



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*



Bruce W. McClendon, FAICP  
Director of Planning

February 20, 2008

TO: Each Supervisor

FROM: Bruce W. McClendon, FAICP  
Director of Planning

SUBJECT: **INTENT TO TERMINATE CONTRACT 74023 – P&D CONSULTANTS, INC.**

By this memo, I am notifying the Board of Supervisors of the Department of Regional Planning's intent to confirm termination of Contract Number 74023 by and between the County of Los Angeles and P&D Consultants, Inc. (P&D), awarded by the Board of Supervisors on June 11, 2002, to prepare an Environmental Impact Report (EIR) for the revision and update of the Los Angeles County General Plan. Please be advised that the consultant pursuant to this Contract has:

- Materially breached this Contract; and
- Failed to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract, and in either case, failed to demonstrate convincing progress toward a cure.

**BACKGROUND**

The Department of Regional Planning (DRP) initiated this Contract with Cotton/Bridges/Associates (CBA), a division of P&D, on July 8, 2002, to prepare an EIR for the Los Angeles County General Plan. The term of this Contract was three years, with three additional one-year renewal options, two of which were exercised without dispute. In 2005, pursuant to a corporate reorganization, CBA changed its name to P&D Consultants. There were other reorganizations in 2006 of which we were not fully apprised. We now know, however, that in 2006, the division within P&D which was working on the EIR (its Urban Planning Group), joined the consultant company EDAW and continued to work on this Contract. Despite the work done by EDAW employees, EDAW subsequently claimed that P&D remained the legally responsible party for this Contract. P&D, however later refused to be bound by the final one-year renewal option exercised by the DRP to complete the EIR.

The DRP worked in good faith with EDAW, which had assumed the day-to-day responsibilities for this Contract in 2006, to ensure that all necessary County General Plan products were available for environmental analysis. In 2007 the DRP attempted to

negotiate with EDAW to revise this Contract for scope of work and budget to account for new regulatory, legal and policy developments that occurred since the initiation of this Contract, a revision that would ultimately have required the Board's approval.

The DRP submitted the final one-year renewal option to P&D during these negotiations. EDAW initially notified the DRP that it would take responsibility for this Contract and accept the renewal option. However, when EDAW would not agree to the DRP's late summer 2007 offer to amend this Contract, EDAW shortly thereafter withdrew its proposal to assume P&D's responsibility for this Contract. EDAW requested more than three times the original Contract amount to complete the work.

Since EDAW contended that responsibility for completion of this Contract remained with P&D, the DRP made one last effort to resolve the matter by contacting P&D in early January 2008 to provide a remedy. P&D responded that they accepted no responsibility for this Contract. With that action, they clearly breached this Contract and offered no remedy. I therefore, in accordance with the advice and counsel of the County legal staff, find it necessary to immediately terminate this Contract for default, pursuant to Paragraph 8.43 of this Contract, and to pursue a Request for Proposal (RFP) to select a new consultant to prepare an EIR for the revision and update of the Los Angeles County General Plan.

#### **JUSTIFICATION TO SECURE NEW CONSULTANT**

The need for a thorough and professionally prepared EIR is crucial to the successful adoption of the revised and updated Los Angeles County General Plan. The Draft Preliminary General Plan was released to the public for comment in summer 2007 and is being thoroughly revised to provide a comprehensive vision for smart growth, sustainability, and green development. The Plan is slated for adoption in 2009 and it is imperative that an EIR conducted by a qualified consultant be immediately initiated.

I determined that the existing EIR consultant, P&D had no intention of completing this Contract and that their partner company, EDAW also disavowed any legal responsibility to complete this Contract nor were they willing to accept a County offer to amend this Contract for a revised scope of work and budget.

As a safeguard in case negotiations with EDAW during summer 2007 did not prove successful, DRP's staff began researching EIR consultant qualifications and developing an RFP to select a new EIR consultant. Following EDAW's rejection of the DRP's offer to amend the existing Contract, DRP's staff began finalizing an RFP during fall 2007 in anticipation of releasing it as soon as it was fully apparent that the existing Contractor was in breach and would not offer a remedy. Because P&D recently asserted no responsibility for the existing Contract, I instructed my staff to make the RFP ready for public release.

## **FISCAL IMPACT**

Funding for most of this project was included in the DRP's operating budget; however, because the funds are escrowed under a contract to a specific firm, the funding cannot be transferred. In addition, there is a need to expand the scope of services to fully assess the impact of global greenhouse emissions as required by AB 32 as well as collect the transportation and noise data required for a legally defensible EIR. As a result, it will be necessary for the DRP to work with the CEO to adjust the Department's budget in order to fully fund the EIR.

## **CONCLUSION**

Legally we need to confirm the existing Contract has been terminated in order for the County to continue with the process to select a new EIR consultant. Please find attached a copy of the Board letter which will be placed on the March 11<sup>th</sup> agenda asking for your approval to terminate the existing Contract with P&D. The new consultant will provide us with the critical resources and deliverables necessary to properly analyze the Draft General Plan for environmental impacts. This is a crucial step for the timely adoption of the updated County General Plan.

Again, in the best interest of the County, I found it necessary to proceed with an RFP to select a new consultant to prepare an EIR for the Los Angeles County General Plan. I authorized the release of the RFP on February 7, 2008. The DRP will follow standard RFP procedures to select a new consultant, and I will submit the new Contract for your review and approval.

Should you have any questions regarding this matter, please contact me or your staff may contact Ania Onley of my staff at (213) 974-6631 or at [aonley@planning.lacounty.gov](mailto:aonley@planning.lacounty.gov).

BMC:RH:MH:AO:ao

Attachment

c: Chief Executive Officer  
Deputy Chief Executive Officer  
Executive Officer, Board of Supervisors  
County Counsel  
Planning Deputies, Board of Supervisors  
Analyst, Chief Executive Office

March 11, 2008

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF REGIONAL PLANNING: RECOMMENDATION TO AUTHORIZE  
THE TERMINATION OF CONTRACT NUMBER 74023  
WITH P&D CONSULTANTS, INC.  
(ALL DISTRICTS AFFECTED) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve and instruct the Director of Planning to Provide Notice of Termination for Default of County Contract Number 74023 with P&D Consultants, Inc. (P&D).
2. Find that P&D has materially breached this Contract.
3. Find that P&D defaulted in providing timely fulfillment of performance requirements under this Contract, and failed to demonstrate convincing progress toward a cure.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On June 11, 2002, your Board approved Contract Number 74023 between the County of Los Angeles and Cotton/Bridges/Associates (CBA), a division of P&D, to prepare an Environmental Impact Report (EIR) for the revision and update of the Los Angeles County General Plan.

The Department of Regional Planning (DRP) initiated this Board approved Contract with CBA on July 8, 2002. The initial term of this Contract was for three years, with three additional one-year renewal options, two of which were exercised without dispute. In 2005, as part of a corporate reorganization, CBA was consolidated and officially referred to as P&D. In 2006, there were other reorganizations of which we were not fully apprised. We now know, however, that in 2006 the division within P&D working on the EIR (its Urban Planning Group), joined the consultant company EDAW and continued to work on this Contract. Despite the work done by EDAW employees, EDAW claimed that P&D remained

the legally responsible party for this Contract. P&D, however, later refused to be bound by the final one-year renewal option exercised by the DRP to complete the project.

The DRP worked in good faith with EDAW, which had assumed the day-to-day responsibilities for this Contract in 2006, to ensure that all necessary County General Plan products were available for environmental analysis. In 2007 the DRP attempted to negotiate with EDAW to possibly revise this Contract for scope of work and budget to account for new regulatory, legal and policy developments that occurred since the initiation of this Contract, a revision that ultimately would have needed your Board's approval.

The DRP submitted the final one-year renewal option to P&D during these negotiations. EDAW initially notified the DRP that it would take responsibility for this Contract and would accept the renewal option. However, when EDAW would not agree to the DRP's late summer 2007 offer to amend this Contract, EDAW shortly thereafter withdrew its proposal to assume P&D's responsibility for this Contract. EDAW requested more than three times the original Contract amount to complete the work.

Since EDAW contended that responsibility for completion of this Contract remained with P&D, the DRP made one last effort to resolve the matter by contacting P&D in early January 2008 to provide a remedy. P&D responded that they accepted no responsibility for this Contract. With that action, P&D clearly breached this Contract and offered no remedy. The Planning Director therefore found it necessary to immediately terminate this Contract for default, pursuant to Paragraph 8.43 of this Contract.

### **Implementation of Strategic Plan Goals**

This action is consistent with the principles of County Strategic Plan Goal #4: Fiscal Responsibility.

### **FISCAL IMPACT/FINANCING**

The total maximum Contract sum is \$299,306. The fiscal impact of this action will reduce the total Contract amount to \$133,923, which amounts to a reduction of \$165,383.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Paragraph 8.43 of this Contract allows the County to terminate this Contract for default, in whole or in part, when, in the judgment of the Planning Director, this Contractor has either 1) materially breached this Contract, or 2) failed to timely provide or satisfactorily perform any task or work under this Contract, or 3) failed to demonstrate a high probability of performance requirements under this Contract. After consultation with County Counsel,

Honorable Board of Supervisors  
March 11, 2008  
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the Planning Director determined that all three defaults had occurred. There was a material breach, a failure to timely perform and a failure to demonstrate a high probability of fulfillment of performance requirements. To comply with the specific terms of Paragraph 8.43, County Counsel recommends giving notice of the termination. State and Federal approval is not required.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The termination of this Contract for default will not infringe on the role of the County in relationship to its residents, and the County's ability to respond to emergencies will not be impaired. There is no change in risk exposure to the County as a result of this Contract termination.

**CONCLUSION**

Upon Board approval, the Executive Officer, Board of Supervisors, is requested to return one adopted stamped Board letter to the Director of Planning.

Respectfully submitted,

WILLIAM T FUJIOKA  
CHIEF EXECUTIVE OFFICER

WTF:LS:BMC:RH:MH:AO:ao

c: Deputy Chief Executive Officer  
Auditor-Controller  
Executive Officer, Board of Supervisors  
County Counsel  
Director of Planning  
Planning Deputies, Board of Supervisors  
Analyst, Chief Executive Office