



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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MEMORANDUM

TO: The Governing Board

FROM: Executive Officer

DATE: September 24, 2007

SUBJ: **Agenda Item IV: Consideration of resolution authorizing a sole source contract with Terra Form Landscape Company for the Tujunga Wash Stream Restoration project.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing a sole source contract with Terra Form Landscape Company in an amount not to exceed \$175,000 for the Tujunga Wash Stream Restoration project.

Background: The Tujunga Wash Stream Restoration project is a nine acre park along the channelized portion of the Tujunga Wash in Van Nuys. The area is owned by the Los Angeles County Flood Control District and has been long been a blight to the surrounding neighborhood. Most of the one mile long project was previously covered with asphalt and was frequented by the homeless and local gangs. The project is adjacent to approximately 120 single family residences and 10 apartment complexes. This improvement project has taken the area and transformed it into a green corridor, planted with native trees and shrubs.

The Tujunga Wash Stream Restoration is also the first project along the Los Angeles river to divert water from the concrete channel into a naturalized stream. This one mile streambed runs along the east side of the project and will provide wildlife habitat, ground water infiltration, and an opportunity for residents of a park-poor community to experience a more natural waterway. The stream will take up to 25 cubic feet per second of water from the channel and infiltrate it into the soil.

Bidding History: The project was publically bid in 2006 and Powell Constructors was the low bidder with a bid of \$3,735,234. The project was bid with a precise landscaping plan that featured the exact type and location of each plant, shrub, and tree. This is what enabled what is essentially a Cal-Trans construction firm to install the plant materials called for in the bid.

Need for Additional Landscaping and Buffering: Many area residents have complained that the installation of new fencing has left their yards visible to park users, likewise the view from the project can be less than aesthetic. In order to have immediate community and public acceptance, landscape buffering—similar to that which was done by North East Trees

along the Elysian Valley segment of the Los Angeles River—needs to be installed in this project.

Proposed Additional Landscape Elements: The staff is recommending:

- (a) Trees consisting of 350 mixed native deciduous and non-deciduous specimens.
- (b) An additional 7,000 one, five, and fifteen gallon plants and shrubs.
- (c) Miscellaneous additions and relocations, including public amenities such as bike racks and relocation of bollards to increase security.

Professional Services Contract vs. Public Works Contract: Projects like the Tujunga Wash Stream Restoration typically involve a mixture of professional services and contractor built public works. When this project was originally bid the Authority's Chief Landscape Architect, Stephanie V. Landregan, ASLA, approved the plans and upon this basis Powell Constructors was able to bid the specifics as part of their public works contract. Ms. Landregan is currently on vacation, and when she returns virtually all of her time will be required on the Vista Hermosa project. She is the only licensed landscape architect on staff. Therefore, it is necessary to hire an outside licensed landscape architecture firm to do this work.

Professional Services Contracts Do Not Require Competitive Bidding: Section 4526 of the Government Code provides, in part, as follows:

Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private architectural, *landscape architectural*, engineering, environmental, land surveying, or construction project management firms shall be on the basis of *demonstrated competence and on the professional qualifications necessary* for the satisfactory performance of the services required. [Italics added.]

Demonstrated Competence: Terra Form Landscape specializes in the installation of native landscape and has frequently worked on several projects of the Authority, including Ballona Creek, the Arroyo Seco Parkway, and Mulholland Overlooks. Because of this previous experience Terra Form is familiar with the native plant palette of this area and the unique requirements of the Authority. It is the professional evaluation of your staff that Terra Form will be able to complete the additional planting based on a sample planting area and has the equipment and staff available to complete the project on time.

Professional Qualifications: The principals at Terra Form are fully licensed by the California

Architects Board, Landscape Architecture Technical Committee.

Alternative Analysis for Public Works Contract: Even viewed as a public works contract with professional services components, the proposal before the Governing Board qualifies as a sole source contract. Generally speaking, contracts should be competitively bid but the law recognizes exceptions to this rule. For state contracts the Department of General Services has broad powers to approve non-competitively bid contracts (Pub. Contract Code § 10348(a)). The Authority does not have a specific policy limiting the Governing Board's discretion to award sole source contracts, but generally accepted procurement policy limits sole source contracts. For example, Federal Procurement Regulations (§ 6.302-1) specify instances where a sole source contract is appropriate:

- A) Substantial duplication of cost to the Government that is not expected to be recovered through competition; or
- B) Unacceptable delays in fulfilling the agency's requirements.

Both of these factors come into play with this contract. Because of the nature of the work, cost recovery is unlikely through competition. Labor costs are fixed by the prevailing wage provisions of the Davis-Bacon Act made applicable to this project by state bond provisions. Moreover, a competitive process requires at a minimum four weeks and more likely six weeks or more. Because this project will be dedicated and opened to the public on November 7, 2007 time is of the essence.

Conclusion: Based on either (1) a professional services contract analysis, or (2) a mixed public works and professional services contract basis, awarding this sole source contract to Terra Form is fully justified by law and policy.