

Board of County Commissioners

Staff Report

Matters from Staff Agenda item #____

Meeting Date: October 18, 2016

Presenter: Brian Schilling

Submitting Dept: Engineering - Pathways

Subject: Change Order No. 1 for the Path 22 Middle Segment Phase 2 Connector Construction

Statement / Purpose:

Consider approval of Change Order No. 1 for the Path 22 Middle Segment Phase 2 Connector construction with CM Owen Construction to extend the contract time by 14 days for substantial completion and to June 30, 2017 for final completion, and removal or delay of “non-critical” items from substantial/final completion requirements.

Background / Description (Pros & Cons):

Teton County has contracted with CM Owen Construction to construct the Path 22 Middle Segment Phase 2 project along the south side of Wyoming Highway 22 (WY22) between Spring Gulch Road and the existing Indian Springs Pathway near the Teton Science Schools’ Jackson campus. The contract specifies substantial completion on October 14, 2016 and final completion on October 28, 2016.

On October 4, CM Owen submitted a request to extend the contract time, placing substantial completion at November 15, 2016. Teton County Engineering (TCE) staff requested additional documentation from CM Owen in order to support this request, and this was received on October 6. TCE staff have reviewed the request and feel that an extension of 14 days is justifiable due to weather delays and some of the concerns cited by the contractor, but that the 32-day extension requested for substantial completion is not supported. (Please see attached documents for correspondence and detailed information).

Before the project began, prior to issuing the Notice of Award on August 2nd, TCE staff requested a meeting with the contractor as part of the County’s due diligence process to review the proposed work plan and specifically address concerns about the contractor’s ability to complete the job given their significant workload on other projects, including the South Park Loop Pathway and the Teton Pass Truck Arrestor projects. CM Owen provided a work plan that identified personnel, equipment, and sequencing. The key component of the project, and the component that appears to be the primary cause for delay, is the construction of the eleven retaining walls. CM Owen originally indicated that they would provide 2-3 crews working on retaining walls, but this has not occurred (there has been at most a single crew on site), and the schedule has been impacted accordingly.

Change Order No. 1 also proposes to remove “non-necessary” items from the substantial completion requirements. These include all bid alternate work (the reconfiguration of the Tribal Trails Pathway intersection), topsoil and seeding, and signage and striping. Substantial completion will consist of all components necessary for paving the entire pathway and installing all safety railing, and is set for October 28, 2016. Final completion for all items other than the bid alternate is set for November 11, 2016, and final completion for the bid alternate is set for June 30, 2017.

Statement of Strategic Intent addressed by this item (Identify BCC goals accomplished/addressed):

Environmental Stewardship

- Support an integrated and efficient multi-modal transportation system
- Partner and collaborate with local, state, federal and other agencies

Economic Sustainability

- Partner to develop economic vitality consistent with community values as expressed in the Comprehensive Plan
- Deliver efficient government services to ensure the safety and welfare of residents and visitors

Attachments:

1. Correspondence and supporting documentation
2. Change Order No. 1

Fiscal Impact:

There is a moderate fiscal impact to the proposed change order. The contract specifies that liquidated damages of \$500/day will start on October 14 if the project is not deemed to be at substantial completion. Extending the contract dates to October 28 would result in a delay to the start of collecting liquidated damages of 14 days, or a total of \$7000 reduction in damages owed to the County. Liquidated damages will be suspended for the “winter shutdown” (when work is not possible due to winter conditions) and recommenced in spring 2017 when the winter shutdown is lifted. Ongoing delay of the project could result in increased costs for construction administration, testing, and construction observation, but these are expected to be minor.

Staff Impact:

Teton County Engineering staff has been, and will continue to be, impacted due to the extended time frame of the project. Gabe Klamer and Amy Ramage will be performing construction observation for a longer period of time and during more difficult weather conditions (which requires increased observation). TCE staff have already seen increased time on the project for contract negotiations and coordination with the contractor. The delays have had a substantial impact on the amount of time TCE staff have had to commit to the project.

Legal Review:

As of the time this staff report was submitted, the Change Order had not been reviewed or approved by the County Attorney.

Recommendation:

Staff recommends approval of the Change Order No. 1 to the CM Owen Construction contract. For reasons outlined in the letter from TCE to CM Owen dated October 10, TCE staff feel that an extension of up to 14 days is justifiable.

Suggested Motion:

I move to approve Change Order No. 1 for the Path 22 Middle Segment Phase 2 contract with CM Owen Construction.

Exhibit 1 – Correspondence and Supporting Documentation

- 1. Email from TC Engineering to CM Owen requesting pre-award meeting to discuss concerns on staffing and project schedule*

From: Amy Ramage

Sent: Monday, July 25, 2016 11:47 AM

To: David Owen <david@cmowenconstruction.com>; 'Sean Kendell' <sean@cmowenconstruction.com>

Cc: Brian Schilling <bschilling@tetonwyo.org>; Sean O'Malley <somalley@tetonwyo.org>; Gabe Klamer <GKlamer@tetonwyo.org>; Gordon Gray <ggray@tetonwyo.org>

Subject: Path22 project request for contractor information

David & Sean,

Thank you for your bid received on Friday for the Path 22 Middle Section Phase 2 project. As you are aware, you are the apparent low bidder. As outlined in ARTICLE 3 of the INSTRUCTIONS TO BIDDERS we are requesting that you submit the following information as part of our due diligence as the OWNER to proceed toward awarding the bid. In the interest of forthrightness, we have some concerns about your ability to provide personnel and equipment for this project with your other significant project workload. Please include specifics about the personnel and equipment proposed for this project.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within five days of OWNER's request, BIDDER shall submit (a) written evidence establishing its qualifications such as financial data, previous experience, present commitments, and such other data as may be requested by OWNER.

Please submit within 5 days (by Friday 7/29, or sooner if possible). Please contact me (699-0457) or Brian Schilling (690-9896) with any questions.

Thanks,

Amy Ramage, PE
Teton County Engineering Dept. Manager
320 S. King St.
PO Box 3594
Jackson, WY 83001
307.732.8574

2. *Reply from CM Owen on pre-award meeting to discuss concerns on staffing and project schedule*

From: Steve Keatley [<mailto:steve@cmowenconstruction.com>]

Sent: Wednesday, July 27, 2016 8:37 AM

To: Amy Ramage <aramage@tetonwyo.org>

Cc: Sean Kendell <sean@cmowenconstruction.com>; David Owen <david@cmowenconstruction.com>; Brian Schilling <bschilling@tetonwyo.org>; Sean O'Malley <somalley@tetonwyo.org>; Gabe Klamer <GKlamer@tetonwyo.org>; Gordon Gray <ggray@tetonwyo.org>

Subject: Re: Path22 project request for contractor information

CM OWEN CONSTRUCTION

Current Projects as of 27 July 2016:

The critical path for the "Path 22 Middle Section Phase 2" project is effecting the installation of the retaining walls, followed by the earthworks and subsequently the paving. Retaining wall works and earthworks can occur simultaneously as we can work from opposite ends of the project to achieve a timely completion of 15 October 2016.

On 26 July we had a detailed meeting with our retaining wall subcontractor "Wind River" and they assured us that their scope of work can commence as soon as materials are approved by Teton County, survey work conducted and delivered by the local supplier. Wind River has worked for CM Owen on numerous other projects continually delivering works that support on time project completion.

The schedule extract for retaining walls is the following:

South Park Loop Bike Path: Ongoing with planned completion of 29 August 2016

Path 22 Middle Section Phase 2: ETS of 22 August and an ETC of 12 September 2016

There are few if any utility interferences on the project and the work is predominately well off the side of the RT 22 traffic offering few interferences and delays experienced by some which should expedite the works. This is inclusive of the work on the "Alternate Tribal Trails Realignment".

CM Owen is currently conducting construction operations on the South Park Loop Bike Path project and the only anticipated delays may be caused by the prohibition of works initiated by Wyoming Game and Fish due to nesting migratory birds and Teton County's direction not to perform work in that area until cleared to do so by Wyoming Game & Fish and the County. This may cause some delay based on the master schedule submitted to Teton County at the pre construction meeting but CM Owen feels this is a recoverable delay assuming a timely release to perform the works.

The only construction delays have been caused by "pothole" activities that are a result of shallow utility lines which were located in less than the minimum cover and have required relocation by the service provider when discovered.

Further we are conducting work on the Melody Ranch alternative bike path on short notice by Teton County while maintaining schedule on the prime project.

Other public works currently in progress include the WYDOT Rt 22 Truck Arrestor which is on schedule and planned for completion on schedule in October 2016.

Equipment and manpower resources currently on hand will meet demands of current and projected projects.

Furthermore any works for private citizens and companies currently under contract are on schedule and no resource conflict is anticipated with the Path 22 Middle Section Phase 2 work or the South Park Loop Bike Path project.

In summary CM Owen is confident that we can execute the works on Rt 22 Interconnector Bike Path with no impact to other projects both public and private.

Past Projects:

CM Owen has performed similar projects all completed on schedule for:

City of Driggs
Teton County

Financial:

CM Owen is sound financially with positive cash flow with substantial assets supported by solid stakeholders.

Regards

Steve Keatley
CM Owen Construction
307-880-0019

3. *First email from CM Owen to TC Engineering requesting time extension. Referenced letter included in Change Order No. 1.*

From: Steve Keatley [<mailto:steve@cmowenconstruction.com>]
Sent: Tuesday, October 04, 2016 12:49 PM
To: Gabe Klamer <GKlamer@tetonwyo.org>
Cc: Amy Ramage <aramage@tetonwyo.org>; David Owen <david@cmowenconstruction.com>
Subject: TETON COUNTY - RT 22 BIKE PATH - 04OCT2016

Gabe

Please find attached letter discussing work program and timing for the project.

Regards

Steve Keatley

CM Owen Construction

Mobile: 307-880-0019

steve@cmowenconstruction.com

4. *Email reply from TC Engineering to CM Owen requesting additional information for extension documentation.*

From: Amy Ramage
Sent: Wednesday, October 05, 2016 4:10 PM
To: Steve Keatley <steve@cmowenconstruction.com>
Cc: David Owen <david@cmowenconstruction.com>; Gabe Klamer <GKlamer@tetonwyo.org>; Gordon Gray <ggray@tetonwyo.org>; Sean O'Malley <somalley@tetonwyo.org>; Brian Schilling <bschilling@tetonwyo.org>; Dave Dufault <ddufault@nelsonengineering.net>
Subject: Request for contractual change for time extension for Path 22 and South Park Path

Steve,

We are evaluating your request for a change to the contract times on both pathway projects. In order to do so, we will need more specific details on the reason for request for a change in contract time. Please refer to Article 4.05 "Delays in Contractor's Progress", Article 11.05 "Change of Contract Time" and 11.06 "Change Proposals" of the General Conditions of both contracts for applicable contractual requirements and procedures. The requested change to the contract time will have to be brought before the Board of County Commissioners and therefore needs solid evidence explaining the reasons for the request.

I look forward to your prompt attention to this matter so we can address this issue as soon as possible.

Thank you,

Amy Ramage, PE
Teton County Engineering Dept. Manager
320 S. King St.
PO Box 3594
Jackson, WY 83001
307.732.8574

5. *Email reply from CM Owen to TC Engineering providing additional information. Referenced letter included in Change Order No. 1.*

From: Steve Keatley [<mailto:steve@cmowenconstruction.com>]
Sent: Thursday, October 06, 2016 3:40 PM
To: Amy Ramage <aramage@tetonwyo.org>
Cc: David Owen <david@cmowenconstruction.com>
Subject: Extension of contract time - SPL and Rt 22 Bike Path Projects

Amy
Per our discussion today and your email of yesterday please find attached as promised:
Regards
Steve Keatley
CM Owen Construction
Mobile: 307-880-0019
steve@cmowenconstruction.com

6. *Email reply from TC Engineering to CM Owen – response to request for contract time extension. Referenced letter included in Change Order No. 1.*

From: Amy Ramage
Sent: Monday, October 10, 2016 9:07 AM
To: Steve Keatley <steve@cmowenconstruction.com>
Cc: David Owen <david@cmowenconstruction.com>; Sean O'Malley <somalley@tetonwyo.org>; Brian Schilling <bschilling@tetonwyo.org>; Gabe Klamer <GKlamer@tetonwyo.org>; Gordon Gray <ggray@tetonwyo.org>
Subject: RE: Extension of contract time - SPL and Rt 22 Bike Path Projects

Steve,

Please see the attached letter which is in response to your request for an extension of contract time. We are proposing to have a meeting at 9 am tomorrow at County Engineering to discuss this further with you. Please let us know if that time works for you.

Amy Ramage, PE
Teton County Engineering Dept. Manager
320 S. King St.
PO Box 3594
Jackson, WY 83001
307.732.8574



ENGINEERING

Sean E. O'Malley, PE, Teton County Engineer - Director of Public Works

Engineering Manager

Amy Ramage, PE

Engineering Technician

Gordon Gray

Interim Floodplain Administrator

Kurt Stout, PE

JH Community Pathways Coordinator

Brian Schilling

Sanitarian / Engineering Technician

Gabe Klamer

October 10, 2016

Mr. Steve Keatley

CM Owen Construction

PO Box 278

Wilson, WY 83014

Delivery via email: steve@cmowenconstruction.com

RE: Response to your letters dated October 4th and 7th requesting a change in contract time

Dear Mr. Keatley,

This letter is in response to your request for an extension to the contract time for both the Path 22 and South Park Pathway projects. County Engineering staff and Mr. Dufault have met and discussed this request. While some additional detail was provided as requested in your follow up letter, there was no information regarding specific weather dates or specific time periods of delay for tasks. Based on our review, we agree that there have been delays due to weather and some of the items mentioned in the letter that entitle you to an amendment to contract days, but not an entire month, as requested. We have addressed your specific items as redline comments on your letter (attached).

We have concluded that you are entitled to 7 weather days (from begin project – October 8): 9/22, 9/23, 9/30, 10/3, 10/4, 10/5, 10/6.

We intend to recommend that the Board of County Commissioners approve contract change orders for both projects with an additional two weeks to reach substantial completion as proposed in the dates below. *The South Park Project has also been adjusted to allow 3 weeks between substantial and final completion to allow for extra items.* From a practical and historical standpoint, we feel that it is unlikely that paving can occur much beyond the end of October and meet the required specifications.

REVISED CONTRACT DATES

Path 22

Substantial Completion: October 28, 2016

Final Completion for items other than Bid Alternate: November 11, 2016

Final Completion for Bid Alternate: June 30, 2017

South Park Loop Path

Substantial Completion: October 28, 2016

Final Completion for items other than landscaping/trees: November 18, 2016

Final Completion for landscaping/trees: June 30, 2017

ITEMS NEEDED TO MEET SUBSTANTIAL COMPLETION

Items required for projects to be substantially complete per Article 15.03:

PATH 22	
ITEMS FOR SUBSTANTIAL COMPLETION	
NECESSARY	NOT NECESSARY
PAVED IN ENTIRETY RAILING COMPLETE	ALL BID ALTERNATE WORK TOPSOIL/SEEDING STRIPING/SIGNAGE

SOUTH PARK LOOP PATH	
ITEMS FOR SUBSTANTIAL COMPLETION	
NECESSARY	NOT NECESSARY
PAVED IN ENTIRETY CROSSING BEACONS COMPLETE AND FUNCTIONAL CROSSWALK STRIPING RAILING COMPLETE SIGNAGE SILT FENCE REPAIRED/REPLACED	SOUTH PARK RANCH ROAD CONCRETE WORK ALL LANDSCAPING, TOPSOIL, SEEDING TREE PLANTING HOLD UNTIL SPRING PER RECOMMENDATIONS ROCK DAMS

NOTE: All items listed as "NOT NECESSARY" in the table above shall be completed as soon as reasonably possible, however these items are not considered necessary for the pathway to be functional and therefore shall be completed by the final completion dates listed above.

All erosion control devices shall be properly in place over the course of the winter no matter the status of the completion of the project(s).

LIQUIDATED DAMAGES

This change order will be heard before the Board of County Commissioners for approval. The next regular meeting of the Board is scheduled for October 18th. Liquidated damages will NOT be assessed for the dates of October 14th -18th while this matter is pending final approval.

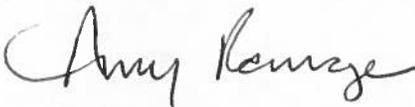
If the contract is amended as recommended above, and if the above substantial and final completion dates are not met and there are no further change orders, liquidated damages will begin accruing as outlined in Article 4 of the Agreement between Owner and Contractor.

Work shall continue under liquidated damages to the point at which it is determined by the Owner/Engineers that work can no longer reasonably proceed due to winter conditions. At this point the project(s) shall be under winter shutdown. Liquidated damages will NOT accrue over winter shutdown, but will begin to accrue again in the spring once the Owner/Engineers determine working conditions can commence in the spring. The winter shutdown does NOT preclude any miscellaneous work that is not driven by temperature/weather related specifications from occurring.

We propose a meeting to talk through these issues on **Tuesday October 11, at 9 am** at County Engineering. Please confirm if this time will work for you.

Thank you for your efforts on these projects and we look forward to getting them completed as soon as possible.

Sincerely,

A handwritten signature in cursive script that reads "Amy Ramage".

Amy Ramage, PE
Teton County Engineering Department Manager

Attachments: Responses to letter dated 10/7/2016

cc: David Owen, Sean O'Malley, Gabe Klamer, Gordon Gray, Brian Schilling



CM Owen Construction

P.O. BOX 278
WILSON, WYOMING 83014
307-733-2693 or 208-787-6936 -- FAX 208-787-6938

7 October 2016

Teton County
Teton County Engineering,
320 South King Street,
Jackson, Wyoming 83001

Attention : Amy Ramage P.E.

Subject:

Justification of time extension request for South Park Loop Bike Path and Rt 22 Interconnection Bike Path

Per your email of 5 October in reply to our letters of 4 October 2016 please find examples and specific issues that we feel demonstrates our justification for requesting an extension of time for both Rt. 22 Interconnecting Bike Path and South Park Loop Bike Path.

This document is intended to be a statement of fact and situation as of this date:

Rt. 22 Interconnecting Bike Path

Delay and Additional Works:

1- CMO was required to realign the bike path at the intersection of Spring Gulch Rd as an "as built" field design to achieve a smooth connection to existing bike path.

This item was a negligible delay and was a matter of simply matching to recently placed infrastructure.

2- Repair/Removal and reinstallation of a 48 inch culvert late in the construction program. Irrigation water as of this writing is still not fully off and it appears that work cannot commence for a number of days until water subsides. Impact yet unknown.

This item is removed from substantial completion. Final completion required by 6/30/2017



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

3- Alternate bike path final document issuance late in construction project. Duration of works yet to be determined considering late in season subject to weather impacts.

This item is removed from substantial completion. Final completion required by 6/30/2017

4- Disposal of spoil material that Teton County originally required remaining on site impacted progress and slowed work, subsequently time was required to load and transport the material.

Contractor responsibility to coordinate material management. Allow 1 day. Accomodated within extension.

Third Party Delays:

The Keystone Walls were always the critical path of the Rt. 22 Interconnecting Bike Path project as without the walls finished backfill and obtaining sub grade is impossible ,further laying of crush rock and subsequently asphalt installation.

Understood. General contractor responsibility to coordinate subs.

The subcontractor for the walls on Rt. 22 Interconnecting Bike Path (Wind River) failed to mobilize on schedule, failed to furnish adequate crews and failed to keep original agreed upon schedule during good weather and ideal working conditions knowing prior to mobilization that their work was critical path.

Understood. General contractor responsibility to coordinate subs.

While CMO readily admits that the actions of the subcontractor are indeed the responsibility of the prime CMO made all information about the conduct of the subcontractor transparent to Teton County and unfortunately was unsuccessful in locating a firm that had the available manpower and schedule slack to allow them to assume the scope assigned to Wind River either partially or in full.

South Park Loop Bike Path

Additional Works:

1- The issuance of the final design drawings for the South Park Ranch Road Intersection:



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

- Delay of concrete contractor who was scheduled for 19 SEP and now delayed due to other projects and no firm ETA for these works.

Acknowledged. This item is removed from substantial completion. Final completion required by 11/18/2016.

2- Grand Teton South design changes will extend the scope of work yet to be determined total impact.

Acknowledged. Accomodated in 2 week extension.

3- Changes in driveway approach philosophy, task durations not yet established

Not clear on what this means. All approaches were intended to be paved in design drawings.

4- Mailbox redesign twice due to original design not practical for post office or patrons requiring additional materials and labor to perform the task to the Post Office's satisfaction.

This was not a critical path item.

5- Additional paving works at Melody Ranch bike path.

Acknowledged. Accomodated within the 2 week extension.

Delay in Works:

1- Migratory bird issue delayed start of the work from ~Sta 75+50 to 111+42 which represents approximately 1/3 of the overall project. This caused delay in clearing and grubbing, obtaining sub grade and commencement work on Wall C.

Teton County has previously offered time extension on this issue.

Acknowledged. Although CM Owen did not have crews available anyway and have said that at the time. Accomodated within the 2 week extension.

2- No staging area was available and caused delay of equipment mobilization as well as lay down and staging area for material for clearing and grubbing until obtained by CMO from a private property owner.

Staging and material handling is General Contractor responsibility.

3- The 10 inch culvert at ~Sta 2+50 delayed placement of material due to culvert elevation issues.

Acknowledged. Within the 2 week extension.

4- Recurrent changes and modification issues at the Dennis Clark property as well as having to remove material install geotech material and re-compact due to irrigation on site.

Given insufficient personnel and equipment, no significant delays occurred that impacted the critical path and overall project completion.



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

5- Charter and Century Link while cooperative were slow to action relocations.

Additional excavation of a trench for Charter was required to bury their cable when removed from an LVE pole that was subsequently late in removal due to Charter not having the equipment to move the cable from one pole to another at the intersection of South Park Ranch Road. **General Contractor's responsibility.**

Minimal standby time was incurred when the issue whether or not to add the installation of a culvert at Wall A. It was determined not to install the culvert,

Acknowledged. Within the 2 week extension.

6- Weather having delayed final crush and paving in the eastern end of the project has resulted in deferring the installation of the irrigation system and planting of trees and willows. The justification to wait on this work is to prevent the irrigation contractor from destroying the already established and existing sub grade thus causing further repeated works.

Minor weather delays are acknowledged within the 2 week time extension.

Landscaping and tree planting have been removed from substantial completion.

Third Party Delays:

The Keystone Walls were always a critical path of the project as without the walls finished backfill is impossible and obtaining sub grade is impossible to obtain compaction and further laying of crush rock and subsequently asphalt installation.

The subcontractor for the walls on South Park Loop failed to mobilize on schedule, failed to furnish adequate crews and failed to keep original agreed upon schedule during good weather and ideal working conditions.

CM Owen forecast delays in this work by the wall subcontractor and removed the scope from the wall subcontractors scope of work when they suffered delays in other wall works.

Understood. General Contractor responsibility to coordinate subs.



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

Then CMO suffered in the timely delivery of material from the vendor for the concrete wall. CMO has prosecuted the work and prepared the excavation in anticipation of the delivery of materials.

Efforts to go forward and expedite work:

CMO in an effort to expedite work is currently organizing labor crews to execute hand work on both projects and has recently spent ~\$20,000 USD for a skid steer mounted topsoil conveyor to speed the installation of topsoil and finishing after paving.

CMO has sought permission from Teton County and has been approved to work a 7 day schedule in effort to substantially complete the project and insure it is safe for use.

It is anticipated that during the next 3 to 4 weeks paving, fencing, safety equipment, signage and painting can be accomplished on both projects. All efforts will be made for 100% completion but as discussed at the Rt. 22 Interconnecting Bike Path meeting this morning there are major and minor aspects that may not be possible to complete this work season.

Regards,

A handwritten signature in black ink that reads "Steven Keatley". The signature is written in a cursive style and is underlined.

Steven Keatley for

CM Owen Construction

cc: David Owen



CM Owen Construction

P.O. BOX 278
WILSON, WYOMING 83014
307-733-2693 or 208-787-6936 -- FAX 208-787-6938

Tuesday 4 October 2016

Teton County
Teton County Engineering,
320 South King Street,
Jackson, Wyoming 83001

Attention : Mr. Gabe Klamer

Subject: Rt 22 Bike Path - Substantial Completion and Time Extension Request

Following our previous correspondence on this subject and after review of the retaining wall subcontractor performance and discussions with your office CM Owen formally requests a time extension to 15 November 2016 to achieve "Substantial Completion" and "safe for use" with the caveat that unfavorable weather may cause further delay to completion of final detail work such as removal of slit fence, topsoil placement and seeding,

If that is the case it would be 30 April 2017 before final acceptance can be performed.

With Best Regards,


Steven K Keatley for
CM Owen Construction



CM Owen Construction

P.O. BOX 278
WILSON, WYOMING 83014
307-733-2693 or 208-787-6936 -- FAX 208-787-6938

7 October 2016

Teton County
Teton County Engineering,
320 South King Street,
Jackson, Wyoming 83001

Attention : Amy Ramage P.E.

Subject:

Justification of time extension request for South Park Loop Bike Path and Rt 22 Interconnection Bike Path

Per your email of 5 October in reply to our letters of 4 October 2016 please find examples and specific issues that we feel demonstrates our justification for requesting an extension of time for both Rt. 22 Interconnecting Bike Path and South Park Loop Bike Path.

This document is intended to be a statement of fact and situation as of this date:

Rt. 22 Interconnecting Bike Path

Delay and Additional Works:

- 1- CMO was required to realign the bike path at the intersection of Spring Gulch Rd as an "as built" field design to achieve a smooth connection to existing bike path.
- 2- Repair/Removal and reinstallation of a 48 inch culvert late in the construction program. Irrigation water as of this writing is still not fully off and it appears that work cannot commence for a number of days until water subsides. Impact yet unknown.



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

3- Alternate bike path final document issuance late in construction project. Duration of works yet to be determined considering late in season subject to weather impacts.

4- Disposal of spoil material that Teton County originally required remaining on site impacted progress and slowed work, subsequently time was required to load and transport the material.

Third Party Delays:

The Keystone Walls were always the critical path of the Rt. 22 Interconnecting Bike Path project as without the walls finished backfill and obtaining sub grade is impossible ,further laying of crush rock and subsequently asphalt installation.

The subcontractor for the walls on Rt. 22 Interconnecting Bike Path (Wind River) failed to mobilize on schedule, failed to furnish adequate crews and failed to keep original agreed upon schedule during good weather and ideal working conditions knowing prior to mobilization that their work was critical path.

While CMO readily admits that the actions of the subcontractor are indeed the responsibility of the prime CMO made all information about the conduct of the subcontractor transparent to Teton County and unfortunately was unsuccessful in locating a firm that had the available manpower and schedule slack to allow them to assume the scope assigned to Wind River either partially or in full.

South Park Loop Bike Path

Additional Works:

1- The issuance of the final design drawings for the South Park Ranch Road Intersection:



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

- Delay of concrete contractor who was scheduled for 19 SEP and now delayed due to other projects and no firm ETA for these works.

2- Grand Teton South design changes will extend the scope of work yet to be determined total impact.

3- Changes in driveway approach philosophy, task durations not yet established

4- Mailbox redesign twice due to original design not practical for post office or patrons requiring additional materials and labor to perform the task to the Post Office's satisfaction.

5- Additional paving works at Melody Ranch bike path.

Delay in Works:

1- Migratory bird issue delayed start of the work from ~Sta 75+50 to 111+42 which represents approximately 1/3 of the overall project. This caused delay in clearing and grubbing, obtaining sub grade and commencement work on Wall C.

Teton County has previously offered time extension on this issue.

2- No staging area was available and caused delay of equipment mobilization as well as lay down and staging area for material for clearing and grubbing until obtained by CMO from a private property owner.

3- The 10 inch culvert at ~Sta 2+50 delayed placement of material due to culvert elevation issues.

4- Recurrent changes and modification issues at the Dennis Clark property as well as having to remove material install geotech material and re-compact due to irrigation on site.



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

5- Charter and Century Link while cooperative were slow to action relocations.

Additional excavation of a trench for Charter was required to bury their cable when removed from an LVE pole that was subsequently late in removal due to Charter not having the equipment to move the cable from one pole to another at the intersection of South Park Ranch Road.

Minimal standby time was incurred when the issue whether or not to add the installation of a culvert at Wall A. It was determined not to install the culvert,

6- Weather having delayed final crush and paving in the eastern end of the project has resulted in deferring the installation of the irrigation system and planting of trees and willows. The justification to wait on this work is to prevent the irrigation contractor from destroying the already established and existing sub grade thus causing further repeated works.

Third Party Delays:

The Keystone Walls were always a critical path of the project as without the walls finished backfill is impossible and obtaining sub grade is impossible to obtain compaction and further laying of crush rock and subsequently asphalt installation.

The subcontractor for the walls on South Park Loop failed to mobilize on schedule, failed to furnish adequate crews and failed to keep original agreed upon schedule during good weather and ideal working conditions.

CM Owen forecast delays in this work by the wall subcontractor and removed the scope from the wall subcontractors scope of work when they suffered delays in other wall works.



CM Owen Construction

P.O. BOX 278

WILSON, WYOMING 83014

307-733-2693 or 208-787-6936 -- FAX 208-787-6938

Then CMO suffered in the timely delivery of material from the vendor for the concrete wall. CMO has prosecuted the work and prepared the excavation in anticipation of the delivery of materials.

Efforts to go forward and expedite work:

CMO in an effort to expedite work is currently organizing labor crews to execute hand work on both projects and has recently spent ~\$20,000 USD for a skid steer mounted topsoil conveyor to speed the installation of topsoil and finishing after paving.

CMO has sought permission from Teton County and has been approved to work a 7 day schedule in effort to substantially complete the project and insure it is safe for use.

It is anticipated that during the next 3 to 4 weeks paving, fencing, safety equipment, signage and painting can be accomplished on both projects. All efforts will be made for 100% completion but as discussed at the Rt. 22 Interconnecting Bike Path meeting this morning there are major and minor aspects that may not be possible to complete this work season.

Regards,

A handwritten signature in black ink that reads "Steven Keatley". The signature is written in a cursive style and is underlined.

Steven Keatley for

CM Owen Construction

cc: David Owen