

**SULPHUR SPRINGS, COLORADO, APPROVING AN AGREEMENT WITH
GARNEY COMPANIES, INC. FOR CONSTRUCTION OF THE HOT SULPHUR
SPRINGS WATER TREATMENT PLANT, INTAKE AND STORAGE TANK
UPGRADE, AND APPROVING THE ISSUANCE OF A NOTICE TO PROCEED**

WHEREAS, the Town of Hot Sulphur Springs Water Enterprise has entered into a Loan Agreement with the Colorado Water Resources and Power Development Authority for funding from the Drinking Water Revolving Fund pursuant to the American Recovery and Reinvestment Act to finance water treatment plant upgrades, construction of a new clearwell, new intake and associated piping, and storage improvements ("Project"); and

WHEREAS, the Town, on behalf of its Water Enterprise ("Town"), issued a request for competitive proposals to seek a contractor to undertake and complete the construction and other work related to the Project, which request for competitive proposal included the terms and conditions and other documents which comprise the Contract Documents; and

WHEREAS, from the responsive proposals received and reviewed, a recommendation was made to the Board of Trustees by a selection committee comprised of Town staff and consultants; and

WHEREAS, Garney Companies, Inc. ("Contractor") was selected by the Board of Trustees through the selection process as the contractor with the requisite resources, experience and expertise and competitive price proposal to undertake and complete the construction and other work related to the Project; and

WHEREAS, the Board of Trustees, by resolution dated September 10, 2009, approved the issuance of a Notice of Award to the Contractor; and

WHEREAS, as required by the Notice of Award, Contractor has furnished the required Performance, Payment, and Maintenance Bond and two (2) copies of a Certificate of Insurance showing compliance with the insurance requirements as more clearly specified in Section 00840 of the Contract Documents; and

WHEREAS, Town consultants and Contractor agreed to the terms of an agreement and exhibits and integrated Contract Documents for construction of the Hot Sulphur Springs Water Treatment Plant and Storage Tank Upgrade, in substantially the form as attached hereto as Exhibit A ("Agreement") (without attached and incorporated exhibits and other Contract Documents); and

WHEREAS, the Board of Trustees desires to approve the Agreement and authorize the issuance of a Notice to Proceed in substantially the form as attached as Exhibit B contingent upon full execution of the Agreement; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meaning as set forth in the Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE
TOWN OF HOT SULPHUR SPRINGS, COLORADO:**

Section 1. The Board of Trustees on behalf of the Town (a) approves the Agreement and exhibits and integrated documents (Contract Documents) for construction of the Hot Sulphur Springs Water Treatment Plant and Storage Tank Upgrade, in substantially the form as attached hereto as Exhibit A, including all exhibits and Contract Documents incorporated therein, (b) authorizes the Acting Town Manager and the Town Attorney, in consultation with the Mayor, to make such changes to the Agreement as may be needed to correct any nonmaterial errors or language that do not increase the obligations of the Town, and (c) authorizes the Mayor to execute, on behalf of the Town, the Agreement and any necessary amendments thereto as may be required to satisfy the Town's obligation to comply with requirements of the American Recovery and Reinvestment Act or related and incorporated federal law or regulation or other state or local regulation.

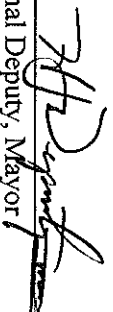
Section 2. The Board of Trustees on behalf of the Town (a) approves the issuance of the Notice to Proceed for construction of the Hot Sulphur Springs Water Treatment Plant and Storage Tank Upgrade, in substantially the form as attached hereto as Exhibit B, including all exhibits incorporated therein, (b) authorizes the Acting Town Manager and the Town Attorney, in consultation with the Mayor,

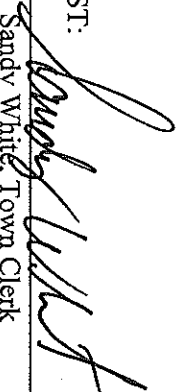
to make such changes as may be needed to correct any nonmaterial errors or language that do not increase the obligations of the Town, and (c) authorizes the Mayor to execute the same on behalf of the Town.

Section 3. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining issues of this Resolution.

Section 4. This Resolution shall be effective immediately upon approval of the Board of Trustees for the Town of Hot Sulphur Springs.

ADOPTED by a vote of 6 in favor and 0 against, and 0 abstaining, this 24th day of September, 2009.

By: 
Hershah Deputy, Mayor

ATTEST:
By: 
Sandy White, Town Clerk


**EXHIBIT B
NOTICE TO PROCEED**

PROJECT: Hot Sulphur Springs Water Treatment Plant and Storage Tank Upgrade

To: Garney Companies, Inc.
10822 W. Toller Dr, Suite 100
Littleton, CO 80127
Contractor

Date: September 24, 2009

You are hereby authorized to proceed on this date, but not later than September 30, 2009, with the construction of the Work covered by the Contract Documents titled **Hot Sulphur Springs Water Treatment Plant and Storage Tank Upgrade**. The work is authorized by the **Town of Hot Sulphur Springs** (Owner) for the sum of **One Million Nine Hundred and Ninety Six Thousand Dollars** (\$1,996,000.00) in lawful money of the United States.

By: 
Hershel Depp
Mayor
Town of Hot Sulphur Springs

ACKNOWLEDGMENT OF RECEIPT OF NOTICE TO PROCEED:

Return to the Owner an acknowledged copy of this Notice to Proceed and notify the Owner and Engineer 48 hours before starting work. Receipt of this Notice to Proceed is hereby acknowledged this 27th day of September, 2009.

By: Garney Companies, Inc.
10822 W. Toller Dr, Suite 100
Littleton, CO 80127
Contractor

END OF SECTION