



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 19-1865, Version: 1

Dept/ Agency: Water and Sewer Utilities

Action: ☐ Ratifying ☒ Authorizing ☐ Amending

Type of Service: Extension of Emergency Contracts #E2019-11 and 11A

Purpose: To extend Emergency Contracts E2019-11 and E2019-11A for Phase 3(A) Lead Service Line Replacement Contract 17-WS2020 to continue the accelerated replacement of lead service lines

Entity Name: Roman E&G Corporation and Montana Construction Corporation.

Entity Address: 14 Ogden Street, Newark, New Jersey 07104 and 80 Contant Avenue, Lodi, New Jersey 07644

Contract Amount: Not to Exceed \$78,052,430: Roman-\$38,984,900.00 Montana-\$39,067,530.00

Funding Source: Department of Water and Sewer Utilities Budget/NW041-19W-19W00-A-94710-B2019

Contract Period: Extension from December 18, 2019 to June 24, 2020

Contract Basis: ☐ Bid ☐ State Vendor ☐ Prof. Ser. ☐ EUS

☐ Fair & Open ☐ No Reportable Contributions ☐ RFP ☐ RFQ

☐ Private Sale ☐ Grant ☐ Sub-recipient ☒ n/a Emergency declaration

Additional Information:

Action pursuant to Ordinance 6PSF-E 040611 Article 2:5-13.2 (E) (1) and N.J.S.A. 40A:11-6

Contract Period Extension from December 18, 2019 to June 24, 2020.

WHEREAS, pursuant to N.J.A.C. 5:34-6.1, the City is in need of an extension of the existing Emergency Contracts E2019- 11 and 11A for the removal of lead service lines and to replace them with new copper lines in an expedited manner to prevent interruption of the services and to maintain the accelerated lead service line replacements because the potential hazard to the health, safety and welfare of the general public; and

WHEREAS, the potential hazard to health, safety and welfare of the general public and our children still exists notwithstanding the Department's varied efforts which includes, among other things, filter distribution, receipts of rights of entry on private property, introduction of the corrosion control treatment; and

WHEREAS, under federal and state drinking water regulations, the City of Newark is required to put into place a program which minimizes lead in drinking water. Upon receipt of Newark's notice of non-compliance with the Lead Action Level issued by New Jersey Department of Environmental Protection (NJDEP) the Department of Water and Sewer Utilities immediately began to explore options for a program to minimize lead in the drinking water; and

WHEREAS, the lead service lines connect to the City's water distribution system, but are owned by the property owner; and

WHEREAS, the City believed and believes that the provision of clean, lead free drinking water

to its residents is a public purpose beneficial to the City as a whole and any benefit to any private land owner in accomplishing this purpose is incidental and subordinate to this primary public and governmental purpose; and

WHEREAS, in October 2018, the City of Newark created a comprehensive plan to protect families that may be exposed to lead in the water due to obsolete lead service lines on their property; and

WHEREAS, as part of its comprehensive plan to protect residents from exposure to lead, and to comply with both federal and state regulations, the City of Newark introduced a corrosion control system expected to reduce the lead levels in the water by reducing the corrosion of the lead service lines on private property; and

WHEREAS, in a good faith effort to continue to protect its residents from exposure to potential lead in the water, the City of Newark distributed 38,000 water filters and over 31,000 replacement cartridges free of charge, provided free blood testing for children under 6 years old, provided free water testing; and

WHEREAS, after receiving an August 9, 2019 letter from the United States Environmental Protection Agency (USEPA) to provide bottled water to its residents, the City sought to expedite this program. Consequently, the Department of Water and Sewer Utilities needed to take immediate action to protect the health, safety and welfare of the City's approximately 285,000 residents, and comply with USEPA and New Jersey Department of Environmental Protection regulations; and

WHEREAS, on September 18, 2019 the City enacted an ordinance 8b(as)090519 for the mandatory replacement of lead service lines and created a program to replace outdated and obsolete lead service lines on private property ("Lead Service Line Replacement Program"), to protect its residents from the potential dangers of lead in the water, and

WHEREAS, following the adoption of the ordinance, Department of Water and Sewer Utilities' ("Department") immediate corrective action is to expediently remove all lead service lines through its Lead Service Line Replacement Program; and

WHEREAS, in order to achieve this the Department solicited proposals from several vendors to remove up to 10,000 lead service lines and install new copper lines; it received five (5) proposals on September 6, 2019; and

WHEREAS, on September 18, 2019, the Acting Director of the Department of Water and Sewer Utilities, requested a declaration of emergency to remove lead service lines and replace them with new copper lines; and

WHEREAS, on September 18, 2019, the Purchasing Agent declared the emergency for 90 calendar days up to December 17, 2019 pursuant to N.J.S.A. 40A:11-6. The Purchasing Agent awarded emergency contract E2019-11 and E2019-11A dated September 18, 2019 for Phase 3(A) Lead Service Line Replacement Contract 17-WS2020 in the amount not to exceed \$12,486,766.91 to Roman E&G Corporation, 14 Ogden Street, Newark, New Jersey 07104 and Phase 4(A) Lead Service Line Replacement Contract 20-WS2020 in the amount not to exceed \$12,513,233.09 to Montana Construction Corporation., 80 Contant Avenue, Lodi, New Jersey 07644; and

WHEREAS, the Department executed and entered into agreements with Roman E&G Corporation, 14 Ogden Street, Newark, New Jersey 07104 and with Montana Construction Corp., 80 Contant Avenue, Lodi, New Jersey 07644 for the removal of lead service lines through the Lead Service Line Replacement Program; and

WHEREAS, the emergency has not been abated as lead service lines still need to be replaced within the City; and

WHEREAS, the Department of Water and Sewer Utilities seeks to extend the emergency for the total amount not to exceed \$78,052,430 (inclusive of the initial allocation of \$12,486,766.91 and \$12,513,233.09 to Roman E & G Corporation and Montana Construction Corporation, respectively) for final completion of the entire contract for an additional 190 calendar days extending up to June 24, 2020 or until the emergency is abated, and for replacement of up to 10,000 lead service lines. The not to exceed amount under each contract is \$38,984,900.00 for Roman E & G Corporation and \$39,067,530.00 for Montana Construction Corporation; and

WHEREAS, from the time an emergency was declared until December 2, 2019, approximately 2,272 lead service lines have been replaced: approximately 1,234 lead service line replacements completed by Roman E&G Corporation and 1,038 completed by Montana Construction Corporation; and

WHEREAS, a total number of 10,000 lead service line replacements are to be completed by June 24, 2020 subject to approval by the Newark Municipal Council; 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, office holders 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 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; and

WHEREAS, the Department of Water and Sewer Utilities wishes to extend the contract to a full 280 calendar days (90 days of the original emergency declaration and the additional 190 days) up to June 24, 2020 for a total contract amount not to exceed 78,052,430.00; and

WHEREAS, City Ordinance 6PSF-E 040611 Article 2:5-13.2 (E)(1), states that Emergency Contracts shall not be for a period in excess of ninety (90) days and no extensions of emergency contracts shall be permitted without authorization by resolution by the City Council.

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

1. The Mayor and/or his designee, the Acting Director of the Department of Water and Sewer Utilities are hereby authorized to extend the existing emergency contract with Roman E&G

Corporation, 14 Ogden Street, Newark, New Jersey 07104, and Montana Construction Corporation, 80 Contant Avenue, Lodi, New Jersey 07644 for the removal of lead service lines for the full contract amount not to exceed \$78,052,430.00 (\$25,000,000.00 for the initial emergency allocation plus \$53,052,430.00).

2. This extension will allow the continuation of Emergency Contract E2019-11A that commenced on September 18, 2019 until June 24, 2020 or until such earlier time as the emergency condition is abated upon completion of up to 10,000 lead service line replacements (up to 5,000 replacements each by Roman E&G Corporation, 14 Ogden Street, Newark, New Jersey 07104, and Montana Construction Corp., 80 Contant Avenue, Lodi, New Jersey 07644).
3. Attached hereto are the Certifications of Funds from the Chief Financial Officer, which states that funds in the amount of \$53,052,430.00 are available in the department of Water and Sewer Utilities' Capital Budget under Business Unit NW041, Department ID 19W, Project 19W00, Account 94710, and which shall be filed along with the original resolution in the Office of the City Clerk.
4. An executed copy of said contract shall be filed with the Office of the City Clerk by the Business Administrator of the City of Newark.
5. The total amount of said contract including the amount expended to date shall not exceed \$78,052,430.
6. This contract was solicited and awarded pursuant to the provisions of the Local Public Contracts Law N.J.S.A. 40A:11-6, and is in compliance with the City's Contractor Pay-to-Play Reform Ordinance, R.O. 2:4-22C.
7. If required by the State Law, the City Clerk or Purchasing Agent shall provide the appropriate post award notification of this emergency contract to the State Comptroller no later than 30 business days following such award, in accordance with N.J.S.A. 52:15C-10 and the Notice of the Office of the State Comptroller dated May 7, 2008.

STATEMENT

This resolution authorizes the Mayor and/or his designee, the Acting Director of the Department of Water and Sewer Utilities, to extend Emergency Contract E2019-11 and 11A with Roman E&G Corporation, 14 Ogden Street, Newark, New Jersey 07104 and Montana Construction Corporation, 80 Contant Avenue, Lodi, New Jersey 07644 for the full not to exceed contract amount of \$78,052,430 (an amount not to exceed \$38,984,900.00 by Roman E & G Corporation and \$39,067,530.00 for Montana Construction Corporation) for the removal of lead service lines and replacement with new copper lines for the period from December 18, 2019 until June 24, 2020 or until such earlier time as the emergency condition is abated upon completion of up to 10,000 lead service line replacements by each contractor.