



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: March 19, 2019
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dianne Black, Director, Planning & Development (568-2086)
Director:
Contact Info: John Zorovich, Deputy Director, P&D Energy, Minerals, and
Compliance Division (568-2519)
SUBJECT: **Approval of Amendment No. 2 to the Professional Services Contract with Aspen Environmental Group for Preparation of the Environmental Impact Report for the ERG Operating Company West Cat Canyon Revitalization Plan located in the 4th and 5th Supervisorial Districts.**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve, ratify, and authorize the Chair to execute Amendment No. 2 to the Professional Services Agreement BC15157 with Aspen Environmental Group (Aspen), in the amount of \$81,560.00 for a total contract not-to-exceed cost of \$373,976.00 for additional analyses for the Draft Environmental Impact Report (DEIR) and for preparation of the Final EIR for ERG's West Cat Canyon Revitalization Plan project. The recommended Contract Amendment No. 2 is included as Attachment 1.
- b) Determine that this action is exempt from CEQA pursuant to CEQA Guidelines Section 15378(b)(5), which exempts organizational or administrative activities of governments that will not result in direct or indirect physical changes to the environment.

Summary Text:

Draft EIR. Additional work beyond the original scope of the contract and Contract Amendment No. 1 was required for Aspen to complete the DEIR for the ERG West Cat Canyon project. This Amendment No. 2 includes a request for an additional \$51,905.00 to fund out-of-scope efforts for Contract Tasks 4b and 5 resulting from: (1) follow-up information requests to the applicant for information and clarifications of previous submittals that resulted in the need for multiple review and revision efforts for the administrative draft EIR sections; (2) continued coordination with Air Pollution Control District (APCD) staff regarding the project Air Quality Impact Assessment (AQIA) and Health Risk Assessment (HRA) and the air quality and climate change

analyses in the DEIR; (3) inclusion of additional details regarding other major proposed oil and gas projects (Aera, PetroRock, Plains Pipeline and ExxonMobil Interim Trucking) as they became available during DEIR preparation; (4) resolution of discrepancies in biological information provided by the applicant for the DEIR; and (5) attendance at an additional public comment hearing for the DEIR, as requested by P&D.

Final EIR. This Amendment No. 2 also requests an additional \$29,655.00 in funding for higher than anticipated costs to prepare the Final EIR (Contract Tasks 6, 7, and 8). These costs result from: (1) higher number of comments on the Draft EIR than anticipated in the scope of work (532 received v. maximum of 400 estimated); (2) need for multiple iterations to prepare thorough responses to comments, and (3) coordination with staff and the applicant via email, meetings and conference calls to clarify and confirm input from the applicant for the Final EIR.

A detailed accounting of the out-of-scope costs is provided in the February 13, 2019 memorandum from Aspen which is included as in Attachment 1.

Background: The proposed ERG project is summarized below:

- Development and operation of 233 new thermally enhanced (cyclic steaming) production wells.
- Replacement of four existing steam generators, which were permitted and operated under previous Production Plans. Each generator would have a maximum thermal output of 85 MMBTU/hr.
- Expansion of existing equipment areas and production facilities to accommodate appurtenant equipment.
- Construction and operation of various inner-field piping needed to service the existing and proposed wells.
- Replacement of an existing 3.5 mile-long, 4-inch diameter natural gas pipeline with a new 8-inch natural gas pipeline for routine expanded operations.

The Board approved the contract with Aspen on March 3, 2015 with a total contract amount of \$241,714 that included a contingency fund of \$31,528.00. Since the Board approved the original contract, work on remaining contract tasks has been authorized, one Contract Amendment No. 1 was approved by the Board and four change orders were executed by P&D and Aspen, as follows:

Change Order #1: Change Order #1 extended the original contract end date from March 5, 2016 to June 30, 2017. This change order was approved by the P&D Director and effective March 5, 2016.

Change Order #2: Change Order #2 split Task 4, *Administrative Draft and Technical Appendices*, into two tasks, 4a (70% ADEIR) and 4b (100% ADEIR). This change was made due to delays in receiving information from the applicant which in turn delayed completion of Task 4. This change order was approved by the P&D Director and effective June 28, 2016.

Change Order #3: Change Order #3 (1) extended the contract end date to June 30, 2018 and (2) released the contract contingency of \$31,528 to pay Aspen for work completed since June 29, 2016. This change was made due to continued delays in receiving requested information from the applicant and to changes requested by the applicant to the project description and alternatives to be considered in the EIR. In addition, P&D requested that Aspen perform certain tasks not previously accounted for in the contract. These include active close coordination with APCD to ensure resolution of possible discrepancies between emissions information used in the EIR and similar information used by APCD staff in processing the requisite APCD permits for the project. This change order was approved by the P&D Director and effective May 1, 2017.

Contract Amendment No.1. Amendment No.1 was approved by the Board on July 25, 2017 and added \$50,702.00 to the Aspen contract for a total not-to-exceed amount of \$292,416.00. This amount was allocated as follows: \$19,174.00 to Tasks 4b and 5 and \$31,528.00 to replenish the contingency fund which was used per Change Order #3.

Change Order #4: Change Order #4 extended the contract end date to June 30, 2019. This change order was approved by the P&D Director and effective July 1, 2018.

Fiscal and Facilities Impacts:

All costs for this project are fully reimbursed by the project applicant. With this Amendment No. 2, the not-to-exceed cost of completing the ERG Operating Company West Cat Canyon Revitalization Plan project Environmental Impact Report total increases from \$292,416.00 to \$373,976.00. This amount includes a base cost increase from \$260,888.00 to \$342,448.00 and the existing contingency fund of \$31,528.00. The applicant will deposit the authorized amount (\$81,560.00) upon the Board's approval of the requested Contract Amendment No. 2.

P&D will continue to invoice the applicant for all staff time necessary to administer the Agreement for Services and related planning activities. These funds are budgeted in the on page D-272 of the County of Santa Barbara Fiscal Year 2018 adopted budget.

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			373,976.00
Total	\$ -	\$ -	373,976.00

Narrative: The applicant has provided contract funds in the amount of \$292,416.00 and will provide the additional \$81,560.00 to increase the total not-to-exceed cost to \$373,976.00. The existing contingency fund of \$31,528.00 will remain in place. The additional funds will be allocated to Contract Tasks 4b and 5 (\$51,905.00) and Tasks 6 through 8 (\$29,655.00).

Key Contract Risks:

A risk analysis was performed on the original proposed contract and was determined to be of low risk. The contract amendment amount of \$81,560.00 will be paid in-full by the applicant in the form of a deposit to the County. As such, there is low risk to County fiscal resources for the contract amount. The contract will continue to include payment arrangements based on periodic compensation at selected milestones. Payments will not be made until all services have been completed, delivered and found to be satisfactory for the various milestones. Funds from the deposit will only be expended upon satisfactory product delivery and performance by Aspen Environmental Group. The Aspen Environmental Group which has a proven track record of providing technical services to the Energy, Minerals & Compliance Division for the last 12 years.

Staffing Impacts:

Legal Positions: N/A **FTEs:** N/A

Special Instructions:

The Clerk of the Board will forward a copy of the executed Amendment 2 to the Agreement for Services and Minute Order to P&D, Energy & Minerals Division, attention Errin Briggs.

Attachments:

1. Contract Amendment No. 2 to Agreement for Services (BC15157)
2. Board Contract Summary

Authored by: Nancy Minick, Planner

ATTACHMENT 1

AMENDMENT NO. 2 to
AGREEMENT FOR SERVICES OF INDEPENDENT
CONTRACTOR (BC15157)

BOARD OF SUPERVISORS CONTRACTOR AMENDMENT
NO. 2 TO
AGREEMENT BETWEEN COUNTY OF SANTA
BARBARA AND ASPEN ENVIRONMENTAL GROUP

This Amendment (hereinafter referred to as Amendment No. 2) constitutes a modification to the original agreement between County of Santa Barbara (COUNTY) and Aspen Environmental Group (CONSULTANT), Contract No. **BC15157**, which was entered into on March 3, 2015 and revised with County approval of Amendment No. 1 on July 25, 2017.

Effective as of March 19, 2019, the original agreement is modified as follows:

1. The following work is added:
As described in Aspen memorandum to P&D dated February 13, 2019 which is included herein as Attachment 1-A.
2. The changes in compensation for each of the specific tasks added are as follows:
Tasks 4b and 5 budgets are augmented by a total of \$51,905 and Tasks 6, 7, and 8 budgets are augmented by \$29,655.
3. The time provided (in working days) to complete each of the above-described work tasks is as follows:
As described in Attachment 1-A.
4. The revised schedule for the total project is as follows:
As described in Attachment 1-A.
5. Any and all change orders, including but not limited to Change Orders 1 through 4 which are included herein as Attachment 1-B and incorporated by reference.

CONSULTANT understands and agrees that the compensation and time granted herein constitutes the total and entire compensation for these changes in the work. All other terms and conditions of the original agreement, as previously amended, if applicable, shall remain in full force and effect.

ATTEST:

CLERK OF THE BOARD

By _____
Deputy Clerk of the Board

Chair, Board of Supervisors

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
County Counsel

Consultant
Hamid Rastegar, President
Aspen Environmental Group

By _____

APPROVED AS TO FORM

Risk Manager

Auditor-Controller

By _____

By _____