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

File #: 2019-0015, **File Type:** Contract **Agenda Number:** 27.

CONSTRUCTION COMMITTEE
FEBRUARY 21, 2019

SUBJECT: CONSTRUCTION CLAIMS SUPPORT SERVICES

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

A. EXECUTE a 7 year cost-plus fixed fee contract, Contract No. PS58665, with ARCADIS U.S., Inc., to provide Construction Claims Support Services for various projects as required, in an amount not-to-exceed $24,584,650 and exercise 3 one-year options, when deemed appropriate; and

B. EXECUTE individual Contract Work Orders and Contract Modifications within the Board approved contract and budget funding amount.

ISSUE

Construction Claims Support Services (CCSS) are required to assist Metro in avoiding potential contractor claims and proactively addressing actual contractor claims, recommending policy and procedures to reduce the likelihood of claims, formulating claims settlement scenarios, assisting County Counsel with the resolution of claims and disputes, and assisting with and/or perform forensic analyses, as necessary.

DISCUSSION

The Consultant will be a part of the Metro team to:

- Assist Metro in claims avoidance
- Conduct training
- Prepare a Claims Management Manual
- Assist Metro in addressing contractor claims against Metro
- Recommend policy and procedures that reduce the likelihood of claims

- Formulate claim settlement scenarios
- Assist County Counsel in resolving claims and disputes as needed
- Assist with and/or perform forensic analyses, as necessary

Metro's current experience with the submission of claims combined with Metro's current reactive approach to claims rather than being pro-active has resulted in an increased level of effort in gathering and compiling contemporaneous documentation to defend these claims.

The Consultant will assist Metro in developing and implementing processes and strategies, along with a claims management manual and claims management training to provide Metro guidance in (1) avoiding potential claims and (2) responding to and resolving actual claims, to be more proactive and creating defensible positions.

The Consultant will provide the Contracting Officer and Program Management with an independent assessment of potential and actual claims, the responsible parties, a quantification of alleged impacts including schedule analyses of delays, disruption and lost productivity, and support Metro with the negotiation and resolution of disputes.

The Consultant shall facilitate and collaborate closely with all Metro departments and staff, including County Counsel, as needed, in addressing disputes and claims.

Consultant services will be authorized, funded and paid under separate Contract Work Orders for each project. The cumulative value of all Contract Work Orders will be within the Board approved contract funding amount.

DETERMINATION OF SAFETY IMPACT

Approval of this item will have no impact on safety.

FINANCIAL IMPACT

The not-to-exceed award value is based on the anticipated level of services. The Contract will be funded by the individual projects issuing the work order under this contact. Work orders issued for FY19 will be covered by the respective projects' annual budget and within life-of-project budget. For multiyear work orders and future work orders, the project managers, cost center managers, and Chief Program Management Officer will be responsible for future year budgeting.

Impact to Budget

There is no impact to budget for this action. Each project utilizes life-of-project budget or annual adopted budget which has designated funding source(s) at the time of adoption. Many of the projects issuing work orders are funded with multiple sources of funds: federal and state grants, federal loans, bonds, and local sales taxes. Much of local sales taxes, and some federal and state funds are eligible for bus and rail operations and capital improvements.

ALTERNATIVES CONSIDERED

The Board could direct Metro staff to perform construction claims support services tasks with current in-house resources. This alternative would require Metro to divert resources from on-going projects and/or hire multiple full-time personnel that are not immediately available or funded.

NEXT STEPS

After Board approval of the recommended action, staff will award Contract No. PS58665.

ATTACHMENTS

Attachment A - Procurement Summary
Attachment B - DEOD Summary

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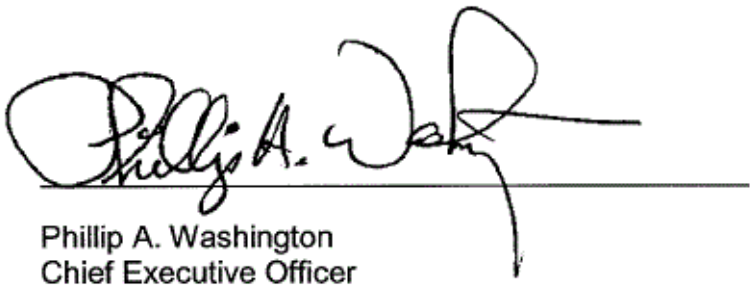

Phillip A. Washington
Chief Executive Officer

PROCUREMENT SUMMARY

CONSTRUCTION CLAIMS SUPPORT SERVICES
CONTRACT NUMBER PS58665

1.	**Contract Number**: **PS58665**	
2.	**Recommended Vendor**: ARCADIS U.S., Inc.	
3.	**Type of Procurement (check one):** ☐ **IFB** ☒ **RFP** ☐ **RFP–A&E** ☐ **Non-Competitive** ☐ **Modification** ☐ **Task Order**	
4.	**Procurement Dates**:	
	A. Issued: November 2, 2018	
	B. Advertised/Publicized: November 2, 2018	
	C. Pre-Proposal Conference: November 13, 2018	
	D. Proposals Due: December 3, 2018	
	E. Pre-Qualification Completed: January 14, 2019	
	F. Conflict of Interest Form Submitted to Ethics: December12, 2018	
	G. Protest Period End Date: February 26, 2019	
5.	**Solicitations Picked up/Downloaded**: 62	**Proposals Received**: 5
6.	**Contract Administrator**: **Bruce Warrensford**	**Telephone Number**: **213-922-7338**
7.	**Project Manager**: **David Davies**	**Telephone Number**: **213-418-3348**

A. Procurement Background

This Board Action is to approve Contract No. PS58665, Construction Claims Support Services, to assist Metro in avoiding claims, proactively addressing potential contractor claims, recommending policy and procedures to reduce the likelihood of claims, addressing actual contractor claims, formulate claim settlement scenarios, assisting County Counsel in resolving claims and disputes, and assisting with and/ performing forensic analyses, as necessary.

The RFP was issued in accordance with Metro's Acquisition Policies and Procedures. Metro held a pre-proposal conference on November 13, 2018, in the Gateway Conference Room on the 3rd floor of the Gateway Building. There were seventeen (17) representatives from eleven (11) firms that attended the pre-proposal conference. Fifty-two (52) individuals from various firms picked up or downloaded the RFP Package.

Six amendments were issued during the solicitation phase of this RFP:

- Amendment No. 1, issued on November 7, 2018, to revised Submittal Requirements;
- Amendment No. 2, issued on November 8, 2018, to remove the DBE Contracting Outreach and Mentoring Plan (COMP) from this Contract.
- Amendment No. 3, issued on November 9, 2018, revised Compensation and Payment Provisions and Evaluation Criteria

- Amendment No. 4, issued November 13, 2018, to correct Amendment No. 3 numbering.
- Amendment No. 5, issued November 15, 2018, to revise Letter of Invitation and Scope of Services.
- Amendment No. 6, issued November 20, 2018, to correct Amendment numbering and Submittal Requirements indexing.

A total of five (5) proposals were received on December 3, 2018, from the following firms, in alphabetical order:

1. ARCADIS U.S., Inc.
2. HKA Global, Inc.
3. McMillen Jacobs Associates
4. PMA Consultants LLC
5. Trident CPM Consulting

B. Evaluation of Proposals

A Proposal Evaluation Team (PET) consisting of staff from Metro Program Management, Project Management, Project Controls, County Counsel, and Contract Administration was convened and conducted a comprehensive evaluation of the proposals received.

The proposals were evaluated based on the following evaluation criteria and the associated weightings:

- Experience and Capabilities of the Firms on the Consultant's Project Team……..……(25%)
- Key Personnel's Skills and Experience……..……...(25%)
- Effectiveness of Management Plan……..……..…(20%)
- Understanding of Work and Appropriateness of Approach for Implementation…….....…(20%)
- Cost Proposal..……..…..…..…(10%)

  Total 100%

The evaluation criteria are appropriate and consistent with criteria developed for other Professional Service procurements. Several factors were considered when developing the weightings, giving the greatest importance to the Experience and Capabilities of the firms on the Consultant's Project Team and Key Personnel's Skills and Experience.

During the month of December 2018, the PET evaluated the five (5) written proposals. Of the five (5) proposals received, four (4) were determined to be within the competitive range. The four (4) firms within the competitive range are listed below in alphabetical order:

1. ARCADIS U.S., Inc.
2. HKA Global, Inc.
3. McMillen Jacobs Associates
4. PMA Consultants LLC

One firm was determined to be outside the competitive range and was not included for further consideration. That firm was notified of the determination and debriefed.

On December 12, 2018, the PET met with four (4) Proposers in the competitive range for oral presentations. The firms were given the opportunity to present on: 1) Effectiveness of Management Plan and 2) Understanding of Work and Appropriateness of Approach for Implementation.

The proposing firms had the opportunity to present their proposed project managers, key personnel, and some of their key members, as well as respond to the PET's questions. In general each presentation addressed the requirements of the RFP, experience with all aspects of the required and anticipated tasks, and stressed each proposer's commitment to the success of the contract.

Qualifications Summary of Firms within the Competitive Range:

ARCADIS

- ARCADIS' proposal significantly exceeds the RFP minimum requirements in most major areas. The proposed approach indicates an exceptionally thorough and comprehensive understanding of the contract goals, resources, schedules, and other aspects essential to the performance of the Services.
- ARCADIS was excellent in demonstrating the ability to fill, maintain, and replace required staffing positions for the life of the project, as detailed in the proposers project Organization Chart including a clear staff responsibility description.
- ARCADIS demonstrated an exceptionally thorough and comprehensive understanding of the contract requirements, Scope of Services, and the execution and management of the task order process.
- The proposal demonstrated very successful and extensive experience in working with similar type projects with large agencies.
- The proposed project manager has all necessary qualifications and demonstrates a high probability of success with his team members.

HKA

- HKA's proposal substantially meets the RFP minimum requirements in most major areas. The proposed approach indicates a thorough and comprehensive understanding of the Project goals, resources, schedules, and other aspects essential to the performance of the Project.
- The proposed key personnel demonstrate a thorough understanding and qualifications necessary to conduct the required services.
- The firm demonstrates successful experience with similar program type projects with other agencies.

McMillen Jacobs Associates (MJA)

- MJA's proposal substantially meets the RFP minimum requirements in most major areas. The proposed approach indicates a thorough and comprehensive understanding of the contract goals, resources, schedules, and other aspects essential to the performance of the Services.
- The proposed key personnel demonstrate a thorough understanding and qualifications necessary to conduct the required services.
- The firm demonstrates successful experience with similar program type projects with other agencies.

PMA

- PMA's proposal substantially meets the RFP minimum requirements in most major areas. The proposed approach indicates a thorough and comprehensive understanding of the contract goals, resources, schedules, and other aspects essential to the performance of the Services.
- The key personnel demonstrated relevant experience as required by the RFP.
- PMA demonstrated their ability to organize for multiple assignments.
- The firm demonstrates successful experience with similar program type projects with other agencies.

The Proposal Evaluation Team (PET) ranked the four proposals within the competitive range, based on the evaluation criteria in the RFP, and assessed major strengths, weaknesses and associated risks of each of the Proposers to determine the most advantageous firm. The final scoring was based on evaluation of the written proposals, as supported by oral presentations, and clarifications received from the Proposers. The results of the final scoring are shown below:

1.	Firm	Average Score**	Factor Weight	Weighted Average Score *	Rank
2.	**ARCADIS U.S., Inc.**				
3.	Experience and Capabilities of	95.64	25%	23.91	

	the Firms on the Consultant's Project Team				
4.	Key Personnel's Skills and Experience	96.80	20%	19.36	
5.	Effectiveness of Management Plan	96.75	20%	19.35	
6.	Understanding of Work and Appropriateness of Approach for Implementation	93.76	25%	23.44	
7.	Cost Proposal	77.90	10%	7.79	
8.	**Total**		**100.0%%**	**93.85**	**1**
9.	**PMA Consultants LLC**				
10.	Experience and Capabilities of the Firms on the Consultant's Project Team	90.76	25%	22.69	
11.	Key Personnel's Skills and Experience	89.35	20%	17.87	
12.	Effectiveness of Management Plan	89.60	20%	17.92	
13.	Understanding of Work and Appropriateness of Approach for Implementation	91.08	25%	22.77	
14.	Cost Proposal	94.80	10%	9.48	
15.	**Total**		**100.0%%**	**90.73**	**2**
16.	**HKA Global, Inc.**				
17.	Experience and Capabilities of the Firms on the Consultant's Project Team	91.56	25%	22.89	
18.	Key Personnel's Skills and Experience	90.65	20%	18.13	
19.	Effectiveness of Management Plan	89.40	20%	17.88	
20.	Understanding of Work and Appropriateness of Approach for Implementation	86.56	25%	21.64	
21.	Cost Proposal	100.00	10%	10.00	
22.	**Total**		**100.0%%**	**90.54**	**3**
23.	**McMillen Jacobs Associates**				
24.	Experience and Capabilities of the Firms on the Consultant's Project Team	82.40	25%	20.60	
25.	Key Personnel's Skills and Experience	88.90	20%	17.78	
26.	Effectiveness of Management Plan	87.90	20%	17.58	
27.	Understanding of Work and Appropriateness of Approach for Implementation	90.88	25%	22.72	

28.	Cost Proposal	98.30	10%	9.83	
29.	**Total**		**100%**	**88.51**	**4**

* Weighted scores are rounded to the nearest second decimal point.
** Cost proposals were based on the Proposers' rates for a sample level of effort of 8,000 hours only. Scores shown above for the cost proposals are based on formulae in the RFP highest score going to the lowest cost proposal.

C. Cost/Price Analysis

Metro performed a cost analysis of labor rates comparing the four (4) proposals in the competitive range with one another as well as Metro's estimate. All proposals were based on direct labor rates, overhead rates, other direct costs, sub-consultant costs and fixed fee. The costs for the recommended firm were determined to be fair and reasonable.

	Proposer Name	Proposal Amount (1)	Metro ICE (2)	Recommended NTE Amount (3)
1.	ARCADIS U.S., Inc.	$2,530,590	$24,584,650	$24,584,650
2.	**PMA Consultants LLC**	$2,079,956		
3.	**HKA Global, Inc.**	$1,971,590		
4.	**McMillen Jacobs Associates**	$2,004,907		

Notes:
(1) The proposal amounts shown were for evaluation purposes only and were based on the rates for a sample level of effort (8000 hours, only) since there was no definable total level of effort for the Scope of Services. Hourly labor rates, overhead and fee were negotiated and determined to be fair and reasonable.
(2) The amount $24,854,650 is a Not-to-Exceed amount estimated for the basic term of the contract.
(3) The amount of $24,854,650 is the Not-to-Exceed amount for the basic term of the contract. Work will be funded according to an Annual Work Program. The total contract amount will be the aggregate value of all task orders negotiated with the Consultant through the term of the contract.

D. Background on Recommended Contractor

The recommended firm, ARCADIS U.S., Inc. is located in Los Angeles, CA, as well as other offices located throughout Southern California, U.S. and globally. ARCADIS' construction claims practice has been in business for over 20 years, with staff members with over 35 years of experience in construction claims services, and is a leader in the field of construction claims services on behalf of the owners for public works, transit and the various delivery methods proposed.

ARCADIS has successfully provided construction claims services on the Metro's Crenshaw/LAX Transit Corridor, I-405 Sepulveda Pass Widening Project, California High Speed Rail, Construction packages 2-3, Honolulu Rapid Transit Project, Toronto-York Spadina Subway Extension and over the past 30 years has helped in the evaluation and settlement of over $2 billion in construction disputes in California for its public owner clients.

ARCADIS is committed to being available to meet the demands of Metro's various projects. Their large pool of professionals are available to support multiple-shift construction schedules ensuring a successful project delivery. ARCADIS also commits to utilizing Metro's Disadvantage Business Enterprises to meet the RC/DBE goal of 15%.

ATTACHMENT B

DEOD SUMMARY

CONSTRUCTION CLAIMS SUPPORT SERVICES/ CONTRACT NUMBER PS58665

A. Small Business Participation

The Diversity and Economic Opportunity Department (DEOD) established a 15% Disadvantaged Business Enterprise (DBE) goal for this Task Order Contract. Arcadis U.S., Inc. made a 15% DBE commitment for this Task Order Contract.

In response to a specific Task Order request with a defined scope of work, the prime contractor will be required to identify DBE subcontractor activity and actual dollar value commitments for that Task Order. Overall DBE achievement in meeting the commitment will be determined based on the cumulative DBE participation of all Task Orders awarded.

Metro Project Manager and Contract Administrator will work in conjunction with DEOD to ensure that Arcadis U.S., Inc is on schedule to meet or exceed its DBE commitments. Accordingly, access will be provided to Metro's tracking and monitoring system to key stakeholders over the contract to ensure that all parties are actively tracking Small Business progress.

Small Business Goal	**15% DBE**	**Small Business Commitment**	**15% DBE**

	DBE Subcontractors	**Ethnicity**	**% Committed**
1.	Destination Enterprises	Non-Minority Female	TBD
2.	LKG-CMC, Inc.	Non-Minority Female	TBD
3.	O2 Engineering, Projects & Construction Management (O2EPCM)	African American	TBD
4.	Spire Consulting Group, LLC	Hispanic American	TBD
	Total DBE Commitment		**15%**

B. Living Wage and Service Contract Worker Retention Policy Applicability

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

C. Prevailing Wage Applicability

Prevailing Wage is not applicable to this contract.

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction related value in excess of $2.5 million.