

## **TOWN OF WINDSOR AGENDA REPORT**

**Joint Windsor Town Council, Windsor Redevelopment Successor Agency and Windsor Water District Meeting Date:** February 21, 2024

**To:** Mayor and Town Council  
**From:** Kim Voge, Planner III  
**Subject:** Amendment 1 to Task Order No. 4 of the Master Professional Services Agreement with First Carbon Solutions for the BoDean Construction Materials Processing Plant Environmental Impact Report (EIR)

### **Recommendation to Council:**

1. Approve Amendment 1 of Task Order No. 4 of the Master Professional Services Agreement with First Carbon Solutions for the preparation of an EIR for the BoDean Construction Materials Processing Plant in an amount not to exceed \$104,257.
2. Authorize the Town Manager to execute said amendment on behalf of the Town.

### **Strategic Plan Element:**

The recommended action supports the goal of Fiscal Health. Goal Statement: Ensure the economic health and long-term financial viability of the Town.

### **Background:**

First Carbon Solutions is an international environmental consulting firm with 12 offices around the United States and nearly four decades of experience with the California Environmental Quality Act (CEQA). On December 5, 2018, the Town Council approved a Master Professional Services Agreement with First Carbon Solutions to assist Planning Division staff with environmental review work. The following task orders have been authorized under this agreement to date:

- Task Order No. 1 in the amount of \$101,490 for the Shiloh-Mixed Use project
- Task Order No. 2 in the amount of \$66,300 for the Revel Windsor project
- Task Order No. 3 in the amount of \$84,080 for the Shiloh Crossing project
- Task Order No. 4 in the amount of \$334,100 for the BoDean Construction Materials Processing Plant project.

Task Order No. 4 is for services related to the BoDean asphalt batch plant and construction materials processing facility ("Project"). On August 8, 2019, the BoDean Company submitted a formal development application for the Project, which includes development on a portion of the 13.59+/- acre industrial site located at 470-610 Caletti Avenue (APN 059-271-103). The site is currently in use for various industrial and commercial operations. The requested entitlements for the Project include the following:

- Rezone: A rezone from Heavy Industrial (HI) to Planned Development (PD) would modify the development standards for the site and specify the range of uses allowed. The proposed PD would allow approval of a "paving material manufacturing" facility with a use permit (the same as the HI zoning district). The site would continue to be within the Airport Safety Overlay District. The

proposed PD development standards would permit a maximum height of 50 feet (the same as the HI zoning district), with additional height up to 100 feet allowed with approval of a Minor Use Permit.

- Use Permit: A use permit is requested to allow the new plant to have structures taller than 50 feet, with a maximum silo height of approximately 88 feet.
- Tentative Parcel Map (Four Lots): The asphalt processing facility would be located on Lot 1 of the subdivision, a 6.82-acre parcel at the north end of the site. Lots 2 - 4 range in size from 2.10 to 2.33 acres.
- Site Plan and Design Review: Site Plan and Design Review is requested for the asphalt batch plant and construction materials facility proposed on Lot 1.

The applicant elected not to go through the Town's optional pre-application planning process. During the period between August 13, 2019, and February 22, 2022, the formal development application went through four referrals with Town departments and outside agencies. The application was deemed complete on March 21, 2022.

On May 4, 2022, the Town Council authorized Task Order No. 4 of the Master Professional Services Agreement with First Carbon Solutions for the preparation of an EIR in an amount not to exceed \$334,100.

On August 4, 2022, a Notice of Preparation (NOP) was posted to notify members of the public and public agencies that an EIR would be prepared for the Project, initiating a 30-day comment period.

On August 30, 2022, an EIR scoping meeting was held to communicate the project description and to solicit comments from the public about the potential environmental impacts of the project that should be analyzed in the EIR.

Approximately 100 comments were received in response to the Notice of Preparation (NOP), far more than the anticipated 10-15 comments. Following the public comment period, the comments were tabulated and organized for the Environmental Impact Report. Technical studies were initiated as early as possible, while staff worked with the applicant to complete a CEQA-compliant project description. Communications with the applicant team were intermittent during this period, resulting in added project management time and delays in initiating some of the required technical studies.

### **Discussion:**

In addition to completing a detailed CEQA-compliant project description and numerous exhibits for the EIR, multiple technical studies have been completed, including the following:

- Preliminary Fire & Life Safety Narrative and Fire Protection Exhibits
- Preliminary Endangerment Assessment
- Preliminary Stormwater/Low Impact Development Plan
- Phase 1 Environmental Site Assessment
- Geotechnical Study
- Biological resources assessment
- Cultural resources study
- Historic Built Environment Assessment

- Federal Aviation Administration (FAA) plume exhaust analysis

The following studies are in process.

- Air quality/greenhouse gas analysis
- Traffic impact study
- Noise analysis
- Airport land use compatibility study

While the final technical studies are under way, work on the draft EIR is moving forward to the extent feasible. A revised scope of work and budget augmentation are requested to complete the EIR, for the reasons outlined below:

1. Exhibits and analyses must be updated to reflect the final project description.
2. Some technical studies must be updated to make sure they are still current.
3. In response to the NOP comments, a more extensive odor analysis is proposed beyond what is typically provided in an EIR.
4. The Bay Area Air Quality Management District (BAAQMD) requires additional air quality modeling beyond the original scope and budget.
5. Additional research is required to complete the noise study, because the noise modeling is more complex than anticipated.
6. The contingency budget should be restored to make sure the budget will cover consultant services through the end of the environmental review process. The contingency funds in the existing budget were utilized as follows:
  - a. An extended Cultural Resources Assessment was required.
  - b. Based on recommendations in the Cultural Resources Assessment, a Historic Built Environment Assessment was required.
  - c. Additional project management time was utilized coordinating the excessive public comments and completing the project description.
7. The budget augment will incorporate the current rate schedule of First Carbon Solutions.
8. Due to the complexity of the environmental analyses and the need to respond to extensive NOP comments, a budget increase is proposed to allow First Carbon Solutions staff to present the EIR at public meetings.

The requested budget augment of \$104,257 would bring the total not-to-exceed amount of the Task Order to \$438,357, to be paid entirely by the applicant.

#### **Fiscal Impact:**

Amending the task order would not result in a fiscal impact, since the applicant would reimburse the Town for the full amount of the amended contract, and because planning application fees were paid to offset the additional staff time required to manage, review, and coordinate an EIR. The cost of the Town Attorney's time to review the application and the EIR will be paid in full by the applicant through an initial deposit and cost recovery tracking.

#### **Environmental Review:**

The approval of a task order for the preparation of necessary environmental analysis is not a project under CEQA, and, therefore, this action does not require environmental review.

#### **Attachment(s):**

[1. Amendment 1 to Task Order No. 4 of the Master Professional Services Agreement with First Carbon Solutions](#)

**Prepared by:**

Kim Voge  
Planner III

**Reviewed by:**

Patrick Streeter  
Community Development Director

**Recommended by:**

Jon Davis  
Town Manager