



# Board Agenda Item 51

DATE: March 19, 2024

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director  
Department of Public Works and Planning

SUBJECT: Retroactive Agreement with Luhdorff and Scalmanini Consulting Engineers for development of Groundwater Sustainability Plan

## RECOMMENDED ACTION(S):

- 1. Make a finding that it is in the best interest of the County to suspend the competitive bidding process consistent with Administrative Policy No. 34 for unusual or extraordinary circumstances, as Luhdorff and Scalmanini Consulting Engineers has the specific expertise to provide consultant services to assist with preparation of a Groundwater Sustainability Plan for Fresno County Management Areas A and B Groundwater Sustainability Agencies, within the Delta-Mendota Groundwater Subbasin; and**
- 2. Approve and authorize the Chairman to execute a retroactive Agreement with Luhdorff and Scalmanini, Consulting Engineers effective March 1, 2023 through February 28, 2026, not to exceed five consecutive years, which includes three-year base and two optional one-year extensions, total not to exceed \$299,840.**

Approval of the recommended actions will authorize an agreement for consultant services by Luhdorff and Scalmanini Consulting Engineers (LSCE), to assist in the development of a Groundwater Sustainability Plan (GSP) for Fresno County Management Areas A and B. The plan is required pursuant to Water Code Section 10727. The proposed agreement between the County and LSCE specifies the obligations for both LSCE and the County, as well as compensation, which includes an allowance for extra services, if needed. This item pertains to a location in District 1.

## ALTERNATIVE ACTION(S):

Your Board may determine not to approve the recommended actions; however, it would likely result in increased costs and delay of preparing the required GSP. If the “inadequacies” of prior GSPs as related to the Delta-Mendota Groundwater Subbasin (“Subbasin”) as previously identified by the California Department of Water Resources (DWR) are not rectified and certain actions are not addressed, intervention from the State Water Resources Control Board (State Board) could occur, which would result in the State managing local groundwater resources.

## SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The County’s request to suspend the competitive bidding process consistent with Administrative Policy No. 34 is due to the fact that LSCE possesses the specific expertise and experience necessary to transition the county’s GSP into a single GSP for the entire Subbasin. LSCE developed the current county GSP, that will now be transitioned into one GSP for the entire Subbasin. LSCE will assist another company, EKI

Environment and Water, Inc (EKI), which is employed by the Delta-Mendota Groundwater Authority, with transitioning the County's GSP into a single GSP for the entire Subbasin. LSCE has trained staff with the necessary expertise and understanding of the geology and hydrogeology within the Subbasin's Management Areas A and B. Coupled with groundwater-related investigations and monitoring in the area for over 20 years, LSCE is best suited for assisting with the development of a single GSP.

The Internal Services Department, Purchasing Division concurs with the Department's request to suspend the competitive bidding process.

#### RETROACTIVE AGREEMENT

Through the Purchasing Department, the County and LSCE entered into Consultant Agreement No. P-20-337 on September 1, 2020 (Consultant Agreement). The term of the Consultant Agreement was for two years, with an optional one-year extension, and a potential termination date of August 31, 2023. The one-year extension was utilized, and the Consultant Agreement expired on August 31, 2023. However, LSCE has continued its work as related to the GSP for County Management Areas A and B beyond that termination date, and up to the present time. As such, there is outstanding invoicing from LSCE for its work done between September 1, 2023 to the present date. Furthermore, there are two unpaid invoices for LCSE's work performed during the term of the prior Consultant Agreement, totaling \$22,638.19. These two invoices were not paid as each would have exceeded the contract total \$200,000 compensation amount of the Consultant Agreement. For this reason, the proposed agreement with LSCE is retroactive to March 1, 2023, in order to account for LSCE's work since the termination of the Consultant Agreement as well as the two outstanding invoices. Currently, there remains \$61,239.19 in outstanding, cumulative costs for services provided by LSCE before and after the expiration of the Consultant Agreement.

#### FISCAL IMPACT:

There is no increase in Net County Cost associated with the Recommended Actions. Sufficient appropriations and estimated revenues are included in the County Administrative Office's FY 2023-2024 Adopted Budget and will be included in Org 2540 to cover the tasks expected to be completed in the future.

#### DISCUSSION:

The Sustainable Groundwater Management Act (SGMA) provides for the establishment of local GSAs to manage groundwater sustainability within groundwater subbasins defined by DWR. Each GSA was required to develop and implement, no later than January 31, 2020, a Groundwater Sustainability Plan (GSP) to ensure a sustainable yield of groundwater, without causing undesirable results. Failure to comply with that requirement could result in the State asserting its power to manage local groundwater resources.

The County is the GSA for two areas designated as Fresno County Management Areas A and B in the Delta-Mendota Groundwater Subbasin, approved by the Board on May 2, 2017, to provide sustainable groundwater management and to serve as the exclusive GSA in those portions of the Delta-Mendota Subbasin.

Six GSPs were developed and submitted for approval by the required date of January 31, 2020. After an approximately two-year review, DWR determined that the coordinated GSP in the Subbasin were "incomplete" on January 21, 2022, and required that the GSPs be revised to address certain actions by July 20, 2022. The amended GSP was re-submitted in a timely manner; however, the revised GSPs were deemed inadequate under SGMA by DWR on March 2, 2023. Due to DWR's inadequate determination of the current GSP, it is understood that under SGMA, the State Water Resources Control Board can seek to intervene and exercise jurisdiction over the affected subbasin.

In lieu of the possible intervention by the State Water Board, the GSAs have agreed to adopt one groundwater sustainability plan for the subbasin instead of submitting multiple plans for each GSA. The

efforts to address the deficiencies and develop the single GSP will be led by EKI Environment and Water, Inc (EKI). LSCE's role will be to provide technical support to EKI, necessary to address the identified deficiencies and to continue with GSP implementation on behalf of County Management Areas A and B. LSCE has already developed an understanding of the geology and hydrogeology (conceptual model) of Management Areas A and B, as well as surrounding areas that will be utilized in the single GSP efforts on behalf of the County, which includes information and data used to develop a comprehensive Hydrogeologic conceptual model in the vicinity of Management Areas A and B.

The Department has successfully negotiated a contract with LSCE that provides terms matching the Department's expectation of fair and reasonable costs for the project. The services required of the consultant include the preparation and transition of data to EKI for the submittal of a single GSP. The consultant will be paid \$299,840 for services actually performed at the hourly and cost rates set forth in the recommended agreement. The recommended agreement provides that the agreement remains in effect for the term of the agreement which includes addressing deficiencies in the GSP, if any, that are identified by DWR in its assessment of the GSP and ultimately produce a successfully complete and state adopted single GSP.

REFERENCE MATERIAL:

BAI #14, July 12, 2022  
BAI #5, January 7, 2020  
BAI #45, August 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition Request  
On file with Clerk - Agreement with Luhdorff and Scalmanini

CAO ANALYST:

Salvador Espino