

**CALENDAR ITEM
C56**

A
S) Statewide

10/29/10
Bid Log 2010- 08, RA 02910
WP4769, W30068-18
D. Oetzel, J. Walter
A. Abeleda, D. Brown

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER
TO SOLICIT STATEMENTS OF INTEREST FOR CONSULTANT SERVICES,
NEGOTIATE FAIR AND REASONABLE PRICE, AWARD AND EXECUTE
AGREEMENTS FOR IMPLEMENTATION OF THE MITIGATION MONITORING
PROGRAM (MMP) ADOPTED FOR THE PLAINS ALL AMERICAN MARINE OIL
TERMINAL LEASE (FORMERLY SHORE TERMINALS LLC) IN THE CITY OF
MARTINEZ, CONTRA COSTA COUNTY**

PARTY:

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

BACKGROUND:

In September 1998, the CSLC approved assignment of this lease (PRC 4769) from the Wickland Oil Company (Wickland) to Shore Terminals, LLC (Shore). The initial term of the CSLC lease with Wickland was for 25-years, with two 10-year renewal options. In October 1998, Shore applied to the CSLC to exercise the first of its 10-year options, with no change in current operations.

On August 8, 2005, the CSLC granted a new 20-year lease to Shore for the continued operation of the Terminal. The lease allows vessel transfers of crude oil and petroleum products to upland storage facilities located on private land and includes annual dredging of up to 6,000 cubic yards per year.

On August 14, 2008, the CSLC approved assignment of the controlling of the lease to Plains All American L. P. (Plains), who agreed to perform the terms, conditions, and covenants of the Terminal Lease.

The Terminal was built in 1973 as a barge and tanker loading / unloading facility. It consists of a 40 x 100 foot concrete wharf connected to land by a 1,700 foot long trestle supporting an 11 foot wide roadway and pipe rack, and an existing 12-inch petroleum pipeline across Pacheco Slough and along Waterfront Road. It is capable of operating year-round, 24-hours per day. It is used to transfer crude oil and petroleum products

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such as gasoline, gasoline components, diesel fuel, and residual fuel oils. The wharf routinely handles vessels up to 96,000 dead weight tons (DWTs). Its design capacity allows it to handle vessels up to 150,000 DWTs and 950 feet in length.

On August 8, 2005 the Final Environmental Impact Report (FEIR) was certified and the 20-year lease was approved along with the following:

- CEQA Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15091.
A Mitigation Monitoring Program prepared in conformance with the provisions of the CEQA (Public Resources Code section 21081.6).
- A Statement of Overriding Considerations (SOC) made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093)

The FEIR can be viewed on the Commission's website at www.slc.ca.gov "CEQA Updates".

PROPOSED ACTIVITY:

The Executive Officer requests delegation of authority to engage a consultant for the purpose of implementing the Mitigation Monitoring Program for the lease. The term of the agreement to be awarded under the Statement of Interest (SOI) will be for three years with an option to renew for an additional two years. Consultant selection shall be conducted consistent with procedures as specified in 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 staff and consultant costs shall be recovered from the lessee.

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 CEQA because it is not a "project" as defined by 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.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code Section 6106 (Delegation to execute written instruments)
- B. State Contracts Manual Section 11.00 A & E method (rev. 10/05)

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- C. Public Contract Code Section 6106
- D. Government Code Section 4526
- E. California Administrative Code Title 2 Section 2980.0 - 2990.0
- F. Government Code Section 19130
- G. California Administrative Code Title 14 Section 15045

IT IS RECOMMENDED THAT THE COMMISSION:

1. Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, Section 15060(c)(3) because the activity is not a project as defined by Public Resources Code Section 21065 and Title 14, California Code of Regulations, Section 15378.
2. Find that the services are of limited duration and are of such urgent, temporary and occasional nature that the delay in their implementation under civil service would frustrate their very purpose as specified in Government Code Section 19130 (b) (10).
3. Find that the selection of consultants under this process does not affect small businesses as defined in Government Code Section 11342.610, because they will be accorded equal opportunity to submit statements of qualifications and performance data.
4. 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.
5. Authorize the Executive Officer or his designee to solicit proposals, negotiate a fair and reasonable price, award and execute contracts for mitigation monitoring in accordance with State policies and procedures.
6. Authorize the Executive Officer or his designee to enter into an agreement with lessee to recover all costs incurred in the performance of this work.