



Board Report

File #: 2021-0267, File Type: Contract

Agenda Number: 25.

CONSTRUCTION COMMITTEE JULY 15, 2021

SUBJECT: ENVIRONMENTAL SERVICES AND CONSTRUCTION SUPPORT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE:

- A. The Chief Executive Officer (CEO) to award and execute a three (3) year contract, Contract No. AE70151EN085, with Arcadis US, Inc. for Environmental Services and Construction Support on Task Orders, inclusive of the three years with a not-to-exceed amount of \$37,825,000;
- B. The CEO to award and execute individual Contract Work Orders and Task Orders within the total approved not-to-exceed funding limit of \$37,825,000; and
- C. Contract Modification Authority (CMA) in the amount of \$3,782,500 (10% of the not-to-exceed contract amount) and authorize the CEO to award and execute individual task order changes and/or modifications within the CMA amount.

ISSUE

Under federal, state, and local law and to avoid fines, civil or criminal liability, Metro is required to evaluate hazardous substances, contamination, and/or regulatory compliance for nearly every capital project and all transit projects undertaken by Metro. This contract is a critical component for environmental waste handling and construction services. It provides technical experts in the environmental field for handling waste for construction and decommissioning.

This contract is needed to ensure that Metro remains in compliance with environmental regulations for our tank program and our capital program as required by federal, state, and local jurisdictions.

...Background

BACKGROUND

The nature of our operating business here at Metro requires us to continually evaluate, remove, and/or manage hazardous substances, contamination. We need to simultaneously act towards regulatory compliance under federal, state and local law. Metro must adhere to all environmental

laws to avoid fines, and civil or criminal liability.

The scope of work identified in an environmental services and construction support contract generally falls into two categories: support for Metro's capital program and Metro's underground storage tank program.

The passing of Measure M and continuation of Measure R projects in recent years has further increased the number of projects that have been developed. In addition, under a State Water Resources Control Board Consent Decree order, we have also accelerated the installation of above ground tanks to house our hazardous chemicals as we reduce the number of underground storage tanks still in use.

Metro staff does not have the internal resources to do all environmental waste handling and environmental compliance support work in house. To complement and supplement limited resources, Metro has contracted for such vendors with specialized environmental equipment and technical capabilities to include laboratory, field services, and evaluation and remediation tools. Metro, in effect, would incur more cost to do the work internally than by employing these types of consultants and specialized vendors.

DISCUSSION

Contract No. AE70151EN085 will be used to assist Metro's facilities and capital projects with emergency response, hazardous substances abatement, and transport and disposal of encountered hazardous and non-hazardous classified soil and liquid wastes, which also includes management of asbestos and lead containing materials. The contract also includes environmental demolition services for Metro owned properties in addition to environmentally related construction services for fuel storage tank system installation, upgrades, repairs and removals to remain in regulatory compliance with local, state and federal regulatory requirements. Additional contract requirements include permit assistance; remediation system construction, implementation, and installation; and the homeless encampment clean-up program.

The scope of services in this contract also includes limited support for numerous major capital projects. The support provided by previous environmental services and construction support contracts has historically saved major capital projects money and avoided additional months of construction work due to our ability to rapidly respond to unforeseen environmental issues encountered during construction. *This limited capital project support is essential until a new contract for environmental services and construction support to specifically address capital projects is procured later this fiscal year.*

This contract is an Indefinite Delivery/Indefinite Quantity (IDIQ) contract. The total contract value is the aggregate total of all Task Orders and changes issued within the Board authorized funding amount. The consultant is not guaranteed any work. When the need for environmental waste handling and environmental-related construction services arises, only then will staff be able to issue Contract Work Orders from which Task Orders or changes are drawn. These Task Orders and changes will be funded from an existing project's budget with consideration of any information

available at the time of planning and applicable time constraints on performance of the work.

All the Task Orders will be fully negotiated based on agreed upon rates that will be negotiated at the onset of the work. Staff applies strict project controls in the execution of each of these Task Orders to closely monitor the Consultant's budget and Task Order schedules. No funds are obligated until a Contract Work Order/Task Order is awarded against a valid project.

The Diversity and Economic Opportunity Department (DEOD) will establish Disadvantaged Business Enterprise (DBE), Small Business Enterprise (SBE), and the Disabled Veteran Business Enterprise (DVBE) goals prior to the issuance of each Task Order for energy and climate services.

To accomplish the assigned tasks, the consultant will provide necessary staff, sub-consultants, equipment, software, supplies, and services. The consultant shall employ or subcontract as necessary with diverse environmental professionals such as professional engineers, registered geologists, qualified stormwater developers (QSD), Certified Industrial Hygienists (CIH), Certified Asbestos Consultants (CAC), Underground storage tank (UST) ICC Technicians, waste professionals, Occupational Safety and Health Administration (OSHA) Construction Certified staff, and 40 Hour Hazardous Waste Operations and Emergency Response (HAZWOPER) certified staff.

DETERMINATION OF SAFETY IMPACT

This Board action will not have an adverse impact on safety standards for Metro. It will increase safety as sustainability and environmental compliance related projects and programs are implemented to increase the health and safety of our staff and enhance customer experience of our system.

FINANCIAL IMPACT

Contract No. AE70151EN085 is an IDIQ contract. All task orders are individually negotiated, and the level of effort is fully defined prior to the authorization of any project specific funds. The Chief Program Management Officer, Chief Sustainability Officer, and Project Managers are responsible for providing appropriate budgets and following task order award process protocols during the execution of each task order. Execution of work under those Task Orders within those Contract Work Order (CWO) awards can continue beyond the contract end date.

Obligations and authorizations made within the total Contract authorized funding amount will be against specific project or operations budgets which make up the Board-approved Metro budget for this fiscal year. Specific funding for this contract will parallel the project approved by Board under separate actions. The Project Managers of each of the projects will be responsible for providing appropriate budgets.

Impact to Budget

The source of funds for this contract is included in the Environmental Compliance and Sustainability Department's budget under Project Numbers 300012 - Site Remediation, Cost Center 8420

Environmental Compliance and Services, 202213 Fuel Storage Tanks. These projects are in support of Metro Operations hence the funding sources are eligible for bus and rail operations. The project funds to be used to support capital project environmental services work are within the LOP or annual appropriation of the respective capital projects which this contract is supporting, and as shown in Attachment B. Funding sources for these capital projects are approved as part of the project LOP or through the annual budget adoption. No additional funding sources are required upon approval of this contract award.

EQUITY PLATFORM

To address equity impacts, Staff worked with department Equity Liaisons to develop a summary response of equity considerations for this Board item. When homeless encampments are identified within Metro facilities and Rights-Of-Way (ROWs) and pose a safety concern to the homeless individuals or Metro Operations, notifications are sent to the Facilities Maintenance Help Desk who alert all appropriate teams such as the Homeless outreach groups contracted by Metro and this environmental waste handling services contractor. Metro staff and/or designee coordinate on a site visit with the sorting contractor and local law enforcement to assess initial site conditions, take photos and determine the course of action. During the site visit, the sorting contractor ensures there are sufficient "No Trespassing" signs posted and install additional signs as necessary, while local law enforcement remain to be on site. A 14-day notification prior to the clean-up date is posted in English and Spanish. Social Services Outreach teams separate from this contract begin outreach services immediately, conduct at least two site visits, and continue outreach all the way through the scheduled clean-up day. Clean up includes sorting of items into three categories: Hazardous Waste, General Waste / Trash, and Personal property, including personal prescription medicine(s). a Post Removal Personal Property Retrieval Notice is posted at the cleared site to direct individuals to check in with Metro system security personnel at Gateway, Plaza Level Security Desk between the hours of 10:00 a.m. and 4:00 p.m., Monday through Friday for personal property retrieval. All personal items collected are stored for 90 days and must be accessible within 24 hours of removal.

To ensure maximum opportunity for participation on this contract, this solicitation was advertised through periodicals of general circulation, posted on Metro's Vendor Portal, and an e-mail notice to small business with applicable NAICS codes. Ample opportunity was provided for interested firms and small businesses to ask questions and receive answers. The Proposal Evaluation Team (PET) was diverse and was comprised of different department personnel with various backgrounds to conduct a robust evaluation of all proposers and subconsultants to determine the most qualified team. Proposers were encouraged to form teams that included a good number of DBE, SBE, and DVBE firms to meet or exceed the DBE or SBE/DVBE goals recommended by DEOD for each Task Order. The Arcadis US, Inc. team includes 17 DBE, SBE, and/or DVBE firms.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

This consultant contract supports Strategic Goal 2 by optimizing the delivery and performance of Metro's transportation system by incorporating environmental compliance through environmental services activities to reduce impacts to the environment and increase system efficiency.

ALTERNATIVES CONSIDERED

If Contract No. AE70151EN085 is not awarded, staff's ability to provide technical and environmental engineering support for environmental waste handling and environmental-related construction services for many of our capital and operating projects will be limited. Consequently, Metro would not be able to immediately address potential and existing environmental liabilities. We are also under a Consent Decree with the State Board to address underground storage tank or above ground storage tank and related equipment issues and upgrades on an accelerated schedule.

Postponement of award would further inhibit Metro's ability to remain in compliance with all applicable environmental laws and regulations and to avoid potential fines and civil and criminal liability. In the capital projects supported by this contract, Metro could experience increased liability for contractor claims for delay to schedule completion milestones or risk of fines due to violations from regulatory agencies.

As another alternative, Metro could perform all the environmental waste handling and environmental-related construction services in-house. However, to do so, Metro would need to hire additional staff with expertise in many different subjects, such as engineers, geologists, surveyors, asbestos/lead inspectors, laboratory scientists, UST design engineers, and waste profiling technicians. Metro would also need to purchase specialized equipment such as loaders, excavators, and drill rigs, which are not practical or cost-effective to acquire or maintain. Metro would incur more short-term capital costs and long-term maintenance costs to do the work internally than by employing consultants. Staff may solicit and award individual contracts for each environmental task on an as-needed basis. Staff does not recommend this alternative. Individually procuring these CWO's and Task Orders have associated inconsistencies, and likely greater cumulative administrative and execution costs and inefficiencies. The CWOs and Task Orders would also have to be competitively procured, causing significant delays. This scenario would make it challenging to provide timely responses to sensitive and emergency requirements from within the agency and from regulatory agencies, such as the State Water Resources Control Board.

NEXT STEPS

After Board approval, staff will execute the conformed contract and proceed with issuing Task Orders and Contract Work Orders.

ATTACHMENTS

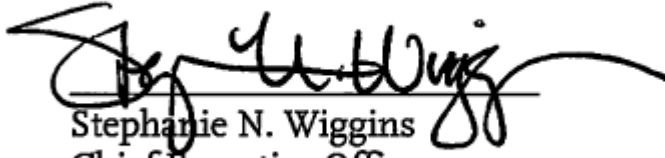
- A. Procurement Summary
- B. Types and Total Value Estimates of Projects - FY22 to FY24
- C. DEOD Summary

Prepared by: Cris B. Liban, Chief Sustainability Officer, (213) 922-2471

Reviewed by Bryan Pennington, Chief Program Management Officer (Interim),
(213) 922-7449

Debra Avila, Chief Vendor/Contract Management Officer,

(213) 418-3051



Stephanie N. Wiggins
Chief Executive Officer