

TOWN OF LYONS, COLORADO
RESOLUTION 2020-128

**A RESOLUTION OF THE TOWN OF LYONS APPROVING A THIRD AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT WITH INTERWEST CONSULTING GROUP, INC.
Project: CONSULTING SERVICES – PROFESSIONAL CIVIL ENGINEERING 2018-Engineer**

WHEREAS, the Town of Lyons ("Town") is authorized to contract for performance of necessary public services; and

WHEREAS, the Town has obtained funding for the Project from both the Federal Emergency Management Agency ("FEMA") and the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery ("CBDG-DR"); and

WHEREAS, pursuant to Resolution 2019-10, the Town and Interwest Consulting Group, Inc. (Contractor) entered into that certain Professional Services Agreement, Project/Service: CONSULTING SERVICES – PROFESSIONAL CIVIL ENGINEERING 2018-ENGINEER dated January 24, 2019 ("Original Agreement") for Contractor to perform the Flood Recovery Work as specified in the Contract Documents, for a not-to-exceed cost of **NINETY-EIGHT THOUSAND, THIRTEEN DOLLARS AND SIXTY CENTS (\$98,013.60)**; 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, pursuant to the amendment provisions of the Agreement, the Parties entered into that certain **First Amendment** to Professional Services Agreement dated April 15, 2019 authorizing the Contractor to perform additional services for the Temporary Waste Water Treatment Outfall FEMA close out documentation for an additional **THREE THOUSAND, NINE HUNDRED TWENTY DOLLARS AND NO CENTS (\$3,920.00)**, and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Second Amendment** to Professional Services Agreement dated December 20, 2020 authorizing the Contractor to perform additional services for design and engineering support services related to the 2nd Avenue Bridge, Bohn Park Phase 2, and various Roadway Repair projects for an additional **EIGHTY-THREE THOUSAND ONE DOLLARS AND EIGHTY-SEVEN CENTS (\$83,001.87)**, and

WHEREAS, the Contractor requires another amendment to the Original Agreement in order to reallocate the budget and to add Section 3 documentation to the BCC Provisions in the Agreement at no increase to the total contract price of **ONE HUNDRED EIGHTY-FOUR THOUSAND NINE HUNDRED THIRTY-FIVE DOLLARS AND FORTY-SEVEN CENTS (\$184,935.47)** ("Third Amendment"); and

WHEREAS, the Town Board of Trustees desires to approve and initiate the Third Amendment to the Professional Services Agreement and authorizes the Mayor to execute such Third 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 Board of Trustees hereby:

- (a) Approves the Third Amendment to the Original Professional Services Agreement 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 Third Amendment to the Professional Services Agreement on behalf of the Town after Contractor has signed the Third Amendment and the Town Clerk to attest such signature; and

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

ADOPTED THIS 17th DAY OF AUGUST 2020.

TOWN OF LYONS

By: 
Nicholas Angelo, Mayor

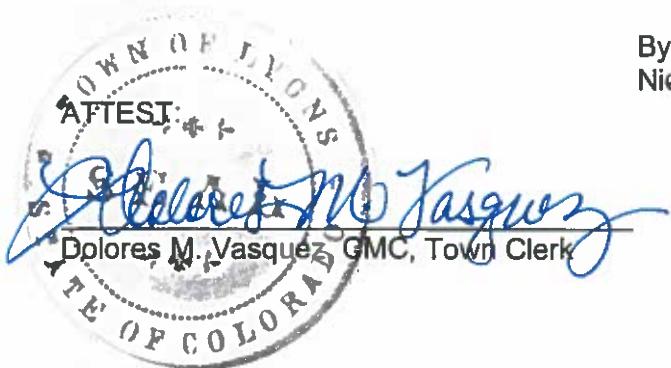


Exhibit 1:
Interwest Engineering – Town Consulting Engineer
Amendment #3

**Town of Lyons, Colorado
THIRD AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

Project: CONSULTING SERVICES – PROFESSIONAL CIVIL ENGINEERING 2018-ENGINEER

THIS THIRD AMENDMENT TO PROFESSIONAL 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 Interwest Consulting Group having a principal office address of 3107 28th Street, Unit 8, Boulder, CO 80302 (the "Contractor"). The Town and the Contractor are individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

WITNESSETH

WHEREAS, pursuant to Resolution 2019-10, the Town and Contractor entered into that certain Professional Services Agreement, Project/Service: **CONSULTING SERVICES – PROFESSIONAL CIVIL ENGINEERING 2018-ENGINEER** dated January 24, 2019 ("Original Agreement") for Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **NINETY-EIGHT THOUSAND THIRTEEN DOLLARS AND SIXTY CENTS (\$98,013.60)**; and

WHEREAS, Sections 1.3 and 10.12 of the Original Agreement require that any amendment to the Original 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 Professional Services Agreement** dated April 15, 2019 authorizing the Contractor to perform additional services for the Temporary Waste Water Treatment Outfall FEMA close out documentation for an additional **THREE THOUSAND NINE HUNDRED TWENTY DOLLARS AND NO CENTS (\$3,920.00)**, and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Second Amendment to Professional Services Agreement** dated December 20, 2020 authorizing the Contractor to perform additional services for design and engineering support services related to the 2nd Avenue Bridge, Bohn Park Phase 2, and various Roadway Repair projects for an additional **EIGHTY-THREE THOUSAND ONE DOLLARS AND EIGHTY-SEVEN CENTS (\$83,001.87)**, and

WHEREAS, the Contractor requires another amendment to the Original Agreement in order to reallocate the budget pursuant to **Exhibit A** and to add Section 3 documentation to the BCC Provisions in the Agreement pursuant to **Exhibit B** at no increase to the total contract price of **ONE HUNDRED EIGHTY-FOUR THOUSAND NINE HUNDRED THIRTY-FIVE DOLLARS AND FORTY-SEVEN CENTS (\$184,935.47)** ("Third Amendment"); and

WHEREAS, the Parties desire to enter into this Third Amendment to the Professional Services Agreement; 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. In addition, this amendment adds Section 3 requirements to the Agreement as set forth specifically in Exhibit B, a copy of which is attached to this Third Amendment and incorporated herein by reference.
- 3.
4. **Scope of Work.** The Original Agreement is hereby amended by adding the documents that indicate the correct tasks and costs for the Project as set forth specifically in Exhibit A, a copy of which is attached to this Third Amendment and incorporated herein by reference.
5. **Contract Sum and Payment.** There is no change to the contract price with this amendment.
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 Third Amendment.
7. **Conflict.** This Third Amendment is and shall be construed as part of the Original Agreement. In case of any inconsistency between this Third 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 Third Amendment shall control.
8. **Counterparts; Facsimile or Electronic Signature; Authority.** The Parties hereto agree that this Third Amendment may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. The Parties further agree that this Third 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 Third Amendment to Professional Services Agreement, Project: CONSULTING SERVICES – PROFESSIONAL CIVIL ENGINEERING 2018-Engineer 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 Third Amendment.

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SIGNATURE PAGE FOLLOWS

THIS THIRD AMENDMENT TO THE DISASTER RECOVERY SERVICES AGREEMENT is executed and made effective as provided above.



Dolores M. Vasquez, CMC, Town Clerk

TOWN OF LYONS, COLORADO:

Approval by:

By: Nicholas Angelo
Nicholas Angelo, Mayor

INTERWEST ENGINEERING:

By: Terry J. Rodriguez

Printed name: TERRY J. RODRIGUE

Its: PRESIDENT

Date of execution: 8-31, 2020

STATE OF CO
COUNTY OF Boulder) ss.

The foregoing Third Amendment to the Professional Services Agreement was acknowledged before me this
31 day of Aug, 2020, by Terry Rodriguez as president of
Interwest Engineering, a contracted company

Witness my hand and official seal.

My commission expires: 05-04-2021

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

STEVE KIM NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20114050711 MY COMMISSION EXPIRES JUNE 4, 2021
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EXHIBIT A –

Interwest Engineering Revised Fee Schedule – Amendment 3

EXHIBIT A

AMENDMENT 3 - FEE AND COST SCHEDULE
Consulting Professional Engineering Services

Interwest Consulting Professional Engineering Services	Original Contract	Amendment 1	Amendment 2	Amendment 3	Revised Contract
A. 2nd Avenue Bridge - Approach	\$ 7,027.20	\$ -	\$ (3,027.20)	\$ -	\$ 4,000.00
B. 2nd Avenue Bridge - Structure	\$ 4,492.80	\$ -	\$ 2,148.45	\$ (2,000.00)	\$ 4,641.25
C. Flood Recovery Roadway Repair	\$ 17,600.00	\$ -	\$ 41,979.20	\$ 13,914.00	\$ 73,493.20
Flatiron - Survey	\$ 22,000.00	\$ -	\$ (1,300.00)	\$ (11,062.50)	\$ 9,637.50
D. Apple Valley Waterline	\$ 11,520.00	\$ -	\$ (10,160.00)	\$ -	\$ 1,360.00
E. Bohn Park, Phase 2	\$ 11,520.00	\$ -	\$ (2,480.00)	\$ (730.00)	\$ 8,310.00
F. Pedestrian Bridge	\$ 6,400.00	\$ -	\$ (2,516.25)	\$ -	\$ 3,883.75
Flatiron - Survey	\$ 5,500.00	\$ -	\$ (4,950.00)	\$ -	\$ 550.00
Rocksol - Geotechnical	\$ 11,953.60	\$ -	\$ (519.20)	\$ -	\$ 11,434.40
G. 4th and Evans Roadway (FEMA)	\$ -	\$ -	\$ 33,971.25	\$ (121.50)	\$ 33,849.75
Flatiron - Survey	\$ -	\$ -	\$ 1,075.00	\$ -	\$ 1,075.00
Rocksol - Geotechnical and Structural	\$ -	\$ -	\$ 15,019.37	\$ -	\$ 15,019.37
H. 4th and Evans Roadway (Town)	\$ -	\$ -	\$ 5,400.00	\$ -	\$ 5,400.00
Flatiron - Survey	\$ -	\$ -	\$ 1,075.00	\$ -	\$ 1,075.00
I. WWTP Temporary Outfall	\$ -	\$ 3,920.00	\$ 543.75	\$ -	\$ 4,463.75
J. Temporary Public Works Building Removal	\$ -	\$ -	\$ 6,742.50	\$ -	\$ 6,742.50
\$ 98,013.60	\$ 3,920.00	\$ 83,001.87	\$ -	\$ 184,935.47	

Flatirons Survey Services	Rate Per
A. Land Survey Plat (1)	\$7,000.00
B. Title Binders - North American Title (8)	\$600.00

EXHIBIT B –

Interwest Engineering Revised BCC Provisions