



STAFF REPORT

Meeting Type: City Council
Meeting Date: July 17, 2023
From: Jennifer Coker
Subject: Contract Amendment: Wastewater Treatment Plant Improvements - Slayden Constructors, Inc.

DECISION TO BE MADE:

Whether to authorize the interim City Manger to sign Amendment 5 to the CM/GC contract with Slayden Constructors, Inc.

BACKGROUND / CONTEXT:

On December 21, 2020, the Council adopted findings approving the use of a modified Construction Manager/General Contractor (GM/GC) procurement method for the wastewater treatment plant improvements project. This procurement method provides several advantages for the City, not the least of which is substantial time savings. The CM/GC method allows the City's contractor to develop a guaranteed maximum price (GMP) for each work package, which is open book and reviewed and approved by the City construction management team.

At the March 1, 2021 meeting, City Council authorized the City Manager to sign an agreement with Slayden Constructors for CM/GC Construction Services for the Immediate Needs Wastewater Treatment Plant Improvements Contract for Phase 1A of the Clean Waters Program. The negotiated fee was \$39,457 for pre-construction fees assisting and advising in the design effort. The contract was amended as design packages were released for the contractor to provide GMPs for construction of each package. Due to the schedule pressure the City was under with the EPA and the looming consent decree, the owner's representative team elected to issue three GMP packages to allow enough time for long lead equipment items to arrive.

This contract amendments to date are as follows

- GMP Amendment No. 1 (Construction Package 1) approved July 6, 2021 –\$4,542,468 total price, substantial completion 10/31/2022

- GMP Amendment No. 2 approved September 7, 2021 – increased total price of \$6,018,444, substantial completion 10/31/2022
- GMP Amendment No. 3 approved 3/7/2022 –increased total price \$10,513,111, substantial completion 10/31/2022
- GMP Amendment No. 4 approved December 16, 2022 –\$10,513,111, no price increase, but a non-compensated schedule extension of substantial completion to 6/1/2023.

Note that none of the amendments were for “change orders” in the traditional sense. They were for planned construction packages of work done using Alternative Delivery method to expedite schedule. The Amendment 4 extended the substantial completion date without additional general conditions due to delays in equipment and risks of permit violations for performing certain construction tasks in the wet weather season.

In February of 2023, Slayden issued a Notice of Delay due to impacts from Owner’s stress testing. Due to the importance of the stress testing, and the May 2023 deadline in the Consent Decree, while the owner’s rep team endeavored to keep the contractor working, there were instances where Slayden could not make normal progress due to Stress Testing activities including sampling, temporary construction, other RRM project repairs at the treatment plant required to maintain compliance not included in the Slayden construction project, and stress testing practices and runs.

KEY CONSIDERATIONS / ANALYSIS:

According to the CM/GC contract, the Contractor is entitled to compensation for delays that are caused or requested by the Owner. According to the recommendation from our Construction Management Team Leeway Engineering Solutions and Stantec, they concur that the Contractor is due compensation for a total of 90 days (2.5 month) of delays due to Owner requests to accommodate the preparation and execution of the stress testing plan. The durations of these delays and affected tasks are summarized as follows:

- 1) Access to clarifier #2 to install launders and supports (29-day delay)
- 2) Access to Aeration Basins 1 and 2 to install RAS piping (23-day delay)
- 3) Access to the Aerated Sludge Storage Basin (38-day delay)

Total requested and recommended approved delays are 90 days.

Costs due to the Contractor were calculated summing up the onsite general condition work for the duration of the 2.5-month recommended contract extension. These include:

- Staff supervisor and management time: \$155,408
- Staff supervisor equipment (onsite vehicles): \$14,133
- Onsite general mobilization costs: \$7,115
- Markups, taxes and insurances: \$21,438

Total General Conditions Compensation due totals \$198,904 for 90 days of owner requested delays.

This Amendment also extends the substantial completion date for the Contractor from 6/1/2023 to 8/14/2023. The original completion date was 10/31/2022, which is 9.5 months earlier, and the City has been found to owe general conditions for 2.5 months of delays. This is the first true change order in this construction contract, and is equivalent to 1.9% of the total GMP contract price.

BUDGET IMPACT:

The proposed Amendment, which totals \$198,094 is funded by the Clean Water State Revolving Fund Loan (CWSRF) and is included in the program budget. The contingency remaining in the loan is sufficient to cover the requested Amendment No. 5.

RECOMMENDATION:

Authorize the Interim City Manager to sign Amendment No. 5 to the CM/GC Agreement with Slayden Constructors, Inc.

SUGGESTED MOTION LANGUAGE:

"I move to authorize the Interim City Manager to sign Amendment No. 5 to the CM/GC agreement with Slayden Constructors, Inc in the amount of \$198,094."

LIST OF ATTACHMENTS / EXHIBITS:

- Draft Contract Amendment No. 5.
- Slayden CM/GC Original Contract