

**Town of Lyons, Colorado**

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**

**Project No. 19-TSPM-02**

**Program Management Services for Flood Recovery Construction**

This FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("First Amendment") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, 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 **INTERWEST CONSULTING GROUP, INC.** offices located at: 3107 28<sup>th</sup> Street, Unit B, Boulder, CO 80302 (the "**Contractor**"). The Town and the Contractor may be referred to collectively as the "Parties" and each individually as "Party".

**WITNESSETH**

**WHEREAS**, the Town and Consultant entered into that certain Professional Services Agreement dated May 7, 2019 ("Original Agreement") for Consultant to provide professional design services for the Program Management Services for Flood Recovery Construction (No. 19-TSPM-02); and

**WHEREAS**, pursuant to the amendment provisions of the Agreement, the Parties desire to amend the Professional Services Agreement dated May 7, 2019 in order to include additional hours for management, design and construction support services for Apple Valley Waterline and Eastern Corridor Utilities Projects, and to provide Project Management services for other ongoing projects including: Lyons Valley River Park, St Vrain Creek Recovery and Evans Roadway Improvements and Emergency Siren System Expansion Projects ("First Amendment"); and

**WHEREAS**, Expenses for this Professional Services Contract are eligible for reimbursement through the Federal Emergency Management Agency ("FEMA") under multiple PWs and the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery ("CBDG-DR") under Boulder County Collaborative under various sub-allocations.; and

**WHEREAS**, the additional design and professional services outlined in EXHIBIT A & B of this First Amendment increases the contract amount by **ONE HUNDRED ONE THOUSAND THREE HUNDRED DOLLARS (\$101,300.00)**; and

**WHEREAS**, the First Amendment increases the not-to-exceed amount from **ONE HUNDRED ONE THOUSAND THREE HUNDRED DOLLARS (\$127,200.00)** to **TWO HUNDRED TWENTY- EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$228,500.00)**; and

NOW, THEREFORE, for sufficient consideration, it is agreed by and between the Town and the Contractor that the Original 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 terms and conditions of the Original Agreement, remain in full force and effect.

3. **Compensation.** The First Amendment increases the contract total by **ONE HUNDRED ONE THOUSAND THREE HUNDRED DOLLARS (\$101,300.00)** with a new not-to-exceed contract amount set forth at: **TWO HUNDRED TWENTY- EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$228,500.00);**

4. **Work Prior to this First Amendment.** The Parties acknowledge and agree that the Work conducted by Contractor on and after May 7, 2019 but prior to this First Amendment is and was subject to the Original Agreement.

5. **Compensation.** Section 2.00 of the Original Agreement, entitled "COMPENSATION.," is hereby amended to read in full as follows:

2.1 Commencement of and Compensation for Services. Following execution of this Agreement by the Town, the Contractor shall be authorized to and shall commence performance of the Services as described in **Exhibit A and B**, subject to the requirements and limitations on compensation as provided by this Section 2.0 and its subsections. Compensation to be paid hereunder shall not exceed **TWO HUNDRED TWENTY- EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$228,500.00)** unless a larger amount is agreed to by and between the Parties in accordance with the amendment requirements of this Agreement.

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.

9. **Terms.** Capitalized terms not otherwise defined in this First Amendment shall have the meaning set forth in the Original Agreement.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the Professional Services Agreement, 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.

*SIGNATURE PAGE FOLLOWS*

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

**TOWN OF LYONS, COLORADO:**

Approval by Town Board of Trustees

☐

By: \_\_\_\_\_  
Mayor or Mayor Pro Tem

Approval by Town Administrator

☐

By: \_\_\_\_\_  
Victoria Simonsen, Town Administrator

ATTEST:

\_\_\_\_\_  
Town Clerk or Deputy Town Clerk

**CONTRACTOR: INTERWEST CONSULTING GROUP**

By: \_\_\_\_\_

Printed name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing First Amendment to Construction Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, 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)))**