

**TOWN OF LYONS, COLORADO  
RESOLUTION 2021-10**

**A RESOLUTION OF THE TOWN OF LYONS RATIFYING A FIFTH AMENDMENT TO  
PROFESSIONAL SERVICES AGREEMENT WITH INTERWEST CONSULTING GROUP, INC.  
FOR 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 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 and to extend the term of the agreement until August 31, 2020 for an additional **EIGHTY-THREE THOUSAND ONE DOLLARS AND EIGHTY-SEVEN CENTS (\$83,001.87)**, and

**WHEREAS**, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Third Amendment** to Professional Services Agreement dated August 31, 2020 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; and

**WHEREAS**, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Fourth Amendment** to Professional Services Agreement dated October 2, 2020 in order to extend the term of the agreement until December 31, 2020 at no increase to the total contract price; and

**WHEREAS**, the Town's Purchasing Policy allows the Town Administrator to execute professional service agreements that incur less than or equal to a \$10,000 increase to the contract price and/or for term extensions; and

**WHEREAS**, the Contractor and Town Administrator have executed an amendment to the Original Agreement in order to reallocate the budget as shown in **Exhibit 1** 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)** ("**Fifth Amendment**"); and

**WHEREAS**, the Town Clerk's office instructs staff to ratify all amendments that have been executed administratively in order to enter the amendment into the permanent record; and

**WHEREAS**, of Lyons Board of Trustees desires to ratify the Fifth Amendment to the Original Agreement with the Contractor 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) Ratifies the Fifth 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;

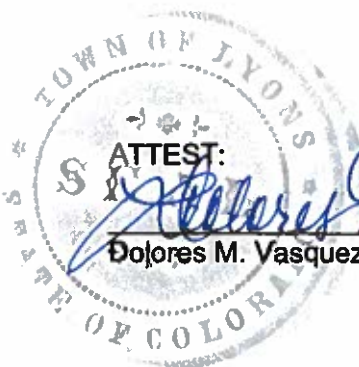
**Section 3.** This resolution shall take effect immediately upon adoption.

**ADOPTED THIS 19TH DAY OF JANUARY 2021.**

TOWN OF LYONS

By: *Nicholas Angelo*  
Nicholas Angelo, Mayor

ATTEST:  
*Dojores M. Vasquez*  
Dojores M. Vasquez, CMC, Town Clerk



**Exhibit 1:**  
**Interwest Engineering – Town Consulting Engineer**  
**Amendment #5**

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

**Project: CONSULTING SERVICES – PROFESSIONAL CIVIL ENGINEERING 2018-ENGINEER**

**THIS FIFTH 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 5<sup>th</sup> Avenue, Lyons, Colorado, 80540 (the “Town”), and Interwest Consulting Group having a principal office address of 3107 28<sup>th</sup> 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 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)** (“Original Agreement”); 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 and to extend the term of the agreement until August 31, 2020 for an additional **EIGHTY-THREE THOUSAND ONE DOLLARS AND EIGHTY-SEVEN CENTS (\$83,001.87)**, and

**WHEREAS**, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Third Amendment** to Professional Services Agreement dated August 31, 2020 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; and

**WHEREAS**, pursuant to the amendment provisions of the Original Agreement, the Parties entered into that certain **Fourth Amendment** to Professional Services Agreement dated October 2, 2020 in order to extend the term of the agreement until December 31, 2020 at no increase to the total contract price; and

**WHEREAS**, the Contractor requires another amendment to the Original Agreement in order to reallocate the budget as shown in **Exhibits A & 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)** (“Fifth Amendment”); and

**WHEREAS**, the Parties desire to enter into this Fifth 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.
3. **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 Exhibits A & B, a copy of which is attached to this Fifth Amendment and incorporated herein by reference.
4. **Contract Sum and Payment.** There is no change to the contract price with this amendment.
5. **Term.** There is no change to the term of this contract 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 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, 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 Fifth Amendment.

*REMAINDER OF PAGE LEFT INTENTIONALLY BLANK*

*SIGNATURE PAGE FOLLOWS*

THIS FIFTH AMENDMENT TO THE DISASTER RECOVERY 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, Town Administrator

Date of execution: 01/04, 2020-2021

INTERWEST ENGINEERING:

By: 

Printed name: TERRY J. RODRIGUE

Its: PRESIDENT

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing Fifth Amendment to the Professional Services Agreement was acknowledged before me this 4 day of January, 2020, by Terry Rodriguez as President of Interwest Consulting Corp Inc. a Corporation.

Witness my hand and official seal.  
My commission expires: 6/19/2023

  
Notary Public

Tricia J. Hayes  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20034019453  
MY COMMISSION EXPIRES June 19, 2023

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

**EXHIBIT A**

**Amendment 5 Scope**

## **EXHIBIT A**

These tasks generally include additional efforts for design and/or design support services related to the ongoing Flood Recovery projects with the tasks further described below. The amended fees below reflect the reallocation of fees for other tasks no longer deemed to be required and additional fees deemed necessary to complete the tasks. See the fee and cost schedule for a full accounting associated with the amendment.

### **A&B. Second Avenue Bridge**

Project tasks are complete and the remaining budget reallocated to Flood Recovery Roadway Repairs.

### **C. Flood Recovery Roadway Repairs**

Interwest required additional effort to complete the required closeout documentation and as-builts for the Town. The budget reallocation includes time from the 2<sup>nd</sup> Avenue Bridge.



**EXHIBIT B**

**Amendment 5 Fee & Cost Schedule**

EXHIBIT B - 1

AMENDMENT 5 - FEE AND COST SCHEDULE  
Consulting Professional Engineering Services

Interwest Consulting Professional Engineering Services	Original Contract	Amendment 1	Amendment 2	Amendment 3	Amendment 4	Amendment 5	Revised Contract
A. 2nd Avenue Bridge - Approach	\$ 7,027.20	\$ -	\$ (3,027.20)	\$ -	Contract Extension	\$ (800.00)	\$ 3,200.00
B. 2nd Avenue Bridge - Structure	\$ 4,492.80	\$ -	\$ 2,148.45	\$ (2,000.00)		\$ (1,200.00)	\$ 3,441.25
C. Flood Recovery Roadway Repair	\$ 17,600.00	\$ -	\$ 41,979.20	\$ 13,914.00		\$ 2,000.00	\$ 75,493.20
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