



## Legislation Text

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**File #:** 17-0044, **Version:** 2

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Community Development Services, Department of Planning and Building, recommending the Board:

- 1) Approve and authorize the Chair to sign Agreement for Services 511-S1711 with ICF Jones & Stokes, Inc., an ICF International Company, for an amount not to exceed \$298,615, to generate an update for the Ecological Preserve Fee Program that would update the Rare Plant Mitigation In-Lieu Fee Program established in 1998, with a term to become effective upon execution by both parties and expiring three years thereafter; and
- 2) Direct that this Agreement be funded out of the Ecological Preserve Endowment Fund, with any fee schedule which results from the Ecological Preserve Fee Program Update to include a built-in factor for reimbursing the Fund for expenditures incurred under this Agreement.

**FUNDING:** Ecological Preserve (Rare Plant) Endowment Fund. (Local Funding)

### **DEPARTMENT RECOMMENDATION**

Community Development Services, Planning and Building Department, recommending the Board:

- 1) Approve and authorize the Chair to sign Agreement for Services 511-S1711 (Agreement) with ICF Jones & Stokes, Inc. (ICF), for an amount not to exceed \$298,615, to generate an update for the Ecological Preserve Fee Program that would update the Rare Plant Mitigation In-Lieu Fee Program established in 1998, which includes a review of the existing program and coordination with California Department of Fish and Wildlife to create a "full-mitigation" program for new development consistent with the El Dorado County General Plan, Government Code 66000 (Mitigation Fee Act), and the California Environmental Quality Act (CEQA).; and
- 2) Direct that this Agreement be funded out of the Ecological Preserve Endowment Fund, with any fee schedule which results from the Ecological Preserve Fee Program Update to include a built-in factor for reimbursing the Fund for expenditures incurred under this Agreement .

Planning is recommending the County make findings in accordance with Section 3.13.030 of the County Ordinance Code that it is more economical and feasible to retain an outside consultant for the provision of an Ecological Preserve Fee Program Update. In addition, Planning staff does not have the technical skills necessary to prepare the Fee Program Nexus Report and environmental impact reports.

### **DISCUSSION / BACKGROUND**

At the request of Planning, the CDS Contracts and Procurement Unit issued a Request for Proposals for an Ecological Preserve Fee Program Update. The County's Procurement & Contracts Division conducted the Request for Proposals process for this item in accordance with Board Policy C-17, "Procurement Policy," Section 7.9.

Two proposal responses were received and evaluated by CDS staff, from Planning/ Long Range Planning and the Department of Transportation, on the basis of experience, management and organization ability, history of repeat business with clients, understanding of community social relationships, communication skills, and previous experience working on County projects. CDS staff rated ICF the highest of the two proposals submitted.

The Rare Plant Fee Program is a Strategic Component for Economic Development and Infrastructure because it implements General Plan Objective 7.4.1, Implementation Measure CO-U, and specifically Policy 7.4.1.1, as follows: "The County shall continue to provide for the permanent protection of the eight sensitive plant species known as the Pine Hill endemics and their habitat through the establishment and management of ecological preserves consistent with County Ordinance Code Chapter 17.71 and the U.S. Fish & Wildlife Service's (USFWS) Gabbro Soil Plants for the Central Sierra Nevada Foothills Recovery Plan (USFWS 2002)."

There are eight rare plant species that share the unusual growing conditions of "gabbro soils" located in western El Dorado County around the Cameron Park and Rescue areas, in the vicinity of Pine Hill. The "gabbro soils" are generally a reddish color, mildly acidic, rich in iron and magnesium, low in calcium and phosphorus, often contain other heavy metals such as chromium, and are coarse textured which limits water-holding capacity. Because of the soils, the rare plants are often referred to as "Gabbro Plants" or "Pine Hill Endemics."

In 1998, the County adopted the Rare Plant Fee Program which is codified in Section 130.71 of the Zoning Ordinance. The County collects a Rare Plant Impact Fee at the time of building permits for new dwellings or for new commercial floor area. The fees are based on whether the permit is located in Rare Plant Mitigation Area 1 (with gabbro soils) or Mitigation Area 2 (not gabbro soils, but within the El Dorado Irrigation District sphere of influence). Currently the fees are \$885 for a single family dwelling in Area 1, \$386 in Area 2. Commercial projects within Mitigation Areas 1 and 2 pay a fee based on the square footage of the building, \$0.59 per square foot in Area 1, \$0.25 in Area 2.

The fees are collected and deposited into a Special Revenue Fund held by CDS. A majority, 57.3%, is held in the Special Revenue Fund for property acquisition; 41.5% is set aside in a permanent Endowment Fund for land management and operations; and 1.2% is dedicated to administrative purposes. Currently there is approximately \$1.6 million in the Special Revenue Fund and \$3.4 million in the Endowment Fund.

At this time, an update to the Ecological Preserve Fee Program is necessary to bring it up to date with current development projections, new impact assessments, provide adequate CEQA review, and adjust the Endowment Fund.

A case in point, the appellate court decision on the Cameron Park Congregate Care Project (*California Native Plant Society v. County of El Dorado, Superior Court of El Dorado Case PC20070021*) has created difficulties in the environmental review of new residential and commercial development applications. The County can no longer use the Rare Plant Impact Fee as "full mitigation" under CEQA. The court found that the County's Rare Plant Fee Program had not been subject to adequate environmental review. Therefore, an environmental impact report should have been prepared for the Cameron Park Congregate Care Project instead of a Mitigated Negative Declaration. All new discretionary developments in the gabbro soils area face this challenge until the Rare Plant Fee Program is updated.

## **ALTERNATIVES**

- 1) An alternative would be to not approve the Agreement and continue with the existing Ecological Preserve Fee Program that was adopted in 1998.
- 2) Planning could attempt to hire for a short period of time staff with the specialty and technical skills

required to comply with CEQA requirements and complete environmental impact reports. This is probably not feasible since someone with the required skills would likely not be willing to work in a limited term capacity. This would require current staff to adjust project work to gain the skills required, resulting in delays of other assigned project work.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

## **CAO RECOMMENDATION**

It is recommended that the Board approve this item.

## **FINANCIAL IMPACT**

There is no change to Net County Cost associated with this item. Funding for this Agreement is included in the Fiscal Year 2017/18 Budget for Planning, and will be included in Planning's budget for Fiscal Year 2018/19.

County Counsel has advised that the Ecological Preserve Endowment Fund can be used to pay costs associated with the Ecological Preserve Fee Program Update, under the assurance that any fee schedule which results from the Update process includes a built-in factor for reimbursing the Fund for expenditures incurred under this Agreement. Planning supports and recommends this funding and reimbursement approach.

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) The Clerk of the Board will obtain the Chair's signature on two (2) original copies of the Agreement.
- 2) The Clerk of the Board will return one (1) fully executed original copy of the Agreement to the CDS Contracts & Procurement Unit for transmittal to ICF.

## **STRATEGIC PLAN COMPONENT**

Economic Development and Infrastructure.

## **CONTACT**

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