



Office of the City Manager

May 13, 2019

To: Honorable Mayor and Members of the City Council

From: *Dee* Dee Williams-Ridley, City Manager

Re: **Berkeley Marina Area Specific Plan (BMASP) Contract**

This memo provides additional information on the proposed Berkeley Marina Area Specific Plan (BMASP) contract with Hargreaves Associates. The goal of the BMASP is to provide a vision and plan for achieving a financially self-sustainable, publicly-owned marina area with infrastructure and amenities to support current and future community needs, while adapting to climate changes and promoting recreation and environmental stewardship. The project will involve an extensive public process to ensure that the vision reflects the community's needs for decades to come. The BMASP will additionally dovetail with existing studies currently underway: the Sea Level Rise Study and the Berkeley Pier / ferry feasibility studies.

At the April 30, 2019, Council meeting, questions were raised about the funding source for the proposed BMASP contract, and the legal standing of the proposed contractor, Hargreaves Associates.

The funding source for the \$1.101 million BMASP contract is the City's Capital Improvement Fund (Fund 501). This contract is not being funded out of the Marina Fund, which has a significant structural deficit and without additional funding and improvements, is projected to be insolvent within two years. The BMASP is expected to chart a course for a more fiscally-sustainable future for the Waterfront.

A concern was raised in the April 30, 2019, Council meeting about Hargreaves Associates' bankruptcy in 2015. Hargreaves voluntarily entered into bankruptcy in November 2015 following a finding by a lower Florida court against all parties involved in a Florida project. The lower court's finding was appealed and subsequently reversed in December 2016. The matter settled and Hargreaves exited bankruptcy on March 31, 2017. Service to their clients was not compromised throughout that period. Since that time, they have continued to secure new work with clients across the country including the City of Oakland, City of Los Angeles, Hastings College of Law in San Francisco, and the University of California Merced. A letter from Hargreaves describing their ability to perform the contract, the Final Bankruptcy Decree, and a list of Hargreaves recent clients is included in the Attachment.

The City Attorney provided an independent review of this material, and concurred that the prior bankruptcy filing does not impact the City's ability to enter into a contract with Hargreaves.

Attachment: Letter from Hargreaves Associates dated 5/2/19

cc: Paul Buddenhagen, Deputy City Manager
David White, Deputy City Manager
Jenny Wong, City Auditor
Mark Numainville, City Clerk
Scott Ferris, Director, Parks, Recreation & Waterfront Department
Teresa Berkeley-Simmons, Budget Manager
Matthai Chakko, Assistant to the City Manager

May 2, 2019

Nelson Lamb, P.E., QSD
City of Berkeley
Department of Parks, Recreation, and Waterfront
1947 Center Street, 5th Floor
Berkeley, CA 94704

RE: Berkeley Marina Area Specific Plan Contract

Dear Nelson,

This letter serves to underline our commitment to our clients and our ability to perform the services for the Berkeley Marina Area Specific Plan.

A concern raised in the April 30th City Council meeting about our self-imposed bankruptcy in 2015 was brought to our attention. We did voluntarily enter into Ch. 11 protection on November 2015 in order to continue servicing our clients after an unjust finding by a lower Florida court against all parties involved in a Florida project. The lower court's finding was subsequently reversed and remanded on appeal in December 2016, all parties settled, and we exited bankruptcy on March 31st, 2017 (final decree attached).

Service to our clients during this time was not compromised and we are happy to provide you client references to that effect. Additionally, we have continued to secure new work with municipalities throughout the United States (client list attached). For the Berkeley Marina Area Specific Plan, we are "free and clear" and look forward to the opportunity of working with the City of Berkeley and the Community.

Sincerely,



Gavin McMillan
Vice President, Senior Principal

HARGREAVES
ASSOCIATES

George Hargreaves
Mary Margaret Jones
Gavin McMillan

Kirt Rieder
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Signed and Filed: March 24, 2017

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HANNAH L. BLUMENSTIEL
U.S. Bankruptcy Judge

9 Attorneys for Reorganized Debtor
10 HARGREAVES ASSOCIATES INCORPORATED

11
12 UNITED STATES BANKRUPTCY COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 In re HARGREAVES ASSOCIATES)
17 INCORPORATED,)
18 Debtor.)
19)
20)
21)
22)

Bk. No. 15-31441
Chapter 11

**FINAL DECREE CLOSING CASE
EFFECTIVE MARCH 31, 2017**

23 Reorganized Debtor HARGREAVES ASSOCIATES INCORPORATED (“Debtor”)
24 having applied to the Court for entry of a Final Decree in this case effective March 31, 2017,
25 pursuant to Local Bankruptcy Rule 3022-1 and having given notice thereof, and the time for
26 objection have expired without objection from any party in interest, and good cause appearing
27

1 therefor,

2 IT IS HEREBY ORDERED that the above captioned estate and case is closed effective
3 March 31, 2017.

4 **END OF ORDER**

5 Approved:

6 Tracy Hope Davis, United States Trustee

7 Dated: 3-21-17

8 By /s/Barbara A. Matthews
9 Barbara A. Matthews
10 Trial Attorney for United States Trustee

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Projects and Municipalities or Institutions Contracted with During and After Ch. 11 Filing

The Commons Park	City of Minneapolis, MN
Love Park	City of Philadelphia, PA
North Arts District Plaza	Dartmouth College, Hanover NH
Penn's Landing	Delaware River Waterfront Corporation, Philadelphia PA
Choctaw Cultural Center	Choctaw Nation, Durant OK
Discovery Green Conservancy Pre-Design	Discovery Green Conservancy, Houston, TX
Discovery Green - Lighting and Northwest	Discovery Green Conservancy, Houston, TX
Estuary Park Oakland Expansion	City of Oakland, CA
North Waterfront Park	Wilmington NC
Hunters Point Shipyard Northside Park	5-Point, San Francisco, CA
Hastings College of Law	Hastings College, San Francisco
James River Park System MP	City of Richmond, VA
Margaret T Hance Park	City of Phoenix, AZ
American Indian Cultural Center & Museum	Native American Cultural Education Authority, Oklahoma, OK
Union Station Renovation	City of Oklahoma City, OK
Richmond Riverfront-Downriver	City of Richmond, VA
Silver Lake Reservoir Complex Master Plan	City of Los Angeles, CA
6th Street Viaduct	City of Los Angeles, CA
UC Merced 2020 Campus	University of California, Merced