

**TOWN OF LYONS, COLORADO
RESOLUTION 2020-99**

**A RESOLUTION OF THE TOWN OF LYONS APPROVING THE FIRST AMENDMENT TO
THE CONSTRUCTION AGREEMENT WITH KRISCHE CONSTRUCTION, INC. FOR THE
PUBLIC WORKS FACILITY REPLACEMENT BUILDING**

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 obtained funding for the Project from the Federal Emergency Management Agency ("FEMA") and Insurance Proceeds; and

WHEREAS, pursuant to Resolution 2018-105A the Town and Krische Construction, Inc., ("Contractor") entered into that certain Construction Agreement dated November 28, 2018 ("Original Agreement") for Contractor to provide construction work for the Public Works Facility Replacement Building (18-NKPWRB-06) as specified in the Contract Documents ("Project"), for a not-to-exceed cost of **EIGHT HUNDRED ELEVEN THOUSAND NINETY-NINE DOLLARS AND NO CENTS (\$811,099.00)**; and

WHEREAS, Section 7.00 of the Original Agreement requires that modifications to the Original Agreement be made in a separate agreement signed by both the Parties; and

WHEREAS, Resolution 2020-25 authorized a First Amendment to the Original Agreement extending the term date to April 30, 2020; and

WHEREAS, this First Amendment referred to by Resolution 2020-25 was not executed as the Contractor needed an additional month to complete the Scope of Work; and

WHEREAS, the Parties now desire to revise the **First Amendment** in order to **extend the date of completion to May 30, 2020** so as to allow the Contractor to complete the Scope of Work at no increase to the not-to-exceed amount of **EIGHT HUNDRED ELEVEN THOUSAND NINETY-NINE DOLLARS AND NO CENTS (\$811,099.00)**; and

WHEREAS, this Resolution supersedes and voids Resolution 2020-25 in its entirety; 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 First Amendment in substantially the form attached as **Exhibit A** to extend the Term of the Contract to May 30, 2020.

(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 First Amendment that do not increase the obligations of the Town;

(c) authorizes the Mayor to execute the Agreement and the Town Clerk to attest the Agreement when in final form.

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

ADOPTED this 15th day of JUNE, 2020.

TOWN OF LYONS

By: *Nicholas Angelo*
Nicholas Angelo, Mayor



Dolores M. Vasquez
Dolores M. Vasquez, CMC, Town Clerk

EXHIBIT A – Krische: Amendment 1

Town of Lyons, Colorado

FIRST AMENDMENT TO CONSTRUCTION AGREEMENT

Project No. 18-NKPWRB-06 Public Works Facility Replacement Building

This FIRST AMENDMENT TO CONSTRUCTION AGREEMENT ("First Amendment") is made and entered into this 15th day of May, 2020, 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 KRISCHE CONSTRUCTION, INC., a Colorado corporation whose address is 605 Weaver Park Road, Longmont, CO 80501 (the "Contractor"). The Town and the Contractor may be referred to collectively as the "Parties" and each individually as "Party".

WITNESSETH

WHEREAS, the Town and Consultant entered into that certain Construction Agreement dated November 28, 2018 ("Original Agreement") for Contractor to provide construction services for the Public Works Facility Replacement Building (No. PW: 18-NKPWRB-06); and

WHEREAS, pursuant to the amendment provisions of the Agreement, the Parties desire to amend the Construction Agreement dated November 28, 2018 in order to **extend the date of completion to May 30, 2020** so as to allow the Contractor to complete the Scope of Work ("First Amendment"); and

WHEREAS, the First Amendment does not increase the not-to-exceed amount of **EIGHT HUNDRED ELEVEN THOUSAND NINETY-NINE DOLLARS (\$811,099)**

NOW, THEREFORE, for sufficient consideration, 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 terms and conditions of the Original Agreement, remain in full force and effect.
3. **Compensation.** The First Amendment does not increase the not-to-exceed contract amount is set forth at: **EIGHT HUNDRED ELEVEN THOUSAND NINETY-NINE DOLLARS (\$811,099)**
4. **Work Prior to this First Amendment.** The Parties acknowledge and agree that the Work conducted by Contractor on and after November 28, 2018 but prior

to this First Amendment is and was subject to the Original Agreement.

5. **Time and Commencement of Completion.** Section 3.00 of the Original Agreement, entitled "Time and Commencement of Completion," is hereby amended to read in full as follows:

This Agreement shall be effective as of the date of mutual execution of the Parties and shall terminate at the earlier of the date on which all obligations of the parties have been met (to include all Services have been completed) or **11:59 p.m. on the 30th of May, 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 First Amendment.

7. **Conflict.** This First Amendment is and shall be construed as part of the Original Agreement. In case of any inconsistency between this First 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 First Amendment shall control.

8. **Counterparts; Facsimile or Electronic Signature Authority.** The Parties hereto agree that this First Amendment may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. The Parties further agree that this First 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.

9. **Terms.** Capitalized terms not otherwise defined in this First Amendment shall have the meaning set forth in the Original Agreement.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the Construction 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 First Amendment.

SIGNATURE PAGE FOLLOWS

First Amendment Krische Construction Inc.

Project No. 18-NKPWRB-06 Public Works Facility Replacement Building

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

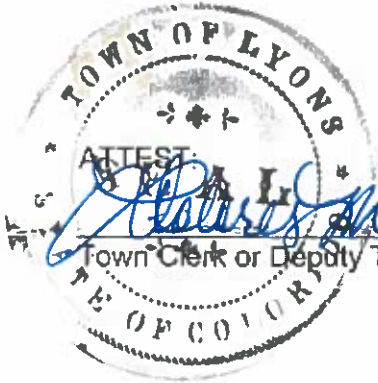
TOWN OF LYONS, COLORADO:

Approval by Town Board of Trustees

By: *Nicholas Longo*
Mayor or Mayor Pro Tem

Approval by Town Administrator

By: _____
Victoria Simonsen, Town Administrator



Town Clerk or Deputy Town Clerk

CONTRACTOR: KRISCHE CONSTRUCTION, INC.

By: *Gary L. Adams*

Printed name: GARY L. ADAMS

Its: VICE PRESIDENT OF OPERATIONS

STATE OF Colorado)
COUNTY OF Boulder) ss.

The foregoing Fourth Amendment to Construction Agreement was acknowledged before me this 1st day of May, 2020, by Gary Adams as Vice President of Ops. of Krische Construction, Inc., a Corporation.

Witness my hand and official seal.

My commission expires: April 19, 2023

KAREN PETERSON
Notary Public
State of Colorado
Notary ID # 20074015938
My Commission Expires 04-19-2023

Karen Peterson

Notary Public

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