

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

DEPT: Environmental Resources

BOARD AGENDA # *B-4

Urgent

Routine

AGENDA DATE April 5, 2011

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

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 increase the not to exceed limit to \$336,348.
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. At that time, a contingency amount of \$32,955 was also set aside to be used if needed. An amendment was approved on June 29, 2010, which included the contingency amount of \$32,955, plus an additional \$55,077 and \$2 to correct an error, for a revised not to exceed total of \$307,732.

(Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2011-199

On motion of Supervisor O'Brien, Seconded by Supervisor Chiesa

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

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

FISCAL IMPACT (Continued):

At this time, a final amendment in the amount of \$28,615.25 is requested which would bring the not to exceed contract total to \$336,348 (rounded up to accommodate the \$0.25).

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 budget for Fiscal Year 2010-2011.

DISCUSSION:

The Department of Environmental Resources (DER), Landfill Division, maintains and operates the Fink Road Landfill (Landfill). The Landfill provides disposal 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, and to administer its construction. Construction management/administration is commonly referred to in the industry as construction quality assurance (CQA). Third party CQA services for landfill containment system construction are required by the California of Regulations, Title 27. 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, which Shaw would oversee, was awarded to DeSilva Gates Construction (DSG), LP, on April 28, 2009.

Construction began in late June 2009 and by December 2009, it was apparent that the project was progressing slowly and an extension would be necessary. Amendment No. 1 was approved administratively by the Director of DER on December 15, 2009, extending the Shaw contract end date to June 30, 2010. Using this revised schedule, Shaw assessed that if the installation of critical liner elements were sequenced, as is common in the industry, the project would be completed by the revised June 2010 date. This scenario would have enabled them to provide the required CQA management, engineering, and observation services within their estimated budget.

DSG's progress in completing construction, however, continued to be slow. This was primarily due to two issues: 1) soil types were not properly separated during excavation which resulted in a side slope material suitability issue near the end of the project; and 2) the installation of

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

critical liner elements were not sequenced as was anticipated. Ultimately, it took an additional eight (8) weeks beyond their revised June 8, 2010, completion date to wrap up the project, adding a total of 31 additional work days, excluding weekends. Further, in an effort to increase production and avoid incurring liquidated damages, DSG began routinely working overtime starting in late May 2010. From the end of May until the project was completed in late July, DSG worked four Saturdays, one Sunday, and averaged just less than 10 hours per day on each working day. CQA services were required during this entire time.

Once the on-site work was finally completed, Shaw was also responsible for preparing the Construction Certification Report which is required by the Regional Water Quality Control Board. The effort required to prepare this document was made more complex by the extended timeline necessitated by DSG. Specifically, the report must summarize every aspect of construction activities including repairs, problems that were encountered and how they were corrected, etc. Consequently, Shaw incurred extra CQA expenses in the preparation of this required report on top of the additional construction oversight activities.

A summary of the additional costs incurred by Shaw is as follows:

Additional Effort to Complete Field CQA Services (Task 2.1)				
Budget Item	Units	Overage	Unit Rate	Additional Cost
Project Mgmt	Hours	62	\$175	\$10,850
Engineering	Hours	<20>	\$105	<\$2,100>
CQA Monitor – Regular Time	Hours	152.75	\$70	\$10,692.50
Field Vehicle	Days	10	\$100	\$1,000
Travel Expenses	Days	10	\$200	\$2,000
Materials & Supplies	Actual Cost	\$172.75		\$172.75
TOTAL TASK 2.1				\$22,615.25

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Additional Effort for Construction Certification Report (Task 2.2)				
Budget Item	Units	Overage	Unit Rate	Additional Cost
Peer Review	Hours	10	\$195	\$1,950
Project Mgr	Hours	<12>	\$195	<\$2,340>
Project CQA Engineer	Hours	81.50	\$175	\$14,262.50
Project Engineer 3	Hours	12	\$100	\$1,200
Staff Engineer	Hours	26	\$108	\$2,808
CQA Monitor	Hours	46	\$70	\$3,220
CAD Drafter	Hours	<4>	\$78	<\$312>
Word Processing	Hours	20	\$78	\$1,560
Clerical	Hours	<3>	\$65	<\$195>
Misc. Expenses	Actual Cost	<18>	Actual Cost	<\$18>
Sub-Total				\$22,135.50
Costs Absorbed by Shaw				<\$16,135.50>
TOTAL TASK 2.2				\$6,000.00

GRAND TOTAL BEING REQUESTED:

\$28,615.25

As is denoted in the above table for Task 2.2, Shaw elected to absorb \$16,135.50 of the cost they incurred for the additional CQA expenses. In addition, and not reflected in the tables, Shaw elected to not charge the County for \$4,348.75 in overtime premiums (124.25 hrs x \$35/hour) or for \$3,560 in testing services, representing an additional \$7,908.75 in absorbed costs. The grand total of costs absorbed by Shaw equals \$24,044.25. This was done to avoid penalizing the County for inefficiencies that may have resulted because of staffing changes that were made mid-way through the project. The County appreciates these considerations.

While the additional \$28,615.25 in project costs being requested was both necessary and beyond Shaw's direct control, Department staff admonished Shaw for its failure to bring the cost overruns to the Department's attention in a more timely manner. Shaw's request for this final contract amendment was submitted in October 2010, prior to the Notice of Completion for the project being filed in late November 2010, however, delays ensued in providing some supplemental information the County requested. Department staff received this supplemental information in mid-January 2011, and is now bringing this item forward for the Board's consideration.

Both DER and Public Works staff have reviewed these cost estimates and concur that they are justifiable. Staff recommends approval of this Amendment and has attached Shaw's October 2010 request for this adjustment as Attachment A.

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

POLICY ISSUES:

Approval of this agenda item to amend the contract for Construction Management Services with Shaw Environmental, Inc., for Landfill 2, Cell No. 5, at the Fink Road Landfill, is consistent with the Board's priorities of providing A Safe Community, A Healthy Community, A Well-planned Infrastructure System, and the Efficient Delivery of Public Services. Adequate landfill capacity for Stanislaus County and its communities is critical to supporting the Department's mission to promote a safe and healthy environment and improve the quality of life in the community through a balance of science, education, partnerships and environmental regulation.

STAFFING IMPACTS:

There are no staffing impacts associated with this item.

CONTACT PERSON:

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



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

**AMENDMENT NO. 3
TO
PROFESSIONAL SERVICE AGREEMENT**

SHAW ENVIRONMENTAL INC.

This Amendment No. 3 to the Agreement for Professional Service ("Amendment No. 3") by and between the COUNTY OF STANISLAUS ("County") and SHAW ENVIRONMENTAL INC. ("Consultant"), is made and entered into on April 5, 2011.

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, Amendment 2 increased the not to exceed amount to \$307,732.00, and extended the Agreement to allow the Consultant to continue to oversee the project to completion; and

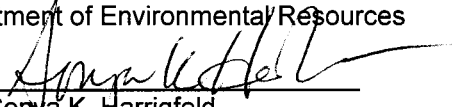

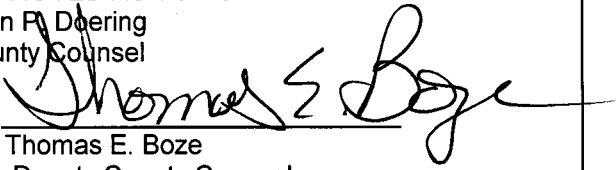
Whereas, the County desires to increase the Agreement "Not to Exceed" amount by \$28,615.25, due to construction delays to compensate Consultant's additional hours of work necessary to continue performance of CQA project management, engineering support, and observation services under Subtask 2.1 of the 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 L, the "not to exceed" amount is changed as follows: "not exceed \$336,348.00"
2. Exhibit B, Task 2.1 Total Not to Exceed Price, is changed to read: "\$213,657.25"
3. Exhibit B, Task 2 Total Not to Exceed Price, is changed to read: "\$12,604.00"
3. Exhibit B, Subtotal Task 2, is change to read: "\$226,261.25"
4. Exhibit B, Maximum Project Total, is changed to read: "\$336,347.25"
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 "County"</p>	<p>SHAW ENVIRONMENTAL INC.</p> <p>By:  Name: B. Michael Yacyshyn Title: Principal Engineer "Consultant"</p>
<p>APPROVED AS TO FORM: John P. Doering County Counsel</p> <p>By:  Thomas E. Boze Deputy County Counsel</p>	