

**MOTION NO. M2013-22**

**Job Order Contracting Construction Services**

<b>MEETING:</b>	<b>DATE:</b>	<b>TYPE OF ACTION:</b>	<b>STAFF CONTACT:</b>	<b>PHONE:</b>
Capital Committee	4/11/13	Recommendation to Board	Ahmad Fazel, DECM Executive Director	206-398-5389
Board	4/25/13	Final Action	<b>Richard Sage, Director, Construction Management</b>	206-398-5226

**PROPOSED ACTION**

(1) Authorizes the chief executive officer to execute a two-year contract with one one-year option to extend with Berschauer Phillips Construction Company for Job Order Contracting Construction Services for a total authorized contract amount not to exceed \$12,000,000, and (2) authorizes the chief executive officer to execute individual work orders in amounts up to \$350,000 each.

**KEY FEATURES SUMMARY**

- RCW 39.10.420 authorizes the use of Job Order Contracts (JOC), which are contracts in which the contractor agrees to a fixed period, indefinite quantity delivery contract that provides for the use of negotiated, definitive work orders.
- This action authorizes a contract that will provide on-call construction services to perform primarily small, discrete construction work for Link light rail, Sounder commuter rail, and ST Express bus facilities and infrastructures that are subject to the Project Labor Agreement (PLA).
- Use of job order contracting will benefit the agency by providing an effective means of reducing the total lead-time and cost for small construction work.
- The initial contract term is two years, with a one-year option to extend. The amount requested covers the initial two-year contract, and the option to extend for an additional year.
- State law places the following limits on job order contracts:
  - The total value of the work orders that may be issued to an individual job order contractor is limited to \$4,000,000 per year, with a minimum commitment of \$50,000 per year;
  - The maximum work order amount is \$350,000, and the minimum is \$500;
  - At least 90% of the work under the JOC must be subcontracted; and
  - The job order contractor must distribute subcontracts as equitably as possible among qualified and available contractors, including minority and woman-owned subcontractors to the extent permitted by law.
- This action also authorizes the chief executive officer to execute individual work orders up to \$350,000, the maximum value of a work order permitted by statute.

**BACKGROUND**

The JOC will be administered as an on-call, work order contract. It provides a mechanism for Sound Transit to quickly and efficiently complete construction projects including repair, rehabilitation, and/or modification, emergency response or follow-on construction activities associated with start of service. As needs are identified, construction services work orders will be developed, negotiated and executed. Use of this contracting method generally reduces the level of engineering, design, contract procurement time, and construction project procurement costs. Job

order contracts provide a means to execute a wide variety of indefinite delivery, indefinite quantity, fixed-price, construction services work orders that may occur one-at-a-time or simultaneously.

State law authorizes Sound Transit to enter into two multi-year JOCs. In partnership with labor and trade unions, Sound Transit agreed that any work to be performed by a job order contractor that would otherwise be subject to the PLA would be performed under a job order contract that is subject to the PLA. Accordingly, all work performed under this job order contract will be subject to the PLA. This contract also requires compliance with the federal contracting requirements so that it can be used on federally-funded construction projects and construction funded through the federal State of Good Repair program.

The JOC procurement process was initiated in February 2013 with release of a Request for Proposals (RFP). Six proposals were received. Four firms were short-listed for interviews and requested to provide final proposals. Final proposals were received on March 21, 2013. The most qualified firm with the highest total score based upon the evaluation criteria established in the RFP was Berschauer Phillips Construction Company.

As work is identified, Sound Transit staff will develop a scope of work and estimate upon which the Contractor will submit a proposal based substantially upon an established unit price book and pre-established multipliers submitted by the Contractor in its final proposal. Contractor's proposals will be evaluated by staff and upon agreement as to scope, schedule, and cost, a work order will be issued. Sound Transit staff will oversee construction and close-out of each work order.

## **FISCAL IMPACT**

This on-call contract will be used for Link, Sounder, and ST Express projects that are subject to the PLA. Funding for this contract will come from phases where the work will be performed within capital project budgets. The services described in the proposed action will be assigned on a work order basis after availability of budget is verified. Since the proposed services will be assigned on an as-needed basis, the distribution of costs will be determined as schedules and budgets are established for this work.

## **SMALL BUSINESS PARTICIPATION**

### Small Business and DBE Goals

Sound Transit Goal:

Small Business: 20%

DBE: 10%

Commitment:

Small Business: 20%

DBE: 10%

Small Business and Disadvantaged Business Enterprise opportunities will be determined with each individual work order.

## **EQUAL EMPLOYMENT WORKFORCE PROFILE**

98 employees; 4% women; 6% minorities.

## **APPRENTICE UTILIZATION COMMITMENT**

Apprentice utilization goal: 20%

## **PUBLIC INVOLVEMENT**

Not applicable to this action.

## **TIME CONSTRAINTS**

Statutory authority for public bodies to enter into job order contracts is scheduled to expire July 1, 2013. There is currently a bill in the legislature (SB 5349/HB1466) that would extend such authority until 2021, but until such legislation is passed and signed into law by the governor (which is by no means guaranteed), this action is time sensitive because a one month delay could impact Sound Transit's ability to execute the contract in time to utilize this important alternative contracting procedure.

## **PRIOR BOARD/COMMITTEE ACTIONS**

Not applicable to this action.

## **ENVIRONMENTAL REVIEW**

Jl 3/22/2013

## **LEGAL REVIEW**

LA 5 April 2013

## **MOTION NO. M2013-22**

A motion of the Board of the Central Puget Sound Regional Transit Authority (1) authorizing the chief executive officer to execute a two-year contract with one one-year option to extend with Berschauer Phillips Construction Company for Job Order Contracting Construction Services for a total authorized contract amount not to exceed \$12,000,000, and (2) authorizing the chief executive officer to execute individual work orders in amounts up to \$350,000 each.

### **BACKGROUND:**

The Job Order Contract (JOC) will be administered as an on-call, work order contract. It provides a mechanism for Sound Transit to quickly and efficiently complete construction projects including repair, rehabilitation, and/or modification, emergency response or follow-on construction activities associated with start of service. As needs are identified, construction services work orders will be developed, negotiated and executed. Use of this contracting method generally reduces the level of engineering, design, contract procurement time, and construction project procurement costs. Job order contracts provide a means to execute a wide variety of indefinite delivery, indefinite quantity, fixed-price, construction services work orders that may occur one-at-a-time or simultaneously.

State law authorizes Sound Transit to enter into two multi-year JOCs. In partnership with labor and trade unions, Sound Transit agreed that any work to be performed by a job order contractor that would otherwise be subject to the PLA would be performed under a job order contract that is subject to the PLA. Accordingly, all work performed under this job order contract will be subject to the PLA. This contract also requires compliance with the federal contracting requirements so that it can be used on federally-funded construction projects and construction funded through the federal State of Good Repair program.

State law places the following limits on job order contracts:

- The total value of the work orders that may be issued to an individual job order contractor is limited to \$4,000,000 per year, with a minimum commitment of \$50,000 per year;
- The maximum work order amount is \$350,000, and the minimum is \$500;
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- The job order contractor must distribute subcontracts as equitably as possible among qualified and available contractors, including minority and woman-owned subcontractors to the extent permitted by law.

This action authorizes a contract that will provide on-call construction services to perform primarily small, discrete construction work for Link light rail, Sounder commuter rail, and ST Express bus facilities and infrastructures that are subject to the Project Labor Agreement (PLA). Use of job order contracting will benefit the agency by providing an effective means of reducing the total lead-time and cost for small construction work. The initial contract term is two years, with a one-year option to extend. The amount requested covers the initial two-year contract, and the option to extend for an additional year.

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evaluated by staff and upon agreement as to scope, schedule, and cost, a work order will be issued. Sound Transit staff will oversee construction and close-out of each work order.

**MOTION:**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to (1) execute a two-year contract with one one-year option to extend with Berschauer Phillips Construction Company for Job Order Contracting Construction Services for a total authorized contract amount not to exceed \$12,000,000, and (2) execute individual work orders in amounts up to \$350,000 each.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on April 25, 2013.



Pat McCarthy  
Board Chair

ATTEST:



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Marcia Walker  
Board Administrator