



AMENDED

**AGENDA
CITY OF VICTOR
SPECIAL CITY COUNCIL MEETING
JULY 10, 2020 – 10:00 A.M.
REMOTE***

The Victor City Council encourages and appreciates the community's interest in attending City Council meetings. Members of the public who are called to speak on an agenda item will be limited to a three-minute presentation.

- I. **CONVENE SPECIAL MEETING**
- II. **ROLL CALL**
- III. **PUBLIC COMMENT WITHOUT PRIOR APPOINTMENT**
- IV. **ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA**
- V. **ORDINANCES AND RESOLUTIONS**
 - A. **RESOLUTION NO. 2020-07-10.01 – A RESOLUTION EXTENDING THE DECLARATION OF A LOCAL DISASTER EMERGENCY IN AND FOR THE CITY OF VICTOR, COLORADO UNTIL FURTHER ACTION OF THE CITY COUNCIL** ☒
- VI. **NEW BUSINESS**
 - A. **AGREEMENT FOR PROFESSIONAL SERVICES – DOVE Compliance Improvements – Earthworks Land Development Company - \$245,000.00.** ☒
 - B. **CHANGE ORDER #2 – SGM Engineers – Victor Water Treatment Plant DOVE Engineering – \$19,400.00.** ☒
- VII. **ADJOURNMENT**

***To access the work meeting remotely, go to www.cityofvictor.com home page, under Public Notices and Other.**

Note: Any item on this agenda may be subject to a vote by City Council. Assistance for the hearing, visually, or physically impaired may be provided upon request. Please inquire at the office of the City Clerk, 1-719-689-2284, or to P. O. Box 86, Victor, CO 80860.

For persons with hearing impairments, please call RELAY COLORADO at 711 or 1-800-659-2656 and request "City of Victor at 719-689-2284."

The City of Victor supports efforts to affirmatively further fair housing.

THIS INSTITUTION IS AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER.

RESOLUTION NO. 2020-07-10.01

CITY OF VICTOR

**A RESOLUTION EXTENDING THE DECLARATION OF A LOCAL
DISASTER EMERGENCY IN AND FOR THE CITY OF VICTOR,
COLORADO UNTIL FURTHER NOTICE**

WHEREAS, pursuant to the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.* (the "Act"), in particular Section 24-33.5-709, a local disaster emergency may be declared by the Mayor and extended by the City Council;

WHEREAS, on March 19, 2020, the Mayor issued an order declaring a local disaster, which on that same date was extended until May 21, 2020, by the City Council via Resolution No. 2020-03-19.0, and which was further extended until June 18, 2020 by the City Council via Resolution No. 2020-05-21.01, and again further extended until July 16, 2020 by the City Council via Resolution No. 2020-06-18.02;

WHEREAS, the local disaster emergency related to the COVID-19 pandemic continues to threaten the health, safety and welfare of the City, its residents, visitors, employees, and businesses and continues to constitute a local disaster emergency pursuant to the Act;

WHEREAS the City Council, therefore, desires to extend the declaration of a local disaster emergency until further action by the City Council, and to authorize an exemption from the City's Finance Policy in the acquisition of goods and services related to the disaster emergency; and

WHEREAS, this Resolution shall be promptly filed with the City Clerk, the Teller County Clerk and Recorder, and the Colorado Office of Emergency Management; and the public shall also be notified promptly through general dissemination to the news media, posting on the City website and by the use of other means of communication appropriate for informing the general public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTOR, COLORADO, AS FOLLOWS:

Section 1. The City Council hereby extends its Declaration of a Local Disaster Emergency in and for the City of Victor, Colorado, until further action of the City Council.

Section 2. The City shall not be required to comply with the bidding or advertising requirements set forth in the City of Victor Finance Policy in the acquisition of goods and services necessary for the immediate preservation of the public health and safety during the duration of this event of a local disaster. The City may be award contracts for such goods and services on a sole source basis.

Section 3. This Resolution shall be given prompt and general publicity, filed with the City Clerk and the Teller County Clerk and Recorder, and it shall be submitted to the Colorado

Office of Emergency Management.

ADOPTED THIS ____ DAY OF _____, 2020, AT A REGULAR
MEETING OF THE CITY OF VICTOR CITY COUNCIL

CITY OF VICTOR, COLORADO

Bruce Davis, Mayor

ATTEST:

Glori Thurston, City Clerk

**AGREEMENT BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Victor, P.O. Box 86, Victor, CO 80860 ("Owner") and Earthworks Land Development Company, 128 Crystal Drive, Cripple Creek, CO 80813 ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Relocating the City's point of entry (POE) chlorine residual monitoring location from inside the WTP to downstream of the City's second finished water storage tank and installing a remote chlorine monitoring station.

Installing pressure transducers to monitor the level in each finished water storage tank to replace existing level indicating devices and transmitters.

Retrofitting the altitude valve on the inlet of the second finished water tank to function at low operating pressure and update valve piloting with a booster pump and pressure tank to facilitate valve operation via solenoid control. This will require construction of a small structure

Implementing controls improvements to facilitate operations and reporting of proposed systems.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

City of Victor Water DOVE Compliance Improvements

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by SGM (Engineer), which is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work will be substantially completed in 90 days, after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions in 120 days, after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$2,000 for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$1,000 for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.01.A below:

- A. In accordance with Section 00410, Bid Form, attached hereto, in the amount of \$245,000.

All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.
 - a. 95 percent of Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.
- C. Per Colorado Revised Statute 24-91-103, the contractor may elect to substitute securities in lieu of retainage. Securities must be in a form acceptable to Owner.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.
- B. Lien waivers shall be submitted by prime Contractors and all second tier Subcontractors prior to issuance of final payment.
- C. Any Liquidated Damages payable by Contractor may, at Owner's election be deducted from any amounts owed to Contractor. In the event no funds are due Contractor at a time when Contractor becomes liable to Owner for Liquidated Damages, then Contractor agrees to pay all accrued Liquidated Damages to Owner on the first (1st) day and on the fifteenth (15th) day of each month when Contractor is liable to Owner for Liquidated Damages, Permitting Contractor to continue and finish the Work or any part thereof after the deadline for completion of the Work shall not act as a waiver of these Liquidated Damages provisions
- D. The aggregate liability of Contractor to pay Liquidated Damages pursuant to this section shall not exceed an amount equal to fifty percent (50%) of the Contract Price. This Section shall not be construed to limit Contractor's other obligations or liabilities arising under or in connection with this Contract
- E. In the event that this section conflicts with any other provisions regarding liquidated damages within the Contract Documents, this section shall control.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 1 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.
 - F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 - I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:

1. This Agreement (pages 00520-1 to 00520-7, inclusive).
 - ~~2. Performance bond (pages 00610-1 to 00610-3, inclusive).~~
 - ~~3. Payment bond (pages 00615-1 to 00615-3, inclusive).~~
 - ~~4. Other bonds (pages N/A to N/A, inclusive).~~
 5. General Conditions (pages 00700-1 to 00700-68, inclusive).
 6. Supplementary Conditions (pages 00800-1 to 00800-12, inclusive).
 7. Specifications as listed in the table of contents of the Project Manual.
 8. Drawings bearing the following general title:
City of Victor DOVE Compliance Improvements
 9. Addenda (numbers 1 to 3, inclusive).
 10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 to 2, inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (pages N/A to N/A, inclusive).
 - c. List of other required documents:
 11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages 00550-1 to 00550-1, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

NOTES TO USER

See IB-21, Signing of Agreement

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR

City of Victor

By: Bruce M. Davis

By: _____

Title: Mayor

Title: _____

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

Attest: Glori Thurston

Attest: _____

Title: City Clerk

Title: _____

Address for giving notices:

Address for giving notices:

City of Victor

Earthworks Land Development Co.

500 Victor Ave.

128 Crystal Drive

Victor, CO 80860

Cripple Creek, CO 80813

License No.: _____

(Where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Agent for service of process:

CITY OF VICTOR CONTRACT CHANGE ORDER	Project: Victor Water Treatment Plant DOVE Engineering	
	Location: 2038 County Road 81, Goldfield	
	Date: March 25, 2020	Change Order #: 2
Contractor: SGM Engineers	Estimated cost to project: <input checked="" type="checkbox"/> Increase <input type="checkbox"/> Decrease \$19,400	
Complete Address: 118 W. Sixth St, Suite 200 Glenwood Springs, CO 81601	Total additional days allowed to complete work:	
Modification Title: Engineering during Pre-Bid through Contract Award (\$3,000) and Estimated Engineering for Construction services (\$16,400)(estimated assuming a 3-month construction period).		

Your contract is hereby modified to include a price decrease under schedules A and B and the inclusion of Schedule C at an increased price to address additional curb, gutter, flatwork, lighting and paving on Diamond Avenue. Detailed line items are attached.

BID SCHED #	Item Description	Original Bid Amount	Price Changes	New Contract Amount
Task 06	Bidding Services	0	+\$3,000	
Task 07	Construction Services.	0	+16,400	
TOTALS			+\$19,400	\$49,910

The Contractor accepts this Change Order for work to be performed and prices on which payment is to be based.	
REQUIRED FOR ALL CHANGE ORDERS	
Authorized by Engineer:	Date:
Contractor Representative:	Date:
Approved by City:	Date: