

State of Ohio
WATER POLLUTION CONTROL LOAN FUND (WPCLF/SRF)

CONTRACT CHANGE ORDER

RECIPIENT	City of Columbus, DOSD	CHANGE ORDER NBR	BWARI-CO-012
LOAN NUMBER	WPCLF LOAN # CS 392260-01	CONTRACT	EL003819
OWDA PROJECT NBR	4018	DATE	

Description of Change:

- | | | |
|-----------------------|--|--------------------------|
| BWARI-RFP-035: | 1.Reduction in JDMT JV BWARI Contract value for non-performance of remaining work associated with specification 09900 corrosion protection liner as described in the referenced RFP. | Deduct: (\$4,886,464.00) |
| | 2.Compensation to JDMT JV BWARI Contractor for any and all costs incurred in the Specification 09900 C.P.L. claim as described in the referenced RFP. | Add: \$9,100,000.00 |
| | 3.Compensation to JDMT JV BWARI Contractor for costs to complete the BWARI Project as described in the referenced RFP. | Add: \$1,786,189.00 |

CHANGE ORDER NO. 12: TOTAL NET AMOUNT ADD \$5,999,725.00
REVISED CONTRACT FINAL COMPLETION DATE DEC 31,2009

RECOMMENDED BY:		DATE:	
	<i>(Engineer)</i>		
APPROVED BY:		DATE:	
	<i>(Recipient)</i>		
ACCEPTED BY:		DATE:	
	<i>(Contractor)</i>		
	Jay Dee - Michels - Traylor Joint Venture		
	<i>(Company)</i>		

Original Contract Amt	\$80,693,000.00		OWDA APPROVAL The above proposal is hereby accepted and I recommend that it be approved and made a part of the contract covered by OWDA Project Number _____.
Previous Changes (+ or -)	\$3,976,721.68		
This Change (+ or -)	\$5,999,725.00		
Adjusted Contract Amt	\$90,669,446.68		
OHIO EPA ACCEPTANCE			Chief Engineer
Ohio EPA ACCEPTANCE			Date
			Executive Director
DATE			Date

**REQUEST FOR PROPOSAL (RFP)
SUMMARY**

REQUEST FOR PROPOSAL NO. BWARI-RFP-035

AUDITOR'S CONTRACT NO. EL003819

CIP NO. 491.1

PROJECT TITLE: BIG WALNUT AUGMENTATION/RICKENBACKER INTERCEPTOR, PART 1

ORIGINAL CONTRACT AMT. \$80,693,000.00 THIS RFP TOTAL AMT. \$5,999,725.00

1. EXPLANATION OF PROBLEM CONDITION:

The BWARI Part 1 Contract included corrosion protection lining (CPL) as specified in Section 09900. The BWARI Contractor proceeded with installation of the Linabond system in June, 2007.

The CMT issued a stop work order on October 30, 2007 due to significant defects in the installed lining system and required the Contractor to complete remaining work and repairs to the Linabond system. The Contractor made claim to a deficient specification stating the system was incompatible to the nature of the work.

In early 2008 the Contractor stopped all CPL related work and engaged the Dispute Resolution Board process (per Article 16 of the Contract) to establish entitlement to claims related to the CPL system specified in Section 09900. In July, 2008 the Dispute Resolution Board determined that the Contractor was entitled to reimbursement.

In August, 2008 the CMT requested that the Contractor provide a detailed cost estimate for resolution of CPL claims and completion of repairs to installed lining. The Contractor provided a summary of costs (attached) totaling \$15.1M. The CMT conducted a series of meetings reviewing the detailed cost estimate provided by the Contractor and attempted to negotiate a settlement agreement with the Contractor. Negotiations were suspended due to the inability to reach a mutual agreement.

In October, 2008 the Contractor, City and CMT agreed to participate in a mediation to resolve payment issues. The Contractor and City have agreed to a resolution of all claims related to Specification 09900 as a result of the mediation. In addition, the City approved non-performance of the remainder of the Section 09900 base contract scope of work, and agreed to waive its claim for liquidated damages that it had asserted were accumulating from the original completion dates in the Contract. The non-performance of this base contract work will result in a \$4,886,464.00 credit to the Contract Amount.

2. DESCRIPTION OF PROPOSED REVISIONS:

The Contractor will receive a negotiated lump sum settlement of \$9,100,000.00 for all claims related to Specification Section 09900. Moreover, the remainder of the Section 09900 base contract scope is deleted, and the City shall not pursue liquidated damages that it contended began to accrue at the original completion dates in the Contract. In lieu of that deleted Section 09900 base scope work, the remaining corrosion protection scope of work has been re-specified to utilize an epoxy coating system (Sauereisen or equal) that is consistent with other corrosion protection systems currently installed on other City of Columbus waste water treatment facilities. The revised scope of work is to include preparation and support work for the coating subcontractor, the installation of armor plating at drop and scour locations, and other miscellaneous activities necessary for completion of the Project. The cost of the revised scope of work to complete the BWARI Part 1 Project will be \$1,786,189.00.

3. CHANGES TO THE PROJECT MANUAL: Revised Specification Section 09900.

4. CHANGES TO THE DRAWINGS: No Changes

5. COST OF PROPOSED REVISION: The total cost of the proposed revision is

\$5,999,725.00.

(-\$4,886,464.00) Non-performance of Linabond schedule of values in base contract;

+\$9,100,000.00 Claim Settlement Agreement;

+\$1,786,189.00 Revised coating system scope of work

ENCLOSURE ITEM	DESCRIPTION	RFP PAGE NO.
A.	Memorandum of Understanding	
B.	Non-performed Work Summary, Contractor's Claim Cost Summary, and Contractor's Cost Summary for BWARI Contract Completion	

6. PROGRESS SCHEDULE REVISIONS: Project Milestones are affected by this RFP. The Project duration will be extended by 609 calendar days. The current date of Substantial Completion (Milestone #6) is April 1, 2008; the revised date of Substantial Completion is November 30, 2009. The current date of Final Completion (Milestone #7) is May 31, 2008; the revised date of Final Completion is December 31, 2009.

7. MBE/WBE IMPACTS: No additional MBE/WBE participation is proposed in this work.

ENCLOSURE ITEM	DESCRIPTION	RFP PAGE NO.
A.	MBE/WBE Utilization Report	
B.	Subcontractor Contact Report(s)	
C.	Prime Contractor Affidavit(s)	

8. RFP RECOMMENDATION: (Brief Synopsis) The CMT recommends that the changes described in this RFP be incorporated into the contract by written change order.

A. JUSTIFICATION OF RFP:

The CMT and Contractor have participated in negotiations, facilitated discussions and mediation processes to resolve the claims the City and Contractor may have against the other party.

B. WHY THE NEED FOR ADDITIONAL WORK COULD NOT BE FORESEEN:

The additional cost is associated with the Contractor's claims against the CMT and City for unforeseen impacts on the scope of the Contract.

C. WHY OTHER PROCUREMENT PROCESSES WOULD NOT BE IN THE CITY'S BEST INTEREST:

N/A

D. HOW THE COST WAS DETERMINED:

The Contractor and CMT negotiated the final cost for resolution of all claims for direct and indirect costs related to Specification 09900.

9. RECOMMENDATION SIGNATURES:

CONSTRUCTION
MANAGER

_____	_____
Signature	Date
Todd O'Donnell, H.R. Gray & Associates, Inc.	

JD/M/T PROJECT
MANAGER

_____	_____
Signature	Date
Mike Diponio, Jay Dee/Michels/Traylor	

LIST OF ENCLOSURES

<u>ITEM DESCRIPTION</u>	<u>PAGE No.</u>
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RFP Recommendation Signatures	4
RFP List of Enclosures	5
MBE/WBE Utilization Report	
Subcontractor Contact Report(s)	
Prime Contractor Affidavit(s)	
Changes to the Project Manual	
Changes to the Drawings	
Memorandum of Understanding	
Schedule of Values for Non-performed Scope of Work	
JDMT Claim Cost Summary August, 2008	
JDMT Projected Cost to Complete BWARI Project April, 2009	
DOSD/SSES Review RFP Memorandum	

City of Columbus BWARI/BWOAS
 Available Funds Analysis
 April 14, 2009

BWARI AUTHORIZED/COMMITTED/REMAINING FUNDS PROJECTION	
Authorized Base Contract Value	\$80,693,000.00
Authorized Contract Contingency	\$10,086,625.00
Total Authorized Funds	\$90,779,625.00
Authorized Base Contract Value Approved C.O. #1 thru #11	\$80,693,000.00 \$3,976,721.68
Total Committed Funds	\$84,669,721.68
Remaining Authorized Contingency	\$6,109,903.32

BWARI CONTRACT STATUS/AVAILABLE FUNDS PROJECTION	
Current Contract Value (inc. C.O. #1 to #11)	\$84,669,721.68
Earned/Paid thru PA55 (less retainage)	\$75,752,116.31
Total Retainage to Date	\$3,986,953.49
Remaining Base Contract work	(\$44,187.00)
Remaining Base Contract Allowances	\$68,583.92
Contract Value Non-perform remaining CPL	\$4,659,582.46
Contract Value Non-perform CO-007 (inspect)	\$158,297.50
Total Non-performance Contract Value	\$4,817,879.96
Actual Remaining Committed Funds	\$4,886,463.88
Actual Remaining Authorized Contingency	\$6,109,903.32
Total Available Funds BWARI	\$10,996,367.20
Pending CO-012 (RFP035 Non-perform 09900, Claim Resolution and BWARI Completion)	\$5,999,725.00
Projected Remaining Contingency BWARI	\$110,178.32

BWOAS AUTHORIZED/COMMITTED/REMAINING FUNDS PROJECTION	
Authorized Base Contract Value	\$69,920,000.00
Authorized Contract Contingency	\$8,740,000.00
Total Authorized Funds	\$78,660,000.00
Authorized Base Contract Value Approved C.O. #1 thru #10 <i>Pending CO #11 Contract Closeout</i>	\$69,920,000.00 \$3,074,768.32 (\$265,076.96)
Total Committed Funds (pending)	\$72,729,691.36
Projected Remaining Authorized Contingency	\$5,930,308.64
Projected Final Committed Funds BWOAS	\$72,729,691.36
Projected Authorized Contingency BWOAS	\$5,930,308.64
Future CO-012 (RFP034 BWOAS Completion)	\$5,622,772.00
Projected Remaining Contingency BWOAS	\$307,536.64