

M E M O R A N D U M

To: Tom Harmer, Town Manager
From: Isaac Brownman, Public Works Director
Report date: May 11, 2021
Meeting date: May 18, 2021
Subject: Florida Department of Environmental Protection Consent Order
OGC File No. 20-1261, Revised In-Kind Projects

Recommended Action

Provide direction to Manager regarding revised In-Kind Projects List to be transmitted to FDEP for review and approval.

Background

The State of Florida Department of Environmental Protection (“FDEP”) and the Town of Longboat Key entered into a Consent Order on February 24, 2021 (OGC File No. 20-1261) as a result of the Town’s 20” Force Main Leak in 2020. Sections 18 and 19 of the Order reference the Town paying \$188,382 consisting of \$187,382 civil penalty plus \$1,000 administrative costs, or as an alternative, the Town may elect to perform in-kind projects having a value of \$281,073 plus payment of \$1,000 in administrative costs.

The Town notified FDEP on March 3, 2021 of the Town’s intent to perform in-kind projects to satisfy the civil penalty portion of the Order, and the notice was accepted by FDEP on March 4, 2021. The project criteria follows:

- Must be approved by the FDEP
- Can be “...environmental enhancement, environmental restoration, or a capital / facility project and may not be a corrective action requirement of the Order or otherwise required by law.”
- FDEP may also consider “the donation of environmentally sensitive land” as in-kind.

The Town Commission approved an initial project set on April 5, 2021, and the set was submitted to the FDEP on April 12, 2021. The proposed projects included the following:

- Wet Well Lining - Master Lift Station “D” (Funded in FY 2021 CIP): \$182,000
- Portable 188-KW Generator – Master Lift Station “D” (Funded in FY 2021 CIP): \$99,922

On April 21, 2021, the FDEP notified the Town that the department had accepted the Master Lift Station “D” Portable Generator, but had rejected the Master Lift Station “D” Wet Well Lining for in-kind projects.

As such, a value of \$99,922 has been accepted and a remainder of \$181,151 remains to be committed. The FDEP has also advised the Town that in-kind project funding cannot be offset by grant funding from other agencies to meet the required project value. Public Works has reviewed options and recommends the following subject to Town Commission project and funding approval:

Wastewater Flow Meter - Master Lift Station D (Funded in FY 2021 CIP)

- Scope: Install new 14” Electromagnetic Flow Meter
- Cost: \$22,000
- Production and installation timeframe: 16-weeks upon issuance of notice-to-proceed (NTP)
- Anticipated contractor: Endress & Hauser
- Benefits to the system: This meter is identical to Manatee County’s Master Meter and will allow the Town compare meter reads and be alerted to any changes in readings. The meter is planned to be calibrated twice per year on the same or similar schedule to the Manatee County meter.

Bayfront Park Seawall Enhancement and Living Shoreline Study – Tentative Florida Fish and Wildlife Commission (FWC) with Sarasota Bay Estuary Program (SBEP) Partnership Project (Unfunded)

- Scope: FWC, in partnership with the Town, would examine four (4) approaches to shorelines using Bayfront Park as a test area/pilot study. Examine shoreline consisting of: existing seawall, modified seawall with “Reef Wall” installed, an existing living shoreline of mangroves, and a proposed living shoreline with oyster bags installed. The original version of this project planned to install and examine 100-linear feet of each shoreline type, all at Bayfront Park.
- Initial Project Cost Estimate: \$180,000 (2018 “ballpark” budget estimate)
 - Town Contribution: \$160,000
 - FWC / Other Contribution: \$20,000+
- Completion Timeframe: 3 years upon issue of NTP (installation plus analysis)
- Anticipated contractor/partner: FWC
- Benefits to the system:
 - The overall goal is to determine if one of the shoreline options provides more ecological benefits than the others.
 - Includes pre-construction biological assessment, contractor installation of materials and restore staging areas, and completion of biological assessments over a 3-year period post-construction
 - Challenges: it is currently unfunded, project details need to be refined based on new information, the original budget estimate needs to be further validated for 2021, permits may need to be updated, and partnership details need to be further addressed.

Estimated Total Project Costs and Schedule

- Wastewater Flow Meter – Master Lift Station “D”: \$22,000
- Bayfront Park Shoreline Study: \$160,000 (Town Contribution)
- Total: \$182,000

The Bayfront Park Shoreline project can be funded using FY 2021 General Fund contingency.

In all cases, the Consent Order timelines for included projects involve the following timeframes:

- FDEP approval (including RAs and redress): August 31, 2021 (120-days)
- Completion of in-kind projects: February 2022 (180-days or per approved schedule)

In the event a project list is not approved by FDEP, including after making revisions or redressing, the Town will be responsible to pay the civil penalty in full.

If the Commission supports replacing the wet well lining project with the flow meter and Bayfront Park sea wall enhancement study, staff will immediately notify the FDEP to seek their final approval.

Staff Recommendation

Provide direction to Manager regarding revised In-Kind Projects List to be transmitted to FDEP for review and approval.

Attachments

PowerPoint Presentation (Available from Town Clerk's Office)

End of Agenda Item