

**TOWN OF LYONS, COLORADO
RESOLUTION 2020-85**

A RESOLUTION OF THE TOWN OF LYONS, COLORADO APPROVING THE SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH MURRAYSMITH, INC. FOR POTABLE WATER TRANSMISSION LINE - PIPELINE RELOCATION DESIGN SERVICES APPLE VALLEY WATERLINE RELOCATION PROJECT

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

WHEREAS, the Town has secured funding for the Northwest Utilities: Apple Valley Waterline Relocation Project from the Federal Emergency Management Agency (FEMA) under PW 900; and

WHEREAS, pursuant to Resolution 2018-116, the Town and Contractor entered into that certain Professional Services Agreement, Project: Potable Water Transmission Line - Pipeline Relocation Design Services Apple Valley Waterline Relocation 19-AVWL-01 ("Original Agreement") for Contractor to perform the Work as specified in the Contract Documents ("Project"), for a not-to-exceed cost of **ONE HUNDRED NINETY-FIVE THOUSAND, SEVEN HUNDRED FIFTY-SEVEN DOLLARS AND NO CENTS (\$195,757.00)**; and

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to the Original Agreement dated January 6, 2020 to add scope and services for supplementary support for construction administration, construction management oversight, required permit processing, redesign of bore pit location and utility easement coordination and to extend the contract term to May 1, 2020 for an additional **THIRTY- SEVEN THOUSAND, SIXTEEN DOLLARS AND NO CENTS (\$37,016.00)**; and

WHEREAS, the Contractor requires a Second Amendment to the Agreement to extend the contract end date to June 30, 2020 due to construction delays at no increase to the total not-to-exceed contract amount of **TWO HUNDRED THIRTY-TWO THOUSAND SEVEN HUNDRED SEVENTY-THREE DOLLARS AND NO CENTS (\$232,773.00)**; ("**Second Amendment**");

WHEREAS, the Parties desire to amend the Original Agreement pursuant to the Second Amendment; and

WHEREAS, the Town of Lyons Board of Trustees desires to approve the Second Amendment to the Agreement with the Contractor and authorizes the Mayor to execute such Second 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 Second Amendment to the Professional Services Agreement 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 Professional Services Agreement that does not increase the obligations of the Town;
- (c) Authorizes the Mayor or Mayor Pro Tem to execute the Second Amendment on behalf of the Town after Contractor has signed the Professional Services Agreement and the Town Clerk to attest such signature; and

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

ADOPTED this 18th day of May 2020.

TOWN OF LYONS, COLORADO



Nicholas Angelo, Mayor

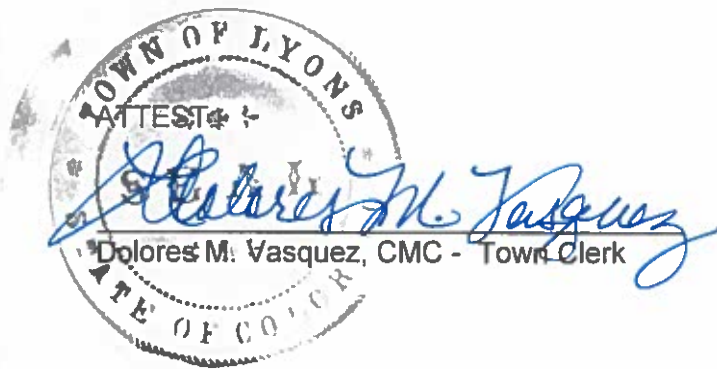


Exhibit 1: Murraysmith Amendment 2

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

**Project/Services Name: Potable Water Transmission Line - Pipeline Relocation Design Services
Apple Valley Waterline Relocation Project
Project #: 19-AVWL-01**

This SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("Second 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 MURRAYSMITH, INC. with offices at 850 W. South Boulder Road #280, Louisville, Colorado, 80027 (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 2018-116, the Town and Contractor entered into that certain Professional Services Agreement, Project: Potable Water Transmission Line - Pipeline Relocation Design Services Apple Valley Waterline Relocation 19-AVWL-01 ("Original Agreement") for Contractor to perform the Work as specified in the Contract Documents, for a not-to-exceed cost of **ONE HUNDRED NINETY-FIVE THOUSAND, SEVEN HUNDRED FIFTY-SEVEN DOLLARS AND NO CENTS (\$195,757.00)**; and

WHEREAS, Section 1.3 of the Agreement requires that any amendment to the Agreement be in writing and signed by the Parties; and

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

WHEREAS, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **First Amendment** to the Original Agreement dated January 6, 2020 to add scope and services for supplementary support for construction administration, construction management oversight, required permit processing, redesign of bore pit location and utility easement coordination and to extend the contract term to May 1, 2020 for an additional **THIRTY- SEVEN THOUSAND, SIXTEEN DOLLARS AND NO CENTS (\$37,016.00)**; and

WHEREAS, the Contractor requires another amendment to the Agreement to extend the contract end date to June 30, 2020 due to construction delays at no increase to the total not-to-exceed contract amount of **TWO HUNDRED THIRTY-TWO THOUSAND SEVEN HUNDRED SEVENTY-THREE DOLLARS AND NO CENTS (\$232,773.00)**; ("**Second Amendment**");

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.** There is no change to the Scope of Work with this Second Amendment.

4. **Contract Sum and Payment.** There is no change to the contract price with this Second Amendment.
5. **Term.** Section 4.1 of the Agreement, entitled "Term," is hereby amended to read in full as follows:

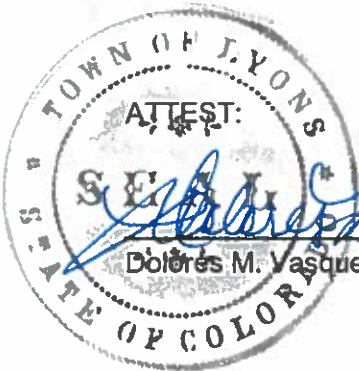
"This Agreement shall be effective on the day of full signature execution and shall terminate at the earlier of the date on which all obligations of the parties have been met (to include all Services that have been completed) or **11:59 P.M. on the 30th day of June, 2020**, or on a prior date of termination 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 this Second Amendment.
7. **Conflict.** This Second Amendment is and shall be construed as part of the Original Agreement. In case of any inconsistency between this Second 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 Second Amendment shall control.
8. **Counterparts; Facsimile or Electronic Signature; Authority.** The Parties hereto agree that this Second Amendment may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. The Parties further agree that this Second 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 SECOND Amendment to Professional Services Agreement, Project: 19-AVWL-01- Potable Water Transmission Line- Pipeline Relocation Design Services 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 Second Amendment.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

SIGNATURE PAGE FOLLOWS

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



TOWN OF LYONS, COLORADO:

Approval by:

By: Nicholas Angelo
Nicholas Angelo, Mayor

MURRAYSMITH, INC.:

By: Joel Price

Printed name: JOEL PRICE

Its: PRINCIPAL ENGINEER

Date of execution: May 21, 2020

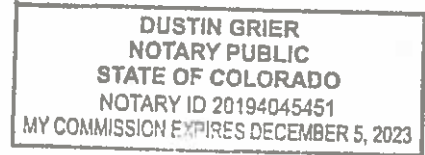
STATE OF)
COUNTY OF) ss.

The foregoing Second Amendment to Professional Services Agreement was acknowledged before me this 21 day of May, 2020, by Joel Price as Principal Engineer of Murraysmith, Inc., a

Colorado corporation.

Witness my hand and official seal.

My commission expires: 12/05/2023



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