



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div> <div>DocuSigned by:</div> <div>Michael Jones</div> <div>47000790F2D7463...</div> </div>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the September 8, 2022 E & O Committee Meeting		
DATE: 7/19/2022		8/31/2022		BOARD INITIATED ITEM: No
Originator/Prepared by: Leonard Moy Dept: New Car Procurement <div> <div>DocuSigned by:</div> <div>Leonard Moy</div> <div>DD573FE7DCF84CE...</div> </div> Signature/Date: 8/26/2022		General Counsel <div> <div>DocuSigned by:</div> <div>Jana Balan</div> <div>F8FD7B3A73E74E8...</div> </div> 8/29/2022 []	Controller/Treasurer <div> <div>DocuSigned by:</div> <div>Chris Gan</div> <div>EE11C8CEEEA04FD...</div> </div> 8/26/2022 []	District Secretary <div> <div>DocuSigned by:</div> <div>Shane Edwards</div> <div>8128A2EB2F014F3...</div> </div> []
		BARC <div> <div>DocuSigned by:</div> <div>Shane Edwards</div> <div>8128A2EB2F014F3...</div> </div> 8/29/2022 []		

Change Orders to Agreements No. 6M3223 and No. 6M3224 for Vehicle Engineering Consultant Services for BART Revenue Vehicle Projects, for Period of Performance (Time Extension)

PURPOSE:

To authorize the General Manager to execute Change Orders to Agreements No. 6M3223 with Jacobs (CH2M Hill) and No. 6M3224 with Hatch LTK Consulting Services, Inc. (LTK) extending the period of performance for each agreement by five years to ensure continued Vehicle Engineering Consultant Services support for BART Revenue Vehicle Projects.

DISCUSSION:

On February 14, 2013, the Board authorized award of Agreements No. 6M3223 and No. 6M3224 for a period of performance of ten years in the amount of \$25,000,000, each. A competitive Request for Proposal process was initiated by the District and four proposals were submitted for two agreements. Based on a best value analysis, the District awarded the two agreements to CH2M Hill and LTK.

CH2M Hill was acquired by Jacobs Engineering Group in December 2017. LTK merged with Hatch Engineering in November 2021 to become Hatch LTK. However, both consultants have retained the personnel that are working on these on-call agreements.

These on-call agreements were awarded solely for the support of the District's new car ("Fleet of the Future") procurement Contract No. 40FA-110 ("railcar procurement contract") and were each executed for a 10 year duration to coincide with the expected project schedule for the new car contract. The intent was to have vehicle engineering consultant services available to the District for the life of the new car procurement to assure adequate

coverage with engineering and inspection services and to maintain continuity of resources and knowledge. It was anticipated that the 10 year period would be sufficient to support the procurement process of new Fleet of the Future vehicles without an interruption of support.

Due to the slower than anticipated delivery and acceptance of the new railcars, utilization of these agreements has been lower than anticipated at the time of award. As of June 30, 2022, \$19.6 Million has been committed to Agreement No. 6M3223 and \$8.8 Million has been committed to Agreement No. 6M3224. Discontinuance of these consultants on this critical project, at this time, would be disruptive to orderly project progress. Staff has concluded that it is in the District's best interest to extend the term of the agreements for five years each to ensure continued support of this critical project. Staff requests a five year time extension only and anticipates no need for changes to the original Board authorized commitment levels.

Continuity in Design services during the production, testing, and commissioning is vital to ensure the rail vehicles are manufactured and tested per specifications within stringent tolerances that will facilitate the success of this procurement. Many of the services needed to support the railcar procurement contract are specialized in nature or require substantial amounts of training and knowledge of the processes as well as the history of design development for all systems. For instance, the current team includes a mechanical engineer with a PhD from the Massachusetts Institute of Technology who was involved in the vehicle design process since the beginning of the project and has been instrumental in the approval of all structural designs and calculations. This knowledge is vital for current process control variation and discussions based on historical knowledge of the vehicle structural design development. There are also experts in software design who have helped to navigate network development, software handoffs, Institute of Electrical and Electronics Engineers (IEEE) and Sil 4 requirements of the railcar procurement contract. Possessing this knowledge of the development and design available for any discussion in this area is vital to the continuity of the railcar procurement contract.

Agreement Nos. 6M3223 and 6M3224 also cover inspection services in Mexico and the east coast, which are otherwise difficult to find. The inspectors for the car body and car structure for the Fleet of the Future vehicles need to be certified weld inspectors (CWI). Once qualified CWI inspectors are located and hired, they undergo a substantial amount of training due to the specialized aluminum railcar body requirements, which are difficult to weld and detect for defects compared to steel. The CWIs have been with the on-call agreement team since the beginning of the railcar project and have in-depth knowledge of where problems can arise and what to look for. Having to find new CWIs under a new on-call agreement would cause significant delays for the railcar procurement project. In addition, the vehicle supplier has had trouble obtaining and maintaining qualified welders that can perform aluminum welding.

Staff certifies that this Change Order is consistent with the sole source procurement requirements provided under Federal Transit Administration (FTA) Circular 4220.1F, which

states that a recipient of FTA funding can make a sole source award under certain circumstances, including where “Substantial Duplication Costs” and “Unacceptable Delay” would preclude competitive award to the recipient. Here the personnel performing under these current on-call agreements are specially trained, familiar, and uniquely experienced with the Fleet of the Future vehicle development process that is currently underway. A competitive procurement of new on-call consultants to perform identical roles would lead to ‘substantial duplication costs’ to train new consultant personnel and bring them up to speed on the Fleet of the Future railcar and its development and inspection processes. In addition, such a process to procure a new firm and train firm personnel would lead to ‘unacceptable delays’ to the Fleet of the Future railcar project schedule. Thus, such an amendment to extend the on-call agreements would be justified under the FTA Circular rules.

The Office of the General Counsel will review and approve the Change Order as to form. The Procurement department will review the Change Order to ensure compliance with its internal procedures.

FISCAL IMPACT:

None. Time extension only.

ALTERNATIVES:

One: Initiate a new procurement for Vehicle Engineering Consultant Services for BART Revenue Vehicle Projects. Implementation of this alternative would, however, result in delays which would be both inefficient and costly.

Two: Utilize BART staff. BART does not, however, have available staff members with the required expertise and experience and it would be difficult to hire, train, and maintain such a team without adversely impacting project schedules or budgets.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to execute Change Orders to Agreements No. 6M3223 and No. 6M3224 extending the period of performance by five years to April 30, 2028 and March 31, 2028, respectively.