

MEMORANDUM

DATE: February 22, 2024

TO: ****ORIGINAL****
CITY CLERK

FROM: Nathaniel Rubel – Procurement Assistant Director
Procurement Management Division

SUBJECT: Record Retention

CONTRACT: #20220044 Amendment #3
CONTRACT TITLE: Westport Wastewater Treatment Facility Nutrient
Reduction Improvements Construction Manager at
Risk

VENDOR NAME: Wharton-Smith, Inc.
VENDOR ADDRESS: 750 Monroe Road
CITY & STATE: Sanford, FL 32771

APPROVED BY COUNCIL: March 27, 2023
7g) - Award Contract #20220044 for Construction Manager at Risk
Preconstruction Services for the Westport Wastewater Treatment Facility Nutrient
Reduction Improvements in the amount of \$210,305.

CONTRACT AMOUNT: \$210,305.00
CONTRACT TERM: 180 calendar days – 3/28/2023 through 09/24/2023, with
no option to renew.

AMENDMENT #1: **Approved by Council July 10, 2023.**
7k) Approve Amendment #1 to Contract #20220044 with Wharton-Smith, Inc. the
Westport Wastewater Treatment Facility Nutrient Reduction Improvement
Project.
-Add additional time with a revised Contract end date of December 17, 2023 and
a revised Contract amount of \$6,932,008.00 (Estimated).

AMENDMENT #2: **Approved by Council December 11, 2023.**
7d) Approve Amendment #2 to Contract #20220044 with Wharton-Smith, Inc. the
Westport Wastewater Treatment Facility Nutrient Reduction Improvement
Project.

-Approve GMP of \$33,918,660.00 and project schedule for a revised Contract end date of December 31, 2026 and a revised Contract amount of \$40,850,668.00 (Estimated).

AMENDMENT #3: Approved by Council – N/A.

- Amendment #3 has been drafted to establish the amounts for liquidated damages in the contract for each calendar day the actual time of performance exceeds the authorized contract time for substantial completion and final completion.

Please see the attached for (1) original contract for your records.



CONTRACT ADDENDUM #3

This Addendum #3 to the Westport Wastewater Treatment Facility Nutrient Reduction Improvements for Construction Management at Risk (“CMAR”) services Contract #20220044 (“Addendum”) is executed this ____ day of _____ 2024, by and between the CITY OF PORT ST. LUCIE, a Florida municipal corporation (“City”) and the Contractor (defined below).

Contractor’s Full Legal Name:	Wharton-Smith, Inc., a Florida Corporation
Solicitation No./Event ID:	20220044
Solicitation Title/Event Name:	Westport Wastewater Treatment Facility Nutrient Reduction Improvements Construction Manager at Risk (“CMAR”)
Contract Award Date:	March 28, 2023
Initial Current Contract Term:	180 Days
Current Contract Expiration Date:	December 17, 2023
Requested Contract Expiration Date:	December 31, 2026
Initial Contract Amount:	\$ 210,305.00 (Pre-Construction)
Current Contract Amended Amount:	\$ 40,640,363.00
Requested Financial Change Amount:	\$0.00
New Contract Amount:	\$ 40,640,363.00
Addendum No.:	3
Addendum Type:	Terms Revision

RECITALS

WHEREAS, on March 27, 2023, City Council awarded Contract #20220044 for Construction Manager at Risk (“CMAR”) Pre-construction Services for the Westport Wastewater Treatment Facility Nutrient Reduction Improvements (“Project”) to Contractor (“Contract”) as amended; and

WHEREAS, the Contract is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, the Contractor developed the Guaranteed Maximum Pricing (“GMP”) as required by the Contract; and

WHEREAS, the early estimated GMP was included in the Early Package #1 as Addendum #1; and

WHEREAS, a subsequent GMP was provided for the nutrient removal at the Westport Wastewater Treatment Facility as Addendum #2; and

WHEREAS, the City and Contractor wish to amend the Contract to establish the amounts for liquidated damages for each calendar day that the actual time of performance exceeds the authorized contract time for Substantial Completion and Final Completion,


NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. **RECITALS.** The foregoing “Whereas” clauses are hereby incorporated as forming the intent and purpose of this Addendum.
2. **TERMS.** The parties agree to establish the amounts for liquidated damages and amend the Contract as follows:
 - a. \$1,000.00 per day for each calendar day past Substantial Completion.
 - b. \$500.00 per day for each calendar day past Final Completion.
3. **EFFECTIVE DATE.** This Addendum #3 shall be effective as of the date it is fully executed.
4. **SUCCESSORS AND ASSIGNS.** This Addendum #3 shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.
5. **ENTIRE AGREEMENT.** Except as expressly modified by this Addendum #3, the Contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Addendum #3 and the Contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

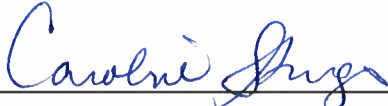
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have caused this Addendum #3 to be duly executed by their authorized representatives.

CONTRACTOR

Contractor's Full Legal Name: (PLEASE TYPE OR PRINT)	Wharton-Smith, Inc.
Authorized Signature:	Gregory L. Williams 
Printed Name and Title of Person Signing:	Gregory L. Williams, Vice President of Operations
Date:	02/21/2024
Company Address:	750 Monroe Road, Sanford, FL 32771

CITY OF PORT ST. LUCIE

Authorized Signature:	
Printed Name and Title of Person Signing:	Caroline Sturgis, Director, Office of Management & Budget, and Procurement
Date:	2/23/2024
City Address:	121 S.W. Port St. Lucie Blvd., Port St. Lucie, FL 34984