

THIRD AMENDATORY AGREEMENT

THIS THIRD AMENDATORY AGREEMENT is made and entered into this ____ day of _____, 2010, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City"), and **MERRICK & COMPANY**, (the "Design Consultant"), a Colorado corporation, whose address is 2450 South Peoria Street, Aurora, Colorado 80014.

WITNESSETH:

WHEREAS, the City and the Design Consultant previously entered into a Design Services Agreement dated November 27, 2007, which Agreement was amended by Amendatory Agreement dated December 23, 2008 and by Second Amendatory Agreement dated September 29, 2009, for on-call design services (jointly, the "Agreement"); and

WHEREAS, Section E.1 of Article IX of the Agreement allows the City at its sole option to extend the initial term for up to four (4) consecutive one (1) year renewal terms, upon written amendment of the Agreement and the Council approval for each renewal term; and

WHEREAS, the City desires to exercise its option to extend the Agreement for an additional one-year renewal term and the parties desire to amend the Agreement to extend the term.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth, the parties agree as follows:

1. Section E.1 of Article IX of the Agreement, entitled "**Term and Termination:**" is hereby amended to read in its entirety as follows:

1. Term and Termination: The initial term of the Agreement shall commence upon execution and shall end one (1) year later; provided, however, that any work in progress that was initiated during the term of this Agreement shall continue and be paid for hereunder until the completion thereof. All terms and conditions of the Agreement shall remain in full force and effect until such completion. This initial term may be extended, at the sole option of the City, for up to four (4) consecutive one (1) year renewal terms, upon written amendment of this Agreement and Council approval for each renewal term. In no event, however, shall the Design Consultant's performance under this Agreement, including the four (4) possible extensions, exceed a five (5) year period ending on month and day of the execution of

this Agreement. In addition, nothing contained herein shall obligate the City to extend the Agreement beyond the initial term.

The City previously exercised its sole option to extend the term for two additional one year terms ending November 26, 2009 and November 26, 2010. The City hereby exercises its sole option to extend the term for a one (1) year renewal term, ending on November 26, 2011.”

2. Except as amended herein, the Agreement is affirmed and ratified in each and every particular.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have executed, through their respective lawfully empowered representatives, this Third Amendatory Agreement as of the day and year first above written.

ATTEST:

CITY AND COUNTY OF DENVER

STEPHANIE Y. O'MALLEY,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By: _____
Mayor

RECOMMENDED AND APPROVED:

APPROVED AS TO FORM:
City Attorney for the
City and County of Denver

By: *Lesley Blum*
Manager of Public Works

By: _____
Assistant City Attorney

REGISTERED AND COUNTERSIGNED:

By: _____
Manager of Finance
Contract Control No. OC71224(3)

By: _____
Auditor

“CITY”

MERRICK & COMPANY

I.R.S. Identification No. 84-0499702

By: *Benjamin H. Merrick*
Title *Vice President*

“DESIGN CONSULTANT”