



MEMO
6/6/2017 Agenda

TO: Robbie Corder, City Manager

FROM: Jacob Speer, Director of Public Works

SUBJECT: Final Payment to Rebcon, Inc. for Project 49700, McFarlin Bridge

BACKGROUND:

On April 7, 2015, the City Council approved award of a contract to Rebcon, Inc. in the amount of \$4,333,740.94 for the construction of the McFarlin Bridge. On December 20, 2016, Council approved a change order to increase the contract by \$622,817.17 for various increases in project quantities. The change order resulted in a total contract value of \$4,956,558.11. The original contract specified that the project would be completed in 216 working days. The project was substantially complete and serving its intended function on October 28, 2016. Substantial completion was achieved in 271 working days.

The contractor did not request any additional days for change orders or supplemental work during the contract. Rebcon representatives have since stated that they have had a longstanding work history with the City of University Park, specifically with the former City Engineer and former Public Works Director. Rebcon went on to explain that they did not make any requests for additional working days because they assumed the project would be handled as in the past where, as long as the contractor made an effort to complete the work continuously, efficiently, safely, and timely, there would be no liquidated damages assessed. Upon learning of staff's intention to assess liquidated damages to this project, Rebcon submitted a document identifying 126.7 additional working days that it feels were warranted by their work. Additionally, Rebcon disagrees with the City's calculation of working days and believes the project was substantially completed in 248 working days.

Staff disagrees with Rebcon's accounting of the additional days required by changes to the method of construction. Staff feels that a more appropriate allowance, if any, is 15 additional working days. These additional days would result in a total contract allowance of 231 working days. The contract specified that liquidated damages of \$175.00 would be assessed for each day beyond the contract allowance until the project was substantially completed. The liquidated damages for the 40 extra days needed to complete the project totals \$7,000.00. Rebcon declined to accept this proposed resolution to the issue.

Staff has discussed this issue with the contractor on multiple occasions and we have not been able to arrive at a mutually agreeable solution. Both Staff and the contractor have

identified ways to improve the handling of change orders and the calculation of working days to prevent similar discrepancies on future projects. The City has enjoyed a long-standing working relationship with this contractor. Staff has always found them to provide a high-quality product and be responsive to the needs of the City and its residents.

RECOMMENDATION:

In recognition of the role that each entity can play in preventing issues like this from occurring on future projects, Staff recommends reducing the liquidated damage calculation by 50%. Staff recommends approval of a final payment to Rebcon, Inc. in the amount of \$242,879.67 for Project 49700.