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Title: RESOLUTION AUTHORIZING AMENDMENT NO. 04 TO AGREEMENT NO. 148-2019MA WITH APEX COMPANIES, LLC FOR CHULA VISTA BAYFRONT STORM WATER POLLUTION PREVENTION PLAN (SWPPP) SERVICES TO INCREASE THE AGREEMENT AMOUNT BY \$220,000.00 INCREASING THE AGGREGATE TOTAL OF THE AGREEMENT FROM \$759,922.80 TO \$979,922.80. FUNDS ARE BUDGETED IN THE FY 2019-2023 CAPITAL IMPROVEMENT PROGRAM FOR THE SOUTH CAMPUS PAVEMENT AND FOUNDATION DEMOLITION AND THE SITE PREPARATION AT CHULA VISTA BAYFRONT PROJECTS. THIS ACTION DOES NOT INCREASE THE PROJECT BUDGETS.

Sponsors:

Indexes:

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Attachments: 1. 1. 2021-0098 Attachment A, 2. 1. 2021-0098 Attachment B, 3. 1. 2021-0098 Attachment C, 4. 1. 2021-0098 Attachment D, 5. 1. 2021-0098 Attachment E, 6. 1. 2021-0098 Draft Resolution

Date	Ver.	Action By	Action	Result
6/15/2021	1	Board of Port Commissioners	adopted	Pass

DATE: June 15, 2021

SUBJECT:

RESOLUTION AUTHORIZING AMENDMENT NO. 04 TO AGREEMENT NO. 148-2019MA WITH APEX COMPANIES, LLC FOR CHULA VISTA BAYFRONT STORM WATER POLLUTION PREVENTION PLAN (SWPPP) SERVICES TO INCREASE THE AGREEMENT AMOUNT BY \$220,000.00 INCREASING THE AGGREGATE TOTAL OF THE AGREEMENT FROM \$759,922.80 TO \$979,922.80. FUNDS ARE BUDGETED IN THE FY 2019-2023 CAPITAL IMPROVEMENT PROGRAM FOR THE SOUTH CAMPUS PAVEMENT AND FOUNDATION DEMOLITION AND THE SITE PREPARATION AT CHULA VISTA BAYFRONT PROJECTS. THIS ACTION DOES NOT INCREASE THE PROJECT BUDGETS.

EXECUTIVE SUMMARY:

This action will authorize Amendment No. 04 to Agreement No. 148-2019MA with Apex Companies, LLC (Apex) for continued Storm Water Pollution Prevention Plan (SWPPP) services at the Chula Vista Bayfront (CVB). Services performed under the agreement include temporary water pollution control Best Management Practices (BMP) inspections, maintenance, and repair services for Capital Improvement Program (CIP) projects at the CVB including the South Campus Pavement and Foundation Demolition and the Site Preparation at Chula Vista Bayfront projects.

This action would provide staff the ability to utilize the additional capacity in the Apex agreement to

address current and future SWPPP requirements for ongoing and future site developments, weather conditions, and coordination for placement and stabilization of additional imported pre-qualified soil at the CVB.

RECOMMENDATION:

Resolution authorizing amendment No. 04 to Agreement No. 148-2019MA with Apex Companies, LLC for Chula Vista Bayfront Storm Water Pollution Prevention Plan (SWPPP) Services to increase the agreement amount by \$220,000.00 increasing the aggregate total of the agreement from \$759,922.80 to \$979,922.80.

FISCAL IMPACT:

Funds for this service, if needed, will be sourced from the South Campus Pavement and Foundation Demolition and the Site Preparation at Chula Vista Bayfront projects in the FY 2019-2023 CIP. Approval of this agenda will authorize the expenditure of up to \$979,922.80 from the Capital Improvement Program funding appropriation.

COMPASS STRATEGIC GOALS:

- A Port with a healthy and sustainable bay and its environment.

DISCUSSION:

Development at the CVB is ongoing and includes the recent completion of the Costa Vista RV Park and the Sweetwater Bicycle Path and Promenade, and the pending start of onsite development for the Site H23 Phase 2 Grading project and the RIDA development of the Gaylord Pacifica resort hotel and convention center (Gaylord). To date the District has placed approximately 200,000 cubic yards of imported pre-qualified soil at the future Gaylord facility and Site H3. An additional 100,000 cubic yards will be placed at existing Site H23 by the District to prepare for the pending RIDA development. The RIDA development will construct the Gaylord facility and adjacent public improvement streets, utilities at Site H3, and utilize adjacent Site H23 for construction staging related to their development.

These soil import sites require SWPPP inspection, maintenance, repair, and reporting requirements imposed by the State of California's Construction General Permit (CGP) and the District's Jurisdictional Runoff Management Program (JRMP). These requirements are the responsibility of the District until the RIDA mobilizes onto the sites at the start of the Gaylord project. Currently, the District's SWPPP services at the CVB project site are provided by Apex through the Agreement No. 148-2018MA authorized by the Board on November 5, 2019.

Due to a time extension for the RIDA development staff has determined the current Apex agreement expenditure amount is insufficient for the ongoing SWPPP requirements. Therefore, staff recommends authorization to amend this agreement to add an additional \$220,000.00 capacity for the cost to continue to address the SWPPP requirements on an ongoing basis until RIDA mobilizes onto the import sites and assumes responsibility for the SWPPP requirements. The additional \$220,000.00 for the APEX agreement will result in a not-to-exceed agreement amount of \$979,922.80.

General Counsel's Comments:

The Office of the General Counsel reviewed this agenda and approved the proposed amendment as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, authorizing an amendment for SWPPP services to increase the agreement amount, was previously analyzed in the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (UPD #83356-EIR-658; SCH #2005081077; Clerk Document No. 56562), certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, which was adopted by the Board on August 13, 2013 (Resolution No. 2013-138), the Second Addendum to the FEIR, which was adopted by the Board on April 10, 2018 (Resolution No. 2018-0069), and the Third Addendum to the FEIR, which was adopted by the Board on December 8, 2020 (Resolution No. 2020-116). The proposed Board action is not a separate “project” for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR and Addendums, the District finds that the proposed Board action does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the FEIR and Addendums due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the FEIR and Addendums, (b) identifies significant impacts would not be more severe than those analyzed in the FEIR and Addendums, or (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and 3) no changes to mitigation measures or alternatives have been identified or are required. Pursuant to CEQA Guidelines §15162(b), the District finds that no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step-in furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

The proposed Board action complies with Sections 21 and 35 of the Port Act which allow for the Board to pass resolutions and to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed actions are consistent with the Public Trust Doctrine.

The proposed Board action was covered in the CDP for Site Preparation at Chula Vista Bayfront (CDP-2017-01; Clerk Document No. 66187) approved by the District on January 25, 2017 and the amendment to the CDP issued by the District on November 1, 2018. The proposed Board action is consistent with the project in that CDP and amendment. No additional action under the California Coastal Act is required at this time.

Diversity, Equity, and Inclusion Program:

Due to limited known sub opportunities, no SBE goal was established for this agreement. APEX did identify SBE’s as part of their team.

PREPARED BY:

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Attachment(s):

Attachment A: Agreement between San Diego Unified Port District and Apex Companies, LLC for Chula Vista Bayfront SWPPP Services - Agreement No. 148-2019MA

Attachment B: Amendment No. 1 To Agreement between San Diego Unified Port District and Apex Companies, LLC for Chula Vista Bayfront SWPPP Services - Agreement No. 148-2019MA

Attachment C: Amendment No. 2 To Agreement between San Diego Unified Port District and Apex Companies, LLC for Chula Vista Bayfront SWPPP Services - Agreement No. 148-2019MA

Attachment D: Amendment No. 3 Agreement between San Diego Unified Port District and Apex Companies, LLC for Chula Vista Bayfront SWPPP Services - Agreement No. 148-2019MA

Attachment E: Amendment No. 4 Agreement between San Diego Unified Port District and Apex Companies, LLC for Chula Vista Bayfront SWPPP Services - Agreement No. 148-2019MA