

TOWN OF LYONS, COLORADO
RESOLUTION 2023-27

A RESOLUTION OF THE TOWN OF LYONS, COLORADO
APPROVING THE SIXTH AMENDMENT TO
THE PROFESSIONAL SERVICES AGREEMENT WITH CONSOR ENGINEERS, INC.
(PREVIOUSLY KNOWN AS MURRAYSMITH, INC.)
FOR ON-CALL ENGINEERING SERVICES

WHEREAS, the Town of Lyons (“Town”) has the authority to enter contracts for any lawful municipal purpose pursuant to C.R.S. § 31-15-101; and

WHEREAS, pursuant to Resolution 2019-68, the Town and Murraysmith, Inc. (“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 THOUSAND 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 a 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 entered into that certain 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 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 1** (“Fourth Amendment”);

WHEREAS, the Parties entered into that certain Fifth Amendment to the Professional Services Agreement in order to amend the contract to extend the term through December 31, 2023, for a proration of the previously agreed upon rate, for **FIFTY THOUSAND DOLLARS AND NO CENTS (\$50,000.00)** for an additional one year for a base contract total of **FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$500,000.00)**, and a new total not-to-exceed contract amount of **ONE MILLION ELEVEN THOUSAND SEVEN HUNDRED TWENTY-THREE DOLLARS AND NO CENTS (\$1,011,723.00)**; and

WHEREAS, Murraysmith, Inc. was purchased by Consor Engineers, Inc. on June 1, 2022, therefore changing the name of the contracted party for this agreement, and

WHEREAS, the Parties desire to enter into a **Sixth Amendment** to the Original Agreement in order to add the scope of work for engineering services for the Black Bear Hole, 2nd Avenue Trailhead Access and Improvements at LaVern M. Johnson Park (“Black Bear Hole”) for an additional increase to the contract of **FOURTEEN THOUSAND NINE HUNDRED NINETY DOLLARS AND NO CENTS (\$14,990.00)** to be funded by a Great Outdoors Colorado (GOCO) grant for scope total of **ONE HUNDRED THIRTEEN THOUSAND FOUR HUNDRED THIRTY-ONE DOLLARS AND NO CENTS (\$113,431)** for a new contract total not-to-exceed amount of **ONE MILLION TWENTY-SIX THOUSAND SEVEN HUNDRED THIRTEEN DOLLARS AND NO CENTS (\$1,026,713.00)**; and

WHEREAS, the Town of Lyons Board of Trustees desires to approve the Sixth Amendment to the Agreement with the Contractor and authorizes the Mayor to execute such

Sixth Amendment on behalf of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, COLORADO:

Section 1. The above recitals are hereby incorporated by reference.

Section 2. The Board of Trustees hereby:

- (a) Approves the Sixth Amendment to the Professional Services Agreement for the Project in substantially the form attached as **Exhibit 1**;
- (b) Approves the **Sixth Amendment** to the Original Agreement in order to add the scope of work for engineering services for the Black Bear Hole, 2nd Avenue Trailhead Access and Improvements at LaVern M. Johnson Park ("Black Bear Hole" for an additional increase to the contract of **FOURTEEN THOUSAND NINE HUNDRED NINETY DOLLARS AND NO CENTS (\$14,990.00)** to be funded by a Great Outdoors Colorado (GOCO) grant for scope total of **ONE HUNDRED THIRTEEN THOUSAND FOUR HUNDRED THIRTY-ONE DOLLARS AND NO CENTS (\$113,431)** for a new contract total not-to-exceed amount of **ONE MILLION TWENTY-SIX THOUSAND** This continues to include the option to renew annually beyond the revised Contract Term Date of December 31, 2022, at the agreed upon annual rate for the remaining portion of the contract;
- (c) Authorizes the Town Administrator and the Town Attorney, in consultation with the Mayor, to make such changes as may be necessary to correct any non-material errors or language in the Professional Services Agreement that does not increase the obligations of the Town;
- (d) Authorizes the Mayor or Mayor Pro Tem to execute the Fourth Amendment on behalf of the Town after the Contractor has signed the Professional Services Agreement and the Town Clerk to attest such signature; and

Section 3. This resolution shall take effect immediately upon adoption.

ADOPTED this 17th day of April 2022

TOWN OF LYONS, COLORADO

Hollie Rogin, Mayor

ATTEST:

Dolores M. Vasquez, CMC - Town Clerk

EXHIBIT 1: Murraysmith Amendment 6