



# City of Chula Vista

## Staff Report

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**File#:** 14-0749, **Item#:** 4.

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- A. RESOLUTION NO. 2015-025 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE FISCAL YEAR 2014-15 CIP BUDGET AND ESTABLISHING A NEW CAPITAL IMPROVEMENT PROJECT "BONITA CANYON ENVIRONMENTAL RESTORATION AND MITIGATION PROJECT (DR200)"; REDUCING THE DR189 CIP BUDGET (GENERAL FUND) BY \$377,900 AND APPROPRIATING THE EQUIVALENT AMOUNT TO DR200; ACCEPTING BIDS, AWARDING A CONTRACT IN THE AMOUNT OF \$244,602.10 TO NATURES IMAGE, INC. FOR BONITA CANYON ENVIRONMENTAL RESTORATION AND MITIGATION PROJECT (DR200); WAIVING CITY COUNCIL POLICY NO. 574-01, AND AUTHORIZING THE EXPENDITURE OF ALL AVAILABLE CONTINGENCY FUNDS IN AN AMOUNT NOT TO EXCEED \$37,397.90 (4/5 VOTE REQUIRED)
- B. RESOLUTION NO. 2015-026 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A SOLE SOURCE AGREEMENT WITH HELIX ENVIRONMENTAL PLANNING, INC. FOR THE PROVISION OF BIOLOGICAL MONITORING SERVICES DURING THE CONSTRUCTION AND SUBSEQUENT FIVE-YEAR MAINTENANCE PERIOD FOR BONITA CANYON ENVIRONMENTAL RESTORATION AND MITIGATION PROJECT

### **RECOMMENDED ACTION**

Council adopt the resolutions.

### **SUMMARY**

On March 27, 2013, in accordance with Resolution 2013-095, the Bonita Canyon Emergency Repair Project was completed in order to avert the potential threat of injury and property damage. On July 22, 2014, the US Army Corps of Engineers (ACOE) issued an approval for the Habitat Mitigation and Monitoring Plan (HMMP) for Bonita Canyon Emergency Regional General Permit No. 63 permit (RGP63). Said HMMP requires the City to install, maintain, and monitor the upland and wetland environmental mitigation for five years. Tonight's action will authorize the Director of Public Works to award a contract to Natures Image, Inc. (Natures Image) for an amount of \$244,602.10 for implementing the environmental restoration, and mitigation project as well as awarding the ongoing biological monitoring to Helix Environmental Planning for an amount of \$95,900.

### **ENVIRONMENTAL REVIEW**

The Development Services Director has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 33 Categorical Exemption pursuant to Section 15333 (Small Habitat Restoration Project) of the State CEQA Guidelines. Thus, no further environmental review is necessary.

### **BOARD/COMMISSION RECOMMENDATION**

Not Applicable

## **DISCUSSION**

On March 13, 2012, in accordance with Resolution 2012-041, the City Council appropriated in the FY 2012-13 Capital Improvement Budget, an amount of \$1,130,000 from the General Fund Reserve to DR189 for Bonita Canyon Repair Project and for subsequent environmental mitigation. In order to expedite the repair work, the project was split into two construction contracts. One contract was for the repair work and a secondary contract was issued to address the environmental mitigation needs. The City retained Rick Engineering for the design, permitting, and preparation of bid documents for the repair project.

Bonita Canyon has sensitive wetland and upland habitat, any work within the canyon must be permitted by multiple resource agencies including the ACOE, Regional Water Quality Control Board (RWQCB), US Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). Due to the complex environmental elements encountered, Rick Engineering Company retained Helix Environmental Planning, Inc. (Helix) as a subconsultant to conduct the environmental work needed for the project.

On December 31, 2012, with the assistance of Rick Engineering Company and Helix Environmental Planning (RH Team), the ACOE granted the City of Chula Vista an Emergency Regional General Permit No. 63 permit (RGP63) for the repair project.

On March 27, 2013, Cass Construction, Inc. completed the repair work for a final contract amount of \$190,543. The project permanently stabilized the existing gabion structure.

On July 22, 2014, the ACOE issued an approval letter for the HMMP (See Attachment No. 4). The HMMP approval allowed RH Team to complete the design and the bid package for the remaining environmental restoration and mitigation project.

### **A- Action No.1: Award a Contract to Natures Image for Bonita Canyon Environmental Restoration and Mitigation Project**

In accordance with provisions in Section 1009 of the City Charter, on December 30, 2014, Chula Vista staff advertised and solicited bids from contractors for Bonita Canyon Environmental Restoration and Mitigation project that implements the wetland and upland environmental mitigation including environmental restoration of disturbed wetland and the enhancement of riparian woodland areas. This contract also includes a 5-year maintenance period as required by the approved HMMP. The deadline for submitting bids for this project was January 16, 2015. The City received only one bid from Natures Image for an amount of \$244,602.10 (contractor License No. 720513).

Staff reviewed the bid and concluded it is very reasonable in comparison to RH Team's projected estimate of \$265,000. Due to unpredictable and poor field conditions, limited access points, and possible inclement weather, staff included a \$37,397.90 contingency (15.29%).

Under City Council Policy No. 574-01, if an individual change order causes the cumulative increase in change orders to exceed the Director's authority ("Maximum Aggregate Increase in Change Orders"), then City Council approval is required. The proposed resolution would also authorize the Director of Public Works to approve change orders over and above existing policy limits. The

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aforementioned policy would limit approvals to \$20,122.15. In order to expedite the project and avoid delays, approval of this resolution would increase the Director of Public Works' authority to approve change orders, as necessary, up to the contingency amount of \$37,397.90, an increase of \$17,275.75 over the limit set by Policy No. 574-0.

**B- Action 2: Enter into an Agreement with Helix Environmental Planning, Inc. (Helix) for Providing Biological Monitoring during the Installation of the Restoration and Mitigation and FOR the Subsequent 5-year Maintenance Period.**

In addition to the mitigation and maintenance, the HMMP requires that the City retain a second party to provide biological monitoring during the installation of the restoration and mitigation as well as the 5-year maintenance period after installation. Typically, the City would invite consultants to submit proposals for this work in accordance with Chula Vista Municipal Code section 2.56.110; however, in those situations where the City interests would be materially better served by applying a different purchasing procedure, the City Council may waive the standard procedure pursuant to CVMC section 2.56.070(B)(3). In this instance, Helix's familiarity with the environmental aspects of this project, stemming from their four years of work on this project; their interaction with the environmental agencies on this project; and their preparation of the project HMMP, which was approved by the resource agencies, will provide the City with several benefits not available from other consultants: other consultants would require a significant amount of time to familiarize themselves with the particular requirements of this project, and the additional time would increase the cost of the work while delaying implementation of the mitigation measures. Due to these factors, staff believes that negotiating with Helix to perform the work, rather than following the standard procedure, would be in the City's best interests. Having come to this conclusion, staff requested that Helix submit a proposal to conduct the required biological monitoring. City staff and Helix negotiated an agreed price of \$95,900 to provide biological monitoring during the installation phase of the restoration and mitigation work and for the subsequent 5-year maintenance period. Staff believes this is a fair and reasonable proposal and therefore recommends retaining Helix the contract for the biological monitoring aspect of this project.

A final requirement of the HMMP requires the City enter into a Memorandum of Understanding (MOU) with the ACOE for protecting and preserving Bonita Canyon Mitigation Area in perpetuity. Staff is currently preparing the MOU to be reviewed by the ACOE. Upon obtaining the consent of the ACOE's on the MOU, staff will return to City Council for the approval of the MOU.

**DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council and has found no property holdings within 500 feet of the boundaries of the property which is the subject of this action. Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

**LINK TO STRATEGIC GOALS**

This project will support the City's Strategic Plan as it seeks to enhance the City's Strategic Goals of Healthy Community by preserving the environment within Bonita Canyon Channel.

**CURRENT YEAR FISCAL IMPACT**

Approval of the Resolution will result in the establishment of a new CIP, DR200, and transfer of

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\$377,900 from DR189 to DR200, both funded from the General Fund. The new CIP will allow the City to pay for environmental restoration, 5-year maintenance and monitoring costs associated with the Bonita Canyon Emergency Repair Project. Sufficient funding is available in DR189 for the required transfer. The following is a breakdown of costs associated with the Bonita Canyon Project:

Summary of Costs	Amount
Amount appropriated from the General Fund Reserves (budgeted in DR189)	\$1,130,000
Bonita Canyon Construction/Repair Project (paid from DR189)	(\$483,233)
Plan development & Permitting the Environmental Restoration and Mitigation Project (paid from DR189)	(\$121,000)
Environmental Restoration and Mitigation Project (required transfer from DR189 to DR200)	(\$282,000)*
Biological Monitoring (required transfer from DR189 to DR200)	(\$95,900)*
<b>Remaining balance in DR189</b>	<b>\$147,866**</b>
* Required transfer from DR189 to DR200 is \$377,900 (\$282,000 + \$95,900). ** Anticipated to be (DR189) is completed.	

### ONGOING FISCAL IMPACT

After completion of the project, this site will require routine maintenance. Funding would be from the Public Works Operating budget as well as Open Space District #14.

### ATTACHMENTS

1. Resolutions (No. 2014-076) Nature Image's Bid
2. Helix's Agreement
3. HMMP Approval Letter from the ACOE

*Staff Contact: Jamal Naji or Roberto Yano*