

Board Report

Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

File #: 2016-0932, File Type: Contract

Agenda Number: 26

CONSTRUCTION COMMITTEE JANUARY 19, 2017

SUBJECT: ALL TRANSIT CORRIDOR AND CAPITAL PROJECTS

ACTION: APPROVE CONTRACT MODIFICATION

RECOMMENDATION

INCREASE the authorized funding for Contract No. EN077 with **Arcadis US, Inc. (AUS), to fund additional Environmental Hazardous Materials and Construction Services Task Orders** in an amount not-to-exceed \$3,255,000 increasing the total Contract Value from \$38,000,000 to \$41,255,000.

RATIONALE

In September 2011, the Board authorized negotiation and award, and the Board funded the Contract in the initial amount of \$38,000,000, based upon a staff cost estimate of work necessary to support Metro's approved Capital Construction Program for FY12 through FY16. Outstanding Task Orders that were awarded in FY16 were carried over to FY17. These Task Orders are scheduled to terminate with the expiration of the EN077 Contract at the end of FY17. Any remaining Contract Value was projected to be sufficient to support existing environmental services efforts.

The emergence of changed conditions at major capital projects including Location 61S as well as multiple notices of violations resulting from additional regulatory compliance requirements related to State Water Resources Control Board and City and County of Los Angeles Fire Department underground storage tank requirements and SB 989 regulations required the additional use of AUS services beyond what staff has anticipated that can be handled within the current AUS Contract Value. Based upon forecasted work for the remainder of FY17 up to and until the expiration of this Contract at the end of the FY17, staff is requesting additional funding in the amount of 3,255,000 which would bring the total authorized value for this Contract to \$41,255,000.

Nearly every capital project, and many ongoing facilities maintenance or restoration activities undertaken by Metro require evaluation and, as necessary, removal or treatment of hazardous or contaminating substances. Metro must comply with all environmental laws to avoid fines, and civil or

criminal liability. To ensure such compliance, Metro has solicited and awarded contracts for environmental services. Under Contract No. EN077, AUS assists with the proper clean up, abating, managing, transporting, and disposing of contaminated or hazardous materials at various Metro operating facilities; and sampling and testing at various locations for contaminated and hazardous soils and water. AUS also performs, under this Contract, construction services that require environmental contractor specialization.

Specific projects identified to require environmental services, along with estimated costs of these services, is shown below. Attachment A includes a month to month cashflow projection on when these expenditures are going to be spent.

| Underground Storage Tank Program | Est. Cost |
|---|------------------------|
| Division 2 EG UST Removal & AST Install Division 5 UST/AST Repairs and Upgrades | \$350,000 \$600,000 |
| Division 9 UST Repairs and Upgrades | \$550,000 |
| Division 10 UST System Repair | \$300,000 |
| Emergency response failures UST/AST | \$135,260 |
| Other Projects | |
| Soil & Water Transportation and Disposal | \$100,000 |
| Purple Line Extension Waste Soil | \$ 40,000 |
| Patsaouras Plaza Busway Management Environmental Support | \$217,000 |
| Location 61 S / Soil Remediation | \$237,000 |
| Regional Connector Waste Management On Call | \$ 15,000 |
| PLE Lead and Asbestos Abatement Section 2 | \$250,000 |
| Crenshaw - LAX On-Call Incident Response Service | \$ 45,000 |
| Location 61S Phase II Excavation | \$600,000 |
| Bob Hope Airport Station | \$ 45,000 |
| Geotechnical Waste Removal / LinkUSA Project Support | \$ 70,000 |
| TOTAL | \$3,554,260 |

As of November 2016 (the time of report preparation), there is approximately \$1,900,000 remaining in the Contract Value for AUS. The requested increase in Contract Value will allow for the completion of the remaining work scheduled for FY17.

A replacement Environmental Services contract is currently under procurement and upon award at the end of FY17 will replace AUS to perform Environmental Services work.

IMPACTS TO OTHER CONTRACTS

Timely and thorough environmental services in connection with other construction contracts is essential to complete capital projects within schedule and budget. If the value of Contract No. EN077 is not increased, staff will not be able to respond to the outstanding and newly identified compliance requirements (including those that address the notices of violations); as well as respond to the major capital project changed conditions. Staff will also have to delay any remediation work that has a direct impact on the succeeding phases of projects. There is already a procurement for a replacement contract but the award will not be until the later part of this fiscal year. Any delay in provision of

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environmental support will significantly increase Metro's liability for environmental regulatory compliance and contractor monetary claims of delay.

FINANCIAL IMPACT

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

To date, Metro's financial and change control systems indicate that approximately \$36,000,000 out of the previously Board-approved \$38,000,000 has been obligated for completed and ongoing work. The remaining balance would not be sufficient to support contractor efforts to complete the required work for the rest of FY17.

The additional funding of \$3,255,000 is an increase in the amount which may be obligated and spent under the Contract. This increase in Contract Value is anticipated to be all spent by the end of FY17 and by the time the EN077 replacement contract is awarded.

Obligations and authorizations made within the total Contract Value will be against specific project or operations budgets which make up the Board-approved Metro budget for any particular fiscal year. The Chiefs of each of the business units overseeing these projects and the respective project managers are responsible for budgeting the costs.

Impact to Bus and Rail Operating and Capital Budget

The funding for this Contract Modification will come from various sources of projects and their corresponding funds (see Attachment A). These funds are eligible for bus and rail operating and capital expenditures.

ALTERNATIVES CONSIDERED

The Metro Board of Directors could decide not to increase the Contract Value for this Contract and thus staff has to solicit and award individual contracts for each environmental task to ensure the regulatory requirements and required mitigation work at project sites are addressed. Staff does not recommend this alternative owing most importantly to delays and correspondingly to high costs; as well as the administrative inefficiencies for managing multiple contracts.

As another alternative, Metro could perform all the environmental hazardous materials and construction services inhouse. However to do so, Metro would need to hire additional staff with expertise in many different subjects, such as drilling, laboratory science, and operating heavy earth-moving and material handling equipment, as well as purchase earthmoving and material handling equipment, and laboratory equipment. Staff does not recommend this alternative owing to high capital costs to procure personnel and equipment as well as potential for implementation and training delays.

NEXT STEPS

After the recommended Board Action is approved, staff will complete the process to award task orders to address newly identified and required regulatory actions and mitigation/remediation measures.

ATTACHMENTS

Attachment A - Procurement Summary

Attachment B - Contract Modification/Change Order Log

Attachment C - DEOD Summary

Attachment D - Summary of Current and Proposed Work Requiring AUS Services

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Phillip A. Washington Chief Executive Officer

PROCUREMENT SUMMARY ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED CONSTRUCTION SERVICES/EN077

| 1. | Contract Number: EN077 | | | | | | | |
|----|--|-----------------|--|---------------|--|--|--|--|
| 2. | Contractor: Arcadis -US, Inc. | | | | | | | |
| 3. | Work Description : Sampling and testing at various Metro locations for contaminated soils and water. Clean-up, abatement, management, transporting and disposing of contaminated or hazardous materials at various Metro operating facilities. Construction services that require environmental contractor specialization | | | | | | | |
| 4. | The following data is current as of: Dec 12, 2016 | | | | | | | |
| 5. | Contract Status: | | | | | | | |
| | Proposals Recieved: | March 29, 2011 | Contract Award Amount: | \$38,000,000. | | | | |
| | Contract August 15, 2011 Awarded: NTP: September 26, 2011 | | Total of Modifications Approved: | 10 | | | | |
| | | | Current Contract Value: | \$41,255,000. | | | | |
| | Original Complete Date: | August 14, 2014 | Current Est. Complete Date: | June 30, 2017 | | | | |
| 6. | Contract Administra | ator: | Telephone Number: (213) 922-7074 | | | | | |
| 7. | Project Manager: Cris Liban | | Telephone Number: (213) 922-2471 | | | | | |

A. <u>Procurement Background</u>

This Board Action is to approve an increase in Contract Modification Authority (CMA) in support of Contract EN077 to provide continuing and additional Environmental Waste Handling and Environmentally-Related Construction Services as set forth in Contract EN077 currently in effect between Metro and Arcadis-US, Inc.

This Contract Modification Authority will be processed in accordance with Metro's Acquisition Policy and the contract type is an Indefinite Delivery Indefinite Quantity Contract.

Contract EN077 with Arcadis US, Inc. is for a five (5) year term covering the period between August 15, 2011 through August 15, 2016, inclusive of two (2) one-year options. This Contract was approved by the Board of Directors on June 16, 2011 with approved expenditure of up to \$21.2 Million of the \$38 Million in total contract value for FY12 to FY14 inclusive of sales tax and two (2) one-year options. On July 17, 2014, the Board authorized the use of the remaining contract value (from \$21.2 Million to \$38 Million). Ten (10) contract modifications have been executed and approved by the Board over the life of the Contract.

 Modifications 1 through 3 were issued to update the Terms and Conditions of the Agreement to include the Memorandum of Costs.

- Modification 4 extended the Period of Performance from August 14, 2014 to September 30, 2014.
- Modification 5 extended the Period of Performance from September 30, 2014 to March 31, 2015.
- Modification 6 extended the Period of Performance from March 31, 2015 to June 30, 2015
- Modification 7 extended the Period of Performance from June 30, 2015 to December 31, 2015.
- Modification 8 extended the Period of Performance from January 1, 2016 to June 30, 2016.
- Modification 9 extended the Period of Performance from July 1, 2016 to December 31, 2016.
- Modification 10 extended the Period of Performance from January 1, 2016 to June 30, 2017.

This Board Action shall fund continuing and additional Environmental Hazardous Materials and Construction Services in an amount not to exceed \$3,255,000. increasing the total contract value from \$38,000,000 to \$41,255,000.

Anticipated projects for Arcadis EN077 include, but are not limited to:

| Underground Storage Tank Program | Est. Cost |
|---|--|
| Division 2 EG UST Removal & AST Install Division 5 UST/AST Repairs and Upgrades Division 9 UST Repairs and Upgrades Division 10 UST System Repair Emergency response failures UST/AST | \$350,000 \$600,000 \$550,000 \$300,000 \$135,260 |
| Other Projects | |
| Soil & Water Transportation and Disposal Purple Line Extension Waste Soil Patsaouras Plaza Busway Management Environmental Support Location 61 S / Soil Remediation Regional Connector Waste Management On Call PLE Lead and Asbestos Abatement Section 2 Crenshaw – LAX On-Call Incident Response Service Location 61S Phase II Excavation Bob Hope Airport Station Geotechnical Waste Removal / LinkUSA Project Support | \$100,000 \$40,000 \$217,000 \$237,000 \$15,000 \$250,000 \$45,000 \$600,000 \$45,000 \$70,000 \$3,554,260 |

Additional information regarding the history of Modifications to EN077 can be found in Attachment B – Contract Modification/Change Log.

B. Cost/Price Analysis

The recommended price of any future changes will be determined to be fair and reasonable based upon MAS audit findings, an independent cost estimate, cost analysis, price analysis, technical evaluation, fact finding, and negotiations.

CONTRACT MODIFICATION/CHANGE ORDER LOG

ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED CONSTRUCTION SERVICES/EN077

| Mod. no. | Description | Status (approved or pending) | Date | \$ Amount | | |
|-------------|---|---------------------------------------|----------|-----------------------|--|--|
| 1. | Administrative Terms and Conditions | Approved | 11/16/14 | \$0.00 | | |
| 2. | Retention Reduction Per Contract Code Section 7201 | Approved | 12/22/13 | \$0.00 | | |
| 3. | Add Subcontractors Trip Span & BTI | Approved | 11/21/13 | \$0.00 | | |
| 4. | No Cost Period of Performance Extension 8/14/14 to 9/30/14 | Approved | 8/5/14 | \$0.00 | | |
| 5. | No Cost Period of Performance Extension 10/01/14 to 3/31/15 | Approved | 9/26/14 | \$0.00 | | |
| 6. | No Cost Period of Performance Extension 3/31/15 to 6/30/15 | Approved | 3/11/15 | \$0.00 | | |
| 7. | No Cost Period of Performance Extension 6/30/15 to 12/31/15 | Approved | 5/15/15 | \$0.00 | | |
| 8. | No Cost Period of Performance Extension 01/01/15 to 6/30/16 | Approved | 9/24/15 | \$0.00 | | |
| 9. | No Cost Period of Performance Extension 7/01/16 to 12/31/16 | Approved | 3/14/16 | \$0.00 | | |
| 10. | No Cost Period of Performance Extension 1/01/17 to 6/30/17 | Approved | 9/29/16 | \$0.00 | | |
| 11 | Add funds for continuing and additional Environmental Hazardous Materials and Construction Services | Pending | | \$3,255,000 | | |
| | | | | (Total for this mod.) | | |
| | Modification Total: | | | \$3,255,000 | | |
| | Original Contract: | | | \$38,000,000 | | |
| | Total: | | | \$41,255,000 | | |

DEOD SUMMARY

ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED CONSTRUCTION SERVICES/EN077

A. Small Business Participation

Arcadis-US, Inc. made a Disadvantaged Business Enterprise Anticipated Level of Participation (DALP) commitment of 40.00%. The project is 81% complete and the current DBE participation is 38.35%, a shortfall of 1.65%. According to Arcadis-US, Inc., they are currently spending over 40% on DBE subcontractors for various projects. Once they receive payment from Metro for large invoices for the Location 61S project and in turn pay their subcontractors, it will bring their participation above the 40% commitment.

| Small Business Commitment | 40.00% DALP | Small Business Participation | 38.35% | | |
|------------------------------|-------------|------------------------------|--------|--|--|
| | | | | | |

| | DBE Subcontractors | Ethnicity | % Commitment | Current Participation ¹ | | |
|-----|-------------------------------------|--------------------------------|-----------------|---------------------------------------|--|--|
| 1. | J.C. Palomar Construction, Inc. | Hispanic American | CWO | 14.83% | | |
| 2. | Advanced Technology Laboratories | Hispanic American | CWO | 0.79% | | |
| 3. | Jet Drilling | Hispanic American | CWO | 0.76% | | |
| 4. | Alliance Environmental Group | Hispanic American | CWO | 0.08% | | |
| 5. | Tri Span | Hispanic American | CWO | 12.27% | | |
| 6. | Insight EEC | Subcontinent Asian American | CWO | 3.27% | | |
| 7. | Bradley Tank | Asian Pacific American | CWO | 3.82% | | |
| 8. | Cal Vada | Hispanic American | CWO | 0.10% | | |
| 9. | Performance Analytical Laboratories | Caucasian Female | CWO | 0.37% | | |
| 10. | Verduzco Electric | Hispanic American | CWO | 2.06% | | |
| | Total | | 40.00% | 38.35% | | |

¹Current Participation = Total Actual amount Paid-to-Date to DBE firms ÷Total Actual Amount Paid-to-date to Prime.

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this modification.

C. Prevailing Wage Applicability

Prevailing wage is not applicable to this modification.

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this contract.

Balance Remaining End of 11/2016 (Month of Report Prepation) (D):

Amount Requested to Continue Work through 06/2017 (Ee)= (Cc)-(D):

New Contract Value after Board Approval of Contract Value Increase (G)=(F)+(Ee):

Amount Requested to Continue Work through 06/2017 (Ee):

ROUNDED TO NEXT HIGHER VALUE

Current Contract Value (F):

\$1,913,826 **\$3,254,260 \$3,255,000**

\$38,000,000 \$3,255,000 **\$41,255,000**

Existing EN-077 Contract

| | Existing En-077 Contract | | | | | | | | |
|--|-----------------------------------|-------------|------------|--|-----------|-----------|-----------|-----------|--------------------------|
| | 2 | 016 | | | 2017 | | | | |
| | WITHIN CURRENT CONTRACT AUTHORITY | | | REQUESTED AS PART OF CONTRACT VALUE INCREASE | | | NCREASE | | |
| Project Description | November-16 | December-16 | January-17 | February-17 | March-17 | April-17 | May-17 | June-17 | TOTAL for 2017 Work Only |
| UST Program | | | | | | | | | |
| Division 2 AST Install | | | | | | \$150,000 | \$150,000 | \$50,000 | \$350,000 |
| Division 5 UST Repair and AST Upgrades | | | | | \$200,000 | \$200,000 | \$200,000 | | \$600,000 |
| Division 9 UST Repairs and Upgrades | | | | \$200,000 | \$200,000 | \$130,000 | \$20,000 | | \$550,000 |
| Division 10 UST System Repair | | | | | | | \$100,000 | \$200,000 | \$300,000 |
| SB 989 Failures/Maintenance | | | \$25,000 | \$30,000 | \$30,000 | \$35,000 | \$25,000 | \$15,260 | \$135,260 |
| Other Projects | | | | | | | | | |
| Soil & Water Transportation and Disposal | | | | \$20,000 | \$20,000 | \$20,000 | \$20,000 | \$20,000 | \$100,000 |
| Purple Line Extension Waste Soil | | | \$10,000 | \$10,000 | \$10,000 | \$10,000 | \$10,000 | | \$40,000 |
| Patsaouras Plaza Busway Waste Management / Env. Support | | | | \$112,000 | \$105,000 | | | | \$217,000 |
| Location 61 S / Soil Remediation | \$250,000 | \$500,000 | \$300,000 | \$237,000 | | | | | \$237,000 |
| Regional Connector - Waste Management On Call | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$6,000 | \$6,000 | | | \$15,000 |
| PLE Lead and Asbestos Abatement Section 2 | | | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$250,000 |
| Crenshaw - LAX On Call Incident Response Service | | | | | | \$45,000 | | | \$45,000 |
| Location 61S Phase II Excavation | | | | \$100,000 | \$200,000 | \$200,000 | \$100,000 | | \$600,000 |
| Bob Hope | | | | | | \$45,000 | | | \$45,000 |
| Geotechnical Waste Removal / LinkUSA Project Support | | | | \$35,000 | \$35,000 | | | | \$70,000 |
| | | | | | | | | | |
| _ | | | | | | | | | |
| Sum: | \$253,000 | \$503,000 | \$388,000 | \$797,000 | \$856,000 | \$891,000 | \$675,000 | \$335,260 | \$3,554,260 |
| | 44.000.000 | | | | | | | | |
| Forecasted Spend (Ongoing 2016 work through 06/2017 (A): | \$4,698,260 | | | | | | | | |
| 10% Contingency (B): | \$469,826 | | | | | | | | |
| Total Forecasted Spend Including Contingency (Cc)=(A)+(B) | \$5,168,086 | | | | | | | | |
| Total Foresetted Cound Individual Continuous (Opposite through OC (2017) (Co)) | \$5,168,086 | | | | | | | | |
| Total Forecasted Spend Including Contingency (Ongoing through 06/2017) (Cc): | \$5,108,080 | | | | | | | | |