

City of Oak Harbor
City Council Agenda Bill

Bill No. 4. e.
Date: January 2, 2018
Subject: Clean Water Facility - General
Contractor/Construction Manager
Partial release of Retainage

FROM: Cathy Rosen, Public Works Director and Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ⊙ Bob Severns, Mayor
- ⊙ Doug Merriman, City Administrator
- ⊙ Patricia Soule, Finance Director
- ⊙ Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Authorize the Staff to begin the advertisement period and perform the administrative steps in order to authorize a partial release the retainage from the Hoffman Construction escrow account for the Condon Johnson, Pelco and Malcolm Drilling.

BACKGROUND / SUMMARY INFORMATION

The Clean Water Facility project has been broken into multiple packages to take advantage of the General Contractor/Construction Manager (GC/CM) process. Many of the earlier subcontractors have completed contractual obligations over a year ago.

Inherent in every public works contract, the city deducts a 5% retainage from every partial payment due to contractor. This statutory amount insures that all obligations are completed throughout the project. By law, the city deposits the Hoffman retainage into an escrow account each month. Typically retainage is released at the end of a project, but in large multi-year efforts early partial releases of retainage are common. The RCW specifically allows for early release of retainage in the GC/CM process for subcontractors that have completed tasks prior to overall construction completion.

Three subcontractors Condon Johnson, Pellco, and Malcolm Drilling have requested release of retainage from Hoffman. These subcontractors were involved in early ground improvements such as sheet piles, utility relocations, micropiles and general excavation. All the contracted activities were completed over a year ago and these subcontractors are not expected to perform any further work. The work has been inspected and deemed complete by the construction team.

In order to qualify for a retainage release, these subcontractors must go through many legal and administrative steps with a variety of state agencies. Once the city receives the appropriate documentation and deems it complete, the city advertises a 45 day notice of completion. If no claims are lodged during the notice period and the city receives final clearance from the various state agencies, the retainage amounts can be released from the escrow account.

The three subcontractors performed \$7,933,309.37 in construction work. The retainage amounts to be released are as follows (Note these amounts are the initial request and may be adjusted in the final reconciliation with state agencies):

Condon Johnson Associates	\$260,388.18
Malcolm Drilling	\$56,813.11
Pellco, Inc.	\$71,718.84

While the above amounts come out of the Hoffman Retainage escrow account, the retainage release is for these specific subcontractors only. Hoffman Construction and other subcontractors are not deemed eligible at this time. Additionally the RCW allows subcontractors to provide retainage bonds in lieu of statutory retainage. One active subcontractor has elected to provide a retainage bond. This retainage bond process does not constitute a partial release of retainage.

City Staff is requesting authorization to advertise the retainage releases, complete the administrative steps, and then release the final amount from Hoffman Construction's escrow account.

LEGAL AUTHORITY

RCW 60.28.011(11)

FISCAL IMPACT

Funds Required: None

Appropriation Source: Wastewater Fund

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

December 3, 2013 – City Council adopted Resolution 13-32 directing staff to pursue GC/CM as the delivery method for the new wastewater treatment plant.

December 17, 2013 - City Council adopted Ordinance 1682 amending Oak Harbor Municipal Code to include a provision for alternative project delivery methods.

February 18, 2014 – City Council authorized staff to advertise a request for qualifications (RFQ) to select a General Contractor / Construction Manager (GC/CM) for the new wastewater treatment plant project.

February 18, 2014 – City Council authorized the Mayor to sign and submit the Application for Project Approval – GC/CM Delivery for construction of the new wastewater treatment plant to the State of Washington Capital Projects Advisory Review Board – Project Review Committee.

July 1, 2015 – City Council authorized the Mayor to sign the A-133 agreement with Hoffman Construction in connection with the new wastewater treatment plant (WWTP) project.

December 2, 2014 - City Council authorized GMP #1 for procurement of Membrane Bioreactor (MBR) and Ultraviolet (UV) equipment in the amount of \$2,553,317.00.

April 21, 2015 - City Council authorized GMP #2 for construction of the wastewater outfall in the amount of \$2,337,687.

June 16, 2015 – City Council authorized GMP #3 for construction of Site Preparation A in the amount of \$908,872.

October 20, 2015 – City Council authorized GMP #4 for construction of Site Preparation B in the amount of \$5,109,549.

October 20, 2015 – City Council authorized GMP #5 for procurement of the Solids Dryer in the amount of \$2,028,222.

January 19, 2016 – City Council authorized GMP #6 for procurement of the Site Preparation C in the amount of \$3,966,503.

April 5, 2016 – City Council authorized GMP #7 for procurement of the Deep Foundation Concrete in the amount of \$9,355,968 + Sales Tax (\$813,869).

September 6, 2016 – City Council authorized GMP #8 in the amount of \$10,824,756 + Sales Tax (\$941,754) with Hoffman Construction for Self-Perform Concrete Work for Buildings 20 and 30, and Miscellaneous Changes.

October 4, 2016 – City Council authorized GMP #9 in the amount of \$33,265,589 + Sales Tax (\$2,894,106) with Hoffman Construction for Self-Perform Concrete Work for Electrical, Instrumentation, and Controls, Process Mechanical, and Miscellaneous Changes.

November 15, 2016 – City Council authorized GMP #10 in the amount of \$5,373,040 + Sales Tax (\$467,454) with Hoffman Construction for Self-Perform Concrete, RBC Plant Demo, and miscellaneous earthwork.

January 17, 2017 – City Council authorized GMP #11 in the amount of \$22,023,790 + Sales Tax (\$1,916,070) with Hoffman Construction for Superstructure Construction.

March 21, 2017 – City Council authorized GMP #1 in the amount of \$4,175,178 + Sales Tax (\$178,698) with Hoffman Construction for Odor System Construction.

CITY COUNCIL WORKSHOPS

November 13, 2013 – Project funding and alternative project delivery were discussed.

November 19, 2013 – Project delivery options were discussed.

February 26, 2014 – Established the GC/CM contractor selection and review team.

June 25, 2014 – Selection of the GC/CM was discussed.

November 19, 2014 – GMP#1 bids for UV and MBR were discussed.

April 7, 2015 – Council review of the 30% cost estimate.

May 17, 2015 – Council review of site selection process.

May 27, 2015 – Council review of GMP #3.

September 30, 2015 – Council review of the 60% Cost Estimate and solids options.

March 23, 2016 – Council presentation of GMP #7.

August 24, 2016 – Council presentation of GMP #8.

September 27, 2016 – Council presentation of GMP #9 and overall project status.

ATTACHMENTS

1. [45 Day notice of completion public notice](#)

Legal Notice Advertisement for Partial Completion

This is to notify you that portions of the contract for the improvement described within has been completed and accepted by the City of Oak Harbor. In accordance with RCW 60.28.011, notice is hereby given by the City of Oak Harbor that Pellco Construction Inc., Condon Johnson Associates, and Malcolm Drilling Inc. subcontractors for Hoffman Construction Company of Washington, has completed their contract portion of construction of the Oak Harbor Clean Water Facility located in the City of Oak Harbor, Island County, and State of Washington. All lien claims against this portion of contract must be filed with the City of Oak Harbor City Clerk, 865 SE Barrington Dr, Oak Harbor, WA 98277, before the final lien claims date of _____, 2018, which is forty-five days from this advertisement date. Claims against the retained funds after the forty-five day period are not valid.