

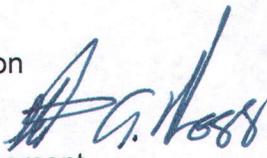


REPORT TO THE CITY COUNCIL

AGENDA ITEM NO.
COUNCIL MEETING
APPROVED BY
DEPARTMENT DIRECTOR 
CITY MANAGER

June 3, 2008

**FROM:** RENE A. RAMIREZ, Director   
Department of Public Utilities, Administration

**BY:** STEPHEN A. HOGG, Assistant Director   
Department of Utilities, Wastewater Management

**SUBJECT:** APPROVE SECOND AMENDMENT TO AGREEMENT WITH URS CORPORATION AMERICAS, FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE ORGANIC UPGRADE PROJECT AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (COUNCIL DISTRICT NO.3)

**KEY RESULT AREA**

One Fresno

**RECOMMENDATION**

Approve a second amendment to the agreement with URS Americas for Construction Management (CM) services for the Organic Upgrade project at the Fresno-Clovis Regional Wastewater Reclamation Facility.

**EXECUTIVE SUMMARY**

In August 2006, the City entered into an agreement with URS Corporation Americas, for CM services on the Organic Upgrade Project. The agreement was amended January 9, 2007. During the initial term of the construction contract the contractor (J.R. Filanc) work did not follow the anticipated resource curve originally anticipated by URS and City staff. As a result, corresponding CM costs were not incurred or paid for during the initial term of the CM contract and will be required during the first extension period of the CM contract. Therefore, funds need to be moved from the initial term to the first extension period of the CM contract. Additionally City Staff is requesting the services of a third party specialty inspection company to perform quality assurance and quality control inspections of all coatings for the project. The second amendment transfers monies unencumbered in the original term to the 1st option and provides additional funding for inspections.

**KEY OBJECTIVE BALANCE**

The Organic Upgrade will improve Employee Satisfaction, Customer Satisfaction and Financial Management for the Wastewater Management Division. Employee Satisfaction will be enhanced by the improved ability to operate the treatment plant within the requirements of the California Regional Water Quality Control Board (RWQCB). Customer Satisfaction will be enhanced by insuring continuous treatment capability. Financial Management will be improved by decreasing the possibility of incurring fines from the RWQCB and awarding to the lowest responsive bidder.

## REPORT TO THE CITY COUNCIL

Approve First Amendment to Agreement with URS

June 3, 2008

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### **BACKGROUND**

The Organic Upgrade is the latest major construction project at the City's wastewater reclamation plant. The construction is being done by a construction contractor whom was awarded the \$105 million contract in August of 2006. In an effort to minimize the impact to the City's CM department the CM services were advertised and awarded to URS. At the time the Organic Upgrade project was beginning the City CM department was extremely busy and was not able to provide sufficient staffing for the required services. Therefore, the CM services were obtained from an outside independent consultant. The original agreement for CM services during the Organic Upgrade Project was executed on August 29, 2006.

The agreement for CM services was amended January 9, 2007 to adjust for the Contractors requested notice to proceed date. The CM agreement with URS is separated into three different periods; the initial period and two optional periods. This division was made in an effort to minimize the negative impact to the DPU budget caused by awarding a \$105 million construction contract.

The current situation was an outcome due to a misalignment of the contractor's projected construction schedule and actual construction progress necessitating a re-apportionment of the contract monies, which this second amendment corrects. The construction contractor submitted a preliminary projected schedule of construction which was used to apportion the anticipated CM costs the three periods. There have since been modifications to the construction schedule necessitating a re apportionment of the contract monies.

The second change to the CM contract has to do with the addition of a specialty coatings inspection company. The last major project at the Wastewater Reclamation Facility completed in the mid 1990's did not include a specialty coatings inspector. In the summer of 2004 a coating failure cost approximately \$1,000,000 to remedy. In an effort to avoid a potential failure Staff desires the use of a specialty coatings inspection consultant. The current CM contract does not allow for the use of a third party specialty inspection consultant. Staff desires the addition of \$184,037 for the expanded scope of inspections.

The City Attorney's Office has approved the amendment to professional services agreement as to form. Staff recommends approval of the amendment to professional services agreement with URS, and authorize Public Utilities Director or his designee to approve the amendment on behalf of the City.

### **FISCAL IMPACT**

Attached

Attachment:

- Copy of Amendment
- Fiscal Impact

## FISCAL IMPACT STATEMENT

PROGRAM:

<u>RECOMMENDATION</u>	<u>TOTAL OR CURRENT</u>	<u>ANNUALIZED COST</u>
Direct Cost	<u>\$ 586,056.60*</u>	
Indirect Cost	<u>\$ 0</u>	<u>                    </u>
TOTAL COST	<u>\$ 586,056.60</u>	<u>                    </u>
Additional Revenue or Savings Generated	<u>0.00</u>	<u>                    </u>
Net City Cost	<u>\$ 586,056.60</u>	<u>                    </u>
Amount Budgeted (If none budgeted, identify source)	<u>\$ 586,056.60</u>	<u>                    </u>

\* \$163,000 of the increased amount for this amendment was previously encumbered and is currently available.

\$184,037.58 is the increase to provide the added specialty coating inspections.

\$ 239,019.02 is the increase resulting from misalignment of contractor and construction management contracts.

## SECOND AMENDMENT TO AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT ("Amendment") made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2008, amends the Agreement heretofore entered into between the CITY OF FRESNO, a municipal corporation, hereinafter referred to as "CITY," and URS Corporation Americas, a Nevada corporation, hereinafter referred to as "CONSULTANT."

### RECITALS

WHEREAS, CITY and CONSULTANT entered into an agreement, dated August 29, 2006 and amended January 9, 2007, for professional construction management services for the Organic Upgrade Project at the Fresno/Clovis Regional Wastewater Reclamation Facility, hereinafter collectively referred to as "Agreement;" and

WHEREAS, construction was delayed due to unforeseen labor disputes in the Initial Period of the Agreement; and

WHEREAS, this resulted in a portion of CONSULTANT'S level of effort anticipated by the parties in the Initial Period being required in the 1<sup>st</sup> Option Period of the Agreement; and

WHEREAS, CONSULTANT failed to reduce its resources during the Initial Period which the parties agree such resources are not compensable and should be deducted from that portion of unexpended compensation in the Initial Period that the parties agree reflects that intended for such level of effort now required in the 1<sup>st</sup> Option Period; and

WHEREAS, the parties desire to increase the available compensation in the 1<sup>st</sup> Option Period in the amount of the balance of such portion of unexpended compensation in the Initial Period after the deduction; and

WHEREAS, the parties desire to further modify the Agreement to include additional services by CONSULTANT for specialty coating inspection services through Bay Area Coating Consultants, Inc.; and

WHEREAS, with entry into this Amendment, CONSULTANT agrees that CONSULTANT has no claim, demands or disputes against CITY.

### AGREEMENT

NOW, THEREFORE, the parties agree that the aforesaid Agreement be amended as follows:

1. Effective September 15, 2007, Subsection (a) of Section 3 of the Agreement is amended in its entirety to read as follows:

"(a) CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered during the Initial Term pursuant to this Agreement shall be a total fee not to exceed \$1,440,200.00, paid on the basis of an hourly rate in accordance with the hourly rate schedule contained in **Exhibit A-1**; and a contingency amount not to exceed \$194,379.00 for any reimbursable expenses pursuant to Subsection (d) below and authorized in writing by Director.

CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered during any 1<sup>st</sup> Option Period pursuant to this Agreement shall be a total fee not to exceed \$1,914,319.00, paid on the basis of an hourly rate in accordance with the hourly rate schedule contained in **Exhibit A-1**; and a contingency amount not to exceed \$97,000.00 for any reimbursable expenses pursuant to Subsection (d) below and authorized in writing by the Director.

CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered during any 2<sup>nd</sup> Option Period pursuant to this Agreement shall be a total fee not to exceed \$833,879.00, paid on the basis of an hourly rate in accordance with the hourly rate schedule contained in **Exhibit A-1**; and a contingency amount not to exceed \$44,000.00 for any reimbursable expenses pursuant to Subsection (d) below and authorized in writing by the Director.

Notwithstanding the foregoing, CONSULTANT'S sole compensation for satisfactory performance of all specialty coating inspection services required or rendered pursuant to this Agreement shall be a total fee not to exceed \$51,590, paid on the basis of an hourly rate in accordance with the hourly rate schedule contained in **Exhibit A-1**; and a contingency amount not to exceed \$132,447.58 for any reimbursable expenses pursuant to Subsection (d) below and authorized in writing by the Director. No other fees or expenses will be paid CONSULTANT as compensation for specialty coating inspection services."

2. Effective September 15, 2007, Section 1 of **Exhibit A** of the Agreement is amended to add paragraph 1.7 to read as follows:

"1.7 The CM shall provide specialty coating inspection services through its subconsultant, Bay Area Coating Consultants, Inc."

3. Effective September 15, 2007, the last sentence of the first paragraph of paragraph 3.1 of **Exhibit A** of the Agreement is amended in its entirety to read as follows:

"Except as otherwise expressly provided herein, the CM shall not be responsible for providing, nor shall the CM control, the actual performance of the technical inspection by others."

4. Effective September 15, 2007, Section 3 of **Exhibit A** of the Agreement is amended to add paragraph 3.8 to read as follows:

"3.8 The CM shall provide specialty coatings inspections through its subconsultant, Bay Area Coating Consultants, Inc. The CM shall be responsible for providing, and coordinating receipt and review of, a copy of all specialty coatings inspection and testing reports, and shall provide a copy of such reports to the Design Engineer. The CM is responsible for providing and controlling the actual performance of the specialty coating inspection and testing."

5. Effective September 15, 2007, Page 2 of **Exhibit A-1** of the Agreement (Reimbursable Expense Schedule) is superseded in its entirety by **Attachment A**, attached hereto and incorporated by reference herein.

6. Effective August 29, 2006, "City Engineer" as used in **Exhibit A** of the Agreement shall mean the City of Fresno Department of Public Utilities Director's designated registered Engineer for CITY on the Organic Upgrade Project.

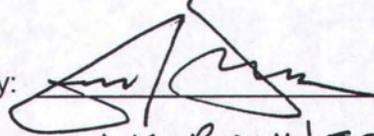
7. Except as otherwise provided herein, the Agreement entered into by CITY and CONSULTANT, dated August 29, 2006, as amended January 9, 2007, remains in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment at Fresno, California, the day and year first above written.

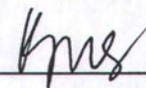
CITY OF FRESNO,  
a municipal corporation

URS Corporation Americas,  
a Nevada corporation

By: \_\_\_\_\_  
Rene Ramirez, Director  
Public Utilities Department

By:  \_\_\_\_\_  
Name: LEO ROBINSON  
Title: VP

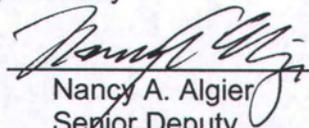
ATTEST:  
REBECCA E. KLISCH  
City Clerk

Attested  
By:  \_\_\_\_\_  
Name: KRISTIN L. JONES  
Title: SECRETARY

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
JAMES C. SANCHEZ  
City Attorney

Any Applicable Professional License:  
Number: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date of Issuance: \_\_\_\_\_

By:  4-15-08  
Nancy A. Algier Date  
Senior Deputy

Attachment:  
Attachment A – Reimbursable Expense Schedule

City of Fresno  
RWRP Organic Upgrade Project  
CM Services

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**Exhibit A-1 (Continued)**  
**Hourly Rate and Reimbursable Expense Schedule**

**Reimbursable Expenses**

<b>Expense Description</b>	<b>Limitations</b>
<i>Travel</i> – Transportation and living expenses in connection with out-of-town travel for the Project, whether to or from the Project site.	Travel expenses are not to exceed per diem rates as authorized for employees pursuant to City Administrative Order No. 1-4. Mileage will not exceed the IRS allowable limit.
<i>Expendables</i> – Identified as follows: Telephone, fax and computer; reproduction; office supplies; photographs	
<i>On-site office facility**</i> – Costs identified as follows: janitorial; telephone (cell and fixed), security system, fax and computer; reproduction; office supplies; office furniture; inspector miscellaneous tools and equipment; kitchen appliances; and office sign.	Reimbursable expenses for on-site office costs are limited to costs associated with the normal operation of the on-site offices. Any equipment or furnishings must be pre approved by City and will remain City property after Contract completion or termination.
<i>Site vehicles</i> – Registration, fees, maintenance and fuel for 2 of CM small, extended cab pick-up trucks	Expenses due to operation of vehicles onsite or directly related to CM activities for this project.
<i>Specialty Coating Inspection</i> – All fees and costs of CONSULTANT'S subconsultant, Bay Area Coating Consultants, Inc. for specialty coating inspection services.	The total fees and costs for the services shall not exceed \$132,447.58, paid on the basis of the following hourly rates which includes all expenses:  Specialty Coatings Inspector \$70.00 per hour (Overtime Hourly Rate of \$105.00)
<b>Total Reimbursable Expenses (Not-to-Exceed) *</b>	<b>\$467,826.58</b>

\*Initial Term Reimbursable Expenses, excluding Specialty Coating (Not-to-Exceed) \$194,379.00

\*1<sup>st</sup> Option Period Reimbursable Expenses, excluding Specialty Coating (Not-to-Exceed) \$97,000.00

\*2<sup>nd</sup> Option Period Reimbursable Expenses, excluding Specialty Coating (Not-to-Exceed) \$44,000.00

\*Specialty Coating Reimbursable Expenses (Not-to-Exceed) \$132,447.58

**\*\* Existing Site Office**

This is based on the assumption that City is providing CM offices in an existing City facility on site including

- Utilities – electricity, potable water, sewerage
- Maintenance and repairs, including electrical and plumbing
- Trash containers and pick-up on a weekly basis