



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

Topic: Consideration and possible action to approve Third Amendment to Design Build Contract between United ISD and Design Builder Leyendecker Construction of Texas, requesting a substantial completion date of August 26, 2021 and relating to RFQ 028-2015.

Submitted by: Ms. Cordelia Flores-Jackson / Mr. Ignacio Alaniz of: Purchasing / Construction Department

Approved for transmittal to school board: Regular Board Meeting October 20, 2020

Procurement Recommendation:

Administration recommends approval of attached Third Amendment to the Design Build Contract between United Independent School District and Design Builder Leyendecker Construction of Texas for the Design and Construction of the Aquatic Center. The Amendment is to increase the Contract Time by Two-Hundred Eight (208) days. The current Substantial Completion date of January 31, 2021 would be revised to August 26, 2021.

Rationale:

Staff has complied with all applicable federal, state and local purchasing policies and procedures in obtaining pricing information for the items listed above.

Budgetary Information:

The Guaranteed Maximum Price and construction budget amount will not be modified by this recommended amendment to the Design Build Contract. The amendment is strictly a modification of the project's substantial completion date as stated above.

Board Policy Reference and Compliance

CV Legal – Facilities Construction

CV Local – Facilities Construction

CVE Legal - Facilities Construction - Design Build

Texas Government Code 2267

**THIRD AMENDMENT TO THE CONTRACT FOR
DESIGN-BUILD SERVICES
FOR THE CONSTRUCTION OF THE AQUATIC CENTER
BETWEEN THE UNITED INDEPENDENT SCHOOL DISTRICT
AND
LEYENDECKER CONSTRUCTION OF TEXAS, INC.**

This Third Amendment to Design-Build Contract is entered into this _____ day of October 2020, by and between the United Independent School District ("UISD" or "Owner"), a political subdivision of the State of Texas, and Leyendecker Construction of Texas, Inc. ("Design- Builder"), a for profit Texas Corporation.

RECITALS

WHEREAS, on November 15, 2015, UISD and Design Builder entered into a contract pursuant to a "Design Build Contract" between Owner and Design Builder ("Contract"); and

WHEREAS, the purpose of the Contract was to set the terms and conditions pursuant to which the Design Builder is to undertake the design and construction of an Aquatic Center for Owner; and

WHEREAS, on January 21, 2019, UISD issued a Notice to Proceed to Leyendecker Construction, Inc. which provided for a substantial completion date of January 31, 2021; and

WHEREAS, the Governor of the State of Texas, Greg Abbott, issued a disaster proclamation on March 13, 2020, that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, Governor Abbott issued executive orders and suspended certain laws, including prohibiting and limiting certain business operations in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to the virus;

WHEREAS, Design-Builder has requested a change order to extend the time to complete the construction work provided for in the Design-Build Contract by two hundred and seven (207) days, due to rain, inclement weather, and delays related to the COVID-19 pandemic as described in Exhibit A.

NOW, THEREFORE, the parties agree to amend the Contract as follows:

Section 1. That the facts and recitations contained in the Recitals of this Contract Amendment are hereby found and declared to be true and correct and are incorporated into this contract amendment.

Section 2. The time to complete the construction work shall be extended two hundred and seven (207) days. **The new date for substantial completion shall be August 26, 2021.**

Section 4. All of the terms and conditions of the Contract not modified by this Third Amendment and the First and Second Amendments shall remain in full force and effect.

Executed to be effective as of the later date set below:

UNITED INDEPENDENT SCHOOL DISTRICT

Roberto J. Santos
Title: Superintendent of Schools

Date: _____

LEYENDECKER CONSTRUCTION OF TEXAS, INC.

Gary A. Leyendecker
Title: President

Date: _____

EXHIBIT A

DELAY DAY LOG

UISD

UISD Aquatics Center

Contract Rain Days

Updated on: 10/14/20

Description	Date Received	Comments	# Days Requested	# Days Expected per Month	# Days Approved
Rain Delays #1	5/31/2019				
February 2019			4	5	0
March 2019			2	4	0
April 2019			4	4	0
May 2019			6	5	1
Rain Delays #2	11/4/2019				
June 2019			2	5	0
July 2019			1	4	0
September 2019			4	7	0
October 2019			4	4	0
Rain Delays #3	9/11/2020				
November 2019			5	4	1
December 2019			2	5	0
January 2020			4	6	0
February 2020			3	5	0
March 2020			4	4	0
April 2020			5	4	1
May 2020			13	5	8
June 2020			6	5	1
July 2020			4	4	0
August 2020			3	6	0
September 2020			4	7	0
			80	93	
Total Number of Rain Days Approved					12

Delay Days

Description	Date Received	Comments	# Days Requested	# Days Expected per Month	# Days Approved
COVID-19 Delays	8/14/2020	Notice Given/0 Days Req.	0	0	0
Rain, COVID-19, & Subgrade Delays	9/28/2020				
Subgrade Delays		From Sept. 2019 - Feb. 2020	88	0	88
COVID-19 Delays		From Mar. 2020 - Sept. 2020	107	0	107
Total Amount of Approved Delay Days					207

constitute a breach of Design/Builder's warranty unless prior approval for variance from strict conformity has been issued in writing by Owner's Representative or designee.

(E) Commencement Of Guarantee And Warranty: Special or specific guarantees and warranties which are required by the Contract to run for a fixed period of time shall commence running on the date of Final Completion of all Construction Work and shall be property of Owner.

(F) Design/Builder's Schedule Of Construction: Design/Builder, within fifteen (15) days after the Commencement Date, shall submit to the Owner's Representative or designee for his information, and shall comply with, Design/Builder's Schedule of Construction for completing the Construction Work by the Scheduled Completion Date. The Schedule of Construction shall reflect the performance of all Construction Work on weekdays and non-holidays. The Schedule of Construction shall be a detailed critical path management ("CPM") schedule in a form acceptable to Owner's Representative or designee. The Schedule of Construction shall be revised at least monthly and shall be revised to reflect conditions encountered from time to time and shall be related to the entire Project. Each such revision shall be furnished to Owner's Representative or designee. Strict compliance with the requirements of this Paragraph shall be a condition precedent for payment to Design/Builder, and failure to strictly comply with said requirements shall constitute a material breach of the Contract. No claim for an increase in the GMP shall be allowed as a result of Design/Builder basing the GMP upon an early completion schedule, or as a result of delays and costs attributable to completion later than the planned early completion date.

Design/Builder shall anticipate and include in its Schedule of Construction for Completing Construction Work rain days due to adverse weather conditions in accordance with the rainfall table below. A rain day is identified as a day when rainfall exceeds one-half (.5) inch during a 24-hour period. The number of rain days expected for each month is as follows:

January	[6] calendar days	July	[4] calendar days
February	[5] calendar days	August	[6] calendar days
March	[4] calendar days	September	[7] calendar days
April	[4] calendar days	October	[4] calendar days
May	[5] calendar days	November	[4] calendar days
June	[5] calendar days	December	[5] calendar days

Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as rain day when substantial Design/Builder forces are able to perform Construction Work for more than fifty percent (50%) of the usual workday or when the stage of the Construction Work is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of Construction Work.

(G) Record Copy Of Contract Documents: Design/Builder shall continuously maintain at the site, for the benefit of Owner, an updated copy of this Contract, including one record copy of the Contract Documents marked to record on a current basis changes, selections and modifications made during construction. Additionally, Design/Builder shall maintain at the site, for the benefit of Owner, a copy of all Shop Drawings, Product Data, Samples, and other Submittals. Upon Final Completion of the Construction Work, or upon the Owner's Representative or designee's request, all of the documents described in this Paragraph shall be finally updated and delivered to Owner and shall become the property of Owner.

(H) Review And Approval Of Submittals: Design/Builder shall review, study, and approve, or take other necessary action upon all Shop Drawings, Product Data, Samples, and other Submittals to ensure that the

LEYENDECKER CONSTRUCTION OF TEXAS, INC.
ENGINEERS AND CONSTRUCTORS

LAREDO, TEXAS 78041

TELEPHONE (956)-722-0531
FAX (956)-722-8215

F. O. BOX 1127
4220 SANDERS ST.

May 31, 2019

Mr. Enrique Rangel, P.E.
United ISD – Assistant Supt. for Facilities and Construction
802 Gale St.
Laredo, TX 78041

Re: UISD – Aquatic Center – Rain Delays

Dear Mr. Rangel,

Since starting construction work on the referenced project in February 2019, approximately 15 rain and/or wet site days have been recorded to date. Rain and wet site days have been recorded for the following days:

Feb 2019 – 9, 11, 12, 19 – 4 days

Mar – 30, 31 – 2 days

Apr – 1, 18, 24 – 3 days

May – 3, 4, 6, 7, 10, 11 – 6 days

Sincerely,



Paul A. Leyendecker
Leyendecker Construction of Texas, Inc.

cc: Mr. Ignacio Alaniz – UISD Director of Construction

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ENGINEERS AND CONSTRUCTORS

LAREDO, TEXAS 78041

TELEPHONE (956)-722-0531
FAX (956)-722-8215

P. O. BOX 1827
4220 SANDERS ST

November 4, 2019

Mr. Enrique Rangel, P.E.
United ISD – Assistant Supt. for Facilities and Construction
802 Gale St.
Laredo, TX 78041

Re: UISD – Aquatic Center – Rain Delays

Dear Mr. Rangel,

Since starting construction work on the referenced project in February 2019, approximately 27 rain and/or wet site days have been recorded to date. Rain and wet site days have been recorded for the following days:

Feb 2019 – 9, 11, 12, 19 – 4 days
Mar – 30, 31 – 2 days
Apr – 1, 2, 18, 24 – 4 days
May – 3, 4, 6, 7, 10, 11 – 6 days
Jun – 27, 28 – 2 days
Jul – 18 – 1 day
Sep – 5, 6, 7, 13 – 4 days
Oct – 16, 17, 25, 26 – 4 days

Sincerely,



Paul A. Leyendecker
Leyendecker Construction of Texas, Inc.

cc: Mr. Ignacio Alaniz – UISD Director of Construction

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P. O. BOX 1827
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August 14, 2020

Mr. Enrique Rangel, P.E.
United ISD – Assistant Supt. for Facilities and Construction
802 Gale St.
Laredo, TX 78041

Re: UISD – New Aquatic Center and Cuatro Vientos Middle School – Project Schedule

Dear Mr. Rangel,

We are writing to advise you of our concerns regarding the work progress on the New Aquatic Center and the Cuatro Vientos Middle School resulting from the on-going Covid-19 virus pandemic. We are experiencing project staffing shortages in some trades including masonry, steel erection, sheet metal and common labor. We are attempting to address this issue by seeking additional manpower resources to supplement our project staffing. We will continue to keep you advised of this situation as we move forward with both projects.

Sincerely,



Paul A. Leyendecker
Leyendecker Construction of Texas, Inc.

cc: Mr. Ignacio Alaniz – UISD Director of Construction

LEYENDECKER CONSTRUCTION OF TEXAS, INC.
ENGINEERS AND CONSTRUCTORS

LAREDO, TEXAS 78041

TELEPHONE (956)-722-0531
FAX (956)-722-8215

P. O. BOX 1827
4220 SANDERS ST.

September 11, 2020

Mr. Enrique Rangel, P.E.
United ISD – Assistant Supt. for Facilities and Construction
802 Gale St.
Laredo, TX 78041

Re: UISD – Aquatic Center – Rain Delays – LCTI Letter dated November 4, 2019

Dear Mr. Rangel,

In reference to our previous letter of November 4, 2019, we stated that approximately 27 rain and/or wet site days had been recorded since starting the project in February 2019. Since issuance of our letter of November 4, 2019, we have recorded an additional 53 days of rain and/or wet site days as follow:

Nov 2019 – 8, 9, 12, 13, 14 – 5 days
Dec – 20, 21 – 2 days
Jan 2020 – 17, 18, 22, 23 – 4 days
Feb – 12, 20, 21 – 3 days
Mar – 17, 18, 21, 23 – 4 days
Apr – 3, 4, 6, 7, 10 – 5 day
May – 8, 9, 14, 15, 16, 21, 22, 23, 25, 26, 28, 29, 30 – 13 days
Jun – 1, 2, 10, 18, 27, 28 – 6 days
Jul – 1, 27, 28, 29 – 4 days
Aug – 1, 25, 26 – 3 days
Sep – 4, 5, 8, 10 – 4 days

Since starting construction in February 2019, a total of 80 rain and/or wet site days affecting the construction progress have been recorded. Accordingly, we are requesting that the project completion date be extended from January 31, 2021 to April 21, 2021 to account for the lost days.

Sincerely,



Paul A. Leyendecker
Leyendecker Construction of Texas, Inc.

cc: Mr. Ignacio Alaniz – UISD Director of Construction

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ENGINEERS AND CONSTRUCTORS

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TELEPHONE (956)-722-0531
FAX (956)-722-8215

P. O. BOX 1827
4220 SANDERS ST.

September 28, 2020

Mr. Enrique Rangel, P.E.
United ISD – Assistant Supt. for Facilities and Construction
802 Gale St.
Laredo, TX 78041

Re: UISD – Aquatic Center – Construction Delays

Dear Mr. Rangel,

In reference to our previous correspondence regarding delays due to inclement weather, we indicated eighty (80) rain and wet site days that were recorded since starting construction in February 2019. Beyond the noted rain days, we have experienced further delays during pool construction due to rain saturated subgrade soils that affected pool work for an extended period of time starting in September 2019 and continuing through February 2020. During this period, pool construction activities involved the removal of concrete formwork and placement of soils backfill around the pool. A substantial amount of time and effort was directed towards subgrade dewatering, soil removal, and replacement of wet subgrade soils. Intermittent rains during the period caused repetitive dewatering and soils replacement work. Furthermore, work involving installation of structural concrete footings and underground pool piping was delayed until pool backfill work could be completed. All backfill activities were monitored and tested for compaction by the owner's testing agency. Since February 2020, we have experienced several additional rainfall events as documented in our previous letters which have affected foundation work, installation of underground piping, and building masonry work. We estimate that the rain related issues as described resulted in significant delays to the project beyond the actual number of rain days mentioned above.

In addition to weather related delays, the work effort has been adversely impacted by the Covid 19 pandemic. As noted in previous correspondence, we have experienced craft personnel shortages affecting concrete, structural steel, welding, masonry, and general labor beginning in March with implementation of the city wide lockdown and extending throughout the summer. Concerns with contracting the virus coupled with government relief payments have compelled many personnel to remain at home. Material suppliers have also been affected resulting in delayed deliveries and postponements of critical building components. It appears that these conditions may continue to have an adverse effect on this project as well as the construction industry in general.

In response to these issues, we have made efforts to offset some of the lost productivity by seeking additional project support including procuring additional subcontractor support and increasing overtime work hours. Despite these efforts the overall progress of the work has not been sufficient to maintain our earlier schedule projections. A current assessment of the project and the anticipated level of support indicate that substantial completion will not occur until August 26, 2021 with the potential for further delays depending on the effects of the pandemic.

Sincerely,



Paul A. Leyendecker

Leyendecker Construction of Texas, Inc.

cc: Mr. Ignacio Alaniz – UISD Director of Construction