



City of Bradenton, Florida

City Council Agenda Memorandum

Agenda Item:

Continuing services for ASR consulting services with ASRus, LLC

Agenda Date:

January 25, 2017

Originated by:

Jim McLellan

Agenda Placement:

Consent Agenda

Explanation

At the September 25, 2013 City Council meeting, Council approved the ranking of submitting firms on the City's Request for Qualifications (RFQ 03-13) for City Aquifer Storage and Recovery program, and authorized Public Works Engineering Section to enter into negotiations for a Continuing Services Contract with the highest ranking firm, ARSUS, LLC. The solicitation, consultant selection and contract negotiations were all conducted in conformance with the requirements of Chapter 287.055 Florida Statutes, otherwise known as the Consultant's Competitive Negotiation Act.

The negotiated continuing services contract establishes the general range of services covered, the procedures by which Work Orders will be executed for professional services related to the ASR Program and the means by which payment for such services will be rendered. The contract is for a term of three (3) years, with the option of one (1) two-year extension under the same terms and conditions, for a maximum term total of five (5) years. Per contract, the consultant has provided a written request for a two-year extension of the contract.

Financial Impact

Any Work Orders issued will be funded by the Water/Sewer Fund.

Requested action to be taken by Council

Authorize the two-year extension (4th and 5th year of contract) and as necessary, authorize the Mayor to sign all contract documents on behalf of the City.

Staff Recommendation

Recommend approval of the requested action.

Attachments

1. Professional Services Agreement RENEWAL OR EXTENSION
2. January 8, 2017 written request from ASRus, LLC to the City of Bradenton
3. October 23, 2013 Professional Services Agreement between ASRus, LLC and the City of Bradenton



City of Bradenton, Florida

**Professional Services Agreement RENEWAL OR EXTENSION
RFQ #03-13: City's Potable Water Aquifer Storage Recovery (ASR)
Program
With ASRus, LLC**

THIS CONTINUING SERVICE CONTRACT RENEWAL OR EXTENSION (the "Contract Extension"), made this ____ day of _____ 20__, between the CITY OF BRADENTON (hereinafter referred to as "CITY" or "CLIENT") a municipal corporation of the State of Florida located at 101 Old Main Street, Bradenton, Florida 34205, and ASRus, LLC _____ (hereinafter referred to as "CONSULTANT"), with a principal office located at 13329 North Armenia Avenue, Tampa, Florida 33613.

The initial term of the Contract is three (3) years, commenced on October 23, 2013 and ended on October 22, 2016. The Contract allows for one two-year extension under the same terms and conditions upon written request from the CONSULTANT. To insure continual, uninterrupted professional services to the CITY, the term of the Contract Extension retroactively commences October 23, 2016 and continues through October 22, 2018.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms and conditions above stated on the day and year first written above.

CONSULTANT

ASRus, LLC
13329 North Armenia Avenue
Tampa, Florida 33613

CLIENT

City of Bradenton
1411 9th Street West
Bradenton, Florida 34205

By: _____

Mark B. McNeal
Chief Executive Officer

By: _____

Wayne Poston
Mayor, City of Bradenton

Witness for CONSULTANT:

By: _____

Tailyn L. McNeal
President

Witness for CLIENT:

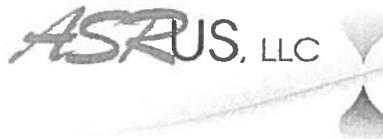
By: _____

Carl Callahan
City Clerk/Treasurer

Approved as to Form:

By: _____

William Lisch
City Attorney



ASRUS, LLC

January 8, 2017

Ms. Susan Hochuli, P.E.
City of Bradenton
Public Works and Utilities Department
1411 9th St. West
Bradenton, FL 34205

Subject: *Professional Services Agreement for the City of Bradenton*

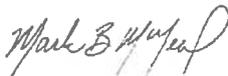
Dear Susan:

The purpose of this letter is to present our request to extend our Professional Services Agreement with the City of Bradenton dated October 23, 2016. Our existing agreement titled "*Professional Services Agreement RFQ#03-13: City's Potable Water Aquifer Storage Recovery (ASR) Program*" will expire but can be extended by two years if requested by the Consultant and approved by the City. We have accomplished a considerable amount of work under the first three years of this agreement and we hope to continue with further accomplishments for another two years under this agreement.

The City of Bradenton is a valuable client to ASRus and we hope to continue with our successful business relationship for many years to come. We are sincerely grateful for the opportunity to serve the City of Bradenton with their hydrogeological services needs. Please do not hesitate to contact us if you need additional information regarding this request.

Sincerely,

ASRus, LLC



Mark B. McNeal, P.G.
Chief Executive Officer

CC: Jim McLellan/City of Bradenton
Ralph Ward/City of Bradenton
Tailyn McNeal/ASRus

City of Bradenton, Florida



Professional Services Agreement RFQ #03-13: City's Potable Water Aquifer Storage Recovery (ASR) Program

THIS CONTINUING SERVICE CONTRACT (the "Contract"), made this 23rd day of OCTOBER 2013, between the CITY OF BRADENTON (hereinafter referred to as "CITY" or "CLIENT") a municipal corporation of the State of Florida located at 101 Old Main Street, Bradenton, Florida 34205, and ASRus, LLC _____ (hereinafter referred to as "CONSULTANT"), with a principal office located at 13329 North Armenia Avenue, Tampa, Florida 33613.

WHEREAS, the CITY desires to obtain hydrogeologic and/or engineering services from Consultant for assigned projects in Bradenton, Florida (hereinafter referred to as "Continuing Service Projects") and issued RFQ #03-13 pursuant to Section 287.055 Florida Statutes, to find qualified professionals to fulfill the need for these services. Although the primary professional service sought by the contract is for hydrogeologic and engineering services, this Contract may cover other professional services if CONSULTANT possesses the professional licensing and registration to legally perform these services. Further, CONSULTANT may hire others who are properly licensed to perform professional services; and

WHEREAS, the Term of Contract is three (3) years after City Council approves the Contract, and CITY may, at its option, at a regular City Council meeting, renew this Contract at the end of the Term for an additional, renewal term of two (2) years for a maximum term of five years; and

WHEREAS, the CITY retains CONSULTANT to perform the services described herein, and other required professional services on an "as needed" basis, as designated, authorized, and assigned by the CITY, and the CITY agrees to compensate Consultant for such services in accordance with this Contract; and

WHEREAS, it is the primary intent of this Contract to ensure that CONSULTANT is available to provide professional services, in accordance with mutually agreed upon conditions, and the CITY has complied with all requirements of the Consultants Competitive Negotiations Act, in the selection of Consultant and in negotiations for this Contract; and

NOW, THEREFORE, the CITY and CONSULTANT, for and in consideration of the provisions, mutual promises, covenants and conditions hereinafter set forth or recited, agree as follows:

1. **Recitals.** The recitals in the WHEREAS clauses are incorporated by reference and made a part of this Contract.
2. Request for Qualifications (RFQ) #03-13 and the CONSULTANT's response thereto are incorporated into this Contract by reference. In the event of any conflict between the relevant documents, any such conflict shall be resolved by first looking to this Contract, second looking to the CONSULTANT's response and third looking to the RFQ.

I. Scope of Work

The general scope of work to be provided to accomplish the CLIENT's objective includes a broad range of professional engineering services related to analysis, design, permitting and construction management for the City of Bradenton's Aquifer Storage and Recovery (ASR) projects, assisting the CITY in consent orders and other FDEP, EPA and SWFWMD mandated compliance addressing technical and regulatory issues with FDEP, EPA and SWFWMD, providing hydrogeological, engineering, and environmental assistance for the permitting, design, construction, operation and maintenance of the CITY's ASR programs and studies and providing emergency response assistance related to disaster recovery.

The following types of services are anticipated to be required during the period of this Agreement.

- A. Technical assistance with regulatory permitting, modifications to existing permits, and related issues.
- B. ASR assistance, to include review and analysis of technical data, pertaining to issues affecting "end product" quality and FDEP and EPA regulatory compliance.
- C. Hydrogeological, engineering and environmental services related to the daily operation, maintenance and repair of the CITY's planned and existing ASR systems.
- D. Hydraulic modeling related to the analysis of the planned and existing ASR systems and the evaluation and design of improvement alternatives.
- E. Engineering services such as planning, studies, design, permitting, and construction management services related to improvements to the CITY's ASR infrastructure. These tasks may include the design and permitting of improvements to the existing and planned ASR systems, including any pre-treatment and/or post-treatment required for the ASR system.

1. Design and permitting tasks may include work related to the preparation of the project description, work scope, cost estimate, special conditions, bid proposal, technical drawings and specifications and such other matters related to the bid process.
 2. Construction management tasks may include office and field engineering services related to construction administration, inspections, change order review, pay request review and record drawing certification.
- F. Review and update of previously prepared plans and studies to include revisions required by changes in laws, rules, regulations, ordinances, codes or orders. These may include updates to the CITY's Water Facilities Plan, assistance with consent orders or administrative orders that may be entered into with FDEP, capital improvement plans and evaluation of complex utilities issues related to developer site plans as they relate to the ASR infrastructure.
- G. Emergency response assistance related to disaster assessment and recovery efforts following major storm events. These tasks may include damage assessment of CITY utility infrastructure, evaluating repair and reconstruction efforts and design and inspection services for ASR systems, water, water reclamation and reclaimed water facility restoration.
- H. Assistance with funding agencies for ASR related projects including preparation of funding applications and related reports, completion of funding reimbursement requests, and preparation of routine progress reports for the funding agencies.

II. Work Requests

- A. The individual projects to be accomplished under this Agreement will be detailed in specific Work Orders (WOs) issued by the CLIENT to the CONSULTANT during project development. Work Orders will be sequentially numbered starting with WO- 01. The individual Work Orders will include a detailed scope of work outlining the objects of the project, a detailed list of Tasks and Subtasks to be accomplished, the compensation payment associated with each task and a project schedule relating to each of the tasks to be accomplished. All provisions of this Agreement which are not specifically modified in the individual Work Order shall remain in full force and effect and will be incorporated into the Work Order by reference.
- B. The CLIENT reserves the right to make changes to the Scope of Work for individual Work Orders providing that the tasks associated with these changes are consistent with Section II of this Agreement. The nature of these changes may be additions, deletions or modifications and will be accomplished through an Amendment to the Work Order. The Amendment will be authorized in writing requested and approved by the Director of Public Works. Amendments will describe the changes to the scope of work, compensation and schedule, determined

through a mutual understanding between the CLIENT and CONSULTANT consistent with the terms of this Agreement. The CONSULTANT shall not initiate any work in the Amendment until it has been approved in writing by the CLIENT.

III. Subconsultants

- A. Any proposed subconsultants shall be submitted to CITY for approval prior to CONSULTANT entering into a subconsultant agreement. Such approval by CITY shall not be unreasonably withheld. CITY shall not be liable to CONSULTANT in any manner whatsoever arising out of the CITY's objection to a proposed subconsultant.
- B. CONSULTANT shall coordinate the services and work product of any subconsultants and remain fully responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications, and other services furnished by CONSULTANT or its subconsultants, and CONSULTANT shall review and approve any designs, drawings, specifications, shop drawings, submittals, or other services produced or furnished by any subconsultants prior to submittal to CITY. CONSULTANT shall correct or revise any of its errors or deficiencies in the designs, drawings, specifications or other services produced pursuant to this Contract and shall provide CITY with such corrected or revised designs, drawings, or specifications incorporating such corrections or revisions at its sole cost and expense.
- C. Any subconsultant agreement shall reflect the terms of this Contract and require the subconsultant, to the extent of the services to be performed by the subconsultant, to assume toward CONSULTANT all the obligations which CONSULTANT by this Contract assumes toward CITY, it being understood that nothing herein shall in any way relieve CONSULTANT from any of its duties under this Contract.
- D. CONSULTANT shall cooperate at all times with CITY, and cooperate and coordinate with, and incorporate the work product of, any separate consultant, in any fashion appropriate or necessary to facilitate the design and construction of Continuing Service Projects within the project's budget and schedule. In the event CITY so elects and upon written mutual consent (which consent shall not be unreasonably withheld), as evidenced by a Task Assignment to this Contract, CONSULTANT shall accept any assignment of any agreement or contract CITY may have with any separate consultant.

IV. Term

The term of this General Engineering Services Agreement is for a period of three (3) years, commencing on the date of execution of this Agreement. The City reserves the right to renew or extend this Agreement for a period of two (2) additional years under the same terms and conditions, as stated herein, upon written request from the

CONSULTANT. Work will commence under this Agreement when the CLIENT issues the CONSULTANT an approved Work Order.

V. Compensation

A. METHOD OF COMPENSATION

The CLIENT shall compensate the CONSULTANT for authorized Work Orders using the following methods of compensation. The method of compensation shall be determined by the CLIENT based on the scope of the Work Order.

1. For a Work Order where the scope can be reasonably defined and has a specific schedule, compensation shall be calculated based on the estimated hours to be worked by the principals and employees of the CONSULTANT for each of the tasks or subtasks multiplied by the standard hourly rate as agreed to in Attachment A. Based on this calculation, a Lump Sum fee for each of the tasks will then be agreed to by the CLIENT and CONSULTANT prior to authorization of the Work Order. The total of the Lump Sum Fees for all tasks in the Work Order shall be the total and complete amount payable to the CONSULTANT for performance of the Work Order and shall include the cost of all labor, overhead, profit, direct project expenses and expenses of any nature.
2. For indeterminate Work Orders compensation shall be on a time and materials basis. Compensation for such Work Orders shall be made for the actual work performed in accordance with the schedule of rates included as Attachment A.
 - a. Reimbursable expenses shall include only the actual and necessary costs and expenses reasonably and properly incurred by the CONSULTANT in connection with the services rendered under this Contract. Reimbursable expenses shall include the costs of any subconsultants utilized for the completion of authorized services. The costs and expenses shall be invoiced by the CONSULTANT at their actual cost with no markup allowed. CONSULTANT shall provide any documentation required by the CLIENT related to said costs and expenses.
3. The CONSULTANT will not exceed the approved Work Order cost without written approval from the CLIENT. Any increases in the actual work tasks or the level of effort for each work task shall be considered additional services for which the CONSULTANT will be entitled to additional compensation, using the method outlined in paragraph V.A.1 and as mutually agreed to by the CLIENT and CONSULTANT.

B. PAYMENT SCHEDULE AND INVOICING

1. The CONSULTANT shall submit invoices for fees earned on a monthly basis. Such invoicing shall be supported by a Progress Report showing the actual tasks performed and their relationship to the percentage of fee claimed. All progress reports and invoices shall be mailed to the attention of the CLIENT's Director of Public Works, 1411 9th Street West, Bradenton, Florida 34205.
2. Monthly invoices shall be paid by the CLIENT in accordance with Florida Statute 218.74. Resolution of improper payment requests or disputes between the CLIENT and CONSULTANT will be resolved in accordance with Florida Statute 218.76.

VI. Insurance

The CONSULTANT shall procure and maintain at the CONSULTANT'S own expense, for the entire term of this Agreement, the following insurance coverage detailed below. Within ten days following the approval of this Agreement, the CONSULTANT shall furnish to the CLIENT a certificate or certificates of insurance in a form satisfactory to the CLIENT showing that it complies with this paragraph. All certificates shall specify that the policy shall not be canceled without providing written notice to the CLIENT at least thirty (30) days prior to any cancellation. The CLIENT shall be named as an additional insured on each policy as appropriate.

- A. Worker's Compensation — Unless otherwise allowed by Florida law, and approved by CITY, CONSULTANT will provide Worker's Compensation for all employees, with minimum limits statutory for Worker's Compensation and \$1,000,000 for Employer's Liability.
- B. Commercial General Liability- The limits are to be applicable only to work performed under this contract and shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 03) to a Commercial General Liability Policy with the following minimum limits:
 - Products/Completed Operations Aggregate \$1,000,000
 - Personal and Advertising Injury \$500,000
 - Each Occurrence \$500,000
- C. Comprehensive Automobile Liability- The CONSULTANT will provide coverage each occurrence Bodily Injury and Property Damage Liability Combined of not less than \$1,000,000. Annual Aggregate (If Applicable) Three Times the Each Occurrence Limit.
- D. Professional Liability Insurance – Professional Liability Insurance for protection from negligent acts, errors, and omissions of Consultant from

or in connection with the performance of Consultant's services. CONSULTANT must maintain a comprehensive liability policy, including errors and omissions coverage, issued to CONSULTANT as the insured. Said policy shall be issued and underwritten by a licensed insurer, licensed as such in the State of Florida. Said policy shall provide coverage for the acts or omissions of CONSULTANT in a minimum amount of \$1,000,000 per claim. Said comprehensive professional liability policy shall be underwritten by an insurer who, in the most current edition of Best's Key Rating guide has (1) a rating classification of "A" or better, and (2) a financial size category rating of Class IV or higher.

- E. Certificates of Insurance and Copies of Policies - Certificates of Insurance in triplicate evidencing the insurance coverage specified in the above paragraphs shall be filed with the Purchasing Manager before operations are begun. The required certificates of insurance shall name the types of policy, policy number, date of expiration, amount of coverage, companies affording coverage, and also shall refer specifically to the proposal number, project title, and location of project. Insurance shall remain in force at least one year after completion and acceptance of the project by the City, in the amounts and types as stated herein, including coverage for all products and services completed under this contract.

VII. General Considerations

- A. All original drawings, computations, detail, design calculations and other documents and plans that result from the CONSULTANT'S services under this Agreement are to become the property of the CLIENT. Documents prepared by the CONSULTANT pursuant to this Agreement are not intended nor represented to be suitable for reuse by the CLIENT or others on extensions of the Project or on any other project. Any use of completed documents for other projects and any use of incomplete documents without specific written authorization from the CONSULTANT shall be at the CLIENT'S sole risk and without liability to the CONSULTANT. Further, any and all liability arising out of changes made to the CONSULTANT's deliverables under this agreement by the CLIENT or persons other than the CONSULTANT is waived as against the CONSULTANT and the CLIENT assumes full responsibility for such changes unless the CLIENT has given the CONSULTANT prior notice and has received from the CONSULTANT written consent for such changes.
- B. It is understood and agreed that the CONSULTANT's services under this Agreement do not include participation, whatsoever, in any litigation except litigation stemming from the CONSULTANT's negligence or breach of this Agreement. Should such services be required, a supplemental agreement may be negotiated between the CLIENT and the CONSULTANT describing the services desired and providing a basis for compensation to the CONSULTANT.

- C. It is understood and agreed that in seeking the professional services of the CONSULTANT under this Agreement, the CLIENT does not request the CONSULTANT to undertake uninsurable or potentially uninsurable obligations for the CLIENT's benefit involving or related in any manner to hazardous substances. Therefore, the CONSULTANT undertakes no such obligation.

VIII. Protection of Resident Workers

The CLIENT supports the Federal Immigration and Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification and non-discrimination. The CONSULTANT is held responsible to establish appropriate procedures and controls so no service under this Agreement will be performed by any worker who is not legally eligible to perform such services. The CLIENT shall have the right to immediately terminate this agreement if the CLIENT determines that the CONSULTANT has failed to perform satisfactorily with respect to its employment.

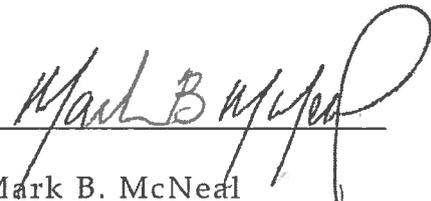
IX. Termination, Suspension, Disputes, or Abandonment

This Contract may be terminated by either party should the other party fail to substantially perform its obligations under this Contract. In the event of termination, the CITY shall pay the CONSULTANT for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms and conditions above stated on the day and year first written above.

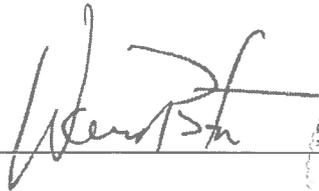
CONSULTANT

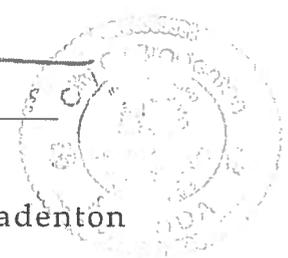
ASRus, LLC
13329 North Armenia Avenue
Tampa, Florida 33613

By: 
Mark B. McNeal
Chief Executive Officer

CLIENT

City of Bradenton
1411 9th Street West
Bradenton, Florida 34205

By: 
Wayne Poston
Mayor, City of Bradenton



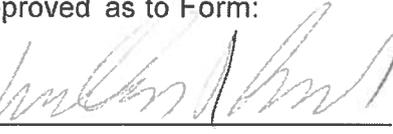
Witness for CONSULTANT:

By: 
Tailyn L. McNeal
President

Witness for CLIENT:

By: 
Carl Callahan
City Clerk/Treasurer

Approved as to Form:

By: 
William Lisch
City Attorney

Enclosure:

Attachment A – Standard Hourly Rates



Attachment A
ASRus, LLC Professional Fee Schedule

Labor

Labor Category	Billing Rate (\$/hour)
Senior Hydrogeologist/Project Manager (McNeal)	\$160
Senior Hydrogeologist (Clasen)	\$130
Senior Geochemist (Dr. Mirecki - Subconsultant)	\$150
Senior Hydrogeologist - Field (McNeal/Clasen)	\$110
Junior Hydrogeologist Field	\$75
Office Support Services	\$50

Note: Hourly billing rates include overhead and profit and are valid through December 31, 2016. Hourly billing rates for labor include most reasonable direct expenses.

Expenses

Reasonable direct expenses incurred for the project will not be billed and are included in hourly rates. Such reasonable direct expenses include ground transportation (mileage), tolls, meals, lodging, postage, shipping, equipment and office supplies, computer hardware and software, printing and reproduction services. Subconsultant and other outside services will be billed at cost if requested by the City of Bradenton Project Manager and agreed to by ASRus.

Examples of expenses that may be reimbursable if agreed to ahead of time in writing by the City include air transportation, out-of-state travel for meetings on behalf of the City, equipment direct purchase, allowance for field water sampling kits, or other non-routine expenses requested by the City.