



September 16, 2019

City of Pompano Beach
100 West Atlantic Blvd
Pompano Beach, Florida 33060

Attn: Mr. Horacio Danovich, CIP Manager

Re: North Pompano Park: CMAR Agreement
September 12, 2019, 4:50 p.m. Email: CMAR Contracts: Proposed Amendment for Article 7

Dear Mr. Donovanich:

With respect to your above referenced email, and the Article 7 Amendment attached thereto, we have no objection to the proposed changes and accept them as a modification to the subject document, without any other change to the terms of our Agreement.

We trust this provides the affirmation the City requires.

We sincerely appreciate the opportunity to work with The City of Pompano Beach, Florida, and look forward to bringing about the successful completion of this Project for all those concerned.

If you have any other further questions, comments, corrections or clarifications to this or any other matter, please do not hesitate to contact us.

Sincerely,
West Construction Inc.

Stephen D. Aks, CGC, HI, LEED™ AP
VP of Construction/Senior Construction Manager

C: Mathew West, West Construction Inc.
Files

Attachments:

1. 1 pg. H. Danovich Email of Sept. 12, 2019, 4:50 p.m., w/1 pg., Art. 7 Amendment

West Construction, Inc.

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www.westconstructioninc.net

Steve Aks

Subject: FW: CMAR Contracts
Attachments: image001.jpg; ATT00001.htm; Change to CMAR Article 7.pdf; ATT00002.htm

From: Horacio Danovich <Horacio.Danovich@copbfl.com>

Date: September 12, 2019 at 4:50:10 PM EDT

To: Undisclosed recipients;;

Subject: CMAR Contracts

Hi Everyone,

This past Tuesday, the City Commission approved the first reading of Ordinances for all your projects. Although some Ordinances were the subject of a second reading instead of the first (all bridge projects due to technical issues), all Ordinances are expected to be approved on September 24th. That said, staff was extra careful reviewing the backup material and our Contract Manager detected an omission. The omission was found in Article 7 and "as is" the article would prevent the City from awarding all of you a Work Authorization No. 1, and thereby preventing you from being compensated for pre-construction services.

Attached is verbiage (see paragraph in **red** and underlined) that our City Attorney agreed to incorporate to your respective contracts. The verbiage is pretty straight forward and includes provisions to issue a Work Authorization No. 1 for pre-construction services leading to a GMP, which will be done as an amendment to the contract.

In order NOT to delay the September 24th hearings, I MUST receive via email a note from each of you in your company letterhead acknowledging the verbiage and accepting it. Your letter will be added to the backup and that will suffice to execute individual Resolutions for each of your Work Authorizations.

I MUST receive the letter by Monday at 5:00 PM, latest Tuesday at 9:00 AM. I ask for your cooperation as time is of the essence.

6.7 By execution of this Contract, the Construction Manager certifies that all factual unit costs supporting the fees specified in this Contract are accurate, complete and current at the time of negotiations; and that any other factual unit costs that may be furnished the Owner in the future to support any additional fees that may be authorized will also be accurate and complete. The fees specified in this Contract and any additional fees that may be authorized in the future shall be adjusted to exclude any significant sums by which the Owner determines the fee was increased due to inaccurate, incomplete, or non-current factual unit costs.

6.8 Adjustments to the GMP will be made as described in the Conditions of the Contract.

ARTICLE 7 PAYMENTS TO CONSTRUCTION MANAGER

7.1 In consideration of the performance of the Contract, the Owner agrees to pay the Construction Manager, as compensation for its services as set forth below:

7.1.1 For preconstruction services, Owner shall issue a Work Authorization specifying a not to exceed amount, with details and costs for each task to be completed by the Construction Manager. Preconstruction service costs shall be excluded from the GMP. Construction Manager shall initiate all preconstruction services within ten (10) days of receipt of said Work Authorization. Preconstruction service costs instead shall be invoiced to the owner for payment as tasks are completed.

~~Owner and Construction Manager shall agree on a not to exceed amount to be specified and paid in amounts specified upon execution of the GMP amendment to this Contract.~~

7.1.1.1 Upon receipt of the Notice to Proceed, the Construction Manager shall begin providing the indemnification described in the Conditions of the Contract, as part of the fee established for the first phase of preconstruction services.

7.1.2 Upon acceptance of the GMP, the amount established in the GMP Amendment to this Contract, which includes the Construction Manager's fee and Lump Sum General Conditions as described in Paragraph 7.2 and the Cost of the Work as described in Article 8, to be paid monthly as described in the General Conditions of the Contract.

7.1.2.1 As required by Section 287.0585, F.S., within seven working days from receipt of payment from the Owner, the Construction Manager shall pay each Trade Contractor out of the amount paid to the Construction Manager on account of such Trade Contractor's Work, the amount to which said Trade Contractor is entitled reflecting the percentage actually retained, if any, from payments to the Construction Manager on account of said Trade Contractor's Work. The Construction Manager shall, by appropriate Contract with each Trade Contractor, require each Trade Contractor to make payments to its subcontractors in a similar manner.

7.1.3 Pay requests for preconstruction services and for construction shall be documented in accordance with the General Conditions.

7.2 Construction Manager's Lump Sum General Conditions during the Construction Phase includes, without limitation, the following: