

Indian River County, Florida
Department of Utility Services
Board Memorandum

Date: February 2, 2021
To: Jason E. Brown, County Administrator
From: Vincent Burke, PE, Director of Utility Services
Subject: South County Water Treatment Plant Floridan Aquifer Wells Rehabilitation Project Delays

Background/Analysis:

On July 12, 2016, All Webbs Enterprises, Inc., (AWE) was awarded Bid 2016031 to construct a new 16-inch diameter Upper Floridan Aquifer production well in addition to the rehabilitation of production wells 3, 4, 5, and 6. Water produced by the wells is transported by mains to the South County Reverse Osmosis (RO) Water Treatment Plant (WTP). A timeline of events for this project is as follows:

- Wednesday, August 24, 2016 – Pre-construction meeting. Notice to Proceed (NTP) was issued August 25, 2016, and an additional 30 days were added to the contract due to delivery of rig delays, putting substantial completion at March 23, 2017, and final completion at May 22, 2017. Pre-construction meeting minutes indicate AWE anticipated mobilization to the site in early October 2016.
- Tuesday, April 4, 2017 – Change Order No. 1 executed, adding 250 days to the contract time, putting substantial completion at November 28, 2017, and final completion at January 27, 2018.
- Monday, July 2, 2018 – Change Order No. 2 executed, adding 380 additional days to the contract time, putting substantial completion at December 13, 2018, and final completion at February 11, 2019.
- Thursday, February 7, 2019 – At progress meeting No. 10, a timeline of 30 days from mobilization to demobilization of each remaining well rehabilitation was decided upon. It has now been 24 months since that meeting.
- Wednesday, January 6, 2021 – Final Completion; AWE completed all project work.

On January 6, 2021, AWE was **695 days late** on the contractual final completion date based on the NTP issued August 25, 2016.

As a result of the delayed work, we have over-run our membrane systems while the rehabilitation work was done and have incurred other operational costs. According to Article 3.03 of the Contract Agreement, AWE shall pay Indian River County Department of Utility Services (IRCDUS) liquidated damages for delays at \$450 per calendar day that expires after final completion. Should liquidated damages be assessed to end on the date of final completion, the amount totals \$312,750. In addition, IRCDUS had to amend one of the work orders with Kimley-Horn and Associates, Inc., (KHA) for additional engineering and oversight effort in the amount of \$67,277.

After discussing the issue internally with staff, with our Engineer-of-Record, and listening to AWE's concerns, the conclusion is that AWE should be held responsible for the delays in the project but that reasonable judgement should be exercised with respect to liquidated damages. In coming to this conclusion, we have considered what IRCDUS has endured but also all the work and efforts provided by AWE for the County's wells. This work includes the challenges that were faced with delays from Scrub Jay nesting season, in field obstacles such as well 4 not being able to be rehabbed, blockages at well 5, AWE's adhering to bid prices for additional work, and the positive outcome of the raw water wells in terms of better quality and quantity of water by deepening existing wells. We sincerely appreciate the hard work and effort of AWE to assist the County with the installation of new Well 7, Well 4 and the rehabilitation of existing wells 2, 3, and 5, but remain steadfast in our assessment of these delay claims.

While it is our finding that we could assess 100% of the delay claims, our engineer of record recommends withholding all the retainage of \$152,806.83. However, recognizing the good faith and albeit delayed effort to service the County's wells as well as the fact that the county may need future well work and that well contractors are few and far between, it is our finding and recommendation that the county assesses \$100,080 to cover both the additional engineering costs and our incurred expenses.

Initial Contract	\$ 1,477,360.00
Change Order #1	1,051,783.57
Change Order #2	551,160.00
Total Contract	\$ 3,080,303.57
Adjustments to Contract	(24,167.00)
Total Completed and Stored to Date (through final completion)	\$ 3,056,136.57
Less Liquidated Damages to be Held	(100,080.00)
Total to be Paid to All Webbs	\$ 2,956,056.57

Payments to Date	\$ 2,749,432.59
Pay Application 25	153,897.15
Retainage to be Paid	52,726.83
Total to be Paid to All Webbs – Final Pay	\$ 206,623.98

Funding:

No funding is required as this agenda is not seeking to make a purchase, but instead to collect liquidated damages for a project. Ultimately collection of said liquidated damages would reduce the overall cost of the project and be offset by funds being held for retainage.

The costs for this project were budgeted in Utility operating funds. Utility operating funds are derived from water and sewer sales. Costs will be reduced in the accounts mentioned below.

Account Name	Account Number	Amount
Retainage All Webbs	471-206000-14506	\$59,080
Retainage All Webbs	471-206000-15518	\$41,000

Recommendation:

Staff recommends that the Indian River County Board of County Commissioners approve withholding \$100,080 from All Webbs Enterprises, Inc. and to allow a final payout of \$206,623.98.

Attachments:

Kimley-Horn Letter