

**CITY OF STEVENSON, WASHINGTON  
RESOLUTION NO. 2022-400**

**RESOLUTION DECLARING A LOCAL EMERGENCY FOR CONSTRUCTION DUE  
TO SUPPLIER BREACH OF CONTRACT**

**WHEREAS**, the City of Stevenson is constructing upgrades to its wastewater treatment plant as outlined in Administrative Order Docket #14221 due to violations of our National Pollutant Discharge Elimination System (NPDES) permit; and

**WHEREAS**, the city was notified in early August of the supplier for the Fine Bubble Diffusers, Aquarius Technologies, was closing its doors and the City sent a formal notice requesting reassurance from the vendor on August 16, 2022; and

**WHEREAS**, the city did not receive a response to that letter; and

**WHEREAS**, due to the critical path nature of this product, delay of the construction may cause future NPDES permit violations; and

**WHEREAS**, the lead-time for the traditional procurement process and manufacturing of the equipment would take it outside of the contractor's construction schedule, causing the city to incur additional costs due to a delay; and

**WHEREAS**, after confirming with the funding agency, the Department of Ecology, that an emergency process could be used the city began obtaining quotes from other suppliers for the equipment; and

**WHEREAS**, on August 30<sup>th</sup> the city was informed via phone call Aquarius was back in operation and working out a schedule for delivery; and

**WHEREAS**, the City sent Aquarius a second formal notice on September 6, 2022, notifying Aquarius it must reassure the City Aquarius could meet specified delivery dates; and

**WHEREAS**, the city did not receive a response and accordingly terminated the Aquarius contract and notified Aquarius of the termination by letter dated October 3, 2022. The City then continued to procure the equipment elsewhere; and

**WHEREAS**, after a review of the quotes received and an evaluation on the cost and lead-time for each supplier, the city negotiated an agreement with Environmental Dynamics International; and

**WHEREAS**, there is an emergency present due to the potential safety to the public of delaying the treatment plant project, which necessitates the utilization of emergency powers granted pursuant to the RCW 39.04.280;

**WHEREAS**, to properly access appropriate services and equipment in a timely manner the City needs to waive competitive bidding requirements and award all necessary contracts on behalf of the City to properly address the Administrative Order.

**NOW THEREFORE**, the Stevenson City Council do resolve as follows:

**Section 1.** There is hereby declared an emergency as defined by RCW 39.04.280(3) due to the unforeseen nature of the condition and the immediate risk to damage property and endanger health that would result in a delay of the project due to a further delay in receiving this critical path equipment notwithstanding the City’s diligence in seeking compliance from the vendor.

**Section 2.** Pursuant to the emergency declared in Section 1, the Council ratifies the City Public Works Department’s procurement contract with Environmental Dynamics International in the sum of \$128,450.00 for the purchase and sale of the Fine Bubble Diffusers aeration system and such other necessary equipment to install that product as approved by the Mayor.

**Section 3.** The declaration of a local emergency set forth in Section 1 shall terminate when, in the Mayor’s judgment, the emergency measures contained herein are no longer required to safeguard property and public health.

Passed by the City Council this 12<sup>th</sup> day of October, 2022 by a majority of the Council.

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Scott Anderson, Mayor

ATTEST:

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Leana Kinley, Clerk/Treasurer

APPROVED AS TO FORM:

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Kenneth B. Woodrich, Attorney