



Legislation Details (With Text)

File #: 19-2001 **Version:** 1 **Name:** CDM Smith - Amendment Number 1 to Lead and Copper Rule Compliance (LCR) - Phase 3
Type: Resolution **Status:** Adopted
File created: 12/17/2019 **In control:** Water Sewer Utility
On agenda: 3/24/2020 **Final action:** 3/24/2020

Title: Dept/ Agency: Water and Sewer Utilities
Action: ☐ Ratifying ☒ Authorizing ☐ Amending
Type of Service: Professional Services Contract
Purpose: First Amendment to Lead and Copper Rule Compliance (LCR) - Phase 3
Entity Name: CDM Smith, Inc.
Entity Address: 110 Fieldcrest Avenue, #8, 6th Floor, Edison, New Jersey 08837
Contract Amount: Not to exceed \$735,600.00
Funding Source: 2019 Budget/Department of Water and Sewer Utilities Budget/NW037-750-7502-71280 B2019
Contract Period: Until Project Completion per N.J.S.A. 40A: 11-15(9)
Contract Basis: ☐ Bid ☐ State Vendor ☒ Prof. Ser. ☐ EUS
☐ Fair & Open ☒ No Reportable Contributions ☐ RFP ☐ RFQ
☐ Private Sale ☐ Grant ☐ Sub-recipient ☐ n/a
Additional Information:
Resolution 7R12-d (AS) adopted on June 6, 2019, awarded the contract in the amount of \$396,900.00.
Amendment #1 increases the contract amount by \$338,700.00 for a new total contract amount of \$735,600.00.

Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
3/24/2020	1	Municipal Council	Adopt	Pass

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\$735,600.00.

WHEREAS, Resolution 7R12-d (AS) adopted on June 6, 2019, authorized the then Acting Director of the Department of Water and Sewer Utilities to execute a contract with CDM Smith, Inc., 110 Fieldcrest Avenue, #8, 6th Floor, Edison, New Jersey 08837, to provide Professional Engineering Services for Lead and Copper Rule Compliance (LCR) - Phase 3, in an amount not to exceed \$396,900.00, for a contract period until project completion as per N.J.S.A. 40A:11-15(9); and

WHEREAS, the City of Newark (the "City"), is in need of additional and continued Professional Engineering Services for Lead and Copper Rule Compliance (LCR) - Phase 3, as it provides additional bottled water to affected residents during sampling in August and September 2019 as requested by the United States Environmental Protection Agency (USEPA). In addition, due to recent operational changes at the Pequannock Water Treatment Plant, the pipe loop testing resulted in additional time and equipment to complete the testing. Lastly, the New Jersey Department of Environmental Protection (NJDEP) has requested additional sequential sampling, above and beyond what was originally proposed, regarding monitoring of the orthophosphate treatment for corrosion control; and

WHEREAS, the City wishes to enter into a First Amendment to the contract, Amendment #1, with CDM Smith, Inc., 110 Fieldcrest Avenue, #8, 6th Floor, Edison, New Jersey 08837, to continue providing Professional Engineering Services for Lead and Copper Rule Compliance (LCR) - Phase 3, for an additional \$338,700.00, for a total contract amount not to exceed \$735,600.00, until project completion per N.J.S.A. 40A: 11-15(9). The scope of services is detailed in the attached CDM Smith letter dated December 11, 2019, attached hereto; and

WHEREAS, the provision of the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(i) authorizes the award of Professional Services Contract without public advertising for bids and bidding and requires that the contract be made available for public inspection; and

WHEREAS, this contract is for an amount over \$17,500.00 and is being awarded as a Non-Fair and Open Contract pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS, CDM Smith, Inc., has completed and submitted a Business Entity Disclosure Certificate, which certifies that CDM Smith, Inc., has not made any reportable contributions to a political or candidates committee in the City of Newark in the previous one (1) year, and that the contract will prohibit CDM Smith, Inc., from making any reportable contributions through the term of the contract; and

WHEREAS, the Municipal Council adopted the Contractor Pay-to-Pay Reform Ordinance R.O. 2:4-22 C, which forbids the award of a contract of a Business Entity, as defined therein, which has made or solicited political contributions to Newark Municipal Candidates, office holders having ultimate responsibility for the award of a contract; candidates committees of the aforementioned candidates, and political or political party committees regularly engaged in the support of the City of Newark Municipal or County of Essex Elections; and certain other political party or candidate committees, in excess of certain thresholds.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Municipal Council hereby authorizes the Mayor and/or his designee, the Director of the Department of Water and Sewer Utilities, to enter into and execute a First Amendment to the contract, Amendment #1, with CDM Smith, Inc., 110 Fieldcrest Avenue, #8, 6th Floor, Edison, New Jersey 08837, to continue to provide Professional Engineering Services for Lead and Copper Rule Compliance (LCR) - Phase 3, for an additional \$338,700.00, for a total contract amount not to exceed \$735,600.00, until project completion per N.J.S.A. 40A: 11-15(9).
2. Attached hereto is a Certification of Funds issued by the Director of Finance, which states that there are available sufficient legally appropriated funds in the amount of \$338,700.00 for the purposes set forth herein, under the 2019 Budget, Business Unit NW037, Department ID 750, Division 7502, Account 71280. The Director of the Department of Water and Sewer Utilities, shall file a copy of the Certification of Funds, along with the original resolution and the executed contract in the Office of the City Clerk.
3. This contract is being awarded pursuant to the Non-Fair and Open Procedures of the Pay-to-Play Law, N.J.S.A. 19:44A-20.5 and pursuant to the provisions of the Local Public Contract Law, N.J.S.A. 40A:11-5 (1)(a) (i), and is in compliance with Ordinance on Pay to Play.
4. This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a)(i) of the Local Public Contract Law, because the performance of the service required must be performed by a person (or persons) licensed to practice a recognized engineering profession by the State of New Jersey, whose performance required knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study, as distinguished from general academic instruction.
5. The Director of the Department of Water and Sewer Utilities shall file a copy of the fully executed contract in the Office of the City Clerk and it shall be made available for public inspection.
6. CDM Smith, Inc., has completed and submitted a Business Entity Disclosure Certificate, which shall be placed on file in the Office of the City Clerk by the Director of the Department of Water and Sewer Utilities, certifying that CDM Smith, Inc., has not made any reportable contributions to a political or candidate committee in the City of Newark, in the previous one (1) year, and that the contract will prohibit CDM Smith, Inc., from making any reportable contributions through the term of the contract.
7. There shall be no amendment of this contract without prior approval of the Municipal Council.
8. There shall be no advance payment on this contract in accordance with N.J.S.A. 40A:5-16.
9. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within ten (10) days of its passage.

STATEMENT

This resolution amends and authorizes the Mayor and/or his designee, the Director of the Department of Water and Sewer Utilities, to enter into and execute a First Amendment to the

contract, Amendment #1, with CDM Smith, Inc., 110 Fieldcrest Avenue, #8, 6th Floor, Edison, New Jersey 08837, to continue to provide Professional Engineering Services for Lead and Copper Rule Compliance (LCR) - Phase 3, for an additional \$338,700.00, for a total contract amount not to exceed \$735,600.00, until project completion per N.J.S.A. 40A: 11-15(9).