

TOWN OF HOT SULPHUR SPRINGS,
COLORADO
RESOLUTION NO. 2010-12-5

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH MERRICK AND COMPANY FOR ENGINEERING SERVICES AND COMPLETION OF THE TOWN OF HOT SULPHUR SPRINGS ARRA DRINKING WATER INFRASTRUCTURE PROJECTS, FOR AN ADDITIONAL AMOUNT NOT TO EXCEED \$6,000.00 MAKING THE AGGREGATE NOT TO EXCEED AMOUNT PAYABLE TO MERRICK AND COMPANY \$560,662.30.

WHEREAS, the Town of Hot Sulphur Springs Water Enterprise 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, by Resolution 2009-6-3, the Board of Trustees approved a Professional Services Agreement ("PSA") for a Proposed Membrane Water Treatment Plant and Potable Water Storage Tank Design for the American Reinvestment and Recovery Act ("ARRA") Drinking Water Infrastructure Projects Between the Town and Merrick & Company ("Contractor"); and

WHEREAS, the Town previously approved Amendment #1 to the PSA by Resolution on September 16, 2010; and

WHEREAS, the Town and the Contractor desire to approve a second amendment to the PSA in substantially the form as attached hereto as Exhibit A ("Amendment #2") in order to authorize engineering services related to SCADA design and installation and completion of the Project for an additional amount not to exceed \$6,000.00 making the total amount payable by the Town pursuant to the PSA, as amended, \$560,662.30.

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) incorporates the recitations set forth herein as findings of the Board; (b) approves Amendment #2 to the PSA, for the purposes as set forth in the recitations hereto and as described in Exhibit A hereto, in an amount not to exceed \$6,000.00 making the total amount payable by the Town pursuant to the PSA, as amended, \$560,662.30; (c) authorizes the Project Manager and the Town Attorney, in consultation with the Mayor, to make such changes to Amendment #2 as may be needed to correct any nonmaterial errors or language that do not increase the obligations of the Town; (d) authorizes the Project Manager to submit Amendment #2 to the PSA to the CDPHE for approval if such approval is required; and (e) authorizes the Mayor to execute, on behalf of the Town, Amendment #2 to the PSA 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. 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 3. 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 4 in favor and 0 against, and 0 abstaining, this 16 day of December, 2010.

By: 
Hershah Deputy, Mayor

ATTEST:
By: 
Sandy White, Town Clerk

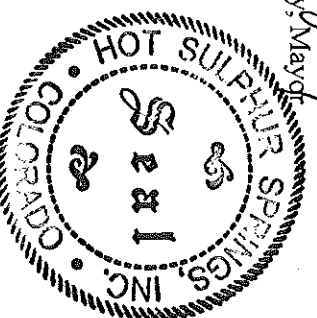


EXHIBIT A
Amendment #2 to the PSA