



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with San Joaquin County Resource Conservation District for a State Water Resources Control Board (SWRCB) Proposition 13 Watershed Protection Grant

MEETING DATE: March 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing the City Manager to execute a Professional Services Agreement (copy attached) with the San Joaquin County Resource Conservation District for a State Water Resources Control Board (SWRCB) Proposition 13 Watershed Protection Grant, Agreement No. 04-115-555-0 titled "Lower Mokelumne River Watershed Stewardship Plan".

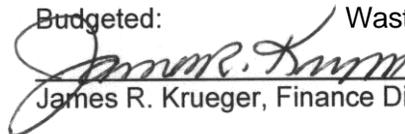
BACKGROUND INFORMATION: The City Council, at its January 2, 2002 meeting, adopted Resolution No. 2002-02 authorizing the City Manager to execute CALFED Grant Agreement No. 4600001713 accepting a grant for approximately \$75,000 for a Lower Mokelumne River Watershed Education Project. That grant funded water quality monitoring of storm drains and the river, an educational mural at Lodi Lake depicting the Lower Mokelumne River watershed and Lodi's interaction, outside educational consultants, continuation of partnering with local high schools for senior projects, educational materials for the Discovery Center at Lodi Lake, and educational materials for the community. These educational programs satisfy essential portions of the City's storm system National Pollution Discharge Elimination System (NPDES) permit requirements.

This grant will fund up to \$150,300 over the next two years for Lodi to continue the above programs as a subcontractor under a grant awarded to the San Joaquin County Resource Conservation District. The City's annual contribution to the proposed SWRCB Proposition 13 funded project would consist of \$19,000, as proposed in the 2005/06 Water/Wastewater budget, plus other services (i.e., City staff time and use of buildings and equipment).

FISCAL IMPACT: Over two years, the City will budget \$38,000 and receive \$150,300 in grant funds for a net fiscal impact of +\$112,300.

FUNDING AVAILABLE: The money for this project will be coming from the Wastewater Fund.

Project Estimate: City Share: \$38,000
Grant Funding: \$150,300
Budgeted: Wastewater Funds


James R. Krueger, Finance Director


Richard C. Prima, Jr.
Public Works Director

Prepared by Frank Beeler, Assistant Water/Wastewater Superintendent
RCP/FRB/dsg

Attachment

cc: Stephen Schwabauer, City Attorney Tony Goehring, Parks and Recreation Director Frank Beeler, Assistant WWW Superintendent

APPROVED: 
Blair King, City Manager

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and effective as of March ____, 2005 by and between the **San Joaquin County Resource Conservation District** (hereinafter referred to as the **“Project Contractor”**) and The City of Lodi, Department of Public Works (hereinafter referred to as the **“Subcontractor”**) for the project designated as the Lower Mokelumne River Watershed Stewardship Plan Project, agreement number 04-115-555-0

WITNESSETH: That the parties hereto for the consideration hereinafter set forth agree as follows:

I. STATEMENT OF SERVICES

Except as specified elsewhere in this Professional Services Agreement, Subcontractor hereby agrees to provide all the supervision, labor, technical services, facilities, materials, tools, and equipment, and to perform services and do all things necessary for the proper completion of work described in **Exhibit A**, (hereinafter referred to as the **Scope of Services**).

The Project Manager is fully responsible for all work performed under this agreement, including a Subcontractor’s work. Subcontractor agrees to perform work in accordance with all the applicable terms and conditions of **Exhibit B: Agreement Number 04-115-555-0** (hereinafter referred to as the **“Grant Agreement”** between the Project Contractor and the **State Water Resources Control Board** (hereinafter referred to as “grantor”).

Standards of Professionalism: The Subcontractor shall conduct all work consistent with professional standards for the industry and type of work being performed under this Agreement. Specific roles and responsibilities for Subcontractor are detailed in **Exhibit A**. The Subcontractor shall have primary responsibilities for implementing the terms and conditions of this Agreement.

Substitution of Staff or Subcontractor: The Subcontractor represents that Frank Beeler shall be the Subcontractor’s manager assigned to perform the work required by this Agreement. However, Subcontractor reserves the right to replace Frank Beeler with another individual subject to the approval of the Project Contractor, which shall not be unreasonably withheld. Project contractor shall consult with grantor prior to approving substitutions.

II. INDEPENDENT STATUS

Subcontractor shall act in an independent capacity. Subcontractor and its agents and employees agrees that it is not an officer, employee, or agent of the Project Contractor, Grantor, State of California, State Water Resources Control Board, CALFED, or the California Bay Delta Authority.

III. AGREEMENT/PRICE

Project Contractor hereby agrees to pay the subcontractor, as full consideration for the complete and satisfactory performance of this agreement, at a not to exceed price of \$150,300.00. The Grantor may retain 10 (ten) percent of each task budget pending receipt of all deliverables for that task, and Project Contractor will in turn retain 10 (ten) percent of each task budget amount from Subcontractor to guarantee satisfactory completion of task deliverables. Once paid by Grantor, the retainer funds will be released by the Project Contractor to the Subcontractor.

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IV. TIME AND MANNER OF PAYMENT

Grantor will pay project contractor for services rendered no more frequently than in quarterly progress payments, in arrears on undisputed invoices for completion of phases of work as set forth in Exhibit A. Project Contractor will reimburse Subcontractor for services rendered on each of the submittal milestones within 15 (fifteen) working days of receipt of payment from Grantor.

Subcontractor agrees to invoice Project Contractor by the 5th (fifth) of each month following the end of calendar quarters or as quarters are described by the grantor. Project Contractor will in turn invoice Grantor by the 10th (tenth) of each month following the end of the calendar quarters or as quarters are described by the grantor. All invoices, complete with necessary support documentation, shall be submitted in triplicate to:

Attention: Project Manager
San Joaquin County Resource Conservation District
3422 W. Hammer Lane, Suite A
Stockton, CA 95219

By the 5th (fifth) of each month following the end of the quarter for inclusion into the Project Contractor's quarterly invoices to be submitted to Grantor along with necessary detailed cost accounting information for the entire program by the 10th (tenth) day of each month following the end of the quarter. Invoices will be reviewed and approved by Project Contractor and submitted to Grantor. All amounts otherwise payable under the Agreement may be withheld pending final acceptance of work products and resolution of any Agreement default, claim, or back charge filed against Subcontractor by Project Contractor, Grantor, or others. In the event that Project Contractor's submittal invoices are subject to challenge by the Grantor and the Subcontractor portion of that invoice is not challenged, Project Contractor shall submit to Grantor the unchallenged portion of that invoice for proper payment, and shall reimburse Subcontractor upon payment from Grantor.

Project Contractor retains the right to require that Subcontractor stop work (as described in article X of this Agreement) in the event Grantor is delinquent in payments for services rendered.

The Subcontractor agrees to furnish a reasonable itemization for any invoice as may be requested by Project Contractor or Grantor.

V. TAXES

Subcontractor shall comply with all applicable California Sales and Use Tax Regulations in the performance of the Work covered by this Agreement. The Agreement Price is assumed to include all applicable Sales and/or Use Taxes.

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VI. INDEMNIFICATION/INSURANCE

To the fullest extent permitted by law, each party shall indemnify and hold each other harmless from any claim, injury or loss, or cost, including reasonable attorney's fees and other costs of defense, to the extent caused by their own negligent acts, errors, or emissions in performance of services indicated herein.

Each party shall maintain reasonable coverage for such liabilities either through commercial insurance or a reasonable self-insurance mechanism, and the nature of such insurance coverage or self-insurance mechanism will be reasonably provided to the other party upon request.

Subcontractor agrees to maintain during the term of this Agreement, sufficient insurance to perform specified work, including:

- A. Worker's Compensation and Employer's Liability Insurance as prescribed by applicable law.
- B. Automobile bodily injury insurance and property damage liability insurance, as prescribed by California State Law.
- C. Comprehensive General Liability insurance (bodily injury and property damage, the limits of which shall not be less than one million dollars (\$1,000,000.00) combined single limit per occurrence, and annual aggregate, whichever is greater.

The Project Contractor shall be named as Additional Insured, with respect to any claim arising out of the services provided or work products prepared by the Subcontractor under this Agreement. Certificates of Insurance evidencing all coverage shall be furnished to Project Contractor before commencing any operations under this Agreement.

VII. SCHEDULE

This Agreement does not become effective until fully executed by both the Project Contractor and Subcontractor, and approved by Grantor. Work to be performed under this Agreement shall commence following the Written Notice to proceed from the Project Contractor, and shall be completed as defined in the Task Order, unless terminated sooner, as specified in Section XI of the Agreement

VIII. CORRESPONDENCE AND INVOICING INSTRUCTIONS

All correspondence and invoices prepared under this Agreement shall be addressed as follows:

Attention: Project Manager
San Joaquin County Resource Conservation District
3422 W. Hammer Lane, Suite A
Stockton, CA 95219
209-472-7127 ext. 125

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IX. APPLICABLE LAW

State Law. This Agreement shall be governed by the laws of the state of California.

X. GENERAL

Rights to Data. This project is funded with state bond funds. All data and information obtained and/or received under this Agreement shall be in the public domain. Project Contractor and Subcontractor shall have the right to disclose, disseminate, and use, in whole or in part, any final form data and information received, collected, and developed under this Agreement. Such information will be subject to inclusion of appropriate written acknowledgement of credit to Grantor, the State of California, and all cost sharing partners for their financial support. Subcontractor use of draft data requires pre-approval by the Project Contractor and Grantor. Subcontractor shall not sell or grant rights to a third party who intends to sell information or products as a profit-making venture.

All rights and data requirements specified in Exhibit B grant agreement shall be incorporated herein to this Agreement.

Assignment. Neither party may assign or transfer this agreement without the express written consent of the other party and approval of the Grantor.

Integration Clause. No alteration or variation or amendment of this Agreement shall be valid unless made in writing and signed by the Subcontractor, Project Contractor, and Grantor, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

XI. TERMINATION

This agreement may be terminated by either party for good cause upon 30 (thirty) days written notice to the other party, or by the mutual agreement of the parties. A party receiving notice of termination for cause may use the 30 day notice period to cure the breach or default of this Agreement. In the event the breach or default is not cured within the 30 (thirty) day notice period, this Agreement will terminate as of the 31st day after notice was given. Subcontractor shall be paid for all work which is satisfactorily completed as of the effective date of termination and for any obligations incurred at the request of the Project Contractor prior to termination, even if the Agreement was terminated for cause.

Project Contractor retains the right to withhold payment for all incomplete work items or unsatisfactory work performed, and will apply the withheld amounts to a replacement Subcontractor of its choosing in order to complete the remaining contracted work in a satisfactory manner.

XII. AMENDMENTS

By mutual agreement, the Parties may amend this agreement. Project Contractor shall submit a written request for amendment to Grantor. The amendment is not effective until Grantor provides written approval of the amendment, its terms, and conditions. Work completed prior to the approval of an amendment is done at subcontractor's risk, without expectation of reimbursement.

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XIII. CONFLICT OF INTEREST

The Project Contractor and Subcontractor shall comply with all applicable State laws and rules pertaining to conflicts of interest, including but not limited to, Government Code Section 1090 and Public Contract Code 10410 and 10411.

IN WITNESS THEREOF, the parties hereto sign this agreement as of the effective date written above.

San Joaquin County Resource Conservation
District (Project Contractor)

(Subcontractor)

Signed: _____

Signed: _____

Name: Bill Koster

Name: _____

Title: President, San Joaquin County RCD

Title: _____

Date: _____

Date: _____

Exhibit A: SCOPE OF WORK

A. Task 1— Evaluate project impact by measuring downstream water quality, and by monitoring pests and pesticide use in vineyards adjacent to the river

1.1 Continue and expand the Lodi Storm Drain Detectives citizen water quality monitoring program. The purposes of this task are to increase awareness of urban stormwater issues by expanding participation opportunities for urban/suburban watershed residents and to continue studying the impacts of the city’s storm water system on water quality in the Mokelumne River.

1.1.1 Recruit two additional teams of students bringing total number of teams to seven. The purpose of this task is to increase citizen involvement in monitoring specific water quality parameters on the Mokelumne River, and to increase the number of areas where water quality is tested.

1.1.2 Train teams according to current QAPP approved by region 5 RWQCB. The purpose of this task is to provide quality and uniformity in data collected by citizen water quality monitoring teams.

1.1.3 Monitor water quality parameters (including temperature, pH, dissolved oxygen, turbidity, suspended solids, and nitrates) at currently monitored sites plus additional sites. The purpose of this task is to collect data that can be used to: 1) measure the effectiveness of programs implemented in task 4.3, and 2) be used in public information and outreach efforts in tasks 7.3.4, 8.2, 8.3, and 8.4

1.1.4 Analyze data and release to public including posting on city of Lodi and SJCRCD websites. The purpose of this task is to raise public awareness about water quality and how it relates to urban/suburban stormwater runoff.

Task 1 Deliverables: 1.1.1 lists of team numbers and team members; 1.1.2 training sign in sheets, list of data collection sites; 1.1.3 database of filed water quality data; 1.1.4 complete database of samples collected, quarterly reports and final report of activities.

B. Task 2—Conduct Public Education and Outreach

2.1 Increase Education and Outreach to K-12 students/teachers. The purpose of this task is to enhance already established programs that raise public awareness about watershed and water quality issues.

2.1.1 Continue *Watershed* mural program by erecting two high school student murals depicting watershed education themes. The murals will be mounted on portable canvas and boards so they can be broken down and moved from place to place and event to event for public education. The purpose of this task is raise public awareness of watershed issues through the overall design of the mural and mural placement in public places. In preparation for designing the mural, students study water quality issues through field trips and interviews with different agencies and community stakeholders.

2.1.2 Support public outreach programs of the Lodi Lake Docents. The purpose of this task is to continue student involvement in projects through the Lodi Lake Docents that include Clean-a-curb, and Watershed Model Ambassadors, etc. The Lodi Lake docents also provide outreach to other age groups through a docent tour and speaker programs.

Task 2 Deliverables: 2.1.1, list of names of students, teachers, and schools involved in the mural project and locations for murals. 2.1.2 Submit list of events participated in, dates, lists of student names, teachers, schools, and names of other participants in docent-led programs related to this project.

Schedule of Deliverables

Task No. Deliverable	Time Frame
1 Continue And Expand The Lodi Storm Drain Detective Program	
1.1.1 Lists of team numbers and team members	2 months after execution of contract
1.1.2 Training sign in sheets, list of data collection sites	3 months after execution of contract
1.1.3 Database of filed water quality data	Quarterly through term of project
1.1.4 Complete database of samples collected, quarterly reports and final report of activities	Submitted with final report
2. Conduct Public Education and Outreach	
2.1.1 List of names of students, teachers, and schools involved in the mural project, and locations for murals	3 months after execution of contract
2.1.2 Copies of advertising, fliers, attendance sign-in sheet and participating organizations	5/31/2006

RESOLUTION NO. 2005-49

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY
MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT
WITH SAN JOAQUIN COUNTY RESOURCE CONSERVATION DISTRICT
FOR A STATE WATER RESOURCES CONTROL BOARD (SWRCB)
PROPOSITION 13 WATERSHED PROTECTION GRANT

WHEREAS, at its January 2, 2002, meeting, the Lodi City Council adopted Resolution No. 2002-02 authorizing the City Manager to execute CALFED Grant Agreement No. 4600001713, accepting a grant for approximately \$75,000 for a Lower Mokelumne River Watershed Education Project; and

WHEREAS, that grant funded water quality monitoring of storm drains and the river, an educational mural at Lodi Lake depicting the Lower Mokelumne River watershed and Lodi's interaction, outside educational consultants, continuation of partnering with local high schools for senior projects, educational materials for the Discovery Center at Lodi Lake, and educational materials for the community. These educational programs satisfy essential portions of the City's storm system National Pollution Discharge Elimination System (NPDES) permit requirements; and

WHEREAS, this grant will fund up to \$150,300 over the ~~next~~ two years for Lodi to continue the above programs as a subcontractor under a grant awarded to the San Joaquin County Resource Conservation District. The City's annual contribution to the proposed SWRCB Proposition 13 funded project would consist of \$19,000, as proposed in the 2005-06 Water/Wastewater budget, plus other services (i.e., City staff time and use of buildings and equipment).

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Agreement with San Joaquin County Resource Conservation District for a State Water Resources Control Board Proposition 13 Watershed Protection Grant, Agreement No. 04-115-555-0 titled, "Lower Mokelumne River Watershed Stewardship Plan," in an amount of \$150,300 over the next two years; and

BE IT FURTHER RESOLVED that \$19,000 will be budgeted annually over the next two years for the City of Lodi contribution for the State Water Resources Control Board Proposition 13 funded project from the 2005-06 Water/Wastewater fund.

Dated: March 16, 2005

I hereby certify that Resolution No. 2005-49 was passed and adopted by the Lodi City Council in a regular meeting held March 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS - Hitchcock, Johnson, Mounce, and Mayor Beckman

NOES: COUNCIL MEMBERS - None

ABSENT COUNCIL MEMBERS - Hansen

ABSTAIN: COUNCIL MEMBERS - None



SUSAN J. BLACKSTON
City Clerk