

## **AMENDATORY PRECONSTRUCTION SERVICES AGREEMENT**

This **AMENDATORY PRECONSTRUCTION SERVICES AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado (“City”), and **KRAEMER NORTH AMERICA, LLC**, a Delaware limited liability company, authorized to conduct business in Colorado, with an address of 1 Plainview Road, Plain, Wisconsin 53577 (“Contractor”), jointly (“the Parties.”)

### **RECITALS:**

**A.** The **EAST COLFAX BRT CONSTRUCTION PROJECT** consists of providing Design Phase and Construction Phase (CM/GC) services for the **EAST COLFAX AVENUE BRT**.

**B.** The Parties entered into a Preconstruction Services Agreement dated September 19, 2023, (the “Agreement”) to engage a highly qualified and experienced contractor to expeditiously perform preconstruction services including and without limitation, scheduling, cost estimating, constructability review, value engineering, construction packaging and sequencing, subcontractor canvassing and all other preconstruction services necessary to complete a satisfactory final design and construction pricing for the Project, to the City’s satisfaction.

**C.** To meet Federal Transit Administration (“FTA”) grant application deadlines preconstruction services have been divided into two scopes of work. The initial preconstruction services contract included services necessary to meet FTA Small Starts grant application deadlines. This amendment adds funding and scope to complete preconstruction.

**D.** The Parties wish to amend the Agreement to increase the budget in paragraph 1.3, increase the basic services amount in paragraph 6.1, increase the maximum contract amount in paragraph 6.3, increase the funding amount in paragraph 6.4, and amend the scope & fee in exhibit D.

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

1. Section 3 of the Agreement entitled “**1.0 PROJECT AND BUDGET:**”, subsection **1.3** entitled “**Budget.**” is hereby deleted in its entirety and replaced with:

“**1.3 Budget.** The Contractor acknowledges that there are limited funds available to design and construct the Project. The City’s preconstruction budget for this Project is: **ONE MILLION NINE HUNDRED NINE THOUSAND NINE HUNDRED EIGHTY-THREE DOLLARS AND FIFTY CENTS (\$1,909,983.50)** (the “Project Budget”) and is subject to increase or decrease at the

sole discretion of the Executive Director of the **EAST COLFAX AVENUE BRT**, prior to establishing a GMP for the Construction Services Phase of the Project.”

2. Section 6 of the Agreement entitled “**6.0 COMPENSATION:**”, subsection **6.1** entitled “**Basic Services.**” is hereby deleted in its entirety and replaced with:

**“6.1 Basic Services.**

The Contractor’s Basic Services shall consist of all preconstruction and related work and services set forth in **Exhibit D - Initial Preconstruction Services – Scope & Fee**. The Contractor shall be compensated for all such services performed on a lump sum basis. The maximum amount payable for all Basic Services shall be the lump sum amount of **ONE MILLION NINE HUNDRED NINE THOUSAND NINE HUNDRED EIGHTY-THREE DOLLARS AND FIFTY CENTS (\$1,909,983.50)**. Compensation shall be paid to the Contractor monthly, based upon pay applications and progress reports accepted and approved by the Project Manager. The City may, in its sole discretion decide to amend this preconstruction agreement to include remaining required preconstruction services. Upon successful completion of preconstruction services, the City may in its sole discretion elect to execute a CM/GC construction contract with Contractor.”

3. Section 6 of the Agreement entitled “**6.0 COMPENSATION:**”, subsection **6.3** entitled “**Maximum Contract Amount.**” is hereby deleted in its entirety and replaced with:

**“6.3 Maximum Contract Amount.** The “Maximum Contract Amount” to be paid by the City to the Contractor under this Agreement shall not exceed the sum of **ONE MILLION NINE HUNDRED NINE THOUSAND NINE HUNDRED EIGHTY-THREE DOLLARS AND FIFTY CENTS (\$1,909,983.50)**.”

4. Section 6 of the Agreement entitled “**6.0 COMPENSATION:**”, subsection **6.4** entitled “**Funding.**” is hereby deleted in its entirety and replaced with:

**“6.4 Funding.** It is expressly understood and agreed by the Contractor that the Contractor is undertaking this performance for a “not to exceed”, maximum fee for the Project. It is further understood and agreed by the Contractor that the total obligation of the City for all or any part of its payment obligations hereunder, whether direct or contingent, shall in no event extend beyond payment of the lesser of the amounts duly and lawfully encumbered for the purposes of the Agreement or the Maximum Contract Amount set forth above. The City has, as of the date first set forth above, duly and lawfully encumbered the sum of **ONE MILLION NINE HUNDRED NINE THOUSAND NINE HUNDRED EIGHTY-THREE DOLLARS AND FIFTY CENTS (\$1,909,983.50)** for the purposes of this Agreement. With respect to all such performance and funding, the Contractor understands and agrees that the provision of any services which would cause the total amount payable to Contractor to exceed the amount of previously encumbered funds, is strictly prohibited. In the event the continuation of services by the Contractor would cause the amount payable to Contractor to exceed the amount payable under Sections 6.1 and 6.2, the Contractor agrees to give the Project Manager at least four (4) weeks’ written notice of the exhaustion of available funds.

In the event additional funds are not made available within such four (4) week period, the Contractor agrees to stop providing services until such time as additional funds are made available and encumbered for the purposes of this Agreement. It shall be the responsibility of the Contractor to verify that the amounts already encumbered are sufficient to cover the entire cost of such work. Work or services performed in excess of the amount encumbered or outside the scope of authorized work or services is undertaken or performed in violation of the terms of this Agreement and, as such, at the Contractor's own risk and sole cost and expense. Funding for the Project has been budgeted over several years, and the City reserves the right to suspend work and the Contractor will not be compensated monetarily for the time delay."

5. All references in the original Agreement to **Exhibit D, Initial Preconstruction Services-Scope & Fee** now refer to **Exhibit D** and **Exhibit D-1**. **Exhibit D-1** is attached and incorporated by reference herein.

6. As herein amended, the Agreement is affirmed and ratified in each and every particular.

7. This Amendatory Preconstruction Services 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.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

**Contract Control Number:** DOTI-202370979-01 [202369719-01]  
**Contractor Name:** Kraemer North America, LLC

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:**

DOTI-202370979-01 [202369719-01]  
Kraemer North America, LLC

By: DocuSigned by:  
*Timothy Maloney*  
A17D36DAB3AF456... \_\_\_\_\_

Name: Timothy Maloney  
(please print)

Title: Senior Vice President  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

# **EXHIBIT D-1**

## **Preconstruction Services – Scope & Fee**



October 20, 2023

Brian McLaren, PE  
City & County of Denver  
Department of Transportation & Infrastructure (DOTI)

**RE: Colfax BRT – Remaining Preconstruction Services**

Dear Mr. McLaren,

This letter is to provide the scope and fee for Kraemer's remaining Pre-Construction Services to support DOTI's efforts with the Colfax BRT final design. This fee estimate is based on providing the related services per Section 4 of the RFP from **mid-October 2023 to July 1, 2024** as summarized below.

- Design Review
  - Thoroughly review all plans, specifications, reports, diagrams, shop drawings, as-built plans, site conditions and all other necessary project documentation to provide design validation from a construction expertise perspective.
  - Independently calculate quantities for verification purposes of construction packages at the 60%, 90% and 100% design completion.
  - Provide constructability input on all facets of the project.
  - Provide written reviews or reports and details/redlines of the project plans and specification packages at Project milestones.
  - Make determination if early procurement (Long Lead Time Procurement) packages for materials are viable and cost effective.
  - Make determination if early construction packages are viable, cost effective and have potential to benefit the project or reduce the construction schedule.
  - Provide timely feedback from design reviews to the City to assist in decision making.
  - Make determination whether multiple independent and severable GMP packages benefit the project.
  - Participate in discussions to study design options as it pertains to constructability, pricing, innovation, value, risk mitigation and quality.
  - Participate in Design and Construction Innovation Workshops
  - Provide additional milestone reviews depending on package complexity.
  
- Cost Estimating
  - Provide ongoing rough order of magnitude (ROM) cost estimates along with schedule impacts as construction packages are being developed and evaluated.
  - Providing initial ROM based on the 60% design plans.
  - Develop a cost model for construction packages through a series of cost model meetings.
  - Provide construction cost estimates at design milestones.

- Submit a GMP proposal when both the contractor and the City agree the design has progressed to the appropriate level, assumed to be at 90%.
- Schedule
  - Minimize impacts to businesses, adjacent neighborhoods, the traveling public, and RTD operations.
  - Provide detailed Work Breakdown Structure (WBS) that will form the bases for organizing all work and the construction schedule.
  - Develop an initial construction schedule for the project and provide updates throughout the design and as packages are developed.
  - Provide continuous schedule review and validation as design progresses.
  - Develop schedule analysis for concurrent construction packages if proposed.
  - Incorporate schedule constraints into the overall project development.
- Risk
  - Participate in quantitative and qualitative risk management discussion with the project team to identify and mitigate risks.
  - Participate in risk workshops.
  - Collaborate with the project team to develop a risk management plan and prepare a risk register.
- FTA CIG Agreement Support
  - Support the City and RTD in their efforts to secure the CIG Agreement funding through the FTA Small Starts program.
- Meetings-The following meeting shall be anticipated by the Contractor, but are not limited to:
  - Design Discipline Task Force Meetings
  - Interdisciplinary Task Force Meetings
  - Innovation/Value Engineering workshops
  - Project Management and Team Meetings
  - Risk Workshops
  - Design Reviews
  - Cost Model Review Meetings
  - Schedule Review Meetings
  - Envision Workshops
  - Strategic communication meetings
  - One-build Coordination Meetings
  - Project Scoping workshops
- Deliverables
  - ROM and OPCC Estimates
  - Initial Construction Schedule and periodic updates
  - Construction packaging and sequencing recommendations
  - Subcontractor Selection Plan
  - Construction Quality Management Plan
  - Material Sourcing Plan (Buy America)



- Health and Safety Plan
- Procurement Review report for each LLTP and GMCP
- Monthly invoices and project reports to support payment of preconstruction CM services
- Innovation and Value Engineering comments
- Communication outreach/Public Information and Engagement Plan
- Civil Rights compliance documents
- DBE Plan
- Workforce development plan
- Other Tasks
  - Ensure all environmental, safety and permit commitments that are specified in the contract documents are implemented during construction if a GMP is successfully negotiated.
  - Provide input on the Stormwater Management Plan and be added to the permit after GMP award.
  - Committed to integrating DBE in the project.
  - Coordinate with the City's communication outreach team during preconstruction to ensure a smooth transition into construction.
  - Assist in the preparation and attendance of public meetings and/or open houses.
- Project Co-location
  - Provide a co-locate facility with the designer, City, and contractor for the preconstruction phase from January 1, 2024, to June 30, 2024.
  - Project office to be located at 1391 Speer, and accommodate a staff of 40 including designer, contractor, and contractor personnel.
- Station Canopy Shop Drawings
  - Develop shop drawings for approval, if authorized by DOTI for the station arch and canopy long lead item procurement.
- Station Mock-up
  - Construct a mock-up of the station platform in RTDs yard to facilitate driver training.

Below is the detailed cost breakdown by individual for the scope described above.

Cost Breakdown:					
Organization	Title	Rate/HR	Estimated Hours	Total	Calculations
Kraemer	Project Manager	\$ 192.50	866	\$ 166,705.00	25 hrs per week for 8 months
Kraemer	Construction Manage	\$ 185.00	692.8	\$ 128,168.00	20 hrs per week for 8 months
Kraemer	Scheduling Expert	\$ 175.00	346.4	\$ 60,620.00	10 hrs per week for 8 months
Kraemer	Cost Estimator	\$ 165.00	692.8	\$ 114,312.00	20 hrs per week for 8 months
Kraemer	Project Engineers	\$ 137.50	1385.6	\$ 190,520.00	2 ea @ 20 hrs per week for 8 months
Kraemer	Superintendent	\$ 154.00	138.56	\$ 21,338.24	4 hrs per week for 8 months
Kraemer	Safety Manager	\$ 125.00	40	\$ 5,000.00	As needed
Kraemer	Clerical Services	\$ 82.50	40	\$ 3,300.00	As needed
Kraemer	Accountant Services	\$ 99.00	40	\$ 3,960.00	As needed
Sky Blue	Sr. Manager	\$ 175.00	692.8	\$ 121,240.00	20 hrs per week for 8 months
Sky Blue	Project Manager	\$ 144.00	346.4	\$ 49,881.60	10 hrs per week for 8 months
Sky Blue	Superintendent	\$ 144.00	173.2	\$ 24,940.80	5 hrs per week for 8 months
Sky Blue	Project Engineers	\$ 85.00	40	\$ 3,400.00	As needed
Sky Blue	Accounting	\$ 95.00	40	\$ 3,800.00	As needed
Sky Blue	Sr. Estimator	\$ 150.00	346.4	\$ 51,960.00	10 hrs per week for 8 months
Sky Blue	Jr. Estimator	\$ 85.00	173.2	\$ 14,722.00	5 hrs per week for 8 months
Loughran Group	Principal	\$ 175.00	138.56	\$ 24,248.00	4 hrs per week for 8 months
Loughran Group	Sr. Associate	\$ 125.00	69.28	\$ 8,660.00	2 hrs per week for 8 months
Loughran Group	Associate	\$ 90.00	34.64	\$ 3,117.60	1 hrs per week for 8 months
Loughran Group	Graphic Designer	\$ 100.00	20	\$ 2,000.00	As needed
Loughran Group	Specialist	\$ 65.00	20	\$ 1,300.00	As needed
Loughran Group	Translation	\$ 80.00	20	\$ 1,600.00	As needed
Adiona	Project Manager	\$ 155.00		\$ -	If needed
RMS Inc	Senior Engineer	\$ 255.00		\$ -	If needed
RMS Inc	Project Engineer	\$ 186.00		\$ -	If needed
RMS Inc	Technician	\$ 186.00		\$ -	If needed
<b>Staff Subtotal</b>				<b>\$ 1,004,793.24</b>	
	Co-located Office	\$ 31,845.51	12 Months	\$ 382,146.12	Includes, rent, utilities, internet, copier, drinking water, trash service, cleaning service, restrooms, work stations, and conference room from Jan 2024 through December 2024
	Station Shop Drawings	\$ 40,000.00	1 Lump Sum	\$ 40,000.00	Develop Shop drawings for station canopies after approval from DOTI from GMP and OPCC open book pricing
	Bus Station Mock-up	\$ 25,000.00	1 Lump Sum	\$ 25,000.00	Construct a station platform mock up in RTD's yard to facilitate driver training
<b>Grand Total</b>				<b>\$ 1,451,939.36</b>	

Please feel free to contact me with any questions (303) 944-4267.

Respectfully,

**Kraemer North America, LLC**

**Nathan Corbin**  
 Digitally signed by Nathan Corbin  
 DN: C=US,  
 E=ncorbin@kraemerna.com,  
 O=Kraemer North America,  
 CN=Nathan Corbin  
 Date: 2023.10.20 10:30:14-06'00'

Nathan Corbin  
 Senior Project Manager

cc: File

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Equal Opportunity Employer