

**TOWN OF LYONS, COLORADO
RESOLUTION 2021-13**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO RATIFYING THE
THIRD AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH
ANDERSON CONSULTING ENGINEERS, INC. FOR DESIGN SERVICES FOR THE
SAINT VRAIN CREEK RECOVERY 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 Saint Vrain Creek Recovery Project from the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery ("CBDG-DR") administered by the Boulder County Collaborative under the Intergovernmental Agreement between the Town of Lyons and the City of Longmont (INF-00066); and

WHEREAS, pursuant to Resolution 2019-110, the Town and Anderson Consulting Engineers, Inc. ("Contractor") entered into that certain Professional Services Agreement dated October 21, 2019 ("Original Agreement") for the Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **ONE HUNDRED FIFTY THOUSAND THIRTY DOLLARS AND NO CENTS (\$150,030.00)** as part of the St. Vrain Creek Recovery Project, Project # 19-SVCR-01 (the "Project"); and

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

WHEREAS, pursuant to Resolution 2020-82 and to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to the Original Agreement dated May 13, 2020 in order to perform a site assessment, to update a rate error in the Fee and Rate Schedule, and to extend the contract substantial completion date to October 31, 2020 for an increase to the contract by **TWO THOUSAND NINE HUNDRED TWELVE DOLLARS AND FIFTY CENTS (\$2,912.50)**; and

WHEREAS, pursuant to Resolution 2020-123 and to the amendment provisions of the Original Agreement, the Parties entered into that certain **Second Amendment** to the Original Agreement dated August 7, 2020 in order to add construction assistance services for an increase to the contract by **NINETEEN THOUSAND NINE HUNDRED SEVENTY-FIVE DOLLARS AND NO CENTS (\$19,975.00)**; and

WHEREAS, the Contractor and the Town Administrator have executed an amendment to adjust final tasks as outlined in **Exhibit A** and a detailed revised fee and rate schedule as outlined in **Exhibit B** for a decrease of the contract by **(-)THREE THOUSAND EIGHT HUNDRED TWENTY-FIVE DOLLARS AND SEVENTY-FIVE CENTS (-\$3825.75)** for a new not-to-exceed total contract amount of **ONE HUNDRED SIXTY-NINE THOUSAND THREE HUNDRED EIGHTY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS (\$169,388.75)** ("Third Amendment); and

WHEREAS, the Town of Lyons Board of Trustees desires to ratify this Third Amendment in substantially the form attached hereto as **Exhibit 1** for the purpose of entering it into the permanent Town record;

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.

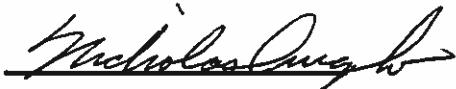
Section 2. The Board of Trustees hereby:

- (a) Ratifies the Third Amendment to the Professional Services Agreement for a decrease of the contract by **(-)THREE THOUSAND EIGHT HUNDRED TWENTY-FIVE DOLLARS AND SEVENTY-FIVE CENTS** **(-\$3825.75)** for a new not-to-exceed total contract amount of **ONE HUNDRED SIXTY-NINE THOUSAND THREE HUNDRED EIGHTY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS** **(\$169,388.75)** 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;

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

ADOPTED THIS 19TH DAY OF JANUARY 2021.

TOWN OF LYONS


Nicholas Angelo, Mayor

ATTEST:


Doña M. Vasquez, CMC, Town Clerk

Exhibit 1:
Anderson Consulting Engineers, Inc – Amendment 3

Town of Lyons, Colorado

**THIRD AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT WITH ANDERSON CONSULTING ENGINEERS, INC.**

**Project/Services Name: Saint Vrain Creek Recovery
Project #:19-SVCR-01**

This THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("Third 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 Anderson Consulting Engineers, Inc. with offices at 375 East Horsetooth Road, Building 5, Fort Collins, CO 80525 (the "Contractor"). The Town and Contractor may be referred to collectively as the "Parties" or each individually as "Party".

WITNESSETH

WHEREAS, pursuant to Resolution 2019-110, the Town and Contractor entered into that certain Professional Services Agreement dated October 21, 2019 ("Original Agreement") for the Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **ONE HUNDRED FIFTY THOUSAND THIRTY DOLLARS AND NO CENTS (\$150,030.00)**; as part of the St. Vrain Creek Recovery Project, Project # 19-SVCR-01 (the "Project"); and

WHEREAS, expenses for this Project are eligible for reimbursement through the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery ("CBDG-DR") under the Boulder County Collaborative sub-allocation INF-00066; 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 Resolution 2020-82 and to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to the Original Agreement dated May 13, 2020 in order to perform a site assessment, to update a rate error in the Fee and Rate Schedule, and to extend the contract substantial completion date to October 31, 2020 for an increase to the contract by **TWO THOUSAND NINE HUNDRED TWELVE DOLLARS AND FIFTY CENTS (\$2,912.50)**; and

WHEREAS, pursuant to Resolution 2020-123 and to the amendment provisions of the Original Agreement, the Parties entered into that certain **Second Amendment** to the Original Agreement dated August 7, 2020 in order to add construction assistance services for an increase to the contract by **NINETEEN THOUSAND NINE HUNDRED SEVENTY-FIVE DOLLARS AND NO CENTS (\$19,975.00)**; and

WHEREAS, the Contractor requires another amendment to adjust final tasks as outlined in **Exhibit A** and a detailed revised fee and rate schedule as outlined in **Exhibit B** for a decrease of the contract by **(-)THREE THOUSAND EIGHT HUNDRED TWENTY-FIVE DOLLARS AND SEVENTY-FIVE CENTS (\$3825.75)** for a new not-to-exceed total contract amount of **ONE HUNDRED SIXTY-NINE THOUSAND THREE HUNDRED EIGHTY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS (\$169,388.75)** ("Third Amendment"); and

WHEREAS, the Parties desire to enter into this Third Amendment to the Professional Services Agreement;

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 additional scope of work and the correct fee and rates for the Project as set forth specifically in documents titled **Exhibit A** and **Exhibit B**, copies of which are attached and incorporated herein by reference.
4. **Contract Sum and Payment.** The Third sentence of Section 2.1 of the Original Agreement entitled "Commencement of and Compensation for Services" is hereby amended to read in full as follows:

**Compensation to be paid hereunder shall not exceed ONE HUNDRED SIXTY-NINE
THOUSAND THREE HUNDRED EIGHTY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS
(\$169,388.75) unless a different amount is agreed to by and between the Parties in accordance
with the amendment requirements of this Agreement.**

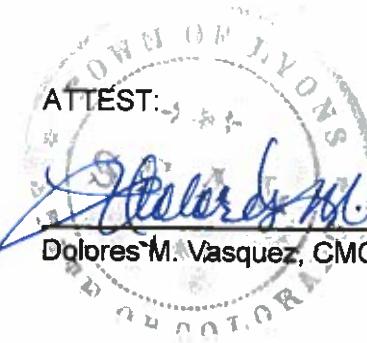
5. **Term.** There is no change to the term of the Agreement with this amendment.
6. **Force and Effect of Amendment.** Notwithstanding anything in the Original Agreement to the contrary, the Original Agreement shall be amended such that all references in the Original Agreement to "Agreement" shall refer 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: Saint Vrain Creek Recovery 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 PROFESSIONAL SERVICES AGREEMENT is executed and made effective as provided above.

ATTEST:

Dolores M. Vasquez, CMC, Town Clerk

TOWN OF LYONS, COLORADO:

Approval by:

By: Victoria Simonsen
Victoria Simonsen, Town Administrator

Date of execution: 1/15, 2021

ANDERSON CONSULTING ENGINEERS, INC.:

By: Gregory J. Koch

Printed name: Gregory J. Koch

Its: President

STATE OF
COUNTY OF
} ss.

The foregoing Third Amendment to the Professional Services Agreement was acknowledged before me

this 8 day of January, 2021, by Gregory J. Koch as President of
Anderson Consulting Engineers Colorado Company.

Witness my hand and official seal.

My commission expires: 12/15/2024

Leah Fiske
Notary Public

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

LEAH A. FISKE NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20204043659 MY COMMISSION EXPIRES DECEMBER 15, 2024

EXHIBIT A –
Anderson Amendment 3: Scope of Work

EXHIBIT A

SCOPE OF WORK for AMENDMENT 3

This contract amendment for engineering services is due to changes in the level of effort required for each task. The contract scope of work for the agreement, as amended, remains the same, however the anticipated costs for individual tasks varied from the budgets, resulting in costs below the total amount of the Agreement. This amendment reconciles final costs with task item budgets.

EXHIBIT B –

Anderson Amendment 3: Fee and Rate Schedule

EXHIBIT B

PROJECT: Saint Vrain Creek Recovery Project
CLIENT: Town of Lyons

Scope of Work							
Task	Description	Hours	Original Agreement	Amendment 1	Amendment 2	Amendment 3	Revised Agreement
1	SITE ASSESSMENT	67 \$	7,150 \$	2,912.50 \$	- \$	(22.50) \$	10,040.00
2	CONSTRUCTION PLANS	542 \$	57,290 \$	- \$	- \$	5,690.00 \$	62,980.00
3	PERMITTING	45 \$	4,785 \$	- \$	- \$	4,907.50 \$	9,692.50
4	CONSTRUCTION OVERSIGHT	369 \$	21,490 \$	- \$	19,975 \$	(2,221.25) \$	39,243.75
5	ECOLOGICAL SUPPORT	10 \$	1,090 \$	- \$	- \$	577.50 \$	1,667.50
6	DAVIS-BACON ACT COMPLIANCE	26 \$	2,700 \$	- \$	- \$	(22.50) \$	2,677.50
7	PROJECT REPORTS	77 \$	7,995 \$	- \$	- \$	(7,935.00) \$	60.00
8	PROJECT CLOSEOUT	68 \$	7,110 \$	- \$	- \$	(5,557.50) \$	1,552.50
9	MEETINGS AND COORDINATION	42 \$	5,310 \$	- \$	- \$	377.50 \$	5,687.50
Outside Services (Task Based-Lump Sum)							
	MAJESTIC SURVEYING	\$	3,360 \$	- \$	- \$	- \$	3,360.00
	CLARK SURVEYING	\$	8,750 \$	- \$	- \$	- \$	8,750.00
	BIOHABITATS	\$	23,000 \$	- \$	- \$	677.50 \$	23,677.50
TOTAL PROJECT BUDGET		\$	150,030.00	\$ 2,912.50	\$ 19,975.00	\$ (3,528.75)	\$ 169,388.75

Rate Schedule

Title	Rate per hour
Principal Engineer	\$ 195
Senior Engineer II	\$ 115
Project Engineer II	\$ 105
Engineer II	\$ 90
Senior GIS/CAD Technician	\$ 90
Senior Project Assistant	\$ 65
Project Assistant	\$ 60