



Legislation Details (With Text)

File #: 22-0697 **Version:** 1

Type: Agenda Item **Status:** Approved

File created: 4/8/2022 **In control:** Board of Supervisors

On agenda: 5/10/2022 **Final action:** 5/10/2022

Title: Planning and Building Department, Tahoe Planning and Stormwater Division, recommending the Board:
 1) In accordance with Chapter 3.13, Section 3.13.030 of County Ordinance Code, Contracting Out, find that the ongoing water quality monitoring and reporting services require specialty skills and qualifications not expressly identified in County classifications; and
 2) Retroactively approve and authorize the Chair to sign perpetual Agreement 5890 with the Delta Regional Monitoring Program for required water quality monitoring and reporting in compliance with the County's National Pollutant Discharge Elimination System, Municipal Separate Storm Sewer System Permit, with a year-one not-to-exceed amount of \$20,000 and with recurring annual costs in the amount of \$20,000 plus applicable increases as approved by the County for each year thereafter.

FUNDING: General Fund (50%) and Public Utility Franchise Fee (50%).

Sponsors:

Indexes:

Code sections:

Attachments: 1. A - Counsel Approved CRS, 2. B - Unsigned Agreement 5890, 3. C - BOS Memo - DRMP Annual Services Retroactive Agreement, 4. Executed Agreement 5890

Date	Ver.	Action By	Action	Result
5/10/2022	1	Board of Supervisors	Approved	Pass

Planning and Building Department, Tahoe Planning and Stormwater Division, recommending the Board:
 1) In accordance with Chapter 3.13, Section 3.13.030 of County Ordinance Code, Contracting Out, find that the ongoing water quality monitoring and reporting services require specialty skills and qualifications not expressly identified in County classifications; and
 2) Retroactively approve and authorize the Chair to sign perpetual Agreement 5890 with the Delta Regional Monitoring Program for required water quality monitoring and reporting in compliance with the County's National Pollutant Discharge Elimination System, Municipal Separate Storm Sewer System Permit, with a year-one not-to-exceed amount of \$20,000 and with recurring annual costs in the amount of \$20,000 plus applicable increases as approved by the County for each year thereafter.

FUNDING: General Fund (50%) and Public Utility Franchise Fee (50%).

DISCUSSION / BACKGROUND

The County is covered under the State Water Resources Control Board Water Quality Order No. 2013-00101-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 (General Permit). Per Section E.13.d.2 of the General Permit, the County is required to conduct water quality monitoring because the population exceeds 50,000 people. In lieu of conducting the individual monitoring required under Section E.13 of the NPDES General Permit, the County may participate in the Delta Regional Monitoring Program (DRMP). The Central Valley Water Quality Control Board believes that participation in the DRMP will provide more useful data at a lower

total cost than Small Municipal Separate Storm System (MS4) Permittees conducting numerous individual monitoring efforts. Small MS4 Permittees are encouraged to participate in the DRMP in lieu of conducting individual monitoring.

Board of Supervisors Policy C-17, Section 4.5, Contract Term, requires departments to obtain authorization from the Board, initially, and on an annual basis, to use any contract that does not have a stated agreement term.

On January 3, 2017 (File No. 16-1210, Item No. 18), the Board approved perpetual Agreement 202-S1711 with Aquatic Science Center (ASC) to satisfy the County's water quality monitoring and reporting requirements per the County's NPDES MS4 Permit with the State Water Resources Control Board. Agreement 202-S1711 had been renewed on an annual basis per Board Policy C-17, Section 4.5 for Fiscal Years 2017-18 through 2020-21.

In July 2021, the County was notified by ASC that they no longer would be providing the required service and a new not-for-profit entity called the Delta Regional Monitoring Program (DRMP) would be stepping into this same role. Per Section XX. of Agreement 202-S1711, the Planning and Building Department (Department) terminated the agreement with ASC. At the same time, the Department began working with the Chief Administrative Office, Procurement and Contracts Division, and County Counsel to enter into a new agreement with DRMP. In March 2022, after months of negotiations, a mutually-beneficial agreement was reached between DRMP and the County to satisfy the County's water quality monitoring and reporting requirements. The proposed Agreement has a year-one not-to-exceed amount of \$20,000 with recurring annual costs in the amount of \$20,000 plus increases as approved by the County for each year thereafter. Included in the negotiations, DRMP has requested that the County execute the proposed Agreement first, which differs from typical procedures of the County executing agreements last.

At the present time, the Department's Tahoe Planning and Stormwater Division staff do not have staff with the necessary skills to perform this work as it requires very specialized skill sets that are not available in-house and it is not currently economically feasible to maintain those skill sets with full-time staff. Chapter 3.13 of the El Dorado County Code of Ordinances, Contracting Out, includes Section 3.13.030, Criteria, which establishes those instances where contracts may be awarded and work can be performed by independent contractors. It is recommended that the Board find that the DRMP water quality monitoring and reporting work may be contracted out because the work requires specialty skills and qualifications not expressly identified in County classifications (Criteria 3.13.030 (B)).

Under the proposed perpetual Agreement, DRMP will assist the Department in meeting the requirements of the County's water quality monitoring and reporting per the County's NPDES MS4 Permit with the State Water Resources Control Board. The services and work to be provided by DRMP will include, but not be limited to:

- Program Management
- Meetings Management
- Quality Assurance and Data Management
- Sampling Coordination and Logistics
- Analysis Assessment and Reporting

ALTERNATIVES

The Board may choose not to approve the proposed Agreement; however, the County would no longer be in compliance with the water quality monitoring and reporting requirement of the County's NPDES MS4 Permit with the State Water Resources Control Board.

PRIOR BOARD ACTION

See Discussion/Background Above

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel and Risk Management have approved the proposed Agreement

CAO RECOMMENDATION

Approve as recommended.

FINANCIAL IMPACT

There is no change to Net County Cost associated with this item. Funding for these services has been included in the Fiscal Year 2021-22 Budget. Funding for these services beyond Fiscal Year 2021-22 will be included in subsequent years' budgets accordingly.

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; and
- 2) The Clerk of the Board will forward both partially executed copies to Planning and Building Department Administrative Staff for further processing.

STRATEGIC PLAN COMPONENT

Good Governance: Incorporate benchmarks (to other agencies) and best practices to provide context to decisions, using data to inform discussions while promoting efforts to creatively address service delivery.

CONTACT

Brendan Ferry, Deputy Director of Tahoe Planning and Stormwater Division
Planning and Building Department