

# AGENDA

## Denver Board of Water Commissioners

Denver Water Administration Building  
1600 West 12<sup>th</sup> Avenue  
Denver, CO  
Board Room, Third Floor

**Wednesday, July 24, 2019 9:00 a.m.**

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### I. INTRODUCTORY BUSINESS

#### A. Call to Order and Determination of Quorum

#### B. Public Comment and Communications

At this point in the agenda, the Board may allow members of the public to address the Board on any item of interest within the jurisdiction of the board, and not on the agenda for action. Speakers wishing to address a specific Action Item will be invited to address the board when the item is being considered. Three minutes are allowed for each person unless the President determines otherwise.

1. Distributor Communications
2. Citizen Advisory Committee Communications

#### C. Ceremonies, Awards and Introductions

### II. ACTION ITEMS

#### A. Consent Items

Items listed below are considered routine and may be enacted by one motion and vote. If any Board member desires discussion beyond explanatory questions, or corrections to the Minutes, the President may order that item to be considered in a separate motion and vote.

1. Change Order No. 6 for Conduit No. 16 – Tunnel Installations – Contract 15453A/500815
2. Foothills Treatment Plant Filter Media Replacement Phase 1 – Contract 503793
3. Legal Representation for Denver Water Employee – Tygrett v. Denver Water, et al.
4. Legal Representation for Denver Water Employee – Sanchez v. Denver Water, et al.

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## **B. Individual Approval Items**

- |  |                |            |
|--|----------------|------------|
| 1. First Amendment to Mass Excavation, Demolition, Underslab Pipe Install – Floc/Sed and Filters – GMP 4A for Northwater Treatment Plant – Contract 503839 | Pete McCormick | 15 minutes |
|--|----------------|------------|

## **III. POLICY MATTERS**

- |   |                 |            |
|---|-----------------|------------|
| <b>A. OCR Update</b>                        | Jeremy Ross     | 10 minutes |
| <b>B. Preliminary 5-Year Financial Plan</b> | Angela Bricmont | 30 minutes |

## **IV. EXECUTIVE UPDATE**

- A. CEO Update**
- B. CFO Update**
- C. Operations Update**

## **V. BRIEFING PAPERS & REPORTS**

- A. Briefing Papers**
- B. Reports**

## **VI. ADJOURNMENT**

## **VII. TRUSTEE MATTERS**

## **VIII. EXECUTIVE SESSION**

The Board may adjourn the regular meeting and reconvene in executive session on topics authorized by D.R.M.C. Sec. 2-34

- A. Confidential Report D.R.M.C. Sec. 2-34**

# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: July 24, 2019

Board Item: II-A-1

## Change Order No. 6 for Conduit No. 16 – Tunnel Installations Contract 15453A/500815

Action by Consent

Individual Action

### **Purpose and Background:**

The Conduit No. 16 Replacement and Conduit No. 22 Abandonment project consists of an 8.5-mile long, 84-inch diameter treated water pipeline that will replace these two existing conduits. The existing conduits currently convey raw water from Ralston Reservoir to the Moffat Treatment Plant and were installed in 1937 and 1950, respectively. In the past several years the conduits have required repairs for joint leaks, and internal inspections have revealed extensive cracking. The replacement of Conduit No. 16 will deliver treated water from the future Northwater Treatment Plant at Ralston Reservoir through the Moffat Treatment Plant to the distribution system. The Conduit No. 16 project consists of four separate contracts that cover the replacement of each segment. The Conduit No. 16 Tunnel Installation project is one of the three previously awarded contracts currently in construction.

The Conduit No. 16 Tunnel Installation project consists of tunnel installations at five crossings, an open cut segment of approximately 5,495 feet of 84-inch diameter steel pipe, two 72-inch diameter butterfly valve vaults, cathodic protection, demolition, dewatering, and site restoration.

Change Order No. 6 is the final change order for the Conduit No. 16 Tunnel Installation project and represents a final cost settlement on a number of complex issues including the differing site conditions at the I-70 Tunnel. The following is a summary of the seven requested pay items included in Change Order No. 6:

1. A differing site condition was encountered during tunneling of the I-70 Tunnel. The Geotechnical Baseline Report (GBR) included in the contract documents, set a baseline condition on which contractors were to establish their pricing and tunneling method. The GBR specifically listed 60 cobbles and one boulder per five cubic yards, which was the condition found on the west side of the I-70 Tunnel. However, the existing ground conditions under the interstate yielded an average of 380 cobbles per five cubic yards. The differing site condition affected the contractor's production, limiting them to achieving an average of 16 feet per day from their anticipated 50 feet per day. The differing site condition required the contractor to reduce the rib spacing from 4 feet to 2 feet, requiring additional labor and materials. The contractor also claimed the differing site condition caused a line and grade variation that resulted in modifications to the carrier pipe installation to include welding of buttstraps at each pipe joint along the 1,600-foot pipeline. A time extension is warranted for Change Order No. 6 of 238 days for Substantial Completion and 184 days for Final Completion. The total cost for the differing site condition was negotiated to \$1,092,333. Of note, the original amount requested was over \$3,000,000, and the potential claim was of this magnitude.
2. Allowance reconciliation: Treatment and discharging/disposal of groundwater at Main Line Tunnel. The allowance was for \$150,000 and actual costs exceeded this amount by \$42,561.79.
3. Allowance reconciliation: Treatment and discharging/disposal of groundwater at station 348+50 to station 350+50. The allowance was for \$65,000 and was not fully utilized. A credit of \$23,572.32 will be deducted from the contract.
4. Allowance reconciliation: Railroad flagging personnel at Main Line Tunnel. The allowance was for \$50,000 and was not fully utilized. A credit of \$16,150.71 will be deducted from the contract.
5. Allowance reconciliation: Railroad flagging personnel at Spur Tunnel. The allowance was for \$25,000 and was not fully utilized. A credit of \$10,521.12 will be deducted from the contract.

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6. Allowance reconciliation: Miscellaneous unanticipated property related work. The allowance was for \$15,000 and was not utilized. A credit of \$15,000 will be deducted from the contract.
7. Dewatering costs reconciliation for the I-70 Tunnel: This item consists of Amendment No. 3 to extend the I-70 Tunnel which was requested and paid for by the City of Wheat Ridge. Items in the amendment included labor, materials and equipment to extend the tunnel, and dewatering costs at the launch shaft. The dewatering costs were agreed to be completed on a time-and-materials basis and not to exceed the amount of \$309,068. Not all of the dewatering costs were incurred. A credit of \$5,423.78 will be deducted from the contract.

To date, the Board approved cumulative changes for Amendments 1-8 totaling \$1,040,518.59 and Change Orders 1-5 totaling \$46,067.82, for a total contract adjustment of \$1,086,586.41.

**Budget and Schedule:**

The total amount of this change order is \$1,064,226.86 for a new total contract amount of \$23,591,813.27. The System and Program Managers have been notified of the additional use of funds. The overall Conduit No. 16 project's forecast remains within the \$85 million estimated project budget. The contract schedule adjustment required for these changes extend the contract period from January 5, 2019 to August 31, 2019 for Substantial Completion and from February 28, 2019 to August 31, 2019 for Final Completion.

**Selection of Business Partner:**

Reynolds Construction, LLC was selected as the general contractor through a quality-based selection process which included four proposers. The original agreement was awarded on April 11, 2017 in the amount of \$21,441,000.

**S/MWBE Information:**

The Minority and Women-owned Business Enterprise goal established for this construction project is 8% participation. Reynolds Construction, LLC achieved 8.1% participation.

**Recommendation:**

It is recommended that the Board approve Change Order No. 6 to Contract 500815 with Reynolds Construction, LLC for an extension of the contract period through August 31, 2019 and for a total amended agreement amount not to exceed \$23,591,813.27.

**Approvals:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager              | <input type="checkbox"/> Christopher R. Dermody, Chief Information Officer       |
| <input type="checkbox"/> Julie Anderson, Chief of Staff                         | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer             |
| <input type="checkbox"/> Jessica R. Brody, General Counsel                      | <input type="checkbox"/> Mike King, Chief External Affairs Officer               |
| <input checked="" type="checkbox"/> Angela C. Bricmont, Chief Financial Officer | <input checked="" type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer |
| <input type="checkbox"/> Gail Cagle, Chief Human Resources Officer              | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer               |

# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: July 24, 2019

Board Item: II-A-2

## Foothills Treatment Plant Filter Media Replacement Phase 1 Contract 503793

Action by Consent

Individual Action

### **Purpose and Background:**

Foothills Treatment Plant (Plant) has a total of 16 rapid gravity filters to remove particles in the water. The filters are comprised of multiple layers of media including anthracite (a form of coal), sand, gravel, and clay tile underdrains. The anthracite filter media has degraded over the past 20 years since last being replaced in 1999. The degraded anthracite reduces the filter run time, increases operating costs, and ultimately limits the higher rates of the Plant's production. It is good practice to remove the sand, support gravel, and clean and inspect the underdrains during media replacement projects.

The purpose of this project is to remove deteriorated filter media, inspect and replace broken underdrains, and reinstall new media in filters one through four. Denver Water's strategy is to replace the filter media in groups of four filters over a four-year period to minimize impacts to Plant operations. The 12 remaining filters will be rehabilitated over the next three years in subsequent contracts.

### **Budget and Schedule:**

The total amount of this contract is \$1,177,302 and the term of the contract is July 24, 2019 to April 27, 2020. Funds for this contract will come from the 2019 budget for Foothills Filter Media and Underdrain Replacement business unit, which has sufficient funds to pay the \$700,000 estimated to be needed in 2019. The remaining \$477,302 will be budgeted in year 2020.

### **Selection of Business Partner:**

Denver Water solicited bids from four general contractors on the prequalified contractor list under the Water Treatment and Pump Stations discipline. The contract was a restricted bid process using invitations to bid on the QuestCDN platform. Bids were received on July 2, 2019 from four general contractors. Velocity Constructors, Inc. was selected based on the lowest cost bid.

### **S/MWBE Information:**

The Minority and Women-owned Business Enterprise goal established for this construction project is 5% participation. Velocity Constructors, Inc. has proposed a 38.6% participation.

### **Recommendation:**

It is recommended that the Board approve Contract 503793 with Velocity Constructors, Inc. for the Foothills Treatment Plant Filter Media Replacement Phase 1 project for the contract period July 24, 2019 to April 27, 2020, for a total contract amount not to exceed \$1,177,302.

### **Approvals:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager              | <input type="checkbox"/> Christopher R. Dermody, Chief Information Officer       |
| <input type="checkbox"/> Julie Anderson, Chief of Staff                         | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer             |
| <input type="checkbox"/> Jessica R. Brody, General Counsel                      | <input type="checkbox"/> Mike King, Chief External Affairs Officer               |
| <input checked="" type="checkbox"/> Angela C. Bricmont, Chief Financial Officer | <input checked="" type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer |
| <input type="checkbox"/> Gail Cagle, Chief Human Resources Officer              | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer               |

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# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: July 24, 2019

Board Item: II-A-3

## Legal Representation for Denver Water Employee – Tygrett v. Denver Water, et al.

Action by Consent

Individual Action

### **Purpose and Background:**

On December 24, 2018 former employee Malon Dean Tygrett filed a lawsuit against Denver Water alleging employment discrimination and retaliation claims. Tygrett v. Denver Water, et al., 17-cv-726-MEH.

Since that time, his attorneys have amended the Complaint, most recently for the third time on June 27, 2019. This Third Amended Complaint alleges claims against both Denver Water (for violations of the Americans with Disabilities Act and the Rehabilitation Act) and against Tom Roode, in his individual capacity (for violation of 42 U.S.C. §1983).

Although Mr. Roode is named in his individual capacity, the Complaint alleges that he acted pursuant to a policy, practice or custom of Denver Water. That is to say, the Complaint alleges that Mr. Roode was acting within the scope of his employment as a Denver Water employee.

Where a Denver Water employee is named in litigation, section 7-15-(2) of the Personnel Policies states that the Board will provide legal representation and pay any judgment or settlement for claims brought against the employee during the performance of the employee's duties and within the scope of employment. Under this policy, the General Counsel is charged with determining if this section applies, and if so, will recommend that the Board provide legal representation and indemnification to the employee. In this case, the General Counsel has concluded that the employee named in the Complaint was acting properly within the scope of his employment as a supervisor and, thus, that the employee is eligible for defense and indemnification.

### **Recommendation:**

It is recommended that the Board: (1) authorize legal representation by the Office of General Counsel for Mr. Roode; and (2) indemnify Mr. Roode for any award of damages (including punitive damages) or costs against him in this matter, whether resulting from judgment or settlement agreement.

### **Approvals:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager    | <input type="checkbox"/> Christopher R. Dermody, Chief Information Officer |
| <input type="checkbox"/> Julie Anderson, Chief of Staff               | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer       |
| <input checked="" type="checkbox"/> Jessica R. Brody, General Counsel | <input type="checkbox"/> Mike King, Chief External Affairs Officer         |
| <input type="checkbox"/> Angela C. Bricmont, Chief Financial Officer  | <input type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer      |
| <input type="checkbox"/> Gail Cagle, Chief Human Resources Officer    | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer         |

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# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: July 24, 2019

Board Item: II-A-4

## Legal Representation for Denver Water Employee – Sanchez v. Denver Water, et al.

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Action by Consent

Individual Action

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### **Purpose and Background:**

On May 6, 2019 former employee Michael Sanchez filed a lawsuit against Denver Water alleging employment discrimination and retaliation claims and against Travelers Indemnity Co. for bad faith. [Sanchez v. Denver Water et al., 19-cv-1307-DDD.](#)

On July 15, 2019 his attorney amended the Complaint and added allegations against Tom Roode, in his individual capacity (for violations of 42 U.S.C. §1983).

Although Mr. Roode is named in his individual capacity, the Amended Complaint alleges that he acted pursuant to a policy, practice or custom of Denver Water. That is to say, it alleges that Mr. Roode was acting within the scope of his employment as a Denver Water employee.

Where a Denver Water employee is named in litigation, section 7-15-(2) of the Personnel Policies states that the Board will provide legal representation and pay any judgment or settlement for claims brought against the employee during the performance of the employee's duties and within the scope of employment. Under this policy, the General Counsel is charged with determining if this section applies, and if so, will recommend that the Board provide legal representation and indemnification to the employee. In this case, the General Counsel has concluded that the employee named in the Amended Complaint was acting properly within the scope of his employment as a supervisor and, thus, that the employee is eligible for defense and indemnification.

### **Recommendation:**

It is recommended that the Board: (1) authorize legal representation by the Office of General Counsel for Mr. Roode; and (2) indemnify Mr. Roode for any award of damages (including punitive damages) or costs against him in this matter, whether resulting from judgment or settlement agreement.

### **Approvals:**

- James S. Lochhead, CEO/Manager
- Julie Anderson, Chief of Staff
- Jessica R. Brody, General Counsel
- Angela C. Bricmont, Chief Financial Officer
- Gail Cagle, Chief Human Resources Officer

- Christopher R. Dermody, Chief Information Officer
- Brian D. Good, Chief Administrative Officer
- Mike King, Chief External Affairs Officer
- Robert J. Mahoney, Chief Engineering Officer
- Thomas J. Roode, Chief Operations Officer

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# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: July 24, 2019

Board Item: II-B-1

## **First Amendment to Mass Excavation, Demolition, Underslab Pipe Install – Floc/Sed and Filters - GMP 4A for Northwater Treatment Plant Contract 503839**

Action by Consent

Individual Action

### **Purpose and Background:**

The purpose of this board item is to present a contract amendment for limited scopes of construction work to be accelerated from future Guaranteed Maximum Price (GMP) Work Packages to advance the Northwater Treatment Plant (NTP) project through the construction phase and better align the construction schedule with other adjacent Denver Water projects.

The scope of work being accelerated as a result of this amendment includes:

- Extension of the access road from West 64th Parkway and Highway 93, including construction of a roundabout. Earlier construction of the roundabout allows for improved flow of traffic at the site entrance, thereby improving site safety. This work was originally planned to be constructed in GMP 8 – Site Finishes.
- Construction of dual 4-inch thickened solids pipelines and appurtenances from the NTP site to the existing solids drying beds. Earlier construction of the pipelines eliminates potential conflicts with Denver Water's Ralston Dam Primary Spillway Modification project, which is anticipated to commence construction in October 2019. This work was originally planned to be constructed in GMP 4C – Yard Pipe, Structures Concrete, Excavation, Site Backfill.

In addition to better aligning the proposed work with other Denver Water projects, accelerating this work also balances resources, reduces escalation risk, and helps to offset remaining work to be completed during the project's peak construction timeline of 2021-2022.

### **Budget and Schedule:**

The total amount of this amendment is \$1,779,092.15, which includes \$85,855.84 in contractor contingency, resulting in a revised GMP 4A contract total of \$13,503,154.77. Shifting this scope of work from later GMPs will result in a commensurate reduction in estimates at completion for GMP 4C and GMP 8. Contractor contingency for the accelerated work covers Kiewit Infrastructure, Co.'s risks related to dipping bedrock, weather, production, and existing utilities. The only known potential risk not covered by Kiewit Infrastructure, Co. for this work is the potential for a landslide to occur during pipe trench excavation along the steep incline north of Ralston Dam. Due to the difficulty in predicting the impact of such an occurrence, additional owner contingency is not proposed to cover this potential risk. The NTP team would request a change order should this occur. There is no impact to the schedule for completion of GMP 4A resulting from this amendment. Funds for this contract will come from the 2019 budget for the NTP business unit, which has sufficient funds to pay the \$1,500,000 estimated to be needed in 2019. The remaining \$279,092.15 will be budgeted in year 2020. The project's estimated costs remain within the approved project budget.

### **Selection of Business Partner:**

Kiewit Infrastructure, Co. was previously selected through a competitive selection process, and contracted through Contract 503388 executed by the Board on September 26, 2018. The work will be completed using a combination of Kiewit Infrastructure, Co.'s self-performance and suppliers that were procured by Kiewit Infrastructure, Co. through previously competitively bid contracts.

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**S/MWBE Information:**

The Minority and Women-owned Business Enterprise (MWBE) participation for GMP 4A will be reduced slightly to 4.8% from the original contracted participation of 5.48%. Based on the increased MWBE participation on previously contracted GMPs, NTP remains on track to meet or exceed the overall 8% goal for NTP construction.

**Recommendation:**

It is recommended that the Board approve the first amendment to Contract 503839 with Kiewit Infrastructure, Co. for an addition of \$1,779,092.15 for a total amended contract amount not-to-exceed \$13,503,154.77.

**Approvals:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager              | <input type="checkbox"/> Christopher R. Dermody, Chief Information Officer       |
| <input type="checkbox"/> Julie Anderson, Chief of Staff                         | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer             |
| <input type="checkbox"/> Jessica R. Brody, General Counsel                      | <input type="checkbox"/> Mike King, Chief External Affairs Officer               |
| <input checked="" type="checkbox"/> Angela C. Bricmont, Chief Financial Officer | <input checked="" type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer |
| <input type="checkbox"/> Gail Cagle, Chief Human Resources Officer              | <input checked="" type="checkbox"/> Thomas J. Roode, Chief Operations Officer    |