## MOFFAT COUNTY BOARD OF COUNTY COMMISSIONERS

1198 W. Victory Way Craig, CO 81625 (970) 824-5517

Tony Bohrer District l Melody Villard District 2 Donald Broom District 3

# Special Board Meeting Agenda

Minutes will be recorded for these formal meetings

Thursday, February 1, 2024

11:00 am

Call to order by the Chairman

Office of Development Services - Neil Binder

Contract amendment #2 with SGLC Consulting/Integrated Demolition & Remediation for Courthouse demolition

# Adjournment

The next scheduled BOCC meeting will be Tuesday, February 13, 2024 - 8:30 am

\*\* Agenda is Subject to Change until 24 hours before scheduled Hearings\*\*
The Board may alter the times of the meetings throughout the day, or cancel or reschedule noticed meetings



#### **CONTRACT AMENDMENT NUMBER 2**

This CONTRACT AMENDMENT NUMBER 2 (""Amendment 2"") made this 1st day of February, 2024, by and between the Board of County Commissioners of Moffat County, Colorado ("BOCC") and SGLC Consulting, Inc. ("SGLC"), whose address is 25 W. Timber Draw, Edwards, CO 81632 and whose telephone number is 720-412-7879 and Integrated Demolition and Remediation, Inc. ("IDR"), whose address is 4938 E. La Palma Ave., Anaheim, CA 92807 and whose telephone number is 714-321-3732. SGLC and IDR have a Teaming Agreement-Hazmat Abatement dated December 20, 2023, stating that SGLC is the Prime contractor and IDR is the Subcontractor, for the Courthouse Demolition Project located in Moffat County, Colorado. For purposes of this Contract Amendment Number 2, SGLC and IDR shall be considered as "Contractors" for this project, and the Parties to this Contract Amendment Number 2 are BOCC, SGLC, and IDR. The Parties acknowledge that SGLC and IDR have a Teaming Agreement between them and BOCC is not a Party to said Teaming Agreement.

#### RECITALS

- A. BOCC and SGLC are signatories to a Contract of Services Agreement with an effective date of September 12, 2023.
- B. Said Agreement identified services to be provided by SGLC to BOCC in accordance with the Scope of Work outlined in Exhibits A and B with regard to RFP 202309 Old Courthouse Demolition.
- C. Said Agreement identified payment for the Scope of Work by BOCC to SGLC for an amount of \$493,492.00.
- D. Said Agreement was subsequently amended by Contract Amendment Number 1, with an effective date of December 12, 2023, which added to the Scope of Work by SGLC and also increased the total amount to be expended by BOCC for the Scope of Work to a total contract amount of \$2.486,176.00.
- E. The Parties agree it is appropriate to amend the original Agreement of September 12, 2023, and Contract Amendment Number 1 to include IDR and SGLC together as Contractors to provide the Scope of Work outlined in those agreements and this Contract Amendment Number 2.
- F. The Parties agree it is appropriate to amend the original Agreement of September 12, 2023, and Contract Amendment Number 1 so the total amount to be paid by BOCC to Contractors (SGLC and IDR) for the Scope of Work set forth in the original Agreement and Contract Amendment Number 1 continues to be a total of \$2,486,176.00.

WHEREAS, the Contractors, SGLC and IDR, have been selected to provide services, in accordance with the provisions of the Moffat County Purchasing Manual; and

WHEREAS, the BOCC wishes to employ the services of Contractors as independent contractors and Contractors wish to provide services to the BOCC; and

WHEREAS, the BOCC has authority to acquire the services described in this Agreement under the provisions of § 30-11-101, et seq., C.R.S., as amended.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth hereinafter, the BOCC and the Contractors agree as follows:

AMENDMENTS. BOCC and Contractors agree that the previous Agreement and Contract Amendment Number 1 are incorporated herein by reference. Except as amended herein, this Amendment is subject to the terms of said Agreement and any previous Amendments referencing said Agreement.

The previous Agreement and Contract Amendment Number 1 are hereby amended to add Integrated Demolition and Remediation Inc. ("IDR") to both of those agreements as Contractor, so that both SGLC and IDR are responsible for the Scope of Services set forth therein, and all Parties are subject to the terms and conditions of this Contract Amendment Number 2, which may also be referred to as "Agreement" in the remainder of this Contract Amendment Number 2.

## Article 1 - Scope of Work.

- 1. The Contractors shall complete all tasks to satisfaction as needed to demolish the old County Courthouse located at 221 W. Victory Way, Craig, CO 81625 as outlined in the Exhibits below, which are attached hereto and incorporated herein:
  - Exhibit "A" RFP 202309 Old Courthouse Demolition.
  - o Exhibit "B" RFP 202309 Submittal from SGLC Consulting, Inc.
  - Exhibit "A" to Contract Amendment Number 1.

#### Article 2 - Time of Performance.

2.1 Services of the Contractors shall commence on 09/12/2023 and shall be substantially completed on or before 12/31/2024, no matter the date of execution of this agreement.

#### Article 3 - Compensation/Appropriation.

- 3.1 The amount to be expended pursuant to this Amendment 2 is unchanged from Contract Amendment Number 1. The amount shall continue to be Two Million Four Hundred Eighty-Six Thousand One Hundred Seventy-Six Dollars and Zero Cents (\$2,486,176.00). No increase in the total amount of compensation for the Scope of Services set forth herein is intended by the Parties. The BOCC has lawfully appropriated an amount that is equal to or in excess of the compensation set forth herein, which amount shall constitute the contract amount.
- Non-Appropriation: Each party hereto agrees that the revenues and expenditures hereunder shall <u>constitute</u> <u>current expenditures and revenues payable and receivable in the fiscal years for which funds</u> are appropriated for the payment thereof. The obligations of the parties under this agreement shall be from year to year only and shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation or any obligation payable in any fiscal year beyond the fiscal year for which funds are appropriated for the payment thereof or payable from any funds other than funds appropriated for the payment of current expenditures. No provision of this agreement shall be construed to pledge credit or to create a lien on any class or source of either party's monies. Notwithstanding any termination, the parties shall remain liable for any amounts for prior services provided and not paid.
- 3.3 LIQUIDATED DAMAGES: BOCC and CONTRACTORS recognize that time is of the essence of this Agreement and that BOCC will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 2.1 above. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by BOCC if the Work is not substantially complete on time. Accordingly, instead of requiring such proof, BOCC and Contractors agree that as liquidated damages for delay (but not as a penalty) Contractors shall pay BOCC One Hundred dollars (\$100.00) for each day that expires after the time specified in paragraph 2.1 for substantial completion until the Work is substantially complete.

#### Article 4 - Payment Procedures.

CONTRACTORS shall submit Applications for Payment to the DEVELOPMENT SERVICES DEPARTMENT for processing.

- 4.1 PROGRESS PAYMENTS: MOFFAT COUNTY shall make monthly progress payments on account of the Contract Price on the basis of CONTRACTORS' Applications for Payments as recommended by the DEVELOPMENT SERVICES DEPARTMENT, as provided below and concurrent with Moffat County's payment procedures. All progress payments will be based on the progress of the work measured.
- 4.2 Prior to Substantial Completion, progress payments will be in an amount equal to:
  - o 95% of the work completed, and
  - o 95% of materials and equipment not incorporated in the work but delivered and suitably stored less in each case the aggregate of payments previously made.
- 4.3 Upon Substantial Completion, BOCC shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts as DEVELOPMENT SERVICES DEPARTMENT shall determine.
- 4.4 FINAL PAYMENT: Upon final completion and acceptance, BOCC shall pay the remainder of the Contract Price as recommended by the DEVELOPMENT SERVICES DEPARTMENT. The final payment shall not be made until after final settlement of this contract has been duly advertised at least ten days prior to such final payment by publication of notice thereof at least twice in a public newspaper of general circulation published in Moffat County, and the Board of County Commissioners has held a public hearing, thereupon and complied with § 38-26-107 C.R.S. as amended. Final payment shall be made in accordance with the requirements of previously mentioned statute.

Final Payment shall not become due unless and until the following conditions precedent to Final Payment have been satisfied: (a) Approval and acceptance of Contractors' work by Moffat County; (b) delivery to Moffat County of all manuals, "as-built" drawings, guarantees and warranties for material and equipment furnished by Contractors, or any other documents required by the Contract Documents; (c) furnishing to BOCC satisfactory evidence by Contractors that all labor, material accounts, and subcontractor accounts incurred by contractor in connection with his Work have been paid in full.

4.5 If any dispute arises as to the Work performed pursuant to this Agreement or the payment for Work performed pursuant to this Agreement, such dispute must be resolved so far as it is possible in the same year when the Work is performed and money has been appropriated for said Work. If there is no communication or attempt to timely resolve the problem(s) with either the Work or the payment therefor, then BOCC shall no longer be required to pay for said Work and shall be relieved of any and all liability to Contractors for such nonpayment.

## Article 5 - Records, Reports, and Information.

At such times and in such forms as the BOCC may require, Contractors shall furnish statements, records, reports, data and information pertaining to matters covered by this Agreement. The Contractors shall maintain their records in accordance with requirements prescribed by the BOCC. Except as otherwise authorized by the BOCC, Contractors shall maintain such records for a period of seven (7) years after receipt of final payment under this Agreement.

#### Article 6 - Audits and Inspections.

At any time during normal business hours and as often as the BOCC may deem necessary, Contractors shall make their records with respect to matters covered by this Agreement available for examination. The Contractors shall permit the BOCC to audit, examine, and make excerpts from such records and audit all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to this Agreement. The BOCC may call for a certified, independent audit to be performed by a mutually agreed upon auditor.

# Article 7 - Independent Contractor.

The Contractors shall perform their duties hereunder as independent contractors and not as employees. Contractors affirm that they have or will secure at their own expense all personnel and materials required to perform the services detailed in Exhibit A, and Exhibit B of the original Agreement, and Exhibit A of the Contract Amendment Number 1. Such personnel shall not be employees of, nor have any contractual relationship with the BOCC.

- 7.1 Services required hereunder shall be performed by the Contractors or under their supervision, and all personnel engaged in the work shall be fully qualified and properly licensed or certified, as required by local, state and federal law or regulation to perform such services. Neither Contractors nor their personnel, if any, are entitled to Worker's Compensation Benefits or any other benefit of employment with Moffat County, Colorado. Further, Contractors are obligated to pay federal and state income tax on any compensation paid pursuant to this Agreement.
- 7.2 None of the services to be performed by Contractors under this Agreement shall be subcontracted or otherwise delegated without the prior written consent of the BOCC. The work subcontracted shall be specified in a written agreement between Contractors and their subcontractor(s), which agreement(s) shall be subject to each provision of this Agreement.

#### Article 8 - No Assignment.

The Contractors and subcontractor(s) hereto shall not assign or transfer any rights in this Agreement without the prior written consent of the BOCC.

#### Article 9 - Compliance with Laws.

The Contractors shall comply with all applicable federal, state and local laws, ordinances, resolutions, codes and regulations in providing the services detailed in Exhibit "A" RFP 202309 Old Courthouse Demolition, Exhibit "B" RFP 202309 Submittal from SGLC Consulting, Inc, and Exhibit "A" to Contract Amendment Number 1.

#### Article 10 - Indemnification.

The Contractors agree to indemnify and hold harmless the BOCC, and its officers, employees and agents, acting officially or otherwise, from any and all claims, demands, damages, and actions of any kind brought by anyone, including attorney's fees, which may arise out of or result from the negligent or willful misconduct of Contractors or its subcontractor(s) in the performance of services as set forth in this Agreement and/or the breach of any condition(s) of this Agreement.

Nothing herein shall be interpreted as a waiver of governmental immunity to which the BOCC may otherwise be entitled under the provisions of § 24-10-101, et seq., C.R.S., as amended.

#### Article 11 - Insurance.

At all times during the term of this Agreement, Contractors shall maintain the following insurance in the minimum coverage limits specified:

- Workers' Compensation & Employers' Liability and Unemployment Insurance: in accordance with §§ 8-40-101 and 8-70-101, et seq., C.R.S., as amended;
- Comprehensive General Liability, including broad form property damage: \$1,000,000.00 per person and \$1,000,000.00 per occurrence or as specified in the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as amended whichever amount is greater, and in addition \$1,000,000 aggregate.
- Comprehensive Automobile Liability, including all owned, non-owned and hired vehicles: \$1,000,000.00 per person and \$1,000,000.00, per occurrence or as specified in the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as amended whichever amount is greater;

If any aggregate limits set forth above are reduced below the stated amount because of claims made or paid during the required policy period, the Contractors shall immediately obtain additional insurance to restore the full aggregate limit and furnish a certificate or other document showing compliance with this provision.

All insurance shall be issued by company(ies) authorized to do business in the State of Colorado and shall be written in a form satisfactory to the BOCC and filed with and approved by the Colorado Department of Insurance. Contractors shall demonstrate contractual liability coverage supporting the indemnity provisions of this Agreement, either through policy language or by waiver of exclusion. The BOCC shall be named as an additional insured on Contractor's Comprehensive General Liability Policy. Proof of Workers' Compensation & Employer's Liability and Unemployment Insurance is required. Certificate(s) of insurance and appropriate endorsements required by this Agreement shall be delivered to the BOCC at the time originals of this Agreement, executed by the Contractors, are delivered to the BOCC's Representative, identified below, for execution by the BOCC. The Certificate(s) shall provide that the insurance may not be materially changed, altered or canceled by the insurer without first giving ten (10) days written notice by certified or registered U. S. Mail, return receipt requested, to the BOCC.

## Article 12 - Document Ownership - Works Made for Hire.

All of the deliverable items, if any, prepared for the BOCC under this Agreement shall belong exclusively to the BOCC and shall be deemed to be "works made for hire" under the copyright laws of the United States. To the extent any of the deliverable items may not, by operation of law or otherwise, be works made for hire, the Contractors hereby assign to the BOCC the ownership of the copyright in the deliverable items, and the BOCC shall have the right to obtain and hold in its own name, copyrights, registrations, and similar protections.

The Contractors agree to give the BOCC or its designee all assistance reasonably required to perfect such rights. To the extent that any pre-existing materials are contained in the deliverable items, the Contractors grant to the BOCC an irrevocable, non-exclusive, worldwide, royalty-free license to use, execute, publish, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such pre-existing materials and derivative works thereof and to authorize others to do any, some, or all of the foregoing.

## Article 13 - Inspections, corrections, removal, or acceptance of defective work

#### 13.01 Notice of Defects

A. Prompt notice of all defective Work of which BOCC has actual knowledge will be given to Contractors. Defective Work may be rejected, corrected, or accepted as provided in this Article 13. Notice shall be hand-delivered, emailed, or sent by US mail at the discretion of the BOCC.

#### 13.02 Acknowledgement of Notice by Contractors

Contractors shall respond to BOCC's notice of defective work within 7 days after receiving such notice.

#### 13.03 BOCC May Stop the Work

A. If the Work is defective, or Contractors fail to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, BOCC may order Contractors to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

## 13.04 Correction or Removal of Defective Work

A. Promptly after receipt of written notice, Contractors shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by BOCC, remove it from the Project and replace it with Work that is not defective. Contractors shall pay all claims, costs, losses, and damages arising out of or relating to such correction or removal.

#### 13.05 Correction Period

- A. If within 30 days year after the date for time of performance or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the BOCC's property or areas made available for Contractor's use by BOCC or permitted by Laws and Regulations is found to be defective, Contractors shall promptly, without cost to BOCC and in accordance with BOCC's written instructions:
  - 1. Correct such defective Work; or
  - 2. if the defective Work has been rejected by BOCC, remove it from the Project if possible and replace it with Work that is not defective, and
  - 3. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or BOCC's property or areas resulting therefrom.
- B. If Contractors do not promptly comply with the terms of BOCC's written instructions, or in an emergency where delay would cause serious risk of loss or damage, BOCC may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages arising out of or relating to such correction or repair or such removal and replacement will be paid by Contractors.

## 13.06 Acceptance of Defective Work

A. If, instead of requiring correction or removal and replacement of defective Work, BOCC prefers to accept it, BOCC may do so. Contractors shall pay all claims, costs, losses, and damages attributable to BOCC's evaluation of and determination to accept such defective Work and for the diminished value of the Work to the extent not otherwise paid by Contractors pursuant to this sentence. If any such acceptance occurs, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and BOCC shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted.

# 13.07 BOCC May Correct Defective Work

A. If Contractors fail within a reasonable time after written notice of defective Work from BOCC to correct defective Work, or to remove and replace rejected Work as required by BOCC, or if Contractors fail to perform the Work in accordance with the Contract Documents, or if Contractors fail to comply with any other provision of the Contract Documents, BOCC may, after seven days written notice to Contractors, correct, or remedy any such deficiency.

In the event that the Contractors do not acknowledge notice of defective Work from BOCC, BOCC may refuse to pay whole or any part of any payment owed to contractors to protect BOCC from Loss because:

- 1. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- 2. the Contract Price has been reduced by Change Orders;
- 3. Contractors have been required to correct defective Work or complete Work in accordance with Paragraph 13.04.

IN THE EVENT THE CONTRACTOR ABANDONS THE WORK OR CEASES TO COMMUNICATE WITH THE BOCC, AND THE CALENDAR YEAR IN WHICH THE BOCC HAS APPROPRIATED FUNDS HAS PASSED, THEN THE BOCC SHALL NOT BE LIABLE TO PAY CONTRACTOR FOR ANY WORK PURSUANT TO THIS AGREEMENT.

#### Article 14 Termination for Cause.

14.01 If the Contractors or the BOCC fails to fulfill its obligations under this Agreement in a timely and proper manner or violates any of the provisions of this Agreement, the non-defaulting party shall thereupon have the right to terminate this Agreement for cause by giving written notice to the defaulting party of such termination and specifying the effective date of termination. The defaulting party, however, shall not be relieved of liability to the non-defaulting party for damages sustained by virtue of any breach of this Agreement. In the event of default by the Contractors, the BOCC may withhold payments due under Article 4, above, for the purpose of set-off until such time as the exact amount of damages due the BOCC from the Contractors is determined.

14.02

- A. The occurrence of any one or more of the following events will justify termination for cause:
  - Contractors' failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment.
  - 2. Contractors' disregard of Laws or Regulations of any public body having jurisdiction;
  - 3. Contractors' violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 14.02.A occur, BOCC may, after giving Contractors seven days written notice of its intent to terminate the services of Contractors:
  - 1. Exclude Contractors from the Site, and take possession of the Work.
  - 2. Incorporate in the Work all materials and equipment stored at the Site or for which BOCC has paid Contractors but which are stored elsewhere; and
  - 3. Complete the Work as BOCC may deem expedient.

- C. If BOCC proceeds as provided in Paragraph 14.02.B, Contractors shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages sustained by BOCC arising out of or relating to completing the Work, such excess will be paid to Contractors. If such claims, costs, losses, and damages exceed such unpaid balance, Contractors shall pay the difference to BOCC.
- D. Notwithstanding Paragraphs 14.02.B and 14.02.C, Contractors' services will not be terminated if Contractors begin within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractors' services have been so terminated by BOCC, the termination will not affect any rights or remedies of BOCC against Contractors then existing or which may thereafter accrue. Any retention or payment of moneys due Contractors by BOCC will not release Contractors from liability.

# Article 15 - Termination for Convenience.

The BOCC may terminate this Agreement without cause at any time by giving at least thirty (30) days written notice to the Contractors. If this Agreement is terminated for the convenience of BOCC, the Contractors shall be paid for services provided prior to the date of termination.

#### Article 16 - Conflict of Interest.

During the term of this Agreement, the Contractors shall not perform similar services for persons, firms, or entities, including governmental entities, which have the potential to create a conflict of interest, unless the potential conflict is disclosed to and approved by the BOCC.

#### Article 17 - Modifications.

This Agreement may not be modified, amended or otherwise altered unless mutually agreed upon in a writing executed by the BOCC and the Contractors.

#### Article 18 - Governing Law.

The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either the BOCC or Contractors institute legal action for enforcement of any obligation contained herein, it is agreed that venue shall be in Moffat County, Colorado.

#### Article 19 - Severability.

Should any provisions of this Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, the remaining provisions of the Agreement shall remain in full force and effect.

## Article 20 - Notices.

Notices to be provided under this Agreement shall be given in writing either by hand delivery or by certified return receipt requested United States mail, to the following:

Tony Bohrer MCBOCC Chair 1198 W. Victory Way, Ste. 104, Craig, CO 81625 (970) 824-5516

714-321-3732

SGLC Consulting, Inc.
Susan Cunningham
25 W. Timber Draw, Edwards, CO 81632
720-412-7879

Contractor: Integrated Demolition and Remediation, Inc. Nick Vora 4938 E. La Palma Ave., Anaheim, CA 92807

#### Article 21 - Headings.

Titles and paragraph divisions are inserted in this Agreement for ease of reference and do not define, limit, or prescribe the scope or intent of the provisions of this Agreement or any part thereof.

#### Article 22 - Authority.

Each person signing this Agreement represents and warrants that he/she is fully authorized to enter into and execute this Agreement and to bind the party represented to the provisions of this Agreement.

# Article 23 - Counterparts and Facsimile Signatures.

This Agreement may be executed in counterparts, each of which shall be deemed an original. Facsimile signatures of, or on behalf of, the BOCC or the Contractors on this Agreement and any modification hereto shall be effective for all purposes.

#### Article 24 - Force Majeure.

Neither party shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control, including but not limited to strikes, riots, war, and acts of God.

## Article 25 - Integration of Understanding.

This Agreement represents the entire Agreement between the parties and supersedes all prior negotiations and representations, whether written or oral. Nothing herein shall be deemed to give anyone not a party to this Agreement any right of action against either the BOCC or the Contractor.

[The remainder of this page left blank intentionally.]

IN WITNESS WHEREOF, the BOCC and the Contractor(s) have set their hands and seals.

# BOARD OF COUNTY COMMISSIONERS MOFFAT COUNTY, COLORADO ATTEST: Clerk to the Board **CONTRACTOR:** SGLC Consulting, Inc. By: Susan Cunningham STATE OF COLORADO **COUNTY OF MOFFAT** The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_\_, 2024 by Susan Cunningham in their capacity as for SGLC Consulting, Inc. Notary Public **CONTRACTOR:** Integrated Demolition and Remediation, Inc. By: Nick Vora STATE OF COLORADO ) ss. **COUNTY OF MOFFAT** The foregoing instrument was acknowledged before me this day of , 2024 by Nick Vora in their capacity as for Integrated Demolition and Remediation, Inc.

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**Notary Public**