

## AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into effective this 12<sup>th</sup> day of December, 2016 (the "Effective Date"), by and between the CITY OF COMMERCE CITY, a Colorado home rule municipality whose address is 7887 East 60th Avenue, Commerce City, Colorado (the "City"), and ATKINS NORTH AMERICA, INC., a Florida corporation whose principal business address is 4030 W. Boy Scout Boulevard, Suite 700, Tampa, FL 33607 ("Contractor" or "Design Contractor").

WHEREAS, the City desires to retain the services of Contractor, and Contractor desires to provide services to the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

### I. SERVICES.

A. Services. At the City's direction, Contractor will provide Engineering Consulting services as set forth in Exhibit A, attached and incorporated by reference (the "Services"). The City reserves the right to omit any of the Services identified in Exhibit A upon written notice to Contractor.

B. Controlling Terms. The terms of this Agreement will control if the terms of any exhibit, attachment, or invoice conflict with this Agreement.

C. Deliverables.

1. Electronic format. Contractor will provide all reports, surveys, maps, plans, drawings or photographs, or any other materials that lend themselves to production in electronic format ("Deliverables") to the City in both hard copy and electronic formats acceptable to the City, unless otherwise directed by the City in writing. Contractor's failure to do so will constitute a material breach of this Agreement. Contractor will consult with the City to determine acceptable electronic formats before beginning the Services. All Deliverables and other tangible materials produced by Contractor pursuant to this Agreement will at all times be considered the property of the City.

2. Spatial Data. Deliverables including spatial data (GIS/AutoCad) will include geospatial datasets (those generated from GPS, survey data, or other derived geospatial data like orthography) in Environmental Systems Research Institute, Inc.'s ("ESRI") file/personal geodatabase or shapefile format, including a coordinate system projection information or file. Point features will be generated as point shapefiles, linear features will be generated as line shapefiles, and area features will be generated as polygon shapefiles. Any geospatial dataset derived from new or existing geospatial data will be in file/personal geodatabase or shapefile format, along with an explanation of the method used to generate the derived geospatial data. Spatial Coordinate or Survey System will be documented and used, along with a coordinate system projection file for said data. Contractor will provide complete metadata (who, what, when, where, how) for all provided spatial data and related information.

3. Digital images. Contractor will provide non-copyrighted, high resolution, illustrative, digital images of project site plans, elevations, renderings, photos, and other Deliverables, as directed by the City, suitable for reproduction of and dissemination in marketing materials and at City Council hearings and public presentations. Contractor will affirm that the images do not violate copyright laws and will indemnify and hold harmless the City from liability for any expense, cost, loss or

damage resulting from any claim of copyright infringement arising from the City's use of the images. All images provided will become the property of the City.

D. Contractor Representations. Contractor warrants and represents that it has the requisite authority, capacity, experience and expertise to perform the Services in compliance with the provisions of this Agreement and all applicable laws. Contractor acknowledges that the City is relying on Contractor's expertise, skill, and knowledge, and that the Contractor's obligations and liabilities will not be diminished by reason of any approval or review by the City.

E. Standard of Care. Contractor represents that the Services provided: (i) will be performed in accordance with the applicable professional standard of care of a reasonable Contractor that is performing the same or similar work, at the same time and locality and under the same or similar conditions faced by Contractor, (ii) will be performed in a timely manner as required by the Agreement and performed and supervised by qualified personnel, and (iii) will conform in all material respects for one year after acceptance to the requirements of this Agreement. Contractor further represents that all application software developed or implemented by Contractor under this Agreement, when used in accordance with its associated documentation, shall not infringe upon the rights or marks of a third party. Contractor further represents that it is not a party to nor subject to any agreement or order which would limit, prevent or restrict its performance of any Services. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CONTRACTOR MAKES NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, OR ARISING BY OPERATION OF THE LAW OR COURSE OF PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR PROFESSION, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

F. Prosecution of the Services. Contractor will perform all work in a professional and workmanlike manner and will furnish all labor, materials, tools, supplies, machinery, utilities, and other equipment that may be necessary for the completion of the Services. Contractor will monitor, supervise, and otherwise control and be solely responsible for all persons or entities performing work on its behalf.

G. Correction of Errors. Contractor will correct any errors or omissions in its work and any work deemed unsatisfactory or unacceptable by the City promptly and for no additional compensation.

H. Subcontractors. Contractor will not engage subcontractors to perform any part of the Services, other than for the provision of goods, materials or supplies, without the City's express written consent.

I. Licenses & Permits. Contractor and each subcontractor will be responsible to obtain all required licenses and permits, including a City Contractor's license, if required. Contractor will pay any and all license and permit fees.

J. Rate of Progress. Contractor will complete all Services to the City's satisfaction within six months from NTP. Contractor's rate of progress is a material term of this Agreement. At the City's request, Contractor will provide a progress schedule for the performance of any Services subject to the City's approval.

K. Monitoring and Evaluation. The City reserves the right to monitor and evaluate the progress and performance of Contractor to ensure that the terms of this Agreement are being satisfactorily met in accordance with the City's and other applicable monitoring and evaluating criteria and standards. Contractor will cooperate with the City relating to such monitoring and evaluation.

L. Drugs, Alcohol and Workplace Violence; Compliance with Applicable Law. Contractor and its employees and agents, while performing the Services or while on City property for any reason during the

Term, will adhere to the City's policies applicable to City employees regarding drugs, alcohol and workplace violence. Policies will be made available to Contractor upon request. Contractor will comply with all applicable federal, state and local laws, ordinances and regulations.

M. Non-Exclusivity. The City may engage the services of other persons for the provision of Services that could be performed under this Agreement. Contractor acknowledges that it is not entitled to perform any work except as assigned under this Agreement and is not guaranteed any amount of work.

## II. COMPENSATION.

A. Amount. As compensation for performance of the Services and any other obligations under this Agreement, the City will pay Contractor for work actually performed, in accordance with the rates set forth in Exhibit A, a sum not to exceed **Two Hundred Ninety Two Thousand Dollars, (\$292,000)**. The compensation established by this Agreement includes all of Contractor's costs and expenses to fully perform the Services and other obligations of this Agreement. The City will not consider or be obligated to pay or reimburse Contractor any other charges or fees and Contractor will not be entitled to any additional compensation or reimbursement.

B. Invoices. Contractor will submit invoices on a monthly basis, in a format approved by the City, and provide verification documentation as requested by the City. Invoices will be submitted to the City not more frequently than monthly. Invoices will identify the specific Services performed for which payment is requested, including a description of the Services, the applicable rates, any costs for which Contractor seeks reimbursement, and the total amount that Contractor claims is due.

C. Payment. The City will make payment to Contractor within thirty (30) days after receipt and approval of invoices submitted by Contractor. The City's obligation to make payment is contingent upon the Contractor's: (a) submission of a complete and accurate invoice; and (b) satisfactory performance of the Services and conditions of this Agreement. The City may withhold payment of any disputed amounts, and no interest will accrue on any amount withheld pending the resolution of the dispute.

D. Public Works Services. This paragraph applies if the Services involve construction, erection, repair, maintenance, or improvement of any public works (excluding professional services).

1. Any progress payments are payments on accounts and shall not be construed as acceptance by the City or any part of the work. All such progress payments, except for the final payment, shall be subject to correction on subsequent invoices after the discovery of any error. Approval of an invoice shall not foreclose the right of the City to examine Contractor's books and records of to determine the correctness and accuracy of any item.

2. At the time of delivery to Contractor of the final payment, Contractor shall execute and give to the City a final receipt for the same. The acceptance of final payment shall constitute a waiver of all claims by Contractor.

3. The City may withhold amounts from any payment as may be necessary to cover: (a) any liquidated damages; (b) claims for labor or materials furnished Contractor or any subcontractor or reasonable evidence indicating probable filing of such claims; (c) failure of the Contractor to make proper payment to subcontractors or suppliers; (d) evidence of damage to another contractor, utility, or private property; (e) uncorrected defective work or guarantees that have not been met; (f) reasonable evidence that the work will not be completed within the allowed time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or (g) any other amounts that the City is authorized to withhold. If the reason for withholding is removed,

the City will make payment of the withheld sums with the next regular progress payment unless another basis for withholding exists. Execution of this Agreement by Contractor shall constitute a waiver by Contractor to claim any right of payment of interest upon any funds retained or withheld by the City pursuant to this Agreement or C.R.S. § 38-26-107.

E. IRS Form W-9. If not on file with the City, Contractor will provide to the City a current, completed Internal Revenue Service Form W-9 with or before Contractor's first invoice. Failure to submit a W-9 may result in delay or cancellation of payment under this Agreement.

F. Appropriation. This Agreement will neither constitute nor be deemed a multiple fiscal-year debt or financial obligation of the City based on the City's ability to terminate this Agreement. Contractor acknowledges that the City has made no promise to continue to budget funds beyond the current fiscal year and that the City has and will pledge adequate cash reserves on a fiscal-year by fiscal-year basis.

G. Changed Conditions. Contractor agrees that, by careful examination, it is satisfied as to the nature and location of the Services, the conformation of the ground, the character, quality, and quantity of the materials to be encountered, the character of equipment and facilities needed before beginning and for the Services, the general and local conditions, and all other matters, which can in any way affect the performance of the Services. Contractor specifically waives any claim for additional compensation for any changed condition arising out of any one or more of the following, unless such changed condition is caused in whole or in part by acts or omissions within the City's control: (1) a physical condition of the site of an unusual nature; (2) any condition differing materially from those ordinarily encountered and generally recognized as inherent in work or services of the character and at the location provided for in this Agreement; or (3) any force majeure.

### **III. TERM AND TERMINATION.**

A. Term. The term of this Agreement will be from the Effective Date until December 1, 2017 ("Term"), unless the Term is extended in by validly executed written amendment.

B. Termination.

1. Generally. The City may terminate this Agreement without cause if the City determines that such termination is in the City's best interest. The City will effect such termination by giving written notice of termination to Contractor, specifying the effective date of termination, at least fourteen (14) calendar days prior to the effective date of termination.

2. For Cause. If, through any cause, Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, violates any provision of this Agreement or violates any applicable law ("Breach"), the City may terminate this Agreement for cause immediately upon written notice of termination to Contractor. Contractor will not be relieved of liability to the City for any damages sustained by the City by virtue of any Breach, and the City may withhold payment to Contractor for the purposes of setoff until such time as the exact amount of damages due to the City from Contractor is determined. If Contractor challenges a termination for cause by the City and prevails, the termination for cause will be deemed to be a termination for convenience and will be effective fourteen (14) days from the date that the original written notice of termination for cause was given to Contractor and no further notice will be required.

3. Effect of Termination. The City will be liable to pay Contractor for Services performed as of the effective date of termination, but will not be liable to Contractor for anticipated profits. Unless

otherwise instructed in writing, Contractor will immediately discontinue performance of the Services upon receipt of a notice of termination.

**C. Contractor's Remedies for Breach.**

1. Contractor may terminate this Agreement for non-payment of sums due under this Agreement except where non-payment is pursuant to the City's rights under this Agreement. Contractor will first provide the City written notice of Contractor's intent to terminate and allow the City ten (10) days within which to make payment.

2. Pending resolution of any material breach by the City, Contractor may, in addition to any other remedies provided by law, discontinue performance of the Services without being in breach of this Agreement.

**IV. INDEMNITY.**

Contractor will be liable and responsible for any and all damages to persons or property caused by or arising out of the negligent or willful actions or omissions in the performance of the Services by Contractor, its employees, agents, or other persons acting under Contractor's direction or control. Contractor will indemnify and hold harmless the City, its elected and appointed officials and its employees, agents and representatives (the "Indemnified Parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including, but not limited to, attorney fees, which may be made or brought or which may result against any of the Indemnified Parties as a result or on account of the negligent, grossly negligent, willful and wanton, or intentional actions or omissions of Contractor and/or its employees, agents or representatives or other persons acting under Contractor's direction or control. Contractor will include the provisions of this Section in any such subcontracts engaged to perform any part of the Services. The provisions set forth in this Section will survive the completion of the Services and the satisfaction, expiration or termination of this Agreement.

**V. INSURANCE.**

A. Required Policies. Contractor will procure and keep in force the following insurance subject to the conditions below, for the duration of this Agreement:

1. Commercial General Liability Insurance. Comprehensive general liability insurance insuring against any liability for personal injury, bodily injury or death arising out of the performance of the Services with at least **One Million Dollars (\$1,000,000)** each occurrence.

2. Products and Completed Operations Insurance. Products and completed operations insurance insuring against any liability for bodily injury or property damage caused by the completed Services, with a combined single limit of at least **One Million Dollars (\$1,000,000)**.

3. Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance insuring against any liability for personal injury, bodily injury or death arising out of the use of motor vehicles and covering operations on or off the site of all motor vehicles controlled by Contractor that are used in connection with performance of the Services, whether the motor vehicles are owned, non-owned or hired, with a combined single limit of at least **One Million Dollars (\$1,000,000)**.

4. Professional Liability Insurance. If Contractor is an architect, engineer, surveyor, appraiser, physician, attorney, accountant or other licensed professional, or if it is customary in the trade or

business in which Contractor is engaged, or if the City otherwise deems it necessary, errors and omissions professional liability insurance insuring Contractor against any professional liability with a limit of at least **One Million Dollars (\$1,000,000.00)** per claim and annual aggregate.

5. **Other Insurance.** Workers' compensation insurance (unless Contractor provides a completed Declaration of Independent Contractor Status Form) and other insurance required by applicable law.

The limits of any insurance required by this Agreement will not limit Contractor's liability.

**B. Terms of Insurance.**

1. **Additional Insured.** Except for the professional liability policy, if applicable, and workers' compensation policy, **all required insurance policies shall name the City as an additional insured** and will provide that the City, although named as an additional insured, will nevertheless be entitled to recovery under said policies for any loss occasioned to the City or its officers, employees or agents by reason of the negligence of Contractor or its officers, employees, agents, subcontractors or business invitees. The insurance policies will be for the mutual and joint benefit and protection of Contractor and the City. **Such policies will be written as primary policies not contributing to and not in excess of coverages the City may carry.**

2. **Qualification; Deductible.** Insurance required by this Section will be with companies qualified to do business in the State of Colorado and may provide for deductible amounts as Contractor deems reasonable for the Services, but in no event greater than **Ten Thousand Dollars (\$10,000.00)**, and Contractor will be responsible for the payment of any such deductible.

3. **Cancellation.** No such policies will be cancelable or subject to reduction in coverage limits or other modification unless previously approved by the City in writing and with at least forty-five days prior notice to the City and the State of Colorado by certified mail.

4. **Coverage Type.** Contractor will identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal Contractor changes to "occurrence," Contractor will carry a twelve (12) month tail. Contractor will not do or permit to be done anything that will invalidate the policies.

5. **No "Pollution Exclusion."** The insurance required by this Agreement will cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants, and will not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise. If necessary, Contractor will secure and maintain either a rider or a separate policy insuring against liability for pollution related damages, claims or suits, as described in subsection ii(a), with at least **Two Million Dollars (\$2,000,000)** each occurrence, subject to approval by the City, which approval will not be unreasonably withheld.

6. **Evidence of Coverage.** Before commencing work under this Agreement, Contractor will provide certificates of insurance policies and all necessary endorsements evidencing insurance coverage required by this Agreement. The City will not be obligated under this Agreement until Contractor provides acceptable such certificates of insurance and endorsements. If the Term extends beyond the period of coverage for any required insurance, Contractor will, at least ten (10) days before the expiration of any such insurance coverage, provide the City with new certificates of insurance and endorsements evidencing either new or continuing coverage.

C. Subcontracts. Contractor will include the insurance requirements of this Agreement in all subcontracts. Contractor will be responsible if any subcontractor fails to procure and maintain insurance meeting the requirements of this Agreement.

## II. BONDS.

A. This paragraph applies if the Services involve construction, erection, repair, maintenance, or improvement of any public works (excluding professional services). If applicable, the requirements of this section may be waived or modified with the approval of the City Manager or the City's Risk Manager.

B. Before the commencement of any work, Contractor shall provide, at Contractor's sole cost, the City with a separate:

1. Performance bond in an amount equal to 100% of the amount of this Agreement as a guarantee of Contractor's faithful performance and completion of all undertakings, covenants, terms, conditions, warranties, and agreements of the Agreement; and

2. Payment bond in an amount equal to 100% of the amount of this Agreement, which bond shall conform to the requirements of C.R.S. § 38-26-101, et seq., as amended, as a guarantee of Contractor's prompt payment to all persons supplying labor and materials in the prosecution of the Services.

The bonds shall remain in effect until acceptance of the work performed under this Agreement. Contractor shall use the bond forms approved by the City.

C. Contractor and a surety shall execute the bonds. The surety shall be corporate bonding company acceptable to the City, licensed to transact such business in the State of Colorado, and listed in the U.S. Department of the Treasury Circular 570 in effect on the date of the Agreement. Evidence of authority of an attorney-in-fact acting for the surety shall be provided in the form of a certificate as to its power of attorney and to the effect that it is not terminated and remains in full force and effect on the rate of the bonds. If at any time a surety on any bond becomes irresponsible, is disqualified from doing business in the State of Colorado, or becomes insolvent or otherwise impaired, Contractor shall furnish bond(s) from an alternate surety acceptable to the City.

D. Contractor shall secure an increase in the bonds in an amount equal to the cost of any additional work authorized pursuant to a duly executed amendment that increases the amount of this Agreement by ten percent (10%) or more, unless waived in writing by the City.

## VI. SALES AND USE TAX.

Unless specifically exempt, all materials provided and equipment used in the performance of Services within the City are subject to City Sales & Use Tax, including services performed on behalf of the City.

A. Contractor Responsible for Tax. Contractor is subject to the tax on all purchases, fabrication, manufacture or other production of tangible personal property used, stored, or consumed in performance of the Services.

B. Specific Industry Standard. The Specific Industry Standard for Construction and Contractors (Regulation 20-S.I.15) can be provided upon request by contacting the City's Finance Department, Sales

Tax Division, at 303-289-3628, and is available on the City's website at <http://www.c3gov.com/DocumentView.aspx?DID=115>.

C. Equipment. Prior to or on the date Contractor locates equipment within the City to fulfill this Agreement, Contractor will file a declaration describing each anticipated piece of equipment the purchase price of which was two thousand five hundred dollars (\$2,500) or greater, stating the dates on which Contractor anticipates the equipment to be located within and removed from the boundaries of the City and stating the actual or anticipated purchase price of each such anticipated piece of equipment along with any other information deemed necessary by the City. When such declared equipment is located within the City for a period of thirty (30) days or less, Contractor may include sales and use tax calculated on one-twelfth (1/12) of the purchase price of such equipment in the contract amount, in compliance with Section 20-5-T of the Commerce City Sales & Use Tax Code. If Contractor fails to declare the equipment to the City prior to or on the date Contractor locates the equipment within the City, none of the sales and use tax due on the equipment will be allowed as a contract expense.

## **VII. COMPLIANCE WITH C.R.S. § 8-17.5-102; VERIFICATION OF LAWFUL PRESENCE.**

A. Certification. Contractor hereby certifies that, as of the date of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in the E-verify Program or Department Program as defined in C.R.S. § 8-17.5-101 in order to confirm the eligibility of all employees who are newly hired to perform work under this Agreement.

B. Pre-Employment Screening. Contractor is prohibited from using either the E-verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

C. Contractor Obligations. Contractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement or contract with a subcontractor that fails to certify to Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor will:

1. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph d the subcontractor does not stop employing or contracting with the illegal alien; provided, however, that Contractor will not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

D. Compliance with Investigation. Contractor will comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation undertaken by the Department pursuant to Article 17.5 of Title 8, C.R.S.

E. Violation. If Contractor violates this Section, the City may terminate this Agreement for breach of contract and Contractor will be liable for actual and consequential damages to the City.

## **VIII. NOTICES.**

Except for routine communications, written notices required under this Agreement and all other correspondence between the parties will be directed to the following and will be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

If to the City:

Maria D'Andrea, Public Works Director  
Public Works  
City of Commerce City  
8602 Rosemary Street  
Commerce City, CO 80022

If to Contractor:

Dan Liddle, Division Manager  
Atkins North America, Inc.  
7604 Technology Way, Suite 400  
Denver, CO 80237

The parties may agree to delivery of notices via electronic mail.

## IX. GENERAL PROVISIONS.

A. Independent Contractor. The relationship between Contractor and the City will be as independent contractors, and neither the City nor Contractor will be deemed or constitute an employee, servant, agent, partner or joint venturer of the other. Contractor is obligated to pay federal and state income tax on any money earned pursuant to this Agreement, and neither Contractor nor Contractor's employees, agents or representatives are entitled to workers' compensation benefits, unemployment compensation benefits, sick and annual leave benefits, medical insurance, life insurance, or pension or retirement benefits from the City.

B. No Assignment. Contractor will not assign or transfer any rights, interests, or obligations under this Agreement without the City's prior written consent.

C. Governing Law; Jurisdiction and Venue; Recovery of Costs. This Agreement will be governed by the laws of the State of Colorado without regard to its conflicts of laws provisions. For all claims arising out of or related to this Agreement, Contractor consents to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. Contractor waives any exception to jurisdiction because of residence, including any right of removal based on diversity of citizenship. The prevailing party in any litigation to resolve a dispute between the parties arising from this Agreement will be entitled to recover court costs and reasonable attorney fees from the non-prevailing party.

D. Governmental Immunity. No term or condition of this Agreement will be construed or interpreted as an express or implied waiver of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

E. Time of the Essence. Contractor acknowledges that time is of the essence in the performance of this Agreement. Contractor's failure to complete any of the Services during the Term, or as may be more specifically set forth in an exhibit, notice to proceed, change order, or any approved progress schedule, will be deemed a breach of this Agreement.

F. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement will be strictly reserved to the parties. Any person other than the City and Contractor will be deemed to be only an incidental beneficiary under this Agreement.

G. No Waiver. The waiver of any breach of a term of this Agreement, including the failure to insist on strict compliance or to enforce any right or remedy, will not be construed or deemed as a waiver of any subsequent breach of such term; any right to insist on strict compliance with any term; or any right to

enforce any right or remedy with respect to that breach or any other prior, contemporaneous, or subsequent breach.

H. Rules of Construction. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and will be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement will be construed or resolved in favor of or against the City or Contractor on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and will in no way control or affect the meaning or interpretation of any provision of this Agreement.

I. Severability. A holding by a court of competent jurisdiction that any term of this Agreement is invalid or unenforceable will not invalidate or render unenforceable any other term of this Agreement.

J. Acknowledgement of Open Records Act. Contractor acknowledges that the City is a public entity subject to the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.*, and this Agreement and any related documents are subject to public disclosure.

K. Authority. The parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this Agreement for the parties and to bind the parties to its terms. The signatories represent and warrant that each has legal authority to execute this Agreement for the party he or she represents and to bind that party to its terms.

L. Counterparts; Execution. This Agreement may be executed in any number of counterparts, each deemed to be an original, and, taken together will constitute one and the same instrument. Signature pages may be executed via "wet" signature or electronic mark and the executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud based server, e-signature technology or other similar electronic means.

M. Entire Agreement; Modification; Binding Effect. This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and, except as expressly provided, may not be modified or amended except by validly executed written agreement of the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement. This Agreement will be binding upon, and will inure to the benefit of, the parties and their respective heirs, personal representatives, successors and assigns.

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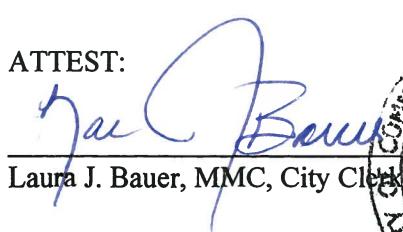
IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE CITY



Brian K. McBroom, City Manager  
City Manager's Office

ATTEST:



Laura J. Bauer, MMC, City Clerk



APPROVED AS TO FORM:



Robert Sheesley, City Attorney

Recommended for approval:



Maria D'Andrea, Director  
Public Works

ATKINS NORTH AMERICA, INC.



Dan Liddle, Division Manager  
[must be notarized]

STATE OF COLORADO )  
COUNTY OF Denver ) ss.

The foregoing Agreement was acknowledged before me this November 22<sup>nd</sup>, 2016,  
by Dan Liddle (Name), Division Manager (Title),  
of Atkins North America.

Witness my hand and official seal.

My commission expires: 2/18/2017.



JESSICA GOSS  
Notary Public



## **EXHIBIT A**

### **Scope of Work**

#### **A. GENERAL REQUIREMENTS**

This work requires providing the necessary personnel and resources to perform professional and technical project administrative, design and management duties to design a roadway and utility project for the City. The team identified for this work shall remain the same for the duration of the Services unless approved by the City.

At a minimum, the Design Contractor's team shall include a Professional Engineer who will be responsible for signing and sealing the construction plans and specifications as the Engineer of Record. The Professional Engineer on the team shall be a Professional Engineer registered in the State of Colorado and have a minimum of 7 years of previous experience in road and bridge design. Other team members may be needed for various tasks.

Certain tasks must be completed by a Professional Land Surveyor (PLS) who is registered with the state of Colorado.

All tasks assigned to the Design Contractor must be conducted by a qualified person on the team. This qualified person is a professional with the necessary education, certifications (including registrations and licenses), skills, experience, qualities, or attributes to complete a particular task.

All team members shall establish and maintain effective working relationships with City staff and other stakeholder groups including but not limited to RTD, RRP, SACWSD, utility companies, and FRICO.

#### **B. PROJECT/SERVICES MANAGEMENT**

The Design Contractor shall:

- Schedule and facilitate an initial kick-off meeting. All appropriate disciplines should be included in the scoping meeting. Create an invitation list, send notices, with a draft agenda prior to the meeting, and provide meeting minutes to all those invited. As a part of the meeting, conduct an on-site inspection to familiarize the team with the character and condition of the site.
- At the kick-off meeting, or shortly thereafter, create and provide a Project Management Plan which outlines an approach for managing the work (*i.e.*, involved staff, key team positions), including task orders, a schedule, document and agency reviews and other work needs.
- Develop a schedule for review and approval by the City. Modifications will be made as necessary in collaboration with City staff and appropriate justification.
- Prepare agendas and lead monthly progress meetings with the City and other agencies/stakeholders as appropriate. These meetings will include a review of activities to

be completed since the last meeting, problems encountered/anticipated and potential solutions, schedule update, action items, and coordination required with other agencies.

- Complete progress meeting minutes and coordinate distribution.
- Coordinate work activities with other consultants, contractors, RTD and City staff
- Complete closeout including delivery of all work documentation to the City
- Coordinate with the City's Communications Division and the City's communications consultant to deliver timely, correct information to the public.
- Prepare and submit a QA/QC plan and commit to adhering to the QA/QC process throughout the work.
- Coordinate with the following agencies:
  - South Adams County Water and Sewer District (SACWSD)
  - Various utilities
  - FRICO
  - RTD and RRP (contractor for the NMRL)
  - Public Utilities Commission
- Be prepared to make revisions to the plans and specifications during the construction advertisement period.

## C. DATA COLLECTION AND RESEARCH

### 1. Engineering Research

- Using digital photography, conduct a field inventory and generate a Photo Log of the existing roadways with labels describing what direction and subject, including the date of the photography.

### 2. Design Surveys and Mapping

- Surveys shall be conducted in accordance with the CDOT Survey Manual.
- Complete a topographic field survey to obtain the detail required to design the Project. Cross sections will be obtained at approximate 50' intervals delineating elevations at each edge of pavement, centerline, edge of shoulder, centerline of borrow ditch and top of borrow ditch on each side of the roadway as applicable. Additional spot elevations will be attained on all driveway access points and all other tie-in points.
- Right of Entry. Prepare right of entry request letters to the property owners immediately adjacent to the corridor where access is required for the purpose of surveying. Letters will be mailed to the owners of each property. Should there be no response to the letter, attempt to contact the individual at the residence or business to request access to the property for the purpose of surveying.
- Establish horizontal and vertical control for the Project. Establish horizontal control lines for intersecting streets.
- Establish vertical control, including setting temporary and permanent benchmarks throughout the Project.
- Prepare a Survey Control Diagram for the Project showing existing monuments.
- Include the existing visible features as follows:
  - Any existing private improvements that lie within the City's existing right-of-way.
  - Manhole and storm sewer inlet invert and rim elevations and sizes, inverts and direction of pipes in manhole. Note sizes of manholes. Determine pipe sizes and flow directions to the greatest extent possible from the surface. Utilities within the

right-of-way must be marked and the marked utilities must be subsequently field surveyed and delineated on the design survey. All visible utility surface appurtenances will be field located and shown on the design survey. Invert elevations will be obtained from all accessible utilities.

- Culvert sizes, materials and invert elevations.
- Signs, including sizes and types.
- Earthen berms, including top and toe of slopes.
- Edges of pavement, flow line, lip of curb pan, and roadway crown.
- Curbs, gutters and sidewalks and survey topography at intersections, providing curb return elevations, radius returns, centerline profiles and signal equipment information (where applicable).
- Surface utility evidence such as utility poles, junction boxes and any signs or markers indicating location of underground utilities on the Project, not identified on the aerial mapping.

### **3. Right of Way Research and Ownership Map**

- Establish the location of the Colorado Boulevard and E. 72<sup>nd</sup> Avenue right-of-way from record information, so that the need for acquisition of property can be accurately determined.
- Prepare an Ownership Map reflecting the right-of-way limits based on record information, without purchasing title commitments. Show current recorded names of owners, their addresses, and their Property Identification Number (PIN) per the County Assessor.
- Anticipated affected owners where additional right-of-way or permanent easement may be required area as follows:
  - 7175 Colorado Boulevard
  - 7110 Colorado Boulevard
  - 7090 Colorado Boulevard

### **4. Environmental Clearance & NEPA Documentation**

- Prepare the appropriate NEPA Document (anticipated to be a Categorical Exclusion) along with all the appropriate studies and permits. The NEPA document needs to be prepared in accordance with the Colorado Department of Transportation's NEPA Manual.
- The NEPA Document must be submitted and approved by both CDOT and FHWA. All permits necessary to construct the project shall be prepared and submitted for approval by the appropriate agency.

### **5. Utility Potholing**

- Conduct a maximum of 10 potholes to determine the location and depth of existing utilities. The information shall be used to coordinate the resolution of utility conflicts.

## **D. PRELIMINARY DESIGN**

### **1. Preliminary Roadway Plans – 30% Complete Plans:**

- Prepare preliminary plans to include the following items:

- Title Sheet
- Standard Plans List
- Typical Sections
- General Notes
- Survey Control Diagram and Notes
- Ownership Tabulation Sheet
- Ownership Map
- Plan and Profile sheets including line drawing of existing topography, survey alignment, proposed alignments, profile grades, existing ground lines, existing right-of-way, drainage structure notes, top and toe of slopes, proposed right-of-way, proposed easements, location of soil borings, and underground utilities.
- Profile sheets should be on the same sheets as the plan sheets.
- Side street profiles
- Cross-sections of the existing ground and proposed roadway template (at 50-foot intervals)
- Storm sewer plans and any special drainage plan sheets
- Construction phasing typical sections and plans (schematic)
- Preliminary striping will be shown on the preliminary roadway plan sheets.
- Prepare an Opinion of Probable Construction Cost.

## 2. Preliminary Utility Coordination

- Send copies of preliminary plans to utility companies to request verification of existing and proposed utility locations shown on the plans.
- Identify utility conflicts and potential relocations. Determine locations where utility potholes should be dug to confirm whether conflicts exist or not. Notify the City PM if more than 10 potholes are required.
- Before the 30% complete plan review, meet with the affected utility companies regarding the Project's impacts to their utilities.

## 3. Preliminary Drainage Plans

- Review past drainage reports and other available drainage-related information, (Master Plans, Flood Plain Studies, etc.).
- Establish drainage basin boundaries and characteristics for minor cross drainages.
- Conduct field reconnaissance to verify drainage basin boundaries for cross drainage and storm sewer design.
- Establish locations of required drainage structures. Check capacity of existing drainage structures. Identify drainage structures to be replaced for capacity or condition issues.
- Establish a plan for meeting the City's MS-4 requirements for permanent water quality with regard to the proposed roadway improvements.
- Using the Urban Drainage Design and Technical Criteria Manual and the CDOT Design Guide, analyze flows on pavements and determine storm sewer and inlet requirements along the project.
- Using the Urban Drainage Design and Technical Criteria Manual and the CDOT Design Guide, analyze each cross culvert structure and determine opening sizes to accommodate design discharges.

- Prepare a Phase II Drainage report in accordance with the requirements of the Urban Drainage Design and Technical Criteria Manual for review and approval by the City and UDFCD.
- Include drainage items in the preliminary construction cost estimate.

## **5. Signing and Striping Plans**

- Show preliminary striping on the preliminary roadway plan sheets.
- Include signing and striping items in the preliminary construction cost estimate.

## **6. Ownership Map**

- Show the approximate limits of the proposed right-of-way and easements on the preliminary plan sheets, and the Ownership Map.
- Prepare an exhibit for the public open house meeting that shows the existing property lines, the proposed right-of-way limits, existing topographic features, and proposed curb, gutter and sidewalks.
- Prepare the final legal descriptions and exhibits (Right-of-Way, permanent and temporary construction easements) for any land to be required by the Project.

## **7. Project Coordination**

- Attend regular progress meetings as needed. Monthly meetings are anticipated during the duration of the design phase.
- Prepare and distribute written minutes of meetings required for the work, including any meetings held with the City, utility companies, and jurisdictional entities.
- Document time delays, scope of work variations, changes in input from entities and coordinate said documentation.
- Arrange and attend a 30% complete plan review meeting with City staff and other affected parties.
- Prepare and distribute minutes of the 30% complete plan review meeting.
- Make minor revisions to plans as agreed to by the Project Manager and the City. In general, comments will be incorporated into the plans during final design.

## **8. Street Lighting Plans**

- Analyze street lighting options that match those being installed by RTD on E. 70<sup>th</sup> Avenue.
- Complete a photometric analysis to ensure proper spacing of lighting fixtures
- Prepare preliminary lighting plan sheets.
- Include lighting items in the preliminary construction cost estimate.

## **9. Preliminary Landscape Plans (Limited Landscaping is Anticipated)**

- Prepare landscape planting designs for shoulder areas where room exists for xeriscaping materials that require very little water.
- Prepare preliminary planting plans and typical sections. Plans will show planting beds and types of plants to be used.
- Prepare preliminary cost estimates for landscape features.

## **E. FINAL DESIGN**

### **1. Final Roadway Plans – 90% Complete Plans**

- Revise preliminary roadway plans based on 30% complete plan review comments.
- Prepare Summary of Approximate Quantities.
- Prepare quantity tabulations for individual items.
- Prepare detail sheets for various miscellaneous Project components.
- Prepare Project Special Provisions and Standard Special Provisions (e.g. technical specifications) to augment the City's General Conditions and Colorado Department of Transportation's Standard Specifications for Road and Bridge Construction.
- Prepare Opinion of Probable Construction Cost based on the Summary of Approximate Quantities.

### **2. Final Utility Coordination**

- Once the utility potholing is performed and the conflict locations are verified, conduct a Utility Coordination Meeting. All affected utility companies shall be invited to the meeting. The purposes of the meeting will be to:
  - Review conflicts
  - Confirm how the conflicts should be resolved
  - Confirm who is financially responsible for work required to resolve the conflict
  - Confirm which portions of the work will be performed by Utility Company versus the City's Contractor
  - Confirm the duration or expected completion date of the utility work and the advance notification time requirements.
- Conduct field reviews with utility owners as required.
- Revise plans to reflect input from utility owners at the Utility Coordination Meeting and field reviews.
- Prepare Utility Clearance Letters listing specific utility work elements that the contractor shall perform, specific utility work elements that the utility owner shall perform, the duration or expected completion date of the utility work, and advance notification time requirements.
- Submit the letters to the utility companies requesting their signature and return of the letters.
- Prepare a utility specification listing all utility owners adjacent to the Project and the provisions of the Utility Clearance Letters.

### **3. Construction Traffic Control Plans**

- Prepare detailed construction traffic control plans showing suggested construction phasing, work zone locations, temporary striping, construction signing and other construction traffic control devices.
- Prepare traffic control and phasing notes sheet.

### **4. Final Drainage Plans**

- Revise grading details, and other drainage details based on 30% complete plan review comments.
- Prepare storm sewer profiles.

- Design permanent BMP's to meet the City's MS-4 requirements for water quality for the proposed roadway improvements.
- Prepare Erosion Control Plans for construction of the Project. The plans will depict schematically the measures to be used to minimize erosion and sedimentation during construction. The Erosion Control Plans shall accommodate and address the differing requirements for each proposed phase of construction.
- Prepare a Phase III Drainage report in accordance with the requirements of the Urban Drainage Design and Technical Criteria Manual.

## 5. Final Signing and Striping Plans

- Prepare signing and striping plans. Plans will show striping layout for permanent roadway striping, existing and proposed sign locations, and proposed sign sizes and codes.
- Prepare tabulation of signs.
- Prepare tabulation of pavement markings.

## 6. Right-of-Way Plans, Legal Descriptions and Exhibits

The right-of-way descriptions and exhibits prepared under this section will be final documents to be used by the Consultant to acquire the right-of-way and easements necessary to complete the construction of the Project.

The following legal descriptions and exhibits are anticipated for the listed properties along Colorado Boulevard and E. 72<sup>nd</sup> Avenue:

- 7175 Colorado Boulevard
  - 1 – Right of way acquisition/Permanent Easement
  - 1 – Temporary Construction Easement
- 7110 Colorado Boulevard
  - 1- Right of way acquisition/Permanent Easement
  - 1 – Temporary Construction Easement
- 7090 Colorado Boulevard
  - 1- Right of way acquisition/Permanent Easement
  - 1 – Temporary Construction Easement
- Other (to be determined)
  - 1 – Temporary Construction Easements
- Calculate areas of parcels and easements to be acquired.
- Write legal descriptions and prepare exhibit maps of parcels that are to be acquired. Descriptions will be prepared from record information, as provided in the title commitments. A record copy of the descriptions shall include date, seal, signature, name and number of the Professional Land Surveyor responsible for their preparation.
- Prepare a right-of-way tabulation of properties detailing parcel number, owner's name, address & phone number, location, area of parcel, date of most recent legal description, and purpose of acquisition (ROW, or type of easement).
- Update the previously prepared Ownership Map with the following information

- superimposed: existing right-of-way, prescriptive right-of-way, proposed right-of-way, permanent/slope easements, construction easements, and drainage easements (if any).
- Complete the acquisition of all right-of-way, permanent easements and temporary easements necessary to construct the Project. This task includes but is not limited to conducting appraisals, preparing offer letters, conducting negotiations, attending real estate closings, and coordinating with the City's legal counsel. These services shall adhere to all applicable Federal, State, and local laws and CDOT and City policies.
- Prepare a right-of-way "Clearance Letter" that summarizes the acquisitions and easements information determined by the Engineer to be necessary to construct the Project.

## 7. Final Design Coordination

- Attend regular progress meetings as appropriate.
- Prepare and distribute written minutes of meetings required for the work, including any meetings held with the City, utility companies, and jurisdictional entities.
- Arrange and attend 90% complete plan review meeting with City staff, RTD, and other affected parties.
- Prepare and distribute minutes of the meeting.
- Make minor plan revisions after the plan review meeting. Submit one set of plans and technical specifications with comments incorporated, to the City for approval.
- Submit one record set of approved Plans and Specifications signed and stamped with the Professional Engineer's seal.

## 8. Construction Storm Water Discharge and Dewatering Permits

- Complete the application form for the Storm Water Discharge Permit for Construction as required by the Colorado Department of Health and Environment (CDPHE) General Permit Application, Storm Water Discharges Associated with Construction Activity.
- Prepare a Storm Water Management Plan (SWMP) to accompany the CDPHE Storm Water Discharge Permit application. The SWMP will identify temporary sediment and erosion controls that are to be used during construction for different contaminants.
- The Engineer is to include CDOT's latest Standard Special Provision regarding "Water Quality Control" (i.e. Revision of Sections 101, 107, and 208) in the specifications. The Project Special Provisions prepared by the Engineer will include a requirement that the Contractor transfer the Storm Water Discharge Permit to its company before construction begins, and that it amends the Permit during construction if the Contractor's operations are inconsistent with any portion of the Permit.
- The City will submit the application, pay the required fees, and obtain the Permit. Once the Permit is obtained, the City will provide a copy to the Engineer for inclusion in the Bid Package.
- Prepare a Tabulation of "Temporary Erosion & Sediment Controls" (i.e. temporary BMP's) based on the final "Erosion & Sediment Control Plan" sheets and include the quantities in the Bid Schedule.
- If it is determined that a Dewatering Permit is needed for this Project, complete the application form and prepare the supporting documentation as required by the Colorado Department of Health Construction Dewatering – Industrial Wastewater Discharge Application. The City will pay for the filing fee for this permit.

- The Project Special Provisions will include a requirement that the Contractor transfer the Dewatering Permit to its company before construction begins and that it amends the permit during construction if the Contractor's operations are inconsistent with any portion of the permit.

#### **9. Street Lighting Plans**

- Prepare final street lighting plan sheets.
- Prepare tabulation of street lights.

#### **10. Final Landscape Plans (Limited Landscaping is Anticipated)**

- Finalize selection of specific plant materials and seed mixtures.
- Prepare final layout plans showing the proposed landscape elements.
- Prepare plant lists, plant counts, and landscape costs estimates and planting details.
- Preparation of tabulation of planting quantities.

#### **F. BID SERVICES**

- Prepare bid tabulations for City review.
- With City input, prepare the Bid Package. City forms and formats will be used for the Contract Documents.
- Attend the pre-bid meeting and prepare the meeting minutes.
- Prepare addenda to the bid plans and specifications during the advertisement period.
- Attend the bid opening.

#### **G. ADDITIONAL REQUIREMENTS**

- Project must follow all DRCOG and CDOT requirements with regards to DRCOG Federal Grant funded projects.
- The RTD North Metro Rail Signal Plan (DWG No. KJ-103) may require design modifications to open the road to the public and to be a Quiet Zone. Design Contractor is to evaluate requirements and coordinate with the PUC.
- Design Contractor shall design a connection to the RTP parking area from 72<sup>nd</sup> Avenue. Coordination with RTD will be required.
- The Design Contractor shall assure compatibility and accommodation of the North Metro Rail Line design at 70<sup>th</sup> Ave. and 72<sup>nd</sup> Ave. Coordination with RTD and Regional Rail Partners will be required.
- The project has a DBE goal of 10%. A completed CDOT Form 1331 shall be submitted with the proposal. A summary of sub consultant labor, fees, and costs must be submitted with each invoice.
- Provide transportation to and from the Project as needed using a field vehicle fitted with appropriate flashing traffic warning devices.
- Provide equipment necessary for completing work functions of field inspection, measurements, documentation, record keeping, communications and personal safety.
- Design Contractor field activities that interfere with traffic operations within existing roadways will require control of traffic. The Design Contractor shall plan and provide any required traffic control for the survey, testing, or the design process.

- Traffic control operations will be in accordance with the MUTCD. The proposed Method for Handling Traffic (MHT) must be submitted to the Project Manager.
- The Design Contractor shall perform all Services and obligations of the negotiated Professional Service Agreement.

**Rate Schedule:**

Project Director:	\$200/hour
Project Manager:	\$150/hour
Sr. Engineer II Roadway:	\$120/hour
Engineer II Roadway:	\$105/hour
Sr. Project Manager ROW:	\$172/hour
Sr. Engineer I/Traffic	\$105/hour
Sr. Project Manager Drainage	\$150/hour
Engineer I Drainage	\$78/hour
Sr. Planner III NEPA	\$135/hour
Sr. Scientist II	\$130/hour
Sr. Engineer III QA/QC	\$150/hour
Administrative Assistant	\$60/hour

## **EXHIBIT B**

**[USE THIS FORM ONLY IF CONTRACTOR IS AN INDIVIDUAL/SOLE PROPRIETOR WITHOUT EMPLOYEES  
AND DELETE THIS INSTRUCTION!! IF CONTRACTOR IS A PARTNERSHIP, LLC, CORPORATION OR  
INDIVIDUAL/SOLE PROPRIETOR WITH EMPLOYEES, DELETE THIS EXHIBIT ENTIRELY]**

### **AFFIDAVIT PURSUANT TO C.R.S. § 24-76.5-103**

I, \_\_\_\_\_, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

- I am a United States citizen, or
- I am a Permanent Resident of the United States, or
- I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that Colorado state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute § 18-8-503, and it will constitute a separate criminal offense each time a public benefit is fraudulently received.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

### **INTERNAL USE ONLY**

Valid forms of identification:

- current Colorado driver's license, minor driver's license, probationary driver's license, commercial driver's license, restricted driver's license, or instruction permit
- current Colorado identification card
- U.S. military card or dependent identification card
- U.S. Coast Guard merchant mariner card
- Native American tribal document



7887 East 60<sup>th</sup> Avenue  
Commerce City, Colorado 80022  
Phone (303) 289-3627  
Fax (303) 289-3661  
[www.c3gov.com](http://www.c3gov.com)

## EQUIPMENT DECLARATION

Company: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

State and Zip: \_\_\_\_\_

**Note:** Construction equipment that was not otherwise subjected to the Commerce City sales or use tax, and which is located within the boundaries of the City of Commerce City for a period of thirty (30) consecutive days or less, will be subjected to the use tax of Commerce City on a prorated basis if the equipment is declared in advance. **If the equipment is not declared in advance or is located within the City for over thirty (30) consecutive days, the amount of tax due will be calculated on 100% of the original purchase price.**

The tax on Declared Equipment will be calculated using the following method: **The original purchase price of the equipment will be multiplied by a fraction, the numerator of which is one (1) and the denominator which is twelve (12); and the result will be multiplied by four and one-half percent (4.5%) to determine the amount of Use Tax payable to the City.** Example: thirty (30) days or less =  $\frac{1}{12} \times$  purchase price of the equipment x 4.5%.

In order for a taxpayer to qualify for this exemption, the taxpayer must comply with the procedures described in Section 29-2-109(4) of the Colorado Revised Statutes by completing this form and remitting the tax due to the Finance Department of the City of Commerce City. **If the taxpayer does not file this form the exemption herein provided for will be deemed waived by the taxpayer.**

**A separate declaration form must be used for each individual piece of equipment.**

**Construction Equipment Declared:**

Description of Equipment and/or VIN number: \_\_\_\_\_

Purchase price of above equipment and date purchased: \_\_\_\_\_

Date equipment will enter the City: \_\_\_\_\_

Date equipment will be removed from the City: \_\_\_\_\_



# CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 2

DATE (MM/DD/YYYY)  
08/22/2016

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 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

Willis of New York, Inc.  
c/o 26 Century Blvd.  
P. O. Box 305191  
Nashville, TN 37230-5191

## CONTACT NAME:

PHONE (A/C NO.EXT): 877-945-7378 FAX (A/C NO): 888-467-2378  
E-MAIL ADDRESS: certificates@willis.com

## INSURER(S) AFFORDING COVERAGE

NAIC#

INSURER A: Greenwich Insurance Company 22322-001

## INSURED

Atkins North America, Inc.  
2001 NW 107th Avenue  
Miami, FL 33172-2507

INSURER B: XL Specialty Insurance Company 37885-001

INSURER C: Underwriter's at Lloyds 15792-001

INSURER D:

INSURER E:

INSURER F:

## COVERAGEs

CERTIFICATE NUMBER: 24624098

## 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		
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  <input checked="" type="checkbox"/> Contractual Liability			CGG740901605	4/1/2016	4/1/2017	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	\$ 1,000,000	
							PRODUCTS - COMP/OP AGG	\$ 1,000,000	
								\$	
	GEN'L AGGREGATE LIMIT APPLIES PER:								
	POLICY <input checked="" type="checkbox"/> PROJCT <input checked="" type="checkbox"/> LOC								
	OTHER:								
A	AUTOMOBILE LIABILITY			CAH740901705	4/1/2016	4/1/2017	COMBINED SINGLE LIMIT (ea accident)	\$ 2,000,000	
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$	
	<input checked="" type="checkbox"/> ALL OWNED AUTOS		<input checked="" type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident)	\$	
	<input checked="" type="checkbox"/> HIRED AUTOS		<input checked="" type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	\$	
								\$	
	UMBRELLA LIAB		OCCUR				EACH OCCURRENCE	\$	
	EXCESS LIAB		CLAIMS-MADE				AGGREGATE	\$	
	DED	RETENTION \$						\$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/> Y/N	N/A	CWG740901505	4/1/2016	4/1/2017	<input checked="" type="checkbox"/> PER STATUTE	OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?						E.L. EACH ACCIDENT	\$ 1,000,000	
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000	
C	Professional Liability-Claims Made			B080111209P16	4/1/2016	4/1/2017	\$ 1,000,000 Each Claim & \$ 1,000,000 Annual Aggregate 11/11/1961 Retrodate \$ 160,000-SIR		

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

Re: Request for Proposals - Design Consultant Colorado Blvd. &amp; E. 72nd Ave. Rail Line Improvements

Greenwich Insurance Company Best Rating: A XV  
 XL Specialty Insurance Company Best Rating: A XV  
 Underwriters at Lloyd's AM Best Rating: A XV

There are no Deductibles or Self-Insured Retentions on the General Liability, Automobile Liability, and Workers Compensation coverages.

## CERTIFICATE HOLDER

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

## AUTHORIZED REPRESENTATIVE

CITY OF COMMERCE CITY  
7887 East 60th Avenue  
Commerce City, CO 80022



## ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY		NAMED INSURED	
Willis of New York, Inc.		Atkins North America, Inc. 2001 NW 107th Avenue Miami, FL 33172-2507	
POLICY NUMBER			
See First Page			
CARRIER	NAIC CODE	EFFECTIVE DATE: See First Page	
See First Page			
ADDITIONAL REMARKS			

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
 FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Re: Request for Proposals - Design Consultant Colorado Blvd. & E. 72nd Ave. Rail Line Improvements Project.

City, SACWSD and CDOT are included as Additional Insureds as respects to General Liability and Automobile Liability.

General Liability and Automobile Liability policies shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by the City, Adams County and the City and County of Denver.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION WITH WHOM YOU HAVE AGREED, THROUGH WRITTEN CONTRACT, AGREEMENT OR PERMIT, EXECUTED PRIOR TO THE LOSS, TO PROVIDE ADDITIONAL INSURED COVERAGE.	VARIOUS AS REQUIRED PER WRITTEN CONTRACT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:**

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED- OWNERS, LESSEES OR CONTRACTORS- COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
ANY PERSON OR ORGANIZATION WITH WHOM YOU HAVE AGREED, THROUGH WRITTEN CONTRACT, AGREEMENT OR PERMIT, EXECUTED PRIOR TO THE LOSS, TO PROVIDE ADDITIONAL INSURED COVERAGE.	VARIOUS AS REQUIRED PER WRITTEN CONTRACT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AUTOMATIC ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM  
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

A. LIABILITY COVERAGE, Who Is An Insured, is amended to include as an "insured" any person or organization you are required in a written contract to name as an additional insured, but only for "bodily injury" or "property damage" otherwise covered under this Policy caused, in whole or in part, by the negligent acts or omissions of:

1. You, while using a covered "auto"; or
2. Any other person, except the additional insured or any employee or agent of the additional insured, operating a covered "auto" with your permission;

Provided that:

- a. The written contract is in effect during the policy period of this Policy;
- b. The written contract was signed by you and executed prior to the "accident" causing "bodily injury" or "property damage" for which liability coverage is sought; and
- c. Such person or organization is an "insured" solely to the extent required by the contract, but in no event if such person or organization is solely negligent.

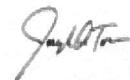
B. The Limits of Insurance provided for the Additional Insured shall not be greater than those required by contract and, in no event shall the Limits of Insurance set forth in this Policy be increased by the contract.

C. General Conditions, Other Insurance is amended as follows:

Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether such insurance is primary, excess, contingent or on any other basis unless the contract specifically requires that this Policy be primary.

All terms, conditions, exclusions and limitations of this Policy shall apply to the liability coverage provided to any additional insured, and in no event shall such coverage be enlarged or expanded by reason of the contract.

All other terms and conditions of this policy remain unchanged.



(Authorized Representative)

POLICY NUMBER: CGG740901605

COMMERCIAL GENERAL LIABILITY  
CG 02 2410 93

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EARLIER NOTICE OF CANCELLATION PROVIDED BY US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### **SCHEDULE**

Number of Days' Notice 90

(If no entry appears above, information required to complete this Schedule will be shown in the Declarations as applicable to this endorsement.)

For any statutorily permitted reason other than nonpayment of premium, the number of days required for notice of cancellation, as provided in paragraph 2. of either the CANCELLATION Common

Policy Condition or as amended by an applicable state cancellation endorsement, is increased to the number of days shown in the Schedule above.



POLICY NUMBER: CAH740901705

XIC4051007

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CANCELLATION BY US**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM  
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

**Changes In Conditions**

The number of days required for notice of cancellation by us for any reason other than nonpayment of premium, as provided in either paragraph 2. of the CANCELLATION Common Policy condition or as amended by an applicable state cancellation endorsement, is extended to the number of days shown in the Schedule below:

**SCHEDULE**

Number of Days' Notice: 90

All other terms and conditions of this policy remain unchanged.



(Authorized Representative)

THIS ENDORSEMENT CHANGES THE POLICY\_ PLEASE READ IT CAREFULLY.

EARLIER NOTICE OF CANCELLATION PROVIDED BY US ENDORSEMENT

This endorsement modifies insurance provided under the following:

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

Number of Days Notice:90

(If no entry appears above, information required to complete this Schedule will be shown in the Declarations as applicable to this endorsement)

For any statutorily permitted reason other than nonpayment of premium, the number of days required for notice of cancellation, as provided in PART SIX "" CONDITIONS, D. Cancelation of the Workers' Compensation and Employers' Liability Insurance Policy or as amended by an applicable state cancellation endorsement, is increased to the number of days shown in the Schedule above.

All other terms and conditions remain the same.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective April 1, 2016

Policy No. CWG740901505

Endorsement No.

Insured ATKINS NORTH AMERICA, INC.

Insurance Company: XL Specialty Insurance

Company

Countersigned by

*Jay O'Toole*

Company

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WE 99 0110

Ed. 1/08