



Board Report

File #: 2015-0952, **File Type:** Contract

Agenda Number: 45.

**CONSTRUCTION COMMITTEE
JULY 16, 2015**

**SUBJECT: ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY-RELATED
CONSTRUCTION SERVICES**

**ACTION: AUTHORIZE FULL FUNDING OF EN077 CONTRACT AND AUTHORIZE EXERCISE
OF OPTION YEAR ONE**

RECOMMENDATIONS

CONSTRUCTION COMMITTEE FORWARDED WITHOUT RECOMMENDATION:

- A. authorizing the Chief Executive Officer (CEO) to **continue issuing task orders within the previously Board approved total contract not-to-exceed amount of \$38,000,000 for Contract EN077, with ARCADIS U.S., Inc.**, for the life of the contract, of which only \$21,200,000 the Board had authorized for expenditure in FY12 through FY14; and
- B. authorizing the CEO to exercise Option Year One for FY16.

ISSUE

Our capital projects and many ongoing facilities maintenance or restoration activities require evaluation and, as necessary, removal or treatment of hazardous or contaminated substances. Our agency must be able to do so expeditiously in order to avoid any delays in construction or to protect human health and the environment, wherever necessary. Compliance with all environmental laws under such circumstances is paramount to avoid fines, and civil or criminal liability. In order to ensure that MTA appropriately meets all of these constraints, our agency has solicited and awarded contracts for environmental services.

Under Contract No. EN077, ARCADIS U.S., Inc. currently assists with the proper clean-up, abating, managing, transporting, and disposing of contaminated or hazardous materials at various MTA construction and operating facilities; and sampling and testing at various locations for contaminated and hazardous soils and water. ARCADIS U.S., Inc. also performs, under this contract, construction services that require environmental contractor specialization.

Examples of services which have been performed under the Contract are the following:

- Emergency response to and remediation of aerially deposited lead soil contamination at freeway soundwall sites;
- Transporting and lawfully disposing of contaminated soil from Division 13 construction site and Division 10;
- Removal and disposal of fuel storage tanks at various MTA divisions, and disposal of soil contaminated by leakage from such tanks;
- Construction of leak-resistant and environmentally safe tank and mechanical systems at MTA divisions in order to remain in regulatory compliance; and
- Asbestos and lead-based paint removal from structures demolished in connection with construction of the Crenshaw Light Rail Line.

In June 2011 the Board awarded a five-year indefinite delivery/indefinite quantity contract, Contract No. EN077. The Board approved funding totaling a not-to-exceed amount of \$38 Million, inclusive of sales tax, and expenditures not-to-exceed \$21.2 Million during FY12 through FY14.

EN077 is an indefinite delivery/indefinite quantity contract. The consultant is not guaranteed any work and is issued Contract Work Orders and Task Orders based on specific environmental service needs. These Task Orders are funded from existing capital project's budget with consideration of any information available at the time of planning and applicable time constraints on performance of the work.

All of the work under this framework are negotiated on a not-to-exceed basis, and can only be performed and paid based on agreed upon rates that are defined in the Contract. 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.

As a result of the concurrent award and capital construction activities (i.e., Crenshaw Light Rail, Purple Line Extension, Regional Connector), much needed enhancement and refurbishment of existing Metro facilities to maintain a state of good repair, and recently evolved stricter air quality and underground storage tank and aboveground storage tank regulations, MTA staff has determined that there will be an accelerated and significant use of the environmental services of ARCADIS U.S., Inc. beginning in FY15. The specific list of projects expected to require environmental services, along with estimated costs of these services, is shown in Attachment B. Specifically, these include:

- Site Remediation at Divisions 8, 15, and 18 and 20. Emergency response to unforeseen contaminated sites at various ongoing capital projects; Baseline study and preparatory work for the new MTA Temporary Storage Site,
- UST Program (SB 989) Upgrades at Divisions 3, 5, 8. Division 10 Underground Storage Tank

(UST)/Above Ground Storage Tank (AST) replacements and Division 2 Vent Pipe Upgrades.

- Purple Line Extension: Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility contract and design build contract. Loc 61 (Purple Line Extension Yard) building abatement and Site Remediation per DTSC voluntary cleanup agreement (VCA),
- Regional Connector: Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility and design build contracts,
- Crenshaw Light Rail: Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility and design build contracts,
- Various Bus Capital Improvement Projects: Patsaouras Plaza soil and waste water management; Harbor Gateway Transit Center site assessment; handling and disposal of soils encountered at operating divisions; materials encountered along Silver Line alignment during construction; lead based paint contaminated materials associated with corrosion repairs along El Monte Busway, and
- Various Rail Capital Improvement Projects: New Center St. BOC/ROC expansion site assessment and remediation; Metro Gold Line cross-passage remediation and Red Line Tar seepage remediation support.

Due to this accelerated and significant use of ARCADIS U.S., Inc.'s services, MTA staff has determined that the authorized contract value will soon be inadequate to ensure the execution of Contract Work Orders from which Task Orders are negotiated and executed. Staff therefore seeks funding up to the Contract not-to-exceed amount of \$38M through the remainder of the Contract to support the environmental waste handling and related construction services needs of all major capital and capital improvement projects and related services within the scope of ARCADIS U.S., Inc.'s contract.

Additionally, consistent with recent Board direction, the Board is requested to approve the exercise of Option Year One.

The process to procure for such specialty contracts is consistent with ECSD's Business Plan submitted and presented to our Board in January 2015 and as reviewed with OMB and through the FY16 budget process.

DISCUSSION

Capital and transit-related projects undertaken by Metro continue to require evaluation of hazardous substances, contamination, or a need for regulatory compliance under federal, state and local law. In addition, Metro must comply with all environmental laws to avoid fines, and civil or criminal liability. This Environmental Hazardous Materials Handling and Related Construction Services contract assists with emergency response for evaluation, transport and disposal of encountered hazardous and non-hazardous soil, and liquid wastes which also includes asbestos and lead-based paint. The contract also includes: fuel storage tank system upgrades, repairs, removals, replacements in order to remain in regulatory compliance with local, state and federal regulatory requirements. Additional contract requirements include permit assistance, remediation system installation, maintenance and operation. Specifically for Measure R projects, the contract has been used as an emergency response contract and to support project remediation efforts if the contractor on those projects cannot perform such work scopes.

This contract is for as-needed Environmental Services. ARCADIS U.S., Inc. made a 40% DALP commitment at the onset of the project. Current DALP participation is 28.66%, of which 28.66% has been verified by staff. DBE attainment is based on the aggregate value of all task orders issued and payments paid against those task orders.

Attachment C summarizes the obligated costs associated with this contract for FY12 to FY15. Attachment C also indicates forecasted projects and costs from FY16 to FY17. Staff now returns to the Board to request annual funding for FY16 until contract termination date to authorize the use of the remaining contract value (from \$21.2M to \$38M).

DETERMINATION OF SAFETY IMPACT

This Board action will not have an impact on safety standards for Metro. The increase in contract value will assist in increased safety in that it will provide environmental services to reduce environmental impacts and increase sustainability in all of Metro's construction and operational efforts.

FINANCIAL IMPACT

EN077 is an Indefinite Delivery/Indefinite Quantity (IDIQ) contract. No MTA funds are obligated until a Contract Work Order is issued by a MTA authorized Contracting Officer against a valid project budget. No expenditures are authorized until a Task Order or Modification is awarded by a MTA authorized Contracting Officer for a specific package of work.

To date, MTA's financial and change control systems indicate that a Contract Work Order value of \$ 18,049,152 out of the currently Board-approved \$21.2M contract value has been obligated for completed an ongoing work. This includes \$17,507,691 of Task Orders issued along with \$541,461 in the value of task order modifications.

Due to anticipated significant increase in level of effort, specifically for the Measure R projects, there is needed authority beginning in FY16 to authorize the rest of the remaining balance of the overall contract up to the not-to-exceed amount of \$38M. Obligations and expenditures under the existing Contract will be done on a per task order basis, and will be determined commensurate to the each capital and operational project needs.

Obligations and authorizations made within the EN077 Total Contract Value will be against specific project or operations budgets which make up the Board-approved MTA budget for the particular fiscal year. Specific funding for this contract will parallel the project approved by the Board under separate actions. The Executive Directors and Project Managers of each of the business units and projects overseeing these projects will be responsible for budgeting the costs.

Staff will request for additional EN077 contract value authority if the amount of work associated with each of those projects exceed the new EN077 contract value.

ALTERNATIVES CONSIDERED

The MTA Board of Directors could decide not to authorize expenditures up to the full value of the contract and not authorize the exercise of option year one; ending staff's ability to issue any new task orders under contract EN077 and thus requiring staff to proceed with a new procurement for environmental waste handling and related construction services. Staff does not recommend this alternative, owing to high costs, delays and, for multiple contracts and administrative inefficiencies for procuring separate environmental services contracts to service affected projects.

As an alternative, MTA could perform all the environmental services in-house. Metro would have to hire additional staff with expertise in many different subjects, such as waste profiling, trucking and construction crews and laboratory science as well as purchase specialized equipment such as loaders, excavators and drill rigs which is not practical or cost-effective. Metro would incur more cost to do the work internally than by employing consultants. There is no additional ECSD staff included in the FY15 budget to possibly perform these functions

NEXT STEPS

Upon approval, staff will exercise option year two and initiate new task orders up to the total authorized contract value of the EN077 contract.

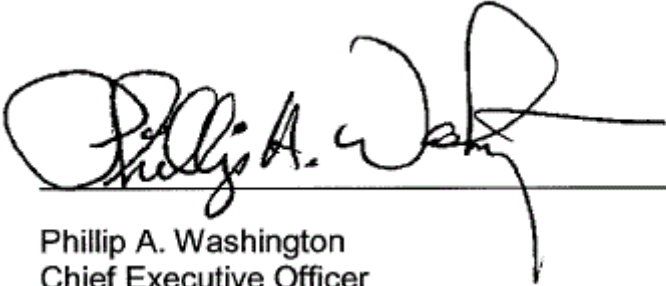
ATTACHMENTS

- Attachment A - Procurement Summary
- Attachment B - Contract Modification/Change Log
- Attachment C - Current and Proposed EN077 Work

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