

AMENDATORY CONTRACT
(Horizontal Integrated Construction Services)
CONTRACT NO. 201841662

THIS AMENDATORY CONTRACT (“**Contract**” or “**Agreement**”) is made and entered into between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”), and **HENSEL PHELPS CONSTRUCTION CO.**, a Delaware company, with its principal place of business located at 420 Sixth Avenue, Greeley, Colorado 80631 (the “**Contractor**”), jointly (“the Parties”).

RECITALS:

A. The Parties entered into an Agreement dated June 12, 2018, (the “Agreement”) to perform, and complete all of the services and produce all the deliverables set forth in the Contract, to the City’s satisfaction.

B. The Parties wish to amend the Agreement to adjust Contractor’s Fee for new work orders and work order changes, provide additional compensation for project management services for new work orders and work order changes, extend the term, and amend Exhibit B-key personnel & increase Contractor’s rates.

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

1. Article 2 entitled “**TYPE 1 - PRECONSTRUCTION AND SITE WIDE PROFESSIONAL SERVICES TASK ORDERS**” of the Agreement, subsection 2.1.1 entitled “**Type 1 - Preconstruction and Site Wide Professional Services Task Orders.**” is hereby deleted in its entirety and replaced with:

“2.1.1 Type 1 – Preconstruction, Site Wide Professional Services Task Orders and Project Management. Type 1 Task Orders will be used for all preconstruction services (to include packaging strategies for Type 2 and 3 Work Orders), cost estimating, scheduling, design/constructability reviews, utility and rail coordination, site-wide management oversight, logistics management (including interface and coordination with ongoing operations and events and site controls), public relations and/or public information, required meetings and reporting for site wide services, workforce development coordination, site-wide health, safety, security and environmental management services and related services as needed for successful delivery of the Pre-Construction Services and Site Wide Services associated with the Project. In addition, Type 1 Task Orders will be negotiated for project management services for Work Orders and Work Order changes executed

after the effective date of the first Amendment to this Agreement as described below.”

2. Article 2 entitled “**TYPE 1 - PRECONSTRUCTION AND SITE WIDE PROFESSIONAL SERVICES TASK ORDERS**” of the Agreement, subsection **2.1.3** entitled “**Key Personnel.**” is hereby deleted in its entirety and replaced with:

“**2.1.3 Key Personnel.** The Key Personnel will be engaged through a Type 1 Task Order for pre-construction and site wide services by a mutually agreed annual staffing plan. The consistent key personnel shall include:

2.1.3.1 Contractor Manager - The Contractor Manager (“**CM**”) is responsible for the overall direction and management of the Project and all of the individual tasks and work assigned by the City. The CM will act as a single point of contact for the City in all matters related to the Project. All project managers for each individual project will report to the CM.

2.1.3.2 Preconstruction Manager - a Preconstruction Manager (“**PM**”) responsible for all preconstruction services required. Any required engineering and technical staff report to the PM.

2.1.3.3 Health, Safety and Security Manager - The HSS Manager is responsible for implementation of the Project wide health, safety, security program, including safety oversight of all field construction activities.

2.1.3.4 Cost and Schedule Controls Manager - The Cost and Schedule Controls Manager is responsible for Project wide costs, budget, and schedule controls. Position provides Project wide oversight, review of all pay applications, and work order specific quantity sheets issued to the City. Tracks day to day progress of the work and provides regular Project wide reports to the City.

2.1.3.5 Documentation Manager - Responsible for Project records, files, correspondence, and submittals issued by subcontractors. Tracks submittals, such as prevailing wage reports, and ensures compliance for all records retention, reporting, and audit issues. Maintains the permit logs for each project and final quality documentation.

2.1.3.6 Quality Manager - The Quality Manager is responsible for oversight of Quality Control and Quality Assurance.

2.1.3.7 Environmental Compliance Manager - Responsible for who overseeing contractor’s environmental compliance on the Project.

2.1.3.8 Workforce Coordinator - Responsible as the single point of contact for Workforce coordination, implementation and reporting on the Project.

2.1.3.9 Public Information Manager - a Public Information Manager (“PI”) will manage the Public Information effort for the work performed to accomplish the Project.

2.1.3.10 Logistics Manager - Responsible for the coordination of the overall Project logistics and coordination for construction activity and concurrent operations.

2.1.3.11 Project Manager – For work orders executed after the effective date of this amendment Project Manager (“PRM”) is added as Key Personnel. The PRM is responsible for all individual projects scope, schedule and budget and will coordinate day to day communication between Contractor staff and the City Project Managers.”

3. Article 2 entitled “**TYPE 1 – PRECONSTRUCTION AND SITE WIDE PROFESSIONAL SERVICES TASK ORDERS**”, subsection **2.3.2** entitled “**Rate Escalation.**” is hereby deleted in its entirety and replaced with:

“**2.3.2 Rate Escalation.** Initial rates will apply until May 31, 2021. Contractor may request a rate adjustment for services provided starting June 1, 2021 and in subsequent years, by submitting a written request for approval to the Executive Director no later than January 1st of the year the increase is requested. Approved increases will become effective upon execution of an amendment incorporating the new rates. The cumulative increase in hourly rates in all years of this Agreement will not exceed the average annual percentage that the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for Denver-Boulder-Greeley has increased over the average of the 2018-2020 index. Such request is to be accompanied by a justification letter with support documentation. In addition; the City reserves the right to accept, reject, or negotiate the rate adjustments or timing thereof. If budgets are being capped and/or reduced, and/or City employee pay rates are frozen due to budgetary restraints, no increases will be allowed.”

4. Article 3 entitled “**TYPE 2 - TEMPORARY SITE WORK ORDERS**” of the Agreement, Section **3.3** entitled “**COMPENSATION**”, subsection **3.3.2** entitled “**Contractor’s Management Fee-Type 2 Work Orders.**” is hereby deleted in its entirety and replaced with:

“**3.3.2 Contractor’s Fee – Type 2 Work Orders.**

3.3.2.1 Contractor’s Management Fee – Type 2 Work Orders executed before the effective date of this Amendment. Contractor’s Management Fee for Type 2 Work Orders executed before the effective date of this Amendment is 9.15% (“Type 2 Fee”). Contractor’s Type 2 Fee for Work Orders executed before the effective date of this Amendment is compensation for all of Contractor’s work,

services, costs and general conditions associated with packaging and obtaining bids or proposals, advertising and other procurement responsibilities, work order oversight, management and salaries of all personnel necessary to manage and complete a Type 2 Work Order. Contractor is not entitled to any hourly (Type 1) compensation for these services.

3.3.2.2 Contractor's Fee – Type 2 Work Orders executed after the effective date of this Amendment. Contractor shall be paid a Fee for Type 2 Work Orders executed after the effective date of this Amendment of 9.15% ("Type 2 Fee"). For these new Work Orders, Contractor and the City will negotiate a corresponding Type 1 Task Order with a not to exceed maximum to be billed at the attached hourly rates arising out of each Type 2 Work Order. The Type 2 Work Order and corresponding Type 1 Task Order shall be compensation for all of Contractor's work, services, costs and general conditions associated with packaging and obtaining bids or proposals, advertising and other procurement responsibilities, work order oversight, management and salaries of all personnel necessary to manage and complete a Type 2 Work Order.

5. Article 4 entitled "**TYPE 3 – CONSTRUCTION WORK ORDERS**" of the Agreement, Section 4.3 entitled "**PAYMENT**", subsection 4.3.2 entitled "**Contractor's Management Fee – Type 3 Work Orders.**" is hereby deleted in its entirety and replaced with:

"4.3.2 Contractor's Fee – Type 3 Work Orders.

4.3.2.1 Contractor's Management Fee – Type 3 Work Orders executed before the effective date of this Amendment. Contractor's Management Percentage for Type 3 Work Orders executed before the effective date of this Amendment is 9.15% ("Type 3 Fee"). Contractor's Type 3 Fee is compensation for all of Contractor's work, services, costs and general conditions associated with packaging and obtaining bids or proposals, oversight, management and salaries of all personnel necessary to manage and complete a Type 3 Work Order. Contractor is not entitled to any hourly (Type 1) compensation for these services.

4.3.2.2 Contractor's Fee – Type 3 Work Orders executed after the effective date of this Amendment. Contractor shall be paid a Fee for Type 3 Work Orders executed after the effective date of this Amendment of 5.75% ("Type 3 Fee"). For these new Work Orders only, Contractor and the City will negotiate a corresponding Type 1 Task Order with a not to exceed maximum to be billed at the attached hourly rates arising out of each Type 3 Work Order. The Type 3 Work Order and corresponding Type 1 Task Order shall be compensation for all of Contractor's work, services, costs and general conditions associated with packaging and obtaining bids or proposals, advertising and other procurement responsibilities, work order oversight, management and salaries of all personnel necessary to manage and complete a Type 3 Work Order.

6. Article 5 entitled “**GENERAL REQUIREMENTS**” of the Agreement, Section 5.10 entitled “**Work Order Changes.**” is hereby deleted in its entirety and replaced with:

“**5.10 Work Order Changes.** Title 11 of the General Contract Conditions shall apply to this Contract, on a Work/Task Order by Work/Task Order basis, as supplemented by the following:

5.10.1 Work and Task Order Changes Executed before the Effective Date of this Amendment. In accordance with the terms and conditions provided for standard change orders under Title 11 of the General Contract Conditions, the City may issue Work/Task Order Changes providing for deletions, additions and modifications to the Work under a duly issued Work/Task Order. Work/Task Order Changes must be issued on the Work/Task Order Change Form, in the form attached hereto and incorporated herein as **Exhibit J**. Contractor will be paid a Fixed Work Order Change Order Percentage Markup on the Cost of the Work of **7%** for Work Order Changes executed before the effective date of this Amendment. Contractor will be paid at the hourly rates in **Exhibit B** for Task Order Changes executed before the effective date of this Amendment. If a Work/Task Order Change requires Additional Coverage at Work/Task Order Level as defined in paragraph 3.3.3.9, Contractor will be reimbursed its actual cost to purchase the Additional Coverage.

5.10.2 Work and Task Order Changes Executed after the Effective Date of this Amendment. In accordance with the terms and conditions provided for standard change orders under Title 11 of the General Contract Conditions, the City may issue Work/Task Order Changes providing for deletions, additions, and modifications to the Work under a duly issued Work/Task Order. Work/Task Order Changes must be issued on the Work/Task Order Change Form, in the form attached hereto and incorporated herein as **Exhibit J**. Contractor will be paid a Fixed Work Order Change Order Percentage Markup on the Cost of the Work of **9.15%** for changes to Type 2 Work Order Changes and **5.75%** for Type 3 Work Order Changes executed after the effective date of this Amendment. Contractor will be paid at the hourly rates in **Exhibit B-1** for Task Order Changes executed after the effective date of this Amendment. If a Work/Task Order Change requires Additional Coverage at Work/Task Order Level as defined in paragraph 3.3.3.9, Contractor will be reimbursed its actual cost to purchase the Additional Coverage.

5.10.3 The Task/Work Order Change will identify any increase or decrease in the cost, change in the period of performance and any other modifications to the performance requirements for that particular Task/Work Order.”

7. Article 5 entitled “**GENERAL REQUIREMENTS**” of the Agreement, Section 5.38 entitled “**Maximum Contract Amount and Term.**” is hereby deleted in its entirety and replaced with:

“5.38 Maximum Contract Amount and Term. The Maximum Contract Amount to be paid by the City to the Contractor for all Work performed under this Contract shall in no event exceed the sum of **TWO HUNDRED SEVENTY-FIVE MILLION DOLLARS AND NO CENTS (\$275,000,000.00)**, unless this Contract is modified to increase said amount by a duly authorized, written contract amendment mutually agreeable to and executed by the parties hereto. The term of this agreement shall commence from the effective date of **May 14, 2018**, and shall expire on **May 14, 2025** (the “Term”), with an option by the City to extend the agreement by written amendment.”

8. **Exhibit B** is hereby supplemented be **Exhibit B-1, Key Personnel & Rates**, attached and incorporated by reference herein. All references in the original Agreement to **Exhibit B** are changed to **Exhibit B-1** for Work Orders, Task Orders and Work/Task Order changes executed after the effective date of this amendment.

9. All references in the original Agreement to “Type 1 – Preconstruction and Site Wide Professional Services Task Orders” are changed to “Type 1 – Preconstruction, Site Wide Professional Services and Project Management.”

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

11. This Amendatory Contract 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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Contract Control Number: DOTI-202367211-01 [201841662-01]
Contractor Name: HENSEL PHELPS CONSTRUCTION CO.

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:
Contractor Name:

DOTI-202367211-01 [201841662-01]
HENSEL PHELPS CONSTRUCTION CO.

By:  _____
38109A9229C3468...

Name: John Hudson
(please print)

Title: Operations Manager
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT B-1

Key Personnel & Rates

CONTRACTOR PERSONNEL

CONTRACTOR Hensel Phelps Construction Co.

List ALL potential Contractor personnel titles/classification that may be utilized under the Agreement, and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager).

Title/Classification	Responsibilities	Rate/Hr.
Contract Manager	Single POC for all HIC Activities; collaborate with stakeholders; direct team to achieve program goals; and assign resources.	\$230
Cost & Schedule Controls Manager	Manage each work order; monitor schedules, estimating, and cost; establish communication procedures; and resolve conflicts.	\$182
Preconstruction Manager	Collaborate with all stakeholders; provide overall design and preconstruction coordination; and develop work plans.	\$176
Quality Manager	Responsible for overall quality; manage Quality Assurance / Quality Control Managers.	\$168
Logistics Manager	Establish and monitor materials management plan; develop program-wide logistics plan; and develop schedule.	\$227
Health, Safety, and Security Manager	Responsible for program-wide safety; oversight of field activities; safety documentation; and POC for all competent person activities.	\$146
Documentation Manager	Responsible for documentation involving cost control, submittal coordination, MEP Coordination, material deliveries, subcontractor management, negotiating changes, scheduling, and administrative duties.	\$140
Project Superintendent	Responsible for daily coordination and direction of the project so that it is safe, within budget, on schedule, to the Company's quality standards and the customer's satisfaction.	\$181
Area Superintendent	Responsible for safety compliance, craft supervision, subcontractor coordination, scheduling, material handling, daily reports, quality control and craft training.	\$163
Schedule Engineer	Creates and maintains the Project Schedule including developing and maintaining 4-week detailed look ahead schedule as well as the CPM.	\$163

The mark-up for Hensel Phelps on all subconsultant hour rates is 5%.

All reimbursable expenses are subject to the review and approval of the City. The additional expenses of the Contractor reimbursable by the City shall include:

- (1) Mileage: Reimbursable at the current IRS Business Rate ONLY when Contractor is required to drive to a project located outside the City and County of Denver Boundary.
- (2) Actual cost of reproducing and printing reports, drawings, specifications and other work products, and the associated cost for shipping and handling. These reimbursable expenses pertain only to requests made to the Contractor from the City, and exclude intra-office printing, scanning and reproduction required by the Contractor to complete the work.
- (3) Actual cost for expendable supplies and services not normally used on a routine or normal basis in a Contractor's office (i.e. aerial photography) and which are provided especially under this Agreement for the benefit of the City.

CONTRACTOR PERSONNEL

CONTRACTOR Hensel Phelps Construction Co.

List ALL potential Contractor personnel titles/classification that may be utilized under the Agreement, and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager).

Title/Classification	Responsibilities	Rate/Hr.
Project Engineer	Manages the Office Engineers and Jobsite Administrator. Tasks include monthly pay applications, subcontractor conflict resolution, RFIs, change orders, and schedule assistance.	\$151
Senior Estimator	Develop and oversee project estimate, assists with writing bid packages, participate with subcontractor outreach and solicitation, and review subcontractor pricing and bid process.	\$182
Lead Estimator	Supports the Senior Estimator with quantity takeoffs, solicitations, outreach and bid procurement.	\$151
Estimator	Supports the Lead Estimator with quantity takeoffs, solicitations, outreach and bid procurement.	\$140
Project Manager	Responsible for the safe completion of the project within budget, on schedule, to the company's quality standards and the customer's satisfaction.	\$178
Safety Manager	Facilitates project-specific safety requirements, create and maintain safety management tools, maintain project safety data, participate in OSHA inspections, and conduct safety audits.	\$157
Lead Quality Control Engineer	Responsible for establishing and maintaining the QC program. They interface with the Owner's QA and management on quality related issues.	\$155
QC Assistant	Implements the Quality Control plan components.	\$146
VDC Manager	Responsible for establishing the BIM Execution Plan, all drone activities and establishing all model development protocols.	\$163
VDC Engineer	Responsible for model management and is the primary liaison for BIM coordination between the design team, the engineering team, the specialty trades and operations.	\$157

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CONTRACTOR PERSONNEL

CONTRACTOR Hensel Phelps Construction Co.

List ALL potential Contractor personnel titles/classification that may be utilized under the Agreement, and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager).

Title/Classification	Responsibilities	Rate/Hr.
Office Engineer	Assists the Project Engineer. Tasks may include support of the field with material management, submittals, shop drawings, deliveries, tracking of RFIs, processing of subcontractor bonds, and insurance.	\$140
Field Engineer	Works directly for the Superintendents to perform layout / surveying, gather quantities of work in place, lift drawings, assist with QC, safety programs, and coordination of subcontractors material deliveries.	\$140
Public Information Manager	Collaborates with the NWCO COMS Team; Public Outreach/ Information; Collaborates with Surface Transportation Boards; Develops Messaging Strategies Consistent with NWCO Goals	\$192
Manager of Supplier Diversity	M/W/BE Goals, Outreach, Reporting & Compliance. Workforce Development	\$160

The mark-up for Hensel Phelps on all subconsultant hour rates is 5%.

All reimbursable expenses are subject to the review and approval of the City. The additional expenses of the Contractor reimbursable by the City shall include:

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- (3) Actual cost for expendable supplies and services not normally used on a routine or normal basis in a Contractor's office (i.e. aerial photography) and which are provided especially under this Agreement for the benefit of the City.