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VIA ELECTRONIC CORRESPONDENCE

June 6, 2018

CCN: 61941
File No: 8.DC.52 & 77

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
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RE: DOJ No. 90-5-1-1-4022/1
Tom.Mariani@usdoj.gov

Chief, Clean Water Enforcement Branch
Water Protection Division
Attn: Brad Ammons
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Attn: Compliance/Enforcement Section
Jason.Andreotta@dep.state.fl.us

RE: Consent Decree (Case: No. 1:12-cv-24400-FAM)
Reference DOJ Case No. 90-5-1-1-4022/1
Section XI, Paragraph 52 – Force Majeure
Section XVII, Paragraph 77 – Notices
Force Majeure Notification Letter for Consent Decree Appendix D-2, Capital Improvement Projects 1.6, 1.8, 2.12, 2.13, 2.16 and 2.18(2) - SDWWTP Thickening and Dewatering Projects and CDWWTP Thickening and Dewatering Projects and Odor Control Systems

AMK

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on May 25, 2018, Miami-Dade County (County) electronically notified United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a force majeure of CD Capital Improvement Capital Improvement consolidated Project consisting of CIP 1.6 SDWWTP Thickening Facility, CIP 1.8 SDWWTP Dewatering Facility, CIPs 2.12/2.13 CDWWTP Gravity Sludge Thickeners Plants 1 & 2, CIP 2.16 CDWWTP Dewatering Facility and CIP 2.18(2) CDWWTP Odor Control Systems. Because both sludge thickening and dewatering buildings at Central District WWTP and South District WWTP would have identical equipment and similar engineering requirements, Water and Sewer

Department (WASD) has combined these projects under one Design-Build contract solicitation. This consolidated Project has experienced a force majeure during the procurement phase.

In accordance with Section XI, Paragraph 52, this notification letter shall further describe and explain the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; County's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; a statement as to whether, in the opinion of the County, such event may cause or contribute to an endangerment to public health, welfare or the environment, and documentation to support the force majeure claim.

Explanation and description of the reasons for the delay

The scope of this project includes a combined Sludge Thickening and Dewatering Building to house the sludge thickening system, the digested sludge dewatering system and other engineering features to support the thickening and dewatering process at both CDWWTP and SDWWTP. The CD CIPs 1.06, 1.08, 2.12, 2.13, 2.16 and 2.18(2) have been delayed due to an issue encountered during its procurement phase that requires re-bid of the project.

The County's design-build solicitation consists of a two-step process, Step 1 is the evaluation of a design-build team's qualifications based on the teams' completed submittal. Step 2 is the evaluation of competitive Technical and Price Proposals from those firms that have successfully advanced through Step 1 who choose to offer a responsive and responsible proposal.

On July 21, 2016, the County advertised the Design-Build Services for the project. On September 16, 2016, the Step 1 qualification package was received from two design-build teams. Later, the County elected both teams to advance to Step 2. The teams were (1) Poole & Kent with Carollo Engineers (P&K) and (2) PC Construction with Hazen and Sawyer (PC). On May 5, 2017, the Step 2 proposal package was received from both teams. At the August 25, 2017 Step 2 Evaluation Meeting, P&K was disqualified for not meeting proposal requirements and the County elected awarding the project to PC. Since the meeting, the County has proceeded with contract negotiation with PC and award process. On May 7, 2018, the County received a withdrawal letter from the selected design-build team, PC, indicating their proposal was based on the anticipated Notice to Proceed date of August 31, 2017 and its bid bond securing the bid has expired. Due to the bid withdraw from the sole qualifier, the County had to cancel the bid and re-advertise the solicitation.

Actions taken or to be taken to prevent or minimize the delay

After receiving the withdrawal letter from PC, the County took immediate action and explored all avenues to continue with the current bid solicitation. However, it was determined that bid cancellation was necessary. The bid was cancelled on 5/30/2018. Simultaneously, the County has initiated the preparation of the re-bid and consider ways to mitigate the delay.

Actions to be taken to minimize the delay during procurement may include, but not limited to, the following:

- Inform the County's Internal Service Department of the project's criticality
- Closely monitor schedule and workflow

Actions to be taken to minimize the delay during construction may include, but not limited to, the following:

- Engage the Design-Builder in a focused schedule review of any potential issues that may affect critical path and completion of the work.
- Consider extended hours of work to improve schedule.
- Meet with Design-Builder to discuss additional work resources on the project to expedite key elements of the work.

Anticipated duration of the delay

On April 11, 2018, EPA and FDEP approved the County's December 22, 2017 Request for Schedule Modifications which included the CD CIPs 1.06, 1.08, 2.12, 2.13, 2.16 and 2.18. The potential delay will require project re-bid and will impact the Project CD compliance dates of January 6, 2023 for CIPs 1.06 and 1.08 and January 13, 2023 for CIPs 2.12, 2.13, 2.16 and 2.18.

The additional time would be required for the following: (1) Design Criteria Professional to modify the contract documents for the re-bid, (2) re-initialize procurement with the revised documents, (3) solicit Step 1 Qualification submittal from design-build teams, (4) evaluate and select design-build teams that successfully advance to Step 2, (5) solicit Step 2 Technical and Price Proposals, (6) evaluate and select one responsive and responsible team, (7) negotiate contract with the selected team (8) obtain approval from the Director, Board of County Commissioner, and the Mayor, (9) issue award and Notice to Proceed to the selected team, (10) the awarded Design-Builder to develop detailed design, obtain required permits, and construct new Thickening and Dewatering Buildings at both CDWWTP and SDWWTP. The County will transmit the duration of the delay, upon completion of the time impact analysis for the above activities.

Schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay

The County will take the following steps (in sequence) to prevent or mitigate delay or the effect of the delay:

1. Design Criteria Professional to modify the contract documents for re-bid
2. Meet with WASD Procurement and Internal Service Department to emphasize project's criticality
3. Re-advertise

Rationale for attributing such delay to a force majeure event

As defined in Section XI, Paragraph 51, "Force Majeure is defined as any event arising from causes beyond the control of the County. It is out of the County's control to control the bid proposals and actions

of bidders during the procurement process. In this case, bidder's action during procurement resulted in the need to re-bid the project and the need to extend the duration of procurement phase beyond original expectation.

Cause or contribute to an endangerment to public health, welfare or the environment

Failure of sludge thickening and dewatering will result in a biological overloading and solids accumulation in the secondary treatment process and may cause effluent limit violations. However, there is no indication that it presents an immediate endangerment to the public health, welfare, or the environment.

Should you have any questions regarding this matter, please call me at (786) 552-8571.

I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Sincerely,



Lynnette M. Ramirez, P.E.,
Senior Advisor, Capital Improvement Programs & Regulatory Compliance

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