.

Cost Effective Service Delivery

The City is responsible for regularly reviewing the manner in which services are delivered to ensure service delivery is as cost effective as possible. The SJCC has delivered services to the City for over 21 years under the master agreement. These actions will trigger Departments' review of their service models to optimize delivery, including the option to continue contracted services with the SJCC, if cost effective.

EVALUATION AND FOLLOW-UP

The CMO will continue to work with Departments to develop service specific agreements with the SJCC integrating lessons learned from the audit. The Administration has identified areas to improve administrative oversight of the master agreement that are directly transferable to Departments' project specific agreements. Staff has also completed significant work on a new agreement template and met with Departments and their Attorneys to review the new provisions. Staff will also continue to hold quarterly coordination meetings with SJCC. Staff will also continue its work with the Grants Management Working Group to incorporate lessons learned including guidance on indirect cost models into the City-wide Grants Manual, and on-going training and technical assistance.

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PUBLIC OUTREACH

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

This action does not meet any of the above listed criteria; however this memorandum will be posted as an early distribution memorandum on the City's website for the January 12, 2010, Council agenda.

COORDINATION

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

CEQA

CEQA: Not a project.



EDWARD K. SHIKADA
Chief Deputy City Manager