

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
4	09/23/19	Open	Action	09/17/19

Subject: Delegating Authority for the General Manager/CEO to Approve Contract Change Orders to the Contract for Soil Removal/Remediation Cemo Circle up to a total Contract cost of \$600,000 and conditionally delegating authority to approve additional CCOs

ISSUE

Whether or not to delegate authority the General Manager/CEO to approve Contract Change Orders to the Contract for Soil Removal/Remediation Cemo Circle with American Integrated Services, Inc. (AIS) to increase the Total Consideration up to \$600,000 and conditionally authorize the General Manager/CEO to execute additional Contract Change Orders consistent with direction given in closed session.

RECOMMENDED ACTION

Adopt Resolution No. 19-09-_____, Delegating Authority to the General Manager/CEO to Approve Contract Change Orders to the Contract for Soil Removal/Remediation Cemo Circle with American Integrated Services, Inc. up to a Total Contract Value of \$600,000 and Conditionally Delegating Authority to the General Manager/CEO to Execute Additional Contract Change Orders Based on Closed Session Direction

FISCAL IMPACT

Purchase Sale Agreement Amount:	\$2,050,000
Cost to remediate (AIS contract):	(394,433)
Other costs (County fees, sampling/oversight contract):	<u>(22,072)</u>
Original Potential Revenue:	1,633,495
Estimated Change Orders (up to \$600K)*:	<u>(205,567)</u>
Revised Revenue:	1,427,928

*Note: Contract Change Orders that would raise the Total Consideration for the Contract beyond \$600K would be potentially paid by the Purchaser, should they elect to continue with the purchase; if not, SacRT would have to determine an alternate path forward.

DISCUSSION

In August 2017, the Sacramento Regional Transit (SacRT) entered into a Purchase and Sale Agreement (PSA) with USA Properties Fund, Inc. (Purchaser) for property located at 2220 Cemo Circle in the Gold River section of the County of Sacramento. Prior to the parties entering into the 2017 PSA, environmental testing on the site done by both USA Properties (under a prior PSA that was terminated) and SacRT determined lead soil contamination was present at concentrations exceeding regulatory screening levels for residential land use.

Approved:

Presented:

Final 09/18/19

General Manager/CEO

VP, Finance/CFO

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As part of the negotiated PSA, the parties agreed to a remediation approach with a four-fold purpose: (1) ensure that USA Properties received a site that had been remediated to a level suitable for residential construction; (2) avoid any “out-of-pocket” costs for SacRT to conduct the remediation; (3) ensure that SacRT received a specified minimum net sale proceeds from the sale of the property; and (4) provide both parties with an incentive to minimize the remediation costs.

At the time the PSA was executed, the estimated cost of the remediation work, provided by SacRT’s geotechnical consultant (Geocon), was \$325,000.

According to the PSA, SacRT is responsible for carrying out the remediation work and receiving a “No Further Action” (NFA) letter from the County of Sacramento Environmental Management Department (EMD) prior to close of escrow; however the Purchaser agreed to make deposits of no more than \$600,000 to fund the costs of the remediation work, with those deposits credited toward the sale proceeds.

However, in the event that the remediation work exceeds \$600,000, Purchaser may elect to terminate the PSA or fund the additional remediation costs at its sole expense. Both SacRT and Purchaser have a vested interest in completing the remediation work and closing the sale of this property in a timely manner.

After multiple rounds of additional soil testing, Geocon formulated a Lead-Impacted Soil Removal Workplan and submitted it to the EMD. The EMD was satisfied with the scope of testing conducted by Geocon and approved the soil removal workplan on April 16, 2018. The work plan calls for excavation and testing of soil in the areas where soil samples showed the residential threshold was exceeded. The essence of the work plan is to continue excavating both horizontally and vertically until all testing shows lead concentrations below the required threshold

In June 2019, SacRT entered into a contract with American Integrated Services, Inc. (AIS) to excavate and remove the contaminated soil from the property and backfill with a mixture of existing and imported soil to restore the site to a level condition for Total Consideration not to exceed \$398,433. The bid form included estimated quantities and extent of excavation and removal based on the best information that was available at the time. Both SacRT and USA Properties recognized that additional work and compensation might be needed based on the results of testing.

AIS initially completed the excavation of the soil identified in the plans included in the Contract. Geocon’s independent testing of the remaining soil showed signs of contamination above acceptable levels and more excavation was required.

SacRT staff has directed AIS to continue excavating to avoid delays in the work and close of escrow. However, proceeding with additional excavation work leaves insufficient funds in the contract to complete the required backfill work. Pursuant to his authority under the Procurement

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Ordinance, the General Manager/CEO already approved one Contract Change Order for \$11,385 related to delays in starting the work. AIS has submitted several Change Order Requests related to performance of work beyond the original contract quantities. The Change Order Requests 2 - 5, totaling over \$150,000, are presently under review and negotiation.

To provide the required flexibility for AIS to complete the work, Staff is requesting that the Board delegate authority to the General Manager/CEO to execute Contract Change Orders for this Contract up to an aggregate amount of \$600,000 for the base contract and all Contract Change Orders. As detailed above, costs of the remediation work up to \$600,000 will be paid for out of the sale proceeds and expenditure of these funds was already committed to by the Board in approving the PSA.

The treatment of expenditures above \$600,000 will be the subject of a closed session update to the Board related to the status of the PSA with USA Properties.

Staff recommends the Board delegate authority to the General Manager/CEO to approve contract change orders to the contract for environmental remediation at 2220 Cemo Circle up to a total contract value of \$600,000 and conditionally authorize the General Manager/CEO to execute additional contract change orders based on closed session direction.

RESOLUTION NO. 19-09-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

September 23, 2019

**DELEGATING AUTHORITY TO THE GENERAL MANAGER/CEO TO APPROVE
CONTRACT CHANGE ORDERS TO THE CONTRACT FOR SOIL
REMOVAL/REMEDIAION CEMO CIRCLE WITH AMERICAN INTEGRATED
SERVICES, INC. UP TO A TOTAL CONTRACT VALUE OF \$600,000 AND
CONDITIONALLY DELEGATING AUTHORITY TO THE GENERAL MANAGER/CEO
TO EXECUTE ADDITIONAL CONTRACT CHANGE ORDERS BASED ON CLOSED
SESSION DIRECTION**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE
SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, notwithstanding the limitations set out in Section 1.506 of the Procurement Ordinance, the General Manager/CEO is hereby authorized to approve and execute Contract Change Orders to the Contract for Soil Removal/Remediation Cemo Circle with American Integrated Services, Inc. up to an aggregate total Contract value of \$600,000.

THAT, the General Manager/CEO is hereby conditionally authorized to approved and execute additional Contract Change Orders based on closed session direction.

PATRICK KENNEDY, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary