

**TOWN OF LYONS, COLORADO
RESOLUTION 2021-41**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO APPROVING THE TENTH
AMENDMENT TO THE DISASTER RECOVERY SERVICES AGREEMENT WITH OTAK, INC.
(FORMERLY LORIS AND ASSOCIATES, INC.) FOR CAPITAL IMPROVEMENT AND
DRAINAGE DESIGN SERVICES – 2nd AVENUE AND BRIDGE PROJECT**

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

WHEREAS, the Town has secured funding for capital Improvement and drainage design services on the 2nd Avenue and Bridge Project (the "Project") from the Federal Emergency Management Agency ("FEMA") under PW 613 and from the U.S. Department of Housing and Urban Development ("HUD") Community Development Block Grant Disaster Response ("CDBG-DR") program under Boulder County Collaborative; and

WHEREAS, pursuant to Resolution 2015-73 the Town of Lyons entered into that certain Disaster Recovery Professional Services Agreement executed July 10, 2015 ("**Original Agreement**") with OTAK, Inc., formerly known as Loris and Associates, Inc. ("Contractor") to perform work as specified in the Contract Documents, for a not-to-exceed cost of **TWO HUNDRED ELEVEN THOUSAND TWO HUNDRED NINETY-TWO DOLLARS AND NO CENTS (\$211,292.00)**, subject to the approval of FEMA; and

WHEREAS, Section 18 of the Agreement requires that amendments to the Agreement be in writing and signed by both Parties; and

WHEREAS, pursuant to Resolution 2017-21, the Town previously entered into that **First Amendment** to the Original Agreement dated January 30, 2017 to compensate the Contractor for re-designing the mitigation measures rejected by FEMA for an additional **TWENTY THOUSAND AND NO DOLLARS (\$20,000.00)**; and

WHEREAS, pursuant to Resolution 2018-62, the Town then entered into that **Second Amendment** to the Original Agreement dated July 19, 2018 to revise hourly rates and to compensate the Contractor for a third redesign of the bridge project, including new plans and reports and other related documents for an **additional FIFTY-TWO THOUSAND TWO HUNDRED DOLLARS AND NO CENTS (\$54,200.00)**; and

WHEREAS, pursuant to Resolution 2019-140, the Town then entered into that **Third Amendment** to the Original Agreement dated October 23, 2018 to add additional services to layout the options for the 2nd Avenue alleyway related to the revised 30% bridge design for the neighbors as an illustration of the proposed access impacts for an additional **ONE THOUSAND SEVEN HUNDRED TWENTY DOLLARS AND NO CENTS (\$1,720.00)**; and

WHEREAS, during the time of delay in the Project's design approval with FEMA, new state legislation was passed in the Colorado General Assembly regarding underground utility engineering and safety procedures; and

WHEREAS, the project must comply with SB 18-167 regarding underground utility safety and a subsurface utility engineering (SUE) investigation of the project area must be completed and a report summarizing the findings must be recorded; and

WHEREAS, the Town then entered into that **Fourth Amendment** to the Original Agreement dated December 10, 2019 to include Subsurface Utility Engineering work and additional construction oversight add services in which the contract total amount was increased by **FORTY-THREE THOUSAND SEVEN HUNDRED THIRTY DOLLARS AND NO CENTS (\$43,730.00)**; and

WHEREAS, during the time of delay in the Project's design approval with FEMA (from 2016 to 2019), the endangered species habitat (Preble's Meadow Jumping Mouse), wetlands/ Waters of the US (WUS) and the overall environment within the project area have naturally changed over time, therefore the initial data collected in 2015 needed to be verified and updated in order to meet the 404 permit application requirements, and to allow the completion of the project's original scope of work; and

WHEREAS, pursuant to Resolution 2019-140 dated October 21, 2019, the Parties then entered into that **Fifth Amendment** to the Original Agreement with the Contractor for an environmental update which increased the contract total by **FOUR THOUSAND EIGHT HUNDRED EIGHTY-NINE DOLLARS AND NO CENTS (\$4,889.00)**; and

WHEREAS, pursuant to Resolution 2020-67 dated April 20, 2020, the Parties then entered into that **Sixth Amendment** to the Original Agreement with the Contractor to complete the scope of work and new design standards set forth in the new CDOT bridge codes and engineering standards due to an unavoidable lapse in time between the initial 30% design submittal (2017) and 90% design submittal (2020), including design services, bid assistance, construction administration, SUE field work, billing rate updates, schedule and scope adjustments which increased the contract total by **SEVENTY- NINE THOUSAND SIX HUNDRED FORTY-ONE DOLLARS AND NO CENTS (\$79,641.00)**; and

WHEREAS, pursuant to Resolution 2020-81 dated May 18, 2020, the Parties then entered into that **Seventh Amendment** to the Original Agreement with the Contractor to revise the design for stairs to provide access for a property owner for an additional **SIX THOUSAND NINE HUNDRED SIXTY-SEVEN DOLLARS AND NO CENTS (\$6,967.00)**; and

WHEREAS, pursuant to Resolution 2020-122 dated August 6, 2020, the Parties then entered into that **Eighth Amendment** to the Original Agreement with the Contractor to 1) add services including private property easement support, hydraulic support, environmental support, and electrical undergrounding design, 2) add CDBG-DR provisions to the contract, and 3) add a contract termination date of April 30, 2021 for an increase to the contract of **TWENTY-NINE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS AND NO CENTS (\$29,343.00)**; and

WHEREAS, pursuant to Resolution 2021-15 dated January 21, 2021, the Parties then entered into that **Ninth Amendment** to the Original Agreement with the Contractor to realign the proposed storm sewer for an increase to the contract of **EIGHT THOUSAND FOUR HUNDRED FIFTY-SEVEN DOLLARS AND NO CENTS (\$8,457.00)**; and

WHEREAS, the Contractor requires another amendment to the Original Agreement in order extend the term to July 31, 2021 and to add scope to the Construction Administration

budget as shown in **Exhibit 1** for an increase to the contract by **NINETEEN THOUSAND EIGHT HUNDRED EIGHTY-THREE DOLLARS AND NO CENTS (\$19,883.00)** for a total not-to-exceed contract amount of **FOUR HUNDRED SEVENTY-EIGHT THOUSAND ONE HUNDRED TWENTY-TWO DOLLARS AND NO CENTS (\$478,122.00)** (“Tenth Amendment”);

WHEREAS, the Town Board of Trustees desires to approve the Tenth Amendment in substantially the form attached hereto as **Exhibit 1**.

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 Tenth Amendment to the Original Agreement for an increase to the contract by **NINETEEN THOUSAND EIGHT HUNDRED EIGHTY-THREE DOLLARS AND NO CENTS (\$19,883.00)** for a total not-to-exceed contract amount of **FOUR HUNDRED SEVENTY-EIGHT THOUSAND ONE HUNDRED TWENTY-TWO DOLLARS AND NO CENTS (\$478,122.00)** in substantially the form attached hereto in **Exhibit 1**;
- (b) 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;
- (c) Authorizes the Mayor or Mayor Pro Tem to execute the Tenth Amendment on behalf of the Town after Contractor has signed the Agreement and the Town Clerk attests such signature.

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

ADOPTED THIS 19TH DAY OF APRIL 2021.

TOWN OF LYONS, COLORADO

By: _____
Nicholas Angelo, Mayor

ATTEST:

Dolores M. Vasquez, CMC, Town Clerk

EXHIBIT 1:
OTAK, INC. – Amendment 10