



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Aitken
Margaret McCahan

SUBJECT: SEE BELOW

DATE: November 27, 2018

Approved

Date

12-4-18

**SUBJECT: FIRST AMENDMENT TO MASTER CONSULTANT AGREEMENT
WITH DAVID J. POWERS & ASSOCIATES, INC. FOR AIRPORT
ENVIRONMENTAL ANALYSIS SERVICES**

RECOMMENDATION

- (a) Approve a First Amendment to the Master Consultant Agreement with David J. Powers & Associates, Inc. for Airport environmental analysis services, increasing maximum compensation from \$250,000 to \$1,250,000 with no change in the term of Agreement.
- (b) Adopt the following 2018-2019 Appropriation Ordinance amendments in the Airport Renewal and Replacement Fund:
 - (1) Increase appropriation to the Airport Department for Advance Planning in the amount of \$570,000; and
 - (2) Decrease for the Unrestricted Ending Fund Balance in the amount of \$570,000.

OUTCOME

Approval of the proposed amendments will provide for ongoing and as-needed environmental analysis expertise for Airport operation and development, including preparation of an Environmental Impact Report for a proposed major amendment to the Airport Master Plan.

BACKGROUND

The Airport has historically utilized the services of environmental consultants for operational and development issues and projects. These services have included preparation of documentation required under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), as well as on-call analyses or guidance for formulating or implementing

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specific environmental programs and mitigation measures. In June 2017, following a competitive procurement process, the City executed a Master Consultant Agreement with David J. Powers & Associates, Inc. (Consultant) for Airport environmental services with a term ending June 30, 2020 and a maximum compensation of \$250,000. Staff now recommends that the Agreement be amended to increase maximum compensation by \$1,000,000 (total of \$1,250,000) to cover the anticipated cost of ongoing and as-needed services, principally the preparation of a new Environmental Impact Report for a proposed amendment to the Airport Master Plan.

ANALYSIS

David J. Powers & Associates is a Local Business Enterprise and Small Business Enterprise that has provided Airport environmental analysis services for over twenty years. Under the current Master Consultant Agreement, to date, the firm completed several CEQA addenda to the City's Airport Master Plan Environmental Impact Report (EIR) in support of development programs and projects, multiple federally-required NEPA analyses for Federal Aviation Administration (FAA) grant applications, and on-call assistance on several technical or regulatory environmental issues. Approximately \$150,000 of the current Agreement's maximum compensation of \$250,000 has been expended. However, in discussions with the City Attorney's Office (CAO) and Planning, Building and Code Enforcement Department (PBCE), the Airport's forthcoming proposed major amendment to the Airport Master Plan to extend the horizon year out from 2027 to 2037, update long-term demand forecasts, incorporate the airfield configuration changes recommended in the Runway Incursion Mitigation/Design Standards Analysis Study, and modify the layout and sizing of various landside facilities to adequately serve projected 2037 demand, warrants the preparation of a new EIR. The existing EIR was originally certified in 1997 and supplemented or addended numerous times since.

The cost to complete a new Airport Master Plan EIR is estimated at \$850,000, far exceeding the balance available in the existing Consultant Agreement. An amendment in the amount of \$1,000,000 would sufficiently cover the cost of the EIR and any other additional consultant services associated with ongoing or proposed Airport development programs and projects through the remaining term of the Agreement. As under the current Agreement, all work performed by the Consultant will be specifically authorized by staff through executed Service Orders.

San José Municipal Code Section 4.12.210 requires that the City engage in a competitive procurement on all professional services contracts including consultant agreements with a payment amount exceeding \$10,000. As noted above, the City conducted a competitive procurement process for Airport environmental services in 2017, and the new Airport Master Plan EIR falls within the types of services contemplated by the 2017 competitive procurement. In addition, the Municipal Code authorizes Council to make a determination that an unusual or unique situation exists that makes the application of the requirements for competitive procurement of the services included in the consultant agreement amendment contrary to the public interest. Staff recommends that Council determine that it is not practicable to engage in a new competitive procurement, because a continuation of the Consultant's services, in light of its

familiarity and history working on environmental issues at the Airport is critical to accomplishing the expert and often time-critical environmental analyses referenced above.

EVALUATION AND FOLLOW-UP

The preparation of a new EIR for the major amendment to the Airport Master Plan will begin immediately upon approval of this amended Consultant Agreement and be overseen by a team of staff from the PBCE, Airport, and CAO. The EIR is a critical path item for amending the Airport Master Plan and, upon completion, will be agendaized for Council hearing and certification in summer/fall 2019.

POLICY ALTERNATIVES

***Alternative:** Direct staff to conduct a new competitive procurement for an environmental services consultant to the Airport.*

Pros: Allows competitive process to ensure best available firm is providing the needed services.

Cons: Administrative burden to conduct competitive process, and potential diminished value of services due to learning curve if a new consultant is selected.

Reason for not recommending: David J. Powers & Associates has developed a high degree of familiarity with the specific environmental issues impacting the Airport as well as with City CEQA and federal agency NEPA procedures, and has performed its duties with competence and timeliness. During the competitive procurement process conducted in 2017 for the current agreement, David J. Powers & Associates was the only respondent, a testament to its expertise and experience with City projects. The proposed amendment will allow the City to continue to have professional consultant services available for Airport environmental analyses.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 18, 2018 Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and Planning, Building and Code Enforcement Department.

COMMISSION RECOMMENDATION/INPUT

The Airport Commission was briefed on this item at its public meeting on November 5, 2018.

FISCAL/POLICY ALIGNMENT

The consultant services covered under this Agreement support the ongoing operation and development of the Airport, consistent with the goals and policies of the City General Plan, the Airport Master Plan, and the City's Guiding Principles for Budget and Financial Management.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$1,000,000
2. COST ELEMENTS OF AGREEMENT:

Original Agreement	\$250,000	
First Amendment (pending)	\$1,000,000	
TOTAL AGREEMENT AMOUNT:		\$1,250,000
3. SOURCE OF FUNDING: 527 – Airport Renewal and Replacement Fund

Through October 2018, the Advance Planning appropriation in the Airport Renewal and Replacement Fund has a remaining balance of \$640,000. An additional \$570,000, as requested in the recommendation, provides sufficient funding to support the contract.

4. FISCAL IMPACT: The amended agreement will have no adverse impact on the General Fund operating budget.

BUDGET REFERENCE

The table below identifies the fund and appropriations to be amended as part of this memo.

Fund #	Appn. #	Appn. Name	Current Total Appn.	Rec. Budget Action	2018-2019 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
527	4007	Advance Planning	\$740,000	\$570,000	V-759	10/16/18, Ord. No. 30172
527	8999	Ending Fund Balance	\$5,831,693	(\$570,000)	V-707	10/16/18, Ord. No. 30172

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CEQA

Not a Project, PP17-002, Consultant Services for Design/Study/Research/Inspection.



MARGARET MCCAHAN
Budget Director

/s/

JOHN ATIEN, A.A.E.
Director of Aviation

For questions, please contact John Aitken, Director of Aviation, at 408-392-3610.