

FIRST AMENDATORY AGREEMENT

THIS FIRST AMENDATORY AGREEMENT is made and entered into by and between the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado (the “City”) and WILSON & COMPANY, INC., ENGINEERS & ARCHITECTS, a Kansas corporation registered to do business in Colorado, whose address is 4401 Masthead Street NE, Suite 150, Albuquerque, New Mexico 87109 (the “Design Consultant”), jointly the “Parties.”

RECITALS:

A. The Parties entered into a Design Services Agreement executed on or about September 28, 2020 (the “Original Agreement”) for the performance of certain work as set forth in that Agreement and the exhibits incorporated therein; and

B. Rather than enter into a new contract, the Parties desire to revise the terms and conditions of the Original Agreement as they previously existed and the Parties further desire to more accurately describe the term of the Agreement, replace **Exhibit C** of the Original Agreement with the attached **Exhibit C-1**, and to update certain provisions to bring them into conformance with current Denver Revised Municipal Code requirements, all for the purpose of business continuity.

NOW THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. A portion of Section 4 of the Original Agreement entitled “**SECTION 4 – TERM AND TERMINATION**” is amended to read as follows:

“4.01 Term.

The Agreement will commence on November 10, 2020 and will expire on November 9, 2023. Subject to the Director’s, or the Director’s designee’s, prior written authorization, the Design Consultant shall complete any work in progress as of the expiration date and the term of the Agreement will extend until the work is completed or earlier terminated by the Director or the Director’s designee.”

2. **Exhibit C** of the Original Agreement shall be replaced in its entirety by **Exhibit C-1**, which is attached hereto and incorporated herein by reference.

3. Portions of Section 5 of the Original Agreement entitled “**SECTION 5 – GENERAL PROVISIONS**” are amended to read as follows:

“5.06 No Discrimination in Employment. In connection with the performance of work under the Agreement, the Design Consultant may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration

status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Design Consultant shall insert the foregoing provision in all subcontracts.”

and

“5.19 No Employment of a Worker Without Authorization to Perform Work Under the Agreement.”

(a) This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

(b) The Design Consultant certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(3) It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Design Consultant that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Design Consultant shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during

the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

(6) It will comply with a reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

(c) The Design Consultant is liable for any violations as provided in the Certification Ordinance. If the Design Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If this Agreement is so terminated, the Design Consultant shall be liable for actual and consequential damages to the City. Any termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Design Consultant from submitting bids or proposals for future contracts with the City.”

4. Section 5 of the Original Agreement entitled “**SECTION 5 – GENERAL PROVISIONS**” shall be further amended by the addition of a new provision, as follows:

“5.29 Small Business Opportunity Goals.

(a) This Agreement is subject to Article III, Divisions 1 and 3 of Chapter 28, Denver Revised Municipal Code (“D.R.M.C.”), designated as §§ 28-31 to 28-40 and 28-51 to 28-90 (the “MWBE Ordinance”) and any Rules or Regulations promulgated pursuant thereto. The contract goal for MWBE participation established for this Agreement by the Division of Small Business Opportunity (“DSBO”) is 12%.

(b) Under § 28-68 D.R.M.C., the Design Consultant has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with its originally achieved level of MWBE participation upon which this Agreement was awarded, unless the City initiates a material alteration to the scope of work affecting MWBEs performing on this Agreement through contract amendment, or other contract modifications, or as otherwise described in § 28-70 D.R.M.C. The Design Consultant acknowledges that:

(1) If directed by DSBO, the Design Consultant is required to develop and comply with a Utilization Plan in accordance

with § 28-63 D.R.M.C. Along with the Utilization Plan requirements, the Design Consultant must establish and maintain records and submit regular reports, as directed by DSBO, which will allow the City to assess progress in complying with the Utilization Plan and achieving the MWBE participation goal. The Utilization Plan is subject to modification by DSBO.

(2) If contract modifications are issued under the Agreement, the Design Consultant shall have a continuing obligation to immediately inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases discussed in § 28-70, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.

(3) If amendments or other contract modifications are issued under the contract that include an increase in the scope of work of this Agreement, which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MWBE at the time of contract award, such amendments or modifications shall be immediately submitted to DSBO for notification purposes.

(4) Those amendments or other modifications that involve a changed scope of work that cannot be performed by existing project subconsultants are subject to the original goal. The Design Consultant shall satisfy the goal with respect to such changed scope of work by soliciting new MWBEs in accordance with § 28-70, D.R.M.C. The Design Consultant must also satisfy the requirements under §§ 28-64 and 28-73, D.R.M.C., with regard to changes in scope or participation. The Design Consultant shall supply to the DSBO Director all required documentation described in §§ 28-64, 25-70, and 28-73 D.R.M.C., with respect to the modified dollar value or work under the contract.

(5) For contracts of one million dollars (\$1,000,000.00) and over, the Design Consultant is required to comply with § 28-72, D.R.M.C., as applicable, regarding prompt payment to MWBEs. Payment to MWBE subcontractors shall be made by no later than thirty-five (35) days after receipt of an MWBE subcontractor invoice.

(6) Failure to comply with these provisions may subject the Design Consultant to sanctions set forth in § 28-76 of the MWBE Ordinance.

(7) Should any questions arise regarding DSBO requirements, the Design Consultant should consult the MWBE Ordinance or may contact the Project's designated DSBO representative at (720) 913-1999."

5. Except as herein amended, the Original Agreement continues in effect, and is affirmed and ratified in each and every particular.

6. This First Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

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[SIGNATURE PAGES TO FOLLOW]

Contract Control Number:
Contractor Name:
ARCHITECTS

DOTI-202160007-01_202055806-01
WILSON & COMPANY, INC., ENGINEERS &

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:
ARCHITECTS

DOTI-202160007-01_202055806-01
WILSON & COMPANY, INC., ENGINEERS &

By: DocuSigned by:
Scott Waterman
67DB8E95D3B6493...

Name: Scott Waterman
(please print)

Title: Vice President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/1/2022

5/26/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000	CONTACT NAME: PHONE (A/C. No. Ext): FAX (A/C. No): E-MAIL ADDRESS:
INSURER(S) AFFORDING COVERAGE	
INSURED 4011 WILSON & CO., INC. ENGINEERS & ARCHITECTS 4401 MASTHEAD STREET NE, SUITE 150 ALBUQUERQUE NM 87109	INSURER A: Hartford Fire Insurance Company NAIC # 19682 INSURER B: Hartford Insurance Co of the Southeast 38261 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES 2 **CERTIFICATE NUMBER:** 16676896 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	Y	37 UEN OL5652	6/1/2021	6/1/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	37 UEN OL5653	6/1/2021	6/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	37 WE OL6J8C	6/1/2021	6/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 RE: CONNECTING AURARIA. CITY AND COUNTY OF DENVER, ITS ELECTED AND APPOINTED OFFICIALS, EMPLOYEES AND VOLUNTEERS ARE ADDITIONAL INSURED AS RESPECTS GENERAL LIABILITY AND AUTO LIABILITY, AND THESE COVERAGES ARE PRIMARY AND NON-CONTRIBUTORY, IF REQUIRED BY WRITTEN CONTRACT. WAIVER OF SUBROGATION APPLIES TO GENERAL LIABILITY, AUTO LIABILITY AND WORKERS COMPENSATION/EMPLOYER'S LIABILITY WHERE ALLOWED BY STATE LAW AND IF REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

CANCELLATION

16676896 CITY AND COUNTY OF DENVER 201 WEST COLFAX AVENUE, DEPARTMENT 608 DENVER CO 80202	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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DATE (MM/DD/YYYY)

6/1/2022

5/26/2021

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INSURER(S) AFFORDING COVERAGE	
INSURER A : Berkshire Hathaway Specialty Insurance Company	
NAIC # 22276	
INSURED 1048828 WILSON & CO., INC. ENGINEERS & ARCHITECTS 4401 MASTHEAD STREET NE, SUITE 150 ALBUQUERQUE NM 87109	INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

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	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY			NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED _____ RETENTION \$ _____			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	NOT APPLICABLE			PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
A	PROFESSIONAL LIABILITY	N	N	47EPP30530103	6/1/2021	6/1/2022	\$1,000,000 EACH CLAIM & ANNUAL AGGREGATE FOR ALL PROJECTS.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 RE: CONNECTING AURARIA.

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