



Board Report

File #: 2021-0772, File Type: Contract

Agenda Number: 30.

CONSTRUCTION COMMITTEE JANUARY 20, 2022

SUBJECT: ENVIRONMENTAL CAPITAL CONSTRUCTION SUPPORT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

- A. AWARD and EXECUTE a bench Contract for Environmental Capital Construction Support services for a three (3) year base period through RFP No. AE79441, with the following firms determined capable to perform the services: Arcadis U.S., Inc. Atlas Technical Consultants LLC. Burns and McDonnell Engineering Company, Inc. ERM West, Inc. Kleinfelder, Inc. Polytechnique Environmental, Inc. TRC Solutions, Inc. on issued Task Orders, within an overall not-to-exceed amount of \$82,650,000 and with a one year option of \$1,650,000 for option year 1 and \$1,600,000 for option year 2 if these options are exercised, subject to the resolution of any properly submitted protest;
- B. AWARD and EXECUTE individual Contract Work Orders and Task Orders within the total approved not-to-exceed funding limit of \$82,650,000

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 bench contract is a critical component for managing and mitigating known and unknown hazardous conditions and mitigation prior to and during the execution of Capital Construction projects. The bench contract provides technical expertise and specialty licenses required to execute this type of work. Furthermore, this bench contract plays a critical role in mitigating risk in order to keep projects on schedule, obtain cleaner and more accurate bids from Prime Contractors, and keep the agency within regulatory compliance requirements.

BACKGROUND

A critical component of executing our Capital projects requires us to continually evaluate, mitigate, remove, and/or manage hazardous substances and 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 this environmental services and construction support contract is specifically for support on Metro's Capital Construction program.

The passing of Measure M and continuation of Measure R projects in recent years has further increased the number of Capital projects developed. Metro staff does not have the internal resources to do all environmental construction, waste handling, and environmental compliance support work in-house. Metro has contracted for such vendors with specialized environmental equipment and technical capabilities to complement and supplement limited resources, including licensed hazardous waste contractors, analytical laboratories, field services, and evaluation/remediation equipment. Metro, in effect, would incur more cost to do the work internally than by employing these types of consultants and specialized vendors.

DISCUSSION

The Bench Contracts established through RFP No. AE79441, will be used to assist Metro's 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 and environmentally related construction services for Capital projects. Additional contract requirements include permit assistance, remediation system construction, implementation, and installation.

The scope of services in this contract is primarily for the 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 contract is awarded as a Bench - 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(s) are 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 Task Orders. These Task Orders and any 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.

Awarding of the issued Task Orders will be accomplished by selection from a Proposal Evaluation Team (PET) from the bench of qualified contractors. All the Task Orders will be fully negotiated based on agreed upon rates that will be negotiated at the onset of the Bench 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 Task Order is awarded against a valid Metro 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.

To accomplish the issued Task Orders, the consultant(s) 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, Construction Managers, stormwater professionals (QSD/QSP), Certified Industrial Hygienists (CIH), Certified Asbestos Consultants (CAC), contaminated 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 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

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, DEO Environmental Services, and Project Managers are responsible for providing appropriate budgets and following the Task Order award process protocols during the execution of each Task Order. Execution of work under those Task Orders can continue beyond the contract end date as specified in the contract.

Obligations and authorizations made within the total Contract authorized funding amount will be against specific capital project budgets which were approved through a separate board action. The Project Managers of each of the projects utilizing this contract will be responsible for providing appropriate budgets.

Impact to Budget

The source of funds for this contract is provided within the Life of Project (LOP) budget or annual appropriation of the respective Capital projects 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 funds are required upon approval of this contract award. These funds are not eligible for bus and rail operating expenses.

EQUITY PLATFORM

The design of this RFP and implementation of the procurement process prioritizes the use of small and disadvantaged businesses through a bench contract. The RFP was advertised in local and cultural publications relevant to the geographic and demographic communities within the project

area. The RFP Statement of Services, highly recommends contractors work with Community Based Organizations (CBO) for community engagement, including economic opportunities and jobs to individuals with barriers to employment.

The work focuses on those communities already impacted by pre-existing health and environmental factors as supported by the EFC maps. This contract for technical environmental support services allows projects experiencing unique and non-routine situations to be nimble and responsive. The health and safety of workers, businesses, residents, and passers-by could be negatively affected without this contract's timely demolition and remediation services.

During construction, this contract allows Metro multiple ways to support project compliance with regulatory requirements and keeping it on schedule through prompt response to unforeseen situations, minimizing potential negative impacts to air, land and water quality. This contract is expected to reduce project delays and facilitate community benefits from the ecosystem services in the long term.

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 the Bench Contract under RFP No. AE79441 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 projects will be limited. Consequently, Metro would not be able to immediately address potential and existing environmental liabilities.

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, and waste profiling technicians. Metro would also need to purchase specialized equipment such as loaders, excavators, remediation systems and drill rigs, which are not practical or cost-effective to acquire or maintain. Metro would incur more short-term capital and long-term maintenance costs to do the work internally than employing consultants.

Alternately, 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 Task Orders have associated inconsistencies and likely greater cumulative administrative and execution costs and inefficiencies.

A last alternative would be to have the construction Contractor perform the unforeseen work as a change order as these issues arise. However this is not seen as feasible as hazardous material management involves specialty contractors and it would likely cost the Agency more if this work was executed by a change order. Additionally, some projects are in the early stages and do not yet have contractors on board to issue this work. The use of this contract will also be valuable to mitigate potential risks prior to issuance of RFPs and to obtain more accurate bids.

NEXT STEPS

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

ATTACHMENTS

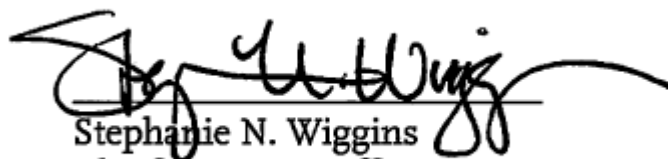
- A. Procurement Summary
- B. Types and Total Value Estimates of Projects - FY22 to FY24
- C. DEOD Summary

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