

# STATE OF COLORADO AMENDMENT

Amendment #: 1

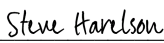
Project #: STU M245-013 (22285)

## SIGNATURE AND COVER PAGE

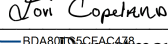
<b>State Agency</b> Department of Transportation		<b>Amendment Routing Number</b> 21-HA1-XC-03176-M0001
<b>Local Agency</b> CITY OF COMMERCE CITY		<b>Original Agreement Routing Number</b> 21-HA1-XC-03176
<b>Agreement Maximum Amount</b>	\$4,000,000.00	<b>Agreement Performance Beginning Date</b> The later of the effective date or May 17, 2021
		<b>Initial Agreement expiration date</b> November 18, 2030

### THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

<b>STATE OF COLORADO</b> <b>Jared S. Polis, Governor</b> Department of Transportation Shoshana M. Lew, Executive Director DocuSigned by:  _____ Stephen Harelson, P.E., Chief Engineer Date: <u>5/19/2022</u>	
<p style="text-align: center;"><b>LOCAL AGENCY</b> CITY OF COMMERCE CITY</p> <p style="text-align: center;"><b>SEE ATTACHED SIGNATURE PAGE</b></p> <p style="text-align: center;">_____ Benjamin A. Huseman, Mayor</p> <p>Date: _____</p>	<p style="text-align: center;"><b>Additional Local Agency Signatures</b></p> <p style="text-align: center;"><b>SEE ATTACHED SIGNATURE PAGE</b></p> <p style="text-align: center;">_____ Attest: Dylan A Gibson, City Clerk</p> <p>Date: _____</p>

In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

<b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b> By:  _____ Department of Transportation Effective Date: <u>5/19/2022</u>
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**1) PARTIES**

This Amendment (the "Amendment") to the Original Agreement shown on the Signature and Cover Page for this Amendment (the "Agreement") is entered into by and between the Local Agency and the State.

**2) TERMINOLOGY**

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

**3) EFFECTIVE DATE AND ENFORCEABILITY****A. Amendment Effective Date**

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment

**B. Amendment Term**

The Parties' respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Agreement.

**4) PURPOSE**

The parties entered into an agreement on May 17, 2021, for the widening of 88th Avenue in Commerce City, Colorado. Now the parties wish to amend the original agreement by adjusting the Funding Provisions with an increase in the Federal Funding percentage and amount, a decrease in the Local Agency Match Percentage and amount and will add ROW Acquisition 3111 and/or ROW Relocation 3109. The total budgeted funds will remain the same at \$4,000,000.00.

**5) MODIFICATIONS**

- 1.) Increase the Federal Funds percentage from 50% to 75%.
- 2.) Increase the Federal Funds by \$1,000,000.00 from \$2,000,000.00 to a new total of \$3,000,000.00.
- 3.) Decrease the Local Agency Match percentage from 50% to 25%.
- 4.) Decrease the Local Agency Match by \$1,000,000.00 from \$2,000,000.00 to a new total of \$1,000,000.00.
- 5.) Add ROW Acquisition 3111 and/or ROW Relocation 3109 in the amount of \$1,500,000.00.
- 6.) Replace Funding Provisions' Exhibit C and C-1 in their entirety with a new Exhibit C-2.

**6) LIMITS OF EFFECT**

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

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Federal \$ LA Work ROW

**EXHIBIT C-2 - FUNDING PROVISIONS****City of Commerce City; Project # STU M245-013 (22285)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$4,000,000.00, which is to be funded as follows:

<b>1. BUDGETED FUNDS</b>			
a.	Federal Funds (75% of STBG Award)		\$3,000,000.00
b.	Local Agency Matching Funds (25% of STBG Award)		\$1,000,000.00
<b>TOTAL BUDGETED FUNDS</b>			<b>\$4,000,000.00</b>
<b>2. OMB UNIFORM GUIDANCE</b>			
a.	Federal Award Identification Number (FAIN):		TBD
b.	Name of Federal Awarding Agency:		FHWA
c.	CFDA # Highway Planning and Construction		CFDA 20.205
d.	Is the Award for R&D?		No
e.	Indirect Cost Rate (if applicable)		N/A
<b>3. ESTIMATED PAYMENT TO LOCAL AGENCY</b>			
a.	Federal Funds Budgeted		\$3,000,000.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs		\$0.00
<b>TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY</b>			<b>\$3,000,000.00</b>
<b>4. FOR CDOT ENCUMBRANCE PURPOSES</b>			
a.	Total Encumbrance Amount		\$4,000,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109		\$1,500,000.00
	Federal 75% of ROW	\$1,125,000.00	
	Local Agency 25% of ROW	\$ 375,000.00	
<b>NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS</b>			<b>\$2,500,000.00</b>

WBS Element 22285.10.30	Performance Period Start*/End Date 06/10/2021- 11/30/2023	Design 3020	\$2,500,000.00
WBS Element 22285.20.10	Performance Period Start*/End Date TBD – TBD	Const. 3301	\$0.00

\*The Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

## B. Matching Funds

The matching ratio for the federal funds for this Work is 75% federal funds to 25% Local Agency funds, and this ratio applies only to the \$4,000,000.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$4,000,000.00, and additional federal funds are available for the Work, the Local Agency shall pay 25% of all such costs eligible for federal funding and 100% of all other costs. If additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$4,000,000.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

## C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$1,875,000.00 (federal funds of \$3,000,000.00 minus federal share of ROW of \$1,125,000.00). For CDOT accounting purposes, the federal funds of \$1,875,000.00 and the Local Agency matching funds of \$625,000.00 (Local Agency funds of \$1,000,000.00 minus Local Agency share of ROW of \$375,000.00) will be encumbered for a total encumbrance of \$2,500,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency matching funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

## D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

**i. Expenditure less than \$750,000**

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

**ii. Expenditure of \$750,000 or more-Highway Funds Only**

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

**iii. Expenditure of \$750,000 or more-Multiple Funding Sources**

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

**iv. Independent CPA**

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.