



AGENDA ITEM EXECUTIVE SUMMARY

Title: Recommendation to approve Change Order No. 10 with Whittaker Construction and Contract Addendum No. 2 with Trotter and Associates for the Biosolids Building Construction Project

Presenter: John Lamb

Please check appropriate box:

	Government Operations	X	Government Services 01.26.15
	Planning & Development		City Council

Estimated Cost:	\$80,000	Budgeted:	YES		NO	X
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If NO, please explain how item will be funded:

Executive Summary:

Staff is requesting approval of Biosolids Building Project Change Order No. 10 which is a deduct amount of \$175,000.00. This is the amount of Liquidated Damages assessed to Whittaker Inc., the contractor. The amount was arrived at through negotiation with the contractor. The City Attorney was consulted during this process.

Staff is also requesting approval of Contract Addendum No. 2 with Trotter and Associates for additional services. They have incurred additional expenses of \$100,000 due to the ongoing delay in closing out of the project. An additional thirty (30) days were added to the project and punch list items were addressed. This is in addition to Addendum No. 1 approved by Committee in May 2014 in the amount of \$155,000 for a total amount of \$255,000.

The liquidated damages will offset \$175,000 of the \$255,000 amount leaving a balance of \$80,000. This amount can be added to the loan for the project so a budget addition is not required. Construction Engineering cost is usually included in the loan amount. Below is a table with the applicable figures.

Trotter and Associates Addendum No. 1 (Approved by Committee in May 2014)	\$155,000
Trotter and Associates Addendum No. 2	<u>\$100,000</u>
Total Addendum Costs	\$255,000
Liquidated Damages Amount	- <u>\$175,000</u>
Balance	\$ 80,000

Attachments: *(please list)*

Change Order Form
Trotter Contract Addendum No. 2

Recommendation / Suggested Action *(briefly explain):*

Recommendation to approve Change Order No. 10 in the deduct amount of \$175,000.00 for Biosolids Construction Project and Contract Addendum No. 2 with Trotter and Associates in the amount of \$100,000 and Resolutions Authorizing the Mayor and Clerk to execute the same.

For office use only

Agenda Item Number: 4.k

**City of St. Charles - 2012 Main & Sludge Handling Building Improvements
Summary of Change Order #10**

CMR No.	Description	Amount	Days
98	Project Closeout	\$ (175,000.00)	151
TOTAL FOR CHANGE ORDER #10		\$ (175,000.00)	151

Original Contract Price	\$ 8,897,150.00
Previous Change Orders	\$ 176,096.65
Current Contract Price adjusted by Previous Change Orders	\$ 9,073,246.65
Contract Price due to this Change Order will be adjusted by	\$ (175,000.00)
Contract Price including this Change Order	\$ 8,898,246.65

	Substantial Completion	Final Completion
Original Completion Dates	February 7, 2014	May 8, 2014
Previous Contract Time Adjustment	51	51
Current Completion Dates adjusted by Previous Change Orders	March 30, 2014	June 28, 2014
Contract Time due to this Change Order to be Adjusted by	151	97
Completion Dates including this Change Order	August 28, 2014	October 3, 2014

RECOMMENDED:

APPROVED:

Environmental Services Manager Date

Finance Director Date

Contractor Date

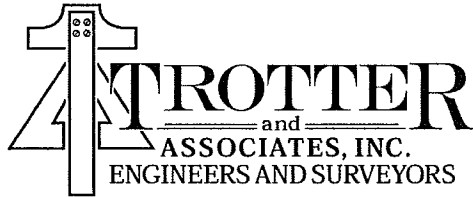


EXHIBIT D CONTRACT ADDENDUM

Project Name: 2012 Main and Sludge Handling Building Improvements

Project No. STC-076

Addendum No. 2

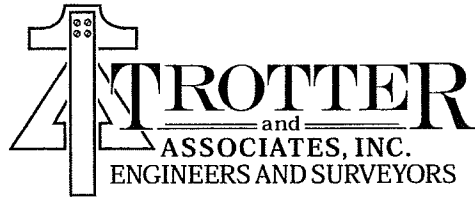
This is an addendum attached to, made part of and incorporated by reference into the Agreement between CLIENT and ENGINEER for modification of scope and compensation for the PROJECT. All other terms and conditions of the original Agreement between CLIENT and ENGINEER are unchanged by this Contract Addendum and shall remain in full force and effect and shall govern the obligations of both CLIENT and ENGINEER, including obligations created by this Contract Addendum.

The contract modifications are described below:

1. Trotter and Associates, Inc is hereby authorized to continue construction engineering services on a time and material basis beyond the original date of Substantial Completion and Final Completion, until such time as the work is complete.

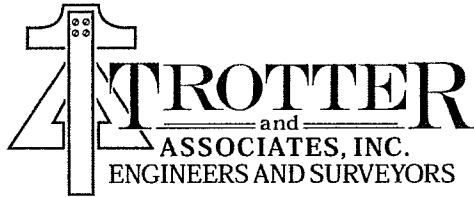
The continued scope of services shall include the following:

2. General Administration of Construction Contract. Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.
3. Resident Project Representative (RPR). Provide the services of an RPR at the Site to assist the ENGINEER and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit B. The furnishing of such RPR's services will not extend ENGINEER's responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.
4. Visits to Site and Observation of Construction. In connection with observations of Contractor's work in progress while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the Work. Such visits and observations by ENGINEER, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress or to involve detailed inspections of Contractor's work in progress beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and such observations, ENGINEER will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work.
 - b. The purpose of ENGINEER's visits to, and representation by the Resident Project Representative, if any, at the Site, will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, or for



any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

5. Defective Work. Recommend to OWNER that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
6. Clarifications and Interpretations; Field Orders. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.
7. Change Orders and Work Change Directives. Recommend Change Orders and Work Change Directives to OWNER, as appropriate, and prepare Change Orders and Work Change Directives as required.
8. Shop Drawings and Samples. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. ENGINEER has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to ENGINEER.
9. Substitutes and "or-equal." Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
10. Inspections and Tests. Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.
11. Disagreements between OWNER and Contractor. Render formal written decisions on all claims of OWNER and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of Contractor's work. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
12. Applications for Payment. Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
 - a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in paragraph A1.05.A.6.a are expressly subject to the limitations set forth in paragraph A1.05.A.6.b and other express or general limitations in this Agreement and elsewhere.
 - b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will



impose on ENGINEER responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

Duration of Construction Phase. The Construction Phase will commence with the execution of the first Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by ENGINEER for final payment to Contractors. If the Project involves more than one prime contract, Construction Phase services may be rendered at different times in respect to the separate contracts.

Limitation of Responsibilities. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. ENGINEER shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

Contract Summary

Original Contract Amount	\$985,000.00
Changes Prior to This Change	\$155,000.00
Amount of This Change	\$100,000.00
Revised Contract Amount:	\$1,240,000.00

For purposes of expediency, ENGINEER and CLIENT agree that an executed electronic version of this Contract Addendum shall suffice. The original of this Contract Addendum shall be returned to Engineer after execution.

CLIENT:

City of St. Charles, IL

Signed:

_____ Title

Engineer:

Trotter and Associates, Inc.

C.F.O. 1.9.15
 _____ Title