



ITEM REPORT CITY COUNCIL

Agenda Date: 8/20/2024
Agenda Section: Consent Agenda

Department Origination: Public Works

Agenda Item: Approve the RL Larson Excavating, Inc. Change Order No. 4 in the increased amount of \$146,000.00 for the 2024 South Forestview Improvements Project, Municipal Project No. 4138

Approval Required: Simple Majority Vote

BACKGROUND

RL Larson Excavating, Inc. was awarded the Construction Contract for the project at the March 19, 2024 City Council Meeting.

Change Order No. 4 with RL Larson Excavating, Inc. includes an added work item for watering resulting in an estimated change order amount of \$146,000.00. During a recent project meeting, staff from RL Larson noted that sod and seed watering was not included in the bid prices. RL Larson suggested that the language included within the special provision sections for turf restoration and tree plantings did not clearly identify watering, and it was their interpretation during the bidding process that a separate bid item was included for this purpose. After additional discussion between RL Larson, City Staff, and SEH, RL Larson requested a Change Order and provided a price for a new bid item related to watering.

For reference, the contract did include a bid item for watering turf and trees, though the intent of this item was for any additional watering after the maintenance period. The quantity identified for this item was not adequate to cover the large volume of water that will be required for maintenance of the sodded or seeded areas. The presence of this item, and the language included within the special provision sections for sod and seed led to RL Larson's interpretation of the contract being that watering was not an "incidental" item for sod or seed. After review of bid prices of other bidders, and after review of the contract language, SEH and City Staff determined that RL Larson's interpretation is reasonable, and to hold RL Larson to the actual bid price for watering sod and seed was not fair.

The City and SEH negotiated a lower price for watering with RL Larson, and the item presented in the Change Order is listed at the reduced price. In addition, the City agreed to allow RL Larson to use water for sod and seed at no charge for those specific gallons that will be utilized for this activity.

The City requested that SEH review the bid tabulation to see if the value of this change order would impact the low bidder (had the watering work been factored in to the bid prices of RL Larson's bid). RL Larson's low bid was \$5,857,405.33, or approximately \$257,745.47 lower than the 2nd low bidder. This difference is greater than the value of the Change Order, and per comments from the City Attorney, shouldn't pose any problems from a public bidding perspective. The full bid tabulation and supporting information was provided to the City Attorney for review as discussed below.

City staff requested that the City Attorney be consulted to review the contract language, the change order, and other supplemental information related to this topic. SEH provided information to the City Attorney for review. The City Attorney reviewed the information, and provided comments suggesting that the Contractor's interpretation was in good faith, and also that the change order shouldn't pose any problems from a public bidding perspective.

FINANCIAL IMPLICATIONS

A complete breakdown of the project budget as approved by City Council at the March 19, 2024 meeting when the assessments were adopted, current expenditures, and projected costs are outlined in the attached Exhibit A.

The costs associated with this change order are accounted for in the line item for “Contingencies”.

STAFF RECOMMENDATIONS

Staff recommends approval of the RL Larson Excavating, Inc. Change Order No. 4 in the increased amount of \$146,000.00 for the 2024 South Forestview Improvements Project, Municipal Project No. 4138.

CITY COUNCIL ACTION REQUESTED

MOTION to approve the RL Larson Excavating, Inc. Change Order No. 4 in the increased amount of \$146,000.00 for the 2024 South Forestview Improvements Project, Municipal Project No. 4138.