

THIRD AMENDATORY AGREEMENT

THIS THIRD AMENDATORY AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **HKS, INC.**, a Texas corporation authorized to do business in the State of Colorado, whose address is 999 18th Street, Suite 2255, North Tower, Denver, Colorado 80202 (the “Design Consultant”), jointly the “Parties.”

RECITALS:

A. The Parties entered into a Design Services Agreement dated **November 27, 2018** to provide professional design services to support the City’s Office of the National Western Center (the “Original Agreement”);

B. The Parties subsequently entered into that First Amendatory Agreement, dated **October 7, 2020**, whereby the original **Exhibit B** was supplemented by **Exhibit B-1**, the original **Exhibit C** was replaced by **Exhibit C-1**, and compensation was added to the Original Agreement (the “First Amendment”);

C. The Parties subsequently entered into that Second Amendatory Agreement, dated **February 23, 2021**, whereby **Exhibit B-1** was replaced by **Exhibit B-2**, **Exhibit C-1** was replaced by **Exhibit C-2**, and compensation was added to the First Amendment and the Original Agreement (the “Second Amendment”);

D. Collectively, the Original Agreement, the First Amendment and the Second Amendment shall be referred to as the “Agreement;”

E. Rather than enter into a new contract, the Parties desire to further amend the Agreement to: 1) supplement the **Exhibit A** that was attached to the Original Agreement with the attached **Exhibit A-3**; 2) supplement the **Exhibit B** that was attached to the Original Agreement, the **Exhibit B-1** that was attached to the First Amendment and the **Exhibit B-2** that was attached to the Second Amendment with the attached **Exhibit B-3**; 3) replace the **Exhibit C-2** that was attached to the Second Amendment with the attached **Exhibit C-3**; 4) add compensation in the amount of **THREE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$300,000.00)** to the Agreement; 5) extend the term of the Agreement from November 15, 2021 to December 31, 2022; and 6) provide for additional revisions, as provided herein, to the Agreement, all for the purpose of business continuity.

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

1. Section 3.03 of the Agreement, entitled "**Additional Services**," is amended to read as follows:

"3.03 **Additional Services**. If pre-approved services are performed by the Design Consultant, the City agrees to pay the Design Consultant for such additional services in accordance with Section 2.08. The maximum amount to be paid by the City for all additional services under this Agreement is **SIX HUNDRED FIVE THOUSAND EIGHT HUNDRED FIFTY-SEVEN DOLLARS AND EIGHT-SIX CENTS (\$605,857.86)**."

2. Section 3.05(a) of the Agreement, entitled "**Maximum Contract Amount**," is amended to read as follows:

"3.05 **Maximum Contract Amount**.

(a) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **THREE MILLION SIX HUNDRED SIXTY-SEVEN THOUSAND THREE HUNDRED FIFTY-TWO DOLLARS AND NINETY-SEVEN CENTS (\$3,667,352.97)** (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 that specifically described in **Exhibit A**. Any services performed beyond those set forth therein are performed at Design Consultant's risk and without authorization under the Agreement."

3. Section 4.01 of the Agreement, entitled "**Term**," is amended to read as follows:

"**4.01 Term**.

The Agreement will commence on November 16, 2018 and expire on December 31, 2022, unless sooner terminated.”

4. **Exhibit A** of the Agreement shall be supplemented by **Exhibit A-3**, which is attached hereto and incorporated herein by reference. All references to **Exhibit A** in the Agreement shall automatically incorporate the attached **Exhibit A-3**. The new scope of work detailed in **Exhibit A-3** shall be effective at the time of execution of this Third Amendatory Agreement shall only apply to new task orders issued after execution of this Third Amendatory Agreement.

5. **Exhibits B, B-1 and B-2**, respectively, of the Agreement shall be supplemented by **Exhibit B-3**, which is attached hereto and incorporated herein by reference. All references to **Exhibits B, B-1 and B-2**, respectively, in the Agreement shall automatically incorporate the attached **Exhibit B-3**. The new amounts detailed in **Exhibit B-3** shall be effective at the time of execution of this Third Amendatory Agreement and shall only apply to new task orders issued after execution of this Third Amendatory Agreement.

6. **Exhibit C-2** of the Agreement shall be replaced in its entirety by **Exhibit C-3**, which is attached hereto and incorporated herein by reference. All references to **Exhibit C-2** in the Agreement shall automatically incorporate the attached **Exhibit C-3**.

7. Section 5.06 of the Agreement, entitled “**No Discrimination in Employment**,” is amended to read as follows:

“**5.06 No Discrimination in Employment.** In connection with the performance of work under the Agreement, the Design Consultant may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability.

The Design Consultant shall insert the foregoing provision in all subcontracts.”

8. Section 5.19 of the Agreement, entitled “**No Employment of Illegal Aliens to Perform Work under the Agreement**,” shall be amended to read as follows:

“5.19 No Employment of a Worker Without Authorization to Perform Work under the Agreement.

(a) This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

(b) The Design Consultant certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(3) It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Design Consultant that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Design Consultant shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

(6) It will comply with a reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

(c) The Design Consultant is liable for any violations as provided in the Certification Ordinance. If the Design Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If this Agreement is so terminated, the Design Consultant shall be liable for actual and consequential damages to the City. Any termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Design Consultant from submitting bids or proposals for future contracts with the City.”

9. Except as herein amended, the Agreement continues in effect, and is affirmed and ratified in each and every particular.

10. This Third Amendatory 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.

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[SIGNATURE PAGES TO FOLLOW]

Contract Control Number: DOTI-202161188-03[201845050-03]
Contractor Name: HKS, INC.

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: DOTI-202161188-03[201845050-03]
Contractor Name: HKS, INC.

By:  _____
3C7539FCB1B7450...

Name: Mackenzie McHale
(please print)

Title: Principal
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Stockyard Event Center Design Amendment 3

Scope of Services

This Amendment includes design and construction services related to the additional IT (wireless access points), A/V (TVs and video wall), and Security System (cameras) scope added to the Stockyards and Stockyard Event Center project. The additional scope will extend work into 2022, and therefore the amendment includes a change to the contract expiration date

The additional fee also allows for continued design and construction support in 2022 if needed.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/26/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. 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).

PRODUCER Risk Strategies 12801 North Central Expy. Suite 1710 Dallas, TX 75243	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">CONTACT NAME: Joe Bryant</td> </tr> <tr> <td>PHONE (A/C. No. Ext): (214) 323-4602</td> <td>FAX (A/C. No.): (214) 503-8899</td> </tr> <tr> <td colspan="2">E-MAIL ADDRESS: certificatedallas@risk-strategies.com</td> </tr> <tr> <td colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td> </tr> <tr> <td>INSURER A: AXIS Surplus Insurance Company</td> <td style="text-align: right;">NAIC # 26620</td> </tr> <tr> <td>INSURER B: Federal Insurance Company</td> <td style="text-align: right;">20281</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	CONTACT NAME: Joe Bryant		PHONE (A/C. No. Ext): (214) 323-4602	FAX (A/C. No.): (214) 503-8899	E-MAIL ADDRESS: certificatedallas@risk-strategies.com		INSURER(S) AFFORDING COVERAGE		INSURER A: AXIS Surplus Insurance Company	NAIC # 26620	INSURER B: Federal Insurance Company	20281	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER D:																					
INSURER E:																					
INSURER F:																					
INSURED HKS Architects, Inc. 350 N. St. Paul, Suite 100 Dallas TX 75201																					

COVERAGES **CERTIFICATE NUMBER:** 64707413 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<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 OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	3606 41 06 DAL	10/31/2021	10/31/2022	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 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 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	7361 77 04	10/31/2021	10/31/2022	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	7819 17 55	10/31/2021	10/31/2022	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 Excess Liability \$5,000,000
A	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/>	<input type="checkbox"/>	7182 74 49	10/31/2021	10/31/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Professional Liability		<input checked="" type="checkbox"/>	EBZ770183/01/2021	10/31/2021	10/31/2022	Per Claim \$1,000,000 Annual Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The claims made professional liability is the total aggregate limit for all claims presented within the annual policy period and is subject to a to a deductible. Thirty (30) day notice of cancellation in favor of certificate holder on all policies.
 The City and County of Denver, its elected and appointed officials, employees and volunteers are named as additional insured on the general, auto, and umbrella liability coverage as required by written contract.
 RE: HKS, Inc. Project #22426 – National Western Center Stockyards and Stockyard Events Center - Project No. NWC2018-008

CERTIFICATE HOLDER **CANCELLATION**

City and County of Denver 201 West Colfax Ave. Denver CO 80202	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p> <p style="text-align: center;"><i>Joe A. Bryant</i></p> Joe Bryant
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