

Date: January 26, 2016

To: THE TRUSTEES

From: THE PRESIDENT and CHIEF EXECUTIVE OFFICER

Subject: Procurement (Services) Contract –
Niagara Power Project – Relicensing, Compliance and
Implementation of the Strawberry Island Wetland
Restoration Habitat Improvement Project – Contract Award

SUMMARY

The Trustees are requested to approve the award of a contract to Applied Ecological Services, Inc., (“AES”) of Brodhead, WI, in the amount of \$994,580, for the Strawberry Island Wetland Restoration Habitat Improvement Project (“HIP”) plant cultivation and installation work as part of the implementation of the Niagara Power Project’s (“Project”) new license and settlement commitments. The term of the contract will be from February 2016 through the end of 2018.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require the Trustees’ approval for procurement contracts involving services to be rendered in excess of one year.

The Federal Energy Regulatory Commission (“FERC”) issued the New License for the Project on March 15, 2007. The License and associated Settlement Agreement and Section 401 Water Quality Certification (“WQC”) from the New York State Department of Environmental Conservation (“License Agreements”) require the Authority to support and establish a fund for the design, construction, operation, maintenance, and monitoring of eight specified HIPs; Strawberry Island is one of these HIPs.

Strawberry Island is a horseshoe-shaped area within the upper Niagara River in Erie County, NY, which is owned by the People of the State of New York and operated primarily as a wildlife habitat area by the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP). The island’s ecological features are managed with considerable assistance from the New York State Department of Environmental Conservation (NYSDEC). Under the License Agreements, the Authority has undertaken the restoration and improvement of the ecological features of the island. The goal of this HIP is to establish or re-establish approximately 6.6 acres of fish and wildlife habitat along the edges of the island and within its lagoon, as well as to improve over an acre of wetland and upland habitat for birds on the island. The first part of the HIP, largely accomplished under separate contract, involved the reconfiguration of the lagoon bottom and inside shoreline areas by dredging to create contours of varying depths, installing appropriate substrate materials to support growth of desirable submerged and emergent aquatic plants, and installing logs and other features to attract a variety of aquatic and terrestrial species. This work was accomplished in preparation for the upcoming planting phase, which

will involve cultivation and installation of wetland and upland plants within the dredged and excavated area and within selected areas of the island.

DISCUSSION

On October 26, 2015, the Authority issued a Request for Quotation (“RFQ”) (Q15-5986SG) for the planting work at Strawberry Island, including a notice in the New York State *Contract Reporter*, and a pre-bid conference was held on November 12, 2015. One proposal was received on December 1, 2015 from AES. The RFQ requested pricing for procurement, cultivation, installation and maintenance of specific native wetland and upland plants along with associated measures to protect newly installed plants from herbivores and measures to protect against pollution by sediment. The proposal from AES was six percent below the Authority’s estimate.

Staff from the Authority’s Relicensing and Implementation (“R&I”) Division, the Environmental Health and Safety Division, and Procurement evaluated the AES proposal on the basis of technical qualifications and pricing. The Authority’s review team was assisted in the technical evaluation by staff from Kleinschmidt Associates, who supported the biological design and engineered elements of the HIP, and the Authority’s Niagara Compliance Implementation Consultant, Gomez and Sullivan Engineers, who assisted the Authority with project management of Niagara Project relicensing implementation projects.

AES was the sole bidder and is fully qualified. The company’s proposal met all specifications and was within the Authority’s cost estimate. Its performance on three previous relicensing projects in the Niagara River has been satisfactory in all areas including budget, schedule, safety, quality control, responsiveness, awareness of constraints, and adherence to technical requirements. The proposed personnel for the Strawberry Island planting work are identical to the team that performed previous successful planting projects.

AES proposed no unacceptable deviations or exceptions for the Strawberry Island HIP planting. Therefore, it is recommended that the contract be awarded to AES. The contract term will be from February 2016 through the end of 2018, and the contract amount will be a lump-sum of \$934,580. In addition, it is recommended that an additional amount of \$60,000 be included in the Trustee authorization for potential adjustments or additions to accommodate dynamic conditions in the Niagara River or which may be requested by regulatory agencies. Including this additional amount, the total recommended authorization is \$994,580.

FISCAL INFORMATION

Since these expenditures are related to implementing new project commitments in the New License and the Section 401 Water Quality Certificate issued by the New York State Department of Environmental Conservation, payments will be made from the Capital Fund.

RECOMMENDATION

The Vice President – Project and Business Development, the Vice President – Procurement and the Director – Relicensing and Implementation recommend that the Trustees authorize the award of a construction contract to Applied Ecological Services, Inc. for the Strawberry Island Wetland Restoration Habitat Improvement Project plant cultivation and installation work in connection with the Niagara Power Project’s new license and settlement commitments.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below.

Gil C. Quiniones
President and Chief Executive Officer

RESOLUTION

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to award a contract to Applied Ecological Services, Inc. from February 2016 through the end of 2018, in the amount of \$994,580, for plant cultivation and installation services for the Strawberry Island Wetland Restoration Habitat Improvement Project in connection with the Niagara Power Project's new license and settlement commitments, as recommended in the foregoing memorandum of the President and Chief Executive Officer;

Contractor

Contract Approval

**Applied Ecological Services,, Inc.
(Q15-5986SG)**

\$994,580

AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.