



City of Austin

Recommendation for Action

File #: 24-3896, **Agenda Item #:** 25.

2/29/2024

Posting Language

Authorize an amendment to a contract for construction services for the Zilker Metro Park - Maintenance Barn Replacement project with replacement contractor A&J Construction Management LLC, to increase the amount by \$1,384,804 for a total contract amount not to exceed \$3,531,868.

[Note: This contract was awarded in compliance with City Code 2-9A (Minority-Owned and Women-Owned Business Enterprise Procurement Program). Current participation to date is 96.26% MBE and 3.74% WBE].

Lead Department

Financial Services Department.

Managing Department

Capital Delivery Services.

Fiscal Note

Funding is available in the Capital Budget of the Parks and Recreation Department, to include a tender payment from Berkley Surety.

Purchasing Language:

Contract Amendment.

Prior Council Action:

April 8, 2021 - Council approved a contract with Sayers Construction, LLC, for the Zilker Metro Park - Maintenance Barn Replacement project.

For More Information:

Direct questions regarding this Recommendation for Council Action to the Financial Services Department - Central Procurement at: FSDCentralProcurementRCAs@austintexas.gov or 512-974-2500. Respondents to the solicitation and their Agents should direct all questions to the Authorized Contact Person identified in the solicitation.

Additional Backup Information:

The Parks and Recreation Department's existing maintenance barn is undersized, in poor condition, and inadequate to meet the needs of the Zilker Metropolitan Park maintenance staff. This project will provide a new barn, consisting of additional office space, workspace, and storage space necessary for the upkeep of the park grounds, buildings, and pool.

The City executed a construction contract with Sayers Construction, LLC in April 2021 for labor and materials for the Zilker Metro Park - Maintenance Barn Replacement project. Berkley Surety issued a performance and payment bond in connection with this project establishing Sayers Construction, LLC as the principal and the City as the obligee.

Following Sayers Construction, LLC's repeated failure to adequately progress the work of the project, declaring bankruptcy and failing to provide assurances that it would be able to complete the project according to the contract's terms and conditions, the City terminated the contract with Sayers Construction, LLC, with cause. The City simultaneously submitted a performance bond claim to Sayers Construction, LLC's surety, Berkley Surety, to complete the project. To satisfy the bond claim pursuant to Texas Government Code Chapter 2253, Berkley Surety offered a replacement contractor, A&J Construction Management, LLC, to assume the original contract and complete it by its terms and conditions as well as a tender payment to compensate the City for estimated cost escalations for material and labor related to Sayers Construction, LLC's failure to perform under the contract. Following satisfactory assurances that the replacement contractor will complete the contract according to its original terms and conditions, the City accepted Berkley Surety's offer.

Berkley Surety's tender payment of \$1,384,804.38 to the City is meant to compensate the City for estimated escalated costs associated with completing the project. This request for an increase in contract authorization is tied directly to that tender payment amount and is meant to allow the project to progress to completion based on the estimated escalated costs without committing additional City funds. The City's remaining construction contract balance of \$1,596,245.88 from the initial authorization, combined with Berkley Surety's \$1,384,804.38 tender payment represent the total amount required for A&J Construction Management, LLC to complete the project.

This project is located within zip code 78746 (District 8).