

SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **HARRIS KOCHER ENGINEERING GROUP, INC., d/b/a HARRIS KOCHER SMITH**, (the “Design Consultant”), a Colorado corporation, whose address is 1391 Speer Boulevard, Suite 390, Denver, Colorado 80204.

WITNESSETH:

WHEREAS, the City and Design Consultant entered into a Design Services Agreement dated March 9, 2010 (the “Agreement), and by Second Amendatory Agreement dated August 26, 2011, relating to professional architecture and engineering design services in support of the Colfax Enhanced Transit Corridor Project (the “Project”); and

WHEREAS, the City and Design Consultant wish to amend the Amendatory Agreement to amend the Scope of Work, increase the total compensation to be paid under the Agreement, and otherwise amend the Agreement as set forth below.

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

1. All references to “...Exhibit A and A-1...” in the existing Agreements shall be amended to read: “...Exhibit A, A-1 and A-2, as applicable...” The scope of work marked as Exhibit A-2 is attached to this Second Amendatory Agreement and is incorporated herein by reference.

2. Section 3.04(a) of the Agreement, entitled “**MAXIMUM CONTRACT AMOUNT**”, is amended to read in its entirety as follows:

3.04. MAXIMUM CONTRACT AMOUNT

a) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **SEVEN HUNDRED TWENTY ONE THOUSAND ONE HUNDRED TWENTY EIGHT AND NO/100 DOLLARS (\$721,128.00)** (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 those specifically described in **Exhibit A, A-1 and A-2**, as applicable. Any services performed beyond those set forth therein are performed at Design Consultant’s risk and without authorization under the Agreement.

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

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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 _____

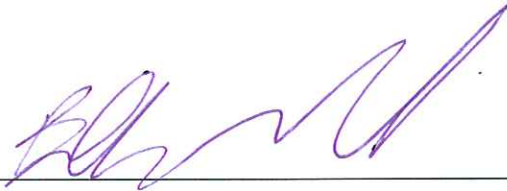
By _____

By _____



Contract Control Number: PWADM-CE00004-02


Contractor Name: HARRIS KOCHER SMITH

By: 

Name: Billy A. Harris, Jr.
(please print)

Title: President
(please print)

ATTEST: [if required]

By: 

Name: Enid Elizabeth Lynn
(please print)

Title: Administrative Assistant
(please print)



EXHIBIT A-2
Amendment No. 2
SCOPE OF SERVICES

CE00004B
CONTRACT AMENDMENT NO. 2
CONSTRUCTION MANAGEMENT SERVICES
&
PED LIGHT POLE STAKING
FOR
CITY AND COUNTY OF DENVER
COLFAX ENHANCED TRANSIT CORRIDOR
SCOPE OF SERVICES

TASK 1 – CONSTRUCTION MANAGEMENT SERVICES

Description of Services

The scope of Task 1 – Construction Management Services shall be limited to providing Construction Management for City and County of Denver Contract No. CE00004B – Colfax Enhanced Transit Corridor and include the following services:

Harris Kocher Smith (HKS) shall provide construction engineering and contract management services to the City and County of Denver for construction by an independent Contractor of the Colfax Enhanced Corridor project (City and County of Denver Contract No. CE00004B) as shown on the Construction Drawings, Specifications and Contract Documents (collectively referred to as the Contract Documents herein). Services shall include provisions to furnish all personnel, equipment and supplies necessary to perform contract administration, construction engineering, and related work items as necessary during construction. Services shall exclude materials sampling and testing.

This scope of services and associated work hour and fee schedule is based on the contract being completed by the Contractor in 180 calendar days.

Personnel

HKS shall provide the following personnel:

- Qualified field personnel to perform contract administration and construction engineering duties, including a professional engineer, registered in the State of Colorado to oversee the construction engineering activities.
- A qualified Project Manager to coordinate and direct the work of the Engineer's personnel, and to oversee and monitor project progress on behalf of the City and County of Denver

Scope of Services

The services to be performed by the Engineer will include, but not necessarily be limited to, the following:

- Perform the duties of the construction engineer, including observation of the construction contractor's work and verification of substantial compliance with the contract plans and specifications, checks on the measurement of quantities of completed work, and preparation of minor plan adjustments to fit actual field conditions.

- Report to the City any work which is believed to be defective or out of conformance with the Contract Documents and assist the City in resolving issues with the Contractor related to non-conformance.
- In consultation with the Contractor, the City, property owners, utility companies and other affected parties, identify actual and potential conflicts affecting the construction, develop appropriate alternative courses of action and their costs, and recommend preferred actions to the City.
- Prepare calculations, records, change orders, reports and correspondence relating to project activities and maintain files of same, in electronic and paper forms. Electronic files shall be prepared using Microsoft Word or Excel, as appropriate.
- Preparation of final as-built plans at the completion of construction based on construction drawings maintained in the field by the Contractor and as-built drawings maintained in the field by the Engineer's field personnel. Provide the as-built plans in reproducible form and as an electronic file to the City.
- Coordinate and monitor all necessary field materials sampling, testing, and provide summaries and recommendation to the Contractor and the City, when necessary. Testing and sampling of materials is not included in this scope of work.
- Review shop drawings and maintain a shop drawing log.
- Arrange for any necessary laboratory materials testing and sampling, including, but not necessarily limited to, concrete compressive strength testing, soils gradation and maximum density determination, bituminous concrete gradation, asphalt content determinations and concrete properties testing.
- Perform surveys as required for necessary measurement of construction contract quantities and verification of layout and as-built location.
- Prepare and/or coordinate the preparation of monthly progress payment requests for the construction contract and based on determinations of work completed, provide recommendations to the City on all pay requests.
- Prepare and/or coordinate the preparation of draft change orders, work directives, requested clarifications and interpretations. Obtain backup materials from Contractor and make recommendations to the City's Authorized Representative concerning actions to be taken.
- Prepare daily reports and weekly summaries of project activities including: Contractor's work hours; work activities; weather conditions; data concerning questions and decisions; changed conditions; lists of job site visitors; and general and specific observations. Brief the City's Authorized Representative on a regular basis.
- Conduct inspections for determining substantial completion for final acceptance in the company of the City and Contractor and prepare a final list of items to be completed or corrected. Observe whether all of the items on the corrections list have been completed by

the contractor and make recommendations to the City's Authorized Representative concerning acceptance of the project.

- Arrange and attend meetings with the Contractor and/or the City such as preconstruction meetings, progress meetings, and other project related meetings as required. Prepare and distribute copies of meeting minutes, including identification of action items.
- Perform construction period design related services as follows:
 - Attendance at Pre-construction Conference
 - Review of shop drawings for compliance with the plans and specifications
 - Respond to requests for information from the Contractor or field personnel regarding the intent of the drawings and specifications.

Equipment

HKS shall provide all equipment necessary for the HKS Engineer and field personnel to successfully execute the work outlined in this Scope of Services.

Meetings

Through the course of the construction contract, the Engineer's Project Manager shall meet with the City's Authorized Representative as required to discuss the progress of the project, to report on and compare progress on the construction engineering schedule with progress on the construction contract itself, and to concur on the effort and time being spent on typical duties above.

Authority

Nothing herein shall be construed to imply that the HKS Engineer or HKS Engineer's personnel shall, at any time, control, direct or otherwise directly or indirectly supervise the operations of the construction Contractor, Contractor's employees, agent or subcontractors. The Contractor shall be solely responsible for directing and supervising the prosecution of the construction work and shall be solely responsible for the quality of the work and the safety of the operations.

TASK 2 – PED LIGHT POLE STAKING

Description of Services

The scope of Task 2 – Ped Light Pole Staking shall be limited to providing survey staking services to locate the proposed pedestrian light pole locations along the Colfax Avenue between Lafayette Street and St. Paul Street, as shown in the City and County of Denver Contract No. CE00004B – Colfax Enhanced Transit Corridor construction documents.

Task 2. A. - Scope of Services

Harris Kocher Smith (HKS) shall provide professional surveying services to locate thirty four (34) proposed pedestrian light pole locations along the north side of Colfax Avenue between Lafayette Street and Josephine Street, as shown in the construction documents. Each pedestrian light pole location shall be marked at the proposed centerline of the pole with permanent marking onto the existing sidewalk and highlighted with orange paint. The pedestrian light pole locations shall be marked for visual inspection purposes only and shall not be relied upon for construction.

Task 2. B. - Scope of Services

Harris Kocher Smith (HKS) shall provide professional surveying services to locate fourteen (14) proposed pedestrian light pole locations along the south side of Colfax Avenue between Lafayette Street and Josephine Street, as shown in the construction documents. Each pedestrian light pole location shall be marked at the proposed centerline of the pole with permanent marking onto the existing sidewalk and highlighted with orange paint. The pedestrian light pole locations shall be marked for visual inspection purposes only and shall not be relied upon for construction.

Task 2. C. - Scope of Services

Harris Kocher Smith (HKS) shall provide professional surveying services to locate nine (9) proposed pedestrian light pole locations along the south side of Colfax Avenue between Lafayette Street and Josephine Street, as shown in the construction documents. Each pedestrian light pole location shall be marked at the proposed centerline of the pole with permanent marking onto the existing sidewalk and highlighted with orange paint. The pedestrian light pole locations shall be marked for visual inspection purposes only and shall not be relied upon for construction.

Task 2. D. - Scope of Services

Harris Kocher Smith (HKS) shall provide professional surveying services to locate thirty four (34) proposed pedestrian light pole locations along the north side of Colfax Avenue between Lafayette Street and Josephine Street, as shown in the construction documents. Each pedestrian light pole location shall be marked at the proposed centerline of the pole with permanent marking onto the existing sidewalk and highlighted with orange paint. The pedestrian light pole locations shall be marked for visual inspection purposes only and shall not be relied upon for construction.