

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 11/6/2012	(3) CONTACT/PHONE John Waddell, Project Manager (805) 781-5252	
(4) SUBJECT Request for approval to proceed with the Water Recycling Facility project through the design-bid-build process and approval of a sole source agreement for Professional Engineering Services with Carollo Engineers (Clerk's File) in the amount of \$3,382,504 for the Los Osos Wastewater Project Water Recycling Facility, Los Osos, CA. District 2.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: 1. Direct staff to proceed with the Water Recycling Facility contracting process through a design-bid-build method, whereby the final design is completed through a professional engineering agreement, a construction contract is advertised for bids, and the project is constructed by the low-bid contractor in accordance with Public Contract Code Section(s) 20150 et. seq.; and 2. Waive the Board adopted Contract for Services policy requiring requests for proposals for services over \$25,000; and 3. Approve the attached sole source Agreement for Professional Engineering Services with Carollo Engineers, Inc. in the amount of \$3,382,504 (\$3,221,432 fee estimate for final design and bidding phases and \$161,072 for contingency fund) for the final design of the Water Recycling Facility and direct your Board Chair to execute.			
(6) FUNDING SOURCE(S) Fund Center 430	(7) CURRENT YEAR FINANCIAL IMPACT \$3,382,504.00	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation { } Hearing (Time Est. _____) {X} Board Business (Time Est. 60 min.)			
(11) EXECUTED DOCUMENTS { } Resolutions {X} Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required {X} N/A	
(14) LOCATION MAP No	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date 10/23/12, #17	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 2 -			

Reference: 12NOV06-BB-1

County of San Luis Obispo



TO: Board of Supervisors
FROM: Public Works
John Waddell, Project Manager
VIA: Dave Flynn, Deputy Director of Public Works
DATE: 11/6/2012

SUBJECT: Request for approval to proceed with the Water Recycling Facility project through the design-bid-build process and approval of a sole source agreement for Professional Engineering Services with Carollo Engineers (Clerk's File) in the amount of \$3,382,504 for the Los Osos Wastewater Project Water Recycling Facility, Los Osos, CA. District 2.

RECOMMENDATION

It is our recommendation that your Honorable Board:

1. Direct staff to proceed with the Water Recycling Facility contracting process through a design-bid-build method, whereby the final design is completed through a professional engineering agreement, a construction contract is advertised for bids, and the project is constructed by the low-bid contractor in accordance with Public Contract Code Section(s) 20150 et. seq.; and
2. Waive the Board adopted Contract for Services policy requiring requests for proposals for services over \$25,000; and
3. Approve the attached sole source Agreement for Professional Engineering Services with Carollo Engineers, Inc. in the amount of \$3,382,504 (\$3,221,432 fee estimate for final design and bidding phases and \$161,072 for contingency fund) for the final design of the Water Recycling Facility and direct your Board Chair to execute.

DISCUSSION

On September 20, 2006, California State Governor Arnold Schwarzenegger signed Assembly Bill 2701 (Blakeslee) which allowed the County, your Board's discretion, to assume responsibility for development of a wastewater project (Project) for the community of Los Osos. Since 2006, environmental permits and funding approvals have been obtained, and on March 15, 2011, your Board adopted the Due Diligence resolution to assume responsibility for the Project and proceed to Project completion. The adoption of the Due Diligence resolution predicated your Board's action on May 17, 2011 to approve the \$173 million Project budget. The budget includes all costs and contingencies for the project, some of which will be funding by grants. The collection system design has been completed and the three contracts approved, which has resulted in the current estimates for

the collection system portion of the project to be \$17 million below the approved budget. The next portion of the project is the treatment plant, or water recycling facility, for which a final design and bidding process must be completed. The budget estimates for the design and construction of the water recycling facility is currently \$36 million.

Water Recycling Facility Contracting

The County has been considering design-build contracting for the Project for several years. On August 14, 2007, your Board adopted Project Selection Strategies that included consideration for design-build contracting. Since that time, decision factors for the utilization of design-build contracting have been influenced by multiple issues. The following are some of the key developments relating to design-build contracting for the Project.

- Favorable State and Federal financing, including significant grant funding, was awarded, which effectively made utilization of the key design-build legislation available in 2007, Government Code 5956, infeasible. Government Code 5956 requires the utilization of private financing for design-build projects completed under this code section. The State and Federal financing provided for the project resulted in significant cost savings with which private financing is not competitive.
- New design-build legislation was passed in 2008, CA Public Contract Code 20133. This code section provides narrow language for a design-build selection that is not in line with standard design-build industry practices which include a short-list of pre-qualified contractors and selection based largely on qualifications. Additionally, some of the language is unclear in its intent, and there is little history of other agency usage or case law to support varying interpretations of the language. If the County were to use Public Contract Code 20133, the Project would be subject to potential risks, including limited contractor competition due to the non-standard procurement practices and litigation risks with significant uncertainty of the outcome based on the lack of legal precedents.
- State Water Board guidelines for design-build contracting require a process in accordance with the Design-Build Institute of America (DBIA) guidelines. The DBIA guidelines are not consistent with Public Contract Code 20133 and failure to strictly follow the DBIA guidelines creates a potential risk to the State Water Board funding for the project.
- Design-build contracting was considered by your Board as a Project Selection Strategy. Since that time, the environmental review process and, specifically, the Coastal Development Permit, have narrowly defined the Project technologies. As a result, design-build would not have a significant impact on technology selection for the project. A competitive cost-based selection of contractors can be accomplished through either design-build or design-bid-build contracting.
- Design-build contracting has the potential for significant schedule savings compared to design-bid-build, under certain circumstances. However, issues unique to this project, such as no prior institutional experience with design-build contracting, litigation risks, and Coastal requirements that preclude any construction before a final design is approved, significantly erode the potential schedule advantages of design-build. In fact, there is a likely risk that the project may take longer to complete under design-build contracting than with traditional contracting.

Based on the developments listed above, staff is recommending that construction of the Water Recycling Facility proceed through design-bid-build contracting. This is the same process as was used for the collection system and it entails completing the final design of the facility under a professional engineering services agreement, advertising a construction contract for low bids and awarding the contract to the lowest bidder.

The first step in the design-bid-build process is the completing of the final design and bidding documents. The design of the Water Recycling Facility has been completed to a 20% level by Carollo Engineers in preparation for a design-build Request for Proposals. This 20% design represents a significant work effort toward the final design and should be relied upon to complete the final design. It is recommended that Carollo Engineers take the existing preliminary design to final completion so that the project may be advertised for bids.

Sole Source Recommendation for Carollo Engineers

The recommendation for an engineering services agreement with Carollo Engineers is for a sole source contract, based on a number of considerations. Carollo Engineers is a nationally recognized design firm primarily focused on water and wastewater system design. They have provided wastewater treatment plant designs for numerous California public agencies, including designs for notable water recycling facilities, such as the City of Roseville, City of Petaluma, and facilities in San Luis Obispo County for the City of Pismo Beach and the State of California. Carollo Engineers is a leader in the wastewater treatment field, providing services for both design-build and design-bid-build projects. The attached summary of qualifications provides their experience in designing oxidation ditch treatment facilities in California, including tertiary treatment, which is the same type of design in the agreement recommended for your Board's approval.

Since the County initiated work on the Project in 2006, Carollo Engineers has provided a high level of professional services to the Project throughout the complicated and controversial development process. They have extensive background knowledge of the Project and have been, or are currently, providing important services for necessary Project permits and approvals from the Coastal Commission, Regional Water Board, State Water Board, and CA Department of Public Health that are directly related to the water recycling facility. Most significantly, Carollo Engineers has developed the preliminary 20% design of the water recycling facility, which was to be used for the design-build contracting. Their staff has the experience and background to quickly and cost-effectively complete the final design plans and specifications in order for the County to release the project for bids in 2013.

Schedule and costs are another important consideration. The final design schedule in the proposed agreement is approximately 9 months, resulting in a final design and bidding process in August 2013. This is significantly quicker than what could be expected from another engineering firm that does not already have staff familiar with the project through the completion of the preliminary design. Similarly, the cost of the design is reasonable and reflects efficiencies of utilizing engineering staff that have a prior knowledge of the project. Any other selected design firm will likely require a longer schedule to complete the design at a similar or greater cost, with the bidding process likely being delayed until early 2014.

In addition to the likely schedule and cost impacts from using a different design consultant, without a sole-source approval the County must complete a 3 to 5 month procurement process through a formal Request for Proposals. The Request for Proposals process, pursuant to CA Public Contract

Code Sections 4525 - 4529 requires qualifications based selection, where the most qualified professional consulting firm is selected and the cost is then negotiated, after selection of the firm. As a result of Carollo Engineers' overall qualifications in this type of treatment plant design, and their project specific experience, the cost and time of a formal Request for Proposals project is not justified, since Carollo Engineers would clearly be the superior firm in a qualifications based selection process.

Our Department is recommending a sole source contract with Carollo Engineers for the final design, and related services, for the water recycling facility, based on the unique expertise and Project experience of their staff. The agreement with Carollo Engineers also includes provisions for providing construction services during the construction phase of the treatment plant project implementation. These services are in addition to the design phase activities which we are recommending. Our staff will return to your Board prior to project construction to authorize these Construction Services with Carollo Engineers, with the associated cost for these services.

The depth of knowledge regarding the Project and issues specific to Los Osos make Carollo Engineers the clear choice for cost effectively completing the work, which will likely result in schedule and cost savings over other alternatives.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel is providing legal guidance on all aspects of the Project and has approved the attached agreement as to legal form and effect. The U.S. Department of Agriculture (USDA) and State Water Board are jointly financing the project and provide oversight of engineering and consulting agreements. Numerous other County departments and local agencies are involved in other Project related efforts.

FINANCIAL CONSIDERATIONS

The recommended agreement is for services necessary and planned for the completion of the Project. The costs, including contingencies, are included in the Project budget, which was approved by your Board on May 17, 2011. A budget status update is attached as Exhibit "A".

RESULTS

Approval of the recommended actions will continue progress toward a community wastewater project for Los Osos by retaining an engineering design consultant necessary to complete the design and construction of the Water Recycling Facility phase of the Project.

File: Los Osos WWP 300448.00.1.4

Reference: 12NOV06-BB-1

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ATTACHMENTS

1. Budget Status Update
2. Carollo Engineers Oxidation Ditch Design Qualifications
3. Agreement for Professional Engineering Services with Carollo Engineers