



## Board Report

File #: 2024-0018, File Type: Contract

Agenda Number: 27.

### OPERATIONS, SAFETY, AND CUSTOMER EXPERIENCE COMMITTEE MARCH 21, 2024

**SUBJECT: CONTRACT MODIFICATION WITH TOW INDUSTRIES**

**ACTION: APPROVE CONTRACT MODIFICATION**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute Modification No. 1 to Contract No. DR81105000 with Baatz Enterprises Inc. DBA Tow Industries, to increase the contract value by \$733,836.74 from \$3,922,757.26 to \$4,656,594.00, inclusive of sales tax.

#### **ISSUE**

Baatz Enterprises Inc. DBA Tow Industries (Tow Industries) was awarded a contract for nine 35-ton tow trucks in February 2022. In October 2023, Tow Industries advised Metro of a 22% price increase. The increase in cost for the tow trucks was due to material and labor shortages that have become more common throughout the industry since the COVID-19 pandemic. Tow Industries advised Metro that the chassis manufacturer had increased the cost of the vehicle chassis, and the vendor was experiencing significant increases in material and labor cost for the upfitting of the vehicles with tow equipment. Staff conducted a market survey of new tow truck pricing and received quotes from other vendors that were about 25% higher than the original bid price for the tow trucks.

#### **BACKGROUND**

In February 2022, the Board approved a contract award to Tow Industries for nine 35-ton tow trucks (3 CNG, 6 Diesel) for a total amount of \$3,922,757.26 with a production lead time between 16 to 22 months.

The original tow truck procurement was intended for the replacement of nine of the 13 Metro owned and operated 35-ton tow trucks. The nine tow trucks being replaced have exceeded the Metro vehicle replacement policy of 12 years and/or 150,000 miles. In addition, these nine trucks are unreliable, with excessive mechanical failures, costly repairs, and difficulty in locating parts due to the age of the vehicles. The 35-ton tow trucks will support bus towing requirements for the next 12-15 years.

Each Maintenance Division is assigned and operates at least one tow truck to support its respective fleet. This fleet of tow trucks is used to support in-service bus failures that are required to be towed back to the Maintenance Divisions for repair. Bus Divisions normally operate over 200 buses that

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require timely on-street support for repair and tow as necessary. This support is critical for the retrieval and repair of the bus fleet for a timely return to revenue service.

## **DISCUSSION**

Tow Industries initially advised Metro in May 2023 that the delivery of the tow trucks would be late due to chassis allocation issues from the manufacturer. In October 2023, Tow Industries then advised Metro of a 22% price increase for the nine tow trucks due to cost increases from the manufacturer in raw materials, along with material and labor shortages. Due to these unforeseen issues, Tow Industries informed Metro that the price of the nine tow trucks would be increasing to \$4,826,447. To validate Tow Industries' claim about industry price increases, Vendor/Contract Management (V/CM) and Operations conducted a market industry review and identified that the market price for tow trucks had increased by about 25%, which supported the price increase. V/CM also received a copy of the letter from the chassis manufacturer to Tow Industries documenting the price increase from Miller Industries, which provided further justification for the tow truck price increase.

V/CM actively negotiated with Tow Industries beginning in October 2023 to reduce the cost escalation of the tow trucks. V/CM was successful in reducing the price increase from the original 22% to 17.9%, which resulted in a price increase of \$733,836.74.

Approval of the contract modification for additional funding for the contract with Baatz Enterprises Inc. DBA Tow Industries will allow staff to move forward with the replacement of the nine Metro owned and operated 35-ton tow trucks. Tow Industries has delivered three CNG tow trucks, and the balance of six diesel trucks are estimated to be completed by July 2024. If modifications to this contract are approved, acceptance and delivery of the tow trucks will commence after the completion of outfitting activities.

The purchase of three CNG tow trucks aligns with the AQMD Rule 1196, requiring Metro to purchase alternate fuel vehicles to replace heavy-duty diesel-powered vehicles. AQMD Rule 1196 allows purchase of the six (6) new diesel tow trucks to support the retrieval and towing of the 60' Articulated CNG and Electric bus fleets due to the excessive weight of the buses and the towing capability the diesel-powered tow trucks provide. These tow trucks will be distributed to Bus Operating Divisions that operate 60' articulated or electric buses. The CNG tow trucks will be assigned to the bus Divisions that operate standard 40' CNG buses due to the CNG tow trucks having insufficient torque to tow 60' Articulated or electric buses.

## **DETERMINATION OF SAFETY IMPACT**

Metro's current tow truck fleet is antiquated, with systems and equipment that are outdated in the heavy-duty truck industry. The tow trucks are twenty-two years old with some vehicles nearing 150,000 miles, which has resulted in poor reliability and concerns with safe operation when towing heavy CNG and electric transit buses. The purchase of new tow trucks will provide Metro with current state-of-the-art tow trucks that maximize tow truck operator safety.

## **FINANCIAL IMPACT**

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A total of \$733,836.74 in additional funding is needed beyond the original \$3,922,757.26 contract value, which will result in a revised contract value of \$4,656,594.00. The additional funding for the contract modification is contained in Capital Project 208608 - FY22 AQMD 1196 Rule Non-Revenue Vehicles. The Life of Project (LOP) budget is \$9,400,000.00, which is within the project budget.

Since this is a multi-year contract, the Project Manager will be responsible for budgeting resources in future Fiscal Years.

### Impact to Budget

The current funding sources come from State and Local sources including TDA4 that are eligible for Bus and Rail Operations and State of Good Repair (SGR) projects. Allocating these funds to this effort maximizes project funding use given approved provisions and guidelines.

### EQUITY PLATFORM

This action will provide support equipment (tow trucks) that will ensure that the bus fleet continues to serve most regions in Los Angeles County and remains a vital lifeline for many underserved communities that can provide reliable transportation services. The nine tow trucks procured will be assigned to Bus Operating Divisions located throughout Los Angeles County, including Downtown Los Angeles, El Monte, Long Beach, and Sun Valley. These tow trucks will be assigned to Bus Operating Divisions in Metro's Equity Focus Communities (EFCs) and contribute toward Metro's efforts at reducing emissions in these communities. Delays in the procurement of the new tow trucks are anticipated to result in higher emissions levels for EFCs and Metro employees at these Divisions.

The Diversity and Economic Opportunity Department (DEOD) did not recommend an SBE or DVBE participation goal for this procurement due to the lack of subcontracting opportunities.

### IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendation supports Metro Strategic Plan Goal 2: Deliver outstanding trip experiences for all users of the transportation system. New tow trucks will minimize vehicle maintenance needs, improve safety, and lower emissions by purchasing and deploying CNG and diesel-powered trucks with the latest emission control devices on the market. With this, Metro is exercising good public policy judgment and sound fiscal stewardship.

### ALTERNATIVES CONSIDERED

Staff originally considered leasing equipment and/or contracting out tow services. These alternatives are not recommended as this work has historically been performed by Amalgamated Transit Union (ATU) contract personnel. Contracting out this service would conflict with the current Metro/ATU Collective Bargaining Agreement. Additionally, staff calculated that the cost of an external contracted towing service for one tow truck would equal or exceed the full purchase price of one tow truck in the first five years of operation. The alternative of retaining the existing tow truck fleet for primary tow services was not recommended due to the diminished reliability, high maintenance costs, and frequent repairs over the past several years has rendered the use of the existing tow truck fleet a

poor alternative for continued operation.

V/CM also considered alternatives for the procurement of the tow trucks, including (1) accepting fewer tow trucks and soliciting for the remainder of the required tow trucks and (2) cancellation of the contract and initiation of a new procurement for all nine tow trucks. These two alternatives are not recommended since a new solicitation will take an additional nine months, with delivery taking another 1½ years before accepting the new vehicles. In addition, no savings are anticipated since the market analysis revealed a 25% increase in current tow truck prices. Finally, the tow trucks are included in a list of vehicles required for replacement in an order of abatement with the South Coast Air Quality Management District (SCAQMD).

### **NEXT STEPS**

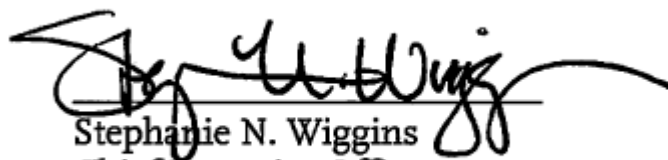
Following the authorization and execution of the contract modification, the vendor will continue the manufacturing process, upfitting, and delivery of the nine tow trucks.

### **ATTACHMENTS**

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

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Stephanie N. Wiggins  
Chief Executive Officer

## PROCUREMENT SUMMARY

**CONTRACT MODIFICATION WITH TOW INDUSTRIES FOR THE PURCHASE OF  
NINE 35-TON TOW TRUCKS  
CONTRACT DR81105000**

1.	<b>Contract Number:</b> DR81105000		
2.	<b>Contractor:</b> Baatz Enterprises Inc., dba Tow Industries		
3.	<b>Mod. Work Description:</b> To increase contract value		
4.	<b>Contract Work Description:</b> 35-Ton Tow Trucks, Compressed Natural Gas and Diesel Fuel		
5.	<b>The following data is current as of</b> January 8, 2024		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Awarded:</b>	February 24, 2022	<b>Contract Award Amount:</b> \$3,922,757.26
	<b>Notice to Proceed (NTP):</b>	March 26, 2022	<b>Total of Modifications Approved:</b> \$0.00
	<b>Original Complete Date:</b> <b>CNG Tow Trucks:</b>  <b>Diesel Fuel Tow Trucks:</b>	July 26, 2023  January 26, 2024	<b>Pending Modifications (including this action):</b> \$733,836.74
	<b>Current Est. Complete Date:</b>	September 30, 2024	<b>Current Contract Value (with this action):</b> \$4,656,594.00
7.	<b>Contract Administrator:</b> Lorretta Norris		<b>Telephone Number:</b> 213.922.2632
8.	<b>Project Manager:</b> Gary Jolly		<b>Telephone Number:</b> 213.922.5802

**A. Procurement Background**

This Board Action is to approve Contract Modification No. 1 issued to increase the total not-to-exceed amount by \$733,836.74 to \$4,656,594.00.

This Contract Modification will be processed in accordance with Metro's Acquisition Policy and the contract type is a firm fixed price.

On February 24, 2022, the Board awarded a firm fixed price Contract No. DR81105000 to Tow Industries for a total of nine (9) 35-Ton Tow Trucks (6 Diesel , and 3 CNG ) in an amount of \$3,922,757.26. To date, there have been no contract modifications to Contract No. DR81105000. The Contract does not allow for cost escalation.

Approval of the contract modification for additional funding for the contract with Baatz Enterprises Inc. DBA Tow Industries will allow staff to move forward with the replacement of the nine Metro owned and operated 35-ton tow trucks. Tow Industries projected that the outfitting of the three CNG tow trucks would be completed in January 2024, and the six diesel trucks are estimated to be completed by July 2024. If modifications to this contract are approved, delivery of the tow trucks will commence after the completion of outfitting activities.

## **B. Cost/Price Analysis**

Due to industry supply chain issues, the manufacturer's increased costs in raw materials, components, labor, and other factors have led to increased costs on all components. Staff conducted a price analysis including current market conditions as one of the factors. To validate Tow Industries' claim about industry price increases, Vendor/Contract Management (V/CM) conducted a market industry review by contacting vendors who provided capability statements detailing comparable purchases if procured in 2023 and beyond. Due to manufacturers' increased cost, such as steel and the manufacturing process, the increase in price was determined to be fair and reasonable. V/CM also received a copy of the letter from the chassis manufacturer to Tow Industries documenting the price increase from Miller Industries, which provided further justification for the tow truck price increase.

Staff was able to negotiate the proposed price down from \$4,826,447 to \$ 4,656,594 from the original 22% price increase down to a 17.9% increase. Additionally, if Metro were to cancel the current contract and resolicit, the overall impact would be additional time to receive the tow trucks, higher prices due to costs, longer lead time and continual usage of an aging fleet.

The recommended price has been determined to be fair and reasonable based upon Metro's technical analysis, independent cost analysis and fact finding of the work to be performed.

<b>Proposal Amount</b>	<b>Original Contract Amount</b>	<b>Negotiated Amount</b>
\$4,826,447	\$3,922,757.26	\$4,656,594

## CONTRACT MODIFICATION/CHANGE ORDER LOG

CONTRACT MODIFICATION WITH TOW INDUSTRIES FOR THE PURCHASE OF  
NINE 35-TON TOW TRUCKS / CONTRACT DR81105000

<b>Mod. No.</b>	<b>Description</b>	<b>Status (approved or pending)</b>	<b>Date</b>	<b>\$ Amount</b>
1	Increase Contract value due to increased cost of raw material, labor shortages, and Contractor's inability to get price holds for 6 months. Tow Industries is passing the cost with no profit mark-ups.	Pending	2.22.24	\$ 733,836.74
	Modification Total:			\$ 733,836.74
	Original Contract:			\$ 3,922,757.26
	Total:			\$ 4,656,594.00



## DEOD SUMMARY

**CONTRACT MODIFICATION WITH TOW INDUSTRIES FOR THE PURCHASE OF  
NINE 35-TON TOW TRUCKS / CONTRACT DR81105000****A. Small Business Participation**

The Diversity & Economic Opportunity Department did not establish a Small Business Enterprise (SBE) and Disabled Business Enterprise (DVBE) goal for this project due to the lack of subcontracting opportunities. It was expected that the Prime Contractor, Baatz Enterprises, Inc. DBA Tow Industries, would perform the services of this contract with their own workforce.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

A review of the current service contract indicates that the Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) was not applicable at the time of award. Therefore, the LW/SCWRP 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.