

### 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 **PB AMERICAS, INC.**, (the "Design Consultant"), a New York corporation, registered to do business in the State of Colorado, whose address is 555 17<sup>th</sup> Street, Suite 500, Denver, Colorado 80202.

#### WITNESSETH:

**WHEREAS**, the City and the Design Consultant previously entered into a Design Services Agreement dated December 11, 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 VIII 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 VIII 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 27, 2009. The City hereby exercises its sole option to extend the term for a one (1) year renewal term, ending on November 27, 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: Michael B. Swann  
Manager of Public Works

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

REGISTERED AND COUNTERSIGNED:

By: \_\_\_\_\_  
Manager of Finance  
Contract Control No. OC71226(3)

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

“CITY”

PB AMERICAS, INC.

I.R.S. Identification No. 11-1531569

By: James Davis  
Title: Vice President

“DESIGN CONSULTANT”