



## ITEM REPORT UTILITIES COMMISSION

Agenda Date: 12/4/2024  
Agenda Section: Business Item

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**Department Origination:** Public Works

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**Agenda Item:** Approve the J.R. Ferche, Inc. Final Pay Estimate No. 6 in the amount of \$71,800.77, contingent upon receiving IC-134 tax forms for the Whiskey Creek Stormwater Improvements Project, Municipal Project Number 200292

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**Approval Required:** Simple Majority Vote

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### **BACKGROUND**

At the 9/5 City Council meeting, the council awarded the Whiskey Creek Stormwater Improvements Project contract to J.R. Ferche Inc. in the amount of \$959,085.95 and then approved Change Order No. 1, reducing the scope of the project, and reducing the contract amount by \$49,894.30 to \$909,191.65. Council also amended the 2023 Stormwater Enterprise Fund budget by increasing the original budget of \$225,000 by \$118,993.87 to cover the total City project costs of \$343,993.87.

At the 10/17/23 City Council meeting, the council approved Partial Pay Estimate No. 1 in the amount of \$180,567.92 as well as a change order increasing the contract amount by \$49,190.21 to a total of \$958,381.86.

At the 11/21/23 City Council meeting, the council approved Partial Pay Estimate No. 2 in the amount of \$243,303.08. Council also approved Change Order No. 3 increasing the contract amount by \$75,004.38 to a total of \$1,033,386.24, and an amendment to the HR Green contract for engineering services for an additional \$88,570.00 increasing the contract to a total of \$431,969.00. Council approved an amendment to the Stormwater Enterprise Fund in the amount of \$212,764.59 to cover the engineering amendment and change orders for construction.

At the 12/29/23 City Council meeting, the council approved Partial Pay Estimate No. 3 in the amount of \$580,716.47, amounting to a total of \$1,004,587.47 paid to the contractor to date. Council approved Change Order No. 4, increasing the contract amount by \$107,126.21 to a total of \$1,140,512.45. HR Green also provided an updated OPC for the Planting Plans of \$123,400, increasing the anticipated construction cost by \$73,400. Council approved an amendment to the Stormwater Enterprise Fund in the amount of \$180,720.09 to cover the change order and the increased estimated Planting Plan cost.

Construction on this project was paused for the winter at the end of November 2023.

At the 3/19/24 City Council meeting, the council approved Change Order No. 5 increasing the contract amount by \$212,493.37 to a total of \$1,353,005.82, and an amendment to the HR Green contract for engineering services for an additional \$14,410.00 increasing the contract to a total of \$446,379.00. The Council accepted the lowest submitted revised quote for the Planting Plan project, submitted by MNL at a value of \$119,342.30. A 10% contingency was added to this number (+ \$11,934.23), and the SWCD pledged an additional \$2,000 towards the project. The total Planting Plan project cost after these changes was \$5,876.53 above the previously budgeted funds. The City also required a bike and pedestrian easement on the east end of the project at an estimated cost of \$5,779.40. Council approved an amendment to the Stormwater Enterprise Fund in the amount of \$214,103.57 to cover the change order, engineering amendment, planting plan project cost change, and bike and pedestrian easement.

25,000 CY of the soil stockpile has been sold to Pratt's Affordable Excavating who has removed this soil from the stockpile and relocated it for use at another project site.

The BMP project work on riprapping of the pre-treatment basin took place the week of 4/22/24. The final grading of gravel was done the week of 4/29/24. The asphalt maintenance access road received its first lift on 5/14/24. The second and final lift was paved on 5/29/24. Site restoration took place in June and early July.

At the 6/18/24 City Council meeting, the council approved Partial Pay Estimate No. 4 in the amount of \$217,254.91, amounting to a total of \$1,221,842.88 paid to the contractor to date. \$64,307.49 is being held in retainage.

Utility Commission approved Partial Pay Estimate No. 5 in August 2024 with a contingency that the fill pile be removed and stabilized. This work was not completed prior to City Council meeting, so the pay estimate was removed from the August 2024 Council agenda. HR Green provided a Certificate of substantial completion and a recommendation for final payment of the retainage contingent on the completion of the remaining punch list items.

At the 9/17/24 City Council meeting, the council approved Partial Pay Estimate No. 5 in the amount of \$53,528.17, amounting to a total of \$1,275,370.55 paid to the contractor to date. The cost of seeding the fill pile was removed from the pay request from the August meeting, as it was still not completed. \$67,124.77 is being held in retainage.

Final Pay Estimate No. 6 includes work completed in the amount of \$4,442.15. The payment includes the cost of unit price work completed during the sixth pay period to November 21, 2024. This pay estimate includes additional rock stabilization by the bridge abutment identified during a final site walk through on November 19<sup>th</sup>, 2024 (paid under the topsoil borrow bid item) and seeding and stabilization to finish the project. All items are within the contract amount of \$1,353,005.82 approved by Council on March 19, 2024. Additionally, Final Pay Estimate No. 6 includes releasing the project retainage.

The final punch list items were addressed on November 21, 2024, and it was confirmed J.R. Ferche's portion of the site has reached the recommended stabilization. The removal of the sand pile will be completed under a separate agreement between J.R. Ferche, Inc. and Good Samaritan, and is no longer considered part of their contract with the City. HR Green is presenting a recommendation letter to close out the J.R. Ferche contract and release the retainage.

The contractor has not submitted IC-134 tax forms at this time and approval of final payment should be contingent on receiving the close out documents.

#### **FINANCIAL IMPLICATIONS**

The contractor has earned \$1,347,171.27 to date, which represents 99.6% of the revised contract value. In accordance with the agreement, 5% of the contract value (\$67,358.56) was retained. Less previous payments by the City results in a payment this month of \$4,442.15 plus the retainage of \$67,358.56, totaling a recommended payment of \$71,800.77.

#### **STAFF RECOMMENDATIONS**

Staff recommend approval the J.R. Ferche, Inc. Final Pay Estimate No. 6 in the amount of \$71,800.77, contingent upon receiving IC-134 tax forms for the Whiskey Creek Stormwater Improvements Project, Municipal Project Number 200292.

#### **COUNCIL ACTION REQUESTED**

**MOTION** to approve the J.R. Ferche, Inc. Final Pay Estimate No. 6 in the amount of \$71,800.77, contingent upon receiving IC-134 tax forms for the Whiskey Creek Stormwater Improvements Project, Municipal Project Number 200292.