

**Town of Lyons, Colorado
FOURTH AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT WITH MURRAYSMITH, INC.**

Project/Services Name: On-Call Engineering Services

This FOURTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (“Fourth Amendment is made and entered into on the date upon which it is mutually executed by the Parties (the “Effective Date”), by and between the TOWN OF LYONS, COLORADO, a municipal corporation of the State of Colorado, with offices at 432 5th Avenue, Lyons, Colorado 80540 (the “Town”), and Murraysmith, Inc. with offices at 1157 W. Century Drive, #220, Louisville, CO 80027 (the “Contractor”). The Town and Contractor may be referred to collectively as the “Parties” or each individually as “Party”.

WITNESSETH

WHEREAS, pursuant to Resolution 2019-68 the Town and Contractor entered into that certain Professional Services Agreement dated July 9, 2019 (“Original Agreement”) for the Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **ONE HUNDRED DOLLARS AND NO CENTS (\$100,000.00)** as part of the Project/Services Name: On-Call Engineering Services (the “Project”); and

WHEREAS, Sections 1.3 and 10.12 of the Agreement require that any amendment to the Agreement be in writing and signed by the Parties; and

WHEREAS, Section 4.1 of the Original Agreement requires that both parties mutually agree in writing to extend the term of the Original Agreement; and

WHEREAS, pursuant to Resolution 2020-96 and to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to the Original Agreement dated June 18, 2020 in order to update their Scope of Work and Fee in the Original Agreement to allow for annual contract renewals, subject to prior appropriation, at the established rate of **ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00)** per year with the total contract amount of **TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$200,000.00)**; and

WHEREAS, pursuant to Resolution 2021-70 and to the amendment provisions of the Original Agreement, the Parties entered into that certain **Second Amendment** to the Original Agreement dated August 5, 2021 in order to memorialize that the Parties have acted as if the contract has been amended under the First Amendment through June 30, 2021 for an additional **ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00)** due to the emergency created by COVID-19, and also to extend the term through June 30, 2022 for the previously agreed upon rate of **ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00)** annually for a base contract total of **FOUR HUNDRED THOUSAND DOLLARS AND NO CENTS (\$400,000.00)**, and to add the scope of work for new design for the Black Bear Hole, 2nd Avenue Trailhead Access and Improvements at LaVern M. Johnson Park (“Black Bear Hole”) as specified in **Exhibit A** for an additional increase to the contract of **TWENTY-SEVEN THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS AND NO CENTS (\$27,976.00)** to be funded by a Great Outdoors Colorado (GOCO) grant for a new total not-to-exceed amount of **FOUR HUNDRED TWENTY-SEVEN THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS AND NO CENTS (\$427,976.00)** with the continued option to renew annually beyond the current Contract Term Date of June 30, 2022 at the agreed upon annual rate; and

WHEREAS, pursuant to Resolution 2021-112 and to the amendment provisions of the Original Agreement, the Parties entered into that certain **Third Amendment** to the Original Agreement dated November 2, 2021 in order to add the scope of work for new design for the US Highway 36 / Broadway Multimodal Improvements for an additional increase to the contract of **FOUR HUNDRED FORTY-EIGHT THOUSAND TWO HUNDRED NINETY-TWO DOLLARS AND NO CENTS (\$448,292.00)** to be funded by a Colorado Department of Transportation (CDOT) – Transportation Improvement Project (TIP) grant and to extend the date of the contract for this scope only until May 31, 2023 for a new total not-to-exceed amount of **EIGHT HUNDRED SEVENTY-SIX THOUSAND TWO HUNDRED SIXTY-EIGHT DOLLARS AND NO CENTS (\$876,268.00)**; and

WHEREAS, the Parties desire to enter into a Fourth Amendment to the Professional Services Agreement in order to amend the contract to extend the term through December 31, 2022 for a proration of the previously agreed upon rate, for **FIFTY THOUSAND DOLLARS AND NO CENTS (\$50,000.00)** for an additional half of one year for a base contract total of **FOUR HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$450,000.00)**, and to add additional scope of work and fee for the Black Bear Hole, 2nd Avenue Trailhead Access and Improvements at LaVern M. Johnson Park as specified in **Exhibit A** for an additional increase to the contract of **THIRTY-FIVE THOUSAND FOUR HUNDRED FIFTY-FIVE DOLLARS AND NO CENTS (\$35,455.00)**, this portion of which is to be funded by a Great Outdoors Colorado (GOCO) grant and the Town for a Black Bear Hole scope total of **SIXTY-THREE THOUSAND FOUR HUNDRED THIRTY-ONE DOLLARS AND NO CENTS (\$63,431.00)** for a new total not-to-exceed contract amount of **NINE HUNDRED SIXTY-ONE THOUSAND SEVEN HUNDRED TWENTY-THREE DOLLARS AND NO CENTS (\$961,723.00)** as specified in **Exhibit B (“Fourth Amendment”)**;

NOW, THEREFORE, for the consideration herein expressed, it is agreed by and between the Town and the Contractor that the Agreement shall be amended as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as though set forth in full.
2. **Original Terms and Conditions.** Except as amended herein, the original terms and conditions of the Agreement remain in full force and effect.
3. **Scope of Work.** The Original Agreement is hereby amended by adding the documents that indicate the correct scope and costs for the Project as set forth specifically in documents titled **“EXHIBIT A & B”**, a copy of which is attached hereto to this Fourth Amendment and incorporated herein by reference.
4. **Contract Sum and Payment.** The first sentence of Section 5.00 of the Original Agreement entitled “Contract Sum and Payment” is hereby amended to read in full as follows:

The Owner shall pay to the Contractor for performance of the Work encompassed by this Agreement, and the Contractor will accept as full compensation therefore the sum of **NINE HUNDRED SIXTY-ONE THOUSAND SEVEN HUNDRED TWENTY-THREE DOLLARS AND NO CENTS (\$961,723.00)**; subject to adjustment as provided by the Contract Documents including the option to continue to automatically renew annually (“Contract Price”).

5. **Term.** Excluding the scope for the US Highway 36 / Broadway Multimodal Improvements which expires on May 31, 2023, the Term of the Agreement is now extended until December 31, 2022, with the continued option to renew annually.

6. **Force and Effect of Amendment.** Notwithstanding anything in the Original Agreement to the contrary, the Original Agreement shall be amended such that all references in the Original Agreement to "Agreement" shall refer to the Original Agreement as amended by this Fourth Amendment.
7. **Conflict.** This Fourth Amendment is and shall be construed as part of the Original Agreement. In case of any inconsistency between this Fourth Amendment and the Original Agreement, the provisions containing such inconsistency shall be reconciled with one another to the maximum extent possible, and then to the extent of any remaining inconsistency, the terms of this Fourth Amendment shall control.
8. **Counterparts. Facsimile or Electronic Signature; Authority.** The Parties hereto agree that this Fourth Amendment may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. The Parties further agree that this Fourth Amendment may be executed by facsimile or electronic signature, and that any facsimile or electronic signature shall be binding upon the Party providing such signature as if it were the Party's original signature.

IN WITNESS WHEREOF, the Parties have executed this Fourth Amendment to Professional Services Agreement, Project: **On-Call Engineering Services** to be effective as of the date of mutual execution by the Parties. By the signature of its representatives below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Fourth Amendment.

SIGNATURE PAGE FOLLOWS

THIS FOURTH AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT is executed and made effective as provided above.

TOWN OF LYONS, COLORADO:

ATTEST:

Approval by:

Dolores M. Vasquez, CMC, Town Clerk

By: _____
Hollie Rogin, Mayor

Date of execution: _____, 2022

MURRAYSMITH, INC.:

By: _____

Printed name: _____

Its: _____

STATE OF)
COUNTY OF) ss.

The foregoing Fourth Amendment to the Professional Services Agreement was acknowledged before me this ____ day of _____, 2022, by _____ as _____ of Murraysmith, Inc., a Colorado Corporation.

Witness my hand and official seal.
My commission expires: _____.

Notary Public
(Required for all contracts (C.R.S. § 8-40-202(2)(b)(IV))

EXHIBIT A –

Amendment 4: Scope of Work & Fee Estimate