

82403

February 2, 2021

TO: BOARD OF ACQUISITION AND CONTRACTS
FROM: VINCENT F. KOPICKI, P.E.
COMMISSIONER
RE: Resolution to Award an Emergency Construction Contract

CONTRACT NO. EF-2101
AERATION TANK MEDIA EMERGENCY REMOVAL AND
REPLACEMENT PROJECT
MAMARONECK WATER RESOURCE RECOVERY FACILITY
MAMARONECK, NEW YORK

CONTRACTOR: ELQ Industries, Inc.
AMOUNT: Not to Exceed \$6,000,000.00

Subcontractor Approval: Veolia Water Technologies, Inc. (dba Kruger)

Attached for your consideration is a resolution, which, if approved by your Honorable Board, would authorize the award of Contract EF-2101 for the Aeration Tank Media Emergency Removal and Replacement Project for two aeration tanks including improvements to capture media fragments at the Mamaroneck Water Resource Recovery Facility, Mamaroneck, New York. The contract would be on an emergency basis to ELQ Industries, Inc., 567 Fifth Avenue, New Rochelle, NY, 10801 in the amount not to exceed \$6,000,000.00 paid for on a time and material basis subject to appropriations, for a two-year term commencing upon execution. In addition, the Contractor has requested and the Department has approved the utilization of the following subcontractor: Veolia Water Technologies, Inc. (dba Kruger) 4001 Weston Parkway, Cary, North Carolina, to provide the replacement media for the two aeration tanks. This Resolution is being submitted pursuant to a memorandum dated November 10, 2020 that was submitted to your Honorable Board on November 10, 2020 (the "Emergency Declaration").

The Department of Environmental Facilities has outlined the reason and nature of the emergency basis in the Emergency Declaration, a copy of which is attached hereto.

As described in the Emergency Declaration, the emergency work (the "Work") includes the expedited construction of the media removal and replacement in two aeration tanks.

In consultation with the Law Department and based on the facts related by Department of Environmental Facility's staff, it has been determined that this is a condition that was

unforeseen, affects the continued operation of the treatment plant within SPDES discharge requirements and requires immediate attention and therefore meets the legal requirements for an emergency contract which cannot await competitive bidding. The Department, following its standard emergency contract protocols, selected the firm of ELQ Industries, Inc., to perform the media removal and replacement work and authorized ELQ Industries, Inc. to subcontract with Veolia Water Technologies, Inc. (dba Kruger) to provide the replacement media based on the reduced cost, financial support, technical assistance and extended warranty.

The Contractor selected by the Department has been investigated and found that:

X has performed satisfactory work in the past for the County.

Past experience has been investigated and found satisfactory.

Funds for this project are available in the:

X Capital Budget

MNRR

Operating Budgets

This contract is deemed to fulfill a public purpose as the services provided under this contract promotes the public health and welfare by enabling the County to conduct its basic mission of providing proper sanitary sewage collection and treatment, thereby promoting public health policies and laws. The response and work will monitored by representatives of the Department of Environmental Facilities and Department of Public Works and Transportation throughout the work to make sure all applicable regulations, safety precautions and codes regarding the protection of persons and property are adhered to and that a cost-effective project is the end product.

It is recommended that Contract No. EF-2101 be awarded on an Emergency Basis to ELQ Industries, Inc. in the amount not to exceed \$6,000,000.00 paid for on a time and material basis subject to appropriations, and that ELQ Industries be authorized to subcontract with Veolia Water Technologies, Inc. (dba Kruger) 4001 Weston Parkway, Cary, North Carolina, to provide the replacement media for the two aeration tanks. In lieu of a performance and payment bond, the County will retain five percent (5%) of all contractor payments for work completed on an annual basis as security for the full and faithful performance of this work.

A proposed form of Resolution is attached.

RESOLUTION

Contract No. EF-2101

Upon communication from The Commissioner of the Department of Environmental Facilities,

WHEREAS, an emergency condition which could affect the ability of the treatment plant to meet its SPDES discharge permit requirements and pose a threat to the health and safety of the public and employees developed as a result of structural failure of the aeration tank IFAS system media at the Mamaroneck Water Resource Recovery Facility, Mamaroneck, New York. Release of the media fragments is a violation of the plant's SPDES discharge permit and would result in continuous violations of DEC regulations and associated fines and penalties; be it hereby

RESOLVED, that Contract No. EF-2101 for Aeration Tank Media Emergency Removal and Replacement Project, Mamaroneck Water Resource Recovery Facility, Mamaroneck, New York is awarded on an Emergency Basis to ELQ Industries, Inc., 567 Fifth Avenue, New Rochelle, NY, 10801 in the amount not to exceed \$6,000,000.00 paid for on a time and material basis for a two-year term commencing upon execution; and be it further

RESOLVED, that ELQ Industries, Inc. is authorized to subcontract with Veolia Water Technologies, Inc. (dba Kruger) 4001 Weston Parkway, Cary, North Carolina, to provide the replacement media for the two aeration tanks including improvements to capture media fragments; and be it further

RESOLVED, that the retention of five percent (5%) of all contractor payments by the County for work completed on an monthly basis be deemed adequate and sufficient security for the full and faithful performance of this work in lieu of a performance bond; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purposes hereof.

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
322	60	SLI04-01-C		2-2021	\$6,000,000.00

Budget Funding Year(s) 2020

Start Date 12/28/20

End Date 12/27/22

(must match resolution)

Funding Source

Tax Dollars 100%

State Aid _____

NTE \$6,000,000.00

Federal Aid _____

(must match resolution)

Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/18/2021 - LISA MARIJAS, SECRETARY