



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

File #: 18-1829, Version: 2

**Dept/ Agency:** Water and Sewer Utilities

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

**Type of Service:** Professional Services Contract

**Purpose:** Amendment #4 to provide Design and/or Administer Construction at several Combined Sewer Overflows (CSO) Sites (Roanoke Avenue, Fourth Avenue and Delavan Avenue)

**Entity Name:** Arcadis U.S., Inc.

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

**Contract Amount:** Not to exceed \$3,743,000.00

**Funding Source:** 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:**

Original Resolution 7R12-c adopted on September 8, 2011 for a contract amount not to exceed \$1,250,000.00.

Amendment #1 Resolution 7R12-c adopted on September 6, 2012 for a contract increased the contract amount by \$975,000.00 for a new total contract amount not to exceed \$2,225,000.00.

Amendment #2 Resolution 7R12-c adopted on December 18, 2013 increased the contract amount by \$1,004,000.00 for a new total contract amount not to exceed \$3,229,000.00.

Amendment #3 Resolution 7R12-a adopted on December 2, 2015 increased the contract amount by \$275,000.00 for a new total contract amount not to exceed \$3,504,000.00, in addition to extending the contract period by twenty-two (22) months from December 18, 2014 through October 18, 2016.

Amendment #4 7R12-c032019 (File #18-1829) will increase the contract amount by \$239,000.00 for a new total contract amount not to exceed \$3,743,000.00, extended until the completion of construction per N.J.S.A. 40A:11-15(9).

**Deferred 7R12-c 032019**

**WHEREAS**, the City of Newark is in need of additional professional environmental services to satisfy the Combined Sewer Overflows ("CSO") Abatement Project which is mandated by an Administrative Consent Order ("ACO") between the City of Newark and the State of New Jersey; and

**WHEREAS**, the City of Newark contracted with Malcolm Pirnie for the design and construction oversight at several CSO sites (Jackson/Polk Streets, Clay Street, Freeman Street, Roanoke Avenue, Fourth Avenue, Delavan Avenue) for a contract period from Notice to Proceed to completion of construction; and

**WHEREAS**, in 2011, Arcadis U.S., Inc., merged with Malcolm Pirnie therefore making it necessary for the City of Newark to enter into a new contract under Arcadis U.S., Inc., for the completion of design and/or construction oversight at several CSO sites from date of adoption until

completion of construction; and

**WHEREAS**, the resolution and contract indicated the contract period to be for one year; and

**WHEREAS**, the contract period of one year was made in error and should have reflected the contract period pursuant to the original contract with Malcolm Pirnie which was until the completion of construction; and

**WHEREAS**, Resolution 7R12-a December 5, 2015 authorized the Director of Water and Sewer Utilities to execute contract Amendment No. 3 to provide Professional Engineering Services for Design and/or Administer Construction at Several CSO Sites (Roanoke Avenue, Fourth Avenue and Delavan Avenue), for a twenty-two (22) month extension from December 18, 2014 to October 18, 2016 and a not to exceed price of \$3,504,000.00; and

**WHEREAS**, during this time there have also been significant delays in obtaining easements for construction to resume which has caused a delay in the project; and

**WHEREAS**, the City of Newark has now obtained all necessary easements and thereby able to resume construction; and

**WHEREAS**, on May 15, 2018, the City of Newark received a Proposal Letter from Arcadis U.S., Inc., requesting additional contract funding for the Design and/or Administer Construction at several CSO sites Project in the amount of \$239,000.00; and

**WHEREAS**, the increased funding is needed for additional: (a) rebidding services for Roanoke Avenue, Fourth Avenue, and Delavan Avenue; (b) licensed Site Remediation Professional (LSRP) services to close the area of concern at the Clay Street site in accordance with New Jersey Department of Environmental Protection ("NJDEP") requirements; (c) .services to address operations and maintenance concerns at the Clay Street site, and (d) services for Freeman Street beyond the estimated close out date; and

**WHEREAS**, the Department of Water and Sewer Utilities wishes to execute Contract Amendment No. 4 to provide Professional Engineering Services for Design and/or Administer Construction at Several CSO Sites (Roanoke Avenue, Fourth Avenue and Delavan Avenue) with Arcadis U.S., Inc., until completion of construction in order for Arcadis US, Inc. to successfully complete the Professional Services Contract as permitted by the Local Public Contracts Law, N.J.S.A. 40A:11-15(9), subject to Municipal Council approval; and

**WHEREAS**, The Acting Director of the Department of Water and Sewer Utilities requests that the contract be ratified from October 19, 2016, until adoption of this resolution, as Arcadis U.S., Inc. continued working and providing services, as it was necessary for the contractor to administer services during that time in order to stay in compliance with the ACO from the State of New Jersey; 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 fourth Contract Amendment (Contract Amendment No. 4) with Arcadis U.S., Inc., 17-17 Route 208 North, Fair Lawn, New Jersey, 07410, to provide Professional Engineering Services for Design and/or Administer Construction at Several Combined Sewer Overflows (CSO) Sites (Roanoke Avenue, Fourth Avenue and Delavan Avenue) for an additional amount of \$239,000.00, for a total contract amount not to exceed \$3,743,000.00 (Three Million Seven Hundred Forty-Three Thousand Dollars and Zero Cents), until completion of construction as per N.J.S.A. 40A:11-15(9).
2. The Municipal Council hereby ratifies the contract term from October 19, 2016 to the date of adoption of this authorizing resolution.
3. Attached hereto are Certifications of Funds issued by the Director of Finance which state that there are available sufficient legally appropriated funds in the amount of \$64,753.44 for the purposes set forth herein, under the Business Unit NW044, Department ID S07, Division 07S0A, Account 94710, Budget Ref: B2007, and in the amount of \$174,246.56 under the Business Unit NW044, Department ID S07, Division 07S0C, Account 94710, Budget Ref: B2007. 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 Contracts 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 payment on this contract in accordance with N.J.S.A. 40A:5-16.
11. A notice of this action shall be publish in the newspaper authorized by law to publish a legal advertisement and as required by law within 10days 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 a Fourth Amendment to Professional Engineering Services Contract for Design and/or Administer Construction at Several CSO Sites (Roanoke Avenue, Fourth Avenue and Delavan Avenue) with Arcadis U.S., Inc., 17-17 Route 208 North, Fair Lawn, New Jersey 07410, for a contract term from October 19, 2016 until completion of construction; pursuant to N.J.S.A. 40(A):11-15(9), for an additional \$239,000.00, for a total contract amount not to exceed of \$3,743,000.00.