

SECOND AMENDATORY DESIGN SERVICES AGREEMENT

This **SECOND AMENDATORY DESIGN SERVICES AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **DAVID EVANS AND ASSOCIATES, INC.**, an Oregon corporation, whose address is 2100 SW River Parkway, Portland, Oregon 97201 (the “Design Consultant” or “Consultant”), jointly (“the Parties”).

RECITALS:

A. The Parties entered into an Agreement dated April 22, 2020, and an Amendatory Agreement dated April 8, 2021 (collectively, the “Agreement”) to provide Design Services for the Basis of Design on the 56th Ave. Widening - Peoria to Pena Project.

B. The Parties wish to amend the Agreement to extend the term, increase the maximum contract amount, update paragraph 5.06-no discrimination in employment, update paragraph 5.19-no employment of illegal aliens, amend the scope of work, and amend the budget.

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

1. Section 3 of the Agreement entitled “**COMPENSATION, PAYMENT AND FUNDING**”, subsections 3.01 and 3.03 are hereby deleted in their entirety and replaced with:

“**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 **THREE MILLION SIX HUNDRED FORTY-ONE THOUSAND NINE HUNDRED AND THIRTY-SIX DOLLARS AND ZERO CENTS (\$3,641,936.00)**, in accordance with the billing rates and project budget stated in **Exhibits A 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.

3.03 Additional Services. If pre-approved additional services are performed by the Design Consultant, the City agrees to pay the Design Consultant for such additional services in accordance with Section 2.08. The maximum amount to be paid by the City for all additional services under this contract is **FOUR HUNDRED SEVENTY-EIGHT THOUSAND, ONE HUNDRED FIFTY-SIX DOLLARS AND ZERO CENTS (\$478,156.00)**.

2. Section 3 of the Agreement entitled “**COMPENSATION, PAYMENT AND FUNDING**”, subsection 3.05 (a) “**Maximum Contract Amount.**” is hereby deleted in its entirety and replaced with:

“**3.05 Maximum Contract Amount.**”

(a) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **FOUR MILLION ONE HUNDRED SIXTY THOUSAND FIVE HUNDRED AND TWO DOLLARS AND ZERO CENTS (\$4,160,502.00)** (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**. Any services performed beyond those set forth therein are performed at Design Consultant’s risk and without authorization under the Agreement.

3. Section 4 of the Agreement entitled “**TERM AND TERMINATION**”, subparagraph 4.01 entitled “**Term.**” hereby deleted in its entirety and replaced with:

“**4.01 Term.** The term of this Agreement commenced on **April 22, 2020**, and shall expire **December 31, 2024**, unless sooner terminated upon final completion of the Project.”

4. Section 5.06 of the Agreement entitled “**No Discrimination in Employment**” is hereby deleted in its entirety and replaced with:

“**5.06 No Discrimination in Employment:** In connection with the performance of work under the Agreement, the Design Consultant may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Design Consultant shall insert the foregoing provision in all subcontracts.”

5. Section 5.19 of the Agreement entitled “**No Employment of Illegal Aliens to Perform Work Under the Agreement:**” is hereby deleted in its entirety and replaced with:

“**5.19 No Employment of Workers Without Authorization to Perform Work Under the Agreement:**”

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

b. The Design Consultant certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(3) It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Design Consultant that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Design Consultant shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

(6) It will comply with a reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

c. The Design Consultant is liable for any violations as provided in the Certification Ordinance. If the Design Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If this Agreement is so terminated, the Design Consultant shall be liable for actual and consequential

damages to the City. Any termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Design Consultant from submitting bids or proposals for future contracts with the City.”

6. **Exhibit A** and **Exhibit A-1** are hereby deleted in their entirety and replaced with **Exhibit A-2 Scope of Work**, attached and incorporated by reference herein. All references in the original Agreement to **Exhibit A** and **Exhibit A-1** are changed to **Exhibit A-2**.

7. **Exhibit B** and **Exhibit B-1** are hereby deleted in their entirety and replaced with **Exhibit B-2 Budget**, attached and incorporated by reference herein. All references in the original Agreement to **Exhibit B** and **Exhibit B-1** are changed to **Exhibit B-2**.

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

9. This Second Amendatory Design Services 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.

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Contract Control Number: DOTI-202161137-02 [202054114-02]
Contractor Name: DAVID EVANS AND ASSOCIATES, 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-202161137-02 [202054114-02]
DAVID EVANS AND ASSOCIATES, INC.

By: DocuSigned by:
Sara Ciasto
AD048894BF4C4DE...

Name: Sara Ciasto
(please print)

Title: Senior Associate
(please print)

ATTEST: [if required]

By: DocuSigned by:
Stacy Tschuor
78DEAFE9DAA340A...

Name: Stacy Tschuor
(please print)

Title: Vice President
(please print)

Exhibit A-2

56th AVENUE WIDENING: PEORIA BLVD. TO PENA BLVD.

PROJECT CONTROL NO. GO2018 BOND 2018-041

SCOPE OF WORK – CONTINUING SERVICES AMENDMENT

DAVID EVANS AND ASSOCIATES, INC.

OCTOBER 27, 2021

This design-build project funded by the Elevate Denver Bond Program consists of widening 56th Avenue from Peoria Boulevard to Peña Boulevard to a 4-lane typical section while establishing the footprint for an ultimate 6-lane typical section and constructing a multi-use path along the north side of 56th Avenue, including connections to the neighborhood bike lanes and the trail system at the Arsenal. David Evans and Associates, Inc. (DEA) and our teaming partners have supported the City and County of Denver (CCD) Department of Transportation and Infrastructure (DOTI) team in the development of the basis of design and the procurement documents for this project. This addendum will add as-requested project/program management, engineering, and construction inspection support (up to the approved contract amount) and time to the contract as described and requested herein.

This scope assumes that the DEA team will serve as part of the DOTI project administration team and will fill roles and duties as assigned or requested by DOTI. The DEA team includes all subconsultant partners from the original contract; DOTI will continue to have support from those firms as needed for project and program execution.

CONTRACT TIME

This addendum requests a contract extension to December 31, 2024.

SCOPE OF WORK

Anticipated tasks to be undertaken by the DEA team as part of this addendum include those described below. These tasks will be completed on an as-needed and/or as-requested basis in collaboration with DOTI staff responsible for the project.

Project Management/Owner's Representative Services

DEA will provide project management, design review, and general owner's representative services and will serve as an extension of DOTI staff in relation to the design-build (D-B) contractor team. This effort is assumed to take 9-12 months. For a 9-month duration, anticipated DEA team support for this effort may include:

- Senior Project Manager – 30 hours/week
- Engineer – 16-20 hours/week (roadway, structures, traffic, drainage, or other disciplines as needed; hours per week dependent on level of engineer needed)
- Permit Review/Environmental – 2 hours/week
- Utilities Engineering/Coordination Support – 10-15 hours/week, dependent on level of personnel needed

Exhibit A-2

*56th Avenue Widening
DEA Continuing Services Amendment
October 27, 2021*

Anticipated tasks may include but shall not be limited to:

- Provide oversight for D-B design and construction activities
- Develop, participate in, and oversee task force meetings for design, project coordination, and monthly status meetings
- Assist with invoice approval for the Design-Build contract for appropriate funding allocation to work completed for both the design and construction phases of the contract
- Planning for closeout, operations and maintenance, and handover
- Prepare monthly reports of program status for stakeholders
- Provide project governance and dispute resolution guidance
- Review and provide comments on design plans, calculations, or other documents
- Attend and participate in design review meetings (formal or ad hoc)

The DEA team will also review subconsultant invoices and prepare and submit monthly invoices and progress reports. Invoices will meet the City's format and requirements.

Construction Engineering and Inspection Services

DEA will be responsible for all construction management tasks and field representation during the duration of construction (assumed for purposes of this estimate to be 18 months). A full CE&I staff team would include the following staff for the listed approximate weekly commitment:

- Senior Construction Project Manager – 5%
- Construction Project Engineer – ¾ Time
- Construction Inspector III – Full Time
- Construction Inspector II – ¾ Time
- Construction Inspector I – ¾ Time

Anticipated construction services tasks may include but shall not be limited to:

- Provide inspection/observation to monitor D-B progress
- QC/QA oversight including monitoring of D-B QA/QC plan
- Provide assessments of DB contractor's design and construction compliance
- Participate in weekly management team and task force meetings
- Provide active oversight of D-B Contractor's change management scope, schedule, budget, and resources
- Provide project closeout and document lessons learned
- Attend Uvalda crossing project meetings to support integration of schedule and scope between MHFD and DOTI projects
- Design-Builder pay application review and comment
- ADA compliance oversight – MEF form completion
- Risk analysis and mitigation strategies

Exhibit A-2

*56th Avenue Widening
DEA Continuing Services Amendment
October 27, 2021*

Audit Support

DEA will provide senior oversight of the project documentation and processes to support early detection and remediation of documentation errors ahead of anticipated and unscheduled formal project audits. Support is anticipated to be provided at a frequency that will be established once the contract is underway, and the audit support team is anticipated to consist of a senior professional with quality oversight expertise as well as project/document controls personnel.

This task includes but is not limited to:

- Review relevant findings from previous CCD audits
- Develop an internal audit plan for review regarding basis of billing/payment
- Participate in monthly auditing meetings and provide summary reports on all 56th contracts
- Confirm decision points are documented per contract
- Perform document review for contract compliance

Additional Services

The DEA team will complete other duties as assigned within the limits of the contract budget. This includes but is not limited to environmental support, dispute resolution guidance, ADA compliance, risk analysis and mitigation strategies, and any other professional services requested by DOTI to support project delivery.

CLARIFICATIONS/ASSUMPTIONS

- Subconsultant partners Geocal, Inc. and Stanley Consultants, Inc. will support the execution of the tasks described in this addendum.
- Geocal staff will provide the project's MWBE support.
- Distribution of proposed fees are estimated and shown in the attached spreadsheet.
- DEA will schedule time to review overall project status and DEA team level of effort with DOTI's 56th Avenue team when the addendum amount is 50% spent.
- No materials testing or materials documentation will be provided as part of this contract unless the DEA team is specifically directed to reallocate budget to these tasks.

POTENTIAL DELIVERABLES *(pending assignments under the contract)*

- Plan reviews (Bluebeam Studio or other format)
- Agendas and meeting notes
- Daily Diary and Work Acceptance Documentation
- Progress Photos
- Progress Reports
- Finals Documentation
- Invoice and Quantity Review/Concurrence

