

**ADAMS COUNTY  
PROFESSIONAL SERVICE AGREEMENT**

THIS AGREEMENT ("Agreement") is made this 2 day of October 2018, by and between the Adams County Board of County Commissioners, located at 4430 South Adams County Parkway, Brighton, Colorado 80601, hereinafter referred to as the "County," and Logan Simpson located at 213 Linden Street, Suite 300, Fort Collins, Colorado 80524, hereinafter referred to as the "Contractor." The County and the Contractor may be collectively referred to herein as the "Parties".

The County and the Contractor, for the consideration herein set forth, agree as follows:

**1. SERVICES OF THE CONTRACTOR:**

- 1.1. All work shall be in accordance with the Scope of Work attached hereto as Exhibit A, and incorporated herein by reference. Should there be any discrepancy between Exhibit A and this Agreement the terms and conditions of this Agreement shall prevail.
- 1.2. Emergency Services: In the event the Adams County Board of County Commissioners declares an emergency, the County may request additional services (of the type described in this Agreement or otherwise within the expertise of the Contractor) to be performed by the Contractor. If the County requests such additional services, the Contractor shall provide such services in a timely fashion given the nature of the emergency, pursuant to the terms of this Agreement. Unless otherwise agreed to in writing by the parties, the Contractor shall bill for such services at the rates provided for in this Agreement.

- 2. RESPONSIBILITIES OF THE COUNTY:** The County shall provide information as necessary or requested by the Contractor to enable the Contractor's performance under this Agreement.

**3. TERM:**

- 3.1. Term of Agreement: The Term of this Agreement shall be through August 31, 2018.

- 4. PAYMENT AND FEE SCHEDULE:** The County shall pay the Contractor for services furnished under this Agreement, and the Contractor shall accept as full payment for those services, the sum of: forty-four thousand eight hundred six dollars (\$44,806.00).

- 4.1. Payment pursuant to this Agreement, whether in full or in part, is subject to and contingent upon the continuing availability of County funds for the purposes hereof. In the event that funds become unavailable, as determined by the County, the County may immediately terminate this Agreement or amend it accordingly.

5. **INDEPENDENT CONTRACTOR:** In providing services under this Agreement, the Contractor acts as an independent contractor and not as an employee of the County. The Contractor shall be solely and entirely responsible for his/her acts and the acts of his/her employees, agents, servants, and subcontractors during the term and performance of this Agreement. No employee, agent, servant, or subcontractor of the Contractor shall be deemed to be an employee, agent, or servant of the County because of the performance of any services or work under this Agreement. The Contractor, at its expense, shall procure and maintain workers' compensation insurance as required by law. Pursuant to the Workers' Compensation Act § 8-40-202(2)(b)(IV), C.R.S., as amended, the Contractor understands that it and its employees and servants are not entitled to workers' compensation benefits from the County. The Contractor further understands that it is solely obligated for the payment of federal and state income tax on any moneys earned pursuant to this Agreement.

6. **NONDISCRIMINATION:**

6.1. **The Contractor shall not discriminate against any employee or qualified applicant for employment because of age, race, color, religion, marital status, disability, sex, or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices provided by the local public agency setting forth the provisions of this nondiscrimination clause. Adams County is an equal opportunity employer.**

6.1.1. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

7. **INDEMNIFICATION:** The Contractor agrees to indemnify and hold harmless the County, its officers, agents, and employees for, from, and against any and all claims, suits, expenses, damages, or other liabilities, including reasonable attorney fees and court costs, arising out of damage or injury to persons, entities, or property, caused or sustained by any person(s) as a result of the Contractor's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Contractor is legally liable.

8. **INSURANCE:** The Contractor agrees to maintain insurance of the following types and amounts:

8.1. **Commercial General Liability Insurance:** to include products liability, completed operations, contractual, broad form property damage and personal injury.

8.1.1. Each Occurrence: \$1,000,000



- 8.1.2. General Aggregate: \$2,000,000
- 8.2. Comprehensive Automobile Liability Insurance: to include all motor vehicles owned, hired, leased, or borrowed.
- 8.2.1. Bodily Injury/Property Damage: \$1,000,000 (each accident)
- 8.2.2. Personal Injury Protection: Per Colorado Statutes
- 8.3. Workers' Compensation Insurance: Per Colorado Statutes
- 8.4. Professional Liability Insurance: to include coverage for damages or claims for damages arising out of the rendering, or failure to render, any professional services, as applicable.
- 8.4.1. Each Occurrence: \$1,000,000
- 8.4.2. This insurance requirement applies only to the Contractors who are performing services under this Agreement as professionals licensed under the laws of the State of Colorado, such as physicians, lawyers, engineers, nurses, mental health providers, and any other licensed professionals.
- 8.5. Adams County as "Additional Insured": The Contractor's commercial general liability, and comprehensive automobile liability, insurance policies and/or certificates of insurance shall be issued to include Adams County as an "additional insured" and shall include the following provisions:
- 8.5.1. Underwriters shall have no right of recovery or subrogation against the County, it being the intent of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses resulting from the actions or negligence of the Contractor.
- 8.5.2. The insurance companies issuing the policy or policies shall have no recourse against the County for payment of any premiums due or for any assessments under any form of any policy.
- 8.5.3. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Contractor.
- 8.6. Licensed Insurers: All insurers of the Contractor must be licensed or approved to do business in the State of Colorado. Upon failure of the Contractor to furnish, deliver and/or maintain such insurance as provided herein, this Agreement, at the election of the County, may be immediately declared suspended, discontinued, or terminated. Failure of the Contractor in obtaining and/or maintaining any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification.

8.7. Endorsement: Each insurance policy herein required shall be endorsed to state that coverage shall not be suspended, voided, or canceled without thirty (30) days prior written notice by certified mail, return receipt requested, to the County.

8.8. Proof of Insurance: At any time during the term of this Agreement, the County may require the Contractor to provide proof of the insurance coverage or policies required under this Agreement.

## **9. DAMAGES ARISING FROM BREACH OF PERFORMANCE OBLIGATIONS**

9.1. Notwithstanding anything else set forth in this Agreement, Contractor shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality

## **10. WARRANTY:**

10.1. Consultant warrants that its services under this Agreement shall be performed in a thorough, efficient and competent manner, promptly and with due diligence and care, and in accordance with the standard of care of the profession.

10.2. If any part of Consultant's work is found to be defective for reasons attributable to Consultant, Consultant shall re-perform, at its own expense, those aspects of the work found defective.

10.3. Consultant is solely responsible to Owner for correcting errors resulting from Consultant's faulty or inaccurate performance.

## **11. TERMINATION:**

11.1. For Cause: If, through any cause, the Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, conditions, or stipulations of this Agreement, the County shall thereupon have the right to immediately terminate this Agreement, upon giving written notice to the Contractor of such termination and specifying the effective date thereof. The County shall have the sole discretion to permit the Contractor to remedy the cause of a contemplated termination for cause without waiving the County's right to terminate the Agreement. The Contractor shall be paid only for the portion of work or services which has been satisfactorily completed at the time of termination.

11.2. For Convenience: The County may terminate this Agreement at any time by giving written notice as specified herein to the other party, which notice shall be given at least thirty (30) days prior to the effective date of the termination. If this



Agreement is terminated by the County, the Contractor will be paid an amount that bears the same ratio to the total compensation as the services actually performed bear to the total services the Contractor was to perform under this Agreement, less payments previously made to the Contractor under this Agreement.

## **12. MUTUAL UNDERSTANDINGS:**

- 12.1. Jurisdiction and Venue: The laws of the State of Colorado shall govern as to the interpretation, validity, and effect of this Agreement. The parties agree that jurisdiction and venue for any disputes arising under this Agreement shall be with Adams County, Colorado.
- 12.2. Compliance with Laws: During the performance of this Agreement, the Contractor agrees to strictly adhere to all applicable federal, state, and local laws, rules and regulations, including all licensing and permit requirements. The parties hereto aver that they are familiar with § 18-8-301, et seq., C.R.S. (Bribery and Corrupt Influences), as amended, and § 18-8-401, et seq., C.R.S. (Abuse of Public Office), as amended, , the Clean Air Act (42 U.S.C. 7401-7671q), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended, and that no violation of such provisions are present. The Contractor warrants that it is in compliance with the residency requirements in §§ 8-17.5-101, et seq., C.R.S. Without limiting the generality of the foregoing, the Contractor expressly agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- 12.3. OSHA: The Contractor shall comply with the requirements of the Occupational Safety and Health Act (OSHA) and shall review and comply with the County's safety regulations while on any County property. Failure to comply with any applicable federal, state or local law, rule, or regulation shall give the County the right to terminate this agreement for cause.
- 12.4. Record Retention: The Contractor shall maintain records and documentation of the services provided under this Agreement, including fiscal records, and shall retain the records for a period of three (3) years from the date this Agreement is terminated. Said records and documents shall be subject at all reasonable times to inspection, review, or audit by authorized Federal, State, or County personnel.
- 12.5. Assignability: Neither this Agreement, nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by the Contractor without the prior written consent of the County.
- 12.6. Waiver: Waiver of strict performance or the breach of any provision of this Agreement shall not be deemed a waiver, nor shall it prejudice the waiving party's right to require strict performance of the same provision, or any other provision in the future, unless such waiver has rendered future performance commercially impossible.

12.7. Force Majeure: Neither party shall be liable for any delay or failure to perform its obligations hereunder to the extent that such delay or failure is caused by a force or event beyond the control of such party including, without limitation, war, embargoes, strikes, governmental restrictions, riots, fires, floods, earthquakes, or other acts of God.

12.8. Notice: Any notices given under this Agreement are deemed to have been received and to be effective:

1) Three (3) days after the same shall have been mailed by certified mail, return receipt requested;

2) Immediately upon hand delivery; or

3) Immediately upon receipt of confirmation that an E-mail was received. For the purposes of this Agreement, any and all notices shall be addressed to the contacts listed below:

Department: Adams County Parks and Open Space  
Contact: Kurt Carlson  
Address: 9755 Henderson Road  
City, State, Zip: Brighton, Colorado 80602  
Phone: 303-637-8013  
E-mail: kcarlson@adcogov.org

Department: Adams County Purchasing  
Contact: Jen Tierney Hammer  
Address: 4430 South Adams County Parkway  
City, State, Zip: Brighton, Colorado 80601  
Phone: 720-523-6049  
E-mail: jtierney@adcogov.org

Department: Adams County Attorney's Office  
Address: 4430 South Adams County Parkway  
City, State, Zip: Brighton, Colorado 80601  
Phone: 720.523.6116

Contractor: Logan Simpson  
Contact: Jana Mckenzie/Steve Sigler  
Address: 213 Linden Street, Suite 300  
City, State, Zip: Fort Collins, CO 80524  
Phone: 970-449-4100  
E-mail: ssigler@logansimpson.co

12.9. Integration of Understanding: This Agreement contains the entire understanding of the parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by the parties hereto.



- 12.10. Severability: If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.
- 12.11. Authorization: Each party represents and warrants that it has the power and ability to enter into this Agreement, to grant the rights granted herein, and to perform the duties and obligations herein described.
- 12.12. Confidentiality: All documentation related to this Agreement will become the property of Adams County. All documentation maintained or kept by Adams County shall be subject to the Colorado Open Records Act, C.R.S. 24-72-201 *et seq.* ("CORA"). The County does not guarantee the confidentiality of any records.

### **13. AMENDMENTS, CHANGE ORDERS OR EXTENSIONS:**

- 13.1. Amendments or Change Orders: The County may, from time to time, require changes in the scope of the services of the Contractor to be performed herein including, but not limited to, additional instructions, additional work, and the omission of work previously ordered. The Contractor shall be compensated for all authorized changes in services, pursuant to the applicable provision in the Solicitation, or, if no provision exists, pursuant to the terms of the Amendment or Change Order.
- 13.2. Extensions: The County may, upon mutual written agreement by the parties, extend the time of completion of services to be performed by the Contractor.

### **14. COMPLIANCE WITH C.R.S. § 8-17.5-101, ET. SEQ. AS AMENDED 5/13/08:** Pursuant to Colorado Revised Statute (C.R.S.), § 8-17.5-101, *et seq.*, as amended May 13, 2008, the Contractor shall meet the following requirements prior to signing this Agreement (public contract for service) and for the duration thereof:

- 14.1. The Contractor shall certify participation in the E-Verify Program (the electronic employment verification program that is authorized in 8 U.S.C. § 1324a and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program) or the Department Program (the employment verification program established by the Colorado Department of Labor and Employment pursuant to C.R.S. § 8-17.5-102(5)) on the attached certification.
- 14.2. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
- 14.3. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

- 14.4. At the time of signing this public contract for services, the Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.
- 14.5. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
- 14.6. If the Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall: notify the subcontractor and the County within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the previous paragraph, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- 14.7. Contractor shall comply with any reasonable requests by the Department of Labor and Employment (the Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
- 14.8. If Contractor violates this Section, of this Agreement, the County may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

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IN WITNESS WHEREOF, the Parties have caused their names to be affixed hereto:

**Adams County Colorado  
County Manager**

  
Raymond H. Gonzales

10.2.18  
Date

**Logan Simpson**

  
Signature

Sept. 21, 2018  
Date

Jana D. McKenzie  
Printed Name

Principal  
Title

**Attest:**

Stan Martin, Clerk and Recorder

  
Deputy Clerk

Approved as to Form:

  
Adams County Attorney's Office

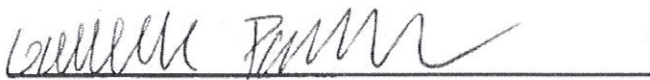
**NOTARIZATION OF CONTRACTOR'S SIGNATURE:**

COUNTY OF Larimer )

STATE OF Colorado )SS.

Signed and sworn to before me this 21<sup>st</sup> day of September, 2018,

by Jana D. McKenzie,

  
Notary Public

GABRIELLE PACZOSA  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184029327  
MY COMMISSION EXPIRES JULY 25, 2022

My commission expires on: JULY 25, 2022

## CONTRACTOR'S CERTIFICATION OF COMPLIANCE

Pursuant to Colorado Revised Statute, § 8-17.5-101, *et. seq.*, as amended 5/13/08, as a prerequisite to entering into a contract for services with Adams County, Colorado, the undersigned Contractor hereby certifies that at the time of this certification, Contractor does not knowingly employ or contract with an illegal alien who will perform work under the attached contract for services and that the Contractor will participate in the E-Verify Program or Department program, as those terms are defined in C.R.S. § 8-17.5-101, *et. seq.* in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the attached contract for services.

### CONTRACTOR:

Logan Simpson Design Inc.      September 21, 2018  
Company Name      Date

Jana D McKenzie  
Signature

Jana D. McKenzie  
Name (Print or Type)

Principal  
Title

Note: Registration for the E-Verify Program can be completed at:  
<https://www.vis-dhs.com/employerregistration>.

It is recommended that employers review the sample "memorandum of understanding" available at the website prior to registering



# Exhibit A



L O G A N S I M P S O N

March 13, 2018

Jeanne Shreve  
Kurt Carlson

Subject: Gateway Plaza- Construction Observation/Administration Proposal

## Proposal Overview:

Jeanne,

Logan Simpson is pleased to propose services for bidding assistance, construction observation/administration on behalf of the County as outlined in the following pages. We are requesting a modification to our existing contract, which was executed two years ago, for bidding services to account for labor rate changes. Construction observation/administration was not included in the contract, and the scope and cost for these services are included in this document.

We assume that the contractor for this project will be selected through an open bid process. Logan Simpson will advise Adams County in selecting a general contractor and serve in the construction observation and administration role. Due to variability in weather and unforeseen conditions we propose a time and materials contract for the duration of the construction period. An estimate of the weekly fee, with construction tasks is included as a part of this proposal. We propose to staff the project with Steve Sigler providing overall project management, including review of submittals and RFI responses. Janet Meisel-Burns, assisted by Jennifer Gardner, would be the on-site managers acting as the Owner's Representative. It is assumed that the County would provide a representative/project manager who will be authorized to make payments and provide interpretations and decisions in the event that there are conflicting opinions between Logan Simpson and the contractor. Please contact us if you have any questions regarding our staffing assignments, scope of work, fees or assumptions. We look forward to continuing our work with you and Adams County.

Best Regards,

Jana Mckenzie

Steve Sigler

CONTSTRUCTION OBSERVATION TASKS:

1. Verify Owner/Contractor contracts are completed and signed.
2. Verify the Performance Bond and Labor & Material Bonds are completed and acceptable to the Owner.
3. Verify Certificates of Insurance have been obtained from the Contractor and approved by the Owner. Verify that both the Architect and the Owner are listed as additional insured.
4. Verify Contractors have arranged and paid all building permit fees, etc., unless the Owner is responsible for the fees.
5. Owner shall provide letter of Notice to Proceed to Contractor. Verify this has been done or when it will be issued.
6. Hold Pre-construction meeting
7. Obtain a Schedule of Work and list of subcontractors from the Prime Contractor.
8. Verify Contractor has taken care of hook-up of temporary utilities or permanent utilities as required.
9. Verify if soil, concrete, steel, etc., or special testing required by code is being covered either by the General Contractor or the Owner's testing agent. Verify who agent is, name of testing company, and name of representative to be contacted.
10. Review protection of work from inclement weather.
11. Define communications methods.
12. Review the following:
  - Application for Payment
  - Schedule of Values
  - Notarization required
  - Retainage from each application
  - Any other special requirements
  - Note when Owner will be making payments so Contractor is aware of date (verify with both Owner and Contractor)
  - Set dates of weekly construction meetings with the Contractor(s), Owner, and Architect.



- Review confinements of the site and any special considerations the Owner has in terms of the site. Set construction limits and verify condition of the site at this time. Photo document site and adjacent property.
- Arrange procedure with Contractors for inspection by Architects and Engineers so they are not in the way of Contractors, and abide by the rules of the construction site.
- Emphasize it is the Contractor's responsibility to determine and implement safety precautions and traffic control measures that are required.
- Hold a walk-through of existing facilities on adjacent property before beginning work.
- Define what clean-up is required during construction and at the end of the project.
- Define closeout procedures.

#### GENERAL ON-SITE OBSERVATION ITEMS

1. Review the Contractor's Record Log: Time, Weather, Work taking place, work not taking place (if significant), major equipment and materials on site, representatives at the site, visitors to the site.
2. Review shop drawings.
3. Review specifications and drawings for items of work to be reviewed under current report.
4. Check for proper storage of materials and equipment.
5. Check for security of stored materials and premises.
6. Check cleanliness of site.
7. Note any safety concerns.
8. Coordinate closeout procedure and final walk-throughs.
9. Coordinate completion of punch-list items.
10. Check status of as-built drawings that are created by the contractor.
11. Schedule final payments once all punch-list items have been satisfactorily addressed.

**FEE AND ASSUMPTIONS:**

**FEE**

Hours per week estimated for Steve Sigler (Logan Simpson) for Bidding Assistance, Project Management, shop drawing review, RFI responses, and review of submittals.:

- Bidding Assistance and Contractor Selection – 30 hours @ \$93/hour = \$2,790
- Expenses – 2 meetings at Adams County and/or site during bidding = \$145
- Labor- 6 hours per week @ \$93/ hour = \$558 per week average = \$9,486
- Total \$12,421

Hours per week estimated for Janet Meisel-Burns/Jennifer Gardner (Logan Simpson) for Construction Observation/Administration:

- Labor- 16 hours per week @ \$110/ hour = \$1760 per week average
- Expenses- 2 round trips from Fort Collins to project site @ \$145 per week average
- Total \$32,385

**Total Fee Estimate- based on a 1 month bidding process and 17 week (4 month) construction timeframe = \$ . \$44,806**

**Assumptions:**

- Tasks per week will vary, monthly invoices will reflect actual staff hours.
- Construction period estimated to be 4 months (17 weeks)
- Construction management tasks will include a 1 or 2 meetings per week during active construction.
- Logan Simpson shall visit the site at appropriate intervals during construction to become generally familiar with the progress and quality of the Contractor's work and to determine if the work is proceeding in general accordance with the Contract Documents. Logan Simpson shall not be responsible for the acts or omission of the contractor.
- Contractor will be responsible for preparing as-built drawings, other tasks listed in the contract documents, and construction project management as outlined above.