

**TOWN OF LYONS, COLORADO
RESOLUTION 2020-77**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO RATIFYING A FOURTH
AMENDMENT TO THE CONSTRUCTION AGREEMENT WITH CGRS, INC. FOR THE
EASTERN CORRIDOR UTILITIES PROJECT**

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

WHEREAS, the Town has obtained funding for the Eastern Corridor Utilities Project from both the U.S. Department of Commerce Economic Development Administration (EDA) and the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery (CDBG-DR) under Boulder County Collaborative Sub-allocation INF-00021; and

WHEREAS, pursuant to Resolution 2019-36, the Town and CGRS, Inc. ("Contractor") entered into that certain Construction Agreement, Project Number 05-01-05734, dated May 8, 2019 ("Original Agreement") for Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **ONE MILLION NINE HUNDRED EIGHTY-NINE THOUSAND NINE HUNDRED NINETY-FIVE DOLLARS (\$1,989,995.00)** (the "Project"); and

WHEREAS, Section 7.00 of the Original Agreement requires that any amendment to the Agreement be in writing and signed by the Parties; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to Construction Agreement dated September 18, 2019 authorizing the Contractor to perform additional services to inspect and examine the viability of abandoned water lines from the City of Longmont for use on this project in the additional amount of **THIRTY-SEVEN THOUSAND DOLLARS AND NO CENTS (\$37,000.00)**; and

WHEREAS, the Parties entered into that certain **Second Amendment** to the Original Agreement dated October 24, 2019 in order to add critical monitoring capability and protections to the system in order to protect the downstream distribution piping in the additional amount of **FIFTEEN THOUSAND EIGHT HUNDRED THIRTY-EIGHT DOLLARS AND EIGHTY-ONE CENTS (\$15,838.81)**; and

WHEREAS, the Parties entered into that certain **Third Amendment** to the Original Agreement dated December 2, 2019 to allow for the additional scope of work as defined in Change Orders 4, 5 and 6, including the rerouting of the original design in order to utilize abandoned lines from the City of Longmont and other related changes, resulting in an overall reduction to the contract amount by **(-)TWO HUNDRED FIFTY-EIGHT THOUSAND FIVE HUNDRED FIFTY-SEVEN DOLLARS AND TWELVE CENTS (-\$258,557.12)**; and

WHEREAS, the Contractor will need more time to complete the scope of work due to onsite challenges; and

WHEREAS, the Parties desired to extend the term of the Original Agreement to May 15, 2020 for work funded by the EDA and June 30, 2020 for all other work at no

additional cost ("Fourth Amendment"); and

WHEREAS, the Town's Purchasing Policies allow the Town Administrator to sign construction contracts under \$20,000 and the Contractor and the Town Administrator have executed the Fourth Amendment;

WHEREAS, the Town of Lyons Board of Trustees desires to ratify the Fourth Amendment to the Agreement with the Contractor 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) Ratifies Amendment 4 to the Construction Agreement for the Project in substantially the form attached as **Exhibit A** to extend the Term of the Contract to May 15, 2020 for work funded by the EDA and June 30, 2020 for all other work at no additional cost in substantially the form attached hereto.
- (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 Construction Agreement that does not increase the obligations of the Town.

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

ADOPTED this 4th day of **MAY, 2020**.

TOWN OF LYONS



Nicholas Angelo, Mayor



EXHIBIT A: CGRS, Inc. Amendment 4

Town of Lyons, Colorado

**FOURTH AMENDMENT TO
CONSTRUCTION AGREEMENT WITH CGRS, INC.**

Project Name: Eastern Corridor Utilities Project

This FOURTH AMENDMENT TO CONSTRUCTION AGREEMENT ("Fourth Amendment") is made and entered into on the date upon which it is mutually executed by the Parties (the "Effective Date"), 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 CGRS, Inc. with offices at 1301 Academy Court, Fort Collins, CO 80524 (the "Contractor"). The Town and the Contractor may be referred to collectively as the "Parties" and each individually as "Party".

WITNESSETH

WHEREAS, pursuant to Resolution 2019-36, the Town and the Contractor entered into that certain Construction Agreement, Project Number 05-01-05734, dated May 8, 2019 ("Original Agreement") for Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **ONE MILLION NINE HUNDRED EIGHTY-NINE THOUSAND NINE HUNDRED NINETY-FIVE DOLLARS (\$1,989,995.00)** (the "Project"); and

WHEREAS, the Town has obtained funding for the Project from both the U.S. Department of Commerce Economic Development Administration (EDA) and the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery (CDBG-DR) under Boulder County Collaborative sub-allocation INF-00021; and

WHEREAS, Section 7.00 of the Agreement permits the Town to adjust the Contract price and requires that any amendment to the Agreement be in writing and signed by the Parties; and

WHEREAS, pursuant to the amendment provisions of the Agreement, the Parties entered into that certain **First Amendment to Construction Agreement** dated September 18, 2019 authorizing the Contractor to perform additional services to inspect and examine the viability of abandoned water lines from the City of Longmont for use on this project in the additional amount of **THIRTY-SEVEN THOUSAND DOLLARS AND NO CENTS (\$37,000.00)**; and

WHEREAS, the Parties entered into that certain **Second Amendment to Construction Agreement** dated October 24, 2019 in order to add critical monitoring capability and protections to the system in order to protect the downstream distribution piping in the additional amount of **FIFTEEN THOUSAND EIGHT HUNDRED THIRTY-EIGHT DOLLARS AND EIGHTY-ONE CENTS (\$15,838.81)**; and

WHEREAS, the Parties entered into that certain **Third Amendment** dated December 2, 2019 to allow for the additional scope of work as defined in Change Orders 4, 5 and 6, including the rerouting of the original design in order to utilize abandoned lines from the City of Longmont and other related changes, resulting in an overall reduction to the contract amount by **(-)TWO HUNDRED FIFTY-EIGHT THOUSAND FIVE HUNDRED FIFTY-SEVEN DOLLARS AND TWELVE CENTS (-\$258,557.12)** for

a total not-to-exceed contract amount of **ONE MILLION SEVEN HUNDRED EIGHTY-FOUR THOUSAND TWO HUNDRED SEVENTY-SIX DOLLARS AND SIXTY-NINE CENTS (\$1,784,276.69)**; and

WHEREAS, the Contractor will need more time to complete the scope of work due to onsite challenges; and

WHEREAS, the Parties desire to extend the term of the Original Agreement to May 15, 2020 for work funded by the Economic Development Agency (EDA) to be complete with all documentation necessary to release retainage and June 30, 2020 for all other work or until the Scope of Work is completed ("Fourth Amendment") at no change to the contract amount; and

NOW, THEREFORE, for the consideration herein expressed, 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 original terms and conditions of the Agreement remain in full force and effect.
3. **Scope of Work.** There is no change to the Scope of Work with this amendment.
4. **Term:** Section 3.00 of the Original Agreement entitled "Time and Commencement of Completion" is hereby amended to read in full is follows:

This Agreement shall commence as of the date the Agreement is fully executed by both parties and shall continue through **May 15, 2020** for work funded by the Economic Development Agency (EDA) to be complete with all documentation necessary to release retainage and **June 30, 2020** for all other work or until the Scope of Work is completed.

5. **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 Fourth Amendment.
6. **Conflict.** This Fourth Amendment is and shall be construed as part of the Original Agreement. In case of any inconsistency between this Fourth 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 Fourth Amendment shall control.
7. **Counterparts.** Facsimile or Electronic Signature; Authority. The Parties hereto agree that this Fourth Amendment may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. The Parties further agree that this Fourth 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.

IN WITNESS WHEREOF, the Parties have executed this Fourth Amendment to the Construction Agreement, Project/Service: Eastern Corridor Utilities Project, 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 Fourth Amendment.

THIS FOURTH AMENDMENT TO CONSTRUCTION AGREEMENT is executed and made effective as provided above.



CGRS, Inc.:

By:

Printed name: Eric L. Hick

Its: President/CEO

Date of execution: _____, 2020

TOWN OF LYONS, COLORADO:

Approval by:

By:

Victoria Simonsen, Town Administrator