

**CALENDAR ITEM
C90**

A Statewide

02/22/13

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Bid Log 2012-12

W26636, W30193, R11112

A. Abeleda, D. Brown, C. Herzog

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER TO SOLICIT
STATEMENTS OF INTEREST FOR CONSULTANT SERVICES, NEGOTIATE FAIR
AND REASONABLE PRICE, AWARD AND EXECUTE AGREEMENTS FOR
PREPARATION OF ENVIRONMENTAL DOCUMENTATION AND MITIGATION
MONITORING FOR THE PROPOSED DEEPWATER DESAL CENTRAL COAST
REGIONAL WATER PROJECT IN MONTEREY COUNTY**

PARTY:

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

BACKGROUND:

DeepWater Desal, LLC (DWD or Applicant) proposes the Central Coast Regional Water Project (Project), which includes the construction and operation of a reverse osmosis seawater desalination facility in Moss Landing and offshore waters within the Monterey Bay National Marine Sanctuary (MBNMS), Monterey County.

From the information that DWD has provided, in consultation with other California responsible and/or trustee agencies for the whole Project, and in accordance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, the Commission has determined: (1) that it has the principal responsibility for carrying out or approving the Project, which may have a significant effect upon the environment, and is therefore the CEQA lead agency; and (2) that the Project will require the preparation of an Environmental Impact Report in accordance with CEQA; a joint EIR/Environmental Impact Statement (EIS) may be prepared if so requested by a federal lead agency pursuant to the National Environmental Policy Act (NEPA).

PROPOSED PROJECT:

The proposed facility would produce approximately 25,000 acre feet (8.1 billion gallons) of potable water per year for use in Santa Cruz, Monterey and San Benito Counties. Project components may include: (1) adaptive reuse of existing infrastructure at the

CALENDAR ITEM NO. **C90** (CONT'D)

Moss Landing Power Plant (MLPP) for the desalination facility; (2) replacement of an existing fuel oil pipeline (located within an offshore easement on both State sovereign lands and lands granted to the Moss Landing Harbor District) with a new seawater intake pipeline of larger diameter that would terminate at existing wet wells on the MLPP site; (3) co-location with a digital data storage facility (data center); and (4) brine discharge through existing cooling water discharge lines at the MLPP. According to DWD, the placement of the intake pipeline in deep waters within the Monterey Canyon would minimize entrainment and impingement of larvae because the seawater would be taken from below the photic zone. The low turbidity associated with the seawater at this depth would also reduce the need for pre-filtration, and the heat from the co-located data center would warm the seawater used in the desalination process.

PROPOSED ACTIVITY:

The Executive Officer requests delegation of authority to engage consultants to prepare the EIR (or joint EIR/EIS) and, if the Project is approved, possibly implement the Project Mitigation Monitoring Program. Consultant selection shall be conducted in accordance with the procedures as specified in Commission 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.

The EIR will address potential impacts to sensitive habitat of state- and federal-listed species, air quality/greenhouse gas emissions, cultural resources, and potential impacts from other Project activities. For sensitive areas which cannot be avoided, the EIR will provide measures to reduce impacts to the maximum extent feasible. The Commission may recommend that a monitoring plan with appropriate guidelines be adopted to ensure that any proposed mitigation measures would be accomplished.

OTHER PERTINENT INFORMATION:

1. The staff recommends that the Commission find that the subject solicitation does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with CEQA.

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

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

CALENDAR ITEM NO. **C90** (CONT'D)

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code section 6106 (Delegation to execute written instruments)
- B. State Contracts Manual Volume 1 Chapter 11.00 A & E method (rev. 10/05)
- C. Public Contract Code section 6106
- D. Government Code section 4526
- E. California Administrative Code, Title 2, Article 13, sections 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 subject solicitation is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, 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, subdivision (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 California Code of Regulations, Title 2, sections 2980-2980.9.
5. Authorize the Executive Officer or her 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.
6. Authorize the Executive Officer or her designee to enter into an agreement with Project applicant to recover costs incurred in the consideration of this Project.