

**TOWN OF LYONS, COLORADO
RESOLUTION 2020-86**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO APPROVING THE FIFTH
AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH JVA, INC.
FOR THE DESIGN OF SEWER LINES, LIFT STATION, AND WATER DISTRIBUTION
FOR THE EASTERN CORRIDOR DEVELOPMENT 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 secured funding for the Project from the United States Department of Commerce Economic Development Administration ("EDA") and the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery ("CDBG-DR") under the Boulder County Collaborative Sub-allocation INF-00021; and

WHEREAS, pursuant to Resolution 2017-5, the Town and JVA, Inc. ("Contractor") entered into that certain Professional Services Agreement dated January 26, 2016 ("Original Agreement") for Contractor to perform the Work as specified in the Contract Documents for the design of sewer lines, a lift station and water distribution loop for the Eastern Corridor ("Project") for the Town, for a not to exceed cost of **TWO HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED DOLLARS AND NO CENTS (\$264,300.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to the Original Agreement dated April 20, 2018 authorizing the Contractor to perform additional services into the scope of work for the additional amount of **FIFTEEN THOUSAND DOLLARS AND NO CENTS (\$15,000.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Second Amendment** to the Original Agreement dated December 17, 2018 authorizing the Contractor to perform additional services into the scope of work for the additional amount of **SEVENTY-FIVE THOUSAND FIVE HUNDRED NINETY-SEVEN DOLLARS AND NO CENTS (\$75,597.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Third Amendment** to the Original Agreement dated May 28, 2019 authorizing the Contractor to perform additional services into the scope of work for the additional amount of **SIXTEEN THOUSAND THREE HUNDRED NINETY-THREE DOLLARS AND NO CENTS (\$16,393.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Fourth Amendment** to the Original Agreement dated December 2, 2019 authorizing the Contractor to perform additional services into the scope of work including additional coordination with CDPHE to update the final drawings and additional design revisions and coordination in order to utilize existing pipes for casings at roadway crossings instead of boring new casings as originally designed as well as construction services for the additional amount of **FORTY-THREE THOUSAND THREE HUNDRED SIXTY-FIVE DOLLARS AND NO CENTS (\$43,365.00)**; and

WHEREAS, the Contractor requires another amendment to the Professional Services Agreement and submitted a proposal as shown in **Exhibit 1** to extend the term of the contract

substantial completion date until July 31, 2020 and to add additional construction services due to sewer construction delays for an additional **FIFTY-FOUR THOUSAND SIXTY-FOUR DOLLARS AND NO CENTS (\$54,064.00)** for a new total not-to-exceed amount of **FOUR HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED NINETEEN DOLLARS AND NO CENTS (\$468,719.00)** ("Fifth Amendment");

WHEREAS, Town Staff has evaluated the proposal received and determined the scope of work and cost are both reasonable and necessary for the Project; and

WHEREAS, the Board, after full consideration of the recommendation of the Town Staff, finds that the proposal submitted by the Contractor is acceptable; and

WHEREAS, Town Staff recommends that the Town award the Fifth Amendment for work based on the Contractor's Proposal; and

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.

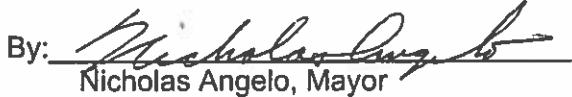
Section 2. The Town Board of Trustees hereby:

- (a) Approves the Fifth Amendment to the Professional Services Agreement in substantially the form attached as in **Exhibit 2**.
- (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 Fifth 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 18th day of MAY, 2020.

TOWN OF LYONS

By: 
Nicholas Angelo, Mayor

ATTEST:

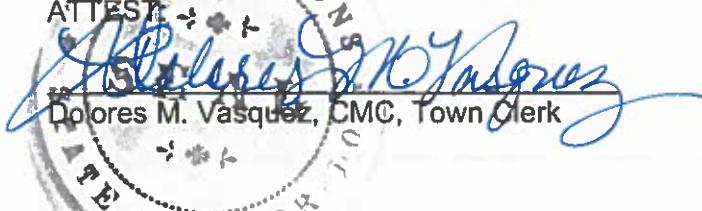

Dolores M. Vasquez, CMC, Town Clerk

EXHIBIT 1 – JVA, Inc. Proposal for Amendment 5



JVA, Incorporated
1319 Spruce Street
Boulder, CO 80302
303.444.1951
info@jvajva.com

May 8, 2020

www.jvajva.com

Mr. Philip Strom, Project Manager/CDBG Disaster Recovery
Town of Lyons
432 5th Avenue
Lyons, Colorado 80540

RE: Eastern Corridor Utilities – Contract Amendment #5
JVA Job No. 2686c/EDA Project No. 05-01-05734

Dear Philip:

This letter is a contract amendment request (Amendment #5) for the Town of Lyons Eastern Corridor Utilities Project (EDA Project No. 05-01-05734). JVA has performed additional services and exceeded contract amounts for Task 7 – Construction Services. An explanation for exceedance and request for future increase is explained herein with the cost breakdown attached to this letter.

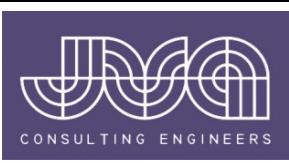
The project duration has exceeded initial contract times due to items outside of JVA's control. Based on a notice to proceed date of May 10, 2019 and a Pre-Construction Meeting on May 20, 2019, the project duration has exceeded the estimated 20 weeks for construction services and the additional 12 weeks estimated in Amendment #4. Substantial completion as issued on May 6, 2020, and final completion is anticipated by June 6, 2020 which is another 24 weeks after Amendment #4. We are requesting a contract amendment of \$52,000 for the additional weekly meetings, onsite inspections, contractor pay applications, requests for information, coordination with stakeholders, and funding compliance efforts due to the lengthened project duration. Additionally, the contractor needs to complete the manhole work by Stone Canyon Lift Station, adding to our efforts beyond the original scope.

We appreciate your consideration and are committed to the Town and EDA to see this important project through to completion. If you have questions or comments regarding the Amendment #4, please call me at 303-565-4965 or send an email to asparn@jvajva.com.

Sincerely,
JVA, INCORPORATED

By: 
Andrew Sparn, P.E.
Project Manager / Associate

Enclosure: Amendment #5 – Additional Cost by Task



Lyons - Eastern Corridor Utilities

5/8/2020

DESCRIPTION OF SERVICES	Principal		Technical Advisor		Project Manager		Project Engineer		Design Engineer		Designer		SUBTOTAL LABOR COSTS		EXPENSES		TOTAL COSTS (Rounded to Nearest 100)		AMENDMENT #1	AMENDMENT #2	AMENDMENT #3	AMENDMENT #4	AMENDMENT #5	TOTAL COSTS			
	\$156/hour		\$148/hour		\$132/hour		\$116/hour		\$100/hour		\$112/hour		HRS	\$	SUB-CONSULTANTS		EXPENSE SUBTOTAL	LINE ITEM	Stone Canyon LS	Additional Services	Additional Services	Additional Services	Additional Services	W/ AMENDMENTS			
	HRS	SUBTOTAL	HRS	SUBTOTAL	HRS	SUBTOTAL	HRS	SUBTOTAL	HRS	SUBTOTAL	HRS	SUBTOTAL															
Task 1: Data Collection, Review, and Analysis																											
	SUBTOTAL	1	\$156	2	\$296	4	\$528	2	\$232	12	\$1,200	8	\$896	29	\$3,308					\$3,300			\$68			\$3,368	
Task 2: Project Management and Funding Coordination																											
	SUBTOTAL	4	\$624	20	\$2,960	68	\$8,976	56	\$6,496	56	\$5,600			204	\$24,656					\$29,900						\$29,900	
Task 3: Public Process, Enviro Permitting, Facility Permitting																											
	SUBTOTAL	16	\$2,496	40	\$5,920	54	\$7,128	28	\$3,248	70	\$7,000	36	\$4,032	244	\$29,824					\$6,960	\$7,656		\$37,500			\$37,500	
Task 4: Easements																											
	SUBTOTAL	2	\$312			6	\$792	4	\$464	20	\$2,000	4	\$448	36	\$4,016					\$8,000	\$8,800		\$12,800			\$12,800	
Task 5: Prelim & Final Design of Preferred Alternative																											
▪ Revise design and value engineering for rebidding																											
▪ Amendment #4 - Final Drawing Updates w/ CDPHE Comments																											
	SUBTOTAL	55	\$8,580	44	\$6,512	140	\$18,480	132	\$15,312	142	\$14,200	114	\$12,768	627	\$75,852					\$24,600	\$27,060		\$102,900			\$128,479	
Task 6: Construction Services (20 Weeks)																											
▪ Shop Drawing Review, Change Order, RFI, and Engr Support		2	\$312	8	\$1,184	8	\$1,056	12	\$1,392	24	\$2,400	16	\$1,792	70	\$8,136					\$8,136							
▪ Weekly meeting and inspections		8	\$1,248	16	\$2,368	72	\$9,504	48	\$5,568	260	\$26,000			404	\$44,688						\$44,688						
▪ CDBG/EDA Quarterly Reporting, Labor and Construction CA Support						8	\$1,056	4	\$464	16	\$1,600			28	\$3,120	LJV Engineering (WBE)				\$4,000	\$4,400	\$7,520					
▪ Observation reports						8	\$1,056	8	\$928	48	\$4,800			64	\$6,784						\$6,784						
▪ Record Drawings and Project Closeout		2	\$312			4	\$528	4	\$464	8	\$800	12	\$1,344	30	\$3,448												
▪ O&M and Operations Plan		2	\$312	8	\$1,184	4	\$528	8	\$928	8	\$800	4	\$448	34	\$4,200	LJV Engineering (WBE)				\$2,880	\$3,168	\$7,368					
▪ Amendment #4 - Design support/revision for sliplining, HDD, Longmont Coordination		2	\$312			30	\$3,960			90	\$9,000	24	\$2,688														
▪ Amendment #4 - Additional 12 week project duration		4	\$624			53	\$6,970			194	\$19,440																
▪ Amendment #5 - Additional 24 week project duration						96	\$12,672			368	\$36,800	41	\$4,592														
	SUBTOTAL	18	\$2,808	32	\$4,736	283	\$37,330	84	\$9,744	1016	\$101,640	97	\$10,864	630	\$70,376					\$6,880	\$7,568		\$77,900				
Task 7: Subconsultants																											
	SUBTOTAL																										
Task 8: Stone Canyon Lift Station - Site Application and Basis of Design Report																											
	SUBTOTAL																										
	ORIGINAL CONTRACT TOTAL														\$264,300												
	AMENDMENTS SUBTOTAL															\$15,000											
	PROJECT TOTAL WITH AMENDMENTS															\$75,597	\$16,393	\$43,365	\$54,064								

EXHIBIT 2 – JVA, Inc. Amendment 5

Town of Lyons, Colorado

**FIFTH AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

**Project/Services Name: Sewer Lines, Lift Station and Water Distribution Design for
Eastern Corridor Development Project**

This FIFTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("Fifth 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 JVA, INC., a Colorado corporation with a trade name of JVA, Incorporated and with offices at 1319 Spruce Street, Boulder, Colorado 80302 (the "Contractor"). The Town and the Contractor may be referred to collectively as the "Parties" and each individually as a "Party".

WITNESSETH

WHEREAS, pursuant to Resolution 2017-5, the Town and Contractor entered into that certain Professional Services Agreement dated January 26, 2016 ("Original Agreement") for Contractor to perform the Work as specified in the Contract Documents, related to the design of sewer lines, a lift station and water distribution loop for the Eastern Corridor ("Project") for the Town, for a not to exceed cost of **TWO HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED DOLLARS AND NO CENTS (\$264,300.00)**; and

WHEREAS, Sections 1.3 and 10.12 of the Agreement require that any amendment to the Agreement be in writing and signed by the Parties; and

WHEREAS, the Town has secured funding for the Project from the United States Department of Commerce Economic Development Administration ("EDA") and the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery ("CBDG-DR") under the Boulder County Collaborative Sub-allocation INF-00021; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to the Original Agreement dated April 20, 2018 authorizing the Contractor to perform additional services into the scope of work for the additional amount of **FIFTEEN THOUSAND DOLLARS AND NO CENTS (\$15,000.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Second Amendment** to the Original Agreement dated December 17, 2018 authorizing the Contractor to perform additional services into the scope of work for the additional amount of **SEVENTY-FIVE THOUSAND FIVE HUNDRED NINETY-SEVEN DOLLARS AND NO CENTS (\$75,597.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Third Amendment** to the Original Agreement dated May 28, 2019 authorizing the Contractor to perform additional services into the scope of work for the additional amount of **SIXTEEN THOUSAND THREE HUNDRED NINETY-THREE DOLLARS AND NO CENTS (\$16,393.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the

Parties entered into that certain **Fourth Amendment** to the Original Agreement dated December 2, 2019 authorizing the Contractor to perform additional services into the scope of work including additional coordination with CDPHE to update the final drawings and additional design revisions and coordination in order to utilize existing pipes for casings at roadway crossings instead of boring new casings as originally designed as well as construction services for the additional amount of **FORTY-THREE THOUSAND THREE HUNDRED SIXTY-FIVE DOLLARS AND NO CENTS (\$43,365.00)**; and

WHEREAS, the Contractor requires another amendment to the Professional Services Agreement in order to extend the term of the contract substantial completion date until July 31, 2020 and to add additional construction services due to sewer construction delays as shown in **Exhibits A and B** for an additional **FIFTY-FOUR THOUSAND SIXTY-FOUR DOLLARS AND NO CENTS (\$54,064.00)** for a new total not-to-exceed amount of **FOUR HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED NINETEEN DOLLARS AND NO CENTS (\$468,719.00)** ("Fifth Amendment");

WHEREAS, Section 4.00 of the Original Agreement requires that both parties mutually agree in writing to extend the term of the Original Agreement; and

NOW, THEREFORE, for the consideration herein expressed, it is agreed by and between the Town and the Contractor that the 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.** The Original Agreement is hereby amended by adding the documents that indicate the correct services and costs for the Project as set forth specifically in documents attached hereto as **Exhibit A and B** to this Fifth Amendment and incorporated herein by reference.
4. **Contract Sum and Payment.** Section 2.1 of the Original Agreement entitled "Commencement and Compensation for Services" is hereby amended to read in full as follows:

The Owner shall pay to the Contractor for performance of the Work encompassed by this Agreement, and the Contractor will accept as full compensation therefor the not-to-exceed sum of: **FOUR HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED NINETEEN DOLLARS AND NO CENTS (\$468,719.00)** subject to adjustment as provided by the Contract Documents ("Contract Price").

5. **Term.** Section 4.1 of the Agreement, entitled "Term," is hereby amended to read in full as follows:

This Agreement shall be effective on the day of full signature execution and shall terminate at the earlier of the date on which all obligations of the parties have been met (to include all Services that have been completed) or **11:59 P.M. on the 31st day of July, 2020**, or on a prior date of termination as may be permitted by this Agreement; provided, however, that the Parties may mutually agree in writing to extend the term of

this Agreement, subject to annual appropriation. Those provisions that survive termination, to include the indemnification obligations and any warranty obligations, shall remain in effect past termination.

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

SIGNATURE PAGE FOLLOWS

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



By: Josh McGibbon

Printed name: Josh McGibbon

Its: Vice President

Date of execution: May 20, 2020

TOWN OF LYONS, COLORADO:

Approval by:

By: Nicholas Angelo
Nicholas Angelo, Mayor

STATE OF Colorado)
COUNTY OF Boulder) ss.

The foregoing Fifth Amendment to Professional Services Agreement was acknowledged before me this 20 day of May, 2020, by Josh McGibbon as Vice President of JVA, INC., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 1/12/2023

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

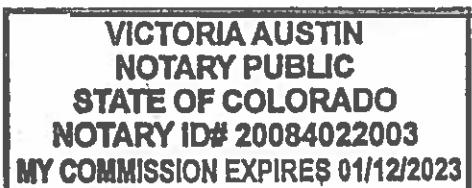


EXHIBIT A –
JVA Amendment 4: Scope

Exhibit A

This contract amendment for the Eastern Corridor Utilities Project (EDA Project No. 05-01-05734) is due to additional services and exceeded contract scope and amount for certain project tasks due to items outside of JVA's control. An explanation for the exceedance is detailed below:

TASK 6 – CONSTRUCTION SERVICES + \$54,064

Additional 24 week projection duration

The project duration has exceeded initial contract times due to items outside of JVA's control. Based on a notice to proceed date of May 10, 2019 and a Pre-Construction Meeting on May 20, 2019, the project duration has exceeded the estimated 20 weeks for construction services and the additional 12 weeks estimated in Amendment #4. Substantial completion as issued on May 6, 2020, and final completion is anticipated by June 6, 2020 which is another 24 weeks after Amendment #4. We are requesting a contract amendment of \$52,000 for the additional weekly meetings, onsite inspections, contractor pay applications, requests for information, coordination with stakeholders, and funding compliance efforts due to the lengthened project duration. Additionally, the contractor needs to complete the manhole work by Stone Canyon Lift Station, adding to our efforts beyond the original scope.

EXHIBIT B –

JVA Amendment 4: Revised Fee Schedule

EXHIBIT B

PROFESSIONAL FEES

The following schedule outlines the Professional Fee for the above scope of work:

Contract Summary	
Original Contract	\$ 264,300
Amendment 1	\$ 15,000
Amendment 2	\$ 75,597
Amendment 3	\$ 16,393
Amendment 4	\$ 43,365
Amendment 5	\$ 54,064
Revised Contract	\$ 468,719

2016-2020 Hourly Billing Rate Schedule

Position	Year				
	2016	2017	2018	2019	2020
Principal	\$156-\$172	\$164-\$180	\$172-\$192	\$176-\$196	\$180-\$200
Senior Project Manager	\$140-\$148	\$140-\$152	\$148-\$160	\$152-\$164	\$156-\$168
Technical Advisor				\$ 148	\$ 148
Regional Office Manager				\$ 136	\$ 136
Project Manager	\$128-\$132	\$128-\$132	\$ 132	\$ 136	\$ 140
Senior Engineer	\$ 120	\$ 124	\$ 128	\$ 132	\$ 136
Project Engineer	\$ 116	\$112-\$120	\$112-\$124	\$116-\$128	\$120-\$132
Senior Designer	\$ 104	\$108-\$116	\$112-\$120	\$116-\$124	\$120-\$128
Designer				\$ 112	\$ 112
Design Engineer/CAD Designer	\$ 100	\$ 104	\$ 108	\$ 112	\$ 116
Administrative Support	\$88-\$120	\$92-\$124	\$96-\$128	\$100-\$132	\$104-\$136
Intern				\$ 85	\$ 85

The fees for the Additional Services set forth in the Second Amendment shall not exceed \$54,064.00. In addition, the contract price for the Agreement, as amended, shall not exceed \$468,719.00.

WORK BREAKDOWN STRUCTURE FOR PROFESSIONAL FEES

Description of Services	Original Agreement					Amendments			Revised Agreement	
	Total	No. 1	No. 2	No. 3	No. 4	No. 5				Total
Data Collection, Review, Analysis	\$ 3,300	\$ -	\$ 68	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,368
Project Management and Funding Coordination	\$ 29,900	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 29,900
Public Process, Enviro Permitting, Facility Permitting	\$ 37,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 37,500
Basements	\$ 12,800	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,800
Prelim & Final Design of Preferred Alternative	\$ 102,900	\$ -	\$ 8,503	\$ 16,393	\$ 683	\$ -	\$ -	\$ -	\$ -	\$ 128,479
<i>Final planning, policies w/ CDPD, comments</i>										
Construction Services	\$ 77,900	\$ -	\$ -	\$ -	\$ -	\$ 42,682	\$ 54,064	\$ -	\$ 174,646	
<i>Design support revision for slipstamping (1hr) Longmont Construction</i>										
<i>Additional 1/2 week project duration</i>										
<i>Additional 2-4 week project duration</i>										
Subconsultants	\$ -	\$ -	\$ 57,026	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 57,026
Stone Canyon 1.1 fl Station (SCLS) - Site Application and Basis of Design Report	\$ 15,000	\$ 10,000	\$ -	\$ -	\$ -	\$ 25,000				
Total	\$ 264,300	\$ 15,000	\$ 75,597	\$ 16,393	\$ 43,365	\$ 54,064	\$ -	\$ -	\$ -	\$ 468,719