

**TOWN OF LYONS, COLORADO
RESOLUTION 2020-67**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO APPROVING THE SIXTH
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

WHEREAS, pursuant to Resolution 2015-73 the Town of Lyons entered into that certain Disaster Recovery Professional Services Agreement dated July 6, 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)** as part of the Project, subject to the approval of FEMA; 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 (\$52,200.00)**; and

WHEREAS, 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, the Third Amendment was ratified by the Town in Resolution 2019-140; and

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

WHEREAS, SB 18-167 requires that underground utility safety, and a subsurface utility engineering (SUE) investigation of the project area 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 **FOORTY-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 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 environmental and permit requirements, and to allow the completion of the project's scope of work; and

WHEREAS, pursuant to Resolution 2019-140 dated October 21, 2019, the Town of Lyons also approved the **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, due to an unavoidable lapse in time between the initial 30% design submittal (2017) and 90% design submittal (2020) additional revisions and rework were required due to changes in engineering standards, CDOT bridge code standards and changes in conditions within the project limits; and

WHEREAS, the Contractor requires an amendment in order to add services and hours to complete the scope of work and new design standards set forth in the new CDOT bridge codes and engineering standards including design services, bid assistance, construction administration, billing rate updates, schedule and scope adjustments, as outlined in Exhibit A of the Sixth Amendment; and

WHEREAS, to compensate the Contractor for the additional services outlined in this Sixth Amendment, the Parties desire to modify the Agreement to increase the amount of the Agreement by **SEVENTY- NINE THOUSAND SIX HUNDRED FORTY-ONE DOLLARS AND NO CENTS (\$79,641.00)** for a total not-to exceed amount of **FOUR HUNDREDTHIRTEEN FOUR HUNDRED SEVENTY-TWO DOLLARS AND NO CENTS (\$413,472.00)**; and

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

WHEREAS, the Town of Lyons Board of Trustees desires to approve the Sixth Amendment to the Original Agreement with the Contractor, a copy of which is attached hereto, 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 Town Board of Trustees hereby:

- (a) Approves the Sixth Amendment in substantially the form attached as 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 Third Amendment that do not increase the obligations of the Town.
- (c) Authorizes the Mayor or Mayor Pro Tem to execute the complete Agreement on behalf of the Town after Contractor has signed the Agreement and the Town Clerk to attest such signature.

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

ADOPTED THIS 20th DAY OF APRIL 2020

TOWN OF LYONS, COLORADO

By:

Connie Sullivan
Connie Sullivan (Apr 30, 2020)

Connie Sullivan, Mayor

ATTEST:

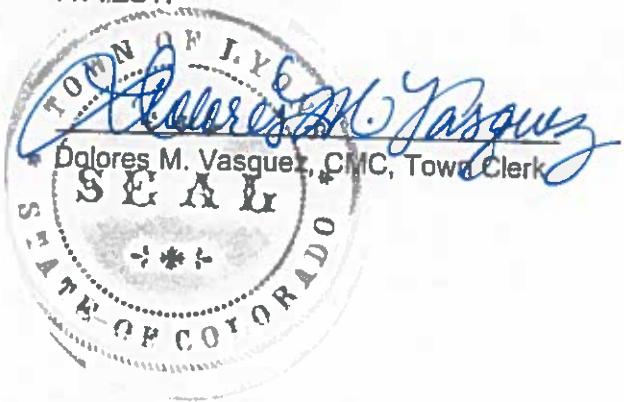


EXHIBIT 1:
OTAK, INC. - AMENDMENT 6

**Town of Lyons, Colorado
SIXTH AMENDMENT TO
DISASTER RECOVERY SERVICES AGREEMENT**

Drainage Design Services – 2nd Avenue and Bridge Project

THIS SIXTH AMENDMENT TO DISASTER RECOVERY SERVICES AGREEMENT ("Amendment") is entered into by and between the **TOWN OF LYONS**, a statutory town of the State of Colorado, with offices at 432 5th Avenue, Lyons, Colorado, 80540 (the "Town"), and **OTAK, INC. (Formerly Loris and Associates, Inc.)**, having a principal office address of 371 Centennial Parkway, Suite 210, Louisville, CO 80027 (the "Contractor"). The Town and the Contractor are individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

RECITALS AND REPRESENTATIONS

WHEREAS, the Parties entered into that certain Disaster Recovery Professional Services Agreement dated July 6, 2015 and executed by the Parties on July 10, 2015 (the "Agreement"); and

WHEREAS, the Agreement required the Contractor to provide Drainage Design Services for the 2nd Avenue and Bridge Project ("Capital Improvements") for the not-to-exceed amount of \$211,292.00, subject to the approval of the Federal Emergency Management Agency ("FEMA") as the funding agency; and

WHEREAS, to compensate the Contractor for re-designing the mitigation measures rejected by FEMA, the Parties modified the Agreement with the **First Amendment to Disaster Recovery Services Agreement** to increase the not-to-exceed amount of the Agreement by an additional **TWENTY THOUSAND AND NO DOLLARS (\$20,000.00)**; and

WHEREAS, FEMA did not approve Contractor's 30% redesign of mitigation measures as proposed due to insufficient freeboard, and to secure FEMA's approval of the proposed mitigation measures, the Town will need to re-submit to FEMA portions of the 30% design FEMA with a revised bridge design, new plans and reports, and other related documents; and

WHEREAS, to compensate the Contractor for re-designing the mitigation measures rejected by FEMA, the Parties modified the Agreement with the **Second Amendment to Disaster Recovery Services Agreement** to increase the not-to-exceed amount of the Agreement by an additional **FIFTY-TWO THOUSAND TWO HUNDRED DOLLARS AND NO CENTS (\$52,200.00)**;

WHEREAS, 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 Town of Lyons also approved the **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, Due to an unavoidable lapse in time between the initial 30% design submittal (2017) and 90% design submittal (2020) additional revisions and rework were required due to changes in engineering standards, CDOT bridge code standards and changes in conditions within the project limits; and

WHEREAS, the Contractor requires an amendment in order to add services and hours to complete the scope of work and new design standards set forth in the new CDOT bridge codes and engineering standards including design services, bid assistance, construction administration, SUE field work, billing rate updates, schedule and scope adjustments, as outlined in **Exhibit A** for an increase to the total contract amount by **SEVENTY- NINE THOUSAND SIX HUNDRED FORTY-ONE DOLLARS AND NO CENTS (\$79, 641.00)** for a new not-to-exceed contract total amount of **FOUR HUNDRED THIRTEEN THOUSAND FOUR HUNDRED SEVENTY-TWO DOLLARS AND NO CENTS (\$413,472.00)** ("Sixth Amendment"); and

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

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties hereto, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

A. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as though set forth in full.

B. Amendment to Section 2.A of the Agreement. The second sentence of Section 2.A of the Agreement is hereby amended to read as follows:

"Compensation to be paid hereunder, inclusive of all reimbursable expenses estimated at 1.5% of the total design fee, shall not exceed **FOUR HUNDRED THIRTEEN THOUSAND FOUR**

HUNDRED SEVENTY-TWO DOLLARS AND NO CENTS (\$413,472.00); unless such amendment is amended in accordance with the amendment requirements of this Contract."

C. No Further Amendment. Nothing contained in this Sixth Amendment shall affect any other provisions of the Agreement except as specifically set forth herein. In the event of any conflict between this Sixth Amendment and the Agreement, the terms of this Sixth Amendment shall prevail.

IN WITNESS WHEREOF, the Parties have executed this **Sixth Amendment to this DISASTER RECOVERY 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 **SIXTH Amendment**.**

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

SIGNATURE PAGE FOLLOWS

TOWN OF LYONS, COLORADO

ATTEST:

By: _____
Dolores M. Vasquez, CMC, Town Clerk

By: _____
Connie Sullivan, Mayor

LORIS AND ASSOCIATES, INC., a division of Otak Inc.

By: Christine Bisi Digitally signed by Christine Bisi
Date: 2020.04.21 15:42:58-06'00

Printed name: Christine Bisi

Title: Colorado Region Manager

STATE OF Colorado)
COUNTY OF Boulder) ss.

The foregoing Sixth Amendment to the Disaster Recovery Services Agreement was acknowledged before me this 21 day of April, 2020, by Christine Bisi as
Colorado Region Manager of Loris and Associates, Inc., a division of a
Colorado Corporation of OTAK, INC.

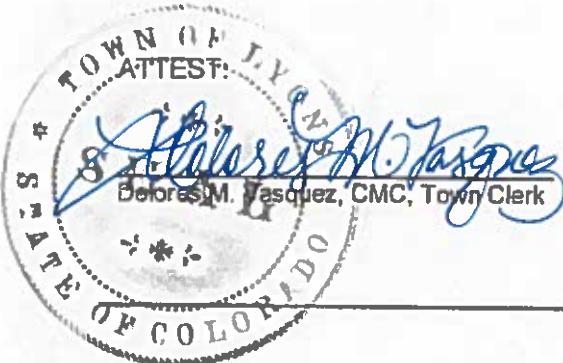
Witness my hand and official seal.
My commission expires: 03/18/2021.

Sandra L. Stewart

Notary Public

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

SANDRA L STEWART
Notary Public - State of Colorado
Notary ID 20054010978
My Commission Expires Mar 18, 2021



TOWN OF LYONS, COLORADO

By: Connie Sullivan
Connie Sullivan (Apr 30, 2020)

Connie Sullivan, Mayor

LORIS AND ASSOCIATES, INC., a division of Otak Inc.

By: Christine Bisio
2020 04 21 15 42 58-03702

Printed name: Christine Bisio

Title: Colorado Region Manager

STATE OF Colorado)
COUNTY OF Boulder) ss.

The foregoing Sixth Amendment to the Disaster Recovery Services Agreement was acknowledged before me this 21 day of April, 2020, by Christine Bisio as Colorado Region Manager of Loris and Associates, Inc., a division a Colorado Corporation of OTAK, INC.

Witness my hand and official seal.
My commission expires: 03/18/2021

SANDRA L STEWART
Notary Public - State of Colorado
Notary ID 20054010978
My Commission Expires Mar 18, 2021

Sandra L. Stewart

Notary Public

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

EXHIBIT A –
OTAK Revised Cost and Fee Schedule



March 31, 2020

Tracy Sanders
Town of Lyons
432 5th Avenue
Lyons, CO 80540

**Re: Town of Lyons ~ 2nd Avenue Bridge Replacement
Design Standards Revisions ~ Sixth Amendment Request**

Dear Ms. Sanders;

Otak is submitting the following Amendment Request:

1. 30% and 90% Design Revisions

Due to the lapse in time between the initial 30% design submittal (2017) and 90% design submittal (2020) additional revisions and rework were required due to changes in engineering standards and changes in conditions within the project limits. Otak has exhausted its budget incorporating these revisions and rework. A summary of those changes is described below.

Due to changes to the CDOT standards (new precast girders) since the initial 30% design submittal in 2017, the bridge required redesign and review. Concrete precaster's no longer have the forms to construct the CDOT standard bulb tee beam used at the time of initial 30% design submittal. New beam dimensions were required which resulted in redesign of the superstructure, which in turn required a redesign of the substructures. Calculations completed at 30% design needed to be redone due to changes in AASHTO code since it was previously completed. Dead loads, wind loads, and live load distribution factors needed to be updated to account for changes to the bridge layout and bridge code. The independent design check completed at 90% took additional time than initially anticipated because the spreadsheets needed to be updated to accommodate the new beam type.

During the SUE and Design coordination meeting with Town staff in December of 2019 Otak staff learned that the Lyon's Ditch located on the east side of 2nd Avenue needed to remain open. This new information resulted in additional revisions to the storm sewer system and final drainage report. Additionally, during the design coordination meeting, Otak and Lyons staff agreed to revise the trail from the previously determined locations. These changes resulted in additional revisions to the trail plan & profile and grading around the bridge retaining walls.

Otak staff has attended additional meetings outside of the original scope in order to progress the design plans, including: SUE and design coordination, meeting with Lyons Fire Chief, and utility coordination meeting and other various design meetings over the years.

From previous project experience and typical industry standards the design costs for a bridge replacement project should be around ten to eighteen percent of the total construction costs, depending on size and complexity of design. Otak's 90% cost opinion of the reconstruction of 2nd Avenue bridge is approximately \$2,986,435. Otak's total design fees after the sixth amendment request would be approximately 15 percent of the construction costs which seems appropriate because of the complexities and delays resulting from the FEMA review.



Due to the lapse in time from FEMA review, Otak has completed the additional items outside of the original scope to complete the 90% Design:

- Redesign of the bridge superstructure
- Redesign of the bridge substructures
- Revised Independent check spreadsheet due to change in design
- Revisions to storm plan & profile
- Revisions to trail plan & profile
- Roadway revisions due to changes in bridge structures
- Attended additional design and coordination meetings

Please see attached fee sheet for a detailed breakdown of the 2019 and 2020 time and fees to complete the 90% design. (Additional Fee = (2019) \$12,100 and (2020) \$38,318)

2. Bid Assistance

Per Town of Lyons request, additional scope for bid assistance has been included in this change order including:

- Otak will provide a set of bid documents
- Attend the pre-bid meeting
- Respond to any questions resulting from the pre-bid meeting (assumed 6 responses at 1 hour each)

Please see attached fee sheet for a detailed breakdown of the time and fees required to provide Bid Assistance services. (Additional Fee = \$6,803)

3. Construction Administration

Per Town of Lyons request, Otak will assist the Town with construction administration services including:

- Respond to RFI's (10 assumed at 3 hours each)
- Review Submittals (10 assumed at 1 hour each)
- Review Shop Drawings (5 assumed at 3 hours each)
- Attend Construction Site Meeting (assumed 6 meetings total)
- Prepare As-Built Drawings

Please see attached fee sheet for a detailed breakdown time and fees required to provide Construction Administration services. (Additional Fee = \$15,551)

4. SUE Field Work

During Lamb-Star's quality level B investigation of the project area, additional utilities were discovered underground that had not been accounted for in their previous estimate. An additional 1,500 linear feet (LF) of quality level B utilities were mapped. In addition to the additional mapping Lamb-Star required non-routine traffic control that required road closures and detour signage.

Please costs from Lamb Star for additional information. (Additional Fee = \$4,908)

5. Billing Rate Update

The billing rates agreed upon in the second amendment request to the Town were from 2018. As this project has progressed through 2020, Otak is requesting that an adjustment in the billing rates from 2018 to 2020. The time requested above for 90% Design Revisions, Bid Assistance, and Construction Administration was completed at the proposed 2020 bill rates.

In addition, Otak is requesting the difference in bill rates for the time agreed upon in the original proposal for 100% Design, Review & Meeting, and Final Construction Documents from 2018 to 2020.

Please see attached backup for requested adjustments in bill rates for 100% Design and Final Design time. (Additional Fee = \$1,961)



6. Schedule and Scope Adjustments

While reviewing the original proposal and subsequent change orders, the original proposal called for 4 months to complete the 90%, 100% and Final Design and Otak has been working within the final design phase since December of 2017 (approximately 27 months).

Although adjustments were made during the project lifespan for bill rates and out of scope items, no adjustments have been made for the additional hours required to complete a more complex design than originally proposed (bridge raised approximately 6-feet from original proposal). The original fee required for final design was for an at grade bridge which is a more simplified design when it comes to abutments, wingwalls, retaining walls, and approach roads. Due to the lengthened schedule and complexities resulting from a taller bridge, Otak is requesting that the existing \$7,000 remaining in the current Final Design Subs Task (Which is no longer needed for MIG) be reallocated to the Final Design phase to cover expenses previously incurred by Otak.

Otak will still be incurring losses on this project due to issues outside of Otak's or the Town of Lyons control. The above requested reallocation of unused funds will alleviate some of the overages while not raising the total fee of the project.

The total of this Additional Services request amounts to \$79,641 for the above described tasks (excludes reallocation of \$7,000 from MIG).

<u>Sixth Amendment</u>	\$79,641.00
TOTAL FOR FIFTH AMENDMENT	\$79,641.00
Original Contract Amount	\$211,292.00
Previous Amendments	\$122,539.00
<u>Sixth Amendment (This Request)</u>	<u>\$79,641.00</u>
TOTAL REVISED CONTRACT AMOUNT	\$413,472.00

Please call or email if you have questions regarding this Additional Services Request.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Sean Wilson".

Sean Wilson
Civil Project Engineer
Otak, Inc.

Town of Lyons ~ 2nd Avenue Bridge Replacement Sixth Amendment Request

Town of Lyons ~ 2nd Avenue Bridge Replacement Sixth Amendment Request

January 14, 2020

Sean Wilson
Otak Inc.
371 Centennial Parkway, Suite 210
Louisville, CO 80027

RE: 2ND AVE BRIDGE IN LYONS (200892.01)

Dear Mr. Wilson,

Lamb-Star Engineering (LSE) is pleased to submit a supplemental proposal for Subsurface Utility Engineering (SUE) and Traffic Control required for the above referenced project.

SCOPE OF WORK

LSE has located 1,500 LF Quality Level B above the original contract documentation.

LSE will hire and coordinate with Altus Traffic to provide a detour layout, signs, barricades and set up/teardown. LSE will bill at actual costs for these services.

DELIVERABLE AND SCHEDULE

LSE will produce an electronic SUE CAD file depicting the type and horizontal location of the designated utilities and test holes. LSE will utilize its standard SUE line styles and symbology.

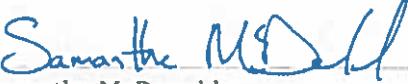
LSE will also prepare signed and sealed utility layout sheets, Test Hole Data Sheets and SUE report.

ESTIMATED FEE

See Attached Exhibit A Fee Schedule

The total *estimated cost* to complete the work described **\$4,907.39**.

If you have any questions or require additional information, please contact me at 214-205-3258



Samantha McDonald
Lamb-Star Engineering

01/14/2020

Date



EXHIBIT A

Subprovider Name: Lamb-Star Engineering, LLC						
Task Description	Project Manager	Quality Manager	Project Engineer	EIT	Utilities Coordinator	Admin Clerical
RATE PER HOUR	\$260.00	\$210.00	\$160.00	\$115.00	\$150.00	\$95.00
Traffic Control Coordination				2		4
SUBTOTAL LABOR COSTS	\$0.00	\$0.00	\$320.00	\$0.00	\$300.00	\$0.00
UNIT EXPENSES	Quantity	Unit	Cost	Total		
SUE (Quality Level B)	1500	LF	\$1.60	\$ 2,400.00		
SUBTOTAL UNIT EXPENSES				\$2,400.00		
OTHER DIRECT EXPENSES	UNIT	QUANTITY	COST		TOTAL	
Traffic Control	Lump Sum	1	\$1,887.39		\$1,887.39	
SUBTOTAL DIRECT EXPENSES					\$1,887.39	
				TOTAL	\$4,907.39	

2020-67

Final Audit Report

2020-04-30

Created:	2020-04-29
By:	Town of Lyons (recreation@townoflyons.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAT_LUeZz9JyhzSAXm0dyepAslHKr68q4A

"2020-67" History

-  Document created by Town of Lyons (recreation@townoflyons.com)
2020-04-29 - 10:00:58 PM GMT- IP address: 65.101.227.171
-  Document emailed to Connie Sullivan (csullivan@townoflyons.com) for signature
2020-04-29 - 10:02:07 PM GMT
-  Email viewed by Connie Sullivan (csullivan@townoflyons.com)
2020-04-30 - 3:24:21 PM GMT- IP address: 65.113.156.32
-  Document e-signed by Connie Sullivan (csullivan@townoflyons.com)
Signature Date: 2020-04-30 - 3:25:06 PM GMT - Time Source: server- IP address: 65.113.156.32
-  Signed document emailed to Connie Sullivan (csullivan@townoflyons.com) and Town of Lyons (recreation@townoflyons.com)
2020-04-30 - 3:25:06 PM GMT



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