

Los Cerritos Wetlands Authority

Date: May 5, 2022
To: Governing Board Members
From: Sally Gee, Project Manager
Through: Mark Stanley, Executive Officer
Subject: Item 11: Consideration of a resolution entering into a contract with Coastal Quest for the Southern Los Cerritos Wetlands Restoration Planning Project

RECOMMENDATION: That the Los Cerritos Wetlands Authority (LCWA) enter into a contract with Coastal Quest to receive funds in the amount of \$10,980 to support tribal engagement and assessment of cultural resources for the Southern Los Cerritos Wetlands Restoration Planning Project.

PROJECT DESCRIPTION: In October 2021, Coastal Quest, in collaboration with the LCWA, submitted an application to the Orange County Community Foundation (OCCF) to support ongoing tribal engagement with the LCWA's Tribal Advisory Group (TAG) and additional cultural resources investigations to complete a Tribal Cultural Landscape study for the Southern Los Cerritos Wetlands Restoration Planning Project (Project). A grant of \$30,000 was successfully awarded from OCCF through the Henry & Ellen Warne Family Fund (grant), and Coastal Quest will serve as the fiscal sponsor to receive the grant funds. To complete the scope of work in the grant, a portion of the funds will be expended directly from Coastal Quest to tribal representatives for their time and participation in the Tribal Advisory Group for the Project, and for Coastal Quest administrative costs. The remainder is intended to be reimbursed to the LCWA for expenditures on the professional services contracts with Moffatt and Nichol (LCWA 21501) and Tidal Influence (LCWA 20502) for the Project to participate in TAG meetings and to complete the Tribal Cultural Landscape Study. This board action would authorize the LCWA to enter into a contract with Coastal Quest to complete the above scope of work (Exhibit A). If approved, the term of the contract would be from May 5, 2022 – December 31, 2022.

Ongoing collaboration with tribes on restoration and public access designs is crucial to the success of this restoration project, as it will incorporate traditional knowledge and uses of the site. This funding will be beneficial to analyzing all potential tribal cultural resources impacts of the Project for CEQA and effectively engage tribes early and often in consultations. Compensation for tribal consultation is difficult to fund through state grants, therefore this work would not be possible without the assistance of Coastal Quest and funding from OCCF.

BACKGROUND: The Henry W & Ellen R Warne Family Endowment Fund was founded at OCCF to protect and promote the protection of endangered species in Orange County. The goals of the fund are to improve the health and resilience of critical coastal endangered species ecosystems, such as estuarine wetlands, and to sustain or increase coastal endangered species populations through building stronger multi-sectorial partnerships. Coastal Quest is a 501(c) 3 non-profit working collaboratively with partners to build resilient coastal communities that support diverse and rich habitats. Their mission is to create lasting solutions to protect, sustain, reduce threats to, and enhance the natural and cultural heritage of coastal environments for present and future generations.

The Los Cerritos Wetlands Southern Area Planning and Permitting Project is the next phase in the restoration of the Los Cerritos Wetlands (LCW) (Exhibit B). It will build off conceptual designs for the 100-acre LCWA owned Hellman site and 5-acre State Lands Commission Parcel developed as part of the LCW Restoration Plan Program EIR. This Project will complete 65% restoration designs, compliance with CEQA, and preparation of permit applications.

The Los Cerritos Wetlands is part of an important Traditional Cultural Landscape for Gabrielino (Gabrieleño; Tongva; Kizh) and Acjachemen (Juaneño) tribes, as it is located between two large villages, Puvungna and Motuucheyngna. The Gabrielino (Gabrieleño; Tongva; Kizh) and Acjachemen (Juaneño) tribes see the LCW and surroundings as sacred lands encompassing a larger area of connected tribal sites. Therefore, the LCWA formed a Tribal Advisory Group to advise on the restoration design of estuarine habitat in the Project that will support numerous endangered species while accommodating access for traditional cultural uses of the land and perpetually protecting all existing cultural resources. Additionally, completion of a Traditional Cultural Landscape Study will document the landscape and the features that contribute to its significance, and discusses how those features can be protected, enhanced, and restored.

The LCWA is consulting with seven tribal groups on the project through the TAG. The LCWA has met three times with the TAG between May 2021 – February 2022, including a site visit. LCWA has also met individually with tribal representatives who could not attend the group meetings. Tribal representatives expressed the need for care, respect, and tribal monitoring given the potential for tribal artifacts and possibly human remains to occur in the LCW Complex overall, as well as a desire to remain informed and involved. The 2022 scope of work for the Tribal Advisory Group will include reviewing the 30% and 65% restoration design and one or two more consultation meetings.

FISCAL: An initial request for \$75,000 was submitted to the Orange County Community Foundation through Coastal Quest to support the Tribal Advisory Group meetings, develop a tribal access plan, complete the Traditional Cultural Landscape Study, and host tribal stewardship events. A partial grant of \$30,000 was awarded from OCCF to Coastal Quest to support tribal engagement in the TAG and to complete the Traditional Cultural Landscape Study for the Southern Los Cerritos Wetlands Restoration Planning Project. More than half of the funding received will be provided to tribal members through Coastal Quest for their participation in the Tribal Advisory Group and for providing their expert review of the Study and restoration plans. Additionally, Coastal Quest will provide \$10,980 to the LCWA to host TAG meetings, consult with tribal representatives, and complete the Study. LCWA will complete the above scope through the professional services contracts with Moffatt and Nichol (LCWA 21501) and Tidal Influence (LCWA 20502) for the Southern Los Cerritos Wetlands Restoration Planning Project. The FY 21/22 budget revisions will reflect the \$10,980 in revenue from this contract.

SCOPE OF WORK & CONTRACT AGREEMENT

This **Scope of Work and Contract Agreement** ("Agreement") is made and effective May 5, 2022.

BETWEEN: **Coastal Quest**, ("CQ"), organized and existing under the laws of the State of California, with its office located at:
2625 Alcatraz Ave. #609
Berkeley, CA 94705

AND: **Los Cerritos Wetland Authority**, ("Contractor"), organized and existing under the laws of the State of California, with its office located at:
100 Old San Gabriel Canyon Road
Azusa, CA 91702

Background

CQ and Contractor agree to the following Agreement.

Term of Agreement

The expected term of this agreement shall be from May 5, 2022 – December 31, 2022. During this period, CQ anticipates using the Contractor to perform restoration planning services for CQ.

Scope of Work

Contractor shall provide services to CQ as outlined in Appendix A: Scope of Work.

Compensation and Additional Services

Consultant shall be compensated for expenses as outlined in Appendix A and will not exceed \$10,980. Requests by contractor for changes in line items or changes to scope of work will be communicated over email and approved by CQ's Executive Director over email.

Payment Terms and Conditions

Contractor shall submit invoices documenting expenses, include receipts, for each payment. CQ shall make payment to Contractor no later than 30 calendar days after presentation of invoice from Contractor.

Either party may terminate the services provided at any time, with 30 days' written notice.

Independent Contractor

The parties to this Contract intend that an independent contractor-client relationship shall be created by this Contract. The conduct and control of the work to be done under this Contract shall lie solely within the purview of Contractor. Contractor is not to be considered an agent or employee of CQ for any purpose, and no joint venture or principal-agent relationship exists. Neither Contractor nor any employee(s) of Contractor shall be entitled to any of the benefits that CQ provides for its employees. Neither CQ nor Contractor shall have any right, power, or authority to create any obligation, expressed or implied, on behalf of the other. During the term of this Contract and for a period of one year after termination or expiration, neither party will, except with prior written approval of the other party, solicit the employment of any of the other party's employees with whom such party has had contact in connection with the performance of this Contract.

Assignment/Subcontract

Contractor will subcontract for the work to be performed and does not need prior written consent of CQ.

Report

Contractor should expect at least three in person or conference call meeting with Coastal Quest and/or Orange County Community Foundation (OCCF) to discuss progress and ensure projects and reporting are on track. One final Report is required for this funding. The final Report is due to Coastal Quest by **September 23, 2022** for Coastal Quest to review and provide comments prior to submission to the donor, OCCF. OCCF provides a reporting template. Please use the grant reporting guidelines specific to your grant program which you will find online at www.oc-cf.org. You may request an electronic copy of these guidelines at any time. All ecological monitoring data produced from this grant is required to be submitted to the California Natural Diversity Database (CNDDDB). CNDDDB is an inventory database that includes the status and GIS-mapped locations of rare species in California. To submit data, use the online field survey form here: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. Any questions can be sent to CNDDDB@wildlife.ca.gov.

Announcing Project

Coastal Quest and the Contractor agree that any initial or future public disclosure or press release regarding this project and OCCF grant shall be mutually agreed upon in advance thereof. To the extent any approval is given, it may be conditioned upon express approval of the text of any written public disclosure. In recognition of Coastal Quest's donor and grant for this project, the Contractor agrees to acknowledge the contribution as follows: Henry W. and Ellen R. Warne Family Endowment Fund. The Contractor will allow Coastal Quest and OCCF to include information about this grant in their periodic public reports, newsletter, news releases, social media postings, and on their website. This includes the amount and purpose of the grant, any photographs the grantee has provided, the grantee's logo or trademark, and other information and materials about this project, LCWA and its activities.

Intellectual Property/Work Products

Contractor agrees to grant Coastal Quest and its affiliates a nonexclusive, royalty free, perpetual, irrevocable, worldwide license to use and copy any such intellectual property that is incorporated into grant project to the extent necessary for their use by Coastal Quest or its affiliates. If patentable discoveries or inventions should result from the work performed under this contract, all rights accruing from such discoveries or inventions shall be shared with Coastal Quest, subject to the rights of Coastal Quest's donor. Contractor agrees that if work under this Contract involves development of copyrightable products (including computer software programs) then Contractor's work is considered to be a work-for-hire under U.S. Copyright Law so that all right, title, and interest to such products (as well as the applicable copyrights) is solely owned by Coastal Quest, subject to the rights of Coastal Quest's donor. Subject to the rights of Coastal Quest's donor (if any), all data and documents, including drawings and specifications prepared by Contractor pursuant to this Contract, are instruments of its service in respect to this contract and are and shall become the shared property of Coastal Quest. Contractor agrees that the Contractor shall use the materials developed with grant funds under this Contract only for the purpose for which the grant funds were requested and no other use of the materials shall be permitted except by written permission. Contractor shall include acknowledgement of grant funding in all materials produced with grant funds.

Indemnification

Contractor agrees to hold the Coastal Quest harmless. The Contractor shall agree to indemnify and hold harmless Coastal Quest and any employee or agent thereof harmless from any liability, loss or damage that may be suffered as a result of claims, demands, costs or judgments against them arising out of the activities to be carried out pursuant to the obligations of this Contract, including, but not limited to, the use by Contractor of results obtained from the activities performed under this Contract; provided, however, that any such liability, loss or damage resulting from this Contract was not caused by the negligence or malfeasance of Coastal Quest, its employees or agents.

Limitation of Liability

In no event shall Coastal Quest's total liability under this Contract, including damages, losses, and causes of action (whether in contract, tort (including negligence) or otherwise) exceed the total amount paid to Contractor by Coastal Quest for work performed under this Contract. The provisions of this paragraph shall survive expiration or termination of this Contract.

Insurance

Throughout the term of this Contract, for the life of any asset funded by the monies awarded pursuant to this Contract, or for any period of project implementation after the termination date of this Contract, the Contractor shall maintain self-insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the Contractor or its agents, representatives, employees, volunteers, or contractors associated with the project undertaken pursuant to this Contract. If the Contractor provides funds to any contractor to accomplish any of the work of this Contract or provides funds to any subgrantee to carry out a project under this Contract, the Contractor shall first enter into a Contract with each subgrantee or contractor requiring it to provide and maintain liability and property-damage insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the subgrantee or contractor, or its agents, representatives, employees, or volunteers, associated with the project undertaken pursuant to this Contract. As an alternative, with the written approval of Coastal Quest, the Contractor may satisfy the coverage required by this section in whole or in part through: (a) its participation in a "risk management" plan, self-insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section. Required insurance shall be maintained from the commencement date through the completion date of the work undertaken by the Contractor under the approved Appendix A.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - a. Insurance Services Office ("ISO") Commercial General Liability coverage (occurrence Form CG 0001) or ISO Comprehensive General Liability form (1973) or comparable with Broad Form Comprehensive General Liability endorsement.
 - b. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
 - c. Workers' Compensation insurance as required by the Labor Code of the State of California.
2. Minimum Limits of Insurance. Contractor shall maintain coverage limits no less than:
 - a. General Liability: (Including operations, products and completed operations, as applicable)
 - b. Automobile Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this Contract or the general aggregate limit shall be twice the required occurrence limit. \$1,000,000 per accident for bodily injury and property damage.

3. Use of Watercraft. If the Contractor is to engage in project work involving the use of watercraft, it shall provide and maintain insurance covering injury to person or property in connection with the use of watercraft, which may include, as appropriate, an endorsement to a Commercial General Liability policy covering non-owned watercraft liability or Protection and Indemnity Insurance or Jones Act coverage. Coverage shall be in a reasonable amount in light of the nature of the activity and shall be documented and approved by Coastal Quest.
4. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by Coastal Quest.
5. Required Provisions. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by certified mail, return receipt requested, has been given to Coastal Quest. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:
 - a. Coastal Quest, its officers, agents and employees are to be covered as insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.
 - b. For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees.
 - c. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
6. Acceptability of Insurers. Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or, in the alternative, acceptable to Coastal Quest approved in writing.
7. Verification of Coverage. The Contractor shall furnish Coastal Quest with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by Coastal Quest before work commences. Coastal Quest reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.
8. Premiums and Assessments. Coastal Quest is not responsible for premiums and assessments on any insurance policy.

Nondiscrimination

1. The Contractor shall not discriminate against any person on the basis of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave in the use of any property or facility acquired or developed pursuant to this Contract.
2. The Contractor shall not discriminate against any person on the basis of residence except to the extent that reasonable difference in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. The completed products shall be available to members of the public generally.

Contractors and vendors associated with the project must adhere to the State's [non-discrimination program](#) requirements, at GC 12990 (a-f) and CCR, Title 2, Section 8103.

Taxes

Contractor agrees to be responsible for any and all filing and payment of taxes and for compliance with any and all provisions and requirements arising under any applicable federal, state, or local tax laws, including (but not limited to) those for any jurisdiction(s) in which Contractor is organized or authorized to do business. No federal, state, or local income tax, nor any payroll tax of any kind, shall be withheld or paid by CQ on behalf of Contractor, or employees of Contractor. If appropriate, CQ shall report all fees paid to Contractor to the IRS on Form 1099.

Waiver

The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

Dispute Resolution

The parties agree to submit any controversy or claim arising out of or relating to this Agreement, or any breach thereof, to binding arbitration in Alameda County, California in accordance with the rules of the American Arbitration Association. The arbitration will be conducted by a single arbitrator appointed by mutual agreement of the parties, or failing such agreement, by the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The fees of the arbitrator will be shared equally by the parties and each party will bear its own costs and attorneys' fees, if any.

Complete Understanding; Modification

This Agreement constitutes the complete and exclusive understanding and agreement of the Parties regarding its subject matter and supersedes all prior understandings and agreements, whether written or oral, with respect to the subject matter hereof. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of the Parties.

Governing Law/Severability

This validity and construction of this Agreement shall be governed by the laws of the State of California excluding that body of law pertaining to conflict of laws. If any provision of this Agreement is for any reason found to be unenforceable, the remainder of this Agreement will continue in full force and effect.

Mutual Drafting

This Agreement shall be deemed to have been drafted by both parties in collaboration. Any ambiguities contained therein shall be the responsibility of both parties jointly, and neither may construe this Agreement against the other on the basis of drafting.

Complete Understanding; Modification

This Agreement constitutes the complete and exclusive understanding and agreement of the Parties regarding its subject matter and supersedes all prior understandings and agreements, whether written or oral, with respect to the subject matter hereof. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of the Parties.

Authorization

We can proceed upon your written authorization, which you can provide by signing and returning a copy of this Agreement electronically.

This Agreement is entered into by and between **Coastal Quest** and **Los Cerritos Wetland Authority** and shall remain in full force and effect unless otherwise terminated as provided above.

Coastal Quest:

Los Cerritos Wetland Authority:

Coastal Quest

Los Cerritos Wetland Authority

By: _____
Tegan Hoffmann, Executive Director

Mark Stanley, Executive Officer

Date:

Date:

Draft

Appendix A: Scope of Work

Los Cerritos Wetland Authority will provide services for the following tasks as outlined in the Orange County Community Foundation Proposal Coastal Quest submitted as the fiscal sponsor to this work. Funding will support consultant time to conduct research, writing, facilitate and provide refreshments at public and Tribal Advisory Group meetings.

Task 1. Public Outreach and Tribal Advisory Meetings, \$2280

Task 2. Tribal Cultural Landscape Study, \$8700

Total Funding will not exceed \$10,980

Draft



SOURCE: Mapbox, LCWA

Los Cerritos Wetlands Restoration Plan Program EIR

Figure 2-4
South Area

May 5, 2022 – Item 11

RESOLUTION 2022-03

RESOLUTION OF THE LOS CERRITOS WETLANDS AUTHORITY
ENTERING INTO A CONTRACT WITH COASTAL QUEST
FOR THE SOUTHERN LOS CERRITOS WETLANDS
RESTORATION PLANNING PROJECT

WHEREAS, the Los Cerritos Wetlands Authority has been established between the Coastal Conservancy, the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, the City of Seal Beach and the City of Long Beach to facilitate the acquisition, protection, conservation, restoration, maintenance and operation an environmental enhancement of the Los Cerritos Wetlands; and

WHEREAS, the LCWA has further been established to focus on projects which will provide open space, habitat restoration, and watershed improvement projects within the Los Cerritos Wetlands; and

WHEREAS, the LCWA has partnered with Coastal Quest, a 501© 3 non-profit working collaboratively with partners to build resilient coastal communities that support diverse and rich habitats, to apply for grant funding from the Orange County Community Foundation for the Southern Los Cerritos Wetlands Restoration Planning Project; and

WHEREAS, Coastal Quest was awarded \$30,000 in grant funds from the Orange County Community Foundation to support tribal engagement and assessment of cultural resources for the Southern Los Cerritos Wetlands Restoration Planning Project; and

WHEREAS, LCWA and Coastal Quest desire to enter into a contract to complete the scope of work of the grant funds; and

WHEREAS, this action is exempt from the environmental impact report requirements of the California Environmental Quality Act (CEQA); NOW

Therefore be it resolved that the LCWA hereby:

1. FINDS that this action is consistent with the purposes and objectives of the LCWA.
2. FINDS that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act.
3. ADOPTS staff report dated May 5, 2022.
4. AUTHORIZES entering into a contract with Coastal Quest to receive funds in the amount of \$10,980 to support tribal engagement and assessment of cultural resources for the Southern Los Cerritos Wetlands Restoration Planning Project.

5. APPOINTS the Executive Officer, or designee, to conduct all negotiations, execute, and submit all documents including, but not limited to agreements, payment requests and so on, which may be necessary for the completion of the contract.

~ End of Resolution ~

Passed and Adopted by the Board of the LOS CERRITOS WETLANDS AUTHORITY
On May 5, 2022

Suzie Price
LCWA Board Chair

ATTEST:

Elizabeth St. John.
Deputy Attorney General