

**CITY OF RIFLE, COLORADO  
RESOLUTION NO. 8  
SERIES OF 2014**

A RESOLUTION OF THE CITY OF RIFLE, COLORADO AMENDING  
SECTION 2.29 AND 2.30 OF THE CITY OF RIFLE PUBLIC WORKS MANUAL  
REGARDING SCOPE OF PAYMENT AND RETAINMENT.

WHEREAS, the City of Rifle Public Works Manual provides terms at Section 2.29 regarding the scope of payment under public works contracts; and

WHEREAS, the Rifle Public Works Manual provides at Section 2.30 that the City may retain a percentage of partial payments due to contractors under public works contracts; and

WHEREAS, §24-91-103, C.R.S., controls the percentage of amounts that the City may retain from the full amount of payment otherwise due to a public works projects contractor; and

WHEREAS, §24-91-103, C.R.S., was amended in 2011 by the passage of House Bill 11-1115 to amend the percentage of retainment permissible from certain partial payments due to public works contractors; and

WHEREAS, certain retainment related language of Section 2.30 is in conflict with state statutes or is otherwise obsolete; and

WHEREAS, to make the Rifle Public Works Manual retainment language comply with the limits on retainment set forth by statute, to clarify language regarding scope of payment, and to eliminate certain obsolete language, the Rifle City Council deems it necessary to amend Section 2.29 and Section 2.30 of the City of Rifle Public Works Manual.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIFLE, COLORADO, THAT:

1. The City incorporates the foregoing recitals as findings by the City Council.
2. The Rifle City Council hereby amends Section 2.29 and Section 2.30 of the Rifle Public Works Manual to read as follows, with additions shown in **bold, double underlined text**, and ~~strike through language is deleted~~:

2.29. SCOPE OF PAYMENT

Payment to the contractor will be made only for **completed work**. **Completed work means** the actual quantities of contract items constructed and installed in accordance with the plans and specifications.

Payment made at the contract unit price or lump sum amount bid shall be full compensation for furnishing all labor, materials, equipment, appurtenances, taxes, insurance, permits and incidentals necessary to complete the work as shown on the plans and as required by the

Specifications. Each item, fixture, piece of equipment, etc., shall be complete in place, operational and accepted.

No additional payment, over the amount bid, will be made for related work to any item unless specifically called for in the contract. Neither will payment be made for materials wasted, rejected or placed outside of plan limit lines.

### 2.30. PARTIAL PAYMENT AND CERTIFIED TAX REPORTS

The ~~engineer~~ **contractor**, on or about the twenty-fifth day of the month in which work on the project is performed, shall prepare for ~~contractor~~ **the engineer's** approval, a partial payment estimate of the ~~work performed and materials placed~~ **completed work accomplished from the last partial payment** in accordance with the contract documents.

**If not provided otherwise in the specific project contract documents, n**Not more than eighty (80) percent of the cost of materials and equipment delivered and suitably stored at or near the project site, but not incorporated in the **completed** work may be included in an estimate; provided however, the contractor shall furnish invoices and supportive data establishing title in the name of the ~~owner~~ **City**, to the engineer.

~~The amount to be retained from partial payments will be ten five percent of the value of completed work, exclusive of mobilization and payment for materials on hand. When the retainment on contracts exceeding \$80,000 in value has reached five percent of the amount of the contract, no further retainment will be made. The Amount of retainment will be held until such time as final payment is made, subject to with the following provision: When ninety seven and one half percent of the work has been completed, and provided that the amount of funds retained by the City exceeds twice the estimated value of the work remaining, the engineer may, at his discretion and the consent of the Surety, reduce the retained amount to twice the value of the work remaining to be done and provide the difference to the contractor when the City makes the next partial payment to contractor.~~

**Except for contracts as authorized by §24-91-110, C.R.S. where the contract price of a portion thereof is paid by a source which require an amount of retainment differing from the percentage set forth in this Section, t**The amount to be retained from partial payments will be ~~ten~~ **five** percent of the value of completed work, ~~exclusive of mobilization and payment for materials on hand. When fifty percent of the work required by contracts exceeding \$150,000. has been performed, no further retainment will be made if, in the opinion of the City, satisfactory progress is being made on the work.~~ **During any phase of the contract, the City may, upon written request by the contractor, and upon a finding by the City that satisfactory progress is being made in construction, authorize final payment from the retained amounts to the contractor or subcontractors who have completed their work in a manner finally acceptable to the City. The Amount of retainment will otherwise be held until such time as final payment is made by the City,** subject to with the following provision: When ninety seven and one half percent of the work has been completed, and provided that the amount of funds retained by the City exceeds twice the estimated value of the work remaining, the engineer may, at his discretion and

~~with the consent of the Surety, reduce the retained amount to twice the value of the work remaining to be done and provide the difference to the contractor when the City makes the next partial payment to contractor. Any amount retained~~ **Retainment** under this **Section 2.30** ~~provision~~ shall be subject to the requirements of Colorado Revised Statutes § 24-91-103.

Earnings so retained on contracts exceeding \$150,000- in value may be withdrawn by the contractor provided the contractor provides the City with ~~an irrevocable letter of credit in a form and~~ **acceptable securities as defined in §24-91-102(1), C.R.S., and as limited by §24-91-105, C.R.S.** **In the event contractor elects to provide a certificate of deposit as its acceptable security, such certificate of deposit shall be** from a financial institution acceptable to the owner **City**. ~~Any amounts so retained by the owner under this provision shall be subject to Colorado Revised Statute. § 24-91-105.~~

The ~~contractor~~ **engineer** upon receipt of each partial payment estimate shall either indicate his approval by signing and returning a copy to the ~~engineer~~ **contractor**, or return the estimate unsigned and indicate in writing his reason for refusing payment.

The ~~owner~~ **City**, within ~~fifteen~~ **thirty** (~~15~~**30**) days of presentation to the engineer of an approved partial payment estimate, shall pay the contractor the amount due thereon.

Upon receipt from the contractor of an approved designated semifinal estimate, ~~as prepared by the engineer:~~

- ~~A.~~ The contractor shall, in writing, request the engineer to make a semifinal inspection in preparation for final acceptance of the work by the ~~owner~~ **City**.
- ~~B.~~ ~~The contractor shall prepare and furnish the engineer certified city and county sales and use tax reports covering the equipment and materials incorporated in the work.~~

The engineer, upon receipt of written request for semifinal inspection, shall promptly make said inspection of the work and issue to the contractor a written notice advising him of any deficiencies, corrective measures or clean up that he must complete prior to preparation of the final payment request.

All work covered by partial payment made shall thereupon become the sole property of the owner, but this provision shall not be construed as relieving the contractor of the sole responsibility for the care and protection of the work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the owner to require the fulfillment of all terms of the contract documents.

THIS RESOLUTION was read, passed, and adopted by the Rifle City Council at a regular meeting held this 4<sup>th</sup> of June, 2014.

CITY OF RIFLE, COLORADO

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk