



Recommendation for Action

File #: 22-1977, Agenda Item #: 5.

9/15/2022

Posting Language

Ratify construction change orders with M.A. Smith Contracting Company, Inc., for the Boggy Creek - MLK TOD Stormwater Conveyance Improvements Phase 1 project in an amount of \$602,004 for a total contract not to exceed \$4,068,722.

[Note: This contract was awarded in compliance with Minority Owned and Women Owned Business Enterprise Procurement Program pursuant to MBE/WBE Program Rule Subsection 1.2.1(I). This change order is exempt from the Owner's MBE/WBE Program requirements as a public health and safety purchase as provided in the MBE/WBE Program Rules.]

Lead Department

Financial Services Department.

Managing Department

Public Works Department.

Fiscal Note

Funding is available in the Capital Budget of the Watershed Protection Department.

Purchasing Language:

The original contract procurement went through the City's competitive Invitation for Bid process and was later declared exempt from Texas Local Government Code Chapter 252 due to public health and safety risk, when it became necessary to exceed the original contract amount by more than 25%.

Prior Council Action:

June 6, 2021- Council approved the execution of Change Order 8 to the construction contract with M.A. Smith Contracting Company, Inc. to increase the contract amount to \$3,466,718.44.

February 20, 2020 - Council approved a construction contract with M.A. Smith Contracting Company, Inc., for the Boggy Creek-MLK TOD Stormwater Conveyance Improvements Phase 1 project.

For More Information:

Inquiries shall be directed to Rolando Fernandez, 512-974-7749, Garrett Cox, 512-974-9423, or the Project Manager, Laurie Thering, 512-974-7035.

Additional Backup Information:

The requested action is for Council to ratify the contract with M.A. Smith Contracting Company, Inc., which has been procured under authority of Section 252.022(a) (2) of the Texas Local Government Code as a procurement necessary to protect or preserve the public health and safety of the citizens of Austin.

On February 20, 2020, Council approved a construction contract with M.A. Smith Contracting Company, Inc.

for the Boggy Creek - MLK TOD Stormwater Conveyance Improvements Phase 1 project. The purpose of this project is to convey stormwater and reduce flooding in the project area. As part of the Transit Oriented Development Ordinance No. 20050519-008, the Watershed Protection Department identified needed stormwater infrastructure improvements in East Martin Luther King Jr. (MLK) Boulevard near the Capital Metropolitan Transportation Authority (Capital Metro) Red Line crossing. During the original construction of the Red Line crossing, portions of needed stormwater infrastructure improvements were constructed but not placed in service. This was done in anticipation of a future storm drain improvement project. The current project incorporates the previously completed portions with new storm drain sections to complete a portion of the overall planned improvements.

This ratification is required because during construction, a wastewater line required re-routing. After cutting the wastewater line and beginning bypass pumping operations, unanticipated site conditions not captured in the original plan set were encountered. This required an open channel excavation beneath an active commuter rail line. This caused significant delays and additional costs to the project and extended bypass pumping operations by several months. To avoid spillage, bypass pumping of wastewater lines requires 24-hour monitoring.

On June 6, 2021, Council approved the execution of Change Order 8 to increase the contract amount by 25% of the original contract amount. Additional change orders were necessary to continue bypass pumping operations while addressing the unexpected open channel excavation. The original contract amount may not be increased by more than 25% according to Texas Local Government Code Chapter 252 unless an exemption is authorized. These change orders were deemed necessary due to the health and safety risk associated with the contractor abandoning the project with bypass pumping in place. An exemption to Texas Local Government Code Sec. 252 was approved in September 2021 to preserve and protect public health and safety.

This project is located within District 1.

Strategic Outcome(s):

Safety, Mobility.