

CONTRACT AMENDMENT

Amendment #8	Original Contract CMS # 00 HA2 00017 Project # STU M240-046 (12717)	Amendment CMS # 14 HA2 65262 PO 471000015 (ROW) and 471000001 (Design)
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1) PARTIES

This Amendment to the above-referenced Original Contract (hereinafter called the Contract) is entered into by and between the City of Colorado Springs, Colorado (hereinafter called "Contractor"), and the STATE OF COLORADO (hereinafter called the "State") acting by and through the Department of Transportation, (hereinafter called "CDOT").

2) EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date"). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3) FACTUAL RECITALS

The Parties entered into the Contract for the widening of Woodmen Road from I-25 to Lexington.

4) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

5) MODIFICATIONS.

This Amendment will decrease the Total Budgeted Funds by \$4,977,277.00 to \$34,388,423.00, decrease encumbrance by \$4,451,752.00 to \$19,061,408.00 by decreasing Design by \$5,421,612.00 and increasing ROW Incidentals by \$969,860.00, and updating funding (Exhibit C). The Amendment and all prior amendments thereto, if any, are modified as follows: update the funding in Recital 1 and Exhibit C.

a. Recital 1

Recital 1 shall be removed and replaced by:

Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs in Fund Number 400, Functions 3020 and 3114, GL Acct. 4231200011, WBS Elements 12717.10.30 and 12717.10.10, (This amendment will decrease the encumbered amount by \$4,451,752.00 for a new Total Contract Encumbrance Amount of: \$19,061,408.00.)

b. Exhibit C-7

Exhibit C shall be modified by deleting Exhibit C-6, as contained in Contract Amendment #7, dated June 20, 2012, and replaced by Exhibit C-7, attached hereto.

6) START DATE

This Amendment shall take effect upon the date of the State Controller's Signature.

7) ORDER OF PRECEDENCE

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

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8) AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

* Persons signing for The Local Agency hereby swear and affirm that they are authorized to act on The Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.

<p align="center">THE LOCAL AGENCY City of Colorado Springs, Colorado</p> <p>By: _____ Name of Authorized Individual</p> <p>Title: _____ Official Title of Authorized Individual</p> <p>_____ *Signature</p> <p>Date: _____</p>	<p align="center">STATE OF COLORADO</p> <p align="center">John W. Hickenlooper, GOVERNOR</p> <p align="center">Colorado Department of Transportation Donald E. Hunt, Executive Director</p> <p>_____ By: Scott McDaniel, P.E., Acting CDOT Chief Engineer</p> <p>Date: _____</p>
	<p align="center">LEGAL REVIEW</p> <p align="center">John W. Suthers, Attorney General</p> <p>By: _____ Signature - Assistant Attorney General</p> <p>Date: _____</p>

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If The Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay The Local Agency for such performance or for any goods and/or services provided hereunder.

<p align="center">STATE CONTROLLER</p> <p align="center">Robert Jaros, CPA, MBA, JD</p> <p>By: _____</p> <p align="center">Colorado Department of Transportation</p> <p>Date: _____</p>

EXHIBIT C-7 FUNDING PROVISIONS

A. The Local Agency has estimated the total cost of the Project, which is to be funded as follows:

1	BUDGETED FUNDS				
a.	Federal Funds - @ 82.79%			\$	28,437,475.00
b.	Local Agency Matching Funds @ 17.21%			\$	5,870,533.00
c.	Local Agency for CDOT Incurred Costs (Including Non-Participating Indirects)			\$	80,415.00
TOTAL BUDGETED FUNDS				\$	34,388,423.00
2	ESTIMATED CDOT-INCURRED COSTS				
a.	Federal Share (82.79% Participating Costs)				\$196,834.00
b.	Local Share				
	Local Agency Share of Participating Costs (17.21%)	\$40,917.00			
	Non-Participating Costs (Including Non- Participating Indirects)	\$39,498.00			
	Estimated to be Billed to Local Agency				\$80,415.00
TOTAL ESTIMATED CDOT-INCURRED COSTS				\$	277,249.00
3	ESTIMATED PAYMENT TO LOCAL AGENCY				
a.	Federal Funds Budgeted (1a)			\$	28,437,475.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs (2a)			\$	(196,834.00)
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY				\$	28,240,641.00
4	FOR CDOT ENCUMBRANCE PURPOSES				
	Total Encumbrance Amount (\$28,240,641.00 divided by 82.79%)			\$	34,111,174.00
	Less: ROW Acquisition (3111 and/or 3109)				<u>(\$15,049,766.00)</u>
	Net to be encumbered as follows:			\$	19,061,408.00
	WBS Element 12717.10.30	DESIGN	3020		\$16,058,548.00
	WBS Element 12717.10.20	UTILITY	3988		\$0.00
	WBS Element 12717.10.10	ROW	3114		\$3,002,860.00

- B. The matching ratio for the federal participating funds for this project is 82.79% federal-aid funds (CFDA #20 2050) to 17.21% Local Agency funds, it being understood that such ratio applies only to the \$34,111,174.00 [\$28,240,641.00 of Federal Funds + \$5,870,533.00 Local Agency Matching Funds] that is eligible for federal participation. It being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds \$34,111,174.00, and additional federal funds are made available for the project, the Local Agency shall pay 17.21% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal funds are not made available, the local agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than \$34,111,740.00, then the amounts of Local Agency and federal-aid funds will be decreased in accordance with the funding ratio described herein.
- C. The maximum amount payable to the Local Agency under this contract shall be \$28,240,641.00. The ROW Acquisition funds of \$15,049,766.00 will be encumbered and paid through the Fair Market Value process and not through this agreement. For CDOT accounting purposes, the federal funds of \$15,780,940.00 (\$19,061,408.00 Net to be encumbered x 82.79%), and local matching funds of \$3,280,468.00 (\$19,061,408.00 Net to be encumbered x 17.21%) will be encumbered for a total encumbrance of \$19,061,408.00 unless such amount is increased by an appropriate written modification to this contract executed before any increased cost is incurred. It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this contract, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award.
- D. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from federal and/or state and/or Local Agency sources, as applicable. Should these sources, either federal or Local Agency, fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party, provided that any party terminating its interest and obligations herein shall not be relieved of any obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.