DEPARTMENT: Public Works
BY: Dana S. Hertfelder
PHONE: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION:

Approve amendment to the Contract for Concept Design in the not-to-exceed amount of $50,000; and authorize the Chairman of the Board to execute the Contract.

(Please refer to the October 25, 2004 memorandum prepared by Mr. Fred Solomon).

The only bid received for construction of the compost facility building and related structures was from Dick Anderson Construction Inc. in the amount of $4,965,000. Staff has negotiated a change order with Dick Anderson Construction that will reduce the amount of the contract by $875,000. Concept Designs will need to amend the plans and specifications to finalize the Change Order.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On August 10, 2004, the Board of Supervisors approved the plans and specifications for the building and related facilities to house the compost system and authorized the Public works Department to advertise for bids for the project.

The Engineers Estimate for this project was $3,551,000.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

1) Negative action would not allow the plans and specifications to be finalized at the time the contract is awarded and would result in a delay to the project.

2) The County could contract with another design engineer to incorporate the changes in the proposed change order. This action would likely increase the cost of amending the plans and specifications to account for the modifications resulting from the proposed order.

Financial Impact? (x) Yes ( ) No  Current FY Cost: $
Budgeted In Current FY? (X) Yes ( ) No  ( ) Partially Funded
Amount in Budget: $
Additional Funding Needed: $
Source:

Transfer Between Funds
Unanticipated Revenue
Contingency
( ) General  ( ) Other

List Attachments, number pages consecutively
Solomon to Hertfelder October 25, 2004 memo

Encumbrance, RFP

Concept Design Letter 10/22/04

Exhibit A

Fourth Amendment

CLERK'S USE ONLY:
Res. No.:  Ord. No.  
Vote – Ayes:  Noes:  
Absent:  
( ) Approved  ( ) Minute Order Attached  ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date:  
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By:  
Deputy

COUNTY ADMINISTRATIVE OFFICER:
( ) Requested Action Recommended
( ) No Opinion
Comments:

CAO:  

Revised Dec. 2002
MEMO

To: Dana Hertfelder, Interim Director of Public Works
From: Fred S. Solomon
Date: October 25, 2004
Re: Award of Contract for Mixed Solid Waste Compost Facility

Recommended Action

1. Request the Board of Supervisors to transfer $875,000 from the General Contingency Fund to Compost Fund 604.

2. Award a contract to Dick Anderson Construction, Inc. in the amount of $4,965,000 for the construction of the compost facility building and related work and authorize the Chairman of the Board of Supervisors to execute the contract subject to the concurrent execution of a Change Order by Dick Anderson Construction, Inc. in the deductive amount of $815,500.

3. Approve an amendment to the contract with Concept Design to revise the plans and specifications to reflect the changes resulting in the cost savings of $815,500 in the amount of not-to-exceed $50,000 and authorize the Chairman of the Board to execute the contract amendment.

4. Authorize the Chairman of the Board to execute a personal services agreement with Roy Chriswell for on-site inspection services in the amount of $60,000, pursuant to the attached proposal submitted by Mr. Chriswell and as required by the United States Department of Agriculture Rural Development under the terms of the loan and grant.

Discussion

On September 17, 2004 the County of Mariposa received bids for the construction of the building to house the compost system and for related work including a new recycling center. Four General Contractors purchased plans and specifications, however two participated throughout the bid process and two never made any contact during this time. One of the General Contractors withdrew hours before the bids were due because they were unable to get a price for one of the specified alternate steel building...
manufacturers in time to submit a bid. One bid was received from Dick Anderson Construction, Inc.

The bid of Dick Anderson Construction, Inc was in the amount of $4,965,000, exceeding the budget of $3,551,000. The cost overrun is largely attributable to the impact on the world markets for cement and steel occasioned by China's cornering of those markets, and by the uncertainty associated with the major rock outcroppings and serpentine rock existing on the site. In the ensuing period since the bid, Larry Crump of Concept Design, Dick Anderson Construction, Inc. and I met to review changes to the plans and specifications and assumptions made by Dick Anderson Construction related in particular to grading, in an effort to reduce the cost of the project while maintaining the function of the building in carrying out the composting process. All resulting changes were reviewed with Engineered Compost Systems (ECS) to assure that the compost process would not be impacted. The review and changes have resulted in cost savings of $815,500 in the construction cost. A listing of the proposed changes accompanies this report. The revisions to the plans and specifications necessitated by the cost reduction changes will cost an amount not-to-exceed $50,000 and requires a contract amendment with Concept Design in that not-to-exceed amount.

Pursuant to the bid documents, the bid of Dick Anderson Construction, Inc. may be withdrawn 60 days after the September 17 bid date. Therefore, it is incumbent upon the County to consider the award no later than the Board of Supervisor's meeting of November 9, 2004. Award of the contract will require appropriation of $875,000 from the General Contingency Fund to the Compost Fund 604. The amount requested includes a contingency amount of $200,000 to cover unforeseen costs of construction. An additional $25,000 of contingency funds are also included in the amount requested to cover unforeseen costs for work other than construction. I am attaching a project encumbrance report which was prepared based on the project status as of September 30, 2004.

Roy Chriswell, a Mariposa resident, has agreed to provide on-site inspection services as required under the loan/grant agreement with the USDA. I am attaching a letter of proposal from Mr. Chriswell and a copy of his resume. I have worked on two projects on which Mr. Chriswell was involved; the amphitheater and library projects. I recommend
his employment for this project. Mr. Chriswell will not provide liability or auto insurance as normally required under the County's personal services agreements. He has no independent decision making authority and does not utilize his automobile in the conduct of his work. It is not likely that any single employee independent inspector would have such insurance. Mr. Chriswell is self-employed and will not hire workers in the performance of his duties and will not be required to submit Worker's Compensation Insurance. I recommend that the insurance provisions be waived.

**Impact of the Failure to Award**

There are significant consequences should the Board of Supervisors not take the requested actions.

1. The County will not meet its obligation to comply with AB 939 and the Integrated Waste Management Board of the State of California (CIWMB). The CIWMB may impose fines of $10,000 for each day the County fails to comply with the provisions of AB 939.

2. The remaining space in the currently operating cell (area for disposal) at the landfill will continue to diminish. The opening of the final remaining cell and the closing of the currently operating cell will cost significantly more than the compost project.

3. The Board of Supervisors has considered alternatives to the compost project and rejected them as impacting the landfill remaining disposal area or resulting in a tipping fee which would be excessive to landfill users.

4. The County has accepted a loan from the USDA in the amount of $3,200,000 and has a debt service obligation for that loan. While no funds have been expended from the loan proceeds, there will be costs associated with retiring the bonds. I do not know if legal issues would impact the retirement of the bonds.

5. The County has been granted $1,800,000 by the USDA for the project, which would be lost.

6. The County has received a grant from the National Park Service in the amount of $1,712,000 for the development of the project. The grant would be lost and I would assume the County would have to repay the National Park Service the approximately $722,000 of those funds expended to date.
Perhaps more importantly, this project is of great importance to the National Park Service and the County's continuing ability to service the Park's disposal needs. I do not know what the legal consequences are of terminating agreements between the National Park Service relating to the grant and the County's obligation to accept solid waste from the Park.

7. The County, over the years it has studied this issue and decided the process to be used, has expended hundreds of thousands of dollars which would have been for no gain.

8. The County has entered into a contract with Dick Anderson Construction/Engineered Compost Systems in the amount of $2,896, 400 for the design and construction of the compost system. There is a financial obligation should this contract be cancelled. Basic expenses against the contract exceed $270,000 as of this date.

While it is regrettable that the cost of construction has exceeded our budget, the ramifications of not proceeding with this project at this time far outweigh the added project cost. On the other hand, the County has been fortunate to have entered into a contract for the compost system when it did because the major concrete and steel costs associated with that portion of the work have not been impacted by significant cost increases as mentioned above. These cost increases have exceeded 35 percent over the past 6 to 9 months.

The recommended actions should be taken.