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

File #: 2019-0798, **File Type:** Contract **Agenda Number:** 35.

EXECUTIVE MANAGEMENT COMMITTEE
NOVEMBER 21, 2019

SUBJECT: FINANCIAL ADVISORY SERVICES: PRE-PROCUREMENT AND PROCUREMENT FOR THE SEPULVEDA TRANSIT CORRIDOR PRELIMINARY DEVELOPMENT AGREEMENT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer (CEO) to:

A. EXECUTE Modification No. 2 to Task Order No. PS51074-3049000 with Ernst & Young Infrastructure Advisors, LLC, (EYIA) to continue support for development and execution of a contract for a pre-development agreement (PDA) for the Sepulveda Transit Corridor project through contract award, in the amount of $539,575 increasing the not-to-exceed Task Order value from $1,099,280 to $1,638,855; and

B. INCREASE Contract Modification Authority (CMA) by $227,915 from $100,000 to $327,915 in support of any unforeseen additional level of effort.

ISSUE

Task Order No. PS51074-3049000 currently provides for P3 Financial Advisory Services for the development and execution of a contract for a PDA for the Sepulveda Transit Corridor project. Staff is requesting a modification in the amount of $539,575 for Task Order No. PS51074-3049000, to support Metro's current procurement and execution schedule, with appropriate schedule contingency. Staff is requesting an increase in CMA by $227,915 to account for any additional unforeseen expenses or required level of effort, to be utilized with appropriate justification.

DISCUSSION

A PDA is a form of early contractor involvement in project development for a capital construction project. The goal of a PDA is to drive value in project design through early contractor input into approach, constructability, performance, risk, cost, and schedule, with incentives to drive innovation throughout the project's lifecycle.

A PDA of the type that Metro determined to pursue draws on lessons learned and best practices for early contractor involvement from around the world. However, a PDA of this type and nature is without meaningful precedent in the US, and the procurement process and form of contract that Metro ultimately developed is more complex than anticipated when the task order was scoped and awarded.

Further, after engagement of EYIA, Metro staff determined that it was in Metro's interest to allow for award of up to two PDA contracts, contributing additional complexity to the proposal evaluation process.

Due to these two factors, the level of effort required to execute the solicitation process, including financial advisory support for review and assessment of proposals, has increased. An increase in CMA will give staff appropriate contingency budget for any unforeseen additional level of effort.

FINANCIAL IMPACT

This Task Order is included in the FY20 Budget in Cost Center 2031 - Public Private Partnerships, account 50316, and project 405701. To date in FY 2019, $10,250,735.98 has been encumbered and $3,845,260.98 has been expended, with $4,239,264.02 remaining in the budget.

Since this is a multi-year contract, the cost center manager and Deputy Executive Officer, Innovation, will be accountable for budgeting the cost in future fiscal years.

ALTERNATIVES CONSIDERED

Staff considered reducing the complexity of the proposal evaluation approach. However, this would have led to a less thorough and competitive process for determining recommendation for contract award.

Staff also considered utilizing in-house resources to provide financial assessment, however Metro staff generally do not have the qualification to provide complex P3 financial analysis.

Staff's assessment indicated that none of these options were a cost-effective or prudent option for Metro.

STRATEGIC PLAN

The Metro Vision 2028 Strategic Plan identifies five goals to guide Metro's work and initiatives. This modification supports the following goals.

- ***Goal 1: Provide high-quality mobility options that enable people to spend less time traveling.***
  Metro's PDA delivery model for the Sepulveda Transit Corridor is focused on delivering maximum project performance at the earliest possible date, within Metro's financial constraints. A robust procurement process with a thorough evaluation of all responsive and responsible proposals is a critical part of delivering on this value proposition.
- ***Goal 2: Deliver outstanding trip experiences for all users of the transportation system.***
  A key benefit of PDA delivery is higher optimizing project performance over the project lifecycle (reliability, safety, cleanliness, etc.).

- ***Goal 5. Provide responsive, accountable, and trustworthy governance within the Metro organization.***
  The integrity of Metro's procurement process is one of the most important factors in achieving responsive, accountable, and trustworthy governance. Including sufficient technical support for a process with high integrity supports this goal.

NEXT STEPS

Upon Board approval, staff will execute Modification No. 2 to Task Order No. PS51074-3049000 with Ernst & Young Infrastructure Advisors, LLC, to continue support for development and execution of a contract for a PDA for the Sepulveda Transit Corridor project, through contract award.

ATTACHMENTS

Attachment A - Procurement Summary
Attachment B - Task Order Modification/Change Order Log
Attachment C - DEOD Summary

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Reviewed by: Joshua Schank, Chief Innovation Officer, (213) 418-3345
Debra Avila, Chief, Vendor/Contract Management Officer, (213) 418-3051

Phillip A. Washington
Chief Executive Officer

PROCUREMENT SUMMARY

FINANCIAL ADVISORY SERVICES: PRE-PROCUREMENT AND PROCUREMENT FOR THE SEPULVEDA PASS TRANSIT CORRIDOR PRELIMINARY DEVELOPMENT AGREEMENT/PS51074-3049000

1.	**Contract Number**: Task Order No. PS51074-3049000			
2.	**Contractor**: Ernst & Young Infrastructure Advisors, LLC			
3.	**Mod. Work Description**: Continue support for development and execution of a contract for a PDA for the Sepulveda Transit Corridor project, through contract award.			
4.	**Task Order (TO) Work Description**: Financial Advisory Services: Pre-Procurement and Procurement for the Sepulveda Pass Transit Corridor Preliminary Development Agreement.			
5.	**The following data is current as of**: 10/24/19			
6.	**TO Completion Status**		**Financial Status**	
	TO Awarded:	3/19/18	**TO Award Amount:**	$1,000,000
	Notice to Proceed (NTP):	3/19/18	**Total of Modifications Approved:**	$99,280
	Original Complete Date:	2/28/21	**Pending Modifications (including this action):**	$539,575
	Current Est. Complete Date:	2/28/21	**Current TO Value (with this action):**	$1,638,855
7.	**Contract Administrator**: Lily Lopez		**Telephone Number**: (213) 922-4639	
8.	**Project Manager**: Colin Peppard		**Telephone Number**: (213) 418-3434	

A. Procurement Background

This Board Action is to approve Modification No. 2 to Task Order No. PS51074-3049000, under Contract No. PS2210-3049-G-06, to continue support for development and execution of a contract for a PDA for the Sepulveda Transit Corridor project, through contract award.

This Task Order Modification was processed in accordance with Metro's Acquisition Policy. The contract/task order type is firm fixed price. All other terms and conditions remain in effect.

On March 19, 2018, Task Order No. PS51074-3049000 in the amount of $1,000,000 was issued to Ernst & Young Infrastructure Advisors LLC (EYIA), under the Public-Private Partnership Technical Bench, Discipline 6 (Financial Analysis) for Financial Advisory Services: Pre-Procurement and Procurement for the Sepulveda Pass Transit Corridor Preliminary Development Agreement.

One modification has been issued to date. Refer to Attachment B – Task Order Modification/Change Order Log for modifications issued to date.

B. Cost Analysis

The recommended price has been determined to be fair and reasonable based upon an independent cost estimate (ICE), cost analysis, and technical analysis. Metro's ICE underestimated the level of effort required from senior level staff to conduct the PDA for the Sepulveda Transit Corridor project. All labor rates remain unchanged from the original task order.

Proposal Amount	Metro ICE	NTE Negotiated Amount
$539,575	$475,000	$539,575

TASK ORDER MODIFICATION/CHANGE ORDER LOG
PUBLIC-PRIVATE PARTNERSHIP TECHNICAL BENCH /
TASK ORDER NO. PS51074-3049000
TASK ORDER LOG VALUE ISSUED TO DATE

Mod. No.	Description	Status (approved or pending)	Date	$ Amount
1	Preparation of additional RFP documentation and Preliminary Development Agreement contract language.	Approved	10/7/19	$99,280
2	Continue support for development and execution of a contract for a PDA for the Sepulveda Transit Corridor project, through contract award.	Pending	12/5/19	$539,575
	Task Order Modification Total:			**$638,855**
	Original Task Order Amount:		03/19/18	**$1,000,000**
	Total:			**$1,638,855**

DEOD SUMMARY

FINANCIAL ADVISORY SERVICES: PRE-PROCUREMENT AND PROCUREMENT FOR THE SEPULVEDA PASS TRANSIT CORRIDOR PRELIMINARY DEVELOPMENT AGREEMENT/PS51074-3049000

A. Small Business Participation

Ernst & Young Infrastructure Advisors, LLC (EYIA) made a Small Business Enterprise (SBE) participation commitment of 12.11% for this Task Order contract. The project is 83% complete. EYIA has a current SBE participation of 8.27%, which represents a 3.84% shortfall.

As reported by EYIA and confirmed by Metro's Project Manager, SHA Analytics LLC was originally slated to provide risk analysis services and support the development of a project risk register for the Sepulveda PDA procurement. However, as the project progressed, Metro determined that these services would not be required, and likely could not be performed, for another 1-2 years after the project becomes more defined (EYIA will seek approval to terminate given this de-scoping). EYIA also reported that while the scope of services required for this task order is more directly related to the services provided by Ross Infrastructure Development LLC, EYIA projects that it will still meet its individual commitment to System Metrics Group, as well as its overall Task Order SBE commitment, by the end of contract term.

Notwithstanding, Metro Project Managers and Contract Administrator will work in conjunction with DEOD to ensure that EYIA is on schedule to meet or exceed its SBE commitment. If EYIA is not on track to meet its small business commitment, Metro staff will ensure that EYIA submits an updated mitigation plan.

Small Business Commitment	**12.11% SBE**	**Small Business Participation**	**8.27% SBE**

	SBE Subcontractors	**% Committed**	**Current Participation[1]**
1.	System Metrics Group	3.04%	0.00%
2.	SHA Analytics LLC	7.03%	0.00%
3.	Ross Infrastructure Development LLC	2.04%	8.27%
	Total	**12.11%**	**8.27%**

[1]*Current 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. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of $2.5 million.