

**DESIGN SERVICES
SECOND AMENDATORY AGREEMENT**

THIS SECOND AMENDATORY AGREEMENT is made between the **City and County of Denver** (the "City"), a municipal corporation of the State of Colorado, and **TSIOUVARAS SIMMONS HOLDERNESS, INC.** (the "Design Consultant"), a Colorado corporation, whose address is 5690 DTC Blvd., Level 3, Suite 345W, Greenwood Village, CO 80111.

RECITALS:

WHEREAS, the City and the Design Consultant entered into a contract December 14, 2010 and an amended contract on May 4, 2012, (the "Agreement");

WHEREAS, the City and the Design Consultant desire to amend the Agreement to extend the term of the Agreement;

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

1. All references to "**Exhibit A**" or "**Exhibit B**" in the existing Agreement shall be amended to read: "...**Exhibits A and A-1**" and "**Exhibits B and B-1**" respectively. The Scope of Work marked as **Exhibit A-1** and the Fee Estimate Summary marked as **Exhibit B-1** are attached and incorporated herein by reference.

2. Paragraph 3.01 of the Agreement, entitled "**Fee for basic services.**" is hereby deleted in its entirety and replaced with:

“3.01 Fee for basic services. The City agrees to pay the Design Consultant, as full compensation for its basic services rendered hereunder, a fee not to exceed **Two Million One Hundred Forty-one Thousand Six Hundred Thirty Six Dollars and No/100 (\$2,141,636.00)**, in accordance with the billing rates and project budget stated in **Exhibits B and B-1.**”

3. Paragraph 3.02 of the Agreement, entitled "**Reimbursable Expenses:**" is hereby deleted in its entirety and replaced with:

“3.02 Reimbursable Expenses: Except for those reimbursable expenses specifically identified in **Exhibit B** and **Exhibit B-1** or approved in writing by the City as reasonably related to or necessary for the Design Consultant’s services, all other expenses shall be included in the Design Consultant’s fee and will not be reimbursed hereunder. Unless this Agreement is amended in writing according to its terms to increase the Maximum Contract Amount, the total of reimbursable expenses will not exceed is **Twenty Three Thousand Two Hundred Fifty Dollars (\$23,250.00)** any increase in the

maximum amount of reimbursable expenses will reduce the Design Consultant's maximum fee amount accordingly."

4. Paragraph 3.03 of the Agreement, entitled "**Additional Services.**" is hereby deleted in its entirety and replaced with:

"3.03. Additional Services. If pre-approved additional services are performed by the Design Consultant, the City agrees to pay the Design Consultant for such additional services in accordance with Section 2.08. The maximum amount to be paid by the City for all additional services under this contract is **Two Hundred Fifty Thousand Dollars \$250,000.00.**"

5. Paragraph 3.05(a) of the Agreement, entitled "**Maximum Contract Amount.**" is hereby deleted in its entirety and replaced with:

"3.05 Maximum Contract Amount. Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **Two Million Four Hundred Fourteen Thousand Eight Hundred Eighty Six Dollars (\$2,414,886.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Design Consultant beyond that specifically described in **Exhibit A and A-1.** Any services performed beyond those set forth therein are performed at Design Consultant's risk and without authorization under the Agreement."

6. Paragraph **4.01** entitled "**Term**", of the Agreement, is hereby deleted in its entirety and replaced with:

"4.01 Term. The term of this Agreement commenced on December 14, 2010 and shall expire on October 31, 2016, unless sooner terminated, upon final completion of the Project."

7. This Second Amendatory Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument.

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

EXHIBIT LIST

Exhibit A-1 Scope of Work

Exhibit B-1 Fee Estimate Summary

[SIGNATURE PAGE TO FOLLOW]

Contract Control Number:

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:

By _____


By _____

By _____



Contract Control Number: PWADM-CE02011-02

Contractor Name: TSIOUVARAS SIMMONS HOLDERNESS, INC.

By:  _____

Name: George N. Tsiouvaras, P.E.
(please print)

Title: President
(please print)

ATTEST: [if required]

By:  _____

Name: Jeff Simmons, P.E.
(please print)

Title: Vice President
(please print)



PROJECT SCOPE OF WORK AND TASKS

This scope of work is intended to extend Tsiouvaras Simmons and Holderness (TSH) services through the end of design, provide environmental services in the form of an Environmental Assessment "Checklist" and include TSH's assistance through right of way acquisition.

TSH's original contract expired December 31, 2013. This contract amendment is intended to extend TSH's services through completion of environmental clearance, final design and right of way acquisition scheduled to be completed in May, 2016. The majority of TSH's effort is anticipated to be completed prior to May 30, 2014. TSH will provide services during the bidding phase scheduled May 2016 to October 31, 2016.

Some elements of this Scope of Work were started under TSH's On Call professional engineering services contract to avoid a stoppage in work between the expiration of this contract on December 31, 2013 and when a new contract amendment is executed in 2014. Two On Call task orders have been executed to continue work, one approved January 8th, 2014 and the second approved April 20, 2014.

It is anticipated that TSH's contract will be amendment at a later date (near the end of this amendment in 2016) to provide construction administration and materials testing services. These services were removed from this contract amendment to aid Denver with cash flow for right of way acquisitions. ~~A detailed scope of work, fee, and revised hourly rates will be developed for this future contract amendment. New hourly rates will be established at the time of the future contract amendment and will reflect the contract amendment duration.~~

A. Meetings

1. The City and TSH's team will meet periodically as required (typically at two-week intervals during the design and ROW phase of the project). 48 meetings have been included based on a 2 year design schedule (May 2014 to May 2016). These Progress Meetings will be used to coordinate the work effort and resolve problems, and the meetings will be required throughout the duration of the design of the project. The meetings will include the following:
 - Activities completed since the last meeting.
 - Problems encountered.
 - Proposed solutions for unresolved issues and anticipated problems
 - A review of the project schedule and changes in the critical path.
 - Review of updated construction and project cost estimates.
 - Activities required by the next progress meeting.
 - Information or items required from other agencies and discuss agency coordination.

The Design Consultant's has included 2 meetings for the landscape architect sub consultant on our team to meet with City staff when necessary to review landscape, irrigation, planting design, maintenance with the appropriate City departments.

2. Minutes of all project meetings shall be prepared by the Design Consultant and provided to the City Project Manager within one week of the actual meeting.

B. Final Engineering Design

Final engineering design will be completed based on comments from the City and CDOT. The following

design activities will be preformed

- **Final Design**

- **Roadside design** – Redesign of the area from the back of curb to the ROW line will be redesigned based on comments from CCD planning department’s direction to widen the sidewalk to the extent possible and provide for trees in this area. Locations where the City plans a full take will include an alternate design for the ultimate section of 8ft tree lawn and 8ft sidewalk.
- **Environmental** – TSH, through our environmental subconsultant Pinyon Environmental, will complete an Environmental Assessment activities not included in the previous two On Call task orders. Environmental services will follow the “Environmental Assessment (EA) “Checklist” process. It is anticipated that the EA will result in a Finding of No Significant Impact (FONSI). Pinyon will reuse as much information from the Planning and Environmental Linkage (PEL) as possible. The following activities will be done to complete the EA Check List::

Meetings and coordination:

- Pinyon will attend progress team meetings (up to 22 meetings including meetings from previous task orders), client coordination meetings and topic specific meetings with CDOT/FHWA (up to 6 meetings including meetings from previous task orders), and one on one meetings with stakeholders (up to 4 meetings including meetings from previous task orders). The EA process is anticipated to be completed in by November 30, 2014.
- Identify agencies that have regulatory or jurisdictional interest or responsibility based on the resources present and solicit input on project related concerns.

Resources Work:

- **Air Quality:** Initial meeting with CDOT, model existing conditions the lowest performing intersection (only one intersection) for 2035 No Action and 2035 Action Alternative; assumes traffic data for current and future year is provided by TSH or CCD along with design in CAD; documentation in the form of an Air Quality Assessment technical memo. . Assumes CCOD completes conformance requirements for inclusion in the fiscally constrained plan. (The majority of this work was completed under the previous two task orders.)
- **Geologic Resources and Soil:** Assumes geotech team member will provide soil assessment; Pinyon to document in the EA. (This work was fully complete by previous two task orders.)
- **Water Quality:** Assumes geotech team member will provide soil assessment; Pinyon to document in the EA. (Significant effort for this task remains to be completed.)
- **Floodplains:** Documentation of 100 year floodplain based on FEMA mapping. Assumes no significant change in floodplain elevation, no CLOMR or LOMR is required. Pinyon to document in brief technical memo with no quantitative analyses and in the EA. (This work was fully complete by previous two task orders.)
- **Wetlands/Waters of the US:** Assumes field work for wetlands, wildlife, T&E, SB 40 vegetation combined to verify findings from PEL (one field visit); additional work including delineations would require a change order. Assumes previously completed FACWet is sufficient and no Wetland Finding Report is required. Work to be documented in a Biological Resources Memo and the EA. Assumes utilization of NWP 7 and PCN to USACE - to be completed by Pinyon. (Significant effort for this task remains to be completed.)

- **Vegetation and Noxious Weeds:** Combined site visit with other natural resources; identification and mapping of noxious weeds. Document in Biological Resources Memo and EA; provide plan set specifications to TSH. (This work was fully complete by previous two task orders.)
- **Fish and Wildlife:** Identification of nests and high probability areas; mapping of riparian vegetation in accordance with Senate Bill 40. Completion of SB 40 report and certification; does not include mitigation planning. Biological Resources Memo and EA. (The majority of this item was completed under previous two task orders.)
- **Threatened and Endangered Species:** Update potential species list and identify likelihood of adverse effect; does not include habitat assessment, specific surveys or formal agency consultation. USFWS documentation in Biological Resources Memo and EA; includes concurrence letter; assumes no species are present. (This work was fully complete by previous two task orders.)
- **Historic Resources:** Assumes APE definition (SHPO concurrence), completion of eligibility recommendations and determinations for up to 15 properties. 106 Consultation will be completed and documented in a Historic Resources Memo and the EA.; does not include an MOA. (The majority of this item was completed under previous two task orders.)
- **Archeological Resources:** Research and documentation in a technical memo; no field work. (The majority of this item was completed under previous two task orders.)
- **Paleontological Resources:** Research and documentation in a technical memo; no field work. (The majority of this item was completed under previous two task orders.)
- **Land Use:** Investigate and document in technical memorandum current and future land uses as well as impacts. Assumes land use conversions are compatible with existing plans. (The majority of this item was completed under previous two task orders.)
- **Social Resources:** Investigate and document in brief memorandum current and future social resources in study area as well as impacts. (The majority of this item was completed under previous two task orders.)
- **Economic Resources:** Investigate and document in brief memorandum current and future economic resources in study area as well as impacts. (The majority of this item was completed under previous two task orders.)
- **Environmental Justice:** Complete CDOT methodology for determination of whether EJ populations are present; determination of whether impacts are disproportionately borne by EJ community. Includes outreach and mitigation measures as described in the PEL. Including development of a Business and Construction Plan as well as investigation of housing options for displaced residents. Documentation in technical memo and EA. (The majority of this item was completed under previous two task orders.)
- **Right of way:** TSH to provide shapefiles of alternative including areas of impact. Pinyon to document impacts to surrounding right of way in EA. (The majority of this item was completed under previous two task orders.)
- **Transportation:** Description of current and known future facilities including operations, location, and interconnectivity in EA. (The majority of this item was completed under previous two task orders.)
- **Utilities:** TSH responsible for technical assessment; Pinyon to document in the EA. (The majority of this item was completed under previous two task orders.)
- **Parks and Recreation:** Identify nearby features (existing and proposed); assumes sidewalk extension to Weir Gulch bicycle/pedestrian path does not trigger a Section 4(f) related work. Assumes no Section 6(f) assessment is

required. (The majority of this item was completed under previous two task orders.)

- **Farmlands:** Document exemption in EA for analyses based on zoning and land use planning. (The majority of this item was completed under previous two task orders.)
- **Noise:** Noise modeling for 2035 No Action and proposed improvement; assumes no mitigation planning is required. Assumes traffic data will be provided to Pinyon within a month of NTP. Completion of a Noise Assessment Technical Memo and EA. (The majority of this item was completed under previous two task orders.)
- **Visual Resources:** Document existing conditions and compatibility of proposed improvements in EA. Does not include simulations. (The majority of this item was completed under previous two task orders.)
- **Hazardous Materials:** ISA's, Phase 1's and material management plan will be complete under separate contract. (This work will be completed through Pinyon's On Call contract with Denver's Environmental Management group.)
- **Cumulative Impacts:** Qualitative cumulative impact assessment for proposed improvement in the EA. (Majority of this item completed under previous task orders.)

Prepare EA Document & Review:

Pinyon will take the lead in preparing the EA document and assembling the technical sections.

The EA will be submitted in electronic format to CCD and CDOT for one concurrent review. Comments will be provided in CDOT's comment matrix. One round of comments responses is included. (Fee for this item was included previous task orders.)

After revisions from CCD and CDOT are made, the EA will be submitted electronically to FHWA. One round of comments from FHWA will be addressed. (Fee for this item was included previous task orders.)

The final EA document will be routed for signatures. Three paper copies will be printed with technical memos and supporting materials on CD. (Fee for this item was included previous task orders.)

Public Meeting:

Pinyon will attend one public meeting and will work with TSH, CCD & CDOT to prepare displays and exhibits to present. (Fee for this item was included previous task orders.)

Prepare FONSI:

Pinyon will take the lead in preparing the FONSI with assistance from TSH on ROW, traffic and utility technical areas.

The FONSI will be submitted in electronic format to CCD and CDOT for one concurrent review. Comments will be provided in CDOT's comment matrix. One round of comments responses is included.

After revisions from CCD and CDOT are made, the FOSI will be submitted electronically to FHWA. One round of comments from FHWA will be

addressed.

The final FONSI document will be routed for signatures. Three paper copies will be printed with technical memos and supporting materials on CD.

- **Traffic** – TSH will review the access plans developed with CCD and CDOT and complete any final revisions. TSH will prepare CDOT Form 138's (State Highway Access Permits), including Exhibits. The forms shall meet both Denver's and CDOT's requirements for access. Final traffic review comments from the FOR and final review will be completed.
- **Traffic impacts from Knox Street Bridge:** If the 6th Ave project moves forward and eliminates the west bound 6th Ave ramp, TSH will evaluate the impact of traffic changes at the 8th Ave and Federal Blvd intersections. This has the potential to modify the median on Federal Blvd south of 8th Ave.
- **Geotechnical** – TSH through our subconsultant Yeh will respond to any questions on the geotechnical design for the wall and pavement design recommendations.
- **Urban/Landscape Design** – TSH through our subconsultant StudioInsite will revise the design between the back of curb and ROW to provide a larger pedestrian area on both sides of Federal Blvd and that includes trees on the east side of Federal only. SI will work with Denver's planning department to develop concepts that can be included within the existing ROW plans. Additional irrigation will be designed to provide irrigation to proposed trees. It is anticipated the irrigation will be done on a full block basis rather than individual property owner basis along the east side.
- **Drainage design**
The drainage design will be modified based on coordination with the I-25/6th Ave project. This is anticipated to include relocation of an inlet currently designed at the corner of 7th Ave and modifications to the associated drainage report. Revisions based on review comments will also completed.

CDOT has provided comments through the initial EA review of water quality raising the question about whose (CDOT's or CCD) MS4 standards for WQ will be used. Prior discussions with CDOT and CCD had concluded that Denver's MS 4 standard will be used. TSH based our final storm and water quality design based on using Denver's MS4 permit. If this changes to CDOT's standards the water quality design will need to be revised resulting in the potential for a revised storm sewer system, water quality facilities and report.

CCD has indicated to TSH this project will qualify for regional water quality treatment which could eliminate the water quality pond design at 8th Ave and Federal. TSH will prepare a variance to request a portion of the water quality be treated in a regional water quality facility. If the request is approved, TSH will revise the plans and design to remove the water quality pond. This may result in redesign of a portion of storm sewer system, revised water quality report and revised drainage report.

No additional permits, CLOMR, LOMR are assumed needed for the Weir Gulch outfall. No modification to the concrete box culver for Weir Gulch under 8th Street and Federal is included.

TSH will continue to coordinate with CCD and the team working on the Weir Gulch

drainage study by attending meeting and providing the design information already completed for this project. No concept, preliminary or final design work is included to design a new or modified the existing culvert for Weir Gulch under 8th Ave and Federal Blvd.

- **Lighting-** Lighting design by Clanton and Associates will be reviewed based on changes to the roadside design changes and coordination with the lighting of the I-25/6th Ave project. Final revision based on review comments from the City and Xcel will be incorporated.
- **Utility Coordination** – TSH anticipates that one additional design coordination meeting will be needed with each utility owner during the design phase to confirm relocations and coordinate specifications. The City will complete all utility agreements. TSH will assist the City with the agreements by providing design information.
- **Structural** – TSH will respond to any comments from the FOR review or Final plan review.
- **FOR meeting** – One final office review (FOR) meeting will be held to gather comments from CDOT and CCD departments. TSH will distribute plans, specs and report through Denver’s PCO list and respond to comments.
 - Prepare quantities and a cost estimate for the work described in the design plans based on estimated quantities.
 - Prepare technical specifications and Project Special Provisions unique to the project for items that are not adequately covered by standard specifications for construction by the City and County of Denver or CDOT.
 - Distribute the Final Design Plans (half-size), Project Special Provisions, technical specifications, and all Final studies/ plans/ attachments to the City, utility companies and other stakeholders for review two (2) weeks prior to the final design review meeting. The plans and all attachments will be reproduced by the Design Consultant. The City will require thirty (30) copies of the Plans and Specifications.
- **100% Plans and specifications** – Revisions from the FOR review and meeting will be incorporated into final plans and technical specifications. Plans and specs will be distributed for final review.
- **Ad plans, specs and estimate** – TSH will provide a final advertisement set of plans and technical specifications to the City. The City will assemble the bid documents advertise the project.
- **Record Plans and Specs** Three (3) record plan sets for final design of roadways and structures will be produced which shall bear the seal and signature of the responsible Design Consultant Engineer on each sheet. One (1) set shall be retained by the Design Consultant for three (3) years. One (1) set shall be submitted by the City to CDOT. The third set shall be retained by the City. TSH will provide three sets of stamped record plans.

A. Public Information

- **Public Meeting** – TSH in conjunction with our subconsultants Pinyon Env and

Romero and Wilson shall conduct one Public Meeting in the project neighborhood to inform area property and business owners of the project progress and project features, and to gather input and comments from attendees for documentation in the EA. Design Consultant shall prepare all necessary exhibits, handouts, etc., needed for the meeting, and Design Consultant shall fully document the results for City decision makers. The Design Consultant shall prepare all written materials (including the invitations) associated with the meeting in both Spanish and English, and the Design Consultant shall ensure that Spanish interpreters are available at the meetings. The City will have representatives from the effected departments at the meeting to assist in answering citizens questions. (Fees for this were included in previous task orders.)

- **One on One Meetings** – TSH will attend one on one meetings with property owners or other effected stakeholders as desired by the City to assist with the EA process, project approval, or ROW process. Up to 20 meetings are included.
- **Neighborhood Group Meetings:** The TSH team will attend 3 neighborhood group meetings and provide graphics for these meeting.
- **Maintenance District** – TSH will assist the City with public involvement if the City elects to explore or create a maintenance district for maintenance of the proposed trees along sidewalk area.

B. Service during Bidding

TSH will provide services during the Bid Phase and during construction. Services during construction will consist of shop drawing review and approval, plan interpretation and answering questions, attendance at weekly construction progress meetings, and assistance with Change Order analysis and review. The construction duration is estimated at 400 days.

1. Answering Questions and Assistance with Preparation of Addendums

TSH will answer technical questions and provide clarifications during the Bid Phase. The Design Consultant will also assist the City with preparation of any Addendums by providing design services and plan and quantity revisions, if necessary, as well as exhibits needed in the Addendums.

2. Pre-Bid Meeting:

The Design Consultant will attend the pre-bid meeting and site visit (if held) to respond to inquiries and requests for information by prospective bidders. The Design Consultant will present and describe the project at the Meeting. The Design Consultant will also prepare drawings and exhibits to be used at the Pre-Bid Meeting.

3. Bid Evaluation and Assistance:

- The Design Consultant will assist the City in preparing written responses or addendum material as required.
- The City shall distribute such responses and addenda to prospective bidders.
- The Design Consultant will assist the City in reviewing, checking, evaluating and tabulating bids.
- The Design Consultant will advise the City on the acceptability of substitutions of materials, equipment or construction methods suggested by prospective bidders prior to bid opening.

C. Right of Way & Property Acquisition

o Final ROW plans legals and exhibits –

- Lund will schedule and attend one right of way plan review meeting (ROWPR) with CDOT and the City and address comments from the meeting.
- A total of 43 legals and exhibits have already been created for the project and

- will be updated as part of the final ROW plan revisions. New or revised legals and exhibits after final ROW plan approval are not included.
- Lund has not included appraisal staking.
 - Lund has not included monumentation of existing or proposed right-of way, permanent easement temporary easements or City of Denver range points. This work should be completed by the contractor's surveyor prior, during and after construction.
 - Lund will provide 3 days of supplemental topographic survey as requested by TSH or the City.
- **Right of way appraisals and acquisition –**
HC Peck & Associates (Peck) will provide right of way appraisals and acquisition services through separate contract with Denver
- **Bi weekly –ROW meetings –** TSH will attend by weekly ROW meetings (48 total) at the City for 24 months to assist the City with the right of way acquisition process.

G. Additional Services

The City may authorize additional services to be preform up to \$150,000. The scope of work and fee for these services will be agreed to by TSH and the City. Written authorization will be provided by Denver's project manager prior to any additional services work proceeding.

