

**CALENDAR ITEM
C44**

A
) Statewide
S

08/22/08
Bid Log 2008-04
PRC 3414.1; W9777.14;
W30068.13; R07504
D. Brown, A. Abeleda
E. Gillies, N. Smith

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER
TO SOLICIT PROPOSALS FOR CONSULTANT SERVICES, NEGOTIATE FAIR AND
REASONABLE PRICE, AWARD AND EXECUTE AGREEMENTS FOR
PREPARATION OF ENVIRONMENTAL DOCUMENTATION AND MITIGATION
MONITORING FOR PROPOSED MARINE TERMINAL DECONSTRUCTION AND
PIELINE ABANDONMENT IN CONTRA COSTA COUNTY**

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

BACKGROUND:

Pacific Refining Company (Pacific Refining) maintains a Marine Terminal in San Pablo Bay near the city of Hercules. The Marine Terminal consists of an offshore concrete structure, supported by concrete piles located at the edge of the deep water channel in southeastern San Pablo Bay. The Marine Terminal is no longer in service and much of the equipment has been decommissioned. Since 1997, the Marine Terminal and associated pipelines have been idle and maintained by Pacific Refining in caretaker status in compliance with CSLC requirements for safety, environmental operations, and maintenance. The Proposed Project is to terminate the lease PRC 3414 for the Marine Terminal. As a condition of the lease termination, Pacific Refining proposes to 1) remove the existing offshore Marine Terminal that was used for loading and unloading crude oil and petroleum products during operation of the Pacific Refining Refinery, 2) abandon in place submerged and buried petroleum transfer pipelines and utility conduits that connected the Marine Terminal to the Refinery, and 3) abandon in place transfer pipelines, utility conduits, and a vault on the Hercules shoreline. The California State Lands Commission has jurisdiction over the Marine Terminal in San Pablo Bay.

The CSLC, as Lead Agency, intends to prepare California Environmental Quality Act (CEQA) environmental documentation that would evaluate the potential for significant

CALENDAR ITEM NO. **C44** (CONT'D)

impacts from the proposed construction activities, and determine the need for preventative measures and/or monitoring during deconstruction and abandonment.

PROPOSED ACTIVITY:

Pacific Refining Company (Pacific Refining) maintains a Marine Terminal in San Pablo Bay near the city of Hercules. The Marine Terminal consists of an offshore concrete structure, supported by concrete piles located at the edge of the deep water channel in southeastern San Pablo Bay. The Marine Terminal is no longer in service and much of the equipment has been decommissioned. Since 1997, the Marine Terminal and associated pipelines have been idle and maintained by Pacific Refining in caretaker status in compliance with CSLC requirements for safety, environmental operations, and maintenance. The Proposed Project is to terminate the lease PRC 3414 for the Marine Terminal. As a condition of the lease termination, Pacific Refining proposes to 1) remove the existing offshore Marine Terminal that was used for loading and unloading crude oil and petroleum products during operation of the Pacific Refining Refinery, 2) abandon in place submerged and buried petroleum transfer pipelines and utility conduits that connected the Marine Terminal to the Refinery, and 3) abandon in place transfer pipelines, utility conduits, and a vault on the Hercules shoreline. The California State Lands Commission has jurisdiction over the Marine Terminal in San Pablo Bay.

Consideration of this proposed project consistent with the CEQA will require environmental documentation, and possibly mitigation monitoring. The Executive Officer requests delegation of authority to engage a consultant for this purpose. The CSLC shall select the Consultant in accordance with the procedures specified in the CSLC Regulations and in the State Contract Manual, on the basis of demonstrated competence and qualifications for the types of services to be performed, and at a fair and reasonable price. All costs shall be recovered from the project applicant.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

2. Approval of this item by the Commission does not constitute approval of the proposed lease; it only authorizes consultant contracts for environmental review.

STATUTORY AND OTHER REFERENCES:

CALENDAR ITEM NO. **C44** (CONT'D)

- A. Public Resources Code Section 6106 (Delegation to execute written instruments)
- B. State Contracts Manual Section 11.00 (A & E method)
- C. Public Contract Code Section 6106
- D. Government Code Section 4526
- E. California Administrative Code Title 2 Article 13 Section 2980.0 - 2990.0

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THESE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL CODE REGS. 15060(c)(3) BECAUSE THESE ACTIVITIES ARE NOT PROJECTS AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL CODE REGS. 15378.
2. FIND THAT THE SELECTION OF CONSULTANTS UNDER THIS PROCESS DOES NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOVERNMENT CODE SECTION 11342, SUB. (H), BECAUSE THEY WILL BE ACCORDED EQUAL OPPORTUNITY TO SUBMIT STATEMENTS OF QUALIFICATIONS AND PERFORMANCE DATA.
3. FIND THAT THE SELECTION OF CONSULTANTS UNDER THIS PROCESS FOR PROFESSIONAL SERVICES OF ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING OR CONSTRUCTION PROJECT MANAGEMENT SERVICES WILL BE CONSISTENT WITH PROCEDURES AND POLICIES ADOPTED BY THE COMMISSION AS SPECIFIED IN GOVERNMENT CODE SECTION 4526 AND TITLE 2, CALIFORNIA CODE OF REGULATIONS 2980 –2980.9.
4. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO SOLICIT PROPOSALS, NEGOTIATE A FAIR AND REASONABLE PRICE, AWARD AND EXECUTE CONTRACTS FOR ENVIRONMENTAL DOCUMENTATION AND MITIGATION MONITORING IN ACCORDANCE WITH STATE POLICIES AND PROCEDURES.
5. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH PROJECT APPLICANT TO RECOVER COSTS INCURRED IN THE CONSIDERATION OF THIS PROJECT.