

**-CALENDAR ITEM  
C32**

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12/17/09  
Bid Log 2009-07  
WP4908

D. Brown, A. Abeleda, S. McFarlin

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER  
TO SOLICIT STATEMENTS OF INTEREST, NEGOTIATE FAIR AND REASONABLE  
PRICE, AWARD AND EXECUTE AGREEMENTS FOR MITIGATION MONITORING  
OF THE EXISTING SHELL MARINE OIL TERMINAL BY SHELL OIL PRODUCTS,  
US, CITY OF MARTINEZ, CONTRA COSTA COUNTY**

**PARTY:**

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

**BACKGROUND:**

Shell Oil Products, US (Shell), operates the marine oil terminal located on the south side of Carquinez Strait, about ½ mile west of the Benicia-Martinez Bridge in the City of Martinez, Contra Costa County. Shell leases 19.26 acres of sovereign public trust land for the marine terminal -- a barge and tanker petroleum loading/unloading facility. Shell's refinery operations use 850 acres of privately owned on-land (upland) property immediately south of the wharf.

The CSLC first issued a lease for the existing marine oil terminal to Shell Oil Company in 1948. The lease has been amended and renewed several times, and assigned to various Shell entities all by mutual consent of the CSLC and Shell. CSLC staff is currently completing an application from Shell for a new 30-year lease of sovereign public lands for its existing oil terminal and will be presenting it to Commission for consideration in the near future.

**PROPOSED ACTIVITY:**

Should the Commission certify the EIR and approve the lease renewal, a Mitigation Monitoring Program will be required in accordance with Public Resources Code Section 21081.6. Staff proposes to contract for consultant services to complement staff in ensuring compliance by the lessee of the provisions of Mitigation Monitoring Program. Solicitation and selection will be conducted consistent with Commission regulations and State policies and procedures. Work to be performed by the consultants is of a limited duration and requires a wide array of technical specialties making the use of Commission staff

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impractical. The services are of such an urgent, temporary, and occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose. All costs will be recovered from the lessee .

**OTHER PERTINENT INFORMATION:**

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (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. 10/05)
- C. Public Contract Code Section 6106
- D. Government Code Section 4526
- E. California Administrative Code Title 2 Article 13 Section 2980.0 - 2990.0
- F. Government Code Section 19130

**IT IS RECOMMENDED THAT THE COMMISSION:**

1. FIND THAT THESE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. CODE REGS. 15060(c)(3) BECAUSE THESE ACTIVITIES ARE NOT PROJECTS AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL CODE REGS. 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 (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

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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 TITLE 2, CALIFORNIA CODE OF REGULATIONS 2980 –2980.9.
5. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO SOLICIT STATEMENTS OF INTEREST, NEGOTIATE A FAIR AND REASONABLE PRICE, AWARD AND EXECUTE CONTRACTS FOR MITIGATION MONITORING IN ACCORDANCE WITH STATE POLICIES AND PROCEDURES.
6. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH LESSEE TO RECOVER ALL COSTS INCURRED IN THE PERFORMANCE OF THIS WORK.