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*sent via email: jtcrowley@smithcurrie.com*

John T Crowley, Esq.  
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2700 Marquis One Tower  
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*RE: Mediation – Settlement Offer from Driggs*

Dear Mr. Crowley,

I am writing to memorialize the last settlement offer that Driggs made to Victor at mediation yesterday evening. After nearly nine hours of negotiation, and after all parties had made significant concessions and substantial headway toward finding a middle ground, the City of Victor inexplicably rejected (without making any counter-offer) an objectively reasonable offer presented to Victor by the City of Driggs.

That offer was centered on the concept that Victor would move forward with building its own treatment plant (WWTP). The following is a written outline of the terms of the offer:

**Both Parties Agree:**

1. Both parties agree that they would enter a settlement agreement that would resolve all issues currently governed by the 2011 Inter-City Agreement. The settlement agreement would supersede the 2011 Inter-City Agreement, and the the 2011 Inter-City Agreement would no longer govern the relationship between the parties in regard to treatment of wastewater.
2. Both parties agree that Victor will have until October 1, 2030, to complete its own WWTP and, by that date, will disconnect from the Driggs WWTP. This is a critical deadline as Driggs anticipates that the new upgrades (currently more than a year under-way) to Driggs' WWTP will come online on October 1, 2030. The new upgrades are NOT designed to be able to handle all of the wastewater from both Driggs and Victor. In light of that critical design limitation, the parties agree that this settlement agreement must include the following language:



- a. The parties agree that the “disconnect deadline” of October 1, 2030, is a “material term” to this agreement, that is a “severable term” from the remaining terms of the agreement, and that Driggs explicitly reserves all remedies associated with any future breach of this term by Victor in the future.

**Victor’s Agreement:**

3. Victor agrees to continue to pay its portion of the “Operation and Maintenance” (O&M) costs for the Driggs WWTP from today’s date until the date that Victor disconnects from the Driggs WWTP. This is a critical term, as Driggs residents cannot be expected to pay all of the costs of processing Victor’s wastewater until Victor disconnects. However, Driggs was willing to agree to a “cap” on those O&M charges. Victor will not be required to pay more than \$260,000.00 per year until the date of disconnect. This “cap” was proposed by Victor based upon its average charges over the previous (15) years.
4. Victor will take possession of the “trunk-line” from the point of gravity flow to Victor on the date that Victor disconnects from the Driggs WWTP.
5. Victor agrees to a complete release of any and all claims that Victor has against Driggs in any way arising from the 2011 Inter-City Agreement or related to the treatment of wastewater in general. This would be a complete release of all claims, with all such standard terms.

**Driggs’ Agreement:**

6. Driggs will continue to accept Victor’s wastewater until October 1, 2030.
7. Driggs will waive all of Victor’s remaining \$158,287.00\*\* annual debt service payments. These payments were scheduled out through 2036 (total of approximately \$1.7 Million). Even limiting this calculation to the payments due through 2030 (when Victor would disconnect from the Driggs WWTP), this amounts to a savings to Victor of approximately \$950,000.00.
  - a. \*\*It should be noted that the reduced figure of \$158,287.00 in debt-service due by Victor to Driggs, already incorporates Driggs’ credit to Victor of about \$450,000 in “overpayments” by Victor.
8. Driggs will release Victor from its current obligation to pay for necessary capital improvements to the 2011 Driggs WWTP, including a \$1.4 Million “drum screen” replacement that is due this year. This expense would be shared between the parties based upon flow and amortized over (10) years. It would result in Victor owing approximately \$70,000.00 per year to Driggs. Again, limiting this calculation to the

payments that would be due through October 2030, this is a savings to Victor of approximately \$300,000.00.

9. Driggs will release Victor from its obligation to pay for sludge removal at the Driggs WWTP. As of the date that Victor would disconnect from the Driggs WWTP, sludge has been piling up for nearly (20) years. Under the 2011 Inter-City Agreement, Victor would be responsible for its proportionate share of the cost for “sludge removal.” Driggs estimates that this amounts to approximately a \$1.5 Million savings to Victor.
10. Driggs will waive its claim to approximately \$500,000.00 in re-design engineering fees to Forsgren Engineering. These re-design fees were caused by Victor’s decision to opt-out of future capital improvements – after Victor had notified Driggs in writing a year earlier that it intended to opt-in to the new WWTP plant upgrades. For a year, Driggs spent funds for engineered designs to include Victor’s flows. This amounts to a savings of \$500,000.00 to Victor.
11. Driggs will take possession of the trunk-line from the point of gravity flow to Driggs (Driggs portion of the trunkline) on the date that Victor disconnects from the Driggs WWTP.
12. Driggs will collect all connection fees from new connections to the Driggs portion of the trunkline from the date of the settlement agreement into the future.
13. Driggs will retain all capital improvements and/or depreciated value of the 2011 Driggs WWTP.
14. Driggs agrees to a complete release of any and all claims that Driggs has against Victor in any way arising from the 2011 Inter-City Agreement, or related to the treatment of wastewater in general. This would be a complete release of all claims, with all such standard terms.

In sum, the parties would agree to part-ways on October 1, 2030. Driggs would agree to accept Victor’s wastewater for effectively (5) more years with Victor only being obligated to pay \$260,000 per year in “O&M” costs. This is a tremendous savings to Victor residents in excess of \$3,250,000.00 in waiver of debt-service and waiver of contractual operation expenses due over the next (5) years. This money could be banked to off-set Victor’s costs in constructing a new WWTP.

Driggs would request that Victor reconsider this offer.

Sincerely,



Sam L. Angell

Cc: Mayor August Christensen

