

**Board Report**

File #: 2016-0886, **File Type:** Contract**Agenda Number:** 23

**CONSTRUCTION COMMITTEE
JANUARY 19, 2017****SUBJECT: FUEL STORAGE TANK PROGRAM FOR RAIL AND BUS FACILITIES****ACTION: ESTABLISH LIFE OF PROJECT BUDGET****RECOMMENDATION**

AUTHORIZE the Life-of-Project (LOP) budget of \$13,185,000 for a **three-year Fuel Storage Tank Project managed through Environmental Compliance and Sustainability Section (ECSS)**.

ISSUE

Metro currently operates Underground Fuel Storage Tanks (USTs) in 16 bus/rail divisions. UST systems are regulated by Los Angeles Fire Department, Los Angeles County Public Works, and State Water Resources Control Board (SWRCB) Title 23 and AQMD Rule 461. The Tank Program is budgeted annually based upon forecasted upgrades and repairs from the annual required testing performed on USTs. Early this year SWQCB inspected all of Metro's USTs that are regulated by SWRCB. SWRCB issued unforeseen Notices of Violations (NOVs) for UST systems at all of Metro Divisions. Consequently, there is a need to request the approval of an out of cycle UST project in order to address the NOVs to allow for continued availability of diesel for emergency generators and gasoline for Metro's non-revenue fleet.

Beyond the completion of the repairs associated with the USTs, the remaining project funding will be used to address on-going maintenance of operating USTs.

DISCUSSION

The existing UST Project (Project Number 202211) has a three year life of project budget with corresponding programmed annual activities that include the repair and replacement of UST parts, hoses, electrical conduits, and other related appurtenances. The calendar year 2016 is unusual. While Metro staff has programmed repairs and upgrades for this fiscal year and are scheduled to complete the project within time and budget, all of Metro's facilities were also simultaneously serially inspected by the SWRCB within a very short timeframe at the beginning of 2016. This concentrated inspection by SWRCB had not occurred in the past.

The programmed repairs are routine regulatory upgrades. A number of them were also programmed to ensure compliance within the grandfathering timeframe of the regulatory compliance period. While these USTs are scheduled to be repaired or upgraded, they were determined to be non-compliant per SWRCB. There were also additional repairs that we needed to do upon the opening up of some UST repair locations. These conditions only manifested themselves during the preparatory work of the repairs and upgrades including compromised seals, loose gaskets, broken parts, and similar issues. While anticipated, the compounded effect of accelerating programmed repair upgrades under the requirements of a NOV and the additional changed conditions led to an accelerated depletion of remaining project funding.

Staff had developed a project to be included in the FY18 budget cycle, but the compounded effect of NOV citation and additional changed conditions makes it necessary for staff to request for Board approval of this out of cycle project.

To accomplish the assigned tasks, staff will issue Task Orders to our Environmental Services Contractor (currently EN077) who will provide the necessary staff, sub-consultants, equipment, software, supplies, and services. They shall employ or subcontract as necessary with DBEs. An increase to the contract amount for Contract EN077 to accomplish some or all of this work is the subject of a separate Board Report. The rest of the work identified as part of this Board Report (FY18 to mid FY20) will be accomplished by the EN077 replacement contract that is anticipated to be awarded by the end of FY17.

DETERMINATION OF SAFETY IMPACT

NOVs are identified as an imminent threat to human health or safety or the environment. The programmed work will reduce the risk of a hazardous release from any of these tank systems in the future.

FINANCIAL IMPACT

The adopted fiscal year 2017 budget for Metro's operating capital projects is assessed and reprioritized through the midyear budget adjustments. The \$2.2 million required to address the NOVs will be funded as part of the midyear adjustment; no budget amendment is being sought for this current fiscal year. Since this is a multi-year project, the Chief Program Management Officer and Project Manager are responsible for budgeting costs for future years.

If the required repairs and upgrades are not addressed in FY17 Metro faces potential penalties of up to \$5,000/day per violation per California Health and Safety Code 6.7. Furthermore, tank systems will continually be "red-tagged" which prohibits the use of the tanks until the repairs are completed. This would significantly impact Bus and Rail daily operations.

Impact to Budget

The funding source for the LOP of \$13,185,000 (including the \$2.2 million for FY17 required repairs) is TDA Article 4 and Proposition A 35%. These funds are eligible for bus and rail operating and capital projects. These are appropriate funds for the subject matter; no other funds were considered.

ALTERNATIVES CONSIDERED

Staff requests project LOP approval to continue addressing NOV's issued by the SWRCB. This enables the mechanism to issue task orders and pay for the work performed. If the Metro Board rejects the formation of a new UST project, Task Orders cannot be issued, making it difficult to address NOV's as well as the repairs and upgrades resulting from the changed conditions. At that point, the SWRCB most likely will take legal action against Metro for not addressing the violations. Such action can result in Metro receiving potential penalties of up to \$5,000/day per violation. Programmed repairs and upgrades cannot also be completed in the future fiscal years increasing the likelihood of additional NOV's to be issued to our agency.

Staff is issuing a new Request for Proposal (RFP) for this type of work to take over the expiring EN077 Environmental Services contract. The replacement contract that will perform the rest of the FY18 through part of FY20 work is anticipated to be awarded at the end of FY17.

NEXT STEPS

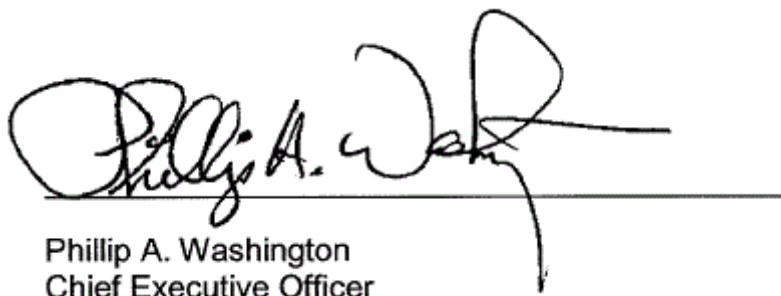
After the recommended Board Action is approved, staff will complete the process to award task orders under the newly approved project.

ATTACHMENTS

Attachment A. LOP Budget and Funding Plan

Prepared by: Cris B. Liban, Executive Officer, Environmental Compliance and Sustainability (213) 922-3471

Reviewed by: Richard Clarke, Chief Program Management Officer
(213) 922-7557



Phillip A. Washington
Chief Executive Officer