

SUBJECT

BOARD RESOLUTION NO. 21-68

Pertaining to a General Conditions of Contract and a Progressive Design-Build Agreement with CH2M Hill Engineers, Inc. for the McCarron's Treatment Process Improvements Project.

BACKGROUND INFORMATION

Staff is seeking approval of a General Conditions of Contract and a Progressive Design-Build Agreement with CH2M Hill Engineers, Inc. for the McCarron's Treatment Process Improvements Project.

Staff is also seeking a directive to issue a Notice to Proceed with the work upon execution of the Contract Documents.

See attached Report and Contract Documents.

RECOMMENDATION

Board approval is recommended.

McCarron's WTP Project Report

January 12, 2021 BWC Meeting

Purpose of Report

SPRWS staff has successfully negotiated a contract with Jacobs Engineering, the selected Design-Builder. Our purpose today is to provide an opportunity for Board review of the contract and the contracting process and to allow for Q&A. Provided that the Board is satisfied with the Contract, SPRWS staff is seeking Board approval of the Contract and approval of a Notice to Proceed with the Design Phase.

Selection Process Review

- Per the Board's motion at the Dec. 2020 meeting, SPRWS began contract negotiations with Jacobs Engineering, the selected Design-Builder
- SPRWS staff believes that the contract is complete and fully sufficient to govern the Design Phase

Phase 1 Costs

- The total anticipated cost of Design Phase work governed by this contract is approximately \$13.7M
 - All work will be billed based upon actual time and expenses. This is not a lump sum contract.
 - This is inclusive of approximately \$1.5M of Contingencies or Optional Items – funds which have specifically been set aside to account for the fact that the design scope cannot be fully known at this point. These funds may or may not be spent in their entirety.
- This number is not inclusive of all Design Phase Costs
 - SPRWS will contract separately with UofM for Piloting services. That contract value will be approximately \$710k and will likely be brought to the Board at the Feb. 2021 meeting.
 - UofM charges dramatically lower markups when contracting directly with SPRWS than they would charge to contract directly with Jacobs
 - Additional expenses will include historical review of the facility (both mandated and SPRWS-desired), financing costs, Owner's Rep. expenses, and potentially other miscellaneous costs
- Overall, the as-proposed costs are about \$4.5M less than SPRWS had originally expected
 - While this is good news, it's important to recognize that the Construction Phase of the project will include the bulk of the expenses. It's far too early to say that we'll land underbudget for the project.

Phase 1 Financing

- SPRWS is taking all of the necessary steps to obtain funding from the MN Public Facilities Authority's DWRP (Drinking Water Revolving Fund) program
- We expect to close on PFA financing in Q1 or Q2 of 2021
- SPRWS will use existing cash reserves to cover expenses until financing is finalized. These expenses will be reimbursed by PFA funds.

- While it appears highly likely that PFA funding will be obtained, we maintain the option of issuing Water Revenue Bonds as a backup funding plan

Contract Development Process

- SPRWS staff began reviewing DBIA's (Design-Build Institute of America) contract templates in the fall of 2019. These documents are an industry standard and served as an excellent starting point for developing a project-specific contract.
- SPRWS also reviewed contracts utilized by other utilities to further understand industry norms.
- Development of the contract documents has been roughly a 15-month process. It has been a collaborative effort between the Owner's Representative team, SPRWS Management (Steve Schneider and Pat Shea), the City Attorney's Office (Lisa Veith and Siobhan Tolar), and SPRWS project staff (Brent Marsolek and Will Menkhaus). Together we've invested hundreds of hours into these contract documents and thoroughly reviewed them.
- Because of the large up-front effort to compile sound documents, negotiations with Jacobs went very smoothly.

Important Contract Provisions

- Parent Guaranty – The contract will actually be signed by CH2M Hill (a subsidiary of Jacobs which holds their construction licensing). The Parent Guaranty ensures that the full capabilities and financial capacity of Jacobs Engineering (the parent firm) are committed and available to SPRWS.
- Limit of Liability – CH2M Hill/Jacobs will ultimately be limited to a total liability of 120% of the contract value (approx. \$190M)
- Phase 1 "Off-Ramp" – This provision ensures that SPRWS has the option not to proceed with the Construction Phase with Jacobs in the event that we cannot agree on Construction Phase pricing
- That said, Jacobs has already provided their Construction Phase markups. These markups will be added to transparent cost estimates to develop the Construction Phase costs. Essentially, this protection ensures that we're not giving the Design-Builder a blank check for Phase 2.
- GMP vs LS delivery – SPRWS will have the option to choose whether Phase 2 will be delivered via a Guaranteed Maximum Price (w/ cost tracking) or a Lump Sum
- Performance Criteria – Ultimately, Jacobs will be responsible for delivering high-quality water at the project culmination. These performance criteria will exceed regulatory requirements.

Next Steps

- Contract approval and Notice to Proceed
- Start of Design and Piloting, PFA funding closure, historical documentation of facility, and meetings with City Councils