



COUNCIL AGENDA: 5/24/11
ITEM: 2.8

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

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

SUBJECT: See Below

DATE: 5/2/11

Approved

Date 5/9/11

COUNCIL DISTRICT: City-Wide

SUBJECT: FIRST AMENDMENT TO CONSULTANT AGREEMENT WITH DAVID J. POWERS & ASSOCIATES, INC. FOR AIRPORT ENVIRONMENTAL ANALYSIS SERVICES

RECOMMENDATION

Approve First Amendment to the Consultant Agreement with David J. Powers & Associates, Inc. for Airport environmental analysis services, extending the term of the Agreement from 7/1/11 to 6/30/14 and increasing compensation from \$250,000 to \$350,000.

OUTCOME

Approval of the proposed amendment to the Agreement will provide continuity for ongoing and as-needed environmental analysis expertise for Airport operation and development.

BACKGROUND

The City has historically utilized the services of environmental consultants for Airport operational and development issues and projects. These services have included preparation of environmental documents pursuant to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), and on-call analyses or guidance regarding development or implementation of specific environmental programs and mitigation measures.

In April 2008, based on the results of a competitive procurement process, Council approved a Consultant Agreement with David J. Powers & Associates, Inc. (Consultant) for Airport environmental services for a term extending to 6/30/11 and a compensation of \$250,000. Staff now recommends that the Agreement be extended three years to June 30, 2014, with compensation increased by \$100,000 to a total of \$350,000 to cover the cost of anticipated services over the extended term.

ANALYSIS

David J. Powers & Associates is a local firm that has provided much of the City's airport environmental analysis services for the past twenty years. Under the current Consultant Agreement, the firm has successfully completed two addenda to the City's Airport Master Plan Environmental Impact Report (EIR) in support of development programs and projects, two federally-required environmental analyses for FAA grant applications, and on-call assistance on several technical or regulatory issues. A continuation of these types of services is needed, particularly as the Airport proceeds with further implementation of the Airport Master Plan, including development of new or reconfigured facilities outside the terminal area zone.

As approximately \$155,000 of the current Agreement's compensation of \$250,000 has been expended to date, an increase in compensation to \$350,000 would support the Agreement's term extension. As under the current Agreement, all work performed by the Consultant will be specifically authorized by staff on an as-needed basis.

San Jose Municipal Code Section 4.12.210 requires that the City engage in a competitive procurement on all professional services contracts with a payment amount exceeding \$10,000. Unless Council determines that it is not practical for the City to engage in a competitive procurement, the Municipal Code requirements apply to consultant agreement amendments such as the proposed First Amendment to extend the term and increase maximum compensation. Council may make a determination that an unusual or unique situation exists that makes the application of the requirements for competitive procurement of the services included in the consultant agreement amendment contrary to the public interest. Staff recommends that Council determine that it is not practical to engage in a new competitive procurement because a continuation of the Consultant's services is critical to accomplishing the expert and often time-critical environmental analyses referenced above. The Consultant's experience and knowledge regarding the Airport is therefore sufficient basis for a determination that a unique situation exists that would make the application of the requirements for a new competitive procurement contrary to the public interest.

POLICY ALTERNATIVES

***Alternative:** Direct staff to conduct a new competitive procurement for an environmental services consultant to the Airport.*

Pros: Allows competitive process to ensure best available firm is providing the needed services.

Cons: Administrative burden to conduct competitive process, and potential diminished value of services due to learning curve if a new consultant is selected.

Reason for not recommending: David J. Powers & Associates has developed a high degree of familiarity with the specific environmental issues impacting the Airport and has performed its duties with superb competence and timeliness.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1million 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 above criteria do not apply to the proposed Consultant Agreement amendment; however, it will be posted on the City's Council Agenda Website for the May 24, 2011 City Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and 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, the Airport Master Plan, and the City's Guiding Principles for Budget and Financial Management.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$100,000
2. COST ELEMENTS OF AGREEMENT:
 - Original Agreement \$250,000
 - First Amendment (pending) \$100,000
 - TOTAL AGREEMENT AMOUNT: \$350,000
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.

HONORABLE MAYOR AND CITY COUNCIL

5/2/11

Subject: 1st Amendment to Consultant Agreement for Airport Environmental Analyses

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BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn. 2010-2011	Amt. for Contract	2010-2011 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
527	4007	Advanced Planning	\$1,196,000	\$100,000	V-748	10/19/10 28829

CEQA

Not a Project, PP10-066(d), Consultant Services for Design/Study/Research/Inspection.

/s/

WILLIAM F. SHERRY, A.A.E.

Director of Aviation

Airport Department

Please direct questions to William Sherry, Director of Aviation, 392-3610.

WFS:CG