**Sent to Council:**

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

# *Memorandum*

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: Nadine Nader**

**SUBJECT: Early Council Packet**

**DATE: February 1, 2011**

Approved Deanna Santana Date 2/1/11

## EARLY DISTRIBUTION COUNCIL PACKET FOR FEBRUARY 15, 2011

Please find attached the Early Distribution Council Packet for the February 15, 2011 Council Meeting.

**2.x Actions Related to Master Service Agreements for Environmental Consulting Services.**

**Recommendation:** Approval of Consultant Master Service Agreements with the following firms for various City projects:

(a) Cornerstone Earth Group for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000.

(b) URS Corporation for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000.

(c) Environmental Resource Management, Inc. for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000

(d) Kleinfelder, Inc. for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000

CEQA: Not a Project, File No.PP10-066 (a), Agreements and Contracts for purchase of professional services. (Environmental Services)

**3.x Team San Jose Management Agreement.**

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a Second Amendment to the "Agreement for the Management of the San Jose Convention Center and Cultural Facilities Between the City of San Jose and Team San Jose, INC." based on the key business terms outlined with the "Analysis" section of this memorandum. (Economic Development/City Manager's Office)
**TO BE DISTRIBUTED SEPARATELY**

**3.x Team San Jose Spending Reduction Plan for Convention Center Expansion.**

**Recommendation:**
(a) Accept status report on an update on the Team San Jose Spending Reduction Plan and Convention and Cultural Affairs Fund (Fund 536) Forecast for the proposed Convention Center expansion and direction to the City Manager to proceed accordingly.
(b) Approve changes to Team San Jose performance and incentive measures for 2010-2011.
(Economic Development/City Manager's Office)
**TO BE DISTRIBUTED SEPARATELY**

These items will also be included in the Council Agenda Packet with item numbers.

Nadine Nader
NADINE NADER
Assistant to the City Manager

COUNCIL AGENDA: 2-15-11
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

# Memorandum

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SEE BELOW

**DATE:** 01-24-11

Approved

Date 2/1/11

**SUBJECT: MASTER SERVICE AGREEMENTS WITH CORNERSTONE EARTH GROUP, URS CORPORATION, ENVIRONMENTAL RESOURCES MANAGEMENT, INC. AND KLEINFELDER, INC. FOR ENVIRONMENTAL CONSULTING SUPPORT FOR VARIOUS CITY PROJECTS**

## RECOMMENDATION

Approval of consultant MSA with the following firms for various City projects:

1. Cornerstone Earth Group for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000

2. URS Corporation for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000

3. Environmental Resource Management, Inc. for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000

4. Kleinfelder, Inc. for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000

## OUTCOME

Approval of these Master Service Agreements (MSA) with Cornerstone Earth Group, URS Corporation, Environmental Resources Management (ERM), Inc. and Kleinfelder, Inc. will provide the City with the ability to provide on-call environmental consultant services for City projects on an as-needed basis. These consultant services are needed to assist City staff in delivering highly technical services to maintain regulatory compliance and protect public health and safety at a variety of City-owned properties and for performing environmental due diligence

for prospective property acquisitions. Several large environmental projects are already anticipated within the next year, which will require the technical expertise provided by these consultants to complement City staff. By efficiently managing these on-call contracts, City staff can continue to successfully investigate and rehabilitate impaired City-owned impaired properties and maintain regulatory compliance.

## EXECUTIVE SUMMARY

Staff recommends the approval of four MSA for environmental consultant services for various City projects. The MSA with Cornerstone Earth Group, URS Corporation, ERM Inc., and Kleinfelder Inc. will provide a variety of environmental consultant support services for various City projects (e.g. City-owned closed landfills, municipal development projects, prospective property acquisitions). Selection of these consultant firms was carried out in accordance with Council approved policy for consultant services solicitation.

Under these agreements, consultant services will be initiated by authorized Service Orders specifying the services to be performed, the schedule, and the compensation. Services will be tailored to meet the requirements of each project and complement City staff expertise which will enable effective application of in-house resources in the most efficient and cost effective manner.

## BACKGROUND

Environmental Services Department (ESD) is responsible for regulatory compliance for environmental issues at many City-owned properties. Properties of concern include various legacy contaminated sites such as closed landfills and leaking underground fuel tank sites as well as newly acquired properties with (potential and/or confirmed) environmental impairments and properties undergoing redevelopment. ESD also provides environmental due diligence (e.g. Phase I & II Environmental Site Assessments) as part of the City's property acquisition process; in some instances, environmental consultant services are necessary to perform work that is beyond in-house expertise and/or existing resources. These MSA will provide much needed technical expertise and support on an as-needed basis. It is already anticipated that several projects will require such support within the upcoming year. The anticipated projects include necessary remediation and monitoring of impacted groundwater at the San José Family Shelter which was recently required and associated to the City's Environmental Innovation Center; technical and regulatory consultation on disposal and/or reuse of legacy biosolids at the San José/Santa Clara Water Pollution Control Plant (WPCP); site investigation and oversight of the City soccer complex redevelopment of the former FMC property; investigation and potential remediation of a recent regulatory agency-referred historic fuel leak at 333 W. Santa Clara Street; and soil & groundwater remediation at the Las Plumas Warehouse property

ESD frequently collaborates with the WPCP and routinely provides support services with other City Departments such as Public Works and Parks, Recreation, & Neighborhood Services to

assist in environmental investigations and compliance. These MSA will be utilized to support ESD and other Departments to ensure timely and effective response.

## ANALYSIS

Prior to 2008, staff relied on a project-by-project approach in acquiring consultant services for projects that required outside expertise and/or third-parties. This approach was inefficient and time consuming resulting in project delays and difficulties with remaining in environmental compliance. In 2008, following a model used b the Department Public Works (DPW), ESD conducted a Request for Qualifications (RFQ) process to enter into master service agreements for on-call environmental consultant services with three consulting firms for $100,000 each. The contracts have been successful in allowing ESD to be more flexible and responsive. Projects completed with these MSAs include Phase I and Phase II environmental investigations for several properties considered for acquisition for park development; installation of a groundwater monitoring network at the closed Roberts Avenue Landfill; development of a Soil Management Plan for the former FMC property; and remedial investigation and Corrective Action Plan development for the San Jose Family Shelter.

While the 2008 RFQ was successful in assisting the City in meeting project and regulatory deadlines, the maximum $100,000 contract limit has had some associated limitations: On at least one occasion, the scope of desired services for a larger scale project had to be scaled back to remain within the agreement limit; also, it is expected that the existing contracts will be fully expended by February 2011, prior to the expected full three year term. After discussions within ESD and other partner Departments, it became apparent that projects planned for the coming year (and likely carrying over into subsequent years) would require the specialty environmental consultant services these MSAs could provide. Furthermore, it was determined that the likely scope of work necessary to support these now anticipated projects would likely exceed the $100,000 contract allowance many times over. Therefore, ESD is now recommending higher capacity MSA contracts to accommodate these anticipated projects and to still be able to address the continued need to promptly and effectively respond to unknown needs in the future.

The anticipated projects and respective estimated costs include:

San José/Santa Clara Water Pollution Control Plant Legacy Biosolids - The current Plant Master Plan proposals include the consolidation and relocation of the current biosolids management area. To make way for this, the WPCP needs to mitigate over 400,000 cubic yards of legacy biosolids generated during the 1960s and 1970s. An investigation is currently underway to characterize the content of the biosolids. Subsequent to this investigation, consultant services will continue to be required for the evaluation of the data to determine all possible mitigation options for the legacy biosolids material (e.g. disposal as non-hazardous/hazardous waste, treatment in place, and/or consolidate and cap in place). Consultant services will also be required for regulatory interaction and engineering assistance with preparing specifications,

contracts and oversight of the resultant mitigation activity. Based on similar projects, these services could cost $250,000 or possibly more over the life of the project.

Coleman Avenue Soccer Fields (former FMC property) - The City is currently developing an RFP to construct 4 public soccer fields on the former FMC Test Track property on Coleman Avenue. A Soil Management Plan is currently being finalized to ensure the property is safe for construction workers and the public. Consultant services are needed to provide technical and regulotory assistance, contractor oversight, sampling and analysis and health & safety oversight during the design and construction phases of the project. DPW estimates the cost of this work at $250,000 over the 2 year project timeline.

San Jose Family Shelter, 1600 Las Plumas Avenue - The City recently purchased this property to become part of the adjoining Environmental Innovation Center. The site has undergone some remediation of contaminated soil and groundwater from a historic underground fuel leak. A site specific remedial evaluation completed by an environmental consultant projects the cost for remediation at approximately $450,000 over the life of remediation with an estimated $250,000 in costs over the next three years. The City will assume responsibility of the cleanup, and the City is eligible to be reimbursed up to $600,000 from the State Underground Storage Tank Cleanup Fund for the cleanup.

333 West Santa Clara Street - The City is currently planning for the investigation of a legacy fuel leak site located in the City sidewalk in front of 333 W. Santa Clara Street. The initial investigation is estimated to cost $25,000 and is expected to be completed in 2011. Depending on the results, further investigation and/or cleanup (if needed) could add significant additional costs.

Each of the aforementioned projects would be tasked amongst the four MSA's taking into consideration each of the consultant's technical specialty, institutional knowledge (i.e. consultants that may have a historical working knowledge of a particular site), and project load capacity. The aggregate total of the abovementioned anticipated projects are estimated to be $775,000; leaving a remaining balance of $225,000 to support unknown Citywide environmental projects as they arise.

Environmental issues are becoming increasingly complex and specialty-oriented. They typically involve many diverse areas of professional expertise such as: soil and groundwater contamination characterization and remediation, air quality and permitting, compliance permitting, health risk assessments, and asbestos and lead-based paint surveys. The work frequently requires specialized equipment and tools in addition to unique training, expertise, and regulatory knowledge. Furthermore, two of the consulting firms objectively selected through the RFQ process offer valuable site specific historical knowledge and perspective on ongoing projects. URS Corporation had previously worked with FMC on the now City-owned property and is currently developing a Soil Management Plan for the site. Similarly, Kleinfelder Inc. is currently characterizing the legacy biosolids at the WPCP.

Experience has shown that successful delivery of projects requires a wide variety of expertise and effective management of time and resources. Consultant services provide the most efficient way to accomplish this diverse work.
Staff began a consultant selection process in July 2010 with a RFQ. Of the 26 firms who responded to the RFQ, the top seven were selected for interviews. The selection criteria were based on the following:

- Qualifications and expertise of the lead personnel of the firm.
- Project Approach.
- Technical Capabilities.
- Examples of Exemplary Projects.
- Classification as local/small firm per Council policy.

The top seven firms were interviewed on September 1 and 2 by staff from Environmental Services along with a panel member from the Redevelopment Agency. A combination of the written submittal and the interview scores were used to rank the firms. The top four ranked firms were selected for contract negotiation.

1 Cornerstone Earth Group
2 URS Corporation
3 Environmental Resource Management (ERM), Inc.
4 Kleinfelder, Inc.

The RFQ process encourages local consultant participation by awarding additional points to firms that are classified as local per Council policy. All four firms selected qualified as having local offices and have extensive experience in San José. One firm, Cornerstone Earth Group also qualified as a small business.

Staff has negotiated flat fee schedules and lower equipment, materials and sub-consultant mark-up costs with the four consultants in each of the 3-year contracts. Staff will determine the award of individual service orders to each of the consultant firms based on their expertise, cost and availability. Having multiple firms available will enable staff to issue a Service Order to the firm able to complement staff expertise in a specific technical discipline, ensuring the most cost effective and efficient use of staff and consultant resources. Staff will negotiate costs with the consultants on project proposals. When appropriate, ESD will obtain multiple bids from at least 3 of the consultants to ensure project costs are efficiently managed.

City staff therefore recommends the approval of MSA with these four firms.

## EVALUATION AND FOLLOW-UP

These MSA will provide staff with the ability to engage the services of an environmental consultant on an as-needed basis, thereby enabling a more cost effective and timely delivery of

projects. No additional follow up action with the Council is expected at this time. Amendment to the agreements to increase the compensation payable, as needed, will be subject to Council approval at a later date.

## POLICY ALTERNATIVES

***Alternative # 1*:** An alternative approach to accomplish this effort would be for all work to be performed by City staff in lieu of the proposed partnership effort with outside professional environmental consulting firms.
**Pros:** Some of the work would be done by City staff.
**Cons:** In-house staff does not possess all the required technical capability and specialized equipment across the broad range of expertise anticipated for these projects. Some of the anticipated work will require regulatory oversight and third-party reporting by registered engineers and/or geologists in various technical specialties.
**Reason for not recommending:** The City would need to hire several new staff members with the knowledge, expertise, and/or certification in a variety of environmental areas such as: hazardous waste investigations, air quality, health risk assessments, remediation system design, and asbestos and lead-based paint surveys. Specialized equipment would need to be obtained or leased to perform duties. Portions of the anticipated work would still need to be performed by third-party licensed engineers, geologists or other specialists to meet regulatory requirements.

***Alternative # 2*:** An alternative approach to accomplish this effort would be to perform a separate RFQ process for each of the large projects described in the analysis section of this memo.
**Pros:** The RFQ selection process would focus on the specific needs of each project instead of the broader scope of work specified in the recent RFQ which could result in more project specific expertise and possibly lower negotiated costs
**Cons:** The RFQ selection process typically takes several months to complete and involves a large amount of staff work to develop project specific RFQs, solicit responses, interview consultants, negotiate contracts and obtain Council approval. The aforementioned large projects require more timely response due to upcoming regulatory and/or construction deadlines. Furthermore, by having consultants attached to specific projects only, there will be no ability to quickly respond to unforeseen projects that require immediate response. Potential project-specific advantages could be cancelled out by loss of reduced consultant overhead when dealing with multiple projects.
**Reason for not recommending:** This alternative will not allow the City prompt continuity in mitigating the aforementioned large projects and will limit the City's flexibility and response time for handling unforeseen environmental projects, possibly leading to missing regulatory deadlines and potentially subject the City to violations and/or fines. Pursuing multiple RFQs for similar services will lead to much higher staff work loads to ESD, other City Departments, and Council. Low bid cost control measures can still be accomplished with multiple consultant MSAs by having each contracted consultant issue proposals, when necessary.

## 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)**

This memorandum will be posted on the City's website for the February 15, 2011 Council agenda. Also, a Request for Qualifications was advertised on the City's Internet Bid Line.

## COORDINATION

This memorandum was coordinated with the DPW, Budget Office, and the City Attorney's Office. This item was heard at the February 10, 2011 Treatment Plant Advisory Committee meeting.

## COST SUMMARY

No funding is needed to approve these MSA. Funds will be appropriated as needed for the various City projects.

## CEQA

Not a Project, File No.PP10-066 (a), Agreements and Contracts for purchase of professional services.

/s/
JOHN STUFFLEBEAN
Director, Environmental Services

For questions please contact Napp Fukuda, Manager, Sustainability and Compliance Division at (408) 975-2594.