

**RESOLUTION 2022-13**

**AUTHORIZING AN AMENDMENT TO THE CONTRACT FOR PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES PROVIDED BY TRC COMPANIES, INC. IN THE AMOUNT OF \$115,389.78 FOR SERVICES RENDERED DURING CONSTRUCTION OF THE EL CAMINO REAL CAPITAL PROJECT (15-76)**

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**MID-PENINSULA WATER DISTRICT**

**WHEREAS**, the Mid-Peninsula Water District (District) entered into a contract with TRC Engineers, Inc. (TRC) on November 18, 2020, to provide construction management and inspection services during the construction of the El Camino Real Water Main Replacement capital project (Project) for a fee of \$345,000.00 and provided a 10-percent contingency totaling \$34,500.00 for a total budget of \$379,500.00; and

**WHEREAS**, the Project construction contractor Mitchell Engineering (Contractor) agreed to a notice to proceed with construction on February 16, 2021 and was provided 180 working days to complete construction, or on November 1, 2021; and

**WHEREAS**, on March 16, 2021, the Contractor submitted a letter to TRC and the District indicating resource issues would prevent them from starting construction until May 17, 2021; and

**WHEREAS**, TRC responded in writing to the Contractor that their delay would not alleviate their 180 working day construction window; and

**WHEREAS**, the Contractor started construction on May 17, 2021 and was informed they had 116 working days remaining on the contract and any work beyond the contractual work days would be subject to liquidated damages; and

**WHEREAS**, construction progressed through the summer and fall, and weekly meetings were held and documented with minutes during which the Contractor was reminded of their contractual obligation to complete the Project within the allotted contract time; and

**WHEREAS**, through September 2021, TRC's approved budget for construction management services was nearly expended and the Board of Directors (Board) took action at its October 28, 2021

meeting to amend the contract with TRC to release the 10% contingency of \$34,500 and add \$80,500 for an amended budget of \$460,000 for TRC to continue to provide Project construction management services; and

**WHEREAS**, the Contractor did not timely complete construction of the Project, even though there were days added due to approved change orders and inclement weather; and

**WHEREAS**, the Contractor continued to work on the Project with TRC providing full-time inspection and construction management services until the Contractor reached a point of substantial completion December 31, 2021, which added 47 extra work days that would be subject to liquidated damages per the construction contract; and

**WHEREAS**, the \$460,000 amended contract with TRC reached the \$460,000 limit with the November 2021 invoice in which \$40,950 was paid and \$10,496.95 was beyond the Board approved amended budget, however construction by the Contractor continues to this day; and

**WHEREAS**, the District and TRC agreed to true-up the final cost of TRC support at the time a notice of completion was recommended for Board action; and

**WHEREAS**, in addition to the Project completion delays, it was brought to the attention of the Contractor that they had damaged an unmarked electrical conduit owned by Caltrans, which location Caltrans was not required to mark, and the Contractor had to be directed to repair the conduit and its contents, which has taken many months and is still not approved by Caltrans; and

**WHEREAS**, in the meantime, TRC has continued to provide construction management and inspection services while the Contractor completes punch list items and repairs to the Caltrans infrastructure; and

**WHEREAS**, TRC has invoiced and not been paid for:

\$10,496.95 for a portion of the work in November 2021

\$50,677.69 for all services provided during December 2021

\$20,729.30 for all services provided during January 2022

\$16,650.00 for all services provided during March 2022

\$5,040.00 for all services provided during April 2022

For a total of \$103,593.94

**WHEREAS**, the Contractor and the District have been discussing project closure and making slow progress; and

**WHEREAS**, District staff requests Board authorization to reimburse TRC for its construction management support that has been unpaid since November 2021 and through April 2022 in the amount of \$103,593.94; and

**WHEREAS**, District staff also recommends the Board authorize the use of TRC for remaining punch list items, project close-out efforts, and with conflict and potential claim resolution assistance with the Contractor, which TRC has estimated to be a total of 64 hours at a cost of \$11,795.84.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Mid-Peninsula Water District hereby approves compensation for construction management and inspections services through project punch list, close out efforts, and with conflict resolutions and potential claim performed and to be performed by TRC Engineers, Inc. related to the construction of District capital project known as the El Camino Real Water Main Replacement project (06-1621-CP) pursuant to Task Order MPWD-22-25 in the amount of \$115,389.78 for a not to exceed total budget of \$575,389.78; and

**BE IT FURTHER RESOLVED** that the Board of Directors of the Mid-Peninsula Water District hereby authorizes the General Manager to execute an amendment to the TRC contract, memorializing the additional compensation set forth herein, in a form approved by legal counsel.

**REGULARLY PASSED AND ADOPTED** this 26<sup>th</sup> day of May 2022 by the following vote.

AYES: Schmidt, Zucca, Vella, Wheeler

NOES: None

ABSTENTIONS: None

ABSENCES: Jordan

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*Kirk Wheeler*  
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Board President

ATTEST  
Attested by:

*Monique Madrid*

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District Secretary