

0610-03641-0004

**TRANSMITTAL**

TO  
The Council

DATE  
MAY 05 2014

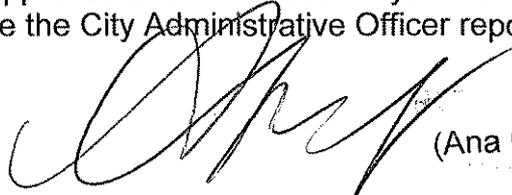
COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT  
All

**Proposed Amendment No. 3 to Personal Services Contract with  
R&G Fanucchi Farms for Custom Farming Operations**

Approved and forwarded for your consideration.  
See the City Administrative Officer report attached.



(Ana Guerrero)

MAYOR MAY 05 2014 10:10

MAS:EMM:06140081t

**Report From**  
**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**  
**Analysis of Proposed Contract**  
(\$25,000 or Greater and Longer than Three Months)

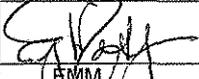
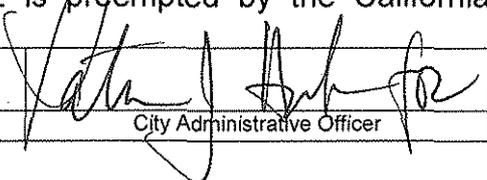
To: The Mayor	Date: May 1, 2014	C.D. No. All	CAO File No.: 0610-03641-0004				
Contracting Department/Bureau: Public Works/Bureau of Sanitation		Contact: Mark Starr, (310) 648-5801					
Reference: Transmittal from the Board of Public Works dated October 28, 2013; referred for report on November 6, 2013.							
Purpose of Contract: To provide custom farming operations at the City of Los Angeles' Green Acres Farm.							
Type of Contract: ( ) New contract (X) Amendment		Contract Term Dates: Five years effective July 26, 2014 with one three-year renewal option for a total of eight years					
Contract/Amendment Amount: \$28,887,000							
Proposed amount \$ 28,887,000 + Prior award(s) \$ 26,300,000 = Total \$ 55,187,000							
Source of funds: Sewer Operations and Maintenance Fund No. 760							
Name of Contractor: R & G Fanucchi Farms							
Address: 19296 Nord Avenue, Shafter, CA 93263							
	Yes	No	N/A*	8. Contractor has complied with:	Yes	No	N/A*
1. Council has approved the purpose	X			a. Equal Employmt. Oppty./Affirm. Action	X		
2. Appropriated funds are available	X			b. Good Faith Effort Outreach**			X
3. Charter Section 1022 findings completed	X			c. Equal Benefits Ordinance	X		
4. Proposals have been requested		X		d. Contractor Responsibility Ordinance	X		
5. Risk Management review completed	X			e. Slavery Disclosure Ordinance	X		
6. Standard Provisions for City Contracts included	X			f. Bidder Certification CEC Form 50	X		
7. Workforce that resides in the City: 0 %				*N/A = not applicable ** Contracts over \$100,000			

**COMMENTS**

The Board of Public Works (Board), on behalf of the Bureau of Sanitation (Bureau), is requesting authority to execute Amendment No. 3 to a contract with R&G Fanucchi Farms (Fanucchi) for farm management and custom farming services at the City-owned Green Acres Farm (Green Acres) in Kern County, California. The proposed Amendment No. 3 will extend the term of the contract for five years with one three-year extension option for a total of eight years, and increase the cost ceiling to \$55,187,000. In accordance with Los Angeles Administrative Code Section 10.5(b), Council approval is required to execute the proposed Amendment No. 3 as the term of the contract exceeds three years.

**Background**

In August 2000, the City purchased Green Acres for land application of biosolids from City wastewater treatment plants. Approximately 500 tons per day (tpd) of biosolids are transported to Green Acres for use as a soil conditioner to produce crops. These crops are sold on the market and generate revenue to the City. In June 2006, Kern County voters passed Measure E which banned the land application of biosolids and bulk biosolids compost in Kern County. The City is currently pursuing legal action to nullify this ban on the grounds that Measure E is preempted by the California

 EMM	Analyst	06140081		 City Administrative Officer
			Assistant CAO	

Integrated Waste Management Act, which requires local agencies to recycle biosolids. A preliminary injunction was granted by the Superior Court of Tulare County and the injunction was upheld in a decision by the Fifth Appellate District Court. This case is ongoing and the preliminary injunction allows the City and Fanucchi to continue farming operations until the case has been finalized.

The initial contract with Fanucchi and subsequent extensions were approved as a temporary sole source contract when the original contractor notified the City that they would no longer be able to provide farming services for Green Acres. On June 27, 2003, the Mayor authorized a sole source contract with Fanucchi for a period of three months with a twelve-month extension option and a cost ceiling of \$900,000. The Mayor approved a three-month extension of the contract on September 25, 2003, and another three-month extension and cost ceiling increase of \$675,000 on November 24, 2003. A final three-month extension was granted by the Mayor which increased the cost ceiling by an additional \$675,000 and would expire on June 24, 2004. During this time the City prepared a Request for Proposals (RFP) for farm management and custom farming services at Green Acres. Fanucchi was selected as the most qualified and responsive bidder in the RFP process and the Board of Public Works executed Personal Services Contract No. 106805 with Fanucchi Farms on June 23, 2004 for a period of three years and a \$6.7 million contract ceiling. On June 22, 2007, Amendment No. 1 was approved by the City Council which extended the term by three years and increased the cost ceiling by \$6.7 million (C.F. 07-1853). On June 22, 2010, Amendment No. 2 was approved by the City Council which extended the term for an additional four years and increased the cost ceiling by \$12.9 million for a current contract ceiling of \$26.3 million (C.F. 10-1011).

The extension provided in Amendment No. 2 will expire on July 25, 2014 and Amendment No. 3 will extend the contract for an additional five years with one three-year extension option for a total of eight years. Amendment No. 3 increases the cost ceiling by \$28,887,000 for a total ceiling of \$55,187,000. The Bureau estimates an annual cost of \$3.6 million. Fanucchi sells crop yields for the City at prevailing market prices which generates revenue to the Sewer Construction and Maintenance Fund. For the past six years, crop revenues have exceeded actual expenditures paid to Fanucchi. The crops sold are subject to market price fluctuations and include alfalfa, sudan grass, milo, corn, and wheat. During the term of the proposed Amendment, the Bureau is anticipating \$4 million in annual revenue from Green Acres.

This extension includes a provision for termination should the ban on biosolids application in Kern County prevail. Termination of the contract under these circumstances gives the City the option to terminate the agreement or convert Amendment No. 3 to a farm lease agreement.

### **Summary of Amendment No. 3 Changes**

- Article 4 was amended to require Fanucchi to maintain all financial records for a period of no less than three years following the final payment made by the City or the expiration of the Agreement, whichever occurs last. These records are subject to examination and audit by City representatives.
- Article 7 was amended to extend the term of the agreement from June 26, 2014 for a period of five years with an option to renew for an additional term of three years.

- Article 10 was amended to adjust rates and fees on Custom Farming Operations based on the Consumer Prices Index (CPI-U) with a cap of five percent each year, and to increase the total cost ceiling of the contract to \$55,187,000.
- Article 20 was amended to update contact information for the City Project Manager and Fanucchi representatives.
- Article 25 was amended to include language specifying that all causes of action pertaining to the contract must be filed in the appropriate state or federal court located within Los Angeles County, regardless of residence.
- Article 32 was amended to update indemnification language stating that the Contractor must provide full payment of in house and outside counsel for any litigation costs that may be incurred by the City in the event of legal proceedings against the Contractor, except for in the event of active negligence or willful misconduct by the City. The Article was also amended to provide instructions for filing insurance paperwork online.
- Article 44 was added to include updated compliance requirements pertaining to the City's First Source Hiring Ordinance (FSHO), as specified in Section 10.44 of the Los Angeles Administrative Code.
- Article 45 was added to include compliance requirements pursuant to Charter Section 470(c)(12), prohibiting Contractor campaign contributions to elected City officials, candidates or committees controlled by and elected City official or candidates.

### **Contracting Compliance Requirements**

On February 20, 2013, pursuant to Charter Section 1022, the Personnel Department determined that City employees do not have the expertise to perform the work required at Green Acres. On October 30, 2003, the Mayor's Office exempted this contract from the City's Minority, Women and Other Business Enterprise (MBE/WBE/OBE) subcontractor outreach requirement. Fanucchi has complied with all applicable City procedures, laws and policies. The City Attorney has reviewed and approved this amendment as to form.

### **RECOMMENDATION**

That the Council authorize the Board of Public Works to execute the proposed Amendment No. 3 to extend the term of the contract with R&G Fanucchi Farms by five years with one three-year renewal option for a total of eight years, and increase the cost ceiling by \$28,887,000 for a total contract ceiling of \$55,187,000.

### **FISCAL IMPACT STATEMENT**

There is no fiscal impact to the General Fund. Sufficient funds are available in the Sewer Construction and Maintenance Fund to support the 2013-14 costs of the proposed Amendment No. 3. Funding for future years will be provided through the City's annual budget, which is subject to Mayor and Council approval. The recommendation in this report complies with the City's Financial Policies as ongoing revenue will support ongoing expenditures.