



AGENDA NO: 9.a

MEETING DATE: April 9, 2024

Staff Report

TO: Honorable Mayor and City Council

DATE: March 18, 2024

FROM: Greg Kwolek – Public Works Director
Anthony Cemo, PE – Water Reclamation Facility Program – Project Manager
Ken Wilkins, PE – Water Reclamation Facility Program – Program Manager

SUBJECT: Approval of Contract Closeout Amendment No. 10 for FBV Agreement

RECOMMENDED ACTION

Review and approve the closeout of the agreement among the City of Morro Bay and its design build contractor for the Water Resources Center (WRC), KS Overland Contracting, Inc. and J.R. Filanc Construction Company, Inc., collectively, aka FBV Morro Bay Joint Venture (FBV), as outlined in Amendment No. 10.

FISCAL IMPACT

The City's current budget for the construction of the WRC is \$79,123,216. The \$79,000,000 closeout contract value does not exceed the City's budgeted construction amount for the WRC.

DISCUSSION

In summary, City has negotiated final resolution of \$2,422,876.46 in outstanding potential change orders from FBV for a payment of \$575,674.

City staff and FBV have negotiated an agreement (Amendment No. 10) to close out the construction contract of the WRC for a total not to exceed contract amount of \$79M, an increase from \$78.4M set by Amendment No. 9.

Amendment No. 10 proposes to settle all outstanding potential change orders (PCOs) submitted by FBV. The table below identifies the PCOs and claims submitted by FBV for the final construction contract close out. The total of these PCOs is valued at approximately \$2.4M and, if all were accepted by the City, would result in a final contract amount of \$80.8M. Instead, City has negotiated with FBV for a final Amendment No. 10 for \$575,674 and a final contract amount of \$79M, saving City about \$1,800,000 in settlement of all outstanding PCOs from FBV.

PCO #	Description	Cost
122	Delay #2 (Beyond Seed Sludge Maintenance Period)	\$125,103.40
123	Delay #3 (DDW Issues - UV / AOP Challenge Test Delay)	\$1,328,315.14
126	V-Ditch Site Security Requirements (FBV Claim)	\$80,089.00

Prepared By: AC

Dept Review: GK

City Manager Review: YK

City Attorney Review: CFN

131	SWPPP and Storm Clean-up Costs (January 2023)	\$181,178.48
138	V-ditch Failures, Repairs, Redesign (Claim)	\$669,467.37
139	SRF Billings	\$38,723.07
	TOTAL	\$2,422,876.46

PCO 122 - Delay #2 Beyond Seed Sludge Maintenance Period:

Initial seed sludge biology was significantly weakened due in part to a lack of sufficient food and development of unfavorable water quality conditions. On October 11, 2023, there was a slug of poor-quality raw wastewater from the City's existing plant that overwhelmed and killed the biology at the WRC requiring a re-seeding of the plan.

PCO 123 – Delay #3 DDW Issues – UV/AOP Challenge Testing Delay:

The Department of Drinking Water (DDW) required additional testing in two phases for the UV system of the WRC. This testing was outside of the initial permit requirements and required extensive testing, reporting, meetings, and analysis from FBV. The claim for this extended period of work is the delay caused to FBV to remain on site while still performing the additional UV/AOP challenge testing per DDW requirements.

PCO 131 – SWPPP and Storm Clean-up Costs:

The 2022-2023 rainy season proved to be an above average rainfall event for the City of Morro Bay. This PCO covers the additional compensation for the additional storm measures, SWPPP replacement and post storm cleanup related to the unforeseen rain impacts.

PCO 138 – V-ditch Failures, Repairs and Redesign:

On January 9, 2023, the City experienced a significant rainfall and runoff event that caused significant erosion and structural damage to the newly constructed V-ditch drainage system at the WRC. FBV made design improvements to prevent any back channeling erosion of the V-ditch foundation and to improve the soil and structure interface of the drainage feature. FBV re-hydroseeded the hillside as well as installed a temporary irrigation system to ensure that the hydroseed established. It should be noted that the V-ditches have currently not had any issue during the rainy season this year.

PCO 139 – State Revolving Fund Billing Administration:

The SRF construction loan required a complete change to FBV's monthly billing for the project. This required a significant effort from FBV's project administration staff to collate all the task codes to the respective SRF line item.

Negotiations between the City and FBV have resulted in a final construction contract amount \$575,674 above the current contract amount of \$78,424,326 for a total close amount to FBV of \$79M, approximately \$1.8M less than the potential PCOs and change orders submitted by FBV outlined above.

The Program Management Team and the City presented the details of the closeout agreement to the Public Works Advisory Board on February 21, 2024, which voted 7-0 to recommend the City Council approve Amendment No. 10.

ATTACHMENT

1. Amendment No. 10 to the FBV Agreement