

Jefferson County
Board of Commissioners
Agenda Request

To: Board of Commissioners
Mark McCauley, County Administrator

From: Monte Reinders, P.E., Public Works Director/County Engineer 

Agenda Date: October 7, 2024

Subject: Change Order No. 3, Ovivo USA, LLC
Port Hadlock Wastewater Project

Statement of Issue: Execution of Change Order No. 3 to the contract with Ovivo USA, LLC for supply of the Membrane Bioreactor (MBR) wastewater treatment plant equipment for Port Hadlock.

Analysis/Strategic Goals/Pro's & Con's: Change Order No. 3 adds \$28,879.77 to the Ovivo contract. The original contract has contract price escalation language which states "If the Notice to Commence Fabrication is issued after 825 calendar days of the effective date of the Procurement Agreement, the contract price will be adjusted through change order by the ratio of the Consumer Price Index for All Urban Consumers (CPI-U) of the CPI-U of month that the Notice to Commence Fabrication is issued to the month of 825 calendar days after the effective date of the Procurement Agreement." The 825 day date was established to be September 10, 2023. The county issued the Notice to Commence Fabrication to Ovivo on June 14, 2024. Therefore, based on the consumer price index (CPI) from September 2023 to June 2024 the contract price increase is 2.07%.

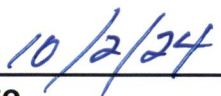
Fiscal Impact/Cost Benefit Analysis: Change Order No. 3 is for \$28,879.77. 100-percent of the funding for this work comes from State Dept. of Commerce revenue that has been dedicated to this project.

Recommendation: Public Works recommends that the Board sign Change Order No. 3 where indicated and return signed change order to Public Works for further processing.

Department Contact: Samantha Harper, P.E., (360) 385-9175.

Reviewed By:


Mark McCauley, County Administrator


Date

CHANGE ORDER NO.: 3

Owner: **Jefferson County**
Engineer: **Tetra Tech**
Contractor: **Ovivo USA, LLC**
Project: **Port Hadlock Wastewater**
Contract Name: **Port Hadlock Wastewater**

Owner's Project No.: **405-21140**
Engineer's Project No.: **N/A**
Contractor's Project No.:

Date Issued: **9/26/2024**

Effective Date of Change Order: **Upon Execution
by all parties**

The Contract is modified as follows upon execution of this Change Order:

Description:

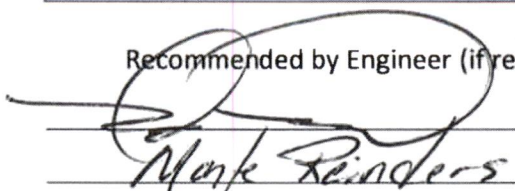
New master control panel to incorporate the Ovivo system and the non-Ovivo system controls. Programming and integrating controls for non-Ovivo equipment which were not included in the original design.

Attachments:

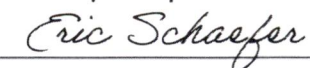
See attached proposal dated 8/22/2024

Change in Contract Price		Change in Contract Times	
Original Contract Price:		Original Contract Times:	
\$ 1,395,158.00 (plus WSST)		Substantial Completion:	Per Article 2.02 (Original Contract)
		Ready for final payment:	Per Article 2.02 (Original Contract)
Increase from previously approved Change Orders No. 1 to No. 2:		Increase from previously approved Change Orders No. 1 to No. 1:	
\$ 444,098.00 (plus WSST)		Substantial Completion:	N/A
		Ready for final payment:	N/A
Contract Price prior to this Change Order:		Contract Times prior to this Change Order:	
\$ 1,839,256.00 (plus WSST)		Substantial Completion:	N/A
		Ready for final payment:	Per Payment Schedule in Change Order 2 Proposal, pp.5-6.
Increase this Change Order:		[Increase] [Decrease] this Change Order:	
\$ 28,879.77 (plus WSST)		Substantial Completion:	N/A
		Ready for final payment:	
Contract Price incorporating this Change Order:		Contract Times with all approved Change Orders:	
\$ 1,868,135.77 (plus WSST)		Substantial Completion:	Per Article 2.02 (Original Contract)
		Ready for final payment:	Per Payment Schedule in Change Order 3 Proposal, p. 2.

Recommended by Engineer (if required)


Mark Reinders
Public Works Director

Accepted by Contractor



Eric Schaefer
Ovivo Project Manager

EJCDC® C-941, Change Order EJCDC® C-941, Change Order, Rev.1.

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Authorized by

Kate Dean	Date
Chair, Jefferson County Board of Commissioners	

Ovivo SiC Systems

2300 Greenhill Dr. #100
Round Rock, TX 78664



Worldwide Experts in Water Treatment

ECN 11 for **CPI-U Contract Price Adjustment to Port Hadlock**

Date	Prepared By	Services Performed For:
8/22/24	Ovivo 2300 Greenhill Dr. #100 Round Rock, TX 78664	Port Hadlock 623 Sheridan St Port Townsend, WA 98368

This External Change Notice (ECN) is issued pursuant to the current contract between **Port Hadlock** ("Client") and Ovivo ("Vendor"), effective **August 22nd, 2024**. This ECN is subject to the terms and conditions contained in the contract between the parties and is made a part thereof. Any term not otherwise defined herein shall have the meaning specified in the contract. In the event of any conflict or inconsistency between the terms of this ECN and the terms of the contract, the terms of this ECN shall govern and prevail.

Proposal Overview

As per the official project "Bid Form for Procurement Contract," section 6.03.A.5 allows provision for Ovivo to seek a price escalation to the contract price if the period between the Procurement Agreement and the Notice to commence Fabrication is in excess of 825 days. The 825 day price escalation date was established to be September 10th, 2023. Ovivo officially received the Notice to Commence Fabrication on June 14th, 2024. Therefore in this change order Ovivo is seeking a contract price increase of 2.07%.



Ovivo used the U.S Bureau of Labor Statistics inflation calculator, that can be found at:
https://www.bls.gov/data/inflation_calculator.htm

A screenshot of the inputs and results is attached for reference.

Supporting Documentation & Attachments

- Port Hadlock – Bid Form for Procurement Contract
- Screenshot of CPI-U calculator from U.S Bureau of Labor Statistics

Purchase Price

Item	Description	Sell Price (US Dollars)
1	CPI-U Adjustment 9/23 to 6/24	\$28,879.77
Notes:		
1.	Contract price of \$1,395,158.00 used; reference Bid Item #2 of Bid Form	
2.	CPI-U adjustment of +2.07% used; reference inflation calculator from 9/23 to 6/24	

Payment Schedule

- 100% to be invoiced upon acceptance of change order.

Pricing and Commercial Terms

- Standard Terms are 30 days NET, interest charged at 1 ½% per month (18%) per annum on outstanding balances. Please refer to contract terms for a reference point.
- Pricing are net, taxes are not included.



- Prices are valid for 30 days from proposal issuance date. If a formal purchase order is not received and accepted within this validity period Ovivo reserves the right to review and adjust pricing and lead times as necessary.
- Prices are quotes in US Dollars unless otherwise noted.
- No allowances have been included for bonds of any kind.

Warranty

- Warranty terms will remain consistent with Ovivo's project warranty statement.

General Notes

- Pricing is based on the use of Ovivo standard design, equipment engineering submittals (IFI), materials of construction, QA/QC procedures and documentation.

Proprietary and Confidential Information

The attached document contains proprietary and confidential information and is submitted under a confidential relationship. By accepting this document, the recipient agrees:

- It will not disclose to third parties or use any drawings, specifications, designs, processes or information supplied by Ovivo in any manner detrimental to the interests of Ovivo;
- Any special features particular to this design and information gained as a result of this document shall be treated as confidential and shall be the property of Ovivo and will not be incorporated in whole or in part in other projects unless recipient obtains written permission from Ovivo to do so;
- Not to copy in whole or in part nor reveal its contents in any manner or for any purpose except for the purpose stated herein;
- The foregoing applies without limitation to all documents prepared by Ovivo in connection with this submission and the recipient acknowledges that this document involves confidential rights of Ovivo and all design, manufacturing, reproduction, use and sale rights regarding same are expressly reserved.



Approval and Acceptance

In order to move forward with this change request Ovivo requires that the below be signed off and returned to the Ovivo Project Manager. Upon acceptance, a revised PO will need to be issued to include additional scope.

Port Hadlock

Ovivo Project Manager

By:

~~Samantha Harper~~

~~Project Manager~~



Monte Reinders
Public Works Director/
County Engineer

By:

Eric Schaefer

Project Manager

Eric Schaefer

Date:

9/30/24

Date:

8/22/2024



Attachments:

Attachment #1 – Bid Form for Procurement Contract (7 pages)

Attachment #2 – Screenshot of CPI-U calculator (1 page)

https://www.bls.gov/data/inflation_calculator.htm



BID FORM FOR PROCUREMENT CONTRACT

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 1—BUYER AND BIDDER

1.01 This Bid is submitted to:

Mailing Address:

**Office of the Jefferson County Commissioners
P.O. Box 1220
Port Townsend, Washington, 98368**

Physical Address:

**Office of the Jefferson County Commissioners
Jefferson County Courthouse (Basement Level)
1820 Jefferson Street
Port Townsend, Washington, 98368**

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Procurement Contract with Buyer in the form included in the Procurement Bidding Documents, and to furnish the Goods and Special Services as specified or indicated in the Procurement Bidding Documents, for the prices and within the times indicated in this Bid, and in accordance with the other terms and conditions of the Procurement Bidding Documents.

ARTICLE 2—BASIS OF BID

2.01 *Lump Sum Bids*

A. Bidder will furnish the Goods and Special Services in accordance with the Procurement Contract Documents for the following Procurement Contract Price(s). See Division 46 Section 464240 "Membrane Bioreactor Equipment", Paragraph 1.10 for description of the Bid Items:

BID ITEM 1: CONTRACT PRICE FOR DESIGN SERVICES

Price for Design Services, as outlined in Attachment 1 – Scope of Work for Design Services.

Seventy-four Thousand, Two Hundred

(use words)

\$ 74,200.00

(figures)

BID ITEM 2: CONTRACT PRICE FOR MBR SYSTEM EQUIPMENT AND SERVICES DURING CONSTRUCTION.

Lump sum amount for the equipment and services provided during construction.

One Million, Three Hundred Ninety-five Thousand,
One Hundred Fifty-eight

(use words)

\$ 1,395,158.00

(figures)

BID ITEM 3: CONTRACT PRICE FOR TAXES

Enter the Contract Price for Taxes (Sales Tax = 9.0%).

Bid Item 1 + Bid Item 2

One Hundred Thirty Thousand,
Two Hundred Forty-two & 22/100s

(use words)

\$ 132,242.22

(figures)

BID ITEM 4: TOTAL CONTRACT PRICE (Used for initial determination of the apparent low bidder and the number to be announced at bid opening)

Add Item 1, Item 2, and Item 3

One Million, Six Hundred One Thousand, Six Hundred & 22/100s

(use words)

\$ 1,601,600.22

(figures)

BID ITEM 5: MEMBRANE SUBUNIT PRICING

Subject to provisions in Division 46 Section 464240 "Membrane Bioreactor Equipment", Paragraph 1.13 D, the bidder shall indicate the membrane subunit price. This is the base price used to determine membrane subunit pricing per Specification Section 464240, Paragraph 1.13 F.

Thirty-nine

(use words)

\$ 39.00

(figures)

BID ITEM 6: MEMBRANE SERVICE AGREEMENT

Subject to provisions in Division 01 Section 017510 "Membrane Service Agreement", the bidder shall indicate the annual price for the first 5-year period of the Membrane Service Agreement.

Eighteen Thousand, Seven Hundred Forty Three

(use words)

\$ 18,743.00

(figures)

ARTICLE 3—TIME OF COMPLETION

- 3.01 Bidder agrees that the furnishing of Goods and Special Services will conform to the schedule of Procurement Contract Times set forth in Article 2 of the Procurement Agreement.
- 3.02 Bidder accepts the provisions of the Procurement Agreement as to liquidated damages.

ARTICLE 4—ATTACHMENTS TO THIS BID

- 4.01 The following documents are attached to and made a condition of this Bid:
- A. Introductory letter
 - B. Required Bid security in the form prescribed in the Instructions to Bidders.
 - C. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such authority within the time for acceptance of Bids.
 - D. Form 00400(A) "Worksheet A" – Bidder shall supply complete information required in Worksheet A which includes but is not limited to:
 - 1. Bidder Qualifications supporting data
 - 2. Equipment Data
 - E. Lobbying Certification – Form 00400(1)
 - F. Debarment Certification – Form 00400(2)
 - G. Non-Collusion Declaration – Form 00400(3)
 - H. Wage Law Certification – Form 00400(4)

ARTICLE 5—BIDDER’S ACKNOWLEDGMENTS

- 5.01 Bidder accepts all terms and conditions of the Instructions to Bidders. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period that Bidder may agree to in writing upon request of Buyer.
- 5.02 Bidder has examined and carefully studied the Procurement Bidding Documents, the related data identified in the Procurement Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

Addendum No.	Addendum Date
#1	01/28/21
#2	02/04/21
#3	02/11/21

ARTICLE 6—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Bidder’s Representations*

A. In submitting this Bid, Bidder represents that:

1. Bidder has examined and carefully studied the Procurement Contract Documents.
2. If required by the Instructions to Bidders to visit the Point of Destination and the site where the Goods are to be installed or Special Services will be provided, or if, in Bidder’s judgment, any observable local or site conditions may affect the delivery, cost, progress, or furnishing of the Goods and Special Services, then Bidder has visited the Point of Destination and site where the Goods are to be installed or Special Services will be provided (as applicable) and become familiar with and is satisfied as to the observable local and site conditions that may affect delivery, cost, progress, and furnishing of the Goods and Special Services.
3. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect the cost, progress, and performance of Seller's obligations under the Procurement Contract.
4. Bidder has carefully studied, considered, and correlated the information known to Bidder with respect to the effect of such information on the cost, progress, and performance of Seller's obligations under the Procurement Contract.
5. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Procurement Contract Documents, and the written resolution (if any) thereof by Engineer is acceptable to Bidder.
6. The Procurement Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of Seller's obligations under the Procurement Contract.
7. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of the Bidding Requirements, that without exception the Bid (including all Bid prices) is premised upon furnishing the Goods and Special Services as required by the Procurement Contract Documents.

6.02 *Bidder's Certifications*

A. Bidder certifies that:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
3. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Procurement Contract. For the purposes of this Paragraph 6.02.A.4:
 - a. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Buyer, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition;
 - c. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - d. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process.

6.03 Bidder Acknowledgements

- A. Bidder acknowledges the project schedule presented in the Procurement Agreement and that:
 - 1. The Buyer retains the right to issue a Notice to Commence Design Work for the Design and Support Services. The Bidder acknowledges that unless and until the Notice to Commence Design Work is issued, the Buyer is not obligated to any monetary commitment associated with the performance of the Work.
 - 2. If the Notice to Commence Design Work is delayed and is issued after 180 days of the Effective Date of the Procurement Agreement, the contract price for Seller Design Services will be adjusted through change order by the ratio of the Consumer Price Index for All Urban Consumers (CPI-U) of the CPI-U of month that the Notice to Commence Fabrication is issued to month of 180 calendar days after the effective date of the Procurement Agreement.
 - 3. The Buyer retains the right to issue a Notice to Commence Fabrication for the MBR System. The Bidder acknowledges that unless and until the Notice to Commence Fabrication is issued, the Buyer is not obligated to any monetary commitment associated with the performance of the Work beyond that which is associated with the Scope of Work for Design Services given in Attachment 1. Issuance of Notice to Commence Fabrication is contingent upon the Buyer obtaining sufficient financing to proceed with the project.
 - 4. Notice to Commence Fabrication may be issued at any time for a period of 825 calendar days after the effective date of the Procurement Agreement.
 - 5. The contract price for membrane units and ancillary equipment shall remain valid for 825 calendar days after the effective date of the Procurement Agreement. If the Notice to Commence Fabrication is issued after 825 calendar days of the effective date of the Procurement Agreement, the contract price will be adjusted through change order by the ratio of the Consumer Price Index for All Urban Consumers (CPI-U) of the CPI-U of month that the Notice to Commence Fabrication is issued to the month of 825 calendar days after the effective date of the Procurement Agreement.
 - 6. The Bidder acknowledges that membrane units shall be made available for purchase by the Buyer at the pricing offered in the Bid Form and that the pricing for future membrane units, as part of a warranty claim or replacement purchase, shall be in accordance with the methods described in Specifications Division 46 Section "Membrane Bioreactor Equipment." Membrane unit pricing shall remain effective for a period of 20 years after bid opening date.

This Bid is offered by:

Bidder:

OVIVO USA, LLC

(typed or printed name of organization)

By:

(individual's signature)

Date:

2/16/21

(date signed)

Name:

Hiren Trivedi

(typed or printed)

Title:

General Manager Ovivo USA LLC

(typed or printed)

(If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Title:

Senior V.P.

(typed or printed)

Address for giving notices:

2300 Greenhill Dr., #100, Round Rock TX 78664

Designated Representative:

Name:

Martin Swanson

(typed or printed)

Title:

National Sales Manager, Ovivo MBR

(typed or printed)

Address:

2300 Greenhill Dr., #100, Round Rock TX 78664

Phone:

512.652.5805

Email:

martin.swanson@ovivowater.com

License No.:

N/A

Classification:

N/A

Limitation:

N/A



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CPI Inflation Calculator

CPI Inflation Calculator

\$

in

has the same buying power as

in

About the CPI Inflation Calculator

The CPI inflation calculator uses the [Consumer Price Index](#) for All Urban Consumers (CPI-U) U.S. city average series for all items, not seasonally adjusted. [This data](#) represents changes in the prices of all goods and services purchased for consumption by urban households.