



CITY OF MOUNT VERNON, N.Y.
DEPARTMENT of PUBLIC WORKS

SHAWYN PATTERSON-HOWARD
Mayor

City Hall, One Roosevelt Square
Mount Vernon, NY, 10550
(914) 665-2300 – Fax: (914) 665-2476

DAMANI L. BUSH
Commissioner

ROBERT L. HACKETT
Deputy Commissioner

July 2, 2024

Honorable City Council Members
The City of Mount Vernon
Mount Vernon, New York
(Through the Office of the Mayor)

**Re: Arcadis of New York, Inc., - Sewers Engineering Services – Amendment #3 to
Legislation Dated August 7, 2023 – Additional Extension Not to Exceed \$1,800,000
Term: August 10, 2023 – December 31, 2025**

Dear Honorable City Council Members:

The Department of Public Works respectfully requests a third and final extension of the emergency contract with Arcadis of New York, Inc. (“Arcadis”) to ensure uninterrupted compliance with sewer-related engineering services through December 31, 2025, at an additional total cost of \$1.8M. The City is fully prepared to back this contract extension financially, with a combination of ten (10) sewer-related grants and EFC funding facilities readily available to support sewer compliance work—more than enough to support this contract amendment, which are at **no additional cost(s) for the City**. This demonstrates our unwavering commitment to this crucial project and our financial preparedness. This amendment and funding reflect the support and coordination of The City with New York State Department of Environmental Conservation (DEC), and New York State Environmental Facilities Corporation (EFC), the principal funding and compliance authorities.

Arcadis has been providing engineering services for the City of Mount Vernon (City), most of which is to comply with the Consent Decree between the City, DEC, Environmental Protection Agency (EPA), and the Department of Justice (DOJ) regarding illicit discharges to the Bronx and Hutchinson Rivers (Case 7:18-cv-05845-CS). These compliance services include Edison Pump Station Design, acting Consent Decree Engineering Expert and Financial Expert, and the Sewer System Evaluation Survey and Illicit Discharge Action Plan implementation.

The current Arcadis agreement, a two-year agreement that began in August 2023 and will end next August 2025, is facing a critical funding limit. The remaining amount will be depleted before the end of July 2024, necessitating an immediate resolution to avoid stopping Arcadis's work. The EFC has provided funding specific to the current Arcadis scope of work with the \$1M grant titled Funding Agreement – Sewer Investigations and Repairs. However, the situation is dire, with limited funding remaining in this grant and

“The Jewel of Westchester”



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a year left on our contract. A potential gap in assistance could lead to severe violations of the Consent Decree and subsequent civil and stipulated penalties, which we all are keen to avoid.

In accordance with the City's Procurement Policy and to increase the diversity of the vendor contractors performing sewer work, the city is planning to simultaneously develop and advertise this work in a Request for Qualifications (RFQ). A process that, with the assistance of EFC, can take up to twelve (12) months to complete. We aim to identify a quality pool of additional infrastructure engineers to complete this work. This timeline includes developing RFQ documents, advertising the RFQ, receiving consultant responses, selecting the consultant, and signing an agreement, which would overlap in 2025FY to ensure continuity and no lapse in services. However, in the interim, Arcadis, as the City's primary engineering consultant and Financial Expert, has been implementing many of the components of the Consent Decree. A potential gap in our assistance could lead to violations of the Consent Decree and civil and stipulated penalties, making the need for immediate action clear. The challenges presented in bringing on a new Engineering consultant and the City's reliance on Arcadis for these crucial services underscore the necessity of a contract extension to maintain continuity in our efforts to resolve our legal compliance issues.

CIVIL PENALTIES FACING THE CITY FOR NON-COMPLIANCE

The civil and stipulated penalties and a reference to the continuous retainage of an Engineering Expert and Financial Expert are as follows:

- **VII. Civil Penalty** – DEC suspended a Civil Penalty of **\$100,000** provided the Defendant does not violate any terms of the Consent Decree
- **Paragraph 39 Engineering Expert** – Defendant shall continuously retain a qualified engineering firm to assist Defendant in Meeting its MS4 Obligations and Compliance with the Consent Decree until this Decree's termination date. Arcadis is currently engaged as an Engineering Expert.
- **Paragraph 44 Financial Expert** – Defendant shall retain continuously until the date of termination of the Decree; Defendant shall retain a qualified firm to provide technical advice, assistance, oversight, and organization to assist Defendant in procuring federal state and other funding. Arcadis is currently engaged as the Financial Expert.
- **X. Stipulated Penalties**—The Consent Decree includes penalties for violating compliance deadlines, required actions, and reporting requirements. The penalties are per violation and per day and increase with the period of non-compliance. One group of violations ranges from \$250/day/violation to \$1000/day/violation, and the second group ranges from \$500/day/violation to \$1500/day/violation.



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NEW ADDITIONAL REQUIREMENTS UNDER AMENDMENT #3

- Increased and robust MWBE participation in Mount Vernon Sewer remediation work for the amended contract term.
- Workforce Development Opportunities for City Residents and Youth
- Community Engagement – In accordance with Paragraph 37 of the Consent Decree – Public Education and Other Actions. Arcadis will plan and implement an aggressive community engagement plan via Public Relations firms to inform and educate Mount Vernon residents on the details of the Consent Decree and the importance of resolving the issues for the taxpayer. The plan will also inform them of the progress of the City's plan to fix the sewers and invite local businesses and residents, including the City School District, to participate wherever possible.

ARCADIS CONTRACT BACKGROUND AND TIMELINE

The Initial Arcadis Contract

In December 2021, the City of Mount Vernon entered into a \$138,500 Agreement for Professional Engineering Services with Arcadis of New York to bring the city into compliance with its Municipal Separate Storm Sewer System ("MS-4") General Permit. The services included the development of an Illicit Discharge Action Plan (IDAP), Outfall Sampling, a Storm Water Sampling Plan (SWMP), a sewer system Evaluation survey (SSES) Plan, a Capacity, Management, Operations, and Maintenance (CMOM) Program and to remedy issues identified to eliminate sources of pollution from unauthorized discharges to water bodies. The agreement also authorized additional services upon the city's request.

Arcadis Amendment #1

Under the Consent Decree, on December 29, 2022, the city executed a \$400,000 amendment to the above contract totaling \$538,000. This amendment was a strategic decision to enhance our services, including, as needed, Engineering Services, Program Management, contractor-on-call Services, and Grant and Financing Assistance, to better serve the city's stormwater compliance needs.

Arcadis Amendment #2

In response to ongoing compliance and enforcement action by New York State, on September 11, 2023, the city executed a second extension for As Needed Engineering Services, Sewer Inspection and Rehabilitation RFB, Sewer Investigation and Rehabilitation, etc. for an additional \$1M, bringing the total up to \$1,538,500.



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The active two-year Arcadis contract expires in August 2025. Still, the remaining contractual remuneration is approximately \$84,000 (*as of July 2, 2024*), which is not enough to guarantee uninterrupted Consent Decree compliance, which carries heavy penalties, fines, and other enforcement actions against the city.

Amendment #3 (New)

Arcadis will continue to help manage this crisis. Generally, the engineering services will focus on assisting the city with sanitary and stormwater sewer investigations, maintenance, and repairs. It will also include assistance in implementing the lead service line replacement program. The deliverables are as follows:

- Task 1 – Meetings and Correspondences
- Task 2 – Grant and Financing Assistance
- Task 3 – Program Management
- Task 4 – Outfall 24 Sewer Investigation Field Services
- Task 5 – Sewer Investigation and Rehabilitation Recommendations
- Task 6 – 2024/2025 Phase 2 – Sewer Inspection and Rehabilitation RFB's
- Task 7 – As-Needed Engineering Services

Funding for these services shall be expended from the following funding sources:

- **\$10,000,000** – New York State Department of Environmental Conservation (NYSDEC) 2021 Water Quality Improvement Project (WQIP)
- **\$75,000** – NYSDEC MS4 Mapping Grant
- **\$1,500,000** – Environmental Protection Agency (EPA) Community Funding Grant
- **\$1,500,000** – U.S. Department of Housing and Urban Development (HUD) Community Project Funding
- **\$500,000** – New York State Environmental Facilities Corporation (EFC) Engineering Consultant Design Grant
- **\$150,000,000** – New York State Environmental Facilitates Corporation (EFC)
- ARPA – H8120.203.C933 – Sanitary Sewer Rehabilitation and Construction; H8140.203.C932 – Stormwater Sewer Rehabilitation and Flood Mitigation. (*City funds will sometimes be needed to provide the upfront grant payment before reimbursement.*)

TOTAL FUNDING AVAILABLE - \$163,575,000



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Respectfully,

Damani L. Bush
Commissioner of Public Works
DB/SL

Cc: New York State Department of Environmental Conservation
New York State Environmental Facilities Corporation
Comptroller's Office
Grants & Compliance Division
Engineering Bureau
Law Department
Contract File

Attachments: Arcadis of New York – Amendment #3 Proposal
USDOJ Consent Decree – September 18, 2023

New Matter
[Deleted Matter]