

ORDINANCE NO. 2013- 3627

AN ORDINANCE TO AUTHORIZE THE EXPENDITURE AND DIRECT THE SAFETY SERVICE DIRECTOR TO SIGN CHANGE ORDER NUMBER 7 WITH HM MILLER FOR COMPLETION OF THE FREMONT UPLAND RESERVOIR AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL, CITY OF FREMONT, STATE OF OHIO:

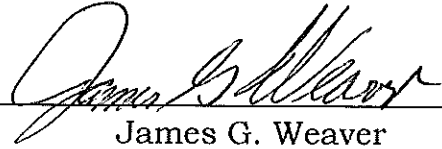
SECTION 1. Change Order Number 7 has been agreed to and negotiated between the City of Fremont and HM Miller and is attached as Exhibit A. The change order is for the not to exceed contract price of \$6,750,000.00.

SECTION 2. Fremont City Council hereby authorizes the Safety Service Director to sign Change Order Number 7 between HM Miller and the City of Fremont for the not to exceed contract price of \$6,750,000.00.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Revised Code of Ohio.

SECTION 4. The immediate operation of the provisions of this ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare of the citizens of the City of Fremont. Said emergency being the need to comply with the terms of the settlement agreement concerning the litigation between HM Miller and the City of Fremont as soon as possible.

This ordinance, provided it receives a two-thirds yea or nay vote of all the members elected to the Fremont City Council, is hereby declared to be an emergency measure and this ordinance shall be in full force and effect from and after its passage by the Council of the City of Fremont, approval by the Mayor, and publication and posting as required by law.



James G. Weaver
President of Council

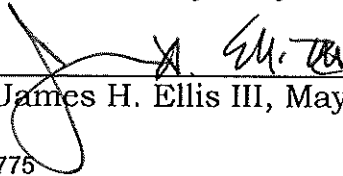
PASSED: 2-21-13

Effective date: 2-21-13

YEAS: 7 NAYS: 0



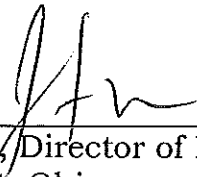
Elaine J. Huntley, City Council Clerk



James H. Ellis III, Mayor

ORDI775

Approved as to form:



James F. Melle, Director of Law
City of Fremont, Ohio

The City of Fremont, Ohio – H.M. Miller Construction Co. – Raw Water Reservoir

Change Order 7 Narrative Dated February 14, 2013

This change order is executed in furtherance of the Settlement Agreement and Release of Claims between the Owner, City of Fremont (Owner or City), and Contractor, H.M. Miller Construction Co., Inc. (HMM), which is incorporated by reference (Agreement, attached as Exhibit A).¹

1. The Agreement resolves the HMM Claims and all claims and counterclaims raised in the HMM Litigation.
2. The Agreement provides that the City will pay HMM the HMM Settlement Payment and the HMM Additional Payment in full and final satisfaction of the HMM Claims and all claims and counterclaims raised in the HMM Litigation.
3. The Agreement provides that the HMM Settlement Payment is expressly conditioned upon and subject to approval of financing by the State of Ohio, shall be made at the time of financing in a manner similar to the financing under the MOU and shall be allocated by HMM and Fremont as detailed in the schedule of values attached to the Agreement (Final Schedule of Values).
4. The City and HMM hereby adopt the Final Schedule of Values and incorporate that schedule into this Change Order 7, the final change order for this Project.

¹ All capitalized terms used herein that are not defined in this Change Order 7 have the same meaning ascribed to them in the Agreement.

47	Floor Stabilization Contingency	658,750.00	\$	112,500.00	\$	112,500.00	\$	0.00%	\$	658,750.00
26	Site Cut and Fill GPS	112,500.00	\$	12,500.00	\$	12,500.00	\$	100.00%	\$	-
35	Place #3 on Slopes (first Phase)	12,500.00	\$	23,000.00	\$	23,000.00	\$	100.00%	\$	-
36	Double Handle #3 (Last Phase)	23,000.00	\$	115,000.00	\$	115,000.00	\$	100.00%	\$	-
37	Place #3 (Last Phase)	115,000.00	\$	78,859.00	\$	78,859.00	\$	100.00%	\$	-
52	Place Slope protection (first phase)	78,859.00	\$	142,000.00	\$	142,000.00	\$	100.00%	\$	-
53,59	Double handle-slope protection (last ph)	142,000.00	\$	204,000.00	\$	204,000.00	\$	100.00%	\$	-
55-58	Place Slope Protection (last phase)	204,000.00	\$	17,800.00	\$	17,800.00	\$	100.00%	\$	-
63	Place Slope Protection in Reefs / Outlis	17,800.00	\$	45,000.00	\$	45,000.00	\$	100.00%	\$	-
64	Place 12" Sand on Slopes	45,000.00	\$	21,000.00	\$	21,000.00	\$	100.00%	\$	-
61	Place City Piled Rock	21,000.00	\$	34,000.00	\$	34,000.00	\$	100.00%	\$	-
69	Relocate City Rock (last phase)	34,000.00	\$	20,000.00	\$	20,000.00	\$	100.00%	\$	-
.51	Place City Piled Rock (last phase)	20,000.00	\$	21,000.00	\$	21,000.00	\$	100.00%	\$	-
	Double handle sand for slopes (last ph)	21,000.00	\$	86,700.00	\$	86,700.00	\$	100.00%	\$	-
	Place sand on (last phase) slopes	86,700.00	\$	120,000.00	\$	120,000.00	\$	100.00%	\$	-
	Fine Grade Floor , slopes / Proof Roll	120,000.00	\$	85,000.00	\$	85,000.00	\$	100.00%	\$	-
	Cut Material from / stockpile exis fir cvr	85,000.00	\$	120,000.00	\$	120,000.00	\$	100.00%	\$	-
	Place Cover soil from Piles	120,000.00	\$	115,000.00	\$	115,000.00	\$	100.00%	\$	-
	Double Handle Cover Soil for (last ph)	115,000.00	\$	35,000.00	\$	35,000.00	\$	100.00%	\$	-
	Rem. MatrI frm exis haul roads for cover	35,000.00	\$	68,500.00	\$	68,500.00	\$	100.00%	\$	-
	Rem. Inboard haul ramp / Modify outbord	68,500.00	\$	30,000.00	\$	30,000.00	\$	100.00%	\$	-
	Place Cover Soil last ph (frm outside r)	30,000.00	\$	86,000.00	\$	86,000.00	\$	100.00%	\$	-
	Added Bond	86,000.00	\$	42,000.00	\$	42,000.00	\$	100.00%	\$	-
	Haut Topsoil from offsite / Stockpile	42,000.00	\$	65,000.00	\$	65,000.00	\$	100.00%	\$	-
	Survey	65,000.00	\$	10,000.00	\$	10,000.00	\$	100.00%	\$	-
	Walking Path	10,000.00	\$	52,000.00	\$	52,000.00	\$	100.00%	\$	-
	Misc Erosion Control	52,000.00	\$	113,300.00	\$	113,300.00	\$	100.00%	\$	-
	Reseed and Topsoil Disturbed areas	113,300.00	\$	79,500.00	\$	79,500.00	\$	100.00%	\$	-
	Remobilize / General Conditions	79,500.00	\$	35,200.00	\$	35,200.00	\$	100.00%	\$	-
	Pumping	35,200.00	\$	615,000.00	\$	615,000.00	\$	100.00%	\$	-
	4" Underdrain w/ discharge	615,000.00	\$							
	Liner									
47	Change Order #7	279,856.35	\$	279,856.35	\$	279,856.35	\$	100.00%	\$	-
26	2-4" and 1-6" Pumps - Dewater Reserv.									
35	and idle equipment 2/15/12 - 4/20/12									
36	Overcut existing slopes	6,851.84	\$	6,851.84	\$	6,851.84	\$	100.00%	\$	-
37	Remove Overburden from Top of Rock	189,583.00	\$	189,583.00	\$	189,583.00	\$	100.00%	\$	-
52	Excavate Rock for Manufacturing	236,036.72	\$	236,036.72	\$	236,036.72	\$	100.00%	\$	-
53,59	Manufacturer sand for floor, slopes	679,331.82	\$	679,331.82	\$	679,331.82	\$	100.00%	\$	-
55-58	Manufacturer #3's for slope protection	92,411.50	\$	92,411.50	\$	92,411.50	\$	100.00%	\$	-
63	Place sand Cover soil Resv floor	137,354.00	\$	137,354.00	\$	137,354.00	\$	100.00%	\$	-
64	Place #3's on Slopes	965,128.08	\$	965,128.08	\$	965,128.08	\$	100.00%	\$	-
61	Place Rock Protection on Slopes	23,182.35	\$	23,182.35	\$	23,182.35	\$	100.00%	\$	-
69	Replace 3' Soil on Top of Embankment	222,488.25	\$	222,488.25	\$	222,488.25	\$	100.00%	\$	-
.51	Reseed Disturbed O.B. Slopes	70,400.50	\$	70,400.50	\$	70,400.50	\$	100.00%	\$	-
	Mechanical Floor Stabilization	42,538.00	\$	42,538.00	\$	42,538.00	\$	100.00%	\$	-
		973,527.00	\$	973,527.00	\$	973,527.00	\$	100.00%	\$	-

66	Excavate Footers at Boat Ramp	\$ 10,927.00	\$ 10,927.00	\$ -	\$ -	100.00%	\$ -
67	Waste Unusable Soils in Mine	876,665.86	876,665.86	\$ -	\$ -	100.00%	\$ -
62	Chemicals and Labor for Stabilization	447,406.44	447,406.44	\$ -	\$ -	100.00%	\$ -
31	Revised Ditch due to Fiber Optic Line	12,234.00	12,234.00	\$ -	\$ -	100.00%	\$ -
68	Winterize Site and Materials	23,000.00	23,000.00	\$ -	\$ -	100.00%	\$ -
70	Idle Equipment	641,635.33	641,635.33	\$ -	\$ -	100.00%	\$ -
73	Additional Fish Reef Material	18,788.00	18,788.00	\$ -	\$ -	100.00%	\$ -
74	Surveying for Liner and Stabilization	57,954.00	57,954.00	\$ -	\$ -	100.00%	\$ -
19	Pier Diem	110,861.00	110,861.00	\$ -	\$ -	100.00%	\$ -
47	10 and 8" pumps for dewatering Field Offices	300,000.00	300,000.00	\$ -	\$ -	100.00%	\$ -
	Blow off slope for AEG	27,216.00	27,216.00	\$ -	\$ -	100.00%	\$ -
	Vendor Disputes Items rebited for T&M	4,500.00	4,500.00	\$ -	\$ -	100.00%	\$ -
	TOTAL	\$ 26,339,785.23	\$ 19,341,955.19	\$ 6,750,000.00	\$ -		\$ -