

TOWN OF LYONS, COLORADO
RESOLUTION NO. 2017-36

**A RESOLUTION APPROVING A SECOND AMENDMENT TO THE DESIGN-BUILD
AGREEMENT (ST. VRAIN CREEK CHANNEL FLOOD RECOVERY) PROJECT NO. FR-CDBG-
SVC-A BETWEEN THE TOWN OF LYONS AND NARANJO CIVIL CONSTRUCTORS, INC.**

WHEREAS, the Town of Lyons ("Town") possesses the authority to contract for lawful purposes; and

WHEREAS, pursuant to Resolution 2015-79, the Town previously entered into that certain Design-Build Agreement (St. Vrain Creek Channel Flood Recovery) Project No. FR-CDBG-SVC-A with Naranjo Civil Constructors, Inc. dated August 3, 2015 and executed by the Parties on September 30, 2015 (the "Agreement"); and

WHEREAS, the intent of Resolution 2015-79 was to (1) accept a Community Development Block Grant-Disaster Recovery Grant in a not-to-exceed amount of \$2,498,060.00 for stream restoration; (2) award the bid to Naranjo Civil Constructors, Inc. for completion of such stream restoration; and (3) authorize Town staff to negotiate a design-build agreement with Naranjo Civil Constructors, Inc.; and

WHEREAS, the Parties entered into that certain First Amendment to Design-Build Agreement (St. Vrain Creek Channel Flood Recovery) Project No. FR-CDBG-SVC-A, in November, 2016 solely to extend the timeframe within which the Project may be completed; and

WHEREAS, Section 3.1.1 of the Agreement established a contract price in the not-to-exceed amount of Two Million Four Hundred Five Thousand Sixty Dollars and No Cents (\$2,405,060.00); and

WHEREAS, pursuant to the Agreement, Naranjo Civil Constructors, Inc. ("Contractor") provided additional items, including extended warranties on vegetation and irrigation and other related work, for a cost of Seventy-One Thousand One Hundred Seventy-Eight Dollars and Seventy-Five Cents (\$71,178.75), and Contractor has submitted to the Town a claim dated March 2, 2017 to increase the contract price set forth in the Agreement to reflect the cost of these additional items; and

WHEREAS, Section 10.1.1 of the Agreement requires that any approved change in the contract price resulting from a claim by the Contractor for such increase shall be authorized by Modification, Amendment, or Change Order; and

WHEREAS, Section 11.2.1 of the Agreement sets forth that the Agreement may be amended only by written instrument signed by the Parties; and

WHEREAS, the Town and the Contractor desire to amend the Agreement to reflect an increased contract price of **Two Million Four Hundred Seventy-Six Thousand One Hundred Seventy-Eight Dollars and Seventy-Five Cents (\$2,476,178.75)**, as set forth in the attached Second Amendment to the Design-Build Agreement between the Town and Naranjo Civil Constructors, Inc; and

WHEREAS, the Board of Trustees desires to approve the attached Second Amendment to the Design-Build Agreement between the Town and Naranjo Civil Constructors, Inc. ("Second

Amendment") and to authorize the Mayor or Mayor Pro Tem to execute and the Town Clerk to attest the Second Amendment.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Lyons as follows:

Section 1. The foregoing recitals are incorporated herein by reference.

Section 2. The Board of Trustees hereby approves the attached Second Amendment to the Design-Build Agreement between the Town and Naranjo Civil Constructors, Inc. ("Second Amendment") and further authorizes the Mayor or Mayor Pro Tem to execute and the Town Clerk to attest the Second Amendment.

Section 3. This resolution shall take effect immediately upon its approval by the Board of Trustees.

ADOPTED this 20th DAY OF MARCH 2017.

TOWN OF LYONS, COLORADO

Connie Sullivan, Mayor

ATTEST:

Deb Anthony, MMC – Town Clerk