

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”) is made and entered into effective this ____ day of _____, 202 ____ (“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 (“City”), and Michael Baker International, a Pennsylvania corporation whose principal business address is 165 South Union Boulevard, Suite 1000, Lakewood, CO 80228 (“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 preliminary and final engineering design services for the Colorado Blvd Bicycle and Pedestrian Improvements Project as set forth in Exhibit A – “Scope of Services,” attached and incorporated by reference (“Services”). Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services. The City reserves the right to omit any of the Services identified in Exhibit A upon written notice to Contractor without penalty. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply the Services to the City.

B. Changes to Scope of Services. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City is authorized to modify any term of this Agreement, either directly or implied by a course of action.

C. Controlling Terms. The terms of this Agreement will control if the terms of any exhibit, attachment, or invoice conflict with this Agreement. Additional terms and conditions not specifically relating to the Services (such as unnegotiated or form terms included in any related proposal, quote, invoice, terms and conditions sheet or like document, or any attachment), whether or not in conflict with this Agreement, are not agreed to by the City and are declared void and of no force or effect.

D. Format and Ownership of Deliverables.

1. 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. Deliverables which include spatial data that is intended for use within the City’s GIS will be an Esri file geodatabase (.gdb), or a shapefile (.shp), or an AutoCAD drawing file (.dwg). All Deliverables will contain a file describing coordinate systems used. Contractor will provide complete metadata (who, what, when, where, how) for all

provided spatial data and related information, including but not limited to the following: file description, attribute descriptions, author and contact information (credit), and date created.

2. 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.

3. Ownership. Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor in the course of performance of the Services shall be exclusively owned by the City. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the City all of its right, title, and interest in such work. The City may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

E. Contractor Representations; Standard of Care. Contractor 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 Contractor's obligations and liabilities will not be diminished by reason of any approval or review by the City. Contractor represents that the Services provided: (i) will be performed in accordance with the applicable professional standard of care of a reasonable professional that is performing the same or similar work, at the same time and locality and under the same or similar conditions faced by Contractor, and (ii) will be performed in a timely manner as required by the Agreement and performed and supervised by qualified personnel. 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. Lastly, Contractor 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.

F. Prosecution of the Services. Contractor will perform all work in a professional, workmanlike, and timely manner. Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all materials produced and other services furnished by the Contractor under this Agreement. Contractor will furnish all labor, materials, tools, supplies, machinery, utilities, and other equipment that may be necessary for the prompt 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. The Services to be performed by Contractor hereunder shall be done in compliance with any and all applicable laws, ordinances, rules and regulations. All work, if related to construction, will be performed in accordance with the City's Engineering Standards and Specifications.

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, for no additional compensation, and without limiting any other express or implied remedies of the City.

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 & Taxes. 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. Contractor is responsible for the payment of applicable taxes, including the City's sales and use tax, if applicable.

J. Time for Completion. Contractor shall complete all Services to the City's satisfaction by no later than **March 30, 2023**. Further, Contractor shall fully perform, complete, or present all identified tasks, sub-tasks, and Deliverable items by the deadline(s) established in the Scope of Services, as applicable. 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, Workplace Violence, and Harassment; 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, workplace violence, and harassment. 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 \$485,871.32**. 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, for the Term, as defined below. The City shall not be obligated to pay any late fees or interest. 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, the hours worked by each employee for the billing period, and the total amount that Contractor claims is due. The Contractor must also submit documentation supporting the charges in the invoice, which must be consistent with this Agreement, and must include a reference to this Agreement on each invoice.

C. Representation. By submitting an invoice, Contractor warrants that: (i) the work covered by previous invoices is free and clear of liens, claims, security interests or encumbrances, except for any interest created by retainage; and (iii) no work covered by the invoice is subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by Contractor or any other person or entity. Contractor shall not include in its invoice any billing for defective

work or for work performed by subcontractors or suppliers if it does not intend to pay the subcontractors or suppliers for such work.

D. 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. The City's review, approval or acceptance of, or payment for any Services shall not be construed to operate as a waiver of any rights under this Agreement, or a waiver of any cause of action arising out of the performance of this Agreement.

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. Subject to Annual Appropriation. This Agreement is expressly made subject to the limitations of the Colorado Constitution and Section 12, Chapter XII of the Charter of the City of Commerce City. Contractor acknowledges and accepts that nothing herein shall constitute or be deemed to constitute the creation of any kind of multiple fiscal-year debt, liability, or financial obligation of the City. Further, Contractor acknowledges and accepts that no provision of this Agreement shall be construed to create any kind of obligation of future monetary appropriations by the City Council of Commerce City that may run contrary to Article X, § 20 of the Colorado Constitution, or any other constitutional, statutory, or Charter debt limitation. Contractor acknowledges that the City has made no promise to continue to budget funds beyond the current fiscal year, and further acknowledges that the City has made no promise that it will pledge adequate cash reserves on a fiscal-year by fiscal-year basis, notwithstanding any provision of this Agreement that may be construed to the contrary. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation or liability of the City which may arise under this Agreement in any fiscal year after the date of execution, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

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 the completion and acceptance of the Services ("Term").

B. Termination

1. For Convenience. Contractor agrees that the City may terminate this Agreement without cause at any time for convenience of the City. Contractor assumes all risks of being terminated for

convenience, whether such risks are known or unknown, and acknowledges that the City's decision to terminate for convenience lies solely within the City's own discretion. Contractor represents that it is a sophisticated business, has entered into the Agreement voluntarily, and has calculated all business risks associated with this Agreement. In the event of a termination for convenience, the City will provide written notice of termination to Contractor at least fourteen (14) calendar days prior to the effective date of termination. Contractor expressly agrees to and assumes the risk that the City shall not be liable for any costs or fees of whatsoever kind and nature if termination for convenience occurs before Contractor begins any Services or portion of the Services. Once Contractor has commenced performance of the Services, Contractor expressly agrees that the City shall be liable only for work Contractor satisfactorily completed up to the point of the effective date of the notice of termination, consistent with Section III(C) of this Agreement. The Contractor shall have no claim of any kind whatsoever against the City for any termination for convenience, except for compensation for work completed to the satisfaction of the City.

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 relating to the performance of this Agreement ("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 on all grounds asserted as a basis for such termination, 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; no further notice will be required. As an alternative to immediate termination of the Agreement, the City may, but is not required, to provide written notice of a Breach to the Contractor, and allow the Contractor a reasonable period of time to cure the Breach, subject to the discretion of the City.

The occurrence of any one or more of the following as set forth in this non-exhaustive list shall constitute a Breach:

- a) The Contractor fails or refuses to expeditiously and actively undertake or substantially or timely perform its responsibilities and obligations, or fails or refuses to make adequate progress in performing its responsibilities and obligations under this Agreement, including those stated in the Scope of Services;
- b) There is substantial evidence that it has been or will be impossible for the Contractor to perform the Services required due to matters within the Contractor's control such as voluntary bankruptcy, strikes, boycotts, and labor disputes involving the Contractor's employees or closure or suspension of operations by regulatory order of a governmental entity or an order of a court due to violations or infractions by the Contractor or the Contractor's employees;
- c) The Contractor has submitted requests for payment under this Agreement that are fraudulent or persistently or flagrantly erroneous or misleading;
- d) The Contractor has made an assignment or transfer of, or subcontracts, any or all of its responsibilities and obligations under this Agreement in violation of the terms of this Agreement;
- e) The Contractor fails to obtain, renew, replace, or maintain the insurance coverage required by this Agreement, or causes or is at fault for damage to property or injury to persons that is not

covered or not adequately covered by insurance and the Contractor fails to remedy the situation to the satisfaction of the City;

f) The Contractor fails to obtain or properly and timely maintain any financial assurances required by this Agreement;

g) Any lien is filed against City property because of any act or omission of the Contractor and is not timely discharged, unless the Contractor furnishes to the City such bond or other financial assurance reasonably acceptable to protect the interests of the City;

h) The Contractor has failed to obtain or maintain any required permit or license, or has utilized personnel or workers not licensed or registered as required by law;

i) The Contractor has failed to deliver title or warranties or has failed to honor warranties as required by this Agreement;

j) The Contractor has flagrantly or persistently failed or refused to comply with any applicable laws or City policies, or fails or refuses to rectify any condition or situation in violation of applicable law or City policies;

k) The Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature, in connection with the Contractor's business.

3. For Non-Appropriation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of the City which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Agreement at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Contract, including any Work Order, sub-agreement, attachment, schedule, or exhibit thereto, by the City.

C. Effect of Termination.

1. For termination pursuant to either Section III(B)(1) or (2), above, the City will be liable only for Services Contractor performed that were actually requested by the City and completed to the City's satisfaction up to the date of the effective date of termination.

2. For termination pursuant to Section III(B)(3), above, the City will be liable only for Services that Contractor performed that were actually requested by the City and completed to the City's satisfaction up to the date of the effective date of termination, to the extent that the budget for the year of such termination provided sufficient funds to discharge such obligation.

3. Following termination for any reason, under no circumstances will the City be liable for any costs related to Services not performed to the satisfaction of the City, any Services not requested by the City, or any Services that the City directed the Contractor to not perform. The City will not be liable to Contractor for any unperformed Services, anticipated profits, overhead, mobilization or demobilization costs, administrative costs, productivity costs, losses on disposal of equipment or materials, cost

associated with the termination of subcontractors, costs associated with purchase orders or purchases, or any other costs or fees of any kind and nature.

4. Upon receipt of a notice of termination, Contractor will:

a) Immediately discontinue performance of the Services (unless otherwise instructed in writing);

b) Take reasonable actions necessary, or as the City may direct, for the protection and preservation of completed or partial work;

c) Provide the City with all drawings, specifications, photographs, data, and other pertinent documents and information relating to work completed or partially completed, in either their original format or such other commercially reasonable format as the City may direct; and

d) Cooperate in all respects with the City, which cooperation shall include, but not be limited to, all of the foregoing obligations listed herein, as well as assisting the City during a transition to another contractor for the Services, if applicable.

5. The City may pursue any remedies available at law or equity. Contractor shall be liable to the City for any loss or damage sustained by the City because of failure to perform in accordance with this Agreement.

6. The following provisions of this Agreement shall survive termination of this Agreement for any reason: I(D); I(F); II; III; IV; V; VI; X; and XI. The obligations of any surety under any bond provided pursuant to this Agreement will survive termination.

D. 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 thirty (30) days within which to make payment.

2. Notwithstanding any claim of a material breach by the City, Contractor shall not discontinue performance of the Services without the written consent of the City.

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, as well as its elected and appointed officials, current and former officers and employees, servants, volunteers, agents, attorneys, representatives, insurance carriers, and self-insurance pools ("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 or a failure to observe any applicable standard of care by 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. WAIVER OF CONSEQUENTIAL DAMAGES; SUBROGATION

Notwithstanding any provision of this Agreement that may be construed to the contrary, in no event shall the City, including its elected and appointed officials, current and former officers and employees, servants, agents, attorneys, representatives, insurance carriers, and self-insurance pools, be liable to the Contractor for any exemplary, punitive, special, indirect, consequential, remote, or speculative damages arising out of or relating to, in any manner, this Agreement; whether arising in contract, tort, or otherwise, even if Contractor has been informed of the possibility thereof. Moreover, to the extent any damages arising under this Agreement may be covered by insurance, the Contractor agrees to waive all rights of subrogation against the City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected and appointed officials, current and former officers and employees, servants, volunteers, agents, attorneys, representatives, insurance carriers, and self-insurance pools for losses arising from the Services performed by the Contractor for the City.

VI. 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 minimum combined single limits of One Million Dollars **(\$1,000,000.00)** for each occurrence and **Two Million Dollars (\$2,000,000.00)** general aggregate.

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. Automobile Liability coverage with minimum combined single limits for bodily injury and property damage of not less than **One Million Dollars (\$1,000,000.00)** for any one occurrence with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in connection with performance of the Services. If Contractor's insurance does not cover non-owned or hired vehicles, the requirements of this paragraph shall be met with respect to each such vehicle used in connection with performance of the Service, and Contractor agrees to assure compliance prior to allowing use of a vehicle not owned by Contractor for such purpose.

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.

6. Excess or Umbrella Requirements. For the coverages required in Sections VI(A)(1-4), Contractor shall provide umbrella or excess coverage written on a "follow-form" basis to the underlying

policy and in a coverage amount not less than **One Million Dollars (\$1,000,000.00)**. In so doing, the coverage shall provide complete protection to the City consistent with the liability limits that may be imposed upon the City pursuant to C.R.S. § 24-10-114, as may be amended.

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.

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. Pollution Coverage. 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 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.

VII. 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.

VIII. 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 a worker without authorization 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 a worker without authorization 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 a worker without authorization to perform work under this Agreement. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, 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 a worker without authorization; 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 worker without authorization; 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 a worker without authorization.

D. Compliance with Investigation. Contractor will comply with any reasonable request by the Colorado Department of Labor and Employment (“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.

F. Verification of Lawful Presence (C.R.S. § 24-76.5-103).

1. If Contractor is a natural person, including a sole proprietor with or without employees (*i.e.*, not a corporation, limited liability company, partnership or similar entity), and is 18 years of age or older, Contractor must: (a) complete the affidavit attached to this Agreement as **Exhibit B**; and (b) Attach a photocopy of the front and back of a valid form of identification noted on Exhibit B.

2. If Contractor executes the affidavit stating that he/she is an alien lawfully present in the United States, the City will verify his/her lawful presence through the federal systematic alien verification or entitlement program, known as the “SAVE Program,” operated by the U.S. Department of Homeland Security (“DHS”) or a successor program designated by DHS. If the City determines through the verification process that Contractor is an alien not lawfully present in the United States, the City will terminate this Agreement without further obligation to Contractor.

IX. 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:

Michael McGoldrick CIP Manager
Public Works
City of Commerce City
8602 Rosemary St
Commerce City, CO 80022

If to Contractor:

Eric King, PE, Project Manager
Michael Baker International
165 South Union Blvd, Suite 1000
Lakewood, CO 80228

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

X. INDEPENDENT CONTRACTOR.

A. Generally. 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. Representations. Contractor shall make no representation that either it or any of its employees, agents, or representatives are employees of the City for any purposes.

C. No Authority to Bind the City. Contractor does not have the authority to act for the City, or to bind the City in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the City.

D. Control and Supervision. Contractor has and retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed by Contractor for performing the Services hereunder

E. Non-Exclusivity. Contractor represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the City.

F. Assumption of Risk. All Services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the proper and sole performance thereof.

G. Separate Operations. Contractor will not combine its business operations in any way with the City's business operations and each party shall maintain their operations as separate and distinct.

XI. GENERAL PROVISIONS.

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

B. 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 from the non-prevailing party court costs, reasonable third party expenses, and reasonable attorney fees incurred in prosecuting or defending such action and enforcing any judgment, order, ruling or award. The prevailing party shall be determined based upon an assessment of which party's arguments or positions could fairly be said to have prevailed over the other party's arguments or positions on major disputed issues at trial. Such assessment should include evaluation of the following: the amount of the net recovery; the primary issues disputed by the parties; whether the amount of the award comprises a significant percentage of the amount sought by the claimant; and the most recent settlement positions of the parties, which the parties agree shall be admissible for purposes of determining the prevailing party. Any obligation of the City to pay court costs or attorney fees pursuant to this Section shall be subject to the appropriation of funds by the City Council for such purpose.

C. 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.*

D. COVID-19 and Other Public Health Emergencies. While on City property, Contractor and any employees and subcontractors will comply with all public health orders and laws related to the COVID-19 public health emergency and any other public health emergency in the City, and all City directives relating to any public health emergency, including distancing, face coverings, employee screening, and sanitation. Contractor will not permit any employee who has tested positive for COVID-19, who is exhibiting symptoms of COVID-19, or who has exhibited symptoms within the prior 10 days, to be present at any City facility.

E. Protections for Data Privacy. Contractor shall implement and maintain reasonable security procedures and practices compliant with C.R.S. § 6-1-713.5(2)(a-b) and C.R.S. § 24-73-102(2)(a-b) with respect to any personal identifying information, as defined in C.R.S. § 6-1-713(2)(b) and C.R.S. § 24-73-101(4)(b), disclosed to Contractor in the course of performing the Services. Contractor will notify the City within twenty-four (24) hours of Contractor's determination that a security breach has occurred, as defined in C.R.S. § 6-1-716(1)(c) and C.R.S. § 24-73-103(1)(b), with regard to any personal information, as defined in C.R.S. § 6-1-716(1)(g) and C.R.S. § 24-73-103(1)(g), disclosed to Contractor in the course of performing the Services, and will conduct such investigation and provide such notice as required by law in the event of such breach.

F. Rights and Remedies. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted, for Services negligently or defectively performed.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. Acknowledgement of Open Records Act. 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. The City will take reasonable steps to keep confidential only documents actually prevented from disclosure under the Colorado Open Records Act ("CORA" or "Act"), C.R.S. § 24-72-201, *et seq.*, which efforts may include notifying the Contractor of a CORA request and allowing the Contractor to take steps to prevent disclosure, where and when it is reasonably possible to do so. **The Contractor will indemnify and hold the City harmless from any claims arising from the release or inadvertent disclosure of confidential or proprietary information, and from any claims arising from the withholding, or release of documents not protected from disclosure under the Act.**

M. 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.

N. Liability of City Representatives. All authorized representatives of the City are acting solely as agents and representatives of the City when carrying out and exercising the power or authority granted to them under the Contract. There shall not be any liability on them either personally or as employees of the City

O. 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.

P. 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.

[Remainder of this page intentionally left blank – signature page(s) follow(s).]

EXHIBIT A

Scope of Services

CONTRACTOR: Michael Baker International, Inc.

LOCATION(S) OF SERVICES: Colorado Boulevard from 68th Avenue to 70th Avenue.

GENERAL DESCRIPTION OF SERVICES: SCOPE OF SERVICES

1.1 GENERAL REQUIREMENTS

The Services shall require providing the necessary personnel and resources to perform professional and technical project administration, 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 Consultant'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 design. Other team members may be needed for various tasks such as the environmental assessment.

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

All tasks assigned to the Consultant 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 SACWSD, DRCOG, RTD, utility companies, FHWA and CDOT.

2.1 PROJECT/SERVICES MANAGEMENT

The Consultant 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 and CDOT. 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:
 - CDOT for plan reviews, environmental documentation and clearances, ROW clearances and utility clearances
 - South Adams County Water and Sewer District (SACWSD)
 - Various utilities
 - RTD and RRP (contractor for the NMRL)
- Any necessary corrections to the design shall be corrected by the selected design Consultant at no cost to the City.

3.1 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 in accordance with CDOT criteria. Control points established for this survey will be monumented with durable monuments for use during construction and referenced on the Ownership Map.
- 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, flowline, 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 right-of-way from record information, so that the need for acquisition of property can be accurately determined.
- Prepare and submit an Ownership Map reflecting the right-of-way limits based on record information, without purchasing title commitments. Number ownerships alternately as they occur along the centerline from south to north or west to east, in the same direction as the stationing. Show current recorded names of owners, their addresses, and their Property Identification Number (PIN) per the County Assessor.

4. Environmental Site Assessment

- Conduct a Phase I Environmental Site Assessment (ESA) for the corridor. Include interviews with the property owners, realtor/developer, key site manager, and occupants, if applicable, and a compilation of publicly available information from a variety of sources about past and current environmental conditions. Provide a written report, including a detailed presentation of findings.
- Conduct a visual site inspection of the corridor. The purpose of the inspection is to document recognized environmental conditions. Take photographs as appropriate.
- Document the general site setting, such as current use(s) of the subject property and adjoining properties, and general hydro-geologic and topographic features. Provide a general description of structures and other improvements.
- Identify the following site conditions, if they are visually or physically observed, during the site inspection:
 - The quantity, type, and storage system for hazardous substances and petroleum products in connection with identified uses;
 - Tanks, containers, drums, barrels, and other systems used for storing hazardous substance and petroleum products not connected to identified uses;
 - Above ground and underground storage tanks;
 - Pits, ponds, lagoons, and other features potentially used for storage and/or disposal of hazardous substances and petroleum product;
 - Odors, pools of liquids, stained soils and pavement, and stressed vegetation; and
 - Presence of electrical equipment potentially containing PCBs.
- Conduct a search of records and files from a variety of sources and compile information pertaining to current and past environmental conditions. This search may include the following information:
 - Topographic, land use, and environmental resource maps
 - Aerial photographs
 - County and city records
 - State and federal databases

- Based on the information gathered during the above tasks, compile the information and findings in a written report that contains a detailed presentation of findings, including the site description, records review, site reconnaissance, and conclusions.

5. Wetland Delineation

- Delineate wetlands and other waters of the U.S. subject to U.S. Army Corps of Engineers (Corps) jurisdiction under Section 404 of the Clean Water Act within the subject property.
- Conduct a field survey including completion of Routine Wetland Determination forms as specified in the 1987 Corps of Engineers Wetland Delineation Manual. Map the wetland boundaries for incorporation into project base mapping.
- Submit a wetland delineation report to the City and the Corps of Engineers. Include a description of the wetlands and other waters of the U.S. on the Project site, the methodology and rationale for determining their boundaries, and photographs of representative wetlands.
- Upon final completion and incorporation of the wetland delineation survey into the site plans, refine and document proposed impacts (both temporary and permanent), then assess and determine Clean Water Act, Section 404 permit and mitigation requirements.
- Prepare wetland mitigation concepts.
- Conduct a pre-application meeting with the Army Corps of Engineers to (1) review the Project, (2) gain some initial consensus that the proposed plan for mitigation is supportable, and (3) confirm the wetlands delineation.
- Prepare the application for an Individual or Nationwide 404 Permit and associated attachments/drawings.
- Complete wetland mitigation plans. Develop one consolidated wetland mitigation plan for stream and wetland impacts. The mitigation plan will satisfy the requirements of the 404 Permit application process and construction bid process.

6. Habitat Review for Threatened and Endangered Species

- Assess the Project site for the presence of habitat that may support T&E species.
- During the fieldwork, take note of any other potential environmental impacts or conflicts. Examples of other issues are disturbance of nesting raptors and/or songbirds (protected by the Migratory Bird Act) and the presence of prairie dog towns and/or burrowing owls.
- Submit a habitat assessment report to the City for review.

7. Environmental Clearance Letter

- Prepare an Environmental Clearance Letter which outlines the results of the wetlands investigation, provides an opinion of the likelihood of the existence of rare or endangered species in the Project area and provides the results and recommendations of the various federal and state agencies responsible for environmental regulation regarding current design requirements and any anticipated future requirements, as well as the environmental performance requirements during construction to avoid construction delays.
- Prepare the appropriate NEPA Document (anticipated to be a Categorical Exclusion) along with all the appropriate studies completed and approved. The NEPA document needs to be prepared in accordance with the Colorado Department of Transportation's NEPA Manual

8. Traffic Analysis

- Analyze existing and future traffic operations using micro-simulation software to evaluate the operations of the roadway and report the opening day and future levels of service, lane volumes, and turning movements at all intersections, and delay.
- Analyze all the intersections to determine if a traffic signal is warranted and complete a warrant analysis and provide a recommendation.
- Review crash data (to be provided by the City) to determine safety improvements which will be incorporated into the Project.

4.1 PRELIMINARY DESIGN

1. Preliminary Roadway Plans – 30% Complete Field Inspection Review (FIR) 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 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 existing property owners' names and addresses, Assessor Property Identification Numbers (PIN) numbers, and project parcel numbers.
 - Profile sheets may to be on separate sheets from the plan sheets and are to be grouped together following the plan sheets, are to include soil boring profiles and underground utilities.
 - 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, including bicycle lanes, will be shown on the preliminary roadway plan sheets.
- Signing plans will not be developed until final design.
- 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.
- 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.). Coordinate with Mile High Flood District (MHFD) for most recent information.
- 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 drainage basin boundaries and characteristics for minor cross drainages.
- 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 MHFD 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 MHFD 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 MHFD Design and Technical Criteria Manual.
- 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.

7. Project Coordination

- Attend regular progress meetings as needed. Monthly meetings are anticipated during the preliminary 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 FIR plan review meeting with City staff and other affected parties.
- Prepare and distribute minutes of the 30% complete FIR 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

- Street lights to match those installed on Colorado Boulevard between 70th Avenue and 72nd 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 and Irrigation Plans

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

A. FINAL DESIGN

1. Final Roadway Plans – 90% Complete Final Office Review (FOR) Plans

- Revise preliminary roadway plans based on 30% complete plan review comments and environmental assessment outcome.
- Additional plans, including signing plans, to be added, as necessary.
- 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 (if necessary) 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 construction 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 construction 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 and Quantities

- 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.
- Prepare a tabulation of Suggested Traffic Control Devices, and a tabulation of Contractor Traffic Control Pay Items.

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 MHFD Design and Technical Criteria Manual.

5. Final Traffic Signal, 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. Final Design Coordination

- Attend regular progress meetings as appropriate. Bi-weekly meetings are anticipated during the final 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.
- Arrange and attend 90% complete FOR plan review meeting with City staff 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.

7. 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 construction 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 construction 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.

8. Street Lighting Plans

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

9. Final Landscape and Irrigation Plans (limited landscaping & irrigation is anticipated)

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

5.1 BID SERVICES

With City input, and compliant with applicable federal, state, and local law and pertinent contract requirements, 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 and prepare a bid tabulation for the City’s review.

6.1 ADDITIONAL REQUIREMENTS

- Project must follow all DRCOG and CDOT requirements with regards to DRCOG Grant funded projects.
- 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.

- Consultant field activities that interfere with traffic operations within existing roadways will require control of traffic. The Consultant 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. Also, certification of the Traffic Control Supervisor as a Worksite Traffic Supervisor by the American Traffic Safety Services Association (ATSSA) or as a TCS (Traffic Control Supervisor) by the Colorado Contractors Association (CCA) shall be required.
- The Consultant shall perform all Services and obligations of the negotiated Professional Service Agreement.

WHEN: Contractor shall perform all Services to the satisfaction of the City by March 30, 2023.

COST: Under no circumstances shall the compensation due and owing to the Contractor for performance of the Services described herein exceed **\$485,871.32**.

APPLICABLE STANDARDS, STANDARDS, GUIDELINES: City of Commerce City Roadway Standards, CDOT Specifications

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 60th Avenue
Commerce City, Colorado 80022
Phone (303) 289-3627

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 = $\frac{1}{12}$ x 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: _____