



## Board Report

File #: 2015-0952, File Type: Contract

Agenda Number: 45.

### CONSTRUCTION COMMITTEE JULY 16, 2015

**SUBJECT: ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY-RELATED CONSTRUCTION SERVICES**

**ACTION: AUTHORIZE FULL FUNDING OF EN077 CONTRACT AND AUTHORIZE EXERCISE OF OPTION YEAR ONE**

#### **RECOMMENDATIONS**

CONSTRUCTION COMMITTEE FORWARDED WITHOUT RECOMMENDATION:

- A. authorizing the Chief Executive Officer (CEO) to **continue issuing task orders within the previously Board approved total contract not-to-exceed amount of \$38,000,000 for Contract EN077, with ARCADIS U.S., Inc.**, for the life of the contract, of which only \$21,200,000 the Board had authorized for expenditure in FY12 through FY14; and
- B. authorizing the CEO to exercise Option Year One for FY16.

#### **ISSUE**

Our capital projects and many ongoing facilities maintenance or restoration activities require evaluation and, as necessary, removal or treatment of hazardous or contaminated substances. Our agency must be able to do so expeditiously in order to avoid any delays in construction or to protect human health and the environment, wherever necessary. Compliance with all environmental laws under such circumstances is paramount to avoid fines, and civil or criminal liability. In order to ensure that MTA appropriately meets all of these constraints, our agency has solicited and awarded contracts for environmental services.

Under Contract No. EN077, ARCADIS U.S., Inc. currently assists with the proper clean-up, abating, managing, transporting, and disposing of contaminated or hazardous materials at various MTA construction and operating facilities; and sampling and testing at various locations for contaminated and hazardous soils and water. ARCADIS U.S., Inc. also performs, under this contract, construction services that require environmental contractor specialization.

Examples of services which have been performed under the Contract are the following:

- Emergency response to and remediation of aerially deposited lead soil contamination at freeway soundwall sites;
- Transporting and lawfully disposing of contaminated soil from Division 13 construction site and Division 10;
- Removal and disposal of fuel storage tanks at various MTA divisions, and disposal of soil contaminated by leakage from such tanks;
- Construction of leak-resistant and environmentally safe tank and mechanical systems at MTA divisions in order to remain in regulatory compliance; and
- Asbestos and lead-based paint removal from structures demolished in connection with construction of the Crenshaw Light Rail Line.

In June 2011 the Board awarded a five-year indefinite delivery/indefinite quantity contract, Contract No. EN077. The Board approved funding totaling a not-to-exceed amount of \$38 Million, inclusive of sales tax, and expenditures not-to-exceed \$21.2 M ing during FY12 through FY14.

EN077 is an indefinite delivery/indefinite quantity contract. The consultant is not guaranteed any work and is issued Contract Work Orders and Task Orders based on specific environmental service needs. These Task Orders are funded from existing capital project's budget with consideration of any information available at the time of planning and applicable time constraints on performance of the work.

All of the work under this framework are negotiated on a not-to-exceed basis, and can only be performed and paid based on agreed upon rates that are defined in the 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 Contract Work Order/Task Order is awarded against a valid project.

As a result of the concurrent award and capital construction activities (i.e., Crenshaw Light Rail, Purple Line Extension, Regional Connector), much needed enhancement and refurbishment of existing Metro facilities to maintain a state of good repair, and recently evolved stricter air quality and underground storage tank and aboveground storage tank regulations, MTA staff has determined that there will be an accelerated and significant use of the environmental services of ARCADIS U.S., Inc. beginning in FY15. The specific list of projects expected to require environmental services, along with estimated costs of these services, is shown in Attachment B. Specifically, these include:

- Site Remediation at Divisions 8, 15, and 18 and 20. Emergency response to unforeseen contaminated sites at various ongoing capital projects; Baseline study and preparatory work for the new MTA Temporary Storage Site,
- UST Program (SB 989) Upgrades at Divisions 3, 5, 8. Division 10 Underground Storage Tank

(UST)/Above Ground Storage Tank (AST) replacements and Division 2 Vent Pipe Upgrades.

- Purple Line Extension: Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility contract and design build contract. Loc 61 (Purple Line Extension Yard) building abatement and Site Remediation per DTSC voluntary cleanup agreement (VCA),
- Regional Connector: Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility and design build contracts,
- Crenshaw Light Rail: Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility and design build contracts,
- Various Bus Capital Improvement Projects: Patsaouras Plaza soil and waste water management; Harbor Gateway Transit Center site assessment; handling and disposal of soils encountered at operating divisions; materials encountered along Silver Line alignment during construction; lead based paint contaminated materials associated with corrosion repairs along El Monte Busway, and
- Various Rail Capital Improvement Projects: New Center St. BOC/ROC expansion site assessment and remediation; Metro Gold Line cross-passage remediation and Red Line Tar seepage remediation support.

Due to this accelerated and significant use of ARCADIS U.S., Inc.'s services, MTA staff has determined that the authorized contract value will soon be inadequate to ensure the execution of Contract Work Orders from which Task Orders are negotiated and executed. Staff therefore seeks funding up to the Contract not-to-exceed amount of \$38M through the remainder of the Contract to support the environmental waste handling and related construction services needs of all major capital and capital improvement projects and related services within the scope of ARCADIS U.S., Inc.'s contract.

Additionally, consistent with recent Board direction, the Board is requested to approve the exercise of Option Year One.

The process to procure for such specialty contracts is consistent with ECSD's Business Plan submitted and presented to our Board in January 2015 and as reviewed with OMB and through the FY16 budget process.

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**DISCUSSION**

Capital and transit-related projects undertaken by Metro continue to require evaluation of hazardous substances, contamination, or a need for regulatory compliance under federal, state and local law. In addition, Metro must comply with all environmental laws to avoid fines, and civil or criminal liability. This Environmental Hazardous Materials Handling and Related Construction Services contract assists with emergency response for evaluation, transport and disposal of encountered hazardous and non-hazardous soil, and liquid wastes which also includes asbestos and lead-based paint. The contract also includes: fuel storage tank system upgrades, repairs, removals, replacements in order to remain in regulatory compliance with local, state and federal regulatory requirements. Additional contract requirements include permit assistance, remediation system installation, maintenance and operation. Specifically for Measure R projects, the contract has been used as an emergency response contract and to support project remediation efforts if the contractor on those projects cannot perform such work scopes.

This contract is for as-needed Environmental Services. ARCADIS U.S., Inc. made a 40% DALP commitment at the onset of the project. Current DALP participation is 28.66%, of which 28.66% has been verified by staff. DBE attainment is based on the aggregate value of all task orders issued and payments paid against those task orders.

Attachment C summarizes the obligated costs associated with this contract for FY12 to FY15. Attachment C also indicates forecasted projects and costs from FY16 to FY17. Staff now returns to the Board to request annual funding for FY16 until contract termination date to authorize the use of the remaining contract value (from \$21.2M to \$38M).

**DETERMINATION OF SAFETY IMPACT**

This Board action will not have an impact on safety standards for Metro. The increase in contract value will assist in increased safety in that it will provide environmental services to reduce environmental impacts and increase sustainability in all of Metro's construction and operational efforts.

**FINANCIAL IMPACT**

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

To date, MTA's financial and change control systems indicate that a Contract Work Order value of \$ 18,049,152 out of the currently Board-approved \$21.2M contract value has been obligated for completed an ongoing work. This includes \$17,507,691 of Task Orders issued along with \$541,461 in the value of task order modifications.

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Due to anticipated significant increase in level of effort, specifically for the Measure R projects, there is needed authority beginning in FY16 to authorize the rest of the remaining balance of the overall contract up to the not-to-exceed amount of \$38M. Obligations and expenditures under the existing Contract will be done on a per task order basis, and will be determined commensurate to the each capital and operational project needs.

Obligations and authorizations made within the EN077 Total Contract Value will be against specific project or operations budgets which make up the Board-approved MTA budget for the particular fiscal year. Specific funding for this contract will parallel the project approved by the Board under separate actions. The Executive Directors and Project Managers of each of the business units and projects overseeing these projects will be responsible for budgeting the costs.

Staff will request for additional EN077 contract value authority if the amount of work associated with each of those projects exceed the new EN077 contract value.

### **ALTERNATIVES CONSIDERED**

The MTA Board of Directors could decide not to authorize expenditures up to the full value of the contract and not authorize the exercise of option year one; ending staff's ability to issue any new task orders under contract EN077 and thus requiring staff to proceed with a new procurement for environmental waste handling and related construction services. Staff does not recommend this alternative, owing to high costs, delays and, for multiple contracts and administrative inefficiencies for procuring separate environmental services contracts to service affected projects.

As an alternative, MTA could perform all the environmental services in-house. Metro would have to hire additional staff with expertise in many different subjects, such as waste profiling, trucking and construction crews and laboratory science as well as purchase specialized equipment such as loaders, excavators and drill rigs which is not practical or cost-effective. Metro would incur more cost to do the work internally than by employing consultants. There is no additional ECSD staff included in the FY15 budget to possibly perform these functions

### **NEXT STEPS**

Upon approval, staff will exercise option year two and initiate new task orders up to the total authorized contract value of the EN077 contract.

### **ATTACHMENTS**

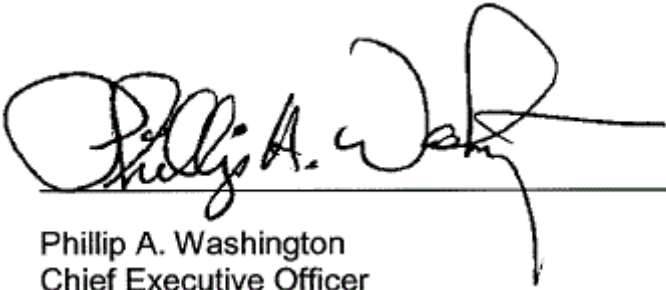
Attachment A - Procurement Summary  
Attachment B - Contract Modification/Change Log  
Attachment C - Current and Proposed EN077 Work

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Phillip A. Washington  
Chief Executive Officer

## PROCUREMENT SUMMARY

ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED  
CONSTRUCTION SERVICES/ EN077

1.	<b>Contract Number:</b> EN077		
2.	<b>Contractor:</b> Arcadis U.S. Inc. (ARCADIS)		
3.	<b>Mod. Work Description:</b> Continuation of environmental waste handling and environmentally related construction services.		
4.	<b>Contract Work Description:</b> Environmental waste handling and environmentally related construction services.		
5.	<b>The following data is current as of:</b> 6/26/15		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Awarded:</b>	8/15/11	<b>Contract Award (Funding) Amount:</b> \$ 21,200,000 NTE
	<b>Notice to Proceed (NTP):</b>	9/26/11	<b>Total of Task Orders Approved:</b> \$18,049,152
	<b>Original Complete Date:</b>	8/14/14	<b>Pending Modifications (including this action):</b> \$ 0
	<b>Current Est. Complete Date:</b>	8/15/16	<b>Current Contract Value (Funding with this action):</b> \$ 38,000,000 NTE
7.	<b>Contract Administrator:</b> Daniel A. Robb		<b>Telephone Number:</b> (213) 922-1304
8.	<b>Project Manager:</b> Emmanuel Liban		<b>Telephone Number:</b> (213) 922-2471

**A. Procurement Background**

This Board Action is to approve Modification No. 08 issued in support of Contract No. EN077 to provide continued Environmental Waste Handling and Environmentally Related Construction Services as set forth in Contract EN077 currently in effect between Metro and ARCADIS.

This contract modification will be processed in accordance with Metro's Acquisition Policy and the contract type is a cost reimbursable fixed fee, 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 un-priced one-year options, based on the Consultant's satisfactory performance). This Contract was approved by the Board of Directors on June 16, 2011, with approved expenditure up to \$21.2 Million for FY12 through FY14, of the \$38 Million in total contract value, inclusive of sales tax and the two (2) one-year options. Seven (7) 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 Contract term from August 14, 2014, to September 30, 2014. Modification 5 extended the Contract term from September 30, 2014, to March 31, 2015. Modification 6 extended the Contract term from March 31, 2015, to June 30, 2015 and Modification 7 extended the Contract term from June 30, 2015, to December 31, 2015. Modification 8 shall extend the Contract term from December 31, 2015, to August 15, 2016.

Additional information regarding all the modifications to EN077 can be found in Attachment B – Contract Modification/Change Log.

## **B. Evaluation of Proposals/Bids**

A Proposal Evaluation Team (PET) was previously convened in 2011 and determined ARCADIS to be the most qualified proposer. Contract award was made to the highest qualified Proposer.

This is an Architect and Engineers, qualifications based Contract. Price was not used as an evaluation factor pursuant to state and federal law.

## **C. Cost/Price Analysis**

A fair and reasonable price for all future Contract Work Orders “CWOs” and Task Orders “TO’s” shall be determined based upon a cost analysis, technical evaluation, fact finding, and negotiations, before issuing a CWO or Task Order to the Consultant. An audit to finalize the overhead rate for the first three years of the Contract and to set the provisional overhead rate for FY 15 and FY16 has been completed by the Metro Audit Services Department (MASD). Actual Overhead rates between 2011 through 2013 will be applied per Audit Report 15-CON-A05, as an equitable adjustment to the Contract, within the total authorized funding of \$38 Million.

## **D. Background on Recommended Contractor**

ARCADIS is an international company providing consultancy, design, engineering and management with emphasis on the following fields: environmental, infrastructure, water, and buildings. The company is ranked in the top ten (10) management and engineering consultancies in the world and top three (3) in the global environmental market.

The company’s primary areas of competence include waste management, soil, groundwater, air-quality, geo-technical information services, urban and rural development projects, and real estate projects.



## **E. Disadvantaged Business Participation**

ARCADIS made a Disadvantaged Business Enterprise Anticipated Level of Participation (DALP) commitment of 40%. The project is 73.33% complete and the current DALP participation is 28.66%. In order to address the 11.34% shortfall, ARCADIS confirmed that they are actively seeking DBE firms for future task order awards in the following scope areas: hazardous materials abatement and management; regulatory interaction; soil, water and other hazardous materials disposal; underground tank upgrade work, as well as other nonspecific tasks. DEOD will continue to monitor ARCADIS' efforts to meet their DBE commitment.

<b>DISADVANTAGED BUSINESS ENTERPRISE ANTICIPATED LEVEL OF PARTICIPATION COMMITMENT</b>		<b>40% DALP</b>	<b>DISADVANTAGED BUSINESS ENTERPRISE ANTICIPATED LEVEL OF PARTICIPATION</b>		<b>28.66% DALP</b>
	<b>DBE Subcontractors</b>		<b>Ethnicity</b>	<b>% Commitment</b>	<b>Current Participation<sup>1</sup></b>
1.	J.C. Palomar Construction		Hispanic American	CWO	19.05%
2.	Advanced Technology Laboratories		Hispanic American	CWO	0.59%
3.	Jet Drilling		Hispanic American	CWO	0.51%
4.	Alliance Environmental Group <sup>2</sup>		Hispanic American	CWO	0.21%
5.	Tri Span <sup>2</sup>		Hispanic American	CWO	2.96%
6.	Insight EEC Inc. <sup>2</sup>		Subcontinent Asian American	CWO	3.15%
7.	Bradley Tank <sup>2</sup>		Asian Pacific American	CWO	2.18%
8.	AHTNA Government Services <sup>2</sup>		Native American	CWO	0.00%
<b>Total DBE Commitment</b>				<b>40%</b>	<b>0</b>

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

<sup>2</sup>DBE Subcontractor added after contract award.

## **F. Living Wage and Service Contract Worker Retention Policy**

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

## **G. Prevailing Wage Applicability**

Prevailing Wage requirements are applicable to this project. DEOD will continue to monitor contractors' compliance with the State of California Department of Industrial Relations (DIR), California Labor Code, and the U S Department of Labor (DOL) Davis Bacon and Related Acts (DBRA).

**H. All Subcontractors Included with Recommended Contractor's Proposal**

<b>Subcontract List</b>
21st Century Lock & Key
ACCO Engineered Systems
Ahtna Government Services
Alliance Environmental Group, Inc.
AWS Construction, Inc.
BC2 Environmental
Belshire Environmental Services
BTI Environmental Services, Inc.
CA Hazardous Services
Century Sweeping
CI Services, Inc.
Coastal Traffic Systems
El Capitan Environmental Services
EMSL Analytical
Hydro Engineering
Insight Environmental Engineering & Construction, Inc.
J.C. Palomar, Inc.
JET Drilling
KOPPL
Ninyo & Moore
Pacific Coast Locators
Presidio Systems
Siemens Industry, Inc.
Specialized Industrial Services, Inc.
Spectrum Geophysics
TEG/LVI Environmental Services, Inc.
Traffic Management, Inc.
Tri Span, Inc.
TRL Systems
WWT Tunnel, LLC

**ATTACHMENT B****CONTRACT MODIFICATION/CHANGE LOG****ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED  
CONSTRUCTION SERVICES/ EN077**

<b>Mod. no.</b>	<b>Original Contract</b>	<b>(Date)</b>	<b>(Contract Total)</b>
1	Administrative Terms and Conditions	11/16/14	\$0.00
2	Retention Reduction Per Contract Code Section 7201	12/22/13	\$0.00
3	Add Subcontractors Trip Span & BTI	11/21/13	\$0.00
4	No Cost Period of Performance Extension 8/14/14 to 9/30/14	8/5/14	\$0.00
5	No Cost Period of Performance Extension 9/30/14 to 3/31/15	9/26/14	\$0.00
6	No Cost Period of Performance Extension 3/31/15 to 6/30/15	3/11/15	\$0.00
7	No Cost Period of Performance Extension 6/30/15 to 12/31/15	5/15/15	\$0.00
8	<b>Pending Board Approval</b>  No Cost Period of Performance Extension 12/31/15 to 8/15/16		
		<b>Total All Mods</b>	\$0.00

## Attachment C. Current and Proposed EN077 Work

EN077 PROJECT CATEGORIES	OBLIGATED PROJECT FUNDS (FY12-15) (A)	SPECIFIC FY15-FY16 PROJECTS(1)	PROJECTED THRU FY16 (B)	TOTAL (A+B) (2)
SITE REMEDIATION	\$ 5,148,939.00	Site Remediation at Divisions 8, 15, and 18 and 20. Emergency response to unforeseen contaminated sites at various ongoing capital projects ; Baseline study and preparatory work for the new MTA Temporary Storage Site	\$1,851,061.00	\$7,000,000.00
TANK UPGRADES, STORMWATER AND UST OPERATOR PROGRAM	\$ 7,947,287.00	UST Program (SB 989) Upgrades at Divisions 3 , 5, 8. Division 10 UST/AST replacements and Division 2 Vent Pipe Upgrades	\$ 52,713.00	\$8,000,000.00
REGIONAL CONNECTOR(3)	\$ 1,820,498.00	Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility contract and design build contract. Loc 61 (Purple Line Extension Yard) Remediation	\$ 1,179,502.00	\$3,000,000.00
PURPLE LINE EXTENSION(3)	\$ 841,549.00	Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility and design build contracts	\$ 5,158,451.00	\$6,000,000.00
CRENSHAW CORRIDOR PROJECT(3)	\$ 205,147.00	Pre-demolition abatement of hazardous materials (i.e., asbestos, lead paint) for properties being acquired. On call hazardous materials remediation services for encountered hazardous materials for advanced utility and design build contracts	\$ 5,794,853.00	\$6,000,000.00
BUS FACILITY, VARIOUS	\$648,991.00	Patsaouras Plaza soil and waste water management; Harbor Gateway Transit Center site assessment; handling and disposal of soils encountered at operating divisions; materials encountered along Silver Line alignment during construction; lead based paint contaminated materials associated with corrosion repairs along El Monte Busway	\$ 3,330,109.00	\$4,000,000.00
RAIL FACILITY VARIOUS	\$1,436,741.00	New Center St. BOC/ROC expansion site assessment and remediation; Metro Gold Line and Red Line Tar seepage and cross-passage remediation	\$ 2,563,259.00	\$4,000,000.00
	<b>\$ 18,049,152.00</b>		<b>\$ 19,929,948.00</b>	<b>\$38,000,000.00</b>
Notes:				
(1) Estimated costs based on current level of effort on executed similar projects. Specific amounts on a task by task basis are to be negotiated by staff prior to award.				
(2) Note that Measure R projects are included in this forecast. This Contract is currently being used as an emergency response contract for those Measure R projects and small capital improvement projects; and to support project remediation efforts if any of the Constructors cannot perform such scope.				
(3) The Measure R related projects estimates were included in the original Board Authorization of EN077 contract and estimated EN077 services are only used as guidance based on assumptions at the onset of contract. Exact not to exceed amount is determined per Measure R project. The estimated total dollar values include any unanticipated environmental waste handling and construction services work due to changed conditions or through the acceleration of any of these projects.				

