

Staff Summary Report



Council Meeting Date: 05/28/2009

Agenda Item Number: 41

SUBJECT: Request approval to amend the Job Order Miscellaneous Horizontal Construction and Minor Water and Wastewater Treatment Plant Improvements contracts with Quest Civil Constructors, Inc., Hunter Contracting Co. and Pierson Construction Corp.

DOCUMENT NAME: 20090528PWTG03 CONSTRUCTION-ENGINEERING ADMINISTRATION (0803)

COMMENTS: These amendments will increase the maximum allowable dollar amount for individual Job Orders from \$600,000 to \$1,000,000, consistent with Arizona Revised Statutes.

PREPARED BY: Theresa Galindo, Acting Engineering Contracts Administrator (x8518)

REVIEWED BY: Andy Goh, Deputy PW Manager/City Engineer (x8896)

LEGAL REVIEW BY: Judi Morgan, Assistant City Attorney (x8227)

DEPARTMENT REVIEW BY: Glenn Kephart, Public Works Manager

FISCAL NOTE: N/A

RECOMMENDATION: Approve amendments to the Job Order Miscellaneous Horizontal Construction and Minor Water and Wastewater Treatment Plant Improvements master contracts.

ADDITIONAL INFO: Job Order Contracting (JOC) is one of several project delivery methods approved under Arizona Revised Statute (ARS) Title 34. The JOC project delivery method significantly enhances the ability to provide quality construction services through an expedited process. In essence, this process entails competitively pre-selecting contractors for unspecified quantities of specific work tasks. Then, when specific construction needs arise that fall within the preselected tasks, a job order is written to perform the work. The ARS limits individual job order contracts to a maximum of one million dollars. This action will increase our allowable amount from a current \$600,000 up to the ARS allowable amount. This action has no fiscal impact and increases flexibility to utilize this method for larger scope projects. All requests for specific job orders under this contract that exceed \$50,000 will be brought to council for consideration.

The City of Tempe utilizes several methods for project delivery including JOC's, Construction Manager at Risk (CMAR), and the traditional design, bid, build. Staff considers factors such as cost, quality, schedule, and magnitude/complexity of work before determining which method to recommend for each project.

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

A rectangular stamp with the word "COPY" in a bold, sans-serif font. To the left of the word is a small square icon containing the letters "q" and "c".

AMENDMENT NO. 1

JOB ORDER CONTRACT
FOR
MISCELLANEOUS HORIZONTAL CONSTRUCTION
AND MINOR WATER AND WASTEWATER
TREATMENT PLANT IMPROVEMENTS
CONTRACT C2008-250

This Amendment No. 1 made and entered into on the 28th day of May, 2009, by and between the City of Tempe, an Arizona municipal corporation (“City”), and Quest Civil Constructors, Inc., an Arizona corporation (“JOC”), amends the original Contract made and entered into by and between the same parties on December 11, 2008 (C2008-250) (“Contract”).

W H E R E A S:

- A. The parties hereto entered into that Contract for Miscellaneous Horizontal Construction and Minor Water and Wastewater Treatment Plant Improvements; and,
- B. The parties desire to further define their respective rights and obligations with respect to the Job Order Price, and compliance with applicable employment laws, as contained in this Amendment; and,
- C. The parties intend that the following Section 1 Job Order Price, shall be integrated into the Contract in place of the former similarly identified section; and,
- D. The parties intend to amend the Contract by adding Section 2 Employment Laws, and that this Amendment No. 1 be given the full force and effect of law as the Contract.

Now therefore, in consideration of the mutual promises and covenants as more particularly set forth below, the parties do hereby amend the Contract as follows:

1. Job Order Price. Each Job Order under this Contract shall not exceed One Million Dollars (\$1,000,000) in construction costs, in the City's discretion. In no event will any Job Order exceed One Million Dollars (\$1,000,000).

2. Employment Laws. JOC agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Arizona Fair and Legal Employment Act, and all amendments thereto, along with all attendant laws, rules and regulations. JOC acknowledges that a breach of this warranty is a material breach of this Contract and JOC is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Contractor. JOC hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.

3. JOC further agrees to include the provisions of Section 2 in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

4. All other provisions of the original Contract where not inconsistent with this Amendment shall remain binding on the parties hereto and in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

DATED this _____ day of _____, 2009.

CITY OF TEMPE, ARIZONA

By: _____
Mayor

By: _____
Public Works Manager

ATTEST:

Recommended By:

City Clerk

AG _____
Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

City Attorney

JOC warrants that the person who is signing this Amendment on behalf of JOC is authorized to do so and to execute all other documents necessary to carry out the terms of this Amendment.

JOB ORDER CONTRACTOR
Quest Civil Constructors, Inc.

Name

Title

Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

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AMENDMENT NO. 1

JOB ORDER CONTRACT
FOR
MISCELLANEOUS HORIZONTAL CONSTRUCTION
AND MINOR WATER AND WASTEWATER
TREATMENT PLANT IMPROVEMENTS
CONTRACT C2008-251

This Amendment No. 1 made and entered into on the 28th day of May, 2009, by and between the City of Tempe, an Arizona municipal corporation (“City”), and Hunter Contracting Co., an Arizona corporation (“JOC”), amends the original Contract made and entered into by and between the same parties on December 11, 2008 (C2008-251) (“Contract”).

W H E R E A S:

- A. The parties hereto entered into that Contract for Miscellaneous Horizontal Construction and Minor Water and Wastewater Treatment Plant Improvements; and,
- B. The parties desire to further define their respective rights and obligations with respect to the Job Order Price, and compliance with applicable employment laws, as contained in this Amendment; and,
- C. The parties intend that the following Section 1 Job Order Price, shall be integrated into the Contract in place of the former similarly identified section; and,
- D. The parties intend to amend the Contract by adding Section 2 Employment Laws, and that this Amendment No. 1 be given the full force and effect of law as the Contract.

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2. Employment Laws. JOC agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Arizona Fair and Legal Employment Act, and all amendments thereto, along with all attendant laws, rules and regulations. JOC acknowledges that a breach of this warranty is a material breach of this Contract and JOC is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Contractor. JOC hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.

3. JOC further agrees to include the provisions of Section 2 in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

4. All other provisions of the original Contract where not inconsistent with this Amendment shall remain binding on the parties hereto and in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

DATED this _____ day of _____, 2009.

CITY OF TEMPE, ARIZONA

By: _____
Mayor

By: _____
Public Works Manager

ATTEST:

Recommended By:

City Clerk

Az Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

City Attorney

JOC warrants that the person who is signing this Amendment on behalf of JOC is authorized to do so and to execute all other documents necessary to carry out the terms of this Amendment.

JOB ORDER CONTRACTOR
Hunter Contracting Co.

Name

Title

Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

AMENDMENT NO. 1

JOB ORDER CONTRACT
FOR
MISCELLANEOUS HORIZONTAL CONSTRUCTION
AND MINOR WATER AND WASTEWATER
TREATMENT PLANT IMPROVEMENTS
CONTRACT C2008-252

A stamp consisting of a small square icon with the letter 'C' inside, followed by the word 'COPY' in a bold, sans-serif font.

This Amendment No. 1 made and entered into on the 28th day of May, 2009, by and between the City of Tempe, an Arizona municipal corporation (“City”), and Pierson Construction Corporation, an Arizona corporation (“JOC”), amends the original Contract made and entered into by and between the same parties on December 11, 2008 (C2008-252) (“Contract”).

W H E R E A S:

- A. The parties hereto entered into that Contract for Miscellaneous Horizontal Construction and Minor Water and Wastewater Treatment Plant Improvements; and,
- B. The parties desire to further define their respective rights and obligations with respect to the Job Order Price, and compliance with applicable employment laws, as contained in this Amendment; and,
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3. JOC further agrees to include the provisions of Section 2 in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

4. All other provisions of the original Contract where not inconsistent with this Amendment shall remain binding on the parties hereto and in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

DATED this _____ day of _____, 2009.

CITY OF TEMPE, ARIZONA

By: _____
Mayor

By: _____
Public Works Manager

ATTEST:

Recommended By:

City Clerk

AR _____
Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

City Attorney

JOC warrants that the person who is signing this Amendment on behalf of JOC is authorized to do so and to execute all other documents necessary to carry out the terms of this Amendment.

JOB ORDER CONTRACTOR
Pierson Construction Corporation

Name

Title

Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist