

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

BOARD AGENDA # *B-13

Urgent

Routine

AGENDA DATE June 29, 2010

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Amend the Contract for Construction Management Services with Shaw Environmental, Inc., for Landfill 2, Cell No. 5, at the Fink Road Landfill

STAFF RECOMMENDATIONS:

1. Amend the contract for construction management services with Shaw Environmental, Inc., for Landfill 2, Cell No. 5, at the Fink Road Landfill, to extend through December 31, 2010, and increase the not to exceed limit to \$307,732.
2. Authorize the Director of the Department of Environmental Resources, or her designee, to sign the Amendment.

FISCAL IMPACT:

The original contract with Shaw Environmental, Inc., for construction management services was for \$219,698, dated April 7, 2008. A contingency amount of \$32,955 was approved to be set aside, if needed, for a total not to exceed limit of \$252,653. Contingency funds have not been used to date.

To complete the contract for construction management services, an additional \$55,077 is necessary at this time. If this contract is amended, the maximum amount to be paid for (Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2010-420

On motion of Supervisor Chiesa, Seconded by Supervisor O'Brien and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Amend the Contract for Construction Management Services with Shaw Environmental, Inc., for Landfill 2, Cell No. 5, at the Fink Road Landfill

Page 2

FISCAL IMPACT (Continued):

services provided by Shaw under this Agreement will not exceed \$307,732. During the preparation of this Amendment, a \$2 error was discovered in the original Agreement. The actual total should have been \$219,700.

The Fink Road Landfill is an Enterprise Fund that is fully funded through the collection of tipping fees. Capital improvement costs are incorporated into the tipping fee calculations and funds for this purpose are accounted for in the Department of Environmental Resources fiscal year budgets for 2009-2010 and 2010-2011.

DISCUSSION:

The Department of Environmental Resources (DER), Landfill Division, maintains and operates the Fink Road Landfill. This facility is located at 4000 Fink Road, Crows Landing, in western Stanislaus County. The Fink Road Landfill provides landfill services for Class III municipal solid waste (MSW) for all of Stanislaus County as well as Class II disposal of the combustion ash that results from the incineration of MSW at the adjacent Waste-to-Energy facility.

On March 18, 2008, the Board of Supervisors awarded a contract to Shaw Environmental, Inc. (Shaw), to provide professional engineering services and related work necessary to conceptualize, design, and permit the construction of a base liner system for Landfill (LF) 2, Cell No. 5, including ancillary components, and to administer its construction. Construction management/administration is commonly referred to in the industry as construction quality assurance (CQA) and is required by California regulations. In addition, CQA is necessary to ensure that the general contractor builds the project according to state-mandated specifications.

On October 21, 2008, the Board of Supervisors approved and adopted the plans and specifications for this project and directed the Clerk of the Board to publish the notice inviting bids for the construction of LF-2, Cell No. 5, with a closing date of November 26, 2008. Under the advisement of County Counsel, the Board rejected the initial bids for this project on February 10, 2009, and put it back out to bid with a closing date of April 1, 2009. Eleven sealed bids were received and the construction contract was awarded to DeSilva Gates Construction (DSG), LP, on April 28, 2009.

Construction began in late June 2009 with the soil excavation work constituting the first phase of the project. The unusually wet winter and spring that followed, coupled with production delays on the part of DSG, however, have extended the completion of the project. Specifically, Shaw based their original projections for the CQA portion of the project upon the need for an estimated 90 work days. This 90-day projection included completing the liner portion of the project prior to the 2010 winter season. On that basis, the original Shaw contract included a contract end date of December 31, 2009.

Approval to Amend the Contract for Construction Management Services with Shaw Environmental, Inc., for Landfill 2, Cell No. 5, at the Fink Road Landfill

Page 3

By December, however, it was apparent that a contract extension was necessary and Amendment No. 1 was approved on December 15, 2009, extending the contract end date to June 30, 2010.

Using their original schedule, Shaw assessed that if DSG were to sequence portions of the critical liner elements, i.e., the low permeability soil layer (LPSL) and overlying geosynthetics, these components would, in fact, be completed before wet weather occurred. Shaw believed this approach, which is common in the industry, would allow project completion in late 2009, and would enable them to provide the required CQA management, engineering, and observation services within their estimated budget. Part of this assessment was based on Shaw's decision to assign two professional engineers, both with extensive field experience, but at hourly rates below the contract pricing with Stanislaus County.

DSG's progress on the LPSL processing, placement, and survey productivity was slower than anticipated because tasks that are typically overlapped (sequenced), were not. Consequently, this approach extended these weather-sensitive activities into the 2010 winter and spring seasons. Due to the need to dry and repair the LPSL during intermittent wet weather, the base LPSL component and overlying geosynthetics were only recently completed. Although the wet weather delayed the geosynthetic liner installation, some activities did continue onsite, many of which Shaw staff had to be present for including weekly construction meetings. In addition, due to concerns that staff had regarding inadequate soils separation and stockpiling on the part of DSG, Shaw's expertise was requested to oversee extra sampling and laboratory testing to ensure that soil types were meeting the mandated permeability requirements and to take part in numerous consultations to discuss these concerns. Each of these concerns contributed to expending contract funds at a more rapid rate than anticipated and were out of Shaw's direct control.

Construction inspection staff from the Department of Public Works (PW) who visit the site weekly prepare regular Statements of Working Days. As of May 21, 2010, 106 Work Days have been logged, during which construction has been interrupted by 123 non-working days due to rain and/or other considerations, resulting in extending the project completion date to August 4, 2010. At the time of this writing, there are 46 Working Days remaining in DSG's contract bringing the current projection for project completion to 150 work days.

In addition to Shaw providing professional engineers for this project at a reduced hourly rate, Shaw provided other support staff at reduced hourly rates as well. The combination of these savings, however, is insufficient to cover the additional time needed to complete the CQA services for this project.

Shaw has prepared a breakdown of the cost estimates to complete the project which is included as Attachment A. Both DER and PW staff have reviewed these cost estimates

Approval to Amend the Contract for Construction Management Services with Shaw Environmental, Inc., for Landfill 2, Cell No. 5, at the Fink Road Landfill

Page 4

and concur that they are justifiable. Shaw's continued role in this project is critical for maintaining quality assurance, completing the project's final report, and ultimately obtaining the State's approval of Cell No. 5 in order for the County to begin its use. Given that the existing contingency funding of \$32,955 is insufficient to cover these additional costs, staff recommends approval of this contract Amendment (Attachment B), including an extension of the contract end date to December 31, 2010. DER has also recently amended the Memorandum of Understanding with PW, for the public works of improvement oversight of this project, in order to cover their additional staffing costs associated with the project and weather delays.

POLICY ISSUES:

The Board of Supervisors should determine if amending the contract for Construction Management Services to Shaw Environmental, Inc., is consistent with its priorities of providing a safe community, a healthy community, a well-planned infrastructure system, and the efficient delivery of public services.

STAFFING IMPACTS:

There are no staffing impacts associated with this item.

CONTACT PERSON:

Sonya K. Harrigfeld, Director of Environmental Resources Telephone: 209-525-6770

Attachment 3
Budget Allocation and Supplemental Amount
Fink Road Landfill, Cell 5, Subtask 2.1

| Budget Item | Quantity ¹ (Hours) | Rate (Per Hour) | Budget Allocation ³ | Billed to Date ⁴ | Estimate to Complete ⁵ | Supplemental Cost ⁶ |
|-----------------------|----------------------------------|--------------------|-----------------------------------|--------------------------------|---|------------------------------------|
| Project Management | 80 | 195 ² | \$15,600 | 233 hrs / \$40,704 | (47.5 hrs WIP + 54 hrs) @ \$175/hr = \$17,762 | \$42,866.00 |
| Engineer(s) | 120 | \$105 ² | \$12,600 | 50 hrs / \$5,489 | (6 hrs WIP + 20 hrs) @ \$105/hr = \$2,730 | (\$4,381.00) |
| CQA Monitor(s) | 480 | \$70 ² | \$33,600 | 534 hrs / \$37,380 | (115 hrs, WIP + 432 hrs) @ \$70/hr = \$38,290 Additional 50 hrs @ \$70/hr = \$3,500 ⁷ | \$42,070.00 \$45,570.00 |
| Vehicle | -60 days | ~ \$150 / day | \$8,509 | 51 days / \$3,050 | \$841 WIP + 50 days @ \$100/day = \$5,841 | \$382.00 |
| Room and Per Diem | -60 days | ~ \$200 / day | \$11,700 | \$3,626 | \$668 WIP + 50 days @ \$200/day = \$10,668 | \$2,594.00 |
| Soils Testing | -- | -- | \$11,200 | \$10,224 | \$1,977 | \$1,001.00 |
| Geosynthetics Testing | -- | -- | \$9,800 | \$4,258 | \$5,542 | |
| Totals | | | \$103,009 | \$104,731 | \$82,810 | \$84,532 \$88,032 |

¹ Shaw's original internal costing estimates by seven categories for Subtask 2.1 of the Agreement

² Hourly rates of the Agreement

³ Budget allocation breakdown for the authorized \$103,009 budget amount for Subtask 2.1 of the Agreement

⁴ The billed to date hours and costs are extracted from Shaw's monthly invoices from June 2009 to February 2010 (rounded to nearest dollar).

⁵ Refer to April 7, 2010 cover letter Page 4, *Estimated Additional CQA Project Management, Engineering Support, and Observation Services*

⁶ Supplemental Cost = -(Budget Allocation - Billed to Date - Estimate to Complete)

⁷ An additional 50 hours of CQA monitoring time assessed based on DeSilva Gates' May 04, 2010 Completion Schedule forwarded May 08, 2010



DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 Cornucopia Way, Suite C, Modesto, CA 95358
Phone: (209) 525-6700
Fax: (209) 525-6773

AMENDMENT NO. 2
TO
PROFESSIONAL SERVICE AGREEMENT
SHAW ENVIRONMENTAL INC.

This Amendment No. 2 to the Agreement for Professional Service ("Amendment No. 2") by and between the COUNTY OF STANISLAUS ("County") and SHAW ENVIRONMENTAL INC. ("Consultant"), is made and entered into on _____.

Whereas, the County and Consultant entered into an Agreement for Professional Service dated April 7, 2008 ("the Agreement"); and

Whereas, Amendment 1 dated December 15, 2009, extended the term of the Agreement until June 30, 2010; and

Whereas, Paragraph 3.1 says the contract terminates on the completion of the agreed upon services; and

Whereas, the construction contractor's production delays and adverse weather conditions have caused delays in construction and have had an impact on Subtask 2.1 budget for Consultant's Field Construction Quality Assurance (CQA) Services; and

Whereas, the construction contractor's recent forecast of construction days to complete the project will continue to impact Subtask 2.1 budget for Consultant's Field Construction Quality Assurance (CQA) Services by an increase in work days from 90 to 155 work days, interrupted by 92 non working days, for a total duration of 247 project days; and

Whereas, due to construction delays, the County desires to extend the Agreement to allow the Consultant to continue to oversee the project to completion; and

Whereas, the County desires to increase the Agreement "Not to Exceed" amount by \$88,032.00, to compensate Consultant's additional hours of work necessary to continue performance of CQA project management, engineering support, and observation services under Subtask 2.1 of the Agreement; and

Whereas, this amendment is for the mutual benefit of County and Consultant;

Now, therefore, the County and Consultant agree as follows:

1. Exhibit A, Section N, is amended as follows:

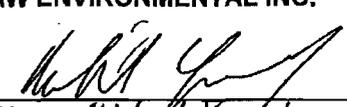
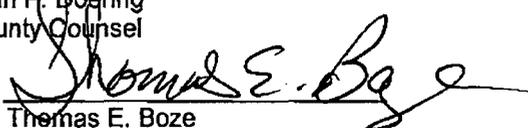
"The initial period of this Agreement is from March 21, 2008, through December 31, 2009. The first extended period of this Agreement is from January 1, 2010, through June 30, 2010. The second extended period of this Agreement is from July 1, 2010, through December 31, 2010, or until the work required by the Agreement and any amendments to the Agreement is complete. This language supersedes language stipulated in Exhibit A, Section O."

2. Exhibit A, Section L, the "not to exceed" amount is changed as follows:

"not exceed \$307,732.00"

- 3. Exhibit B, Task 2.1 Total Not to Exceed Price, is changed to read: "\$191,042.00"
- 4. Exhibit B, Subtotal Task 2, is change to read: "\$197,646.00"
- 5. Exhibit B, Maximum Project Total, is changed to read: "\$307,732.00"
- 5. Except as stated herein, all other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

| | |
|---|---|
| <p>COUNTY OF STANISLAUS Department of Environmental Resources</p> <p>By: _____ Sonya K. Harrigfeld Director</p> <p style="text-align: center;">"County"</p> | <p>SHAW ENVIRONMENTAL INC.</p> <p>By:  Name <i>Michael Yacyshyn</i> Title <i>Office Director</i></p> <p style="text-align: center;">"Consultant"</p> |
| <p>APPROVED AS TO FORM: John F. Doering County Counsel</p> <p>By:  Thomas E. Boze Deputy County Counsel</p> | |