



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

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Title: Authority to settle potential delay claims against the Metropolitan Water Reclamation District of Greater Chicago arising out of various steel procurement issues on Contract 13-106-4F, McCook Reservoir Des Plaines Inflow Tunnel, SSA (Deferred from the December 20, 2018 Board Meeting)

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TRANSMITTAL LETTER FOR BOARD MEETING OF JANUARY 10, 2019

COMMITTEE ON ENGINEERING

Mr. Brian A. Perkovich, Executive Director

Authority to settle potential delay claims against the Metropolitan Water Reclamation District of Greater Chicago arising out of various steel procurement issues on Contract 13-106-4F, McCook Reservoir Des Plaines Inflow Tunnel, SSA (*Deferred from the December 20, 2018 Board Meeting*)

On June 16, 2016, the Board of Commissioners authorized the Director of Procurement and Materials Management to award Contract 13-106-4F McCook Reservoir Des Plaines Inflow Tunnel to Walsh Construction Company II, LLC (Walsh) in an amount not to exceed \$113,158,880.10. The contract is scheduled for completion in January 2020.

The purpose of Contract 13-106-4F is to construct a new inflow tunnel connecting the existing Des Plaines Tunnel system directly to McCook Reservoir in order to improve upon the hydraulic performance of the federally approved plan constructed by the US Army Corps of Engineers. In order to control flow into the reservoir, a pair of large wheel gates will be installed in a gate shaft upstream of the tunnel connection to the reservoir. The large wheel gates will roll in and out of position inside of steel lined gate tracks that are fabricated from specialty steel with high resistance to corrosion and substantial hardness. Procurement and fabrication of these steel components of the project are critical to the various stages of the tunnel's construction.

At the start of the material procurement phase of the contract, it became apparent that certain steel materials specified for the gate tracks could no longer be procured either domestically or on the international market and alternative materials had to be considered. The contract allowed for "or equal" materials to be used in lieu of

that specified; however, given the stringent requirements for corrosion resistance and hardness, most steel products were unacceptable and a suitable alternative was not agreed upon until approximately one year after the issue was initially identified.

The steel for the large wheel gates is a less exotic material and is available domestically; however, the gate manufacturer was unfamiliar with the Illinois' Steel Procurement Act and began to fabricate the gates using Canadian steel. Requests for a waiver of the requirements of this act were rejected by the District as the reasons for the use of foreign steel did not meet the criteria for which the District is authorized to grant such waivers. Upon exhausting efforts for relief of the Illinois statute, Walsh found that obtaining the domestic steel required to refabricate the gates will introduce additional delays as demand for domestic steel have substantially increased in the wake of new tariffs on imported materials.

Though the District's position on these two matters is that the contractor is responsible for the delays, the contractor has claimed that the inability to timely locate suitable alternatives for the gate tracks and to procure domestic steel in a timely manner are elements outside of their control that were not anticipated. Furthermore, the setback in procurement of these materials will introduce a delay of approximately 13 months to the contract's completion date.

The contractor has now offered to modify the work plan to expedite certain critical portions of the work. This modified work plan consists of the installation of two temporary bulkheads, the cost of which will be borne by the contractor, which will allow them to complete portions of the work initially planned to occur at the end of the project during the time that they are waiting for delivery of the gates and gate tracks. The contractor will implement the modified work plan, in exchange for a time extension of the additional 7 months of delay, so as to avoid the liquidated damages. The contractor has agreed to waive any and all claims for additional compensation related to the aforementioned issues and their associated delays.

Therefore, the Engineering Department respectfully requests that the Board of Commissioners grant authority to settle potential claims against the District arising out of various steel procurement issues on Contract 13-106-4F McCook Reservoir Des Plaines Inflow Tunnel, SSA, by granting an extension of time in the amount of 7 months. Additionally, the Engineering Department requests authority to execute all documents as may be necessary to effectuate this settlement after it is approved by the General Counsel as to form and legality.

Requested, Catherine A. O'Connor, Director of Engineering

Recommended, Brian A. Perkovich, Executive Director

Respectfully Submitted, Frank Avila, Chairman Committee on Engineering

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for January 10, 2019