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County of El Dorado

Legislation Details (With Text)

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On agenda:	4/29/2008	**Final action:**	4/29/2008
Title:	Transportation Department recommending Chairman be authorized to sign Amendment I to Agreement for Services AGMT 06-1013 with Nichols Consulting Engineers, Chtd. increasing compensation by $500,000 to an amount not to exceed $850,000 and extending the term through October 31, 2010 to provide "as-needed" National Pollutant Discharge Elimination System Program support and planning services; and adopt recommended findings for same. RECOMMENDED ACTION: Approve. FUNDING: General Fund, Road Fund and California Tahoe Conservancy Grant Funding.		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. AGMT 08-1638 Approved Blue.pdf, 2. Nichols AGMT 06-1013.pdf, 3. Nichols AGMT 06-1013 Am I.pdf		

Date	Ver.	Action By	Action	Result
4/29/2008	1	Board Of Supervisors	Approved	Pass

Transportation Department recommending Chairman be authorized to sign Amendment I to Agreement for Services AGMT 06-1013 with Nichols Consulting Engineers, Chtd. increasing compensation by $500,000 to an amount not to exceed $850,000 and extending the term through October 31, 2010 to provide "as-needed" National Pollutant Discharge Elimination System Program support and planning services; and adopt recommended findings for same.
RECOMMENDED ACTION: Approve.

FUNDING: General Fund, Road Fund and California Tahoe Conservancy Grant Funding.

BUDGET SUMMARY:		
Total Estimated Cost		$500,000
Funding		
Budgeted	$50,000	
New Funding	$	
Savings	$	
Other*	$450,000	
Total Funding Available	$425,000	
Change To Net County Cost		$75,000

*$200,000 will be budgeted in FY 08/09 and $250,000 will be budgeted in subsequent Fiscal Years.

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Fiscal Impact/Change to Net County Cost:
The Transportation Department (Department) included $50,000 for this proposed Amendment in its Fiscal Year (FY) 2007-08 National Pollutant Discharge Elimination System (NPDES) Program budget and anticipates budgeting $200,000 in FY 2008-09, of which $150,000 will be in the NPDES Program budget and $50,000 will be funded by California Tahoe Conservancy (CTC) grant funding for the Department's Pollutant Load Reduction Strategy Project. The remaining $250,000 will be budgeted in subsequent Fiscal Years. The NPDES Program budget is comprised of 50% General Fund contributions and 50% Road Fund contributions.

Current General Fund appropriations of $25,000 will be adequate to cover the costs for FY 2007-08. The Department plans to budget $150,000 for this Agreement in its FY 2008-09 NPDES Program budget, and in accordance with the formula above, the Department plans to propose that $75,000 come from General Fund contributions.

Background:
On April 18, 2006, the County entered into an Agreement with Nichols Consulting Engineers, Chtd. (Nichols) to assist the County with the County-wide NPDES Program and the development and implementation of a Storm Water Management Plan (SWMP) for the Lake Tahoe Basin.

Reason for Recommendation:
The Department is proposing to amend its existing Agreement with Nichols to ensure compliance with the County's NPDES permits and to assist the Tahoe Engineering Division (TED) with the implementation of the Tahoe Basin SWMP, which Nichols developed. The Department also requires the assistance of Nichols with the Total Maximum Daily Load (TMDL) process, which is not anticipated to be completed until 2010. The Department chose to increase the compensation for services by amending its existing Agreement with Nichols, rather than executing a new agreement, because Nichols was the highest ranking consultant in the Department's Request for Qualifications/Request for Proposals (RFQ/RFP) process (discussed later in this item) and the terms and conditions of the Agreement were already negotiated based on Nichols' proposal through the RFQ/RFP process.

The purpose of this Amendment I to AGMT # 06-1013 is to amend Article I, Scope of Services, to include the most recent Task Order requirements; amend Article II, Term, extending the term an additional 2.5 years to October 31, 2010; amend Article III, Compensation for Services, to increase the not-to-exceed compensation amount of the Agreement by $500,000 to a total of $850,000, to include the most recent invoice requirements and to add a new fee schedule for the extended term of the Agreement; amend Article IV, Progress Reports, to clarify the progress report requirements; amend Article XVI, Indemnity, to modify the indemnity provision for services rendered after December 31, 2006 in accordance with AB573 and to include the CTC as an indemnified party; amend Article XVII, Insurance, to include the CTC as an additional insured under the general liability insurance requirements; add Article XXVIII, Business License, to include the County's business license requirements; add Article XXIX, Compliance with CTC requirements; and, Article XXX, Certification, to include necessary contract clauses as required by the County's grant funding agreement with the CTC.

Lake Tahoe Basin regulatory agencies are in the process of developing a TMDL for Lake Tahoe. As part of this process, numerous documents, data sets, and resulting regulations will be developed for which the Department will require Nichols' assistance to review, decipher, and comment on these products, as well as provide the Department with recommendations and act as the negotiation agent

for the County on TMDL regulations. It is anticipated that new regulations will be developed as a result of the TMDL effort and as a result, may require the Department, with assistance from Nichols, to negotiate the conditions of the final adopted regulations. Due to Nichols' experience in past TMDL efforts and its knowledge of the existing Lake Tahoe TMDL effort, the Department believes Nichols' ongoing assistance in this effort is critical to the success of the programs involved.

Under this Agreement, Nichols performs various tasks which include the development of the Tahoe Basin SWMP, assistance with financial planning associated with implementation of the Tahoe Basin SWMP, assistance with implementation and administration of the County's NPDES Program, preparation of annual reports to the Regional Water Quality Control Boards, public outreach, evaluation of the implications of legal authority issues pending County Counsel's analysis/opinion, negotiations with Regional Water Quality Control Board staff on behalf of the County, and coordination efforts with public agencies and other County departments related to implementation of the Tahoe Basin and West Slope NPDES Program.

The County received funding from the CTC in December 2007 to expedite the development and implementation of a Pollutant Load Reduction Strategy Project and associated outfall inventory to meet the objectives of the TMDL and the tasks associated with implementation of Section 9 of the Tahoe Basin SWMP. This is anticipated to be a very comprehensive effort that will require the assistance of Nichols to meet the expedited schedule.

The work required under this Agreement necessitates the following specialized expertise and experience:

- Thorough knowledge of all sections of the Federal Clean Water Act and associated amendments.
- Thorough knowledge of the California Water Code (Porter-Cologne Act) and associated amendments, particularly surface water quality regulation, SWMP development, waste discharge, non-point source pollution regulation and NPDES permits.
- Thorough knowledge of Federal regulations, particularly 40CFR Parts 121, 122, 123, 124, 131, 136 and other Parts dealing with the NPDES Program.
- Thorough knowledge of associated plans, regulations, legal mandates and storm water quality objectives and permit requirements within the Lake Tahoe Basin, including their historical development and reviews, the assumptions and data relied upon to develop the plans and the processes used to review the plans.
- Thorough familiarity with the applicable Federal, State and regional/local policies, source documents and processes to be used in the implementation of the SWMP.
- Thorough knowledge of relevant NPDES programs and precedent-setting case law in California.
- Knowledge of the TMDL development process that is ongoing within the Lake Tahoe Basin.
- Demonstrated ability to work successfully with Federal, State and regional regulators, including but not limited to the United States Forest Service-Lake Tahoe Basin Management Unit, Regional Water Quality Control Board, and the Tahoe Regional Planning Agency.
- Knowledge of the establishment of storm water utilities.

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- Ability to integrate the above specialized expertise into the successful implementation of a SWMP.
- Watershed modeling techniques utilizing industry-approved software and validated methodologies.

This expertise is critical to navigate through the legal, procedural, technical, regulatory and public outreach elements necessary to successfully implement the Tahoe Basin SWMP.

Therefore, the Department recommends the Board make findings pursuant to Article II, Section 210 b (6) of the El Dorado County Charter that there are specialty skills required for the work performed under this Agreement that are not expressly identified in County classifications, and because the required expertise is specific to this one-time effort, the ongoing aggregate of the work performed under this Agreement is not sufficient to warrant the addition of permanent staff.

The Department selected Nichols for the original Agreement through a RFQ/RFP process that was conducted in January/February 2006 for the Tahoe Basin SWMP and NPDES Program support. The Department received five (5) proposals and worked to select a consultant. A panel, which was comprised of staff from both the Department and Regional Water Quality Control Board, was assembled to evaluate the proposals and select a consultant. The Department selected and negotiated a final contract with Nichols.

The County Purchasing Agent reviewed the Department's request to amend the Agreement with Nichols and concurs that an Amendment is appropriate in order to ensure compliance with the County's NPDES permit requirements. The Purchasing Agent concurs that the Department's request is in compliance with Board of Supervisors Policy C-17, Sections 7.4.2, 7.5, and 7.10.

The El Dorado County Employees Association, Local # 1, has been informed of this proposed Amendment.

Action to be taken following Board approval:
1. The Chairman will sign the two (2) originals of Amendment I to AGMT # 06-1013 with Nichols.
2. The Board Clerk will forward one (1) original of the fully-executed Amendment to the Department.
3. Upon receipt, the Department will forward the fully-executed Amendment to Nichols and retain a copy for its files.

Contact:
Richard W. Shepard, P.E.
Director of Transportation

Concurrences: County Counsel and Risk Management