FOURTH AMENDATORY AGREEMENT

THIS **FOURTH AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, (the "City"), and **MULLER ENGINEERING COMPANY, INC.,** (the "Design Consultant") a Colorado corporation, whose address is Irongate 4, Suite 100, 777 Wadsworth Boulevard, Lakewood, Colorado 80226.

RECITALS:

A. The City and the Design Consultant previously entered into an Agreement dated November 27, 2007, an Amendatory Agreement dated December 23, 2008, a Second Amendatory Agreement dated September 29, 2009 and a Third Amendatory Agreement dated October 18, 2010, relating to engineering services on an "as needed" basis (together, the "Agreement"); and

B. Section E.1 of Article IX 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, 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 IX of the Agreement, entitled "**Term and Termination:**" is hereby amended to read in its entirety as **follows**:

> "E.1. 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 the 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 hereby exercises its sole option to extend the term for a one (1) year renewal term, ending on November 27, 2012."

2. Section AA, entitled **"ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**," is hereby added to the Contract to read as follows:

> **"AA. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Design Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original."

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

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Contract Control Number: OC71225

Vendor Name: MULLER ENGINEERING COMPANY 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:

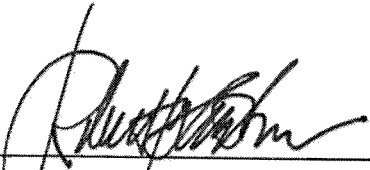DOUGLAS J. FRIEDNASH, Attorney
for the City and County of Denver

By_____
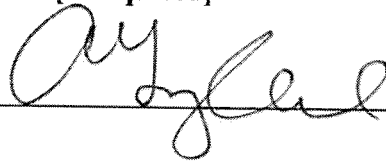
By_____

By_____

Contract Control Number: OC71225

Vendor Name: MULLER ENGINEERING COMPANY INC

By: _____

Name: _____Robert G. Carlson_____
(please print)

Title: _____President_____
(please print)

ATTEST: [if required]

By: _____

Name: _____A. Gray Clark_____
(please print)

Title: _____Secretary_____
(please print)