

### THIRD AMENDATORY AGREEMENT

This **THIRD AMENDATORY AGREEMENT** is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **A HOLE IN THE WALL CONSTRUCTION DBA AHW CONSTRUCTION**, a Colorado corporation, with its principal place of business located at 6669 Colorado Boulevard, Unit B, Commerce City, Colorado 80022 (the “Contractor”), (collectively “the Parties”).

#### RECITALS:

**A.** The Parties entered into an Agreement dated October 19, 2021, an Amendatory Agreement dated November 4, 2022, and a Second Amendatory Agreement dated May 24, 2023 (the “Agreement”) to perform, and complete all of the services and produce all the deliverable set forth on Exhibit A, the Scope of Work, to the City’s satisfaction.

**B.** The Parties wish to amend the Agreement to extend the Term, 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. Section 3 of the Agreement entitled “**TERM**”, is hereby amended to read as follows:

“**3. TERM**: The services shall be provided by the Contractor during the term of this Agreement which will commence on **September 1, 2021** and will expire on **August 31, 2026** (the “Term”). Subject to the Manager’s prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed unless earlier terminated by the Manager.”

2. Section 4 of the Agreement entitled “**COMPENSATION AND PAYMENT**”, Sub-section d. (1) entitled “**Maximum Contract Amount**”, is hereby deleted in its entirety and replaced with:

“**d. Maximum Contract Amount**

(1) Notwithstanding any other provision of this Agreement, the City’s maximum payment obligation will not exceed **TWO MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$2,850,000.00)** (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 the Contractor beyond that specifically described in Exhibit A. Any services performed beyond those in Exhibit A or performed outside the Term are performed at the Contractor's risk and without authorization under this Agreement.”

3. Section 25 of the Agreement entitled “**PREVAILING WAGES**”, is hereby being deleted in its entirety and replaced with:

“**25. PREVAILING WAGE REQUIREMENTS:**

“a. Contractor shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, Sections 20-76 through 20-79, D.R.M.C. including, but not limited to, the requirement that every covered worker working on a City owned or leased building or on City-owned land shall be paid no less than the prevailing wages and fringe benefits in effect on the date the bid or request for proposal was advertised. In the event a request for bids, or a request for proposal, was not advertised, Contractor shall pay every covered worker no less than the prevailing wages and fringe benefits in effect on the date funds for the contract were encumbered.

“b. Date of bid request for qualifications/proposals was advertised: November 19, 2020.

“c. Prevailing wage and fringe rates will adjust on the yearly anniversary of the actual date of bid or proposal issuance, if applicable, or the date of the written encumbrance if no bid/proposal issuance date is applicable.

“d. Contractor shall provide the Auditor with a list of all subcontractors providing any services under the contract.

“e. Contractor shall provide the Auditor with electronically-certified payroll records for all covered workers employed under the contract.

“f. Contractor shall prominently post at the work site the current prevailing wage and fringe benefit rates. The posting must inform workers that any complaints regarding the payment of prevailing wages or fringe benefits may be submitted to the Denver Auditor by calling 720-913-5000 or emailing [auditor@denvergov.org](mailto:auditor@denvergov.org).

“g. If Contractor fails to pay workers as required by the Prevailing Wage Ordinance, Contractor will not be paid until documentation of payment satisfactory to the Auditor has been provided. The City may, by written notice, suspend or terminate work if Contractor fails to pay required wages and fringe benefits.”

4. A new Section 38 of the Agreement entitled “**COMPLIANCE WITH DENVER WAGE LAWS**”, is hereby being added to the Agreement to read as follows:

“**38. COMPLIANCE WITH DENVER WAGE LAWS**: To the extent applicable to the Contractor’s provision of Services hereunder, the Contractor shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City’s Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City’s Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.”

5. **Exhibit B, B-1 and B-2** are hereby deleted in their entirety and replaced with **Exhibit B-3, Budget**, attached and incorporated by reference herein. All references in the original Agreement to **Exhibit B, B-1 and B-2** are changed to **Exhibit B-3**.

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

7. This Third 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.

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[SIGNATURE PAGES FOLLOW]

**Contract Control Number:**  
**Contractor Name:**

CPLAN-202159889/CPLAN-202473707-03  
A HOLE IN THE WALL CONSTRUCTION DBA AHW  
CONSTRUCTION - CPD

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:

\_\_\_\_\_

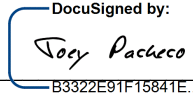
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By:

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CPLAN-202159889/CPLAN-202473707-03  
A HOLE IN THE WALL CONSTRUCTION DBA AHW  
CONSTRUCTION - CPD

By:  \_\_\_\_\_  
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Name: Joey Pacheco  
(please print)

Title: President  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**Standard Board-Up and Temporary Fencing - All Agencies**

**Response Time 1 Business Day from call**

Description	Cost per Service Call	Cost/Sq. Ft of Opening (includes plywood, nails, bolts, screws, etc. and installation)
Service Call, during normal business hours (Mon. thru Fri. 7:00 AM to 5:00 PM, excluding holidays), to include mobilization and transportation time. This will include repeat service calls that require AHW to return to the site to fix damages to fencing.	\$250.00	\$4.00
Lock and hasp	\$35.00 each	
Description	Per Linear Foot Price for Rental and Installation of Temporary Fencing (including disassembly and removal)	Per Foot Price to Purchase and Install Temporary Fencing
Temporary, Emergency Fencing	\$8.50 per LF per month	\$34.00

**Emergency Board-Up from Denver Police, Fire, and Sheriff Department**

**Response Time 30 Minutes or Less from call**

Description	Cost per Service Call	Cost/Sq. Ft of Opening (includes plywood, nails, bolts, screws, ect. and installation)
Service Call, 24/7/365, to include mobilization and transportation time	\$500.00	\$4.00
Lock and hasp	\$35.00 each	

Contract Amount: \$2,750,000.00