



SCHOOL BOARD ACTION REPORT

DATE: March 15, 2018
FROM: Dr. Larry Nyland, Superintendent
LEAD STAFF: Dr. Lester Herndon, Associate Superintendent, Facilities and Operations
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For Introduction: March 21, 2018
For Action: April 4, 2018

1. TITLE

BEX IV: Authorization of Change Order No. 25 to Contract P5034 with Lydig Construction Company for the Cascadia Elementary School and Licton Springs K-8/Robert Eagle Staff Middle School (formerly Wilson Pacific) project

2. PURPOSE

This Board action would allow the efficient and timely payment of the completed work to most of the subcontractors, thereby decreasing the risk of potential future claims against the district.

3. RECOMMENDED MOTION

I move that the School Board authorize approval of Change Order No. 25, in the amount of \$933,778.00, plus Washington State sales tax.

4. BACKGROUND INFORMATION

a. Background

Seattle Public Schools (SPS) awarded the Total Contract Cost of \$81,587,147.84 for the construction of two school buildings and an athletic field on one site. The commencement of construction started in June 2015, with a contractual Substantial Completion (SC) date of May 5, 2017.

The submittal and processing of Change Order Proposals (COP) during the spring and summer of 2017 lagged behind schedule, due to multiple factors including subcontractors' lack of responsiveness on cost proposals and the construction team focusing its efforts on completing physical work and readying the buildings for school opening on September 6, 2017.

The total amount of change orders approved to date is \$4,591,602, which includes Change Order #24 to be executed in March of 2018. In an effort to allow efficient and timely payment of the completed work to most of the subcontractors, Change Order No. 25 in the amount of \$933,778.00 is a compromise settlement reducing claim risk, reducing additional services costs from consultants and achieving an earlier contract closeout. However, the amount excludes the electrical related Change Order Proposals corresponding to the on-going Request for Equitable Adjustment. These will be processed separately along with any miscellaneous remaining Change Order Proposals

related to project occupancy and/or district requests. Depending on the amount of payments made under these future change orders, additional Board approval may be necessary. The estimated total change order rate for the project will be in line with similar capital projects of this size and complexity, at approximately 6.6% of the total construction cost at completion; 3.5% of which was for Owner added scope, improving the quality of the project to minimize future maintenance and operational expenses.

b. **Alternatives**

Do not approve this change order. This is not recommended. Risk to the district includes exposure to subcontractor claims for delays and additional consultant expenses in prolonged evaluation and negotiations period.

c. **Research**

N/A

5. **FISCAL IMPACT/REVENUE SOURCE**

If authorized, a one-time expenditure for \$933,778.00 plus sales tax, would be made to Lydig Construction Company. This does not represent an increase to Cascadia Elementary and Licton Springs K-8/Robert Eagle Staff Middle School (formerly Wilson Pacific) project, or the overall BEX IV Program.

The funding source for this motion is BEX IV capital levy.

Expenditure: One-time Annual Multi-Year N/A

Revenue: One-time Annual Multi-Year N/A

6. **COMMUNITY ENGAGEMENT**

With guidance from the District's Community Engagement tool, this action was determined to merit the following tier of community engagement:

Not applicable

Tier 1: Inform

Tier 2: Consult/Involve

Tier 3: Collaborate

In February 2013, 72% of Seattle voters approved the BEX IV Capital levy. This levy was the culmination of an eighteen-month long process analyzing the facilities needs of the district and supports the district's long-range plans to upgrade and renovate aging school facilities. The process included countless hours of planning, coordinating efforts throughout the district, community engagement and feedback, extensive Seattle School Board guidance and input that lead to a unanimous Seattle School Board vote in November 2012 that approved the BEX IV projects list.

7. EQUITY ANALYSIS

This motion was not put through the process of an equity analysis. The selection of projects in the BEX IV program was designed to provide equitable access to school facilities across the city.

8. STUDENT BENEFIT

This project helps ensure a safe, secure learning environment for every student.

9. WHY BOARD ACTION IS NECESSARY

- Amount of contract initial value or contract amendment exceeds \$250,000 (Policy No. 6220)
- Amount of grant exceeds \$250,000 in a single fiscal year (Policy No. 6114)
- Adopting, amending, or repealing a Board policy
- Formally accepting the completion of a public works project and closing out the contract
- Legal requirement for the School Board to take action on this matter
- Board Policy No. _____, [TITLE], provides the Board shall approve this item
- Other: _____

10. POLICY IMPLICATION

Per Board Policy No. 6220, Procurements, all contracts for more than \$250,000 initial value, excluding sales tax and contingencies, and changes or amendments of more than \$250,000, excluding sales tax and contingencies must be approved by the School Board. The change requested for this project exceeds \$250,000.

11. BOARD COMMITTEE RECOMMENDATION

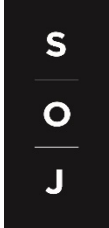
This motion was discussed at the Operations Committee meeting on March 8, 2018. The Committee reviewed the motion and moved the item forward to the full Board for consideration.

12. TIMELINE FOR IMPLEMENTATION

Upon approval of this motion, the Change Order will be executed and payment will be made within thirty (30) days of complete execution.

13. ATTACHMENTS

- Settlement of Remaining Change Order Proposals Memorandum
- Change Order No. 25 (available upon request)



MEMORANDUM

TO Richard Best, Eric Becker / SPS
FROM Justine Kim / SOJ
DATE February 27, 2018

RE Cascadia Elementary / Licton Springs K-8/Robert Eagle Staff Middle Schools (formerly Wilson Pacific)– Global Settlement for Remaining Change Order Proposals

This memo briefly summarizes the benefits and risks for the potential settlement of the majority of remaining Change Orders for the Construction Contract with Lydig Construction Company.

Background

- SPS awarded the Total Contract Cost of \$81,587,147.84 for the construction of two school buildings and an athletic field on one site. The commencement of construction started in June 2015, with a contractual Substantial Completion(SC) date of May 5, 2017.
- The submittal and processing of Change Order Proposals during the spring and summer of 2017 lagged behind schedule, due to multiple factors including subcontractors' lack of responsiveness on cost proposals and the contractor team focusing its efforts on completing physical work and readying the buildings for school opening on September 6, 2017.
- The total amount of Change Orders to date is \$4,591,602 which includes Change Order #24 to be executed in March. That would result in the remaining Change Order Proposal total amount of a \$933,778 – however, this amount excludes some electrical related Change Order Proposals to be processed separately, due to the Request to Equitable Adjustment the District has received last year.

Benefits of Global Settlement

- The delay in processing Change Order Proposals (COPs) to date has been primarily due to subcontractors' over-capacity issues (a market-wide phenomenon), resulting in lack of timeliness in submitting initial cost proposals and lack of responsiveness in adjusting or correcting cost proposals to address consultant comments. Unfortunately, we do not see this trend improving in the near future due to oversaturated market conditions across all trades.
- In order to receive, review, revise and approve the remaining COPs, we estimate it would take 4 to 6 months of consultant review time, regular COP review meetings, additional communication via emails and phone calls. This is necessary for the required due diligence and preparation of the paperwork and back up documents for approval. By agreeing to this settlement, the District will potentially save approximately \$150,000 on administrative costs to be incurred by SOJ, SPS and the Architects and Engineers on the project team.

- Earlier payments to the subcontractors (especially the smaller businesses) will benefit the businesses who have completed their work many months ago.
- Earlier payments in general will reduce the District's exposure to subcontractor claims for delays and excessive changes caused by the Owner.
- In order to achieve settlement and allow them to close out their subcontracts, Lydig has agreed to provide a discount range of 8% to 50% (depending on the COPs) for the change Order #25, which directly benefits the project budget. The net total savings to the District will be over \$ 250,000 – the contractor submitted total amount of \$1.19M has been negotiated down to \$933,778.
- It also allows the project team to focus on closing out the project, including a successful and effective resolution of the current Request for Equitable Adjustment received from the electrical subcontractor Elcon Corporation, through Lydig Construction, Inc.

Potential Risk for Owner

- By agreeing to a settlement, the consultant team will waive some of the due diligence for each individual Change Order Proposal, which would require detailed documentation to verify the costs.

We believe the risk identified above is significantly outweighed by the benefits of reducing claim risk, reducing additional services costs from consultants, and achieving an earlier contract closeout. Moreover, the total cost of Change Order Proposals will be discounted across the board by Lydig, as noted above.

In summary, SOJ recommends agreeing on the settlement amount, and completing the Change Order process for the project, which will benefit the District in being able to focus on closing out this project and delivering other on-going BEX projects moving forward.

cc: Project File / Project Team