



Board Agenda Item 55

DATE: May 25, 2021

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: First Amendment to Agreement No. 16-241 with Tetra Tech BAS, Inc. to provide Operation, Maintenance, Monitoring and Regulatory Reporting for Landfill Gas Collection and Control System at American Avenue Disposal Site.

RECOMMENDED ACTION(S):

- 1. Find that specialized engineering services are required in order to maintain Landfill Gas Collection and Control System operations throughout the forthcoming Phase I Waste Relocation Project at American Avenue Disposal Site, which justifies application of a judicially recognized exception to competitive bidding requirements to allow performance of certain subsurface excavation activities as part of the extra services work added by the proposed amendment.**
- 2. Approve and authorize Chairman to execute a First Amendment to Agreement No. A-16-241 with Tetra Tech BAS, Inc., for its continued operation, maintenance, monitoring and regulatory reporting for the Landfill Gas Collection and Control System at American Avenue Disposal Site, extending the term by two years through May 31, 2023 and increasing the maximum by \$2,881,500 to a total of \$3,725,070.**

Approval of the recommended actions will allow Tetra Tech BAS, Inc. (TTBAS) to continue providing for the operation and maintenance of the Landfill Gas Collection and Control System (LFGCCS) at the American Disposal Site (AADS), and also to provide the additional extra services work identified in the amendment as "Task 6," which would include the performance of certain subsurface excavation activities under a judicially recognized exception to competitive bidding requirements. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

If the recommended actions are not approved, it would severely hinder the County's ability to maintain operational control over the LFGCCS during the forthcoming AADS Phase I Waste Relocation Project, which could result in surface emissions and subsurface migration of landfill gas, which in turn would expose the County to fines of up to \$10,000 per day for violation of regulatory requirements and negatively impact public health and safety.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The AADS is maintained through the AADS Enterprise Fund 0700. Sufficient appropriations and estimated revenues are included in the Department of Public Works and Planning - Resources Org 9026 FY 2020-21 Adopted Budget and will be requested in subsequent budgets for the duration of the extended contract term.

DISCUSSION:

The LFGCCS was constructed in 2003 and Federal and State law mandate the performance of specific maintenance, monitoring and reporting actions on a recurring schedule for landfill gas control systems. The County contracts out the operation and maintenance of the LFGCCS as the mandated testing and monitoring requires the use of expensive, specialized equipment and training not possessed by County staff.

Department staff is recommending that the agreement term be extended for an additional two years, from May 31, 2021 to May 31, 2023 and the contract maximum be increased by \$2,881,500, which will increase the maximum to a total of \$3,725,070. This term extension is intended to provide adequate time for completion of the upcoming Phase I Waste Relocation project, while ensuring against any disruption to the ongoing operation and maintenance of the LFGCCS while that project is in progress.

The Phase I Waste Relocation Project, which Department staff currently anticipates will be advertised no later than September 2021, is a regulatory driven project that will relocate approximately 1.3 million cubic yards (CY) of waste from the original, unlined Phase I landfill unit of AADS. The 1.3 million CY of Phase I waste will be removed and placed on the lined Phase II landfill unit of AADS. The design of the Phase I Waste Relocation project was predicated on a phased fill sequence approach that is coordinated with a temporary LFGCCS design on Phase II. This temporary LFGCCS will allow Phase II landfill gas wells to remain active and online in compliance with the various applicable regulations and permit requirements throughout the duration of the waste relocation work to be performed by the construction contractor. The current Engineer's cost estimate for the Phase I Waste Relocation Project is approximately \$22,000,000. That cost estimate for the construction contractor's work is separate from, and does not include, the preparatory and concurrent work (temporary LFGCCS installation, well monitoring and tuning, data collection, and reporting requirements) that would be performed by TTBAS under the proposed amendment to its LFGCCS operation and maintenance agreement.

It is absolutely vital to ensure that the landfill gas wells in Phase II remain online and tuned during construction of the Phase I Waste Relocation Project, in order to prevent an occurrence of gas migration or surface emissions which would have an adverse effect on public health and safety. Any instances of gas migration or surface emission also would subject AADS to potential fines and penalties for violations that can take years, and often significant expense, in order to mitigate and resolve.

Most of the increase to the extra services amount in this amendment is based on the Engineer's Estimate for the additional work under Task 6, which has been reviewed and approved by the Phase I Waste Relocation design consultant and Engineer of Record, Geo-Logic and Associates (GLA). This additional Task 6 work consists primarily of the performance by TTBAS of the activities required under the LFGCCS Coordination Plan, providing for installation of a temporary landfill gas system in Phase II and subsequent coordination of the process of bringing wells online and taking others offline during the fill sequence process. This will allow the County to maintain control and regulatory compliance of the LFGCCS throughout the duration of the Phase I Waste Relocation Project, which is expected to take between 18-24 months to complete.

Performance of Task 6 Subsurface Work by TTBAS Is Permitted Under A Recognized Exception to Competitive Bidding Requirements

Installation and implementation of the temporary landfill gas system is an essential facet of the LFGCCS Coordination Plan, the purpose of which is to maintain system operations and thereby reduce the potential for surface emissions or subsurface migration of landfill gas, and the resultant detriment to public health and safety, during the course of the waste relocation project.

Some portions of the Task 6 work will involve subsurface operations, to which the statutory definition of a public project applies. The "Task 6" work by TTBAS will include the repositioning of hundreds of lineal feet of gas collection system pipes, which will be sequentially moved out of portions of Phase II, in order to clear the

area for placement of the relocated waste. This preparatory work must be commenced and partially completed even before the prime contractor begins its waste relocation work. The "Task 6" work also will include extending the height of existing extraction wells, so they will not be covered by the relocated waste, and taking wells offline and bringing them back online as appropriate, based on TTBAS' expertise and thorough familiarity with system operations.

While it is the general rule that contracts for public projects awarded by local public agencies are subject to competitive bidding, there are recognized exceptions to that general rule that may be applied on rare occasions under certain circumstances. One of those exceptions is when an emergency requires immediate action, such as a flood or earthquake. Another exception to competitive bidding that is recognized by the courts is where, due to the nature of the contract, a request for competitive proposals would be disadvantageous to the public interest, in view of the purposes intended to be advanced by competitive bidding.

In the current situation, Department staff believes the Task 6 work requires engineering assistance from TTBAS to coordinate efforts between GLA and the prime contractor and to implement, with appropriate adjustments in real time, the temporary modifications to the Phase II landfill gas system during the waste relocation. The LFGCCS Coordination Plan provides a template for the coordinated placement of a temporary landfill gas system and disconnection of the existing system during the waste relocation while continuing LFGCCS operations and compliance with regulatory and permit requirements. Such compliance, in connection with the Waste Relocation Project, is linked to reducing the potential for LFG surface emissions, offsite subsurface migration, and maintaining the operational integrity of the flare station and condensate collection system throughout the duration of waste relocation activities.

It is the belief of staff that it would pose a significant risk to health and safety if any engineering firm other than TTBAS were to implement and conduct the LFGCCS Coordination Plan during the course of the Phase I Waste Relocation Project. Due in large part to the complexity of the process, the continued oversight of TTBAS is critical in maintaining control over LFGCCS operations as wells are brought online and taken offline during the interposition of the temporary LFGCCS. Maintaining the continuity and consistency in regulatory reporting that TTBAS will provide likewise is crucial, from a health and safety as well as the regulatory aspect. This is particularly the case, given that approximately 23 vertical and 15 horizontal collectors will be added to the LFGCCS during this period, which will further increase the complexity of system operations and the requisite regulatory reporting requirements. As noted above, failure to comply with those regulatory operational and reporting requirements can result in the imposition of significant fines which may accrue on a daily basis.

Minimizing the impact of the waste relocation project on the LFGCCS will require skillful management of the system, in order to maintain operations in accordance with all regulatory requirements and consistent with the protection of public health and safety. TTBAS has acquired highly specialized experience by its having operated the system since 2016. As such, TTBAS is thoroughly familiar with all details of its operations, the burdensome state reporting requirements, and the intricacies involved in taking wells offline, including the programming of different settings in determining how much vacuum to be applied to each well. The Department requests that your Board find that the foregoing reasons justify the utilization of that judicially established exception to competitive bidding and approve the recommended amendment to the Agreement with TTBAS.

REFERENCE MATERIAL:

BAI #63 May 24, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - First Amendment to Agreement No.16-241

CAO ANALYST:

Samantha Buck