

Town of Lyons, Colorado

SECOND AMENDMENT TO THE 2021 INSTALLATION AND MAINTENANCE OF SEASONAL LANDSCAPE SERVICES AGREEMENT WITH COCAL LANDSCAPE SERVICES INC

Project/Services Name: 2023 INSTALLATION AND MAINTENANCE OF SEASONAL LANDSCAPE SERVICES AGREEMENT WITH COCAL LANDSCAPE SERVICES INC

This SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT ("Second 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 **CoCal Landscape Services, Inc.** with offices at 333 East 76th Ave., Denver, CO 80229 (the "Contractor"). The Town and Contractor may be referred to collectively as the "Parties" or each individually as "Party".

WITNESSETH

WHEREAS, pursuant to Resolution 2021-32, the Town and Contractor entered into that certain Professional Services Agreement dated April 5, 2021 ("Original Agreement") for the Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **TWENTY-NINE THOUSAND DOLLARS AND ZERO CENTS (\$29,000)**; as part of the Installation and Maintenance of Seasonal Landscape Services with CoCal Landscape Services Inc. (the "Project"); and

WHEREAS, Section 4 of the Agreement provides that the Parties may mutually agree in writing to extend the term of the agreement, subject to annual appropriation and that any amendment to the Agreement be in writing and signed by the Parties; and

WHEREAS, the contractor requires an amendment to add an additional fee for services to be provided for the 2023 season as shown and described in **Exhibit A**, for an additional amount of **THIRTY-ONE THOUSAND DOLLARS AND ZERO CENTS (\$31,000)** for a new total not to exceed contact amount of **EIGHTY-NINE THOUSAND DOLLARS AND ZERO CENTS (\$89,000)** ("Second Amendment");

WHEREAS, the Parties agree that **FIFTY-EIGHT THOUSAND DOLLARS AND ZERO CENTS (\$58,000)** of the contract amount has already been expended through the 2022 season; and

WHEREAS, the Parties desire to enter into this Second Amendment to the Professional Services Agreement;

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 scope of work for 2023 is hereby attached as **Exhibit A**.
4. **Contract Sum and Payment.** The second sentence of Section 2.1 of the Original Agreement

entitled "Commencement of and Compensation of Services" is hereby amended to read in full as follows:

Compensation to be paid hereunder shall not exceed **EIGHTY-NINE THOUSAND DOLLARS AND ZERO CENTS (\$89,000)** unless a larger amount is agreed to by and between the Parties in accordance with the amendment requirements of this agreement.

5. **Term.** Section 4.1 of the Original Agreement, entitled "Term and Termination", shall change to read the following:

4.1 Term. This Agreement shall be effective on the date of mutual execution (the "Effective Date") and shall terminate at the earlier of the date on which all obligations of the parties have been met (to include all Services have been completed) or **11:59 p.m. on 30th day of November, 2023**, or on a prior date of termination as may be permitted by this Agreement; provided, however, that the Parties may mutually agree in writing to extend the term of this Agreement, subject to annual appropriation. Those provisions that survive termination, to include the indemnification obligations and any warranty obligations, shall remain in effect past termination.

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 First Amendment.
7. **Conflict.** This First Amendment is and shall be construed as part of the Original Agreement. In case of any inconsistency between this First 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 First Amendment shall control.
8. **Counterparts; Facsimile or Electronic Signature; Authority.** The Parties hereto agree that this First Amendment may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. The Parties further agree that this First 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 First Amendment to the Installation and Maintenance of Seasonal Landscape Services with CoCal Landscape Services Inc. 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 First Amendment.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

SIGNATURE PAGE FOLLOW

THIS SECOND 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: _____
Victoria Simonsen, Town Administrator

Date of execution: _____, 2023

CoCal Landscape Services, Inc.

By: _____

Printed name: _____

Its: _____

STATE OF _____
COUNTY OF _____)
) ss.

The foregoing First Amendment to the Construction Agreement was acknowledged before me

this _____ day of _____, 2023, by _____ as _____ of
_____, a _____.

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

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