



**Request for City Council Committee Action  
from the Department of Public Works**

**Date:** February 6, 2014

**To:** Honorable John Quincy, Chair Ways and Means Committee

**Subject:** **Resolution of Pending Payment for Construction Services Performed by Graham Construction Services and for Professional Services Performed by HDR Engineering.**

**Recommendation:**

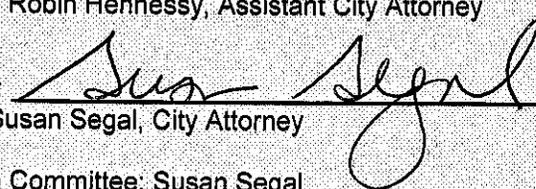
- A. Approval of the proposed Settlement Agreement between the City of Minneapolis, HDR Engineering, Inc., Graham Construction Services, Inc., Total Construction & Equipment, Inc., and Siemens Water Technologies, LLC: authorizing the Director of Public Works to issue \$130,000 toward a combined, mediated settlement to serve as full and final settlement of all claims among the parties.
- B. Authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

**Previous Directives:**

- October 7, 2011 - Council authorized execution of amendment to contract with Graham Construction Services increasing the contract by \$576,785.00 for Change Order #1 for a total contract price of \$19,796,785.00, and extending the time period until completion.
- October 7, 2011 - Council authorized an increase of the contract budget with HDR Engineering, Inc. by \$400,000 for engineering services for the Dewatering Plant Improvements project, to a total of \$3,070,000, and extend the contract duration until completion.
- August 28, 2009 – Council Resolution 2009R-408 accepting the low bid of Graham Construction Services, Inc., for an estimated expenditure of \$19,220,000 for construction of the dewatering plant improvements.

**Department Information:**

Prepared by: Robin Hennessy, Assistant City Attorney

Approved by:   
Susan Segal, City Attorney

Presenters in Committee: Susan Segal

## **Financial Impact**

Other financial impact: Payment of \$400,000 retainage, \$130,000 settlement, and \$45,000 additional city work will be funded within existing capital appropriations:

\$170,000- Dewatering Plant Improvements (07400-9010950-CWTR22)

\$405,000- Treatment Infrastructure Improvements (07400-9010950-CWTR2314)

## **Supporting Information**

During September, 2009 the City entered into a contract with Graham Construction Services, Inc. ("Graham") to carry out construction services for dewatering plant improvements at the City's Fridley water treatment facility. During April 2009, the City entered into a contract with HDR Engineering, Inc. to perform engineering services to support the dewatering plant improvement project.

A dispute related to performance and final completion under both the construction contract and engineering contract ensued between the parties.

The City holds approximately \$445,000 in remaining retainage on the contract with Graham, and Graham has requested the City release the full amount. During August, 2012, HDR presented the City with its own claim totaling \$393,000, arising out of additional services performed that HDR alleges resulted from delays in project completion. The City estimates that \$48,000 in remaining work is necessary to close out the \$19,796,000 construction contract.

An initial settlement conference was held between the parties on June 13, 2013, to discuss performance, completion, and payment issues. The matter was ultimately brought to a third party mediator on December 4, 2013. The resolution proposed as a result of the mediation is the following:

- The City will release \$400,000 of the \$445,000 being held for retainage; the remaining \$45,000 of retainage will be held by the City to complete any outstanding work on the construction contract.
- The City will advance \$130,000 to the mediator who will in turn distribute the funds to close out pending claims by both Graham and HDR.
- The parties will release one another from any future claims.

Payment of \$400,000 retainage, \$130,000 mediator, and \$45,000 additional city work will be funded within existing capital appropriations as follows:

\$170,000- Dewatering Plant Improvements (07400-9010950-CWTR22)

\$405,000- Treatment Infrastructure Improvements (07400-9010950-CWTR2314)

The City's Public Works Department supports the mediated proposal. Therefore, staff recommends approval of the settlement of this matter as described above.