

File No. 110875

Committee Item No. 10  
Board Item No. 17

## COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: September 28, 2011

Board of Supervisors Meeting

Date 10/4/11

### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget & Legislative Analyst Report          |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ethics Form 126                              |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
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### OTHER

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Completed by: Victor Young

Date: Sept 23, 2011

Completed by: Victor Young

Date: 9/29/11

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Management Services Agreement No. CS-963 - Water System Improvement Program Not to  
2 Exceed \$34,000,000]

3 **Resolution authorizing the General Manager of the San Francisco Public Utilities**  
4 **Commission to execute amendments to increase Program Construction Management**  
5 **Services Agreement No. CS-963 for Water System Improvement Program (WSIP)-**  
6 **funded projects with total revised agreement not to exceed \$34,000,000 pursuant to**  
7 **Charter Section 9.118.**

8  
9 WHEREAS, On November 12, 2008, the San Francisco Public Utilities Commission  
10 (SFPUC) awarded Agreement No. CS-963, Program Construction Management Services, and  
11 authorized the General Manager to execute a professional services agreement, in the amount  
12 of \$26,000,000, and with a duration of seven (7) years, concluding on March 7, 2016, with  
13 AECOM USA Inc., subject to Board of Supervisors approval pursuant to Charter Section  
14 9.118; and

15 WHEREAS, this Board of Supervisors adopted Resolution No. 36-09 on February 13,  
16 2009, pursuant to Charter Section 9.118, authorizing this Agreement; and

17 WHEREAS, Amendment No. 1 is being requested for \$8,000,000, increasing the total  
18 not-to-exceed agreement amount to \$34,000,000, and extending the agreement duration by  
19 four (4) months and twenty-two (22) days, for a total agreement duration of seven (7) years,  
20 four (4) months and twenty-two (22) days, to extend program construction management  
21 services to the revised completion date of the Water System Improvement Program (WSIP);  
22 and

23 WHEREAS, A Human Rights Commission (HRC) sub-consulting goal of 11% Local  
24 Business Enterprise (LBE) participation has been established for this agreement; and

1           WHEREAS, Funds for this agreement are available from WSIP project and program  
2 funds; and

3           WHEREAS, On July 12, 2011, by its Resolution No. 11-0131, the SFPUC approved  
4 Amendment No. 1 to Water Enterprise, Water System Improvement Program-funded  
5 Agreement No. CS-963, Program Construction Management Services, with AECOM USA  
6 Inc., to continue program construction management services and extend services to the  
7 revised ending duration of the Water System Improvement Program; and authorized the  
8 General Manager to execute this amendment increasing the agreement by \$8,000,000, for a  
9 total not-to-exceed agreement amount of \$34,000,000, and increasing the agreement duration  
10 by four (4) months and twenty-two (22) days, for a total agreement duration of seven (7)  
11 years, four (4) months and twenty-two (22) days, subject to the Board of Supervisors approval  
12 pursuant to Charter Section 9.118; now, therefore, be it

13           RESOLVED, That this Board of Supervisors hereby approves and authorizes the  
14 General Manager of the SFPUC to execute Amendment No. 1 to Water Enterprise, Water  
15 System Improvement Program-funded Agreement No. CS-963, Program Construction  
16 Management Services, with AECOM USA Inc., to increase the agreement by \$8,000,000 for a  
17 total amount of \$34,000,000, and to increase the agreement duration by four (4) months and  
18 twenty-two (22) days, for a total agreement duration of seven (7) years, four (4) months and  
19 twenty-two (22) days, in substantially the form on file with the Clerk of the Board and in such  
20 final form as approved by the General Manager and the City Attorney.

Items 6, 7, 8, 9 and 10  
Files 11-0870, 11-0871, 11-0872, 11-0874 & 11-0875

Department:  
Public Utilities Commission (PUC)

### EXECUTIVE SUMMARY

#### Legislative Objectives

- File No. 11-0870: The proposed resolution would authorize the General Manager of the San Francisco Public Utilities Commission (PUC) to execute amendments to increase Engineering Project Design Services Agreement No. CS-879A for Water System Improvement Program (WSIP)-funded projects.
- File No. 11-0871: The proposed resolution would authorize the General Manager of the PUC to execute amendments to increase Engineering Project Design Services Agreement No. CS-879B for WSIP-funded projects.
- File No. 11-0872: The proposed resolution would authorize the General Manager of the PUC to execute amendments to increase Engineering Project Design Services Agreement No. CS-879C for WSIP-funded projects.
- File No. 11-0874: The proposed resolution would authorize the General Manager of the PUC to execute amendments to increase Construction Management Services Agreement No. CS-918 for WSIP-funded projects.
- File No. 11-0875: The proposed resolution would authorize the General Manager of the PUC to execute amendments to increase Program Construction Management Services Agreement No. CS-963 for WSIP-funded projects.

#### Key Points

- The PUC is requesting amendments to increase the not-to-exceed amounts for five existing WSIP services agreements: Agreement CS-879A (File 11-0870); Agreement CS-879B (File 11-0871); Agreement CS-879C (File 11-0872); Agreement CS-918 (File 11-0874); and Agreement CS-963 (File 11-0875) and to extend terms for two of the existing WSIP services agreements: Agreement CS-918 (File 11-0874) and Agreement CS-963 (File 11-0875).
- The PUC is requesting the five amendments to adjust for previously unforeseen changes in scale, scope, and timing for their respective WSIP projects.
- According to the PUC, delay or failure to approve the proposed amendments would likely result in (a) delays to the construction for WSIP regional projects (Files 11-0870, 11-0871, and 11-0872); (b) potentially inadequate quality assurance inspections of the tunnel construction and the fabrication of the new pipe for the tunnel (File 11-0874); and (c) a lack of capacity to complete the WSIP as outlined in the June 2011 Revised WSIP proposal recently approved by the PUC (File 11-0875).

#### Fiscal Impact

- The total increased cost of the five increased not-to-exceed amounts is \$17,200,000. The PUC advises that using surplus funds from other previously approved WSIP projects will be used to fund the increased costs of \$17,200,000.

#### Recommendations

- Approve the four proposed resolutions under Files 11-0870, 11-0871, 11-0872, and 11-0874.
- Because the PUC has requested the transfer of responsibilities from one existing agreement, previously awarded through a competitive process, to another existing agreement, also previously awarded through a competitive process, without first conducting a separate additional competitive process, approval of the fifth resolution, File 11-0875, is a policy matter for the Board of Supervisors.

## MANDATE STATEMENT AND BACKGROUND

### Mandate Statement

In accordance with City Charter Section 9.118(b), (a) any contract or agreement that exceeds \$10,000,000 in anticipated expenditures, and (b) any contract amendment that exceeds \$500,000 is subject to Board of Supervisors approval.

### Background

The San Francisco Public Utilities Commission (PUC)'s Water System Improvement Program (WSIP) consists of 81 projects (35 local projects and 46 regional projects) to repair, replace, and seismically upgrade the Hetch Hetchy water system's aging pipelines, tunnels, pumps, tanks, reservoirs and dams. PUC commenced the WSIP in FY 2002-2003 and is scheduled to complete all projects by the end of July 2016. Total estimated costs for the 81 WSIP projects are \$4,585,556,260, including financing costs.

Files No. 11-0870, 11-0871, and 11-0872

On October 9, 2007, as the result of a competitive Request for Qualifications (RFQ) process, PUC awarded four separate agreements with identical scopes to provide as-needed engineering design services for WSIP projects. Three of the agreements are germane to this report:

- o The Sunol Valley Water Treatment Plant (SVWPT) Expansion and Treated Water Reservoir (TWR) and the Tesla Treatment Facility (File 11-0870)
- o Seismic Upgrade of Bay Division Pipeline Nos. 3&4 at Hayward Fault Crossing; Crystal Springs/San Andreas Transmission Upgrade; and Lower Crystal Springs Dam Improvements; SVWTP Expansion and TWR (File 11-0871)
- o Harry Tracy Water Treatment Plant Long Term Improvements and the Regional and San Francisco Groundwater projects (File 11-0872)

Each of the three engineering design services agreements was for a not-to-exceed amount of \$9,000,000, and each had a term of seven years, from December 7, 2007 through December 6, 2014. Because each of the three agreements was under the \$10,000,000 threshold established in Charter Section 9.118(b), these agreements were not subject to approval by the Board of Supervisors. However, on October 20, 2009, the Board of Supervisors approved amendments to increase each of the three agreements' not-to-exceed amounts above \$10,000,000 (File 09-1068), as summarized in Table 1 below:

**Table 1: Summary of Three Engineering Project Design Service Agreements**

| File Nos. | Contract No. | Contractor                         | Original Not-to-Exceed Amount | Amended Not-to-Exceed Amount* |
|-----------|--------------|------------------------------------|-------------------------------|-------------------------------|
| 11-0870   | CS-879A      | MWH/AGS/Lee Inc. (a Joint Venture) | \$9,000,000                   | \$11,000,000                  |
| 11-0871   | CS-879B      | URS Corporation                    | \$9,000,000                   | \$14,000,000                  |
| 11-0872   | CS-879C      | Kennedy/Jenks Consultants          | \$9,000,000                   | \$13,800,000                  |

\* Approved by the Board of Supervisors on October 20, 2009 (File 09-1068).

File No. 11-0874

Based on a competitive Request for Proposals (RFP) process, and as previously approved by the Board of Supervisors on August 11, 2009 (File 09-0869), on September 1, 2009, the PUC entered into an agreement with Hatch Mott MacDonald to provide construction management services for the New Irvington Tunnel Project for a not-to-exceed amount of \$15,000,000 with a term of up to five years, from August 1, 2009 through July 31, 2014.

The existing Irvington Tunnel, which connects the water collected from the Sierra Nevada mountains and the Alameda Watershed to the Bay Area water distribution pipelines, was completed in 1930 and has served a steadily increasing number of Bay Area water customers to the point where the Tunnel cannot be taken out of service for repairs or maintenance without impacting the water supply to existing Bay Area water customers. In addition, the eastern end of the Irvington Tunnel is within 2,000 feet of the Calaveras Fault, such that a major earthquake along the Calaveras Fault or any of the smaller nearby faults could result in significant structural damage to the existing Tunnel.

The New Irvington Tunnel Project involves (a) constructing a second Irvington Tunnel, from the Alameda West Portal<sup>1</sup> to the Irvington Portal in the City of Fremont, and (b) replacing the existing Alameda West Portal and Irvington Portal with new, more seismically reliable portals. The New Irvington Tunnel will allow for the shut down and repair of the existing Irvington Tunnel and will improve the seismic reliability of this section of the Hetch Hetchy Water System.

File No. 11-0875

Based on a competitive RFP process, and as previously approved by the Board of Supervisors on February 3, 2009 (File 08-1536), on March 8, 2009, the PUC entered into a seven-year agreement, extending from March 8, 2009 through March 7, 2016 with AECOM USA Inc. (AECOM) for AECOM to provide overall program construction management services to the PUC WSIP for a not-to-exceed amount of \$26,000,000. Under this agreement, AECOM's overall program construction management services include (a) oversight of the regional and project-specific construction management teams, (b) quality assurance oversight and management, (c) oversight of construction contractor compliance with the WSIP safety plan, (d) implementation (including training and technical support to PUC staff and other WSIP consultants) of the construction controls information system, and (e) administrative oversight of construction contracts.

**DETAILS OF PROPOSED LEGISLATION**

The five proposed resolutions would authorize the General Manager of the San Francisco Public Utilities Commission (PUC) to execute amendments to existing agreements to increase the not-to-exceed amounts for five Water System Improvement Program (WSIP) service agreements and to extend the terms for two of the five existing WSIP service agreements, as summarized in Table 2 below.

<sup>1</sup> Portals are the connections at the entrance and exit of a tunnel.

Table 2: Summary of Five Proposed Service Agreement Amendments

| File No. | Agreement  | Contractor                         | Proposed Term Extension | Existing Agreement Not-to-Exceed Amount | Proposed Amendment Not-to-Exceed Amount | Proposed Not-to-Exceed Increase | Percent Increase | Average Hourly Billing Rate | Additional Services (in hours) | Additional FTEs* |
|----------|--|------------------------------------|-------------------------|---|---|---------------------------------|------------------|-----------------------------|--------------------------------|------------------|
| 11-0870  | Engineering Project Design Services, Agreement No. CS-879A | MWH/AGS/Lee Inc. (a Joint Venture) | None                    | \$11,000,000                            | \$14,000,000                            | \$3,000,000                     | 27.3%            | \$127.44                    | 7,600                          | 3.10             |
| 11-0871  | Engineering Project Design Services, Agreement No. CS-879B | URS Corporation                    | None                    | 14,000,000                              | 15,000,000                              | 1,000,000                       | 7.1%             | \$116.00                    | 7,600                          | 1.13             |
| 11-0872  | Engineering Project Design Services, Agreement No. CS-879C | Kennedy/Jenks Consultants          | None                    | 13,800,000                              | 16,500,000                              | 2,700,000                       | 19.6%            | \$144.56                    | 7,600                          | 2.46             |
| 11-0874  | Construction Management Services, Agreement No. CS-918     | Hatch Mott MacDonald               | 1 year                  | 15,000,000                              | 17,500,000                              | 2,500,000                       | 16.7%            | \$156.10                    | 9,500                          | 5.39             |
| 11-0875  | Construction Management Services, Agreement No. CS-963     | AECOM USA, Inc.                    | 4 months, 22 days       | 26,000,000                              | 34,000,000                              | 8,000,000                       | 30.8%            | \$119.04                    | 4,750                          | 4.42             |
|          |  | <b>Total</b>                       |                         | <b>\$79,800,000</b>                     | <b>\$97,000,000</b>                     | <b>\$17,200,000</b>             | <b>21.6%</b>     |                             |                                |                  |

\* Full-time Equivalencies

Source: PUC.

As shown in Table 2 above, two of the proposed amendments would extend the agreement term. File 11-0874 would extend the agreement between the PUC and Hatch Mott MacDonald by one year (from its current term of five years from August 1, 2009 through July 31, 2014 to a new term of six years from August 1, 2009 through July 31, 2015). File 11-0875 would extend the agreement between the PUC and AECOM by four months and 22 days (from its current term of seven years, from March 8, 2009 through March 7, 2016 to a new term of seven years, four months, and 22 days, from March 8, 2009 through July 29, 2016).

The reasons for the requested increased amounts for the five existing agreements and for the requested extended terms of two of those five agreements are explained below.

#### File 11-0870

According to Ms. Kathryn How of the PUC, the proposed \$3,000,000 increase to the Engineering Project Design Services Agreement with MWH/AGS/Lee Inc. (Joint Venture), from \$11,000,000 to \$14,000,000 is for new engineering services to relocate underground utilities and provide additional geotechnical engineering support during construction for the Sunol Valley Water Treatment Plant Expansion (SVWTP) and Treated Water Reservoir (TWR) Project. Ms. How advises that the proposed amendment is necessary for three reasons: (1) a major scoping change involving the replacement of chemical tanks and chemical boilers; (2) relocation of undocumented underground utilities; and (3) additional geotechnical engineering support due to unforeseen soil conditions.

#### File 11-0871

According to Ms. How, the proposed \$1,000,000 increase to Engineering Project Design Services Agreement with URS Corporation, from \$14,000,000 to \$15,000,000 will provide ongoing engineering services related to four WSIP projects: (1) additional seismic engineering design services for the Seismic Upgrade of Bay Division Pipeline Nos. 3 & 4 Project; (2) additional geotechnical engineering support during construction of the Crystal Springs/San Andreas Transmission Upgrade Project; (3) additional engineering services to address unforeseen conditions associated with the micro-tunneling work required for SVWTP Expansion and TWR Project; and (4) additional support needed to address California Division of Safety of Dam requirements for the Lower Crystal Springs Dam Improvement Project.

#### File 11-0872

According to Ms. How, the proposed \$2,700,000 increase to the Engineering Project Design Services Agreement with Kennedy/Jenks Consultants, from \$13,800,000 to \$16,500,000, will provide ongoing and additional engineering services that are necessary due to the expanded design scopes and construction schedule associated with the Harry Tracy Water Treatment Plant Project, and provide Groundwater Modeling and Test Well installation support for the Regional Groundwater Storage and Recovery and San Francisco Ground Water Supply Projects.



File 11-0874

According to Ms. Julie Labonte of the PUC, the proposed \$2,500,000 increase and one-year extension to the New Irvington Tunnel Construction Management Services Agreement with Hatch Mott MacDonald, from \$15,000,000 to \$17,500,000, will provide ongoing services for quality assurance inspections and construction phase services. Additionally, the proposed amendment would increase the current agreement term end-date by one year, from July 31, 2014 to July 31, 2015. According to Mr. Carlos Jacobo, PUC Budget Director,

“The increase in construction management is due to additional costs for additional oversight and inspection to cover extended night shift work at multiple tunnel headings, and specialty inspection of installation of the steel tunnel lining alternative selected by the contractor. Based on unforeseen and more challenging field geotechnical conditions, the tunnel production rate is slower than the projected production rate. Furthermore, the ongoing services needed under this amendment consist of quality assurance inspections and various construction phase services related to the addition of 15,000 linear feet of new welded steel pipe liner for the tunnel.”

File 11-0875

According to Mr. E. Harvey Elwin of the PUC, the proposed \$8,000,000 increase and four month, 22 day extension to the WSIP Construction Management Agreement with AECOM will provide ongoing construction management services and extend services through the WSIP completion date, which was recently revised from March 2016 to July 2016. The proposed amendment would change the current agreement term end-date from March 7, 2016 to July 29, 2016. Mr. Elwin notes that the cost for the additional work to be performed during the requested extended term of four months and 22 days accounts for an estimated \$3,000,000 of the proposed \$8,000,000 increase to the agreement.

Under the proposed amended agreement, AECOM would also be taking on tasks previously performed by Parsons Water & Infrastructure Inc. (see Policy Considerations, below). These tasks account for the remaining estimated \$5,000,000 of the proposed \$8,000,000 amendment, and include risk management, supplier quality surveillance, and dispute resolution and partnering tasks.

## FISCAL IMPACTS

As shown in Table 3 below, the total of the five proposed agreement amendments would result in a new total not-to-exceed amount of \$97,000,000, which is an increase of \$17,200,000, or 21.6 percent, above the existing not-to-exceed amounts which total \$79,800,000. All five of the agreements were awarded through a competitive process. The funding source for these agreements, including the requested increased amounts, is PUC Water Revenue Bonds.

**Table 3: Summary of Five Proposed Increases to Agreement Not-to-Exceed Amounts**

| File No.     | Contract No. | Existing Agreement Not-to-Exceed Amount | Proposed Amendment Not-to-Exceed Amount | Increase            | Percent Increase |
|--------------|--------------|---|---|---------------------|------------------|
| 11-0870      | CS-879A      | \$11,000,000                            | \$14,000,000                            | \$3,000,000         | 27.3%            |
| 11-0871      | CS-879B      | 14,000,000                              | 15,000,000                              | 1,000,000           | 7.1%             |
| 11-0872      | CS-879C      | 13,800,000                              | 16,500,000                              | 2,700,000           | 19.6%            |
| 11-0874      | CS-918       | 15,000,000                              | 17,500,000                              | 2,500,000           | 16.7%            |
| 11-0875      | CS-963       | 26,000,000                              | 34,000,000                              | 8,000,000           | 30.8%            |
| <b>Total</b> |              | <b>\$79,800,000</b>                     | <b>\$97,000,000</b>                     | <b>\$17,200,000</b> | <b>21.6%</b>     |

The PUC is proposing to use surplus funds from other existing WSIP projects to fund the \$17,200,000 in increased costs for the five subject existing agreements. Table 4 below identifies the other existing WSIP projects from which surplus funds would be used to fund the increased costs of the five subject existing agreements.

**Table 4: Funding Sources for the Five Proposed Agreement Amendments**

| File No.      | Proposed Increase to Existing Agreements | Funding Source (Surplus from Other WSIP Projects)                                 | Amount              |
|---------------|--|---|---------------------|
| 11-0870       | \$3,000,000                              | CUW38101 Sunol Valley Water Treatment Plant Expansion and Treated Water Reservoir | \$3,000,000         |
| 11-0871       | \$1,000,000                              | CUW35302 Seismic Upgrade of Bay Division Pipeline Nos. 3&4                        | \$385,000           |
|               |  | CUW37101 Crystal Springs/San Andreas Transmission Upgrade                         | \$305,000           |
|               |  | CUW38101 Sunol Valley Water Treatment Plant Expansion and Treated Water Reservoir | \$200,000           |
|               |  | CUW35401 Lower Crystal Springs Dam Improvement                                    | \$110,000           |
| 11-0872       | \$2,700,000                              | CUW36701 Harry Tracy Water Treatment Plant Long Term Improvement Project          | \$1,700,000         |
|               |  | CUW301 Regional and San Francisco Groundwater Projects                            | \$1,000,000         |
| 11-0874       | \$2,500,000                              | CUW35901 New Irvington Tunnel   | \$2,500,000         |
| 11-0875       | \$8,000,000                              | CUW39201 Program Management Project   | \$8,000,000         |
| <b>TOTALS</b> | <b>\$17,200,000</b>                      |   | <b>\$17,200,000</b> |

## POLICY CONSIDERATIONS

### **Delay or Inaction on the Five Proposed Amendments Would Likely Delay or Affect the Quality Assurance of WSIP Projects**

According to PUC managers, delay or inaction on the proposed agreement amendments would have detrimental impacts on WSIP projects.

- File 11-0870, 11-0871, and 11-0872 - According to Ms. How, inaction on the proposed amendments to increase the engineering design service agreements “will likely result in delays to the construction for several WSIP regional projects.”
- File 11-0874 - According to Ms. Labonte, without the proposed increase in funding and extension of the agreement for construction management services, PUC would potentially have inadequate quality assurance inspections of the New Irvington Tunnel construction and the fabrication of the new pipe for the Tunnel.
- File 11-0875 - According to Mr. Elwin, a delay in amending the proposed agreement would “result in a lack of capacity to complete the WSIP as outlined in the June 2011 Revised WSIP proposal.”

### **The Amendment to the Construction Management Contract with AECOM Includes Responsibilities Previously Completed by a Different Contractor**

Under the proposed amendment to Agreement No. CS-963 (File 11-0875) between the PUC and AECOM USA Inc. (AECOM), AECOM would add tasks previously assigned to another PUC contractor, Parsons Water & Infrastructure Inc. (PWI). These tasks, which include risk management, supplier quality surveillance, and dispute resolution and partnering tasks, account for an estimated \$5,000,000 of the proposed \$8,000,000 amendment with AECOM.

According to Mr. Surinderjeet Bajwa, Manager of the PUC Project Management Bureau and Deputy Director of WSIP Pre-Construction,

“The Parsons Water & Infrastructure (PWI) scope addressed mostly pre-construction Program level scope items and few construction level scope items. In this reassignment the program construction management services scope of work addressing risk management, supplier quality surveillance (SQS), and dispute resolution and partnering (with construction management teams and construction contractors) that were previously provided by Parsons Water & Infrastructure under the Program Project Pre-Construction Management Services agreement are now going to be performed by AECOM. The reason of this realignment is that since the WSIP program is predominantly in construction phase and the above listed services are construction oriented, and since AECOM is the program Construction Management Consultant thus it should handle all the construction related items.”

Mr. Bajwa adds that both PWI and AECOM are equally capable of fulfilling the responsibilities to be added to AECOM’s agreement with the PUC, but that having AECOM fulfill the

responsibilities, instead of PWI, will streamline PUC's transition of the program from pre-construction to construction activities. However, the PUC has proposed transferring these responsibilities from PWI's existing agreement, which was awarded through a competitive process, to AECOM's existing agreement, which was also awarded through a competitive process, without first conducting an additional competitive process. According to Mr. Bajwa, the PUC believes that due to the highly specialized nature of the work, it would be more costly for the PUC to conduct another competitive process than to have those responsibilities added to the AECOM agreement.

## RECOMMENDATIONS

1. Approve the four proposed resolutions under Files 11-0870, 11-0871, 11-0872, and 11-0874.
- 2.B Because the PUC has requested the transfer of responsibilities from one existing agreement, previously awarded through a competitive process, to another existing agreement, also previously awarded through a competitive process, without first conducting a separate additional competitive process, approval of the fifth resolution, File 11-0875, is a policy matter for the Board of Supervisors.



**AGENDA ITEM**  
**Public Utilities Commission**  
*City and County of San Francisco*



DEPARTMENT Infrastructure AGENDA NO. \_\_\_\_\_  
 MEETING DATE July 12, 2011

**Professional Services Amend: Regular Calendar**  
**Project Manager: E. Harvey Elwin**

**Agreement No. CS-963, Amendment No 1, San Francisco Water System Improvement Program – Program Construction Management Services**

|  |  |
|--|--|
| <p><b>Summary of Proposed Commission Action:</b></p>             | <p><b>Approve Amendment No. 1 to Water Enterprise, Water System Improvement Program (WSIP)-funded Agreement No. CS-963, Program Construction Management Services for the Water System Improvement Program (WSIP), with AECOM USA Inc., for extended construction management services consistent with the June 2011 Revised WSIP proposal to be presented to this Commission for approval on July 12, 2011; and authorize the General Manager to execute this amendment increasing the agreement by \$8,000,000, for a total not-to-exceed agreement amount of \$34,000,000, and increasing the agreement duration by four (4) months and twenty (22) days, for a total agreement duration of seven (7) years, four (4) months and twenty-two (22) days, subject to the Board of Supervisors approval pursuant to Charter Section 9.118.</b></p>                  |
| <p><b>Background &amp; Description of Scope of Services:</b></p> | <p><b><u>Amendment No 1 to Agreement No. CS-963: Program Construction Management Services</u></b></p> <p>Agreement No. CS-963 with AECOM USA Inc. was awarded on November 12, 2008, for a value of \$26,000,000 million, and with a duration of seven (7) years. The services under this agreement were needed to provide experienced senior construction management personnel at the program level to assist the WSIP Deputy Director for Construction to oversee and manage the WSIP Construction Program. The work under the agreement consists of providing experienced senior construction management personnel in the functional areas of construction safety, construction management operations, construction contract management, construction quality assurance/quality control, and construction program controls to ensure that the WSIP program</p> |

**APPROVAL:**

DEPARTMENT / BUREAU \_\_\_\_\_  
 COMMISSION SECRETARY Mike Housh

FINANCE Todd L. Rydstrom  
 GENERAL MANAGER Ed Harrington

construction management objectives and requirements are achieved.

Amendment No. 1 will increase the agreement by \$8,000,000 for a total not-to-exceed agreement amount of \$34,000,000, and will extend the agreement by four (4) months and twenty-two (22) days to July 29, 2016, in order to allow for the continuation of program construction management services and to extend services through the WSIP's revised completion date.

Originally, program construction management services were projected to be required into early 2015. However, under the June 2011 Revised WSIP proposal to be presented to this Commission for approval on July 12, 2011, program construction management services, are now projected to be required until the middle of 2016. The cost for extending senior construction management personnel at the forecasted level of effort required to complete the program under this amendment account for \$3,000,000 of the total \$8,000,000 of the proposed amendment value.

Specifically, the program management services that are being extended under this amendment include:

- program construction management and support services;
- program construction quality assurance management services;
- program construction safety services;
- program construction controls management services;
- program construction contract management services;
- program construction operation management services; and
- construction scheduling support services.

Program construction management services for risk management, supplier quality surveillance (SQS), and disputes review board/partnering that were previously provided by Parsons Water & Infrastructure Inc. under the Program Project Pre-Construction Management Services agreement are now going to be performed by AECOM. The cost associated with these program management services under this amendment account for \$5,000,000 of the total \$8,000,000 of the proposed amendment.

Specifically, the supplemental construction management services to be performed under this amendment include:

- risk management services;
- supplier quality surveillance services;
- dispute review board/partnering coordination services; and
- shutdown water operations support services.

These extended and augmented services are necessary to continue effective management of the WSIP Construction Program through the

|  |  |
|--|--|
|  | WSIP completion date of July 29, 2016.   |
| <b>Result of Inaction:</b>   | A delay in amending this agreement will result in a lack of capacity to complete the WSIP as outlined in the June 2011 Revised WSIP proposal.  |
| <b>Budget &amp; Costs:</b>   | <p><b>Original Not-To-Exceed Amount:</b> \$26,000,000</p> <p><b>Amendment No. 1 Not-To-Exceed Amount:</b> \$8,000,000</p> <p><b>Total Not-To-Exceed Amount:</b> \$34,000,000</p> <p><b>Funding:</b> Program and project- specific WSIP funds</p> |
| <b>Schedule:</b>   | <p><b>Original Duration:</b> 7 years</p> <p><b>Amendment No. 1 Duration:</b> 4 months and 22 days</p> <p><b>Total Duration:</b> 7 years, 4 months and 22 days</p>  |
| <b>Compliance With Chapter 14B: Local Business Enterprise (LBE) and Non-Discrimination in Contracting Ordinance:</b> | A Human Rights Commission (HRC) sub-consulting goal of 11% Local Business Enterprise (LBE) participation has been established for this agreement. AECOM is on track to meet the LBE subconsulting goal.  |
| <b>Recommendation:</b>   | SFPUC staff recommends that the Commission adopt the attached resolution.  |
| <b>Attachments:</b>  | <ol style="list-style-type: none"> <li>1. SFPUC Resolution</li> <li>2. HRC memo</li> </ol>   |

**PUBLIC UTILITIES COMMISSION**

City and County of San Francisco

RESOLUTION NO. 11-0131

WHEREAS, On November 12, 2008, this Commission awarded Water Enterprise, Water System Improvement Program-funded Agreement No. CS-963, Program Construction Management Services, and authorized the General Manager to execute a professional services agreement, in the amount of \$26,000,000, and with a duration of seven (7) years, concluding on March 7, 2016, with AECOM USA Inc., subject to Board of Supervisors approval pursuant to Charter section 9.118; and

WHEREAS, on February 3, 2009, pursuant to Resolution No.36-09, approval for Agreement No. CS-963 was obtained from the San Francisco Board of Supervisors; and

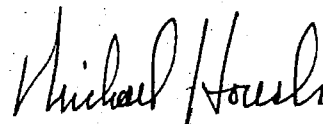
WHEREAS, Amendment No. 1 is being requested for \$8,000,000, increasing the total not-to-exceed agreement amount to \$34,000,000, and extending the agreement duration by four (4) months and twenty-two (22) days, for a total agreement duration of seven (7) years, four (4) months and twenty-two (22) days, to extend program construction management services to the revised end of the Water System Improvement Program (WSIP); and

WHEREAS, A Human Rights Commission (HRC) sub-consulting goal of 11% Local Business Enterprise (LBE) participation has been established for this agreement; and

WHEREAS, Funds for this agreement are available WSIP project and program funds; now, therefore, be it

RESOLVED, That this Commission hereby approves Amendment No. 1 to Water Enterprise, Water System Improvement Program-funded Agreement No. CS-963, Program Construction Management Services, with AECOM USA Inc., to continue program construction management services and extend services to the revised ending duration of the Water System Improvement Program; and authorizes the General Manager to execute this amendment increasing the agreement by \$8,000,000, for a total not-to-exceed agreement amount of \$34,000,000, and increasing the agreement duration by four (4) months and twenty-two (22) days, for a total agreement duration of seven (7) years, four (4) months and twenty-two (22) days, subject to the Board of Supervisors approval pursuant to Charter Section 9.118.

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of* July 12, 2011



Secretary, Public Utilities Commission





Edwin M. Lee  
**Mayor**

Contract Compliance  
 Dispute Resolution/Fair Housing  
 Small and Micro Local Business Enterprise  
 Lesbian Gay Bisexual Transgender & HIV Discrimination

Theresa Sparks  
 Executive Director

**MEMORANDUM**

Date: June 29, 2011

To: Harvey Elwin, Project Manager, SFPUC  
 Alaric Degrafinried, Contract Manager, SFPUC

From: Bayard Fong, Contract Compliance Officer, HRC

Subject: Amendment CS-963, San Francisco Water System Improvement Program -  
 Program Construction Management Services

SFPUC has requested to amend the above referenced contract to increase the dollar amount of the contract by \$8,000,000 (the "Increase") increasing the amount of the current contract from \$26,000,000 (the "Amendment One") to \$34,000,000 (the "Amendment").

The original LBE participation goal for this contract was set at 11%. The original HRC Form 2A submitted by the prime, AECOM, reflected a LBE participation in the amount of 11%. The established LBE participation goals reflected on AECOM's original HRC Form 2A are stated as follows:

| <b>LBE Consultant</b>          | <b>Portion of Work</b>            | <b>% of Work</b> |
|--------------------------------|-----------------------------------|------------------|
| Effective Management Solutions | Solutions Construction Operations | 6.2%             |
| Hollins Consulting             | Traffic & Utility Coordination    | 1.0%             |
| Marina Dee Design              | Graphics and PowerPoint           | 1.0 %            |
| Marinship Development Interest | Administrative Assistance         | 1.0%             |
| Water Resources Engineering    | Emergency Response Planning       | 0.8%             |
| WAU & Company                  | Environmental/HazMat              | 1.0%             |
| <b>TOTAL</b>                   |                                   | <b>11%</b>       |

Pursuant to email communication and documents submitted by John Kinneen, as of June 29, 2011, the budget expended to date is \$8,809,942. AECOM has achieved LBE participation totaling \$1,274,717, or 14.5%. The LBE participation achieved to date is listed as follows:



25 Van Ness Avenue  
 Suite 800  
 San Francisco  
 California 94102-6033



TEL (415) 252-2500  
 FAX (415) 431-5764  
 TDD (415) 252-2550  
[www.sfgov.org/site/sfhumanrights](http://www.sfgov.org/site/sfhumanrights)



| LBE consultant                 | Service                           | Participation to date |                    |
|--------------------------------|-----------------------------------|-----------------------|--------------------|
|                                |                                   | percent               | dollars            |
| Effective Management Solutions | Solutions Construction Operations | 11.4%                 | \$1,005,064        |
| Hollins Consulting             | Traffic & Utility Coordination    | 0%                    | \$0                |
| Marina Dee Design              | Graphics and PowerPoint           | <0.1 %                | \$748              |
| Marinship Development Interest | Administrative Assistance         | 3.0%                  | \$268,905          |
| Water Resources Engineering    | Emergency Response Planning       | 0%                    | \$0                |
| WAU & Company                  | Environmental/HazMat              | 0%                    | \$0                |
|                                |                                   |                       |                    |
| <b>TOTAL</b>                   |                                   | <b>14.5%</b>          | <b>\$1,274,717</b> |

Pursuant to email communications and documents provided by John Kinneen, taking into consideration the increase and the current Contract Amount, in the aggregate, AECOM's estimated LBE participation based on a budget of \$34,000,000 is as follows:

| <u>LBE Consultant</u>          | <u>Portion of Work</u>            | <u>Proposed LBE%</u> | <u>Proposed LBE Dollars</u> |
|--------------------------------|-----------------------------------|----------------------|-----------------------------|
| Effective Management Solutions | Solutions Construction Operations | 14%                  | \$4,614,489                 |
| Hollins Consulting             | Traffic & Utility Coordination    | 1%                   | \$260,000                   |
| Marina Dee Design              | Graphics and PowerPoint           | 1 %                  | \$260,000                   |
| Marinship Development Interest | Administrative Assistance         | 3%                   | \$994,540                   |
| Water Resources Engineering    | Emergency Response Planning       | .8%                  | \$208,000                   |
| WAU & Company                  | Environmental/HazMat              | 1%                   | \$260,000                   |
| Westland Management Solutions  | Project Controls                  | 2%                   | \$600,124                   |
| <b>TOTAL</b>                   |                                   | <b>21.2%</b>         | <b>\$7,197,153</b>          |

In order to ensure compliance with the LBE ordinance and requirements, AECOM and PUC must notify HRC of any changes to the scope of work, as well as any changes to any information provided to HRC. As such, HRC approves this amendment.

I can be reached at (415) 554-3103 should you have any questions concerning the above, or if I can be of any further assistance.

Cc: Veronica Ng, SFPUC  
Nicole Truax, SFPUC  
John Kinneen, AECOM



**City and County of San Francisco  
San Francisco Public Utilities Commission  
Contract Administration Bureau  
1155 Market Street, 9<sup>th</sup> Floor  
San Francisco, California 94103**

**First Amendment between the City and County of San Francisco  
(through the San Francisco Public Utilities Commission)  
and  
AECOM USA, Inc.  
CS-963**

THIS AMENDMENT (this "Amendment") is made as of **August 1, 2011**, in San Francisco, California, by and between **AECOM USA, Inc.** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through the San Francisco Public Utilities Commission.

**RECITALS**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period through the revised completion date for the Water System Improvement Program ("WSIP"), increase the Agreement not-to-exceed amount, supplement the scope of services consistent with the general scope of the Agreement, and update standard contractual clauses; and

WHEREAS, on July 12, 2011, per Resolution No. 11-0131, the San Francisco Public Utilities Commission approved Amendment No. 1 to Agreement No. CS-963 to continue Water System Improvement Program program construction management services, increasing the original contract term by 4 months and 22 days through July 29, 2016, and increasing the Agreement not-to-exceed amount by \$8 million from \$26,000,000 to \$34,000,000; and

WHEREAS, On \_\_\_\_\_, approval for this Amendment was obtained from the Board of Supervisors, per Resolution \_\_\_\_\_;

NOW, THEREFORE, Contractor and the City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

**a. Agreement.** The term "Agreement" shall mean Agreement No. CS-963, dated March 4, 2009, between Contractor and City.

b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

2a. **The Introductory Paragraph of the Agreement currently reads as follows:**

This Agreement is made this 4<sup>th</sup> day of **March, 2009**, in the City and County of San Francisco, State of California, by and between: **AECOM USA, Inc.**, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

**Such section is hereby amended in its entirety to read as follows:**

This Agreement is made this 4<sup>th</sup> day of **March, 2009**, in the City and County of San Francisco, State of California, by and between: **AECOM USA, Inc.**, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through the San Francisco Public Utilities Commission.

2b. Section 2 ('**Term of the Agreement**') of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from March 8, 2009 through March 7, 2016.

**Such section is hereby amended in its entirety to read as follows:**

Subject to Section 1, the term of this Agreement shall be from March 8, 2009 through July 29, 2016.

2c. Section 5 ('**Compensation**') of the Agreement currently reads as follows:

Compensation shall be made in monthly payments on or before the thirtieth day of each month for work, as set forth in Section 4 of this Agreement that the General Manager of the Public Utilities Commission in his or her sole discretion, concludes has been adequately performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed Twenty Six Million Dollars (\$26,000,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A, Section 2. Task Orders will identify a detailed project scope, sub tasks, staffing plan, LBE utilization, schedule, deliverables, budget and costs to complete the task. Each Task Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to the City all work identified in that Task Order.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of I-IRC Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the Commission. If Contractor's failure to provide HRC Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Progress Payment Form is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Payment Affidavit, verifying that all subcontractors have been paid and specifying the amount.

**Such section is hereby amended in its entirety to read as follows:**

Compensation shall be made in monthly payments on or before the thirtieth day of each month for work, as set forth in Section 4 of this Agreement that the General Manager of the Public Utilities Commission in his or her sole discretion, concludes has been adequately performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed Thirty Four Million Dollars (\$34,000,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A, Section 2. Task Orders will identify a detailed project scope, sub tasks, staffing plan, LBE utilization, schedule, deliverables, budget and costs to complete the task. Each Task Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to the City all work identified in that Task Order.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of I-HRC Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the Commission. If Contractor's failure to provide HRC Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Progress Payment Form is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Payment Affidavit, verifying that all subcontractors have been paid and specifying the amount.

**2d. Submitting False Claims; Monetary Penalties.** Section 8 is hereby replaced in its entirety to read as follows:

**8. Submitting False Claims; Remedies.**

Pursuant to Article V of Chapter 6 of the San Francisco Administrative Code, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. The text of Article V of Chapter 6, along with the entire San Francisco Administrative Code is available on the web at [http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco\\_ca](http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca). A contractor, subcontractor, supplier, consultant or sub consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, supplier, consultant or subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

**2e.** Section 15 of the Agreement ("**Insurance**") is hereby replaced in its entirety to read as follows:

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and



(2) Commercial General Liability Insurance with limits not less than \$10,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Commercial Automobile Liability Insurance with limits not less than \$2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(4) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$10,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

e. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

g. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

h. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

i. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

j. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

**2f. Requiring Minimum Compensation for Covered Employees.** Section 43 is hereby replaced in its entirety to read as follows:

**43. Requiring Minimum Compensation for Covered Employees**

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is

obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is

less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

**2g. Requiring Health Benefits for Covered Employees.** Section 44 is hereby replaced in its entirety to read as follows:

**44. Requiring Health Benefits for Covered Employees.**

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City

may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

l. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

**2h. First Source Hiring Program.** Section 45 is hereby replaced in its entirety to read as follows:

**45. First Source Hiring Program**

**a. Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

**b. First Source Hiring Agreement.** As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

(1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the

projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

**c. Hiring Decisions.** Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

**d. Exceptions.** Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

**e. Liquidated Damages.** Contractor agrees:

(1) To be liable to the City for liquidated damages as provided in this section;

(2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

(3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

A. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

B. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year; therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in



Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law.

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

**f. Subcontracts.** Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

**2i. Limitations on Contributions.** Section 42 is hereby replaced in its entirety as follows:

**42. Limitations on Contributions.** Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

**2j. Appendix A, Services to be Provided by Contractor.** The fourth bullet under Section 4 of Appendix A, subheading "Program Construction Management Services," is revised in its entirety to read as follows:

Provide at the WSIP program construction management level in support of the WSIP Construction Deputy Director: progress, cost and schedule controls oversight and management; QA oversight and management; construction safety oversight and management; claims and closeout assistance for the City; construction contract administration oversight and management; supplier quality surveillance services; and dispute review board/partnering coordination services.

**2k. Appendix A, Services to be Provided by Contractor.** The sixth, and last, bullet under Section 4 of Appendix A, subheading "Program Construction Management Services," is revised in its entirety to read as follows:

Provide program construction management additional services on as as-needed and requested basis, including but not limited to construction risk reviews and risk management services, WSIP construction management plan orientation and training, construction management principles training, traffic and utility coordination, and shutdown water operations support services.

**2l. Appendix B, Calculation of Charges.** The third paragraph of Appendix B is revised in its entirety to read as follows:

Pursuant to Article V of Chapter 6 of the San Francisco Administrative Code, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. The text of Article V of Chapter 6, along with the entire San Francisco Administrative Code is available on the web at [http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:san\\_francisco\\_ca](http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:san_francisco_ca). A contractor, subcontractor, supplier, consultant or sub consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, supplier, consultant or subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

**3. Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

**4. Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

**CITY**

**CONTRACTOR**

Recommended by:

**AECOM USA, Inc.**

\_\_\_\_\_  
Ed Harrington  
General Manager  
San Francisco Public Utilities Commission

\_\_\_\_\_  
Name of authorized representative

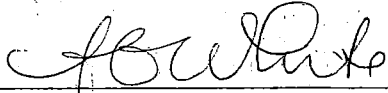
\_\_\_\_\_  
Title

City vendor number:

Approved as to Form:

Dennis J. Herrera  
City Attorney

By:

  
\_\_\_\_\_  
John G. White  
Deputy City Attorney

**FORM SFEC-126:**  
**NOTIFICATION OF CONTRACT APPROVAL**  
 (S.F. Campaign and Governmental Conduct Code § 1.126)

|   |  |
|---|--|
| <b>City Elective Officer Information</b> <i>(Please print clearly.)</i> |  |
| Name of City elective officer(s):<br>Members, Board of Supervisors      | City elective office(s) held:<br>Members, Board of Supervisors |

|  |
|--|
| <b>Contractor Information</b> <i>(Please print clearly.)</i> |
| Name of contractor: AECOM USA Inc (CS-963)                   |

*Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.*

1. Board of Directors: John M. Dionisio, Director; James H Fordyce; S Malcolm Gillis; Linda Griego; Robert J Lowe; Richard g Newman; William G Ouchi; William P Rutledge; Rob J Routs; Daniel R Tishman.

2. Executives: CEO-John M. Dionisio; CFO-Michael S. Burke; Chief Operationg Officer: Jane Chmielinski.

3. Majority Stockholders: (AECOM is a publicly traded corporation. While ownership is variable, we are currently unaware of any individual that owns 20% or more).

4. Subcontractors: Effective Manamement Solutions; Hollins Consulting; Marina Dee Design; Marinship Development Interests; Water Resources Engineering; WAU and Company; Alfatec-Cambridge Group; Catalyst Midwest; Chris Williams; EZ Consulting Engineers; Robert Nicely; The Allen Group; Mark Suden Mining Construction; Westland Management Solutions; Hurley Technical Services; RBF Consultants; DRB Foundation.

5. Political Committee: AECOM US Federal Political Action Committee.

Contractor address: 555 South Flower Street, Suite 3700; Los Angeles, CA 90071-2300

|   |   |
|---|---|
| Date that contract was approved:<br><i>(By the SF Board of Supervisors)</i> | Amount of contract: Original Agreement:<br>\$26,000,000 + Amendment: \$8,000,000 =<br>\$34,000,000. |
|---|---|

Describe the nature of the contract that was approved: Construction Management Consultant for Water System Improvement Program.

Comments:

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors  
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

|   |   |
|---|---|
| <b>Filer Information</b> <i>(Please print clearly.)</i>                                 |   |
| Name of filer:<br>Angela Calvillo, Clerk of the Board                                   | Contact telephone number:<br>( 415 ) 554-5184 |
| Address:<br>City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102 | E-mail:<br>Board.of.Supervisors@sfgov.org     |

\_\_\_\_\_  
 Signature of City Elective Officer (if submitted by City elective officer) Date Signed

\_\_\_\_\_  
 Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk) Date Signed