

**CITY OF LITTLETON
SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**

THIS SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (“Amendment”) is entered into by and between **THEOREM DESIGN GROUP, INC** whose business address is 655 S Newport St, Denver CO, 80224 (the “Contractor”) and the **CITY OF LITTLETON, COLORADO** (“City”), a Home Rule municipality of the State of Colorado. The City and the Contractor may be collectively referred to as the “Parties.”

RECITALS AND REPRESENTATIONS

WHEREAS, City and Contractor entered into a Professional Services Agreement effective June 22, 2022, as amended on March 13, 2023 (collectively the “Agreement”); and

WHEREAS, the Parties desire to amend the Agreement to add scope and fees to complete final design of the Windermere Street Bridge Replacement at Windermere and the Highline Canal.

NOW, THEREFORE, in consideration of the benefits and obligations of this Agreement, the Parties mutually agree as follows:

1. Additional Scope/Cost: Contractor shall provide, and the City shall compensate Contractor for, the additional services as described on the attached Scope of Services, **Exhibit B-2**. Exhibit B-2 is incorporated herein. Exhibit A to the Agreement, Section 3.B. “Time and Material”, is hereby amended to read:

“B. Time and Material: The Contractor shall perform the Services described in Exhibit B and shall invoice the City for work performed based on the rates and/or compensation methodology described in Exhibit B. Total compensation (including any and all mobilization costs, other costs, charges, fees, or other expenses that might otherwise be incurred by other contractors and payable as a reimbursable expense) shall not exceed **\$632,462.65**. The Contractor shall submit invoices and requests for payment in a form acceptable to the City. Invoices shall not be submitted more often than once each month unless otherwise approved by this Agreement or in writing by the City. Unless otherwise directed or accepted by the City, all invoices shall contain sufficient information to account for all Contractor time (or other appropriate measure(s) of work effort) and all authorized reimbursable expenses for the Services during the stated period of the invoice. Following receipt of a Contractor’s invoice, the City shall promptly review the Contractor’s invoice. The City may dispute any Contractor time, reimbursable expense, and/or compensation requested by the Contractor described in any invoice and may request additional information from the Contractor substantiating any and all compensation sought by the Contractor before accepting the invoice. When additional

information is requested by the City, the City shall advise the Contractor in writing, identifying the specific item(s) that are in dispute and giving specific reasons for any request for information. The City shall pay the Contractor within forty-five (45) days of the receipt of an invoice for any undisputed charges or, if the City disputes an item or invoice and additional information is requested, within thirty (30) days of acceptance of the item or invoice by the City following receipt of the information requested and resolution of the dispute. To the extent possible, undisputed charges within the same invoice as disputed charges shall be timely paid in accordance with this Agreement. Payment by the City shall be deemed made and completed upon hand delivery to the Contractor or designee of the Contractor or upon deposit of such payment or notice in the U.S. Mail, postage pre-paid, addressed to the Contractor. If dollar amount in this Sub-paragraph B, Time and Material, is zero this Sub-paragraph shall be void and of no effect.”

- 2. Extension of Time: Exhibit A to the Agreement, Section 2 “Time of Performance”, is hereby amended to read:
 “Time of Performance: Performance of the Services of the Contractor shall commence on 06/22/2022 and shall be completed, or shall end, by 02/27/2026.”
- 3. No other terms and conditions of the Agreement are modified except as provided in this Amendment.
- 4. The individuals executing this Amendment represent that they are expressly authorized to enter into this Amendment on behalf of the City and the Contractor and bind their respective entities.

THIS AMENDMENT is executed and made effective as provided above and as of the last dated signature below.

CITY OF LITTLETON, COLORADO

ATTEST

Kyle Schlachter
MAYOR

Colleen Norton
CITY CLERK

APPROVED AS TO FORM:

Reid Betzing
CITY ATTORNEY

CONTRACTOR

Matt Gilbert
Principal

Date: _____

Exhibit B-2



THEOREM
DESIGN GROUP
655 S Newport Street
Denver, CO 80224
720-762-6384

Date: January 31, 2025

To: City of Littleton
C/O: Matthew Matuszewski, PE
255 Berry Ave.
Littleton, CO 80120

Subject: Request for Contract Amendment – Utility Coordination, Environmental Clearance, and Project Management

Dear Mr. Matuszewski,

As you know, the Windermere Bridge Replacement Project has had a variety of unforeseen and unavoidable issues during the design process. Two elements have proven to require more effort than what was originally envisioned: utility coordination and environmental clearance. These elements have led to a sizable extension of the design timelines which has influenced the overall project timeline. Theorem Design Group (Theorem) respectfully requests a contract amendment totaling \$35,977.80 to complete the design efforts for the project. A brief breakdown of these costs is as follows:

1. **Utility Coordination** – Relocation of public and private utilities has been more challenging than originally anticipated. In particular, the relocation of Lumen’s facilities requires additional coordination to finalize the relocation. Changes to the design will be communicated to Lumen and it is anticipated that other completed utility relocation as-builts will be added to the utility plans to convey the final location of each respective utility. The anticipated additional cost for this effort is 2,685.00. Goodbee and Associates, a subconsultant for Theorem Design Group, will be responsible for this effort. Additional details related to this request are attached for your reference.
2. **Environmental Clearance** – Coordination related to historic impacts has required more effort than originally planned. The team submitted multiple iterations of historic clearance documentation based on the perception that CDOT would accept the project as having no adverse effect on the historic nature of the canal. Unfortunately, CDOT appeared to reverse course on the planned improvements and determined that the proposed changes would have an adverse effect following multiple iterations and graphics developments. This led to the City determining that the best course of action would be for the City to forgo federal funding for the project. While the decision to forgo federal funding on the project mitigated a significant cost and risk to the project, additional services are needed to obtain the 404 Permit through the USACE. This effort will require a review of the impacts from the Colorado SHPO. There is a possibility that the High Line Canal will be removed from the Waters of the US designation which would eliminate much of the requested change order. The timeline for this potential jurisdictional change is unknown and it is the advice of the design team to move forward, assuming no jurisdictional change, in order to advance the timeline for construction. The team plans to identify the proposed improvements to the crossing as an adverse effect to the USACE and SHPO. While this effort will require mitigation of the impacts, it is anticipated that this will save iterations of review with both USACE and SHPO. Pinyon Environmental, a subconsultant for Theorem Design Group, will be responsible for



THEOREM
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Denver, CO 80224
720-762-6384

preparing this work along with other remaining tasks associated with stormwater management. The anticipated additional cost for this effort is \$23,986.80. Additional details related to this request are attached for your reference.

3. **Project Management** – The timeline for completion of this project has extended beyond the original planned timeline. Much of this is attributable to historic clearance complications and coordination with private utility relocation efforts. After reviewing Theorem's remaining budget, it is estimated that an additional 44 hours of effort for the PM will be needed to complete the design effort. This equates to an additional \$9,306.00. These costs remain at the original hourly rates proposed at the beginning of this design project.

This contract amendment request would bring the project design fee up to \$632,462.65 which includes the original contract amount for preliminary design (\$280,835.65), amendment 1 for final design (\$315,649.20), and this request for contract amendment.

Theorem is committed to delivering this project in the most efficient manner possible with high quality plans and specifications. If there are any questions related to this request, please reach out to me directly at matt.gilbert@theoremdesigngroup.com or 303-520-6788 and thank you in advance for your consideration.

Respectfully,

MATTHEW GILBERT, PE
Principal/Project Manager

Windemere Bridge - 2025 Revised Utility Coordination

Scope and Fee Estimate 1/27/2025

Task	Description of Activities /Assumptions	President	Principal	Designer II	Total Hrs.	Total Cost (2022 Rate Sheet)
		\$185/hr	\$185/hr	\$110/hr		
Final Design - Utility Coordination	Denver Water Only plans for review and approval by Denver Water- update notes to current standard and revise profile to current design		1	4	5	\$625
	Utility Coordination: Re-engage Lumen with revised design to facilitate relocation prior to project construction. Assume up to four coordination meetings/calls.	4		12	16	\$2,060
SUBTOTAL LABOR HOURS		4	1	16	21	
SUBTOTAL LABOR DOLLARS		\$ 740	\$ 185	\$ 1,760		\$2,685

January 26, 2025

Matt Gilbert, PE
Theorem Design Group
Denver, Colorado

Via email: matt.gilbert@theoremdesigngroup.com

Subject: Change Order Request to Complete a USACE 404 Permit Application Package and Stormwater Management Plans for the Windermere Street Bridge Project, City of Littleton, Colorado, 80210

Matt:

Pinyon Environmental, Inc. (Pinyon), is pleased to present this proposal to complete a U.S. Army Corp of Engineers 404 permit package and stormwater management plans (SWMP) for the Windermere Street Bridge Project.

The scope of services and schedule details for the change order are outlined in Attachment A.

The current approved project fee is \$58,765.85. Pinyon estimates the cost to complete the additional services, in accordance with the services outlined, will be \$23,986.80 (Table I), resulting in a total project budget of \$80,616.05. Pinyon will invoice in accordance with our existing contract rates and terms. The authorized amount will not be exceeded without prior approval.

Pinyon will complete the proposed services within 6 months, provided site access is obtained within three days of project authorization. The project may be completed in less time; however, additional fees would be incurred (Table I).

To authorize the outlined scope of services, please sign and return one full copy of the attached Change Order Authorization. Should you have any questions or require additional information, please do not hesitate to call. Thank you for considering Pinyon for your environmental consulting needs.

Sincerely,

PINYON ENVIRONMENTAL, INC.

Sarah Koeber

Sarah Koeber
NEPA Project Manager

Client: Address: Phone: Email: Client Contact:	Theorem Design Group Denver, Colorado 720-762-6384 Matt.gilbert@theoremdesigngroup.com Matt Gilbert																				
PROJECT DESCRIPTION																					
Site Name: Site Location: Pinyon Project No. Scope of Work:	Windermere Street Bridge Colorado 80210 122155901 404 Pre-construction Notification Package and SWMP Plans																				
Current Approved Fee	\$58,765.85																				
Change Order Fee	\$\$23,986.80																				
Revised Total Project Fee	\$82,752.65																				
The following attachments are hereby made a part of this AGREEMENT:																					
<input checked="" type="checkbox"/> Pinyon Environmental, Inc. Change Order dated July 25, 2024 <input checked="" type="checkbox"/> Attachment A – Scope and Fee																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">Theorem Design Group</td> <td colspan="2" style="text-align: center;">Pinyon Environmental, Inc.</td> </tr> <tr> <td style="width: 25%;">Signature:</td> <td style="width: 25%;"></td> <td style="width: 25%;">Signature:</td> <td style="width: 25%;"></td> </tr> <tr> <td>Name:</td> <td></td> <td>Name:</td> <td></td> </tr> <tr> <td>Title:</td> <td></td> <td>Title:</td> <td></td> </tr> <tr> <td>Date:</td> <td></td> <td>Date:</td> <td></td> </tr> </table>		Theorem Design Group		Pinyon Environmental, Inc.		Signature:		Signature:		Name:		Name:		Title:		Title:		Date:		Date:	
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Task 1 - Section 404 Nationwide Permit – Pre-Construction Notification

Pinyon understands that this project will be funded entirely with local monies, and compliance with the National Environmental Policy Act will not be required. Therefore, Pinyon will focus the environmental work assuming local processes are applicable and the need to secure a Section 404 of the Clean Water Act permit from the U.S. Army Corps of Engineers (USACE). The project will require the demolition and replacement of the Windermere Street Bridge over the High Line Canal (HLC). For this project, Pinyon anticipates that the HLC is a jurisdictional water of the U.S. (WOTUS), and therefore subject to Section 404 of the Clean Water Act. As a result, Pinyon assumes that filling and/or dredging of the HLC will apply to the bridge structure, meaning Section 404 permitting will apply.

In support of Section 404 permitting, Pinyon will conduct a review of cultural resources required by the USACE to demonstrate compliance with Section 106 of the National Historic Preservation Act (NHPA). Compliance with the Endangered Species Act and Migratory Bird Treaty Act will also be provided to the USACE. The analysis of biological resources (WOTUS, federally listed species and migratory birds) has been completed and presented in a Biological Resources Technical Memorandum. Pinyon will develop a Pre-Construction Notification (PCN) for submission to the USACE; it is assumed a Nationwide Permit (NWP) will be required, likely NWP 14 – Linear Transportation Project. The PCN will be developed on the USACE-required form, and the Biological Resources Technical Memorandum and Section 106 consultation package will be appended to the PCN submittal, per USACE requirements.

It is assumed that impacts from the project will result in an Adverse Effect to the High Line Canal (5AH.388). Section 106 effects to the resource will be communicated through consultation with the Colorado SHPO, USACE, and the City of Littleton (City). A Memorandum of Agreement (MOA) will be developed among the Consulting Parties for the purpose of codifying mitigation strategies for the adverse effect to the High Line Canal (5AH.388). Based upon previous experience, the City assumes a Level II Archival Report (Level II) will be completed for the High Line Canal (5AH.388). Pinyon will provide materials to the USACE for submittal through the SHPO for concurrence. The historic resource documentation standards for a Level II are developed and maintained by OAHP. Typically, Level II reports will include three primary elements: architectural and historical narratives, archival-stable medium-format black-and-white photography, and measured drawings (OAHP 2007). Maps of the resource with feature provenance will also be included.

Deliverables: *Biological Resources Technical Memorandum*
Section 106 Consultation Package
Level II Archival Report (Adverse Effect Mitigation)
PCN

Task 2 - Stormwater Management Plans

Pinyon will develop a Stormwater Management Plan (SWMP) including a narrative and Erosion Control Plan (ECP) sheets for the above-referenced project. The following is assumed:

- Three ECP sheets (one each phase) and six SWMP Narrative sheets.
- Pinyon will develop and submit two revisions of ECP sheets and SWMP narrative sheets: FOR and Advertisement.
- The ECP sheets and SWMP narrative will be developed in accordance with the City of Littleton’s Storm Drainage Design and Technical Criteria and permit requirements, in addition to the requirements of the

Colorado Department of Public Health and Environmental General Permit COR030000 (Stormwater Associated with Construction Activities [Construction Stormwater Permit]).

- It is assumed the overall disturbed area is less than one (1) acre.
- Initial, Interim, and Final Best Management Practice phasing for construction activities will be depicted on a separate sheet for each design segment.
- Sheet layout in Bentley MicroStation will be provided by design team to include: all design elements, existing and proposed contours, property lines, utilities, and drainage elements and infrastructure (existing and proposed).
- One field visit will be conducted by a single person. Three hours are anticipated for the visit including travel time. The field visit will include observation for design and pre-construction photo documentation. Permission to enter and access coordination are not included.
- Updating of the ECP sheets during construction is not included in this Task.

Deliverables: *SWMP including ECP sheets*

Table I. Summary of Estimated Costs

<i>Task - Fieldwork; PCN form; Section 106 consultation; Level II Report; Comment Resolution; Project Coordination</i>				
Description	Quantity	Unit	Rate	Extension
Labor Rates				
Project Controller	1.0	hour	\$130.00	\$130.00
Cultural Resource Specialist I	80.0	hours	\$140.00	\$11,200.00
Task Manager	15.0	hours	\$180.00	\$2,700.00
Scientist IV	4.0	hours	\$270.00	\$1,080.00
CAD Specialist I	14.0	hours	\$140.00	\$1,960.00
Field Specialist	3.0	hours	\$110.00	\$330.00
Equipment/Material Unit Rates				
Truck/Van Mileage	40.0	miles	\$0.67	\$26.80
General Field Visit - Day	1.0	day	\$50.00	\$50.00
<i>Task - Archival Report Production; Photo Production</i>				
Description	Quantity	Unit	Rate	Extension
Labor Rates				
Cultural Resource Specialist I	8.0	hours	\$140.00	\$1,120.00
Task Manager	1.0	hour	\$180.00	\$180.00
Equipment/Material Unit Rates				
Archival Materials	1.0	lump sum	\$100.00	\$100.00
Photo Processing Materials	1.0	lump sum	\$300.00	\$300.00
Priority Shipping	1.0	lump sum	\$50.00	\$50.00
<i>Task - SWMP</i>				
Description	Quantity	Unit	Rate	Extension
Labor Rates				
Engineer III	1.0	hour	\$250.00	\$250.00
Project Manager II	2.0	hours	\$230.00	\$460.00
Engineer II	11.0	hours	\$200.00	\$2,200.00
CAD Specialist I	10.0	hours	\$140.00	\$1,400.00
Equipment/Material Unit Rates				
Archival Materials	1.0	lump sum	\$100.00	\$100.00
Photo Processing Materials	1.0	lump sum	\$300.00	\$300.00
Priority Shipping	1.0	lump sum	\$50.00	\$50.00
Task Subtotal				\$4,760.00
Project Total				\$23,986.80