



Legislation Text

File #: 19-2112, **Version:** 2

Resolution to Approve Change Order No. 2 with M-K Construction Company, Inc. for additional construction costs for the Southside Interceptor Sanitary Diversion Project (\$106,832.00)

Attached, please find a resolution for the approval of Change Order No. 2 with M-K Construction Company, Inc. (M-K) for additional construction costs for the Southside Interceptor Sanitary Diversion Project. Also attached, please find a copy of Change Order No. 2 for this project.

The Southside Interceptor Sanitary Diversion Project is a project that will construct a cast-in-place sanitary sewer diversion chamber under Fuller Street across from Glen Court. The purpose of the diversion chamber is to divert approximately 11 cubic feet per second of sanitary sewer flow from the existing Southside Interceptor Sewer during large rain events in order to greatly reduce the likelihood of sanitary sewer overflows in the existing Southside Interceptor Sanitary Sewer in the area of the Thorn Oaks subdivision located off of E. Huron River Drive.

In order to perform this project, it was necessary for the City to obtain a Temporary Permit to Enter (TPE) from Amtrak for the project's work since the work was in close proximity to the MDOT-owned railroad right-of-way. The TPE was approved by Amtrak on April 8, 2019. On April 15, 2019 the construction contract with M-K was approved by City Council (R-19-164, copy attached.) Prior to the commencement of the project's construction, and as required by the TPE, M-K submitted the required temporary sheeting and shoring plan for Amtrak's review and approval on April 17, 2019. The project construction was scheduled to begin on May 6, 2019. The project's work required the complete closure of Fuller Street between Glen Court and the Glen Avenue/Fuller Street/Fuller Road intersection. Fuller Street was closed on, or about, May 6, 2019 as required by the contract. While Amtrak was reviewing the temporary sheeting and shoring plan, the Contractor began the work of the project within the City's right-of-way working to perform the preparatory tasks needed to install the temporary sheeting that would allow a significant portion of the work to take place.

On May 21, 2019, a dispute arose with Amtrak regarding the proximity of the work to the existing railroad right-of-way. It was the position of the City of Ann Arbor that M-K had the right-to-work within the City's right-of-way, however, Amtrak representatives were very concerned that the construction would endanger the railroad tracks and passengers on their trains. While neither the Contractor nor the City felt that this was a realistic fear, Amtrak demanded that the work stop while their review of the needed temporary sheeting continued. The work of the project stopped on May 21, 2019 as required by Amtrak. Discussions regarding the legality of Amtrak's demands and the City's rights, responsibilities, and options took place during May, June, and July 2019. Amtrak approved the temporary sheeting and shoring plan on July 17, 2019 (three months after it was originally submitted.)

The project schedule required that Fuller Street be re-opened to vehicular traffic on, or before, August 21, 2019. Given that there was less than one month left to substantially complete the project after Amtrak's approval of the Temporary Sheeting and Shoring Plan and their agreement to allow the

work to resume, a decision had to be made with regard to continuing the project into Fall 2019 and interfering with U of M Hospital operations, significant events such as the beginning of the Fall semester of the U of M, and U of M home football games, or stopping the project and re-opening Fuller Street to traffic prior to these events. Since Fuller Street is a major route to the University of Michigan Hospital Complex, it was ultimately decided that the project's work for 2019 would be stopped and the roadway re-opened to traffic prior to the August 21st deadline and the work resumed in Spring 2020.

Consequently, it is now necessary to compensate the Contractor for the added expenses of temporarily repairing the roadway and re-opening it to traffic and returning to the site in 2020 to complete the work. Change Order No. 2 in the amount of \$106,832.00 compensates the Contractor for the work performed in 2019 that was needed to close the excavation and re-open the roadway to vehicular traffic and return to the site in 2020. The costs are comprised of additional costs to re-excavate the pit to construct the diversion chamber, replace all needed traffic control devices to detour Fuller Street traffic, re-pave Fuller Street and temporarily restore the slope leading down to the railroad tracks, re-stripe Fuller Street, pay for certain additional overhead costs of the contractor, and restore some of the existing contract items of work to their original amounts so that the work can proceed in 2020.

With the approval of resolution R-19-64, a contingency fund of \$124,517 was established to pay for extras and overruns on the contract. Change Order No. 1 in the amount of \$57,669.76 was administratively approved on August 7, 2019. A total of \$164,501.76 in additional construction expenses will be incurred on this project as a result of the project delay caused by Amtrak for their protracted review of the Contractor's Temporary Sheeting and Shoring Plan and its resultant delays.

Budget/Fiscal Impact: The additional funding necessary for this project is available in the approved Public Services Area, Sewage Disposal Fund Capital Budget, utilizing Developer Offset Mitigation Funds. The originally estimated total cost of the project was \$1,736,200.00. The total cost of the project is now expected to be \$1,968,850.00, or about a \$232,650.00 increase.

Prepared by: Nicholas S. Hutchinson, P.E., City Engineer, Engineering

Reviewed by: Craig A. Hupy, Public Services Area Administrator

Approved by: Howard S. Lazarus, City Administrator

Whereas, M-K Construction Company, Inc., (M-K) was awarded a contract on April 15, 2019 (R-19-164) in an amount of \$1,254,166.64 to perform the construction of the Southside Interceptor Sanitary Diversion Project;

Whereas, The project was significantly delayed due to the protracted review of the required Contractor's submittals by Amtrak;

Whereas, M-K Construction Company, Inc. has submitted all required Human Rights, Living Wage, and Conflict of Interest forms and complies with the requirements of the City's Non-discrimination and Living Wage Ordinance;

Whereas, It is now necessary to amend M-K's contract to include additional work in the amount of \$106,832.00 as detailed on Change Order No. 2 so that the project's construction can be properly completed in 2020; and

Whereas, The additional funding necessary for this project is available in the approved Public

Services Area, Sewage Disposal Fund Capital Budget;

RESOLVED, That Council approves Change Order No. 2 to the Construction Contract with M-K Construction Company, Inc. in the amount of \$106,832.00 for the Southside Interceptor Sanitary Diversion Project;

RESOLVED, That a contingency amount of \$124,517.00 be re-established within the project budget and the City Administrator be authorized to approve change orders not to exceed that amount if needed to satisfactorily complete this project; and

RESOLVED, That the City Administrator be authorized to take all necessary administrative actions to implement this resolution.