

SECOND AMENDATORY AGREEMENT

This **SECOND AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **MULLER ENGINEERING COMPANY, INC**, a Colorado corporation whose address is 7245 W. Alaska Drive, Suite 300, Lakewood, Colorado 80226-3118 (the “Consultant”), jointly (“the Parties”).

RECITALS:

A. The Parties entered into a Design Services Agreement dated May 20, 2021 an Amendatory Agreement dated August 22, 2022 (the “Agreement”) to provide professional design services.

B. The Parties wish to amend the Agreement to amend the Scope of Work, increase the Maximum Contract Amount and to make such other amendments as are herein set forth.

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

1. All references to “...Exhibit A, A-1...” in the Agreement shall be amended to read: “...Exhibit A, A-1 and A-2...” as applicable. The Project Fee Estimating Sheet marked as **Exhibit A-2** attached to this Amendatory Agreement is hereby incorporated by reference.

2. All references to “...Exhibit C, C-1...” in the Agreement shall be amended to read: “...Exhibit C, C-1 and Exhibit C-2...” as applicable. The Certificate of Liability Insurance marked as **Exhibit C-2** attached to this Amendatory Agreement is hereby incorporated by reference.

3. Section 3 of the Agreement entitled **SECTION 3 – COMPENSATION, PAYMENT, AND FUNDING** Sub section 3.01 (a) entitled “**Fee for basic services**” is amended to read as follows:

“3.01 Fee for basic services. The City agrees to pay the Design Consultant, as full compensation for its basic services rendered hereunder, a fee not to exceed **EIGHT HUNDRED SEVENTY-FOUR THOUSAND NINE HUNDRED TEN DOLLARS AND ZERO CENTS (\$874,910.00)**, in accordance with the billing rates and project budget stated in **Exhibits A, A-1, A-2, and B**. The amounts budgeted for phases may be increased or decreased, and the amounts allocated for services and expenses adjusted, upon written approval of the Director or his designee, and subject to the Maximum Contract Amount stated in this Section 3.”

4. Section 3 of the Agreement entitled **SECTION 3 – COMPENSATION, PAYMENT, AND FUNDING** Sub section 3.05 (a) entitled “**Maximum Contract Amount**” is amended to read as follows:

“3.05 Maximum Contract Amount.

(a) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **ONE MILLION FIFTY THOUSAND THIRTY-EIGHT DOLLARS AND ZERO CENTS (\$1,050,038.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Design Consultant beyond that specifically described in Exhibit A, A-1 and A-2. Any services performed beyond those set forth therein are performed at Design Consultant’s risk and without authorization under the Agreement.”

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

6. This Second Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

Contract Control Number:
Contractor Name:

DOTI-202158427-02 [202265053-02]
MULLER ENGINEERING COMPANY, INC.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

DOTI-202158427-02 [202265053-02]
MULLER ENGINEERING COMPANY, INC.

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit A-2

Project Background and Overview

The goal of the project is to increase pedestrian safety of the corridor while also increasing transit efficiency. Constructing pedestrian safety improvements on West Colfax is in alignment Denver's Vision Zero goal of eliminating traffic deaths by 2030 West Colfax was identified by the Vision Zero Action Plan as a part of the Denver's High-Injury Network—corridors that have the highest percentage of fatal and injury crashes. West Colfax is also identified as a priority corridor in the Denver Moves Transit plan. Improving the street for pedestrians and transit users also supports the Mayor's Mobility Action Plan and Comprehensive Plan 2040, which aims to provide convenient and accessible mobility options that reduce the need for single-occupancy driving. Pedestrian improvements include medians, bulb-outs, signals, and marked crosswalks. Transit enhancements will include bulb-outs, bus by-pass lanes or queue jumps, and transit signal priority.

This Scope of Work outlines work to be completed by the Consultant to provide support during advertisement and construction as directed by DOTI for the West Colfax Avenue Pedestrian and Transit Improvement Project (DOTI-202158427-00).

Team

Construction support from the consultant team is anticipated from the following firms:
Muller Engineering Company (Muller) - Project Management, Construction support services related to civil/multimodal, traffic and storm drainage elements
Dig Studio (MWBE) - Landscape Architecture, Irrigation, and Urban Design elements

Project Area

The Project area is defined approximately as West Colfax Ave. between Sheridan Blvd. at the western limit and Irving St. at the eastern limit.

Contract Administration

The contract for these services will be administered and managed by the City and County of Denver Department of Transportation and Infrastructure (DOTI).

The City and County of Denver Department of Transportation and Infrastructure will manage the contract. DOTI's overall project manager will be DOTI Project Manager Mukhtar Satar. This project will be overseen by representatives from Department of Transportation and Infrastructure (DOTI), Denver Parks and Recreation, and CDOT staff.

II. Consultant Responsibilities

The scope of work is as follows:

- Attend pre-bid meeting in support of Denver – assumes two (2) consultant attendees (PM from Muller and 1 discipline specialty)
- Attend pre-construction meeting in support of Denver – assumes two (2) consultant attendees (PM from Muller and 1 discipline specialty)
- Attend up to ten (10) construction progress meetings, site visits, or other agency/coordination meetings as requested by Denver – assumes up to two (2) consultant attendees per meeting. Dig attendance is assumed for 6 of the site visits (included in the 10 total)
- Review up to ten (10) contractor submittals/shop drawings not processed by DOTI Project Manager
- Respond to up to ten (10) Requests for Information (RFIs) during construction

- Revise plans for up to three (3) change orders during construction for minor changes due to unknown or changed conditions (does not include revisions required for major changes of design concepts) only as directed by DOTI

It is assumed that all support will be provided remotely via email/video conference and that meetings and site visits will be in person and two hours in length (including travel).

III. Work Duration

The time for the work described in this scope is estimated to begin November/December 2022 and end May 2024.

IV. Authorization to Proceed

Work shall not commence until written Notice to Proceed is received by the Consultant and shall be completed in the time specified.

V. Progress Reports and Invoicing

Muller will provide the City Project Manager with monthly progress reports and invoices.

VI. Status of Contract

The Consultant shall monitor the fiscal status of the contract and advise the DOTI Project Manager of any potential for supplementing their contract or negotiating an additional task order. Failure to monitor contract status and provide timely notification may result in discontinuation of the Consultant's services on the project until a supplement agreement can be affected.

VII. Project Standards

All project approved documentation shall be in accordance with the 2022 Colorado Department of Transportation's Standard Specifications for Road and Bridge Construction, Supplemental Specifications, Standard and Project Special Provisions, applicable 2019 M&S Standards, Denver Public Works Transportation Standards and Details for the Engineering Division (April 2017), Public Right-of-Way Accessibility Guidelines (PROWAG), and the plans, permits and other documents governing the construction of the project.

Proposed work procedures shall be coordinated with and authorized by the DOTI Project Engineer prior to the start of the work.

VIII. Labor, Materials, Vehicles and Equipment

The Consultant shall furnish all personnel and materials, required to perform the work. If site visits are required, Consultant personnel shall have appropriate vehicles (equipped with flashing beacon).

Personnel qualifications and staffing level shall be subject to the approval of the DOTI Project Manager. The Consultant shall assign the same personnel for the duration of the Construction Contract unless otherwise approved by the DOTI Project Manager.

The Consultant familiarize themselves with Denver and CDOT specifications, forms and documentation requirements as directed by the DOTI Project Manager. Personnel provided by the Consultant who do not meet all the specified requirements, or who fail to perform their work in an acceptable manner, shall be removed from the project when determined and directed by the DOTI Project Manager.

IX. Documentation

The Consultant shall provide all correspondence and to the DOTI Project Manager or his/her authorized representative for review and signature.

Scope of Work

It is anticipated that this project will consist of four tasks as follows.

1. Pre-Bid Support
2. Review of Submittals and Shop Drawings & Responding to RFIs.
3. Construction Change Order Modifications
4. Project Management and Meetings

Task 1 - Pre-Bid Support

The Consultant shall prepare pre-bid agenda and attend pre-bid meeting (assumes two consultant attendees).

Consultant shall respond to questions during the question period and prepare answers that DOTI will issue in the format of addendums. A total of 5 hours (Muller) is budgeted for responding to questions.

Task 2 - Review of Submittals and Responding to RFIs

If requested by the Project Manager, the Consultant shall provide one (1) Revision under Advertisement. A total of 20 hours (Muller) is budgeted for this revision.

Review contractor shop and auxiliary drawings as directed by the DOTI Project Manager.

- The review of submittals shall be done by a licensed professional engineer.
- Review Shop Drawings - Review the construction contractor's shop drawings as directed by DOTI Project Manager for conformance and compliance with the contract documents.

Respond to Requests for Information - Provide technical assistance to DOTI project personnel on an as-needed basis. This service shall include responding to questions in the field (within 5 working days) that arise relative to the plans, details or special provisions. A total of 80 hours (60 Muller, 20 Dig) is budgeted for these reviews and responding to RFIs.

Task 3 – Construction Change Order Modifications

When requested by the Project Manager, the Consultant shall provide services for plan modifications required by unforeseen field conditions. These modifications are anticipated to be minor in nature. If substantial re- design is needed, Consultant and DOTI Project Manager will discuss anticipated level of effort and whether work can be covered by existing budget prior to starting the work. Up to 94 hours (80 Muller, 14 Dig) are allocated for this effort (30-32 hours in total per change order).

Task 4 – Project Management and Meetings

Project Management tasks include:

- Monthly invoicing
- Budget tracking
- Contract monitoring
- Regular communication with the DOTI Project Manager

Anticipated Meetings Include:

- Pre-construction meeting in support of DOTI – assumes two (2) consultant attendees (PM from Muller and 1 discipline specialty) at an in-person location.
- Attend up to ten (10) construction progress meetings, site visits, or other agency/coordination meetings as requested by DOTI – assumes up to two (2) consultant attendees per meeting.
- Digto attendsite visitsfortree tagging, quarry visit, punchwalk, mainline review, and pressure test – assumes up to two (2) consultant attendees per visit.

Items specifically excluded from the Scope of Work

- Form 250 (to be provided by materials testing firm)
- Construction Traffic Control, Detour Plans, MHTs, etc.
- Rights of Entry
- Coordination with utility owners and utility designs
- As-built plans

III. Project Schedule

The following schedule is anticipated for this project:

- | | |
|-------------------------|-----------------------|
| •November/December 2022 | Advertisement |
| •Early 2023 | Begin Construction |
| •May 19, 2024 | Construction Complete |

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/21/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

Table with PRODUCER (USI Insurance Services, LLC) and INSURED (Muller Engineering Company, Inc.) information. Includes contact details for Brenda K. Star and a list of insurers: Travelers Indemnity Co of America, Travelers Property Cas. Co. of America, XL Specialty Insurance Company, and Phoenix Insurance Company.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

Main coverage table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR WVD, POLICY NUMBER, POLICY EFF, POLICY EXP, LIMITS. Rows include Commercial General Liability (A), Automobile Liability (D), Umbrella Liability (B), Workers Compensation and Employers' Liability (B), and Professional Liability (C).

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic Additional Insured's for ongoing and completed operations under General Liability; Designated Insured under Automobile Liability; and Additional Insured under Umbrella / Excess Liability but only with respect to liability arising out of the Named Insured's work performed on behalf of the certificate holder and owner. (See Attached Descriptions)

Table with CERTIFICATE HOLDER (City and County of Denver) and CANCELLATION (Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.)

DESCRIPTIONS (Continued from Page 1)

The General Liability, Automobile Liability and Umbrella/Excess insurance applies on a primary and non contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Automobile Liability, Umbrella/Excess Liability and Workers Compensation. The Umbrella / Excess Liability policy provides excess coverage over the General Liability, Automobile Liability and Employers Liability.

Please note that Additional Insured status does not apply to Professional Liability or Workers' Compensation.