

SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT,, is made and entered into this _____ day of _____, 2010 , 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 and as amended May 26, 2009 (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 **Six Hundred Forty Nine Thousand Nine Hundred Ninety One Dollars and 00/100 (\$649,991.00)** in accordance with the billing rates and project budget set forth in Exhibit A and subsequent Exhibits A-1 and A-2. 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 **Six Hundred Sixty Four Thousand Eight Hundred Seventeen Dollars and 00/100 (\$664,817.00)** (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 and A-2. Any services performed beyond those set forth therein are performed at Consultant's risk without authorization under the Agreement."

2. SECTION 4 of the Agreement, entitled "**TERM AND TERMINATION**," is hereby amended to read as follows:

"**4.01 Term.** The term of this Agreement shall commence on July 1, 2008 and expire on December 31, 2011, unless sooner terminated, upon final completion of the Project."

3. The revised Scope of Services is attached hereto and incorporated herein as **Exhibit A-2**. Such revised Scope of Services attached hereto shall addend the previous Scope of Services attached as **Exhibit A and A-1** to the Agreement. Any reference to **Exhibit A or A-1** found in the agreement, shall be inclusive of **Exhibit A-2** 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 Second Amendatory Agreement as of the day and year first above written.

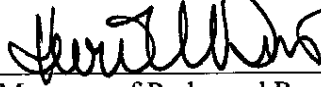
CITY AND COUNTY OF DENVER

ATTEST:

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

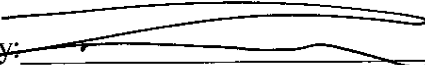
By: _____
JOHN W. HICKENLOOPER,
Mayor

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(2)

By: _____
Auditor

"CITY"

WENK ASSOCIATES, INC.
Tax ID No. 87-1292317

By:  _____

"DESIGN CONSULTANT"

EXHIBIT A-2



ASSOCIATES

1335 ELATI STREET
DENVER, CO 80204
FAX 628 0004
303.628.0003

June 25, 2010 (revised)

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: ADDITIONAL SERVICE REQUEST PARKFIELD LAKE PARK

Dear Britta,

Per our recent discussions related to program refinements for the soccer field areas, we include the following description of work as requested. The goal is to convert two fields from natural to artificial turf and light and fence the fields to increase their capacity for recreation programming and to reduce irrigation water requirements. We have also been requested to change electrical wiring to provide better electrical efficiency. We are pleased to submit this proposal requesting the following changes to the contract for the Parkfield Lake Park project.

Artificial Turf Fields

Per your direction, two soccer fields will be converted from sloped natural turf to flat (or flatter) artificial turf, requiring a significant amount of regrading, changes to the field layout, perimeter treatment (including fence and retaining wall alternatives) and adjacent landscaping. The field layout will accommodate multiple sport overlays for soccer, lacrosse, junior soccer and football as appropriate, related to striping, field access and lighting.

As primary consultant, Wenk Associates will provide layout, prepare grading design and coordinate engineering and irrigation design. We assume that existing fence and retaining wall details can be used in the design revisions. Muller will provide civil engineering for grading and drainage. Hydrosystems will provide redesign of irrigation system including new water budget and reduction of tap size.

Wenk Associates additional fees	\$ 7,900.00
Muller Engineering additional fees	\$ 7,500.00
<u>Hydrosystems additional fees</u>	<u>\$ 3,150.00</u>
Total request (WA, Muller, Hydrosystems)	\$18,550.00

Electrical Revisions

Per your direction, electrical wiring distribution will be changed from aluminum to copper for all park wiring and, as an option, the second artificial turf field will be lit for soccer. Our understanding is that some redesign will be required for conduit size and service requirements and that electrical junction boxes should be designed for vandal resistance. Soccer field lighting will match types and levels of other fields already designed.

As primary consultant, Wenk Associates will provide layout of lighting poles and coordinate electrical design. ME Group will provide design of electrical systems including coordination with Xcel.

Additional design fees for the revisions detailed above are requested as an addition to the existing contract and are summarized below.

Wenk Associates additional fees	\$ 500.00
<u>ME Group additional fees</u>	<u>\$2,500.00</u>
Total request (WA, ME Group)	\$3,000.00

Construction Observation Replenishment

Per original agreement, the Construction Observation services fees assume a 50 week construction period with weekly construction meeting attendance, up to 35 site visits and materials testing by the geotechnical consultant limited to 4 soils tests for cut/fill, 4 cylinder tests for concrete and 1 field density test for asphalt placement. Changes due to value engineering were not included.

We now anticipate a 52 week construction period, have used approximately \$4,000 of the CO budget in revision assistance efforts to date and expect to incur additional costs for value engineering and bidding revisions to be incorporated into the plans, specifications and quantity estimates prior to re-issuing for construction. For additional meetings and site visits, utility review submittals (Denver Water and CCD wastewater), coordination for irrigation and changes to water service associated with Denver Water park tap, pump, irrigation requirements as well as for value engineering efforts detailed above, we request approval for additional services to replenish the CO budget in order to accomplish these tasks.

<u>Wenk Associates additional fees</u>	<u>\$18,000.00</u>
Total Request (WA)	\$18,000.00

Skate-able Plaza change to skate park design-build

Per the March 5 Change request, scope was added to design a "Skate-able plaza area". At this time we have been requested to delete the plaza design in favor of a design-build skatepark, to be completed by the Contractor. Wenk Associates' role in the design-build skate park will be to review shop drawings and provide field review during construction in conjunction with construction observation responsibilities. This work was anticipated in the CO replenishment task listed above.

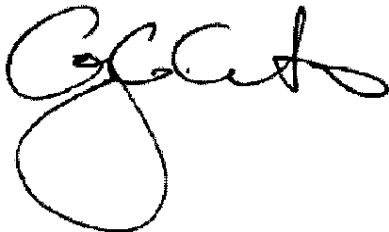
<u>Wenk Associates reduced fees</u>	<u>-\$16,500.00</u>
Total Request (WA)	-\$16,500.00

Additional design and construction observation fees for the revisions detailed above are requested as a change to the existing contract as summarized below:

Overall changes to the scope of work will adjust the fee as listed below.	
Additional Fee request for Ballfield revisions	\$18,550.00
Additional Fee request for Electrical revisions	\$ 3,000.00
Additional Fee request for Construction observation replenishment	\$18,000.00
<u>Reduced Fee for Skate-able Plaza</u>	<u>-\$16,500.00</u>
Net increase in contract	\$23,050.00

Please feel free to contact me if you have any questions or require additional information.

Sincerely,



Craig Coronato, FASLA
Senior Associate
Wenk Associates

Cc: Bill Wenk, Rita Halme



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/25/2010

PRODUCER Phone: 303-837-8500 Fax: 303-831-5295
 Van Gilder Insurance Corp.
 1515 Wynkoop, Suite 200
 Denver CO 80202

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
 Wenk Associates, Inc
 1335 Elati Street
 Denver CO 80204

INSURERS AFFORDING COVERAGE**NAIC #**

INSURER A: Hartford Insurance Company 0

INSURER B: XL Specialty Insurance Co. 0

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	34SBAEB8254	5/15/2010	5/15/2011	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	34SBAEB8254	5/15/2010	5/15/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	EXCESS / UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10,000	34SBAEB8254	5/15/2010	5/15/2011	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	34WEGPA3874	5/15/2010	5/15/2011	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	OTHER Professional Liability Claims Made	DPR9619742	11/17/2009	11/17/2010	Per Claim \$1,000,000 Annual Aggregate \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The City and County of Denver, its elected and appointed officials, employees and volunteers are named as additional insured with regards to the Commercial General Liability policy and Business Automobile Liability policy.
 RE: CB80115 - Parkfield Lake

CERTIFICATE HOLDER

City and County of Denver
 Dept. of Parks and Recreation
 201 W. Colfax Ave., Dept. 602
 Denver CO 80202-5328

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. 10 DAYS NOTICE FOR NON-PAYMENT OF PREMIUM.

AUTHORIZED REPRESENTATIVE

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.