



CITY COUNCIL
ATLANTA, GEORGIA

RESOLUTION BY
COUNCILMEMBER HOWARD SHOOK

Howard Shook

04-R-0749

A RESOLUTION AMENDING RESOLUTION 04-R-0378 BY DELETING COUNCIL FLOOR AMENDMENT #2 BY COUNCILMEMBER NATALYN ARCHIBONG PROVIDING THAT ALL CHANGE ORDERS IN EXCESS OF 10% OF THE CONTRACTED AMOUNT OF \$210,231,000.00 ON FC-7646-03 SHALL BE COMPENSATED ON A COST BASIS ONLY, WITH NO COMPENSATION TO THE CONTRACTOR FOR PROFIT, OR MULTIPLIERS WHICH MAY BE PROVIDED ELSEWHERE IN THE CONTRACTUAL AGREEMENT; AND FOR OTHER PURPOSES.

WHEREAS, the Chief Procurement Officer of the Department of Procurement did advertise FC-7646-03, West Area CSO Storage Tunnel and Pumping Station Project on behalf of the Department of Watershed Management; and

WHEREAS, the Commissioner of the Department of Watershed Management and the Chief Procurement Officer have recommended that the Agreement for FC-7646-03, West Area CSO Storage Tunnel and Pumping Station Project, Part A – Clear Creek Tunnel Project and Part B – North Avenue Storage and Tunnel Pumping Station Project be awarded to Atlanta CSO Constructors for a period of forty-five (45) months; and

WHEREAS, this City Council did adopt on March 15, 2004 the entering into of a contractual agreement with Atlanta CSO Constructors for FC-7646-03, West Area CSO Storage Tunnel and Pumping Station Project on behalf of the Department of Watershed Management; and

WHEREAS, the contractual conditions proposed by Council Floor Amendment #2 on March 15, 2004, by Councilmember Natalyn Archibong adding an additional Resolved Clause providing that all change orders in excess of 10% of the contracted amount of \$210,231,000.00 on FC-7646-03 shall be compensated on a cost basis only, with no compensation to the contractor for profit, or multipliers which may be provided elsewhere in the contractual agreement has been objected to by Atlanta CSO Constructors; and

WHEREAS, the Mayor approve 04-R-0378 on March 23, 2004 and thereafter the Department of Procurement sought to consummate the contract with Atlanta CSO Constructors as authorized, which contractors have declined to execute the contract as revised by Council Floor Amendment #2 because Atlanta CSO Constructors considered the modifications to be a material change to the documents upon which its bid was submitted; and

WHEREAS, the City has no assurance that any of the bidders for FC-7646-03, West Area CSO Storage Tunnel and Pumping Station project would accept the contract with the contractual conditions imposed by Council Floor Amendment #2;



WHEREAS, it is in the best interest of the City to move forward with contract FC-7646-03 without said Council Floor Amendment #2, in order to realize the substantial savings provided by the low-bid of Atlanta CSO Constructors of approximately \$57 million, which is the difference between the lowest bidder and the next bidder, and to avoid the untenable delays to meeting the Federal Consent Decree timelines that have necessitated the construction contemplated herein, which delays could result in penalties.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES, that 04-R-0378 adopted by the City Council on March 15, 2004 and approved by the Mayor on March 23, 2004 be amended to delete Council Floor Amendment #2 by Councilmember Natalyn Archibong, which provides that all change orders in excess of 10% of the contracted amount of \$210,231,000.00 on FC-7646-03 shall be compensated on a cost basis only, with no compensation to the contractor for profit, or multipliers which may be provided elsewhere in the contractual agreement;

BE IT FURTHER RESOLVED that all remaining provisions in 04-R-0378 shall remain in full force and effect.

A true copy,

Franka Daughin Johnson
Municipal Clerk

ADOPTED by the Council
APPROVED by the Mayor

April 19, 2004
April 21, 2004



WHEREAS, it is in the best interest of the City to move forward with contract FC-7646-03 without said Council Floor Amendment #2, in order to realize the substantial savings provided by the low-bid of Atlanta CSO Constructors of approximately \$57 million, which is the difference between the lowest bidder and the next bidder, and to avoid the untenable delays to meeting the Federal Consent Decree timelines that have necessitated the construction contemplated herein, which delays could result in penalties.

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BE IT FURTHER RESOLVED that all remaining provisions in 04-R-0378 shall remain in full force and effect.

04-R-0749

(Do Not Write Above This Line)

A RESOLUTION BY

Paul Shook

COUNCILMEMBER HOWARD SHOOK

A RESOLUTION AMENDING
 RESOLUTION 04-R-0378 BY
 DELETING COUNCIL FLOOR
 AMENDMENT #2 BY
 COUNCILMEMBER NATALYN
 ARCHIBONG PROVIDING THAT
 ALL CHANGE ORDERS IN EXCESS
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 AMOUNT OF \$210,231,000.00 ON FC-
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 ON A COST BASIS ONLY, WITH NO
 COMPENSATION TO THE
 CONTRACTOR FOR PROFIT, OR
 MULTIPLIERS WHICH MAY BE
 PROVIDED ELSEWHERE IN THE
 CONTRACTUAL AGREEMENT;
 AND FOR OTHER PURPOSES.

*Adopted
 by Full
 Council
 4/9/04*

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee _____

Date _____

Chair _____

Action _____

Fav, Adv, Hold (see rev. side)

Other _____

Members _____

Committee _____

Date _____

Chair _____

Action _____

Fav, Adv, Hold (see rev. side)

Other _____

Members _____

Refer To _____

Refer To _____

Committee _____

Date _____

Chair _____

Action _____

Fav, Adv, Hold (see rev. side)

Other _____

Members _____

Committee _____

Date _____

Chair _____

Action _____

Fav, Adv, Hold (see rev. side)

Other _____

Members _____

Refer To _____

Refer To _____

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

CERTIFIED
 APR 19 2004

Paul Shook
 COUNCIL PRESIDENT PRO TEM

CERTIFIED
 APR 19 2004

Ronald Benjamin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
 APR 21 2004
Michael S. ...
 MAYOR