

**CALENDAR ITEM
C69**

A Statewide

08/15/14
Bid Log 2014-07
W 9777.5
W 30068.11
RA# 01814
A. Abeleda
D. Brown
S. Mongano

S Statewide

CONSIDER GRANTING AUTHORITY TO 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 CHEVRON LONG WHARF MAINTENANCE AND EFFICIENCY PROJECT BY CHEVRON PRODUCTS COMPANY AT RICHMOND, CONTRA COSTA COUNTY

PARTY:

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

BACKGROUND:

Chevron Products Company (Chevron) is planning the development, construction and operation of the Chevron Long Wharf Maintenance and Efficiency Project (Project), related to the maintenance and reliability of the Chevron Long Wharf Marine Oil Terminal (Wharf) in Contra Costa County.

PROPOSED PROJECT:

The proposed project will replace end-of-life equipment such as loading arms at Berths 1, 3, and 4, replace the existing gangway at Berth 1, and add new gangways at Berths 2 and 3. In addition, for Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) compliance, the fenders and cranes will be replaced at Berth 2 and the Berth 4 loading platform will be seismically retrofit. The changes will not expand the frequency of use or amount of product transferred at the wharf.

PROPOSED ACTIVITY:

Pursuant to paragraph 10 of the lease PRC 8818 between the California State Lands Commission (CSLC or Commission) and Chevron dated July 1, 2006 (Lease), CSLC consent for maintenance, alterations, and MOTEMS compliance work at the Wharf is ministerial at the staff level. The Project, as proposed, requires Chevron to obtain state

CALENDAR ITEM NO. **C69** (CONT'D)

environmental permits from the California Department of Fish and Wildlife, the Bay Conservation and Development Commission, and the Regional Water Quality San Francisco Board. Chevron has attempted without success to obtain a commitment by any agency to assume Lead Agency status for purposes of the California Environmental Quality Act (CEQA). Without an agency being designated as the CEQA Lead Agency, the proposed Project will not be CEQA compliant and will not commence.

Given the need for a CEQA Lead Agency to conduct the environmental review necessary to evaluate the Project, Chevron has requested that the CSLC act as the CEQA Lead Agency for this Project. Under paragraph 10(b)(2)(D) of the Lease, the Commission has the authority to require discretionary approval for any project or activity “the Commission directs should be brought to it for consideration.” Commission staff believe that, under the Lease, approval of the Project would usually be a ministerial task; however, unique circumstances exist (namely, that no other agency has agreed to assume the Lead Agency role and the Project will provide needed upgrades to bring the wharf into compliance with MOTEMS) that warrant the Commission directive that consideration of the Project be brought before the Commission for its discretionary approval.

As a corollary, in accordance with Public Resources Code section 21067 and the California Code of Regulations, Title 14, section 15051, the Commission has determined 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 lead agency under CEQA.

Consideration of this proposed Project will require environmental documentation, and possibly monitoring, in accordance with CEQA. The Executive Officer requests delegation of authority to engage a consultant for this purpose. 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 environmental documentation will address potential impacts to sensitive habitat of state and federally listed species, cultural resources, and potential impacts from other proposed Project activities. For sensitive areas which cannot be avoided, the environmental documentation will provide measures to reduce impacts as much as possible. The Commission may recommend that a monitoring plan with appropriate guidelines be adopted to ensure that any proposed mitigation measures would be accomplished.

CALENDAR ITEM NO. **C69** (CONT'D)

OTHER PERTINENT INFORMATION:

1. The staff recommends that the Commission find that the subject proposal 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 lease; it only authorizes consultant contracts for environmental review.

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. 11/12)
- 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. Pursuant to paragraph 10(b)(2)(D) of the Lease, direct that approval of the Project be brought before the Commission for its consideration.
2. Find that the subject proposal 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.
3. 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 19139, subdivision (b)(10).
4. Find that the selection of consultants under this process does not affect small businesses as defined in Government Code section 11342.610,

CALENDAR ITEM NO. **C69** (CONT'D)

because they will be accorded equal opportunity to submit statements of qualifications and performance data.

5. 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.
6. 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.
7. 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.