



Legislation Text

File #: 12-0113, **Version:** 5

Community Development Agency, Long Range Planning Division, recommending the Board approve and authorize the Purchasing Agent to sign Amendment V to Agreement for Services No. 595-S1211 with ICF Jones & Stokes, Inc. for work related to additional public comments received on the partial recirculation of the draft Environmental Impact Report for the Targeted General Plan Amendment and Zoning Ordinance Update, expanding the scope of work and increasing the not-to-exceed amount of the Agreement by \$54,514 for a not-to-exceed total amount of \$460,101, pending review, minor modification and approval by County Counsel and Risk Management.

FUNDING: General Fund.

DEPARTMENT RECOMMENDATION

Community Development Agency (CDA), Long Range Planning Division, recommending the Board authorize the Purchasing Agent to sign Amendment V to Agreement for Services No. 595-S1211 with ICF Jones & Stokes, Inc. (ICF) for work related to additional public comments received on the partial recirculation of the draft Environmental Impact Report (DEIR) for the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA-ZOU), expanding the scope of work and increasing the not-to-exceed amount of the Agreement by \$54,514 for a not-to-exceed total amount of \$460,101.

DISCUSSION / BACKGROUND

Summary

The TGPA-ZOU is intended to implement the voter-approved 2004 General Plan by bringing zoning consistent with the General Plan, making the zoning code more user-friendly, and creating a stronger policy basis to encourage and support:

- Development of housing affordable to the moderate income earner
- Job creation
- Capture of sales tax revenues
- Promoting and protecting agriculture in the county

Background

On November 14, 2011, the Board adopted three (3) Resolutions of Intention (ROI's) to initiate the TGPA-ZOU project:

- ROI 182-2011 outlined the specific General Plan Policies to be considered and analyzed for possible amendment
- ROI 183-2011 and ROI 184-2011 authorized the Development Services Department to proceed with a comprehensive Zoning Ordinance update

Most local jurisdictions, including El Dorado County, find that it is typically more economical and feasible to engage independent contractors to prepare EIRs than to hire and/or train staff to prepare them in house. Preparing EIRs is a highly technical and specialized discipline that often requires expertise in a broad range of environmental disciplines (e.g., Biological, Air Quality, Traffic, Noise,

Water, etc.). Therefore, it has been and continues to be the practice of the County to contract out this type of service rather than establishing the technical expertise at the staff level necessary to prepare EIRs in house.

On January 18, 2012, the Board approved a contract in the amount of \$295,145 with ICF for the completion of the EIR for the County's TGPA-ZOU. ICF is a multi-disciplinary environmental consulting firm well-known for their work on a variety of California Environmental Quality Act (CEQA) and National Environmental Policy Act projects. ICF employs more than 270 professional staff members in their Sacramento office who have expertise in the broad range of environmental disciplines needed to complete the TGPA-ZOU EIR. ICF staff has worked closely with County staff to prepare the EIR and has provided reliable CEQA, technical, and policy expertise in support of important decisions being contemplated by the County.

On March 5, 2012, the Board approved Amendment I to Agreement for Services No. 595-S1211 to revise the scope of work to include the development of a Mixed Use Development and Traditional Neighborhood Design manual as part of the Comprehensive Zoning Ordinance Update in accordance with ROI 183-2011.

On January 28, 2014, the Board approved Amendment II to Agreement for Services No. 595-S1211, extending the term of the Agreement for one (1) additional year to cover the period February 1, 2012 to February 1, 2015 with no change to total compensation.

On October 21, 2014, the Board approved Amendment III to Agreement for Services No. 595-S1211, expanding the scope of work to include the partial recirculation of the DEIR and increasing the not-to-exceed amount of the Agreement by \$54,947.90 for a not-to-exceed total amount of \$405,587 and extending the term of the Agreement to February 1, 2016. Due to a clerical error, the executed Amendment III did not include the extension of the term to February 1, 2016, as directed by the Board of Supervisors at its October 21, 2014 meeting. Therefore, the parties of said Agreement corrected the clerical error by extending the term to February 1, 2016, in Amendment IV.

EIR Progress to Date

ICF is assisting the County in the preparation of a program level EIR and all required and related drafts and documents necessary for the Board to consider the proposed TGPA-ZOU project. Projects such as the TGPA-ZOU inherently raise policy issues. It is the task of the decision makers, consistent with State law, to weigh the benefits and consequences of the proposed changes and strive to achieve a balance of competing economic, social, and environmental interests. The EIR assists decision makers by providing them with information about the TGPA-ZOU's environmental impacts. The EIR prepared for the TGPA-ZOU neither approves nor denies this project.

The TGPA-ZOU DEIR was released in March, 2014 for a 120-day review period. This exceeded the standard 45-day period for the public review of DEIRs in order to provide the community ample time to review the DEIR. Over 90 comment letters and emails (nearly 1,000 pages) were received on the DEIR.

In response to comments from the DEIR, it was determined that a partial recirculation was necessary to address certain comments received, including traffic and water. The partial Recirculated Draft EIR (RDEIR) was released in January 2015 for a 45-day review period. The comment period for the RDEIR closed on March 16, 2015. Approximately 36 comment letters and emails were received on

the RDEIR, totaling over 5,000 pages.

The volume of responses for the RDEIR was far greater than anticipated, particularly in light of the County's request to limit the scope of comments to the revised chapters or portions of the RDEIR. Some commenters resubmitted all their previous comments on the DEIR, and in some cases revised or updated issues and references that must now be reviewed and responded to. These resubmittals must be reconciled with previous comments received and responses already drafted. Examples of the comments received on the RDEIR include: comments embedded in DEIR- and RDEIR-related questions and concerns; comments that reference highlighted and/or circled areas in various locations of other documents submitted; and comments included within and in-between voluminous copies of third-party publications such as:

- The entire California Farmland Conversion Report 2008-2010
- The 2005 Placer County Setback Recommendations to Conserve Riparian Areas and Streams in Western Placer County (appendices and attachments included)
- The SB 610 Marble Valley Specific Plan Water Supply assessment published by the El Dorado Irrigation District
- A Primer on California Water rights by Gary W. Sawyers, Esq.
- Clips of various newspaper articles
- Lengthy court opinions
- A statewide list of Special Status Species from the California Department of Fish and Wildlife California Natural Diversity Database
- Caltrans traffic volume reports dated June 20, 2013
- A 2003 California Department of Fish and Game (now Fish and Wildlife) comment letter responding to a DEIR for the County's Bass Lake Regional Park

Per CEQA, the County must respond to comments received on both the DEIR and RDEIR. Under clear threat of litigation, carefully reviewing comments and responding appropriately is critical. To date, ICF and staff have prepared more than 1,067 draft responses, totaling nearly 500 pages. The volume and nature of comments submitted on the RDEIR will require far more additional work than anticipated. This additional work includes both completing responses to comments received on the RDEIR and revising draft responses already prepared on the DEIR to insure consistency between responses. Preparation of responses to comments and the Final EIR (FEIR) must be very thorough to ensure that the FEIR is adequate and complete and will survive legal challenges.

The anticipated release date for the FEIR was the week of May 10, 2015. Additional time is needed to address the comments received. Staff has worked with ICF to determine the cost and timeframe for ICF to complete the additional work. The proposed budget augmentation would fund additional work in Task 10, Additional Scope - Recirculated Draft EIR, and a new Task 10a: "Prepare Revised Draft EIR for Final EIR", as described in Attachment 5B.

The additional work involves revising responses to comments received on the DEIR to ensure uniformity with responses to comments in preparation on the RDEIR, as well as additional effort involved in preparing and publishing a whole, much larger and more complex final document than originally anticipated. A single document inclusive of the project's entire FEIR will assist in the implementation of the General Plan over time. The level of effort to produce a single FEIR document is not very high, and the usefulness of the resulting document will be substantially improved.

Funding for this Amendment is included in the Long Range Planning (LRP) Division's Fiscal Year (FY) 2014/15 budget. The additional work will likely add two (2) or more months to the project timeline. When a new schedule is established, staff will notify the Board, Planning Commission and the public.

SUMMARY OF COMMENTS RECEIVED

Total Comments Received on DEIR and RDEIR:

- 123 Comments Received
- 91 Independent Commenters
- Approximately 38 repeated or duplicated comments received from individuals.
 - 21 related to stated difficulty with understanding the DEIR
 - 17 related to request of additional detail within project description

Comment Summary - Agency, Organization, Group (e.g., Rural Communities United, Area Planning Advisory Committee, etc.) Comments:

- 34 Comments Received
- 19 Independent Commenters

Comment Summary - Individual Comments:

- 89 Comments Received
- 72 Independent Commenters with 38 (more than half) repeated or duplicated comments received by individuals

Comments received on the DEIR and RDEIR are available on the project's dedicated website at: http://www.edcgov.us/Government/LongRangePlanning/LandUse/TGPA-ZOU_Main.aspx

ALTERNATIVES

An alternative is for County staff to complete major portions of the FEIR without ICF's assistance and expertise. Following receipt of the entire final responses to comments prepared by the County, ICF would then proceed with its existing budgeted tasks, preparing the Findings and Statement of Overriding Considerations and the Mitigation Monitoring Plan, as well as attending hearings.

Since it has been and continues to be the practice of the County to contract out this type of service rather than establishing the technical expertise at the staff level necessary to prepare EIRs in house, staff does not have extensive expertise preparing FEIRs, particularly for projects like the TGPA-ZOU that are only completed, at most, every five to 10 years. This alternative would require staff to complete highly specialized work without direct assistance from experts in the field of EIR preparation, including responding to the voluminous, varied and complicated comments received on the TGPA-ZOU RDEIR, making necessary changes to responses already drafted for the DEIR, and ensuring consistency between them. Ample time would be needed to train staff and allow for needed research to ensure the document produced is defensible. These extra steps would increase delays to the TGPA-ZOU project well beyond the two month delay projected if ICF completes the work and may also delay other Community Development Agency and/or Long Range Planning projects as staff assignments are reprioritized to address the workload. Finally, since County staff may not have the expertise in-house to respond to the more technical aspects of the questions (including Biological, Noise and Water), additional outside consultation may still be required to complete the work.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Pending approval by County Counsel and Risk Management.

CAO RECOMMENDATION

CAO recommending the Board authorize the Purchasing Agent to sign Amendment V to Agreement for Services No. 595-S1211 with ICF Jones & Stokes to address the exorbitant amount of additional comments received related to the partial recirculation of the draft EIR.

FINANCIAL IMPACT

There is no change to Net County Cost associated with this agenda item. Sufficient appropriations have been included in the FY 2014/15 Adopted Budget.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) Clerk of the Board staff to coordinate with Purchasing Agent to obtain signature on Amendment V to Agreement for Services No. 595-S1211; and
- 2) Clerk of the Board staff to forward one (1) original Amendment V to Procurement and Contracts, and one (1) original Amendment V to CDA, Long Range Planning for distribution to Consultant.

STRATEGIC PLAN COMPONENT

The TGPA-ZOU, once completed, is intended to implement the voter approved 2004 General Plan which provides for long range direction and policy for the use of land within El Dorado County. The Project's objectives are consistent with the County's Strategic Plan in that it intends to encourage and support:

- Development of housing affordable to the moderate income earner
- Promote and support the creation of jobs
- Increase capture of sales tax revenues
- Promote and protect agriculture in the county

The General Plan recognizes economic development as an integral part of the growth of existing communities and the development of new communities by allowing for a diverse mix of land uses that are further defined by the Zoning Ordinance Update, which together will facilitate economic growth and viability. Therefore, the TGPA-ZOU supports the County's strategic goal related to Economic Development.

CONTACT

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