



Board Report

File #: 2019-0015, **File Type:** Contract

Agenda Number: 27.

CONSTRUCTION COMMITTEE FEBRUARY 21, 2019

SUBJECT: CONSTRUCTION CLAIMS SUPPORT SERVICES

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

- A. EXECUTE a 7 year cost-plus fixed fee contract, Contract No. PS58665, with ARCADIS U.S., Inc., to provide Construction Claims Support Services for various projects as required, in an amount not-to-exceed \$24,584,650 and exercise 3 one-year options, when deemed appropriate; and
- B. EXECUTE individual Contract Work Orders and Contract Modifications within the Board approved contract and budget funding amount.

ISSUE

Construction Claims Support Services (CCSS) are required to assist Metro in avoiding potential contractor claims and proactively addressing actual contractor claims, recommending policy and procedures to reduce the likelihood of claims, formulating claims settlement scenarios, assisting County Counsel with the resolution of claims and disputes, and assisting with and/or perform forensic analyses, as necessary.

DISCUSSION

The Consultant will be a part of the Metro team to:

- Assist Metro in claims avoidance
- Conduct training
- Prepare a Claims Management Manual
- Assist Metro in addressing contractor claims against Metro
- Recommend policy and procedures that reduce the likelihood of claims

- Formulate claim settlement scenarios
- Assist County Counsel in resolving claims and disputes as needed
- Assist with and/or perform forensic analyses, as necessary

Metro's current experience with the submission of claims combined with Metro's current reactive approach to claims rather than being pro-active has resulted in an increased level of effort in gathering and compiling contemporaneous documentation to defend these claims.

The Consultant will assist Metro in developing and implementing processes and strategies, along with a claims management manual and claims management training to provide Metro guidance in (1) avoiding potential claims and (2) responding to and resolving actual claims, to be more proactive and creating defensible positions.

The Consultant will provide the Contracting Officer and Program Management with an independent assessment of potential and actual claims, the responsible parties, a quantification of alleged impacts including schedule analyses of delays, disruption and lost productivity, and support Metro with the negotiation and resolution of disputes.

The Consultant shall facilitate and collaborate closely with all Metro departments and staff, including County Counsel, as needed, in addressing disputes and claims.

Consultant services will be authorized, funded and paid under separate Contract Work Orders for each project. The cumulative value of all Contract Work Orders will be within the Board approved contract funding amount.

DETERMINATION OF SAFETY IMPACT

Approval of this item will have no impact on safety.

FINANCIAL IMPACT

The not-to-exceed award value is based on the anticipated level of services. The Contract will be funded by the individual projects issuing the work order under this contact. Work orders issued for FY19 will be covered by the respective projects' annual budget and within life-of-project budget. For multiyear work orders and future work orders, the project managers, cost center managers, and Chief Program Management Officer will be responsible for future year budgeting.

Impact to Budget

There is no impact to budget for this action. Each project utilizes life-of-project budget or annual adopted budget which has designated funding source(s) at the time of adoption. Many of the projects issuing work orders are funded with multiple sources of funds: federal and state grants, federal loans, bonds, and local sales taxes. Much of local sales taxes, and some federal and state funds are eligible for bus and rail operations and capital improvements.

ALTERNATIVES CONSIDERED

The Board could direct Metro staff to perform construction claims support services tasks with current in-house resources. This alternative would require Metro to divert resources from on-going projects and/or hire multiple full-time personnel that are not immediately available or funded.

NEXT STEPS

After Board approval of the recommended action, staff will award Contract No. PS58665.

ATTACHMENTS

Attachment A - Procurement Summary

Attachment B - DEOD Summary

Prepared by:

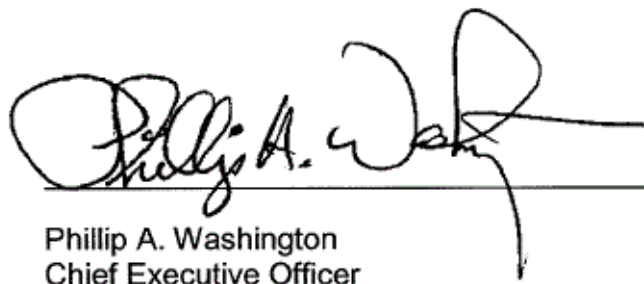
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