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**FINANCE & RECORDS**

## **MEMO**

To: Gregg Mandsager, City Administrator

From: Nancy A. Lueck, Finance Director

Date: June 4, 2018

Re: Resolution Accepting Completed Work Performed Under the West Hill Sewer Separation Project Contract Phase 3-C and Authorizing the Final Payment to Close Out Phase 3-C and All Years of the Phase 3 Contract

### **Introduction:**

The City entered into a contract with Hagerty Earthworks LLC for Phase 3 of the West Hill Sewer Separation Project on April 16, 2015. There were three phases to this contract. Phases A and B were previously closed out for work substantially completed in 2015 and 2016.

### **Background:**

The original contract cost for Phase 3-C was \$1,981,255.10. The attached resolution states that the final contract cost for Phase 3-C is \$2,197,510.31 which reflects all project change orders and the final contract quantities and costs. There was a \$10,000 agreed-upon reduction on Phase 3-B that was not reflected in the closeout resolution for Phase 3-B. The City Engineer has incorporated this reduction in the final Phase 3-C pay estimate. This will bring the net total for Phase 3-C to \$2,187,510.31 including this reduction.

Payments to Hagerty Earthworks LLC for Pay Estimates 1-21 total \$2,057,804.76 leaving a balance owed of \$129,705.55 which includes the contract retainage and the \$10,000 reduction for Phase 3-B.

Following is a reconciliation for the closeout of all three phases of the West Hill Sewer Separation Project:

**"I remember Muscatine for its sunsets. I have never seen any  
on either side of the ocean that equaled them" — Mark Twain**

### **Phases 3-A and 3-B:**

On July 6, 2017 the Muscatine City Council approved resolutions accepting completed work on Phase 3-A and Phase 3-B of the West Hill Sewer Separation project.

The resolutions reflected the final contract costs of \$1,539,725.77 for Phase 3-A and \$1,476,401.04 for Phase 3-B. Payments from the City totaled \$1,462,739.63 for Phase 3-A and \$1,388,804.26 for Phase 3-B.

Article 4, section 4.2 of the construction contract provides that Phase 3-A of the project be substantially completed by November 20, 2015 and ready for final payment by December 18, 2015. The contract also provides that Phase 3-B be substantially completed by November 18, 2016 and be ready for final payment by December 23, 2016. Article 4, section 4.3 provides for liquidated damages for not meeting the substantial (\$500 per day) and final (\$300 per day) completion dates.

The liquidated damages for Phase 3-A totaled \$169,100.00 based on substantial completion on December 18 and final completion on May 18, 2017. The computation is based on 28 days past the substantial completion date at \$500 per day and 517 days past the final payment date at \$300 per day. This totals to \$169,100.00 in liquidated damages.

The liquidated damages for Phase 3-B totaled \$61,300.00 based on substantial completion on December 23 and final completion on May 18, 2017. The computation is based on 35 days past the substantial completion date at \$500 per day and 146 days past the final payment date at \$300 per day. This totals to \$61,300.00 in liquidated damages.

Since the total liquidated damages for Phases 3-A and 3-B of \$230,400.00 exceed the calculated balances of \$164,582.92 including the retainages on these contracts, no additional amounts were due to Hagerty Earthworks LLC and Hagerty Earthworks LLC owes the City \$65,817.08 for Phases 3-A and 3-B.

### **Phase 3-C:**

As stated above, the amount owed to Hagerty Earthworks LLC by the City for Phase 3-C is \$139,705.55. This has been reduced to \$129,705.55 for the agreed-upon reduction in the Phase 3-B contract of \$10,000 for the decreased depth of a portion of the Phase 3-B sewer work that was not factored in the closeout of Phase 3-B.

The final payment from the City to Hagerty Earthworks LLC for the total contract for all three of the contract is calculated at \$63,888.47 which represents the balance owed to Hagerty for Phase 3-C of \$139,705.55, less the \$10,000.00 agreed-upon reduction, less the amount Hagerty owes the City for Phases 3-A and 3-B of \$65,817.08.

**Summary:**

Please include the attached Resolution Accepting Completed Work Performed Under the West Hill Sewer Separation Project Contract Phase 3-C and Authorizing the Final Payment to Close Out Phase 3-C and All Years of the Phase 3 Contract on the agenda for the June 7, 2018 City Council meeting. As stated in the resolution, the final payment of \$63,888.47 will be made 30 days from the adoption of this resolution accepting the completed work on this project.

Please contact me if you have any questions.

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION ACCEPTING COMPLETED WORK PERFORMED UNDER  
THE WEST HILL SEWER SEPARATION PROJECT CONTRACT PHASE 3-C  
AND AUTHORIZING THE FINAL PAYMENT TO CLOSE OUT  
PHASE 3-C AND ALL YEARS OF THE PHASE 3 CONTRACT**

WHEREAS, the City of Muscatine approved the Plans, Specifications, and Form of Contract for the West Hill Sewer Separation Project Phase 3C; and

WHEREAS, the City of Muscatine entered into a contract for said project with Hagerty Earthworks LLC for \$1,981,255.10 and with change orders and actual bid quantity and unit price calculations the total contract amount is \$2,197,510.31; and

WHEREAS, there was an agreed-upon reduction in the Phase 3-B contract of \$10,000 that was not reflected in the closeout resolution for Phase 3-B which brings the net total cost of Phase 3-C to \$2,187,510.31; and

WHEREAS, work under the contract has been completed by Hagerty Earthworks, LLC and approved and accepted by the City Engineer and appears to meet the requirements of the Plans and Specifications heretofore adopted by this Council, as evidenced by the Project Engineer's Certificate; and

WHEREAS, the amount of \$2,057,804.76 has been previously paid to Hagerty Earthworks, LLC and a calculated balance of \$129,705.55 including the 5% retainage remains due and payable; and

WHEREAS, Resolution 93910-0717 for the closeout of Phase 3-A of the West Hill Sewer Separation Project provides that liquidated damages of \$169,100 exceeded the calculated balance of \$76,986.14 including the retainage, leaving \$92,113.86 owed to the City of Muscatine by Hagerty Earthworks LLC; and

WHEREAS, Resolution 93911-0717 for the closeout of Phase 3-B of the West Hill Sewer Separation Project provides that liquidated damages of \$61,300 were applied against the calculated balance and retainage of \$87,596.78 leaving a balance owed to Hagerty Earthworks LLC of \$26,296.78;

WHEREAS, the balance owed to Hagerty Earthworks LLC of \$26,296.78 for the closeout of Phase 3-B was applied against the \$92,113.86 owed to the City by Hagerty Earthworks LLC for Phase 3-A leaving a net amount owed to the City of Muscatine of \$65,817.08 for Phases 3-A and 3-B;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, that the City of Muscatine accepts the completed work under the West Hill Sewer Separation Project Phase 3-C. The calculated balance of the contract of \$129,705.55, which represents the contract balance and retainage, has been reduced by the \$65,817.08 Hagerty Earthworks LLC owes the City of Muscatine for Phases 3-A and 3-B of the contract, which results in a balance owed to Hagerty Earthworks LLC of \$63,888.47. This amount is hereby authorized to be paid to Hagerty Earthworks LLC thirty (30) days from the adoption of this resolution.

PASSED, APPROVED, AND ADOPTED THIS 7 TH DAY OF JUNE, 2018.

CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

BY: \_\_\_\_\_  
Diana Broderson, Mayor

ATTEST:

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Gregg Mandsager, City Clerk