



**Expo**

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Construction Authority

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BuildExpo.org

**5.b**

**DATE: MAY 7, 2007**

**TO: BOARD OF DIRECTORS**

**FROM: RICHARD D. THORPE  
CHIEF EXECUTIVE OFFICER**

**ACTION: AUTHORIZE THE CEO TO AWARD A CONTRACT TO  
PADILLA & ASSOCIATES FOR THE PROVISION OF DBE,  
CONTRACT & LABOR COMPLIANCE SERVICES IN AN  
AMOUNT NOT-TO-EXCEED \$361,500**

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**RECOMMENDATION**

Authorize the Chief Executive Officer (CEO) to award a contract to Padilla & Associates for the provision of Disadvantaged Business Enterprise (DBE), Contract and Labor Compliance Services in support of Phase 1 of the Exposition Corridor Light Rail Transit Project (Project), in an amount not-to-exceed \$361,500.

**SUMMARY**

On March 14, 2007, staff released Request for Proposals (RFP) No. XP07-08, for the provision of DBE, Contract and Labor Compliance Services associated with Phase 1 of the Project. Padilla & Associates was the only firm to submit a proposal prior to the established April 16, 2007 proposal deadline. The proposal was scored and ranked by an Evaluation Committee ("Committee") in accordance with the evaluation criteria set forth in the RFP. The Committee determined that Padilla & Associates provided a responsive proposal that met or exceeded the requirements set forth in the RFP.

Since Padilla & Associates was the sole proposer, and was deemed responsive under the competitive procurement process, staff recommends that the firm be awarded a contract for two base years in an amount not-to-exceed \$361,500. The contract also includes two single-year options to extend the agreement, should the additional work beyond the first two years of the contract be necessary.

## **DISCUSSION**

The Authority requires the services of a qualified Consultant to provide: 1) Contract and Labor Compliance Services; and 2) DBE monitoring services, in accordance with applicable state and federal laws, standards and guidelines. The Authority sought these services through a competitive procurement.

### **Labor Compliance & Monitoring Services**

Laborers employed by the Design-Build Contractor must be paid wages at rates not less than those prevailing on similar construction projects in the same locality. Federal Prevailing Wages are determined by the Secretary of Labor in accordance with the Davis-Bacon Act, and state Prevailing Wage requirements are determined by the California Department of Industrial Relations. Authority policy is to pay the higher of the two wage requirements.

The DBE, Contract and Labor Compliance Consultant shall be responsible for various labor compliance requirements including, but not limited to, ensuring compliance with prevailing wage requirements, auditing certified payroll records and related documentation, reviewing invoices submitted by contractors, and ensuring that all required documentation has been received and work completed. The successful consultant will also be required to identify potential labor compliance claim issues before they arise and investigate complaints of underpayment.

The Consultant shall also conduct on-site investigative activities to resolve worker complaints and other identified prevailing wage violations, and provide monthly reports containing sufficient data to enable evaluation of both progress and problems. The Consultant will also recommend retention amounts for delinquent and/or inadequate certified payroll records.

### **DBE Compliance Services**

The Consultant shall work with the Authority to monitor and oversee Authority contracts, to ensure that all Contractors and Subcontractors are in compliance with applicable state and federal laws, policies, guidelines and Authority DBE Program goals and objectives.

The Consultant shall be responsible for assisting the Authority in monitoring the Design-Build Contractors and Subcontractor(s) to ensure that they are using best efforts in maintaining compliance with federal DBE requirements and the achievement of contracted DBE goals during the project.

The Consultant shall be responsible for collecting, organizing and reviewing documentation received from the Contractor and its Subcontractor(s), which demonstrate progress toward fulfilling contractual requirements and the Authority's DBE Program requirements, verify that the work committed to DBEs at contract award is actually performed by the DBEs, and address general DBE Compliance issues. The Consultant will also compile program data and prepare monthly reports for the Authority, describing Contractor performance in attaining the goals of the DBE Program. Lastly, the Consultant will conduct on-site visits to verify documentation provided by Contractors and Subcontractor(s).

### **Procurement Summary**

The weighted factor method of source selection was determined by staff to be the most appropriate for this procurement, as it allows the Authority to identify the most advantageous proposal with price and other factors considered. Non-price factors include elements such as experience, the relative qualifications of the firms, and their ability to respond to the requirements set forth under the terms of the Request for Proposals (RFP). This solicitation was conducted in accordance with the terms of the Expo Procurement Policy Manual.

RFP No. XP07-08 was released on March 14, 2007. On that date, the RFP was publicized in two newspapers of general circulation and on the Authority website. Further, an electronic copy of the RFP was forwarded via e-mail to forty-seven firms that provide DBE/Labor Compliance Services. Three firms attended a pre-proposal meeting held on March 22, 2007. The proposal deadline was April 16, 2007, and a single firm, Padilla & Associates, submitted a responsive and responsible proposal prior to the stated deadline date.

The proposal submitted by Padilla & Associates was scored and ranked by the Committee, based upon the evaluation criteria set forth in the RFP. The evaluation process was used to analyze the strengths and weaknesses of the proposal according to the criteria set forth in the RFP and, based on that criteria, the Committee deemed the proposal responsive.

Since only a single proposal was received, staff conducted a price analysis of the proposal. Based on an independent cost estimate completed by the Authority, historical cost data, and perceived price competition under this procurement, Authority staff determined that Padilla & Associates' proposed pricing was fair and reasonable. Padilla & Associates proposed an appropriate work plan and labor mix to provide the services described in the RFP. Furthermore, based upon the resumès, and prior project descriptions submitted with the proposal, the personnel assigned to the project possess

the technical experience required to accomplish the goals and requirements set forth in the RFP.

A follow up discussion with the firms in attendance at the pre-proposal conference revealed that these firms chose not to provide a proposal because they either did not have sufficient resources to submit a proposal at that point in time, or they felt they did not possess adequate and sufficient qualifications to submit a competitive proposal.

On advice from counsel, and due to the limitations resulting from recent Federal court decisions, the Authority could not assign a DBE participation goal for this competitive procurement. Padilla & Associates, however, is a DBE certified firm.

### **FINANCIAL IMPACT**

There is sufficient funding in the project budget to fund this contract.

### **NEXT STEPS**

Negotiate a contract with Padilla & Associates within the authorized not-to-exceed amount and execute a contract for the provision of DBE, Contract and Labor Compliance Services. The CEO will return to the Board for additional authorization, should it be necessary to exercise any of the option years.

### **ATTACHMENT(S)**

None