

M E M O R A N D U M

TO: Governing Board Members

FROM: Deena Reppen, Deputy Executive Director, Regulatory and Public Affairs

DATE: January 15, 2011

SUBJECT: Authorize a waiver of competition and enter into a twenty-two month agreement with Gary Goforth, Inc., for the Development of Performance Measures Methodologies for Collective Source Controls in the Lake Okeechobee and Caloosahatchee River Watersheds in an amount not to exceed \$310,627 in FY11, for which funds are budgeted; and in an amount not to exceed \$220,307 FY12, subject to Governing Board budget approval; providing an effective date. (Contract number 4600002337)

Background: The Northern Everglades and Estuaries Protection Program (NEEPP) mandates the development of quantitative methods for assessing the collective performance of source control programs for nutrients in the Lake Okeechobee Watershed (LOW) and the Caloosahatchee River Watershed (CRW). These source control programs are the foundation to the overall strategy for achieving Total Maximum Daily Loads (TMDLs) for nutrients towards watershed restoration, a District priority. This resolution requests a waiver of competition to enter into a contract with an expert consultant to expedite completion of these performance methodologies.

TMDLs are established with a requirement to be met by 2015 for Lake Okeechobee. Source control programs within the LOW are initiated and evolving and should be fully implemented so that the District can measure their effectiveness in advance of the 2015 TMDL mandate. Thus, the need for performance methodologies to verify the collective source control programs' effectiveness in the LOW is immediate. For the CRW, TMDLs are under development. However, the NEEPP sets a 2012 deadline for the District to initiate evaluation of any required pollutant reduction loads. The District is under an expedited schedule to complete performance methodologies for the LOW and the CRW, incorporate them into rule and have full implementation prior to the deadline to meet established TMDLs.

Public workshops to review the technical aspects of the performance methodology development will be required for rulemaking. Based on the input from the regulated community, modifications to the initial technical proposal may be warranted. In addition, the District will need to abide by statutory rulemaking timelines for noticing and comment. The District has set a deadline of August 2011 for completion of the initial technical proposal for the LOW, and of May 2012 for the CRW. It must be emphasized that besides the statute mandates, there is substantial public interest in the development of the performance measure methodology, as it pertains to Lake Okeechobee and Caloosahatchee River and Estuary restoration.

A portion of the work for development of performance methodologies has been completed by a team of consultants in the areas of performance assessment, best management practice (BMP) effectiveness, watershed hydrology and existing water quality monitoring with specific expertise to address the watershed issues. They initiated the work in 2008 for LOW (in-house

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assessments and technical support through PO 4500046642), and in 2009 for the CRW under work order (WO) ST061289-WO08. The work to date has brought to light a variety of complexities for developing performance methodologies for the 14 sub-watersheds which encompass approximately 4.5 million acres total. Approval of the proposed request should enable the District to meet the expedited schedule by providing continuity with the work that has already been completed because of the team expertise. Because there are sub-watersheds that overlap the LOW and the CRW, there will be a consistent approach to the analyses.

How this helps meet the District's 10-Year Strategic Plan? The Northern Everglades and Estuaries Protection initiative and the Lake Okeechobee and Caloosahatchee River protection and restoration are major programs and priorities in the District's 10 year strategic plan. A measure of the source control performance is essential for applying adaptive management strategies and achieving the overall Lake Okeechobee restoration and estuary protection goals.

Funding Source: The total estimated cost of \$530,935 will be divided between several of the District's functional areas to expedite mandated performance measure development and minimize duplicative effort. The Lake Okeechobee watershed boundaries encompass portions of the St. Lucie River and Caloosahatchee River Watersheds, as well as the Everglades Agricultural Area and L8 basins. Where possible, one source controls performance measure will be developed for basins included in multiple watersheds. Source control performance measure development is under contract for the St. Lucie River Watershed, and although coordination is required the effort is incidental to this contract. The following table describes the three funding sources for this contract:

Fund	PS Project Name	PS Project Number
IR01	Regulatory Source Controls - LOK	100553
J158	Caloosahatchee River Reg Source Controls	100554
BD08	LTP Everglades Regulatory Source Controls	100544

This Board item impacts what areas of the District, both resource areas and geography: This is a project which will impact the Lake Okeechobee and the Caloosahatchee River Watersheds. Resource areas include Regulatory and Public Affairs, and Everglades Restoration and Capital Projects.

What concerns could this Board item raise? Sufficient funding is necessary to complete all phases of the project. Funds provided by the District are expected to be sufficient to complete the project. If funding is not obtained for future phases of the project, the performance measures would not be complete and critical rulemaking timelines may be delayed.

Why should the Governing Board approve this item? This waiver of competition and contract approval are requested to complete a priority District project resulting from a mandate by statute (NEEPP). An expert consulting team is in place to develop a performance methodology proposal within the required deadlines. Opting for a competitive process does not seem warranted, because of the lack of alternate consultants with the experience required. Proceeding with a waiver of competition to provide continuity with an expert team is needed for contract issuance to meet an expedited schedule as laid out under the protection plans.