

**THIRD AMENDATORY AGREEMENT**

**THIS THIRD AMENDATORY AGREEMENT**, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (the "City"), and **WENK ASSOCIATES, INC.**, a Colorado corporation (the "Design Consultant"), whose address is 1335 Elati Street, Denver, Colorado 80204.

**WITNESSETH**

**WHEREAS**, the City and the Design Consultant entered into an Agreement dated June 17, 2008, an Amendatory Agreement May 26, 2009 and a Second Amendatory Agreement dated October 5, 2010 (collectively, the "Agreement"); and

**WHEREAS**, the City and the Design Consultant desire to add funding and extend the term of the Agreement; and

**WHEREAS**, The City and the Design Consultant desire to amend the agreement to modify the scope of work;

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

1. **SECTION 3** of the Agreement, entitled "**COMPENSATION, PAYMENT AND FUNDING**", is hereby amended to read as follows:

**"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 **Seven Hundred Eight Thousand Two Hundred Fifty Two Dollars and 00/100 (\$708,252.00)** in accordance with the billing rates and project budget set forth in Exhibit A and subsequent Exhibits A-1, A-2 and A-3. The amounts budgeted for phases may be increased or decreased, and the amounts allocated for services and expenses adjusted, upon written approval of the Manager or his designee, and are subject to the Maximum Contract Amount Stated in this Section 3."

**"3.05 Maximum Contract Amount.** "Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **Seven Hundred Eight Thousand Two Hundred Fifty Two Dollars and 00/100 (\$708,252.00)** (the "Maximum Contract Amount") The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed beyond that specifically described in Exhibit A and subsequent Exhibits A-1, A-2 and A-3. Any services performed beyond those set forth therein are performed at Consultant's risk without authorization under the Agreement."

2. The revised Scope of Services is attached hereto and incorporated herein as **Exhibit A-3**. Such revised Scope of Services attached hereto shall addend the previous Scope of Services attached as **Exhibit A, A-1 and A-2** to the Agreement. Any reference to **Exhibit A, A-1 or A-2** found in the agreement, shall be inclusive of **Exhibit A-3** and shall incorporate all aspects thereof.

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

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the City and the Consultant have executed this Third Amendatory Agreement as of the day and year first above written.

**CITY AND COUNTY OF DENVER**

**ATTEST:**

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

By: \_\_\_\_\_  
JOHN W. HICKENLOOPER,  
Mayor

**RECOMMENDED AND APPROVED:**

By: \_\_\_\_\_  
Manager of Parks and Recreation

**APPROVED AS TO FORM:**  
DAVID R. FINE, Attorney  
For the City and County of Denver

**REGISTERED AND COUNTERSIGNED:**

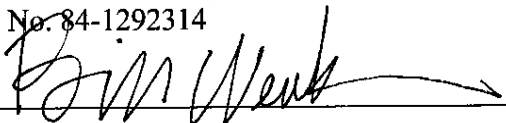
By: \_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_  
Manager of Finance  
Contract Control No: CE80115(3)

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

**"CITY"**

**WENK ASSOCIATES, INC.**  
Tax ID No. 84-1292314

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


**"DESIGN CONSULTANT"**

EXHIBIT A-3



ASSOCIATES  
CONSULTANTS  
ARCHITECTS  
ENGINEERS

November 8, 2010

Mr. Jay C. Henke  
Wellington E. Webb Municipal Office Building  
Department of Parks and Recreation, Planning, Design and Construction  
201 West Colfax Avenue, Sixth Floor  
Denver, Colorado 80202

Re: Parkfield Lake Park Additional Services Request

Dear Jay,

Per your request we are submitting an additional services request for services during construction, including: survey legal descriptions for Vigil Land Consultants, Inc., construction related services for Muller Engineering, site structural engineering services for Rocksol Consulting Group, Inc. and structural engineering services for the restroom building from Martin/Martin and The Abo Group.

Vigil Land Consultants work will consist of preparing legal description for Parkfield Lake Park Phase II. The description has been prepared by Vigil Land Consultants, Inc. and is a metes and bounds description with an attached exhibit showing the boundaries.

Muller Engineering work will consist of construction related services and is further described in attached Exhibit A dated November 5, 2010.

Rocksol Consulting work includes providing structural engineering for existing retaining wall stability evaluation and is further described in the attached Exhibit B, August 14, 2009, Scope of Services: Supplement for Existing Wall Stability Evaluation.

Martin and Martin and Abo Group will provide submittal review, and one site visit for the restroom building as further described in Exhibit C.

Wenk Associates will provide project management and coordination services for the subconsultants and Denver Parks and Recreation.

Proposed fees for these services are as follows:

Vigil Land Consultants	550.00
Muller Engineering	35,000.00
Rocksol Consulting	2,020.00
Martin/Martin Abo Group	2,365.00
Wenk Associates	<u>3,500.00</u>
Total Additional Service Request	\$43,435.00

We hope this proposal is acceptable to you in consideration of these services. We would be happy to discuss our proposal with you in greater detail, and to provide clarification as needed. Please feel free to contact us should you have any further questions following the review of this document.

Sincerely,

Craig Coronato, Senior Associate



EXHIBIT A

November 5, 2010

Mr. Craig Coronato  
Wenk Associates, Inc.  
1335 Elati Street  
Denver, Colorado 80204

Re: Parkfield Construction Related Services  
MEC Project No. 08037.02



Muller Engineering Company, Inc.  
Consulting Engineers

777 S. Wadsworth Blvd., Ste. 4-100  
Lakewood, Colorado 80226-4355  
TEL (303) 988-4939  
FAX (303) 988-4969  
www.mullereng.com

Dear Craig:

We are pleased to provide this revised proposal for the construction related services for the Parkfield Lake project. The original scope of services prepared on July 31, 2010 included to review and approve submittals, respond to RFI's, attend construction meetings, perform construction observation, prepare as-builts, pond certifications, and certificates of inspection. The construction duration for the civil related work was estimated to be 8 weeks. Muller was planned to be onsite for about 40% of the duration.

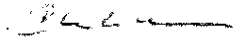
From August to November, Muller has performed the majority of the scope items in the original proposal. The lengthened 12 week construction duration and other unexpected additional efforts require the fee to be increased. Below is a breakdown of work completed to date, and the anticipated remaining efforts.

<u>Items Completed to Date</u>	<u>Fee</u>
Review and Approve Submittals	\$2,300.00
Respond to RFI's	\$6,700.00
Attend Meetings	\$3,000.00
In the Field Construction Observation	\$13,500.00
Add Service – Water/Sewer Redesign	\$2,500.00
<b>Sub-Total =</b>	<b>\$28,000.00</b>
<u>Remaining Items</u>	<u>Anticipated Fee</u>
In the Field Construction Observation	\$1,500.00
Prepare As-builts, pond certifications, and certificates of inspection	\$5,500.00
<b>Sub-Total =</b>	<b>\$7,000.00</b>
<b>Total =</b>	<b>\$35,000.00</b>

The combined total fee for Muller's completed services and remaining efforts is \$35,000.00. As shown in the breakdown above, services in the amount of \$28,000.00 of the \$35,000.00 total fee have already been performed. The remaining tasks will be performed on a T&M basis. A schedule of hourly rates is enclosed.

Sincerely,

MULLER ENGINEERING COMPANY, INC.

  
Christopher L. Kroeger, P.E.  
Project Manager

Enclosure: Schedule of Hourly Rates



**MULLER ENGINEERING COMPANY, INC.**  
**2010**  
**SCHEDULE OF HOURLY RATES**

<u>Professional Staff Category</u>	<u>Hourly Rates</u>
Principal Engineer IX	\$149
Principal Engineer VIII	144, 139
Project Manager VII	132, 124
Project Manager VI	118, 114
Project Engineer V	109, 105
Project Engineer IV	101
Design Engineer III	94
Design Engineer II	87
Design Engineer I	79
Senior Designer	92
Designer	87
Technician/CADD Operator IV	85
Technician/CADD Operator III	78
Technician/CADD Operator II	72
Technician/CADD Operator I	62
Administrative Support	62
Intern	48

**Other Direct Costs**

Vehicle Mileage (or approved IRS rate).....	\$ 0.50 / mile
Black & White Photocopies – 8 ½ x 11 .....	0.10 / copy
Color Photocopies – 8 ½ x 11 .....	0.30 / copy
22" x 34" Prints .....	1.00 / sheet

Subconsultants, messenger delivery, overnight delivery, equipment rental, long distance telephone, outside computer, out of office reproduction expenses, out-of-town living expenses, travel costs, and other miscellaneous direct project expenses, will be charged at actual cost.

Use of computers and computer software is included in the hourly rates of personnel.

Rates shown will be revised in January of each calendar year

**Exhibit B**  
**August 14, 2009**  
**Scope of Services: Supplement for Existing Wall Stability Evaluation**  
**Parkfield Lake Park, Phase III**

**RockSol Scope:**

Provide structural engineering for existing retaining wall stability evaluation at Parkfield Lake Park:

- Sub-contract with an excavation contractor to excavate soil from the both sides of the existing retaining wall near Parkfield Lake down to bottom-of-footing, and replace soil to initial conditions when measurements are complete;
- measure retaining wall cross-section dimensions, and provide stability calculations (overturning, location of resultant, sliding) to determine what depth of permanent excavation can occur on the Lake side of the wall with adequate external stability (half this effort was included in original Scope of Services Exhibit A);
- prepare a report with the results of the stability evaluation.

If a permit is required, the permit will be obtained by others.

Fees: Not to Exceed \$2,020.



**Parkfield Lake Park**

**Tasks to assist Wenk Associates**

**Estimate of Effort - Exhibit B Supplement : Existing Retaining Wall Stability**

Task No.	Task	Labor classification						Total (hours)
		Project Principal (hours)	Project Manager (hours)	Senior Structural Engineer (hours)	Assistant Structural Engineer (hours)	CADD Technician (hours)	Admin (hours)	
B	Existing Retaining Wall Stability			10				10
	Sub-contract with an excavation contractor to excavate soil from the both sides of the existing retaining wall near Parkfield Lake down to bottom-of-footing, and replace soil to initial conditions when measurements are complete; measure retaining wall cross-section dimensions, and provide stability calculations (overturning, location of resultant, sliding) to determine what depth of permanent excavation can occur on the Lake side of the wall with adequate external stability (half this effort was included in original Scope of Services Exhibit A); prepare a report with the results of the stability evaluation.			10				10
	<b>Total hours</b>	0	0	10	0	0	0	10
	Hourly billing rate \$ / hour	\$ 172.72	\$ 120.17	\$ 120.17	\$ 61.60	\$ 51.63	\$ 52.94	
	<b>Labor Cost</b>	\$ -	\$ -	\$ 1,201.70	\$ -	\$ -	\$ -	\$ 1,201.70
	<b>Other direct costs (mileage) incurred by Consultant</b>							\$ 18.30
	<b>Excavation Contractor</b>							\$ 806.00
	<b>Total Cost</b>							\$ 2,026.00

**PROPOSAL**

Rock Sol Consulting Group Inc.

8-14-09

Parkfield Lake Park

Dear Sir:

The undersigned proposes to furnish all materials and perform all labor necessary to complete the following:

Excavation at existing Retaining wall on West side of lake to determine thickness of wall & footings on either side will expose wall & footings on either side & backfill to grade site accordingly does not include obtaining a permit from Parks

Total Cost \$ 800.00

All of the above work to be completed in a substantial and workmanlike manner for the sum of \_\_\_\_\_ Dollars

Payments to be made each \_\_\_\_\_ as the work progresses to the value of \_\_\_\_\_ (\_\_\_\_%) per cent of all work completed. The entire amount of contract to be paid within \_\_\_\_\_ days after completion.

Any alteration or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be made in writing.

The Contractor agrees to carry Workmen's Compensation and Public Liability Insurance, also to pay all Sales Taxes, Old-Age Benefit and Unemployment Compensation Taxes upon the material and labor furnished under this contract, as required by the United States Government and the State in which this work is performed.

Respectfully submitted,

ADL Construction Co.  
Contractor

By Larry Osimo

**ACCEPTANCE**

You are hereby authorized to furnish all materials and labor required to complete the work mentioned in the above proposal, for which the undersigned agrees to pay the amount mentioned in said proposal, and according to the terms thereof.

Date \_\_\_\_\_ 19 \_\_\_\_\_



ASSOCIATES  
PLANNERS &  
LANDSCAPE  
ARCHITECTS

October 21, 2010

Jay Henke  
City and County of Denver  
Park and Recreation  
201 West Colfax  
Denver, Colorado 80202

Re: Parkfield Lake Park Additional Services Request for Construction Observation

Dear Jay:

Wenk Associates, Inc. is requesting additional services for Martin and Martin, under agreement with The Abo Group, to perform construction related services on the Parkfield Park Restroom Building. Attached Exhibit A, Martin and Martin proposal, Job Title: Parkfield Restroom Job Number: 2168.5.02 and Parkfield Park Restroom Building Structural Engineering CA Services dated October 15, 2010 describes the task and associated fees that will be provided. The fees are:

Martin and Martin	\$2,150.00
The Abo Group	<u>215.00</u>
Total Fee	\$2,365.00

We hope that our approach is acceptable to you in your consideration of these services. We would be happy to discuss our proposal with you in greater detail, or to make clarifications as needed. Please feel free to contact us should you have any further questions following the review of this document.

Sincerely,

Craig Coronato, Senior Associate

**EXHIBIT 1**

Martin/Martin  
15 October, 2010

**Parkfield Park Restroom Building**  
Structural Engineering CA Services

Task	Principal	Project Engineer	Fee
	Hourly rate = \$ 150.00	Hourly rate = \$ 100.00	
	hours		
<b>Submittal Review</b>			
Rebar in foundations	0.5	3.5	
Concrete mix designs		1	
Masonry wall materials		1.5	
rebar in masonry walls		2	
Wood roof framing materials	0.5	1.5	
resubmittals		1	
	1	10.5	Subtotal = \$ 1,200
<b>Office Services</b>			
Responding to contractor questions		1	
RFP's	0.5	3	
engineering of construction errors		4.5	
	0.5	5.5	Subtotal = \$ 625
<b>Site Visits</b>			
Start of Masonry construction	0.5	4.5	
Completion of Wood roof framing		4.5	
	0.5	9	Subtotal = \$ 975
<b>Record Drawings</b>			
		2	
			Subtotal = \$ 200

**Grand Total = \$ 3,000**



**ASSOCIATES**  
ARCHITECTURE &  
LANDSCAPE ARCHITECTURE  
INCORPORATED

January 20, 2010

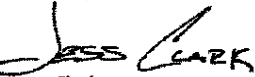
Ms. Britta Herwig  
Wellington E. Webb Municipal Office Building  
Department of Parks and Recreation, Planning, Design and Construction  
201 West Colfax Avenue, Sixth Floor  
Denver, Colorado 80202

**Re: Parkfield Lake Park Additional Services Request: Survey legal description**

Dear Ms. Herwig,

Per your request, we would like to request additional service fees of \$550.00 for preparation of a legal description for Parkfield Lake Park Phase III. The description has been prepared by Vigil Land Consultants, Inc. and is a metes and bounds description with an attached exhibit showing the boundaries. If this request is acceptable, please provide written response to Rita Halme or me and we will provide the necessary contract exhibits.

Please feel free to call if you have any questions and/or comments.

Sincerely,  
  
Jess Clark  
Associate, Project Manager  
Wenk Associates, Inc.

Cc: Rita Halme, Bill Wenk



January 20, 2010

To: Wenk Associates, Inc.

Re: Parkfield Lake Park Phase III Survey Proposal

Prepare a metes and bounds legal description with an exhibit showing boundaries.

Total Cost \$550.00