



## Board Report

File #: 2020-0872, File Type: Contract

Agenda Number: 23.

### OPERATIONS, SAFETY, AND CUSTOMER EXPERIENCE COMMITTEE JANUARY 21, 2021

**SUBJECT: DIESEL FUEL**

**ACTION: RATIFY EXPENDITURES AND APPROVE CONTRACT MODIFICATION**

#### **RECOMMENDATION**

AUTHORIZE the CEO to:

- A. RATIFY expenditures in excess of the total contract award of \$2,075,855 for diesel fuel from Southern Counties Oil Company (SC Fuels) for Metro's diesel fuel non-revenue vehicles, major and other miscellaneous equipment, increasing the Contract No. DR4348700 total contract value from \$328,959 to \$2,404,814.
  
- B. EXECUTE Modification No. 3 to extend the contract period of performance to June 30, 2021 for \$252,150 increasing the total contract value from \$2,404,814 to \$2,656,964.

**Requires Two-Thirds Vote**

#### **ISSUE**

The original contract was to provide up to approximately 168,000 gallons of diesel fuel for 24 months at prevailing Oil Price Information Service (OPIS) pricing with the application of state and federal taxes and fees associated with diesel fuel. The contract is an Indefinite Delivery Indefinite Quantity (IDIQ) for two-years inclusive of sales taxes for a not-to-exceed amount of \$328,959.

#### **DISCUSSION**

In November 2015, Metro Staff approved a contract award, for a 24-month Contract for diesel fuel to SC Fuels for \$328,959. SC Fuels was required to provide diesel fuel for Metro's non-revenue vehicles that operate using diesel fuel. The ratification for unauthorized expenditure of Metro funds is due to a staff member not complying with and implementing Metro's standard contract administration practices; inadequate staff monitoring; the bid pricing was based on an annual quantity of 84,000 gallons, but the diesel fuel annual actual average usage was 125,000 gallons; unforeseen fluctuations and increases in fuel price variables over the past 4 years related to the federal and state

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fuel taxes and fees; Oil Price Information Service (OPIS) fee per gallon, and its fuel supplier. The unexpected pandemic has also impacted the supply and demand for fuel. The fuel industry has experienced a reduction in fuel production due to state emergency shutdowns, thus, increasing fuel prices due to low production. Many fuel refineries have closed, and are temporarily closing, which has also impacted the fuel supplier's ability to obtain competitive fuel prices.

Staff became aware of these unauthorized expenditures in December 2020 and reached out to the fuel supplier and internal Metro departments to ascertain the reasons for the unauthorized expenditures, increases in fuel costs and to discuss and implement the appropriate preventive measures to ensure unplanned and unauthorized expenditures would not re-occur.

### Corrective Actions

Metro's immediate corrective actions include, but are not limited to:

- Issuance of a new solicitation for Metro's diesel fuel requirements for open competition.
- Prior to the issuance of a new solicitation, Metro will reach out to the diesel fuel and overall commodities industry, via a Request for Interest and Qualification (RFIQ), to solicit specific industry knowledge and inputs relative to Metro's development of the new solicitation.
- The new solicitation will require that supplier's invoices are clear and reflect the gallons of fuel received by Metro location to allow for the proper reconciliation of fuel received against expenditures by Metro location and projected demand.
- Internally, in addition to Metro's internal accounts payable and procurement departments, the user department, Non-revenue Vehicle Operations, will be required to be integral to the review and approve processes for all diesel fuel supplier invoices, track against their projected demand, independent cost estimate, and the total contract value.
- Vendor/Contract Management will adhere to proper total contract value monitoring to ensure that upon reaching seventy percent (70%) of total actual costs (invoiced costs) proper coordination with the supplier and Metro's designated project manager (PM) will occur. Staff will take proper steps to use only Board allocated Contract Modification Authority and to re-solicit the Contract and return to the Board for approval prior to contract expiration.
- There are proposed design features that are being considered to be potentially incorporated and offered in the planned acquisition of Metro's Enterprise Asset Management (EAM) system that will provide interdepartmental real-time visibility and various capabilities to manage Metro's commodities.
- Internally, staff will consult with all internal commodity User departments involved in the acquisition and operational use of various fuel and oil types, lubricants, renewable/compressed natural gas, electrification, and new forms of energy to create synergy within the Agency in the acquisition and sharing of updated and critical commodities industry information, knowledge, regulatory/compliance local, state, and federal requirements, indices, fees and taxes information.

### **DETERMINATION OF SAFETY IMPACT**

There are no safety impacts for this authorization.

## **FINANCIAL IMPACT**

Adoption of Modification No. 3 for Contract No. DR4348700 would have a budget impact of \$252,150 to the agency. Additionally, funding in the amount of \$2,075,855 in FY21 is required to ratify the contract due to unforeseen fluctuations and fuel variables over the past 2 years related to the federal and state fuel taxes and fees. Funding will come from within the adopted Operations and Maintenance budget. The project manager, in conjunction with the Contract Administrator, and the Accounting department will be responsible for monitoring performance, compliance, costs, and resources in support of this task.

Since this is a multi-year project, the program manager, cost center manager, and Chief Operations Officer will ensure all project resources are budgeted in future fiscal years.

### **Impact to Budget**

The source of funds for this action will be Federal, State and Local funds including sales tax and fares. Allocation of these funds maximizes their intended use given approved funding guidelines and provisions.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

Approval of this recommendation supports the following Metro Strategic Plan Goal 2, Deliver outstanding trip experience for all users of the transportation system.

## **ALTERNATIVES CONSIDERED**

The alternative is not to approve the ratification. This approach is not recommended. A new procurement will start immediately with an anticipated award recommendation to be presented to Metro Board in June 2021.

## **NEXT STEPS**

Upon approval, staff will execute Modification No. 3 to Contract No. FY34649000 to SC Fuels to continue supplying diesel fuel for Metro's fleet to June 30, 2021. Also, Metro will begin the outreach process to the diesel fuel and overall commodities industry, via a Request for Interest and Qualification (RFIQ), to solicit industry specific industry knowledge and inputs relative to Metro's development of the new solicitation.


## **ATTACHMENTS**

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

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Phillip A. Washington  
Chief Executive Officer

**PROCUREMENT SUMMARY**

**CONTRACT NO. DR4348700**

**DIESEL FUEL**

1.	<b>Contract Number:</b> DR4348700			
2.	<b>Contractor:</b> Southern Counties Oil Company (SC Fuels)			
3.	<b>Mod. Work Description:</b> Ratify unauthorized expenditures and increase Contract Value			
4.	<b>Contract Work Description:</b> Provide diesel fuel to various Metro division locations for non-revenue vehicles			
5.	<b>The following data is current as of:</b> 12/28/20			
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>	
	<b>Contract Awarded:</b>	1-16-16	<b>Contract Award Amount:</b>	\$328,959
	<b>Notice to Proceed (NTP):</b>	1-16-16	<b>Total of Modifications Approved:</b>	\$0.00
	<b>Original Complete Date:</b>	1-15-18	<b>Pending Modifications (including this action):</b>	\$2,328,005
	<b>Current Est. Complete Date:</b>	6/30/21	<b>Current Contract Value (with this action):</b>	\$2,656,964
7.	<b>Contract Administrator:</b> Juelene Close		<b>Telephone Number:</b> 213-922-1066	
8.	<b>Project Manager:</b> Daniel Ramirez		<b>Telephone Number:</b> (213) 922-5797	

**A. Procurement Background**

This Board Action is to ratify an action and approve Contract Modification No. 3 in support of Metro Operations’ non-revenue vehicles for unleaded gasoline for the following:

- To ratify unauthorized expenditures in excess of the total contract award of \$2,075,855, increasing the total contract value from \$328,959 to \$2,404,814.
- To execute Modification No. 3 to extend the contract period of performance to June 30, 2021 for \$252,150, increasing the total contract value from \$2,404,814 to \$2,656,964.

This Contract Modification No. 3 will be processed in accordance with Metro’s Acquisition Policy and the contract type is an Indefinite Delivery/Indefinite Quantity (IDIQ).

On November 24, 2015, Metro's Supply Chain Management approved a contract to SC Fuels, as the lowest responsive and responsible bidder to supply diesel fuel for Metro's non-revenue and emergency vehicles - that operates using diesel fuel, and equipment in the amount of \$328,959, inclusive of sales tax, a total period of performance of 24 months from January 16, 2016 to January 15, 2018.

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

Modification No. 3 in the amount of \$252,150 is based upon extending the contract performance, thus increasing the total contract value to \$2,656,964. The total price for the six (6) month contract schedule extension has been deemed to be fair and reasonable.

The unauthorized expenditures in the amount of \$2,075,855 are due to the variance in the formal annual bid quantity (84,000 gallons) and the actual annual average diesel fuel usage (113,000 gallons), unforeseen fluctuations and increases in fuel variables related to the federal and state fuel taxes and fees, Oil Price Information Service (OPIS) fee per gallon, and its fuel supplier.

The unexpected COVID-19 pandemic has also impacted the supply and demand for diesel fuel causing a reduction in fuel production due to state emergency shutdowns, thus, increasing fuel prices due to low production. Many fuel refineries have closed, and are temporarily closing, which have also impacted the fuel supplier's ability to obtain competitive fuel prices. Staff conducted research with OPIS fuel index rates and mandated fees, verifying cost increases and confirmed the price increase for upcoming months is fair and reasonable.

DEOD SUMMARY

CONTRACT NO. DR4348700

DIESEL FUEL

**A. Small Business Participation**

The Diversity and Economic Opportunity Department (DEOD) did not establish a Disadvantaged Business Enterprise (DBE) goal for this solicitation. Southern Counties Oil Company (SC Fuels) did not list any DBE subcontractors nor did the contractor commit to any DBE participation.

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

Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) 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 contract value in excess of \$2.5 million.

## CONTRACT MODIFICATION/CHANGE ORDER LOG

## DIESEL FUEL – CONTRACT NO. DR43487000

<b>Mod. no.</b>	<b>Description</b>	<b>Status (approved or pending)</b>	<b>Date</b>	<b>\$ Amount</b>
1	Extending period of performance	Approved	01/26/18	\$0
2	Extending period of performance	Approved	01/06/20	\$0
3	Ratify Unauthorized Expenditures and contract schedule extension of six (6) months	Pending	Open	\$2,328,005
	<b>Modification Total:</b>			\$ 2,328,005
	<b>Original Contract:</b>	Approved	01/13/16	\$ 328,959
	<b>Total:</b>			<b>\$2,656,964</b>