



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 18-1337, **Version:** 1

Dept/ Agency: Water and Sewer Utilities

Action: (X) Ratifying (X) Authorizing (X) Amending

Type of Service: Professional Services Contract

Purpose: Amendment #1 for Design and Construction Administration of Improvements to the Peddie Ditch CSO

Entity Name: Arcadis U.S., Inc.

Entity Address: 17-17 Route 208 North, Suite 200, Fair Lawn, New Jersey 07410

Contract Amount: Not to exceed \$335,200.00

Funding Source: 2017 Budget/Department of Water and Sewer Utilities

Contract Period: Until completion of construction as per N.J.S.A. 40A:11-15(9)

Contract Basis: () Bid () State Vendor (X) Prof. Ser. () EUS

() Fair & Open (X) No Reportable Contributions () RFP () RFQ

() Private Sale () Grant () Sub-recipient () n/a

Additional Information:

Resolution 7R12-e adopted on December 18, 2013, awarded contract in the amount of \$276,900.00. Amendment #1 increases the contract amount by \$58,300.00, for a new total contract amount not to exceed \$335,200.00.

WHEREAS, Resolution 7R12-e December 18, 2013, authorized the Director of Water and Sewer Utilities to execute a contract with Arcadis U.S., Inc., 17-17 Route 208 North, Fair Lawn, New Jersey 07410, to provide professional engineering services for Design and Contract Administration of Improvements to the Peddie Ditch CSO for a contract period of the earlier of one (1) year from Award for Design and Construction Administration or completion of construction and a not to exceed price of \$276,900.00; and

WHEREAS, the contract period of "the earlier of one (1) year from Award for Design and Construction Administration or completion of construction" was made in error and the contract period should have stated "Until Completion of Construction as per N.J.S.A. 40A:11-15(9)"; and

WHEREAS, the contract has expired due to significant delays attributed entirely to Conrail which include, securing access to Conrail property to perform necessary design investigations, securing a permanent Access Agreement and securing property owner certifications from Conrail for the required NJDEP LURP and TWA permits; and

WHEREAS, on July 26, 2018, the City of Newark received a Proposal Letter requesting a Contract Amendment Number 1 for the Design and Construction Administration of Improvements to the Peddie Ditch CSO, in the amount of \$58,300.00, for a new total contract amount not to exceed \$335,200.00; and

WHEREAS, the additional funding is for additional permit fees, an extra sixty (60) hours of Conrail coordination, and an additional three hundred (300) hours of full-time resident observation services; and

WHEREAS, the Department of Water and Sewer Utilities wishes to execute Contract Amendment Number 1 for the Design and Construction Administration of Improvements to the Peddie Ditch CSO with Arcadis U.S., Inc., until completion of construction in order for Arcadis U.S., Inc., to successfully complete the Professional Services Contract as permitted by the Local Public Contracts Law, N.J.S.A. 40A:11-15(9); and

WHEREAS, the Acting Director of the Department of Water and Sewer Utilities requests the ratification of the contract term from the date of expiration of the previous contract until adoption of this resolution as it was necessary for the contractor to administer services during that time in order to stay in compliance with the NJDEP; 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 agreements 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, Arcadis U.S., Inc., has completed and submitted a Business Entity Disclosure Certificate which certifies that Arcadis U.S., Inc., has not made any reportable contributions to a political or candidates committee in the City of Newark in the previous one year, and that the contract will prohibit Arcadis U.S., Inc., from making any reportable contributions through the term of the contract; and

WHEREAS, the Municipal Council adopted the Contractor Pay-to-Play Reform Ordinance, R.O. 2:4-22C, 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, officeholders having ultimate responsibility for the award of a contract; candidate committees of the aforementioned candidates, and political or political party committees of the City of Newark or the County of Essex; and continuing political committees or political action 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 Acting Director of

the Department of Water and Sewer Utilities, to enter into a Contract Amendment Number 1 with Arcadis U.S., Inc., 17-17 Route 208 North, Suite 200, Fair Lawn, New Jersey 07410, to provide continuing Professional Engineering Services for the Design and Construction Administration of Improvements to the Peddie Ditch CSO, until completion of construction as provided by N.J.S.A. 40A:11-15(9), to increase the contract amount by \$58,300.00, for a new total contract amount not to exceed \$335,200.00.

2. The Municipal Council hereby ratifies the contract term from date of expiration of the previous contract to date of adoption of this authorizing resolution.
3. 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 \$134,794.51 for the purposes set forth herein, under the Business Unit NW044, Department ID 17C, Division/Project 17C01, Account # 94710, Budget Ref: B2017. The Acting 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.
4. 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.
5. 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.
6. A copy of the fully executed Contract shall be filed in the Office of the City Clerk by the Acting Director of the Department of Water and Sewer Utilities and shall be made available for public inspection.
7. A copy of the Determination of Value and Business Entity Disclosure Certification shall be placed on file in the Office of the City Clerk.
8. Arcadis U.S., Inc., has completed and submitted a Business Entity Disclosure Certificate, certifying that Arcadis U.S., Inc., has not made any reportable contributions to a political or candidate committee in the City of Newark in the previous one year, and that the contract will prohibit Arcadis U.S., Inc., from making any reportable contributions through the term of the contract.

9. There shall be no amendment of this contract without prior approval of the Municipal Council.
10. There shall be no advance on this contract in accordance with N.J.S.A. 40A:5-16.
11. 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 10 days of its passage.

STATEMENT

This resolution ratifies, amends and authorizes the Mayor and/or his designee, the Acting Director of the Department of Water and Sewer Utilities, to execute and enter into a Contract Amendment Number 1 with Arcadis U.S., Inc., 17-17 Route 208 North, Suite 200, Fair Lawn, New Jersey 07410, to provide continuing Professional Engineering Services for Design and Construction Administration of Improvements to the Peddie Ditch CSO, until completion of construction as provided by N.J.S.A. 40A:11-15(9), for an increase to the contract amount of \$58,300.00 and for a new total contract amount not to exceed \$335,200.00.