



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 06-19-06

Approved

Date

6/20/06

COUNCIL DISTRICT: City-Wide

SUBJECT: FIRST AMENDMENT TO THE AGREEMENT WITH THE GORDIAN GROUP, INC. DBA THE MELLON GROUP FOR JOB ORDER CONTRACTING SERVICES

RECOMMENDATION

Approval of the first amendment to the agreement with The Gordian Group, Inc., DBA The Mellon Group (The Gordian Group) for Job Order Contracting services increasing the amount of compensation by \$200,000 for a total agreement amount not to exceed \$300,000, and extending the agreement from August 15, 2007 to August 16, 2008 plus any additional time needed to complete a Job Order already underway.

CEQA: Not a project.

OUTCOME

Approval of this first amendment to the agreement with The Gordian Group allows the City to continue the Job Order Contracting pilot program.

BACKGROUND

Job Order Contracting (JOC) is a project delivery method similar to the on-call construction contract that is used at the Airport for delivering projects in an expeditious and cost effective manner. Individual small to medium size projects in the range of \$100,000 to \$750,000 that are fully budgeted and approved by the Council in the adopted budget are authorized to be delivered under JOC in a manner similar to consultant master agreements. Additionally, JOC is beneficial for performing work on construction projects where there is a disagreement between the City and the General Contractor in determining the value of the work proposed to be completed as part of a change order.

JOC does not set forth a specific project to be completed by the contractor. Rather, individual job orders for small to medium size construction projects are issued that define the work, the schedule, and the compensation for the contractor. The Director of Public Works authorizes these job orders. The City encumbers funds to pay for the work when the job order is issued. Similar to a time and materials contract, compensation under JOC is based upon pre-priced items of construction work that are included in the construction task catalog thus insuring competitive pricing. On June 28, 2005, Council authorized the City Manager to award the JOC Construction Contract 05-01. In July 2005, the City Manager awarded the JOC construction contract to George Bianchi Construction in the amount of \$2,000,000. The JOC construction contract with George Bianchi Construction has a one-year term and provided for the City to issue job orders for up to a maximum amount of \$2,000,000. It provides the City with the right to exercise two separate one-year options, with each option including the authority to issue job orders for up to a maximum amount of \$2,000,000 per year. Thus, if the City were to exercise both option years, the City potentially could issue a maximum of \$6,000,000 worth of job orders over the entire 3 years.

During this pilot program, construction was started on four projects worth approximately \$1,700,000 with approximately \$300,000 reserved for construction contingency. The four projects and their associated Job Order amounts are as follows:

| <u>Project</u> | <u>Project Amount</u> |
|---|-----------------------|
| 1. Fire Stations 5, 10, 14 Upgrade (rear yard improvements) | \$460,054.38 |
| 2. Old FMC Site Building Demolition (three phases) | 1,009,854.84 |
| 3. San José McEnery Convention Center Parking Garage Repair | 96,594.68 |
| 4. Mineta San José International Airport Terminal C Mezzanine Fire Sprinklers | <u>137,102.22</u> |
| TOTAL | \$1,703,606.12 |

To date, \$31,775.11 in construction contingencies has been expended. Consequently, there is approximately \$250,000 remaining of the \$2,000,000 JOC construction contract.

In general, JOC has the potential of time savings, lower construction cost, and reduction in changes and claims for small to medium size projects. In particular, the City has realized construction cost savings for Fire Stations 5, 10, 14 Upgrade and the Old FMC Site Building Demolition Projects. Further, the City has saved time on three of the four projects during the period from Job Order approval to the Notice to Proceed issuance (contract processing period) as compared to other construction projects. With the savings in time and cost realized during the first year period, it is anticipated additional efficiencies and savings may be achieved, as the JOC pilot program is fine tuned by staff. Improved processes and procedures within the program will further enhance the benefits the City may achieve by using JOC.

When the City Council authorized the City Manager to award the JOC Construction Contract, it also authorized the City Manager to exercise the options to extend the contract. Pursuant to that authority and based on the success of the pilot program, Public Works is proposing to amend the JOC construction contract with George Bianchi Construction that exercises the first one-year option. However, to continue the JOC construction contract with George Bianchi Construction, the City needs the ongoing assistance of the Gordian Group.

The Gordian Group assisted the Department of Public Works to implement the JOC pilot program. The Gordian Group has worked with over 75 agencies with the development and implementation of JOC. The Gordian Group helped City staff to customize their JOC management software making it capable to generate JOC forms and documents specific to the City. Additionally, The Gordian Group assisted with the bid process, management software training and overall implementation of the JOC program.

ANALYSIS

On August 16, 2004, the City Manager approved the agreement with The Gordian Group in the amount of \$100,000 for a term of three years. If the City desires to continue with the JOC pilot program, it is not practical to pursue a Request for Proposals at this time because the job order process for the JOC construction contract 05-01 is based on The Gordian Group's software and construction task catalog that consists of over 140,000 pre-priced items. In order to maintain continuity of the pilot JOC program, staff is recommending that The Gordian Group agreement be amended to increase the amount of the agreement by \$200,000 for a total agreement amount not to exceed \$300,000 to accommodate the maximum possible JOC construction contract value of \$6,000,000. Additionally, staff is recommending extension of the agreement for an additional year plus any additional time needed to complete any job order already underway. The time extension is necessary in order to align with the JOC construction contract time frame should the construction contract be extended to its maximum period. After the JOC pilot program is completed, and if it is successful, a Request for Proposal for JOC consulting services will be issued.

Compliance with Local Preference Ordinance

The City's Local Preference Ordinance (Municipal Code Chapter 4.06) requires that the City obtain three competitive proposals, if practicable, on all professional services contracts with a payment amount exceeding \$5,000. For professional services contracts where price is not the determinative factor, proposers that qualify as local business enterprises are to be given a credit equal to five percent of the total points used to determine the most advantageous proposal to the City. Local business enterprises that also qualify as small business enterprises are to be given an additional credit equal to five percent of the total points used to determine the most advantageous proposal to the City.

Unless Council determines that it is not practicable for the City to obtain three competitive proposals, the Local Preference Ordinance requirements apply to consultant agreement amendments such as this proposed first amendment to increase maximum compensation. Staff recommends that Council determine that it is not practicable to obtain three competitive proposals for the additional consultant services included in the proposed first amendment. The pilot JOC program uses the Consultant's software and construction task catalog; therefore, a continuation of the consultant's services is critical to continue the JOC pilot program without any delays.

ALTERNATIVES

One alternative is not to amend this agreement and to pursue a Request for Proposal for JOC consultant services. As a result, the JOC Construction Contract 5-01 would terminate as the construction contract is based upon the existing consultant's prices. Staff would need to re-bid the construction contract after selecting a new consultant. This solicitation process would involve several months of delay and staff expense prior to re-starting the JOC pilot program.

Another alternative is to discontinue the JOC pilot program. However, given the intent to implement and evaluate the JOC pilot program to its fullest extent, it is not practicable to continue without the use of the current JOC Consultant's software.

PUBLIC OUTREACH

On June 28, 2005, the City Council approved staff's recommendation to authorize the City Manager to award JOC Construction Contract 5-01. On September 15, 2005, staff submitted to the Making Government Work Better Committee information regarding JOC as part of its staff report on Process Streamlining.

COORDINATION

This amendment to the agreement and memorandum have been coordinated with the Planning, Building and Code Enforcement Department, City Attorney's Office and City Manager's Budget Office.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$200,000

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2. COST OF AGREEMENT:
- | | |
|-----------------|----------------|
| Agreement | \$100,000 |
| First Amendment | <u>200,000</u> |
| Total | \$300,000 |
3. SOURCE OF FUNDING: Various Capital Funds, encumbered after the individual Job Orders are processed.
4. FISCAL IMPACT: None

BUDGET REFERENCE

Expenditures and encumbrances will be charged to capital appropriations identified after each Job Order is approved under the JOC Construction Contract 05-01.

CEQA

CEQA: Not a project.



KATY ALLEN
Director, Public Works Department

For questions please contact DAVE SYKES, ASSISTANT DIRECTOR, at (408)535-8300.

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