



# MAYOR & COUNCIL COMMUNICATION

**DATE:** February 18, 2014

**REGULAR**

**ITEM # 10**

**AGENDA ITEM:** 2012 Rain Garden Project Maintenance Contract – Contractor Request to Reconsider Pay Request No. 2 (Final)

**SUBMITTED BY:** Jack Griffin, City Engineer

**THROUGH:** Dean A. Zuleger, City Administrator

**REVIEWED BY:** Ryan Stempksi, Project Engineer  
Cathy Bendel, Finance Director  
Mike Bouthilet, Public Works

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item.....City Engineer
- Report/Presentation.....City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECOMMENDER:** Engineering

**FISCAL IMPACT:** None.

Staff is recommending that the council reaffirm the previously approved final payment amount of \$3,560. Should the council choose to amend final payment to the requested contract amount of \$5,501, the additional \$1,941 remains within the previously authorized project budget.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to reaffirm staff’s recommendation of Pay Request No. 2 (Final) in the amount of \$3,560 for the 2012 Rain Garden Project one year maintenance contract. The recommended motion for the action is as follows:

***“Move to reaffirm Pay Request No. 2 (Final) to St. Croix Valley Landscaping in the amount of \$3,560 for the one year maintenance contract for the 2012 Rain Garden Project.”***

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

At the January 6, 2014 City Council Meeting, Pay Request No. 2 (Final) was approved in the amount of \$3,560, as recommended by staff to final out the project. The 2012 Rain Garden One-Year Maintenance Contract with St. Croix Valley Landscaping included the maintenance of 17 rain gardens for a total amount of \$5,501. Staff recommended final payment at the reduced amount due to the contractor either not performing the full scope of work or performing work outside of the contract notification requirements.

Based on inspections by the Washington Conservation District, the project designer and construction oversight consultant, it was reported that only 11 of the 17 new rain gardens were maintained per the Contract requirements. The remaining 6 rain gardens held water and did not properly functioned during the maintenance period.

Per the attached letter dated January 28, 2014 from the Contractor’s attorney, St. Croix Valley Landscaping is requesting the council to reconsider the final payment amount and is requesting the additional payment of \$1,941. In the letter, the Contractor is claiming that they performed work on the additional six rain gardens even though they were defective.

**RECOMMENDATION:**

Staff is recommending that the City Council reaffirm staff’s recommendation of Pay Request No. 2 (Final) in the amount of \$3,560 for the 2012 Rain Garden Project one year maintenance contract. The recommended motion for the action is as follows:

***“Move to reaffirm Pay Request No. 2 (Final) to St. Croix Valley Landscaping in the amount of \$3,560 for the one year maintenance contract for the 2012 Rain Garden Project.”***

**ATTACHMENT(S):**

1. Wagner, Falconer & Judd, LTD. Letter Dated January 28, 2014.
2. Pay Estimate No. 2 (Final).
3. St. Croix Valley Landscaping Maintenance Estimate.
4. Washington Conservation District letter dated April 22, 2013..