

ON-CALL AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into as of the date stated on the City’s signature page below (the “**Effective Date**”) by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado acting on behalf of its Department of Aviation (the “**City**”), and **UPM MECHANICAL, LLC**, a Colorado limited liability company (“**Contractor**”) (collectively the “**Parties**”).

W I T N E S S E T H:

WHEREAS, the City owns, operates, and maintains Denver International Airport (“**DEN**”); and

WHEREAS, the City desires to obtain professional scheduled maintenance and scheduled or emergency repair services for the chillers, boilers and associated equipment at DEN; and

WHEREAS, the City has undertaken a competitive process to solicit and receive proposals for such services, and has selected the proposal submitted by Contractor; and

WHEREAS, Contractor’s proposal was selected for award of the Central Utility Plant Mechanical Services project (the “**Project**”); and

WHEREAS, Contractor is qualified, willing, and able to perform the services, as set forth in this Agreement in a timely, efficient, and economical manner; and

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the Parties agree as follows:

1. LINE OF AUTHORITY:

The Chief Executive Officer of the Department of Aviation or their designee or successor in function (the “**CEO**”), authorizes and directs all work performed under this Agreement. Until otherwise notified in writing by the CEO, the CEO has delegated the authority granted herein to the Airport Maintenance Division. The relevant Senior Vice President (the “**SVP**”), or their designee (the “**Director**”), will designate a Project Manager to coordinate professional services under this Agreement. Reports, memoranda, correspondence, and other submittals required of Contractor hereunder shall be processed in accordance with the Project Manager’s directions.

2. SCOPE OF WORK AND CONTRACTOR RESPONSIBILITIES:

A. Scope of Services. Contractor shall provide professional services and deliverables for the City as designated by the CEO, from time to time and as described in the attached ***Exhibit A*** (“**Scope of Work**”) and in accordance with Task Orders, schedules and budgets set by the City. Without requiring an amendment to this Agreement, the City may, through a Task Order or similar form issued by the CEO and signed by the Contractor, make minor changes, additions, or deletions to the Scope of Work without change to the Maximum Contract Amount.

B. Task Orders. The Project Manager will issue task orders for work to be completed under this Agreement (“**Task Orders**”). The terms of each Task Order must include but are not limited to information regarding schedule, staffing, and pricing. The Director may reduce or increase the scope of work and/or staffing required by a Task Order and the time and cost of performance shall be adjusted to reflect the time and cost resulting from the reduction or increase. In the City’s sole discretion, the Project Manager may elect to directly solicit or competitively procure the work under each Task Order.

C. Standard of Performance.

i. Contractor shall faithfully perform the work required under this Agreement in accordance with the standard of care, skill, efficiency, knowledge, training, and judgment provided by highly competent professionals who perform work of a similar nature to the work described in this Agreement.

ii. Contractor shall be liable to the City for all acts and omissions of Contractor and its employees, subcontractors, agents and any other party with whom Contractor contracts to perform any portion of the work under this Agreement, including any design elements of any authorized Task Order.

D. Time is of the Essence. Contractor acknowledges that time is of the essence in its performance of all work and obligations under this Agreement. Contractor shall perform all work under this Agreement in a timely and diligent manner.

E. Subcontractors.

i. In order to retain, hire, and/or contract with an outside subcontractor that is not identified in this Agreement for work under this Agreement, Contractor must obtain the prior written consent of the CEO. Contractor shall request the CEO’s approval in writing and shall include a description of the nature and extent of the services to be provided; the name, address and professional experience of the proposed subcontractor; and any other information requested by the City.

ii. The CEO shall have the right to reject any proposed outside subcontractor deemed by the CEO to be unqualified or unsuitable for any reason to perform the proposed services. The CEO shall have the right to limit the number of outside subcontractors and/or to limit the percentage of work to be performed by them.

iii. Any final agreement or contract with an approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make any claim of payment against the City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of this Agreement and/or the subcontract.

iv. Contractor is subject to Denver Revised Municipal Code (“**D.R.M.C.**”) § 20-112, wherein Contractor shall pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven (7) days after receipt of any

payment from the City. Any late payments are subject to a late payment penalty as provided in the Denver Prompt Payment Ordinance (D.R.M.C. §§ 20-107 through 20-118).

v. This Section, or any other provision of this Agreement, shall not create any contractual relationship between the City and any subcontractor. The City's approval of a subcontractor shall not create in that subcontractor a right to any subcontract. The City's approval of a subcontractor does not relieve Contractor of its responsibilities under this Agreement, including the work to be performed by the subcontractor.

F. Personnel Assignments.

i. Contractor or its subcontractor(s) shall assign all key personnel identified in this Agreement, including Task Order(s), to perform work under this Agreement ("**Key Personnel**"). Key Personnel shall perform work under this Agreement, unless otherwise approved in writing by the Director or their authorized representative. In the event that replacement of Key Personnel is necessary, the City in its sole discretion shall approve or reject the replacement, if any, or shall determine that no replacement is necessary.

ii. It is the intent of the Parties that all Key Personnel perform their specialty for all such services required by this Agreement. Contractor and its subcontractor(s) shall retain Key Personnel for the entire Term of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed.

iii. If, during the Term of this Agreement, the Project Manager determines that the performance of any Key Personnel or other personnel, whether of Contractor or its subcontractor(s), is not acceptable or that any such personnel is no longer needed for performance of any work under this Agreement or Task Order(s), the Project Manager shall notify Contractor and may give Contractor notice of the period of time which the Project Manager considers reasonable to correct such performance or remove the personnel, as applicable.

iv. If Contractor fails to correct such performance, then the City may revoke its approval of the Key Personnel or other personnel in question and notify Contractor that such Key Personnel or other personnel will not be retained on this Project. Within ten (10) days of receiving this notice, Contractor shall use its best efforts to obtain adequate substitute personnel who must be approved in writing by the Project Manager. Contractor's failure to obtain the Project Manager's approval shall be grounds for Termination for Cause in accordance with this Agreement.

3. OWNERSHIP AND DELIVERABLES:

Upon payment to Contractor, all records, data, deliverables, and any other work product prepared by Contractor or any custom development work performed by Contractor for the purpose of performing this Agreement on or before the day of the payment, whether periodic or final payment, shall become the sole property of the City. Upon request by the City, or based on any schedule agreed to by Contractor and the City, Contractor shall provide the City with copies of the data/files that have been uploaded to any database maintained by or on behalf of Contractor or

otherwise saved or maintained by Contractor as part of the services provided to the City under this Agreement. All such data/files shall be provided to the City electronically in a format agreed to by the Parties. Contractor also agrees to allow the City to review any of the procedures Contractor uses in performing any work or other obligations under this Agreement, and to make available for inspection any and all notes, documents, materials, and devices used in the preparation for or performance of any of the scope of work, for up to three (3) years after termination of this Agreement. Upon written request from the City, Contractor shall deliver any information requested pursuant to this Section within ten (10) business days in the event a schedule or otherwise agreed-upon timeframe does not exist.

4. TERM AND TERMINATION:

A. Term. The Term of this Agreement shall commence on the Effective Date and shall expire five (5) years from the Effective Date, unless terminated in accordance with the terms stated herein (the “**Expiration Date**”).

B. If the Term expires prior to Contractor completing the work under this Agreement, subject to the prior written approval of the CEO, this Agreement shall remain in full force and effect until the completion of any services commenced prior to the Expiration Date. Contractor has no right to compensation for services performed after the Expiration Date without such express approval from the CEO.

C. Suspension and Termination.

i. Suspension. The City may suspend performance of this Agreement at any time with or without cause. Upon receipt of notice from the Director, Contractor shall, as directed in the notice, stop work and submit an invoice for any work performed but not yet billed. Any milestones or other deadlines shall be extended by the period of suspension unless otherwise agreed to by the City and Contractor. The Expiration Date shall not be extended as a result of a suspension.

ii. Termination for Convenience. The City may terminate this Agreement at any time without cause upon written notice to Contractor.

iii. Termination for Cause. In the event Contractor fails to perform any provision of this Agreement, the City may either:

- a. Terminate this Agreement for cause with ten (10) days prior written notice to Contractor; or
- b. Provide Contractor with written notice of the breach and allow Contractor an Opportunity to Cure.

iv. Opportunity to Cure. Upon receiving the City’s notice of breach pursuant to Section 4(C)(iii)(b), Contractor shall have five (5) days to commence remedying its defective performance. If Contractor diligently cures its defective performance to the City’s satisfaction within a reasonable time as determined by the City, then this Agreement

shall not terminate and shall remain in full force and effect. If Contractor fails to cure the breach to the City's satisfaction, then the City may terminate this Agreement pursuant to Section 4(C)(iii)(a).

v. Compensation for Services Performed Prior to Suspension or Termination Notice. If this Agreement is suspended or terminated, the City shall pay Contractor the reasonable cost of only those services performed to the satisfaction of the CEO prior to the notice of suspension or termination. Contractor shall submit a final invoice for these costs within thirty (30) days of the date of the notice. Contractor has no right to compensation for services performed after the notice unless directed to perform those services by the City as part of the suspension or termination process or as provided in Section 4(C)(vi) below.

vi. Reimbursement for Cost of Orderly Termination. In the event of Termination for Convenience of this Agreement pursuant to Section 4(C)(ii), Contractor may request reimbursement from the City of the reasonable costs of orderly termination associated with the Termination for Convenience as part of its submittal of costs pursuant to Section 4(C)(v). In no event shall the total sums paid by the City pursuant to this Agreement, including Sections 4(C)(v) and (C)(vi), exceed the Maximum Contract Amount.

vii. No Claims. Upon termination of this Agreement, Contractor shall have no claim of any kind against the City by reason of such termination or by reason of any act incidental thereto. Contractor shall not be entitled to loss of anticipated profits or any other consequential damages as a result of termination.

D. Remedies. In the event Contractor breaches this Agreement, Contractor shall be liable to the City for all costs of correcting the work without additional compensation, including but not limited to additional costs incurred by the City, its tenants, or its other contractors arising out of Contractor's defective work. These remedies are in addition to, and do not limit, the remedies available to the City in law or in equity. These remedies do not amend or limit the requirements of Section 8 and Section 9 otherwise provided for in this Agreement.

5. COMPENSATION AND PAYMENT:

A. Maximum Contract Amount. Notwithstanding any other provision of this Agreement, the City shall not be liable under any theory for payment for services rendered and expenses incurred by Contractor under the terms of this Agreement for any amount in excess of the sum of **Three Million Dollars and Zero Cents (\$3,000,000.00)** ("**Maximum Contract Amount**"). Contractor shall perform the services and be paid for those services as provided for in this Agreement, including in any Task Order(s), up to the Maximum Contract Amount.

B. Limited Obligation of City. The obligations of the City under this Agreement shall extend only to monies appropriated and encumbered for the purposes of this Agreement. Contractor acknowledges and understands the City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. The City is not under any obligation to make any future encumbrances or appropriations for this Agreement

nor is the City under any obligation to amend this Agreement to increase the Maximum Contract Amount above.

C. Payment Source. For payments required under this Agreement, the City shall make payments to Contractor solely from funds of the Airport System Fund and from no other fund or source. The City has no obligation to make payments from any other source.

D. Fee. Initial negotiated flat-fee rates, individual hourly rates, and charges, including any applicable markups, are set forth in **Exhibit B**. The Project Manager, in his or her sole discretion, may annually adjust the flat-fee rates, hourly rates, charges, and/or markups on the anniversary of the Effective Date through a Task Order applicable to future work as further provided in the Task Order. Such adjustments shall not exceed five percent (5%) or the rate of the Denver-Aurora-Lakewood Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics, whichever is lower. At the City's sole discretion, the City may issue a Task Order including a payment basis that differs from the rates set forth in **Exhibit B**, in which case the rates specified in such Task Order shall be applied solely to the work as specified in such Task Order.

E. Payment Schedule. Subject to the Maximum Contract Amount, for payments required under this Agreement, the City shall pay Contractor's fees and expenses in accordance with this Agreement. Unless otherwise agreed to in writing, Contractor shall invoice the City on a regular basis in arrears and the City shall pay each invoice in accordance with Denver's Prompt Payment Ordinance, D.R.M.C. § 20-107, *et seq.*, subject to the Maximum Contract Amount.

F. Invoices. Unless otherwise provided in a Task Order, Contractor shall submit to the City a monthly progress invoice containing reimbursable costs and receipts from the previous month for professional services rendered under this Agreement to be audited and approved by the City ("**Invoice**"). Each Invoice shall provide the basis for payments to Contractor under this Agreement. In submitting an Invoice, Contractor shall comply with all requirements of this Agreement and:

- i. Include an executive summary and status report(s) that describe the progress of the services and summarize the work performed during the period covered by the Invoice;
- ii. Include a statement of recorded hours that are billed at an hourly rate;
- iii. Include the relevant purchase order ("**PO**") number related to the Invoice;
- iv. Ensure that amounts shown on the Invoices comply with and clearly reference the relevant services, indicate the hourly rate and multiplier where applicable, and identify the allowable reimbursable expenses;
- v. For only those reimbursable costs incurred in the previous month, submit itemized business expense logs and, where billing is based upon receipts, include copies of receipts for all allowable reimbursable expenses;

vi. Include the signature of an authorized officer of Contractor, along with such officer's certification they have examined the Invoice and found it to be correct; and

vii. Submit each Invoice via email to ContractAdminInvoices@flydenver.com.

viii. Late Fees. Contractor understands and agrees interest and late fees shall be payable by the City only to the extent authorized and provided for in the City's Prompt Payment Ordinance.

ix. Travel Expenses. Travel and any other expenses are not reimbursable unless such expenses are related to and in furtherance of the purposes of Contractor's engagement, are in accordance with this Agreement, and Contractor receives prior written approval of the Director or their authorized representative.

G. Timesheets. Contractor shall maintain all timesheets kept or created in relation to the services performed under this Agreement. The City may examine such timesheets and any other related documents upon the City's request.

H. Disputed Invoices. The City reserves the right to reject and not pay any Invoice or part thereof, including any final Invoice resulting from a Termination of this Agreement or any Task Order, where the SVP or their authorized representative determines the amount invoiced exceeds the amount owed based upon the work satisfactorily performed. The City shall pay any undisputed items contained in an Invoice. Disputes concerning payments under this provision shall be resolved in accordance with procedures set forth in Section 9.

I. Carry Over. If Contractor's total fees for any of the services provided under this Agreement are less than the amount budgeted for, the amount remaining in the budget may be used for additional and related services rendered by Contractor if the CEO determines such fees are reasonable and appropriate and provides written approval of the expenditure.

6. MWBE, WAGES AND PROMPT PAYMENT:

A. Minority/Women Business Enterprise ("MWBE").

i. This Agreement is subject to Article V of Chapter 28, D.R.M.C., designated as §§ 28-117 to 28-199 (the "**Good and Services Ordinance**"); and any Rules and Regulations promulgated pursuant thereto. The Contractor's Goal Commitment to MWBE participation for this Agreement is 2% as stipulated in the Division of Small Business Opportunity's ("**DSBO**") Commitment to MWBE Participation Form submitted by the Contractor.

ii. Under § 28-132, D.R.M.C., the Contractor has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with the MWBE participation upon which this Agreement was awarded, unless there is a change in the work by the City under § 28-133, D.R.M.C. The Contractor acknowledges that:

a. If directed by DSBO, the Contractor is required to develop and comply with an approved Utilization Plan (also known as an Equity,

Diversity and Inclusion Plan), attached as ***Exhibit D***, in accordance with § 28-129(c). Along with the Utilization Plan requirements, the Contractor must establish and maintain records and submit regular reports, as directed by DSBO, which will allow the City to assess progress in complying with the Utilization Plan and achieving the MWBE requirement. The Utilization Plan is subject to modification by DSBO.

- b. If contract modifications are issued under the Agreement, whether by amendment or otherwise, the Contractor shall have a continuing obligation to promptly inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases under § 28-133, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification of the change to the City.
- c. If there are changes in the work that include an increase in scope of work under this Agreement, whether by amendment or otherwise, which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MWBE at the time of contract award, such change or modification shall be immediately submitted to DSBO for notification purposes.
- d. Those amendments or other modifications that involve a changed scope of work that cannot be performed by existing subcontractors shall be subject to the original goal on the contract. The Contractor shall satisfy such goal with respect to the changed scope of work by soliciting new MWBEs in accordance with §§ 28-133, D.R.M.C. The Contractor must also satisfy the requirements under §§ 28-128 and 28-136, D.R.M.C., with regard to changes in MWBE scope or participation. The Contractor shall supply to DSBO all required documentation under §§ 28-128, 28-133, and 28-136, D.R.M.C., with respect to the modified dollar value or work under the contract.
- e. If applicable, for contracts of one million dollars (\$1,000,000.00) and over, the Contractor is required to comply with § 28-135, D.R.M.C., regarding prompt payment to MWBEs. Payment to MWBE subcontractors shall be made by no later than thirty-five (35) days after receipt of the MWBE subcontractor's invoice.
- f. Termination or substitution of an MWBE subcontractor requires compliance with § 28-136, D.R.M.C.
- g. Failure to comply with these provisions may subject the Contractor to sanctions set forth in § 28-139 of the DSBO Ordinance.

- h. Should any questions arise regarding DSBO requirements, the Contractor should consult the DSBO Ordinance or may contact the designated DSBO representative at (720) 913-1999.

B. Prompt Pay of MWBE Subcontractors. For agreements of one million dollars (\$1,000,000.00) and over to which D.R.M.C. § 28-135 applies, Contractor is required to comply with the Prompt Payment provisions under D.R.M.C. § 28-135, with regard to payments by Contractor to MWBE subcontractors. If D.R.M.C. § 28-135 applies, Contractor shall make payment by no later than thirty-five (35) days from receipt by Contractor of the subcontractor's invoice.

C. Prevailing Wage. To the extent required by law, Contractor shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, D.R.M.C. §§ 20-76 through 20-79, 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 Agreement were encumbered. Initial applicable prevailing wage rates are provided in *Exhibit E* attached hereto and incorporated herein.

Date bid or proposal issuance was advertised: September 16, 2024.

- i. 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.
- ii. Contractor shall provide the Auditor with a list of all subcontractors providing any services under the Agreement.
- iii. Contractor shall provide the Auditor with electronically-certified payroll records for all covered workers employed under this Agreement.
- iv. 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.
- v. 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.

D. 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.

E. City Prompt Pay.

i. The City will make monthly progress payments to Contractor for all services performed under this Agreement based upon Contractor's monthly invoices or shall make payments as otherwise provided in this Agreement. The City's Prompt Payment Ordinance, D.R.M.C. §§ 20-107 to 20-118 applies to invoicing and payment under this Agreement.

ii. Final Payment to Contractor shall not be made until after the Project is accepted, and all certificates of completion, record drawings and reproducible copies are delivered to the City, and the Agreement is otherwise fully performed by Contractor. The City may, at the discretion of the Director, withhold reasonable amounts from billing and the entirety of the final payment until all such requirements are performed to the satisfaction of the Director.

7. INSURANCE REQUIREMENTS:

A. Contractor shall obtain and keep in force all of the minimum insurance coverage forms and amounts set forth in *Exhibit C* ("**Insurance Requirements**") during the entire Term of this Agreement, including any extensions of the Agreement or other extended period stipulations stated in *Exhibit C*. All certificates of insurance must be received and accepted by the City before any airport access or work commences.

B. Contractor shall ensure and document that all subcontractors performing services or providing goods hereunder procure and maintain insurance coverage that is appropriate to the primary business risks for their respective scopes of performance. At minimum, such insurance must conform to all applicable requirements of DEN Rules and Regulations Part 230 and all other applicable laws and regulations.

C. The City in no way warrants or represents the minimum limits contained herein are sufficient to protect Contractor from liabilities arising out of the performance of the terms and conditions of this Agreement by Contractor, its agents, representatives, employees, or subcontractors. Contractor shall assess its own risks and maintain higher limits and/or broader coverage as it deems appropriate and/or prudent. Contractor is not relieved of any liability or other obligations assumed or undertaken pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

D. In no event shall the City be liable for any of the following: (i) business interruption or other consequential damages sustained by Contractor; (ii) damage, theft, or destruction of Contractor's inventory, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.

E. The Parties understand and agree that the City, its elected and appointed officials, employees, agents and volunteers are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations and any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 to 120, or otherwise available to the City, its elected and appointed officials, employees, agents and volunteers.

8. DEFENSE AND INDEMNIFICATION:

A. Contractor hereby agrees to defend, indemnify, reimburse and hold harmless the City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("**Claims**"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify the City for any acts or omissions of Contractor or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

B. Contractor's duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether Claimant has filed suit on the Claim. Contractor's duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant and/or claimant alleges that the City's negligence or willful misconduct was the sole cause of claimant's damages.

C. Contractor will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation, including but not limited to time expended by the City Attorney Staff, whose costs shall be computed at the rate of two hundred dollars and no cents (\$200.00) per hour of City Attorney time. Such payments on behalf of the City shall be in addition to any other legal remedies available to the City and shall not be considered the City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of Contractor under the terms of this indemnification obligation. Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

9. **DISPUTES:**

All disputes arising under or related to this Agreement shall be resolved by administrative hearing under the procedures described in D.R.M.C. § 5-17 and all related rules and procedures. The determination resulting from said administrative hearing shall be final, subject only to the right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

10. **GENERAL TERMS AND CONDITIONS:**

A. Status of Contractor. Parties agree that the status of Contractor shall be an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in § 9.1.1(E)(x) of the Charter of the City and County of Denver (the “**City Charter**”). It is not intended, nor shall it be construed, that Contractor or its personnel are employees or officers of the City under D.R.M.C. Chapter 18 for any purpose whatsoever.

B. Assignment. Contractor shall not assign, pledge or transfer its duties, obligations, and rights under this Agreement, in whole or in part, without first obtaining the written consent of the CEO. Any attempt by Contractor to assign or transfer its rights hereunder without such prior written consent shall, at the option of the CEO, automatically terminate this Agreement and all rights of Contractor hereunder.

C. Americans with Disabilities Act (“ADA”). Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA (42 USC § 12101, et. seq) and other federal, state, and local accessibility requirements. Contractor shall not discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns may constitute a material breach of this Agreement. If requested by City, Contractor shall engage a qualified disability consultant to review Contractor’s work for compliance with the ADA (and any subsequent amendments to the statute) and all other related federal, state, and local disability requirements, and Contractor shall remedy any noncompliance found by the qualified disability consultant as soon as practicable.

D. Compliance with all Laws and Regulations. Contractor and its subcontractor(s) shall perform all work under this Agreement in compliance with all existing and future applicable laws, rules, regulations, and codes of the United States, and the State of Colorado and with the City Charter, ordinances, Executive Orders and rules and regulations of the City.

E. Compliance with Patent, Trademark and Copyright Laws.

i. Contractor agrees that all work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States, as they may be amended from time to time. Contractor will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission, all releases, and other necessary documents. If Contractor prepares any documents which specify any material, equipment, process or procedure

which is protected, Contractor shall disclose such patents, trademarks and copyrights in such documents.

ii. Pursuant to Section 8, Contractor shall indemnify and defend the City from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which infringes upon any patent, trademark or copyright protected by law.

F. Notices.

i. Notices of Termination. Notices concerning termination of this Agreement shall be made as follows:

by Contractor to:

Chief Executive Officer
Denver International Airport
Airport Office Building
8500 Peña Boulevard, 9th Floor
Denver, Colorado 80249-6340

And by the City to:

UPM Mechanical, LLC
5010 Cook Street
Denver, Colorado 80640
Attn: Nathan Martinez

ii. Delivery of Formal Notices. Formal notices of the termination of this Agreement shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested ; express mail (FedEx, UPS, or similar service) or package shipping or courier service; or by electronic delivery directed to the person identified above and copied to the Project Manager through the electronic or software system used at the City's direction for Task Order-related and other official communications and document transmittals. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service and electronically transmitted notices by pressing "send" or the equivalent on the email or other transmittal method sufficient to irretrievably transmit the document. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed, delivered or emailed, but such substitutions shall not be effective until actual receipt of written or electronic notification thereof through the method contained in Subsection (E)(ii).

iii. Other Correspondence. Other notices and day-to-day correspondence between the Parties may be done via email directed to the Project Manager or through the electronic or software system used at the City's direction in writing for Task Order-related communications and transmittals at the City's direction.

G. Rights and Remedies Not Waived. In no event shall any payment by the City hereunder constitute or be construed to be a waiver by the City of any breach of covenant or default which may then exist on the part of Contractor. The City making any such payment when any breach or default exists shall not impair or prejudice any right or remedy available to the City with respect to such breach or default. The City's assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall not be deemed or taken to be a waiver of any other breach.

H. No Third-Party Beneficiaries. The Parties agree that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any third party. It is the express intention of the Parties that any person or entity other than the City or Contractor receiving services or benefits under this Agreement shall be deemed an incidental beneficiary and shall not have any interest or rights under this Agreement.

I. Governing Law. This Agreement is made under and shall be governed by the laws of the State of Colorado. Each and every term, provision and condition herein is subject to the provisions of Colorado law, the City Charter, and the ordinances and regulations enacted pursuant thereto, as may be amended from time to time.

J. Bond Ordinances. This Agreement is in all respects subject and subordinate to any and all the City bond ordinances applicable to the Airport System and to any other bond ordinances which amend, supplement, or replace such bond ordinances.

K. Venue. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

L. Cooperation with Other Contractors.

i. The City may award other contracts for additional work, and Contractor shall fully cooperate with such other contractors. The City, in its sole discretion, may direct Contractor to coordinate its work under this Agreement with one or more such contractors.

ii. Contractor shall have no claim against the City for additional payment due to delays or other conditions created by the operation of other contractors. The City will decide the respective rights of the various contractors in order to secure the completion of the work.

M. Inurement. The rights and obligations of the Parties herein set forth shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns permitted under this Agreement.

N. Force Majeure. The Parties shall not be liable for any failure to perform any of its obligations hereunder due to or caused by, in whole or in part, fire, strikes, lockouts, unusual delay by common carriers, unavoidable casualties, war, riots, acts of terrorism, acts of civil or military authority, acts of God, judicial action, or any other causes beyond the control of the Parties. The

Parties shall have the duty to take reasonable actions to mitigate or prevent further delays or losses resulting from such causes.

O. Coordination and Liaison. Contractor agrees that during the term of this Agreement it shall fully coordinate all services that it has been directed to proceed upon and shall make every reasonable effort to fully coordinate all such services as directed by the Director or their authorized representative, along with any City agency, or any person or firm under contract with the City doing work which affects Contractor's work.

P. No Authority to Bind City to Contracts. Contractor has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City as required by the City Charter and ordinances.

Q. Information Furnished by the City. The City will furnish to Contractor information concerning matters that may be necessary or useful in connection with the work to be performed by Contractor under this Agreement. The Parties shall make good faith efforts to ensure the accuracy of information provided to the other Party; however, Contractor understands and acknowledges that the information provided by the City to Contractor may contain unintended inaccuracies. Contractor shall be responsible for the verification of the information provided to Contractor.

R. Severability. In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

S. Taxes and Costs. Contractor shall promptly pay, when due, all taxes, bills, debts and obligations it incurs performing work under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against land, facilities or improvements owned by the City.

T. Environmental Requirements. Contractor, in conducting its activities under this Agreement, shall comply with all existing and future applicable local, state and federal environmental rules, regulations, statutes, laws and orders (collectively "**Environmental Requirements**"), including but not limited to Environmental Requirements regarding the storage, use and disposal of Hazardous or Special Materials and Wastes, Clean Water Act legislation, Centralized Waste Treatment Regulations, and DEN Rules and Regulations.

i. For purposes of this Agreement the terms "Hazardous Materials" shall refer to those materials, including without limitation asbestos and asbestos-containing materials, polychlorinated biphenyls (PCBs), per – and polyfluoroalkyl substances (PFAS), oil or any other petroleum products, natural gas, source material, pesticide, and any hazardous waste, toxic substance or related material, including any substance defined or treated as a "hazardous substance," "hazardous waste" or "toxic substance" (or comparable term) in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sec. 9601 *et seq.* (1990)), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 *et seq.* (1990)), and any rules and regulations promulgated pursuant to such statutes or any other applicable federal or state statute.

ii. Contractor shall acquire all necessary federal, state and local environmental permits and comply with all applicable federal, state and local environmental permit requirements.

iii. Contractor agrees to ensure that its activities under this Agreement are conducted in a manner that minimizes environmental impact through appropriate preventive measures. Contractor agrees to evaluate methods to reduce the generation and disposal of waste materials.

iv. In the case of a release, spill or leak as a result of Contractor's activities under this Agreement, Contractor shall immediately control and remediate the contaminated media to applicable federal, state and local standards. Contractor shall reimburse the City for any penalties and all costs and expenses, including without limitation attorney's fees, incurred by the City as a result of the release or disposal by Contractor of any pollutant or hazardous material.

U. Non-Exclusive Rights. This Agreement does not create an exclusive right for Contractor to provide the services described herein at DEN. The City may, at any time, award other agreements to other contractors or consultants for the same or similar services to those described herein. In the event of a dispute between Contractor and any other party at DEN, including DEN itself, as to the privileges of the parties under their respective agreements, CEO shall determine the privileges of each party and Contractor agrees to be bound by CEO's decision.

11. RECORD RETENTION AND OTHER STANDARD CITY PROVISIONS:

A. Diversity and Inclusiveness. The City encourages the use of qualified small businesses doing business within the metropolitan area that are owned and controlled by economically or socially disadvantaged individuals. Contractor is encouraged, with respect to the goods or services to be provided under this Agreement, to use a process that includes small businesses when considering and selecting any subcontractors or suppliers.

B. No Discrimination in Employment. In connection with the performance of work under the Agreement, the Contractor 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 Contractor shall insert the foregoing provision in all subcontracts.

C. Advertising and Public Disclosures. Contractor shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the Director or their authorized representative. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and technical data which have been accepted by the City, and designs and renderings, if any, which have been accepted by the City. Contractor shall notify the Director in advance of the date and time of any such presentations. Nothing herein, however,

shall preclude Contractor's transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of Denver City Council, and the Auditor.

D. Colorado Open Records Act.

i. Contractor acknowledges that the City is subject to the provisions of the Colorado Open Records Act ("CORA"), C.R.S. §§ 24-72-201 *et seq.*, and Contractor agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which Contractor asserts is confidential or otherwise exempt from disclosure. Any other provision of this Agreement notwithstanding, all materials, records, and information provided by Contractor to the City shall be considered confidential by the City only to the extent provided in CORA, and Contractor agrees that any disclosure of information by the City consistent with the provisions of CORA shall result in no liability of the City.

ii. In the event of a request to the City for disclosure of such information, time and circumstances permitting, the City will make a good faith effort to advise Contractor of such request in order to give Contractor the opportunity to object to the disclosure of any material Contractor may consider confidential, proprietary, or otherwise exempt from disclosure. In the event Contractor objects to disclosure, the City, in its sole and absolute discretion, may file an application to the Denver District Court for a determination of whether disclosure is required or exempted. In the event a lawsuit to compel disclosure is filed, the City may tender all such material to the court for judicial determination of the issue of disclosure. In both situations, Contractor agrees it will either waive any claim of privilege or confidentiality or intervene in such legal process to protect materials Contractor does not wish disclosed. Contractor agrees to defend, indemnify, and hold harmless the City, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Contractor's objection to disclosure, including prompt reimbursement to the City of all reasonable attorney's fees, costs, and damages the City may incur directly or may be ordered to pay by such court, including but not limited to time expended by the City Attorney Staff, whose costs shall be computed at the rate of two hundred dollars and no cents (\$200.00) per hour of City Attorney time.

E. Examination of Records and Audits.

i. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the

course of an audit. No examination of records and audit pursuant to this paragraph shall require Parties to make disclosures in violation of state or federal privacy laws. Parties shall at all times comply with D.R.M.C. § 20-276.

ii. Additionally, Contractor agrees until the expiration of three (3) years after the final payment under the Agreement, any duly authorized representative of the City, including the CEO, shall have the right to examine any pertinent books, documents, papers and records of Contractor related to Contractor's performance of this Agreement, including communications or correspondence related to Contractor's performance, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.

iii. In the event the City receives federal funds to be used toward the services performed under this Agreement, the Federal Aviation Administration ("FAA"), the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of Contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Contractor further agrees that such records will contain information concerning the hours and specific services performed along with the applicable federal project number.

F. Use, Possession or Sale of Alcohol or Drugs. Contractor shall cooperate and comply with the provisions of Denver Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring Contractor from City facilities or participating in City operations.

G. City Smoking Policy. Contractor and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99 and the Colorado Indoor Clean Air Act, prohibiting smoking in all City buildings and facilities.

H. Conflict of Interest.

i. Contractor and its subsidiaries, affiliates, subcontractors, principals, or employees shall not engage in any transaction, work, activity or conduct which would result in a conflict of interest. A conflict of interest occurs when, for example, because of the relationship between two individuals, organizations or one organization (including its subsidiaries or related organizations) performing or proposing for multiple scopes of work for the City, there is or could be in the future a lack of impartiality, impaired objectivity, an unfair advantage over one or more firms competing for the work, or a financial or other interest in other scopes of work.

ii. Contractor represents that, in its Response or Proposal, as applicable, it disclosed any and all current or potential conflicts of interest of which it is aware, including transactions, work, activities, or conduct that might affect the judgment, actions, or work of Contractor or which might give Contractor an unfair advantage in this or a future

procurement. If the Parties identified a conflict of interest and agreed to a plan to mitigate such conflict, Contractor agrees it will comply with that mitigation plan.

iii. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement if such a conflict exists, after it has given Contractor written notice which describes such conflict. If, during the course of the Agreement, the City determines that a potential conflict of interest exists or may exist, Contractor shall have thirty (30) days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

iv. Contractor has a continuing duty to disclose, in writing, any actual or potential conflicts of interest including work Contractor is performing or anticipates performing for other entities on the same or interrelated project or tasks. Contractor must disclose, in writing, any corporate transactions involving other companies that Contractor knows or should know also are performing or anticipate performing work at DEN on the same or interrelated projects or tasks. In the event that Contractor fails to disclose in writing actual or potential conflicts, the CEO in their sole discretion, may terminate the Task Order, if applicable, or City may terminate the Agreement for cause or for its convenience.

12. SENSITIVE SECURITY INFORMATION:

Contractor acknowledges that, in the course of performing its work under this Agreement, Contractor may be given access to Sensitive Security Information (“SSI”), as material is described in the Code of Federal Regulations, 49 C.F.R. Part 1520. Contractor specifically agrees to comply with all requirements of the applicable federal regulations, including but not limited to, 49 C.F.R. Parts 15 and 1520. Contractor understands any questions it may have regarding its obligations with respect to SSI must be referred to DEN’s Security Office.

13. DEN SECURITY:

A. Contractor, its officers, authorized officials, employees, agents, subcontractors, and those under its control, shall comply with safety, operational, or security measures required of Contractor or the City by the FAA or Transportation Security Administration (“TSA”). If Contractor, its officers, authorized officials, employees, agents, subcontractors or those under its control, fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against the City, then, in addition to any other remedies available to the City, Contractor shall fully reimburse the City any fines or penalties levied against the City, and any attorney fees or related costs paid by the City as a result of any such violation. Contractor must pay this amount within fifteen (15) days from the date of the invoice or written notice. Any fines and fees assessed by the FAA or TSA against the City due to the actions of Contractor and/or its agents will be deducted directly from the invoice for that billing period.

B. Contractor is responsible for compliance with Airport Security regulations and 49 C.F.R. Parts 1542 (Airport Security) and 14 C.F.R. Parts 139 (Airport Certification and Operations). Any and all violations pertaining to Parts 1542 and 139 resulting in a fine will be passed on to and borne by Contractor. The fee/fine will be deducted from the invoice at time of billing.

14. **FEDERAL RIGHTS:**

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Airport System. As applicable, Contractor shall comply with the Standard Federal Assurances identified in Appendix No. 1.

15. **CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:**

A. Attachments. This Agreement consists of Sections 1 through 16 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

- Appendix No. 1: Standard Federal Assurances
- Exhibit A: Scope of Work
- Exhibit B: Schedule of Rates and Markups
- Exhibit C: Insurance Requirements
- Exhibit D: Utilization/EDI Plan
- Exhibit E: Initial Prevailing Wage Schedules

B. Order of Precedence. In the event of an irreconcilable conflict between a provision of Sections 1 through 16 and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

- Appendix No. 1
- Sections 1 through 16 hereof
- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D
- Exhibit E

16. **CITY EXECUTION OF AGREEMENT:**

A. City Execution. This Agreement is expressly subject to, and shall become effective upon, the execution of all signatories of the City and, if required, the approval of Denver City Council. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same.

B. Electronic Signatures and Electronic Records. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City and/or Contractor in the manner specified by the City. The Parties agree not to deny the legal effect or

enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[SIGNATURE PAGES FOLLOW]

Contract Control Number:
Contractor Name:

PLANE-202477598-00
UPM MECHANICAL, LLC

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:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

Contract Control Number:

Contractor Name:

PLANE-202477598-00

UPM MECHANICAL, LLC

By:

DocuSigned by:

Nathan Martinez

B6C59292464240A...

Name:

Title:

Nathan Martinez

President

(please print)

(please print)

ATTEST: [if required]

By:

Name:

(please print)

Title:

(please print)

Appendix No. 1

Standard Federal Provisions

GENERAL CIVIL RIGHTS PROVISIONS

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to

1. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
2. Cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to: \

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC§4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq)(prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Contractor is responsible for complying with the Federal Fair Labor Standards Act and for monitoring compliance by its subcontractors. Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Contractor retains full responsibility to monitor

its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

Exhibit A

Scope of Work & Technical Requirements

This **Exhibit A** sets forth the scope of work and technical requirements for services provided by Contractor for the City pursuant to the On-Call Agreement for Professional Services (“**Agreement**”) to which this **Exhibit A** is attached. All capitalized terms used but not defined herein shall have the meaning as defined in the Agreement.

General Scope of Work

The Contractor shall provide all personnel, equipment, tools, materials, supervision, and all other items and services necessary to perform scheduled and unscheduled repair on the chillers, boilers and any associated equipment DEN for the Central Utility Plant, A Concourse (Pre-conditioned Air), C Concourse (Pre-conditioned Air), Great Hall, Hotel, Airport Office Building, CCA, CCB, CCC, Automated Ground Transportation System (AGTS) pump rooms, and outlier facilities, whether currently installed or installed during the Term of the Agreement (“**HVAC**”). The Contractor shall perform all services directed in each Task Order including but not limited to maintenance, repair and overhaul as necessary. All work shall be done according to the manufacturers’ recommendations.

If directed by the City through the Director’s assigned project manager (“**DEN Project Manager**”), the Contractor shall use any standard form for any submissions required by the Agreement, including this **Exhibit A** (i.e., proposal form, warranty, schedule of values, request for information, etc.).

Task Order Proposal, Issuance, and Modification

As specified in the Agreement, all work shall be specified and authorized by Task Order, which may direct scheduled repair or maintenance services or immediate, including emergency, repair services.

Scheduled Services. In situations when scheduled repair or maintenance services are required, the Contractor shall evaluate the requested work and provide a “not-to-exceed” estimate in accordance with the requirements set forth in the Agreement and as directed by the DEN Project Manager, including but not limited to personnel assignments, lump-sum or hourly rates as specified by the City, equipment and materials rates as applicable, and agreed-upon markups as applicable. The City may proceed by issuing a Task Order for such work, in which case the Contractor shall perform the work in accordance with the Task Order, or the City may elect to obtain such services through other procurement procedures.

Emergency Services. When emergency repair services are required as directed by the City, the Contractor shall first ascertain from the DEN Project Manager the emergency purchase order (PO) number and number of workers needed, and then proceed to the job with the worker(s) required. The Contractor shall immediately commence work and as soon as practicable, but in no event later than two hours following the emergency

notification call as provided herein, and shall provide a cost estimate for the immediate repair services to the DEN Project Manager on a time and material cost basis. The Contractor shall be paid only for the time and materials authorized by the DEN Project Manager in accordance with the Task Order.

Proposal Requirements. The Contractor shall include with all proposals for work to be performed under a Task Order a detailed cost breakdown for work covered in the proposal, including separate line items for labor, materials, equipment, subcontractors, and markups, as applicable (i.e., some items may not be applicable for lump-sum proposals, as directed by the DEN Project Manager). The Contractor shall also include all vendor/supplier quotes for equipment, materials, and subcontractors (including subcontractors' quotes for equipment and materials, as applicable).

Changes/Task Order Modification. In the event that the Contractor encounters changed conditions for which the Contractor believes a change to the Task Order is required, the Contractor shall submit to the DEN Project Manager a request for such change with detailed justification of the changed condition and backup for the requested cost and/or time modification to the Task Order. If the City agrees that the Task Order should be modified, the City may modify the Task Order in accordance with the Agreement.

Invoicing

In addition to requirements for invoicing set forth in the Agreement, the Contractor shall, prior to submitting the first Invoice covering work under a Task Order, submit to the DEN Project Manager for review and approval a detailed Schedule of Values (“SOV”). Each SOV shall include a breakdown of the following for all work covered by the relevant Task Order, regardless of whether such work has been completed and is included in the first Invoice: applicable markup and general conditions; design and engineering work; permit fees, as applicable; work categories and tasks; labor and material cost separation; subcontractor work; and equipment rentals. If a Task Order has been modified, the Contractor shall submit an updated SOV reflecting any such modifications to the DEN Project Manager for review and approval.

Along with each Invoice, the Contractor shall attach the approved SOV and include a reference to each SOV line item showing the progress for each item and the amount invoiced for the current Invoice.

The Contractor shall utilize standardized forms for Invoices as directed by the DEN Project Manager.

Contractor Requirements

Licensing. The Contractor must be licensed by the City’s Community Planning Division for all work to be performed and shall maintain a current license for the duration of the Agreement. The Contractor must provide to the DEN Project Manager a copy of its current license and for all renewals that occur during the term of the Agreement.

Environmental. In addition to the environmental requirements set forth in the Agreement, the Contractor shall ensure that maintenance activities comply with environmental regulations, safety standards, and industry best practices to mitigate risks associated with hazardous materials, emissions, and waste disposal. Environmental management protocols and regulatory compliance requirements are hereby incorporated by reference in the Agreement. The Contractor shall perform all work under the Agreement in accordance with responsible stewardship of resources and obligation to minimize environmental impact.

Reporting. The Contractor shall submit to the DEN Project Manager weekly or monthly reports, as directed by the DEN Project Manager, for each Task Order detailing the work completed, delays, and upcoming tasks. If required by the DEN Project Manager, the Contractor shall provide project schedule updates in the form of Gantt charts or critical path method schedules, as directed by the DEN Project Manager, showing actual progress on work under the Task Order compared to scheduled progress. The Contractor shall track and provide the DEN Project Manager documentation for submittals, shop drawings, and requests for information as required by the Task Order.

Quality Control (“QC”) and Quality Assurance (“QA”) Compliance. As specified herein, the Contractor shall submit a formal QC plan (“**QC Plan**”) and QA plan (“**QA Plan**”) outlining inspection, testing, and documentation procedures, which may require the Contractor to subcontract a third-party QC/QA firm to document and report on performance. As applicable, the Contractor shall: provide results of any HVAC system performance tests and equipment calibrations; provide documentation verifying compliance with project specifications and codes; maintain and resolve punch lists before the City’s final acceptance of work under any Task Order; submit final commissioning and functional testing results before the City’s final acceptance of work under any Task Order; and provide equipment warranty documentation and post-installation requirements in accordance with the Agreement, including this **Exhibit A**, and a quote for the City to purchase one additional year of warranty coverage.

Compliance Oversight. The Contractor shall conduct regular site meetings and audits for all work under any Task Order to perform and ensure compliance with safety risk assessments, job hazard analyses, QC/QA, and progress reporting. In closing out work under any Task Order, before the City’s final acceptance of any work, the Contractor shall include, as applicable, as-built drawings, operation and maintenance manuals, and training documentation for the City’s use.

Personnel

The Contractor shall designate in writing to the DEN Project Manager prior to commencement of any work under the Agreement a project manager who shall be responsible for performance of all work under the Agreement (“**Contractor PM**”). In the event the Contractor PM will be absent or unavailable, or needs to be replaced, the Contractor shall designate an alternate or replacement, as applicable, in writing to the DEN Project Manager prior to the Contractor PM’s absence. The

Contractor PM or alternate(s) shall have full authority to act for the Contractor on all matters relating to day-to-day performance under the Agreement.

The minimum classification of personnel authorized to conduct work under the Agreement is “**Journeyman**,” which is defined for purposes of the Agreement as a tradesman, craftsman, or technician, skilled in the service performed and who has a minimum of five years of experience or certification of completion of a bona fide apprenticeship program for the trade, fully competent to do the work, ordinarily and regularly paid at the prevailing rate for the trade and may apply to any gender.

The Contractor must have at least two personnel employed with factory authorized training, or a demonstrated equivalency as approved by the City, in repair and maintenance of all equipment installed at DEN, including but not limited to Trane, MultiStack, Cleaver Brooks, Superior and Volcano equipment of the type and models at DEN.

The Contractor’s personnel shall present a neat appearance and be easily recognized. This may be accomplished by wearing distinctive clothing bearing Contractor’s name or by wearing appropriate badges which include the Contractor’s and employee’s names. The Contractor’s personnel performing work under this Agreement are subject to the City’s acceptance. All vehicles shall have the Contractor’s name and/or logo, and all vehicle operators shall comply with DEN and FAA regulations. Vehicle mounted radio equipment and frequencies shall conform to all applicable City procedures. Vehicles shall be subject to inspection by authorities to assure compliance with requirements.

The Contractor shall permit City employees to observe and/or assist with any work under the Agreement when requested by the City as a means of training and education. This requirement shall not relieve the Contractor of responsibility for work under this Agreement, including the proper maintenance of equipment and systems.

Quality Control

The Contractor shall establish and maintain a complete QC Plan to assure that work is performed as specified by the Agreement, including all Exhibits and Task Orders. Contractor shall provide the DEN Project Manager with its QC Plan for review and approval not later than the initial kickoff meeting. Contractor shall provide an updated QC Plan to the DEN Project Manager for review and approval as changes occur. The QC Plan shall include:

- Philosophy and Strategy: a description of the Contractor’s QC philosophy and strategy to minimize errors or re-work that may result in increased costs, including a description of the Contractor’s process to right-size its team for each task to help DEN achieve project objectives and optimizing team expertise and capabilities while complying with the contract goal for MWBE participation;
- Subcontractor Management: a description of the Contractor’s methods used to manage subcontractors to maintain effectiveness and quality;

- **Defined Standards and Specifications:** a clear outline of the Contractor's quality standards and specifications that must be met for the project or process, helping to set expectations and criteria for evaluation;
- **Established Procedures:** a detailed description of the Contractor's methods and procedures for measuring and assessing quality, including inspection processes, testing requirements, and quality checks;
- **Identified Responsibilities:** assigns roles and responsibilities to the Contractor's team members for implementing and monitoring QC measures, ensuring accountability and clarity in the QC process;
- **Preventing Defects and Errors:** a description of the Contractor's approach to proactively identify and address potential issues before they become problems, reducing the likelihood of defects and errors;
- **Ensuring Consistency:** the Contractor's structured approach to maintaining consistency in processes and outputs, which is crucial for achieving reliable and predictable results;
- **Facilitating Continuous Improvement:** the Contractor's mechanisms for feedback and review, allowing for continuous improvement of processes and products based on performance data and lessons learned;
- **Document Compliance:** the Contractor's approach to maintaining a record of QC activities, inspections, and results, demonstrating compliance with industry standards, regulations, and contractual requirements; and
- **Enhancing Customer Satisfaction:** the Contractor's approach to ensuring that products or services meet or exceed quality expectations so that the QC Plan helps improve customer satisfaction and build trust in the Contractor's performance.

Quality Assurance

The City will evaluate the Contractor's performance under the Agreement by observing performance of all work. These observations will be recorded by the City. When an observation indicates defective performance, the City will demand the Contractor PM to take immediate corrective action. This requirement shall not relieve the Contractor of responsibility for proper repair of the system.

HVAC System Performance Evaluation Meetings: The Contractor shall meet with the DEN Project Manager and any other identified City staff quarterly to review all reports and test results and make recommendations for equipment, piping, and efficiency improvements for consideration by the City. The Contractor will identify any problems or concerns relating to the equipment, operation, training needs and provide solutions for consideration by the City.

Physical Security

The Contractor shall be responsible for safeguarding all City property provided for the Contractor's use. At the close of each work period, the Contractor shall secure all facilities, equipment, and materials.

Hours of Operation

Operation of the DEN facility is 24 hours, 7 days per week, 365 days per year. Work under the Agreement may be performed at standard hourly rates or as marked up by a percentage for overnight rates, overtime rates, weekend rates, holiday rates, and emergency rates in accordance with the Agreement, including **Exhibit B**. The Contractor shall coordinate with the DEN Project Manager to establish permissible maintenance windows, considering peak demand periods, production schedules, and occupancy patterns to minimize downtime and inconvenience.

Emergency Service Calls

The Contractor shall return any phone call from the DEN Project Manager or DEN CUP Supervisor regarding emergency service, as determined in the City's sole discretion, within thirty (30) minutes and shall report to the work site no later than two (2) hours after the initial phone call notifying the Contractor of such emergency service need.

Contractor Use of City Utilities

The Contractor's use of City utilities will be under the direction of DEN personnel. To limit demand charges from the electrical utility to the City, the Contractor may be directed by the DEN Project Manager to start large equipment for testing during off-peak or after-hours.

Parts and Materials

The Contractor shall be responsible for supplying all parts and system subcomponents required for work under the Agreement. The Contractor shall have the spare parts recommended by the equipment manufacturers available to affect any service and/or repairs within 24 hours of notification from the City. The City reserves the right to provide any and/or all parts and materials if the DEN Project Manager deems it to be in the best interest of the City. Some maintenance tasks may require specialized equipment including but not limited to thermal imaging cameras for detecting hotspots in electrical systems, vibration analyzers for monitoring rotating equipment, and refrigerant recovery units for servicing HVAC systems. The Contractor shall ensure the availability and proper maintenance of any specialized equipment necessary for performing all work efficiently and safely.

As provided in **Exhibit B**, the Contractor's materials costs and applicable services provided shall be marked-up no more than 15% for materials and parts directly purchased by the Contractor and no more than 10% for materials cost and services provided by its subcontractors. The City reserves the right to provide any materials at its sole discretion and agrees that any materials provided by City shall not be subject to Contractor's warranty, but any work provided by the Contractor to install or maintain such materials shall be subject to the Contractor's warranty and performance obligations.

The City shall make the determination whether parts or materials are reusable. Any part or material that can be rebuilt and reused shall be kept on site for stock and remain the property of the City. All other parts and materials that cannot be reused in their current state shall be disposed of by the Contractor at its expense. This includes refrigerants, oils, and coolants.

All materials left over from any work but charged to the City and all equipment or materials removed from the City's equipment shall remain the property of the City unless released by the DEN Project Manager as unsalvageable waste. Waste from the job shall be removed from the City's premises and disposed of properly by the Contractor.

Warranty of Supplies and Services

Notwithstanding inspection and acceptance by the City of supplies or services furnished under the Agreement and at no additional cost to the City, the Contractor warrants craftsmanship, labor, and service for one (1) year from the date of acceptance by the City, and that all supplies furnished under the Agreement will be free from defects in material or workmanship and will conform with all requirements of the Agreement; and any supplies or parts thereof, corrected or furnished in replacement under the Agreement shall also be subject to the terms of this warranty and the one-year period for such shall run from the date of the City's acceptance of the work incorporating the corrected or replaced supplies.

The Contractor warrants that all services performed under the Agreement will, at the time of the City's acceptance, be free from defects in workmanship and conform to the requirements of the Agreement. The DEN Project Manager or their designee shall give written notice of any defect or nonconformance to the Contractor within one (1) year from the date of acceptance by the City. This notice shall state in the City's sole discretion either (1) that the Contractor shall correct or re-perform any defective or nonconforming services, or (2) that the City does not require correction or re-performance. If the Contractor is required to correct or re-perform, such warranty work shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this warranty to the same extent as work initially performed for a period of one (1) year from the date of the City's acceptance of the corrected or re-performed work. If the City does not require the Contractor to correct or re-perform the work, the Contractor shall be required to repay to the City all amounts paid by the City for such work or, at the City's election, pay the City for the cost of another contractor to correct the work; in no event shall the Contractor be entitled to payment for defective or nonconforming work unless the Contractor corrects or re-performs the work to the City's satisfaction at the City's direction.

The Contractor shall be responsible for exercising all manufacturers' warranties, except with respect to parts supplied by the City. The Contractor shall be responsible for the installation of replacement parts at agreed-upon hourly rate to the City, unless otherwise provided for by the manufacturer's warranty; provided, however, that in no event shall the City be responsible for installation of replacement parts or correction of defective work covered by the Contractor's warranty or any applicable manufacturer's warranty.

If directed by the DEN Project Manager, the Contractor shall include a quote of the cost to the City for the Contractor to provide one (1) additional year of warranty coverage at the same terms provided herein ("**Extended Warranty**"). If the City elects to purchase an Extended Warranty for work covered by a Task Order, the cost for such Extended Warranty shall be included in the applicable Task Order and final Invoice under such Task Order.

Contractor Clean-Up

The Contractor shall maintain a clean and neat work area at all times. The work area shall be free from accumulations of waste material, rubbish, tools, scaffolding, equipment, and materials not the property of the City. Dump fees and other direct expenses will be charged as provided in ***Exhibit B***.

Documentation and Records

Certain maintenance tasks may have time-sensitive requirements, such as regular inspections of critical equipment, calibration of control systems, or seasonal maintenance activities. The Contractor shall develop a detailed maintenance schedule that prioritizes time-sensitive tasks and ensures compliance with regulatory requirements, industry standards, and best practices to maintain system reliability and efficiency. The Contractor shall maintain an accurate inventory of equipment, spare parts, and consumables, along with an asset management system to track equipment history, maintenance records, and lifecycle management.

All documentation, records, schedules, etc., as described herein that are the responsibility of the Contractor and are the property of the City and shall remain so upon termination of the Agreement. The Contractor shall be responsible for keeping these items current at all times and shall maintain complete sets of all documentation and records on-site at all times. All documents shall contain a description of the work performed and materials used and shall be submitted to the DEN Project Manager as work is completed. The Contractor shall maintain code compliance when implementing modifications, upgrades, or retrofits to central utility plant equipment, systems, or configurations, with comprehensive documentation of changes made.

Fire Protection

The Contractor shall ensure that all personnel, including subcontractors' personnel, are familiar with fire reporting procedures and with the location of the nearest reporting box and/or administrative telephone. Before any cutting/welding operation is started, the Contractor shall notify and obtain approval from the DEN Project Manager. If needed, the Contractor shall obtain hot work permits in accordance with Denver Fire Department regulations.

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Exhibit B

Schedule of Rates and Markups

This **Exhibit B** sets forth the initial negotiated flat-fee rates, individual hourly rates, and charges, including any applicable markups, that shall apply for services provided by Contractor for the City pursuant to the On-Call Agreement for Professional Services (“**Agreement**”) to which this Exhibit B is attached. All capitalized terms used but not defined herein shall have the meaning as defined in the Agreement, including in **Exhibit A** as applicable. As provided in the Agreement, the City may, in its sole discretion and subject to the Maximum Contract Amount, elect to issue a Task Order for work under the Agreement using a fee basis that is not included in this **Exhibit B**; in such case, the applicable rate for the work under such Task Order shall be as set forth in such Task Order.

General Cost Basis

The cost basis for work under the Agreement will include either (1) lump-sum fixed pricing or (2) time and materials cost basis, as directed by the DEN Project Manager at the time a proposal for work under a Task Order is requested. As directed in the applicable Task Order, emergency work shall always be performed on a time and materials cost basis. The tables contained in this **Exhibit B** set forth initial negotiated rates and charges in the following sections:

- Section A: lump-sum and/or daily rate fixed fee pricing for specified known services;
 - All prices included in Section A are inclusive all labor, equipment, materials, and overhead built in and no additional fees or markups shall apply to services covered by fixed fees specified in Section A;
- Section B: hourly labor rates for expected positions when not covered by lump-sum/daily rate and markup percentages applicable to such hourly work for overnight, overtime, weekend, holiday, and emergency work;
 - Base hourly labor rates, fully-burdened as specified herein, shall apply as specified in any Task Order for work that is not performed at a flat rate as specified in Section A or in any Task Order;
 - Markup percentages specified in Section B shall apply to such work as specified in a Task Order where such work is required and authorized to be performed outside of standard working hours (Monday through Friday, 6:00 a.m. through 8:00 p.m.):
 - Overnight Hourly Rate (% Markup of Base Rate): work required and authorized to be performed Monday through Friday, 8:00 p.m. through 6:00 a.m.);
 - Overtime Rates (% Markup of Base Rate): apply after an individual has worked 40 hours in a calendar week (Sunday through Saturday);
 - Weekend Rates (% Markup of Base Rate): work required and authorized to be performed Saturday or Sunday from 12:00 a.m. through 11:59 p.m.;

- City Holidays (% Markup of Base Rate): work required and authorized to be performed on a day observed by the City and County of Denver as a holiday; and
 - Emergency Rate (% Markup of Base Rate): applies solely to work performed as an emergency response as defined in *Exhibit A* and as specified in the Task Order; provided, however, that the Emergency Rate shall only apply up to the first eight (8) hours of emergency work, as directed by the DEN Project Manager.
- Section C: equipment and material fees at flat daily/weekly/monthly rates for specified known equipment and materials; and
 - All prices included in Section C are inclusive of all costs built in and no additional fees or markups shall apply to equipment and materials covered by fixed fees specified in Section C;
 - In the event a service covered by a price specified in Section A necessarily includes equipment or materials that are listed in Section C, the Contractor shall not charge and the City shall not pay any fee set forth in Section C, as the price specified in Section A is inclusive of all equipment and material costs;
- Section D: markup percentages and cancellation fees:
 - Direct Labor Markup Percentage: applies only for hourly rate-based work; not applicable to any rates included in Section A or Section C;
 - Direct labor costs as specified in Section B shall be multiplied by this Direct Labor Markup Percentage;
 - Direct labor cost shall be the actual direct labor costs submitted by the Contractor and verified by the City, shall include workers who actually perform the Work, and shall include all craft wages, fringe benefits, and burdens;
 - The cost of supervision and field and office management should not be considered as labor cost and Contractor shall not include any such service in any proposal or include such service in any Invoice;
 - Direct Labor Markup Percentage is inclusive of all overhead, home office overhead, safety, and other training, profit, small tools, and consumables, none of which shall be separately charged to the City;
 - Small tools are defined as any tool with a replacement value of \$500 or less;
 - Consumables are any materials that may be consumed by the work and are not part of the permanent installation (e.g., rags, drill bits, hard hats, safety glasses, gloves, saw blades, reciprocating saw blades, tape, welding rod, etc.);
 - The total labor burden for small tools and consumables shall not exceed two percent (2%) of the Direct Labor cost.
 - Direct Material, Supplies, Installed Equipment Markup Overhead Percentage: applies only for equipment or material item fees and costs that are authorized by a

Task Order and that are not included in Section A or Section C or otherwise prohibited from separate charge by this Agreement;

- Actual equipment and material costs will be multiplied by this Direct Material, Supplies, Installed Equipment Markup Overhead Percentage, which is inclusive of all overhead, home office overhead, and profit;
- Subcontractor Services & Material Markup Percentage: applies only to subcontracted services and materials as authorized by a Task Order where such services or materials are not included in Section A or Section C;
 - The applicable subcontractors' proposal(s) including agreed-to allowable costs (excluding bond, insurance, permit, tax costs, or any other cost or fee disallowed under this Agreement), as verified by the City, will be multiplied by this Subcontractor Services & Material Markup Percentage, which is inclusive of all overhead, home office overhead, and profit;
 - Services and/or materials/equipment included in Section A or Section C (even if provided by a subcontractor) shall not be multiplied by this Subcontractor Services & Material Markup Percentage;
- Rental Equipment Markup Percentage: applies only to equipment rented by Contractor in performance of Work authorized by a Task Order;
 - Actual equipment rental costs will be multiplied by this Rental Equipment Markup Percentage, which is inclusive of all overhead, home office overhead, and profit;
 - Equipment utilization rates shall be derived from the Rental Rate Blue Book for Construction Equipment as modified by CDOT Standard Specifications for Road and Bridge Construction, Section 109.04 (c);
- Cancellation:
 - When Work is authorized, scheduled and mobilized, and is subsequently cancelled by the DEN Project Manager prior to Work commencing, this daily rate applies for each day specified in the applicable Task Order and cancelled by the DEN Project Manager.

The following fees and items are assumed to be included in overhead cost regardless of the fee basis applicable to the work under the Task Order, and shall not be charged to the City under any circumstance:

- Vehicle Cost, Fuel, and Parking;
- Trip charges;
- Mobilization;
- Subsistence;
- Per Diem;
- Travel expenses;
- Insurance Premiums;
- Administrative cost; and
- Performance and Payment Bonds.

Additionally, permit fees and costs are paid at direct cost only and shall be separately itemized on all proposals and invoices; Contractor shall not apply any markup to such costs. Contractor shall obtain any applicable waiver of sales tax available to the City; if such waiver is not available for any costs authorized under a Task Order, any such costs shall be paid at direct cost only, shall not be separately itemized on any proposal or Invoice, and Contractor shall not apply any markup to such costs.

If necessary to perform work under any Task Order, Contractor shall request the use of any additional positions and associated hourly labor rates not included in Section B below at the time a work proposal is requested; such request shall include Contractor's justification for the necessary positions in order to complete the work. If the City approves such request, applicable additional positions and associated hourly labor rates shall be specified in the resulting Task Order.

All rates specified in this ***Exhibit B*** are inclusive of all fringe benefits and are considered fully burdened. These fringe benefits include, but are not limited to, Employers FICA, FUI/SUI, Holiday/Vacation, Sick Leave, Health Insurance, Workers Compensation, Denver Occupational Tax, Retirement Plan, etc.

For all charges under this Agreement not covered by a flat fee specified in Section A, Section C, or as otherwise provided in a Task Order, Contractor shall include along with any Invoice all receipts, verified labor time cards, verified subcontractor invoices, and any other verification documentation to support all charges included in the Invoice.

[Remainder of Page Intentionally Blank; Rate Tables on Following Pages]

EXHIBIT B

Rate Sheet CUP Mechanical Services Contract RFP No. 202474121

Section A - Provide Lump Sum Pricing for following known services:

Description	Lump Sum	Daily Rate
Emergency Repair Services	N/A	N/A
Metasys System Upgrades	N/A	N/A
Consultation Services	N/A	N/A
HVAC System Upgrades	N/A	N/A
Pump Installation	N/A	N/A
Pump Repair	N/A	N/A
Motor Repair	N/A	N/A
Motor Installation	N/A	N/A
VFD Installation 208/480	N/A	N/A
VFD Installation 4160V	N/A	N/A
VFD Repair 208/480	N/A	N/A
VFD Repair 4160V	N/A	N/A
REXEL 4160V VFD Preventative Maintenance	N/A	N/A
ABB 208V & 480V VFD Preventative Maintenance	N/A	N/A
Chiller Maintenance / Repair	N/A	N/A
Chiller Annual Inspection	N/A	N/A
Cooling Tower Repairs	N/A	N/A
Cooling Tower Inspection	N/A	N/A
Boiler Maintenance / Repair	N/A	N/A
Boiler Internal Inspection	N/A	N/A
Boiler External Running Inspections [Boilers 1,2,3A,3B,4,5A,5B]	N/A	N/A
Replace Rear Door Plug - Boilers 5A & 5B	N/A	N/A
Supply/Install New Field Server Controller	N/A	N/A
Repipe Cooling Tower Condenser Supply/Return Branch Piping	N/A	N/A
Chemical Treatment	N/A	N/A
Water Quality Testing	N/A	N/A
Combustion Analysis [Boilers 1,2,3A,3B,4,5A,5B]	N/A	N/A

Section B - Provide fully encumbered Hourly Base Rates for services (not covered by section A):

Job Title	Standard Hourly Base Rate M-F 6AM- 8PM	Overnight Hourly Rate (M- F 8PM-6AM) % MarkUp of Base Rate	Overtime Hourly Rate (M- F 8PM-6AM) % MarkUp of Base Rate	Weekend Rate (Sat-Sun) % MarkUp of Base Rate	Holiday Hourly Rate % MarkUp of Base Rate	Emergency Hourly Rate % MarkUp of Base Rate
Building Automation System (BAS) Designer	\$ 235.00	150%	150%	200%	200%	130%
BAS Service Tech	\$ 215.00					
Carpenter	\$ 190.00					
Electrical Apprentice	\$ 155.00					
Electrical Engineer	\$ 215.00					
Electrical Journeymen	\$ 155.00					
Field Service Technician	\$ 155.00					
General Foreman	\$ 175.00					
General Laborer	\$ 115.00					
HVAC Service Technician	\$ 155.00					
HVAC Mechanic	\$ 155.00					
Mechanical Engineer	\$ 215.00					
Office Engineer	\$ 140.00					
Plumber/Pipefitter Apprentice	\$ 155.00					
Plumber/Pipefitter Journeyman	\$ 155.00					
Project Engineer	\$ 140.00					
Project Foreman	\$ 140.00					
Project Manager	\$ 145.00					
Project Superintendent	\$ 155.00					
Project Supervisor	\$ 155.00					

Quality Control Manager	\$ 215.00					
Safety Manager	\$ 135.00					
Senior Project Manager	\$ 165.00					
Senior Project Superintendent	\$ 165.00					
Sheetmetal Apprentice	\$ 135.00					
Sheetmetal Journeymen	\$ 135.00					
Utility Worker	N/A					

Section C - Equipment/Material Fees

Description	Daily Rate	Weekly Cost	Monthly Cost
Crane - 40 ton	\$2,742.85	\$13,714.25	\$61,714.13
Crane - 70 ton	\$2,857.14	\$14,285.71	\$64,285.71
Crane - 110 ton	\$4,285.71	\$21,428.57	\$96,428.57
Standard Fork Lift (Small) - 1,000 - 2,500 lbs Capacity	\$914.29	\$1,678.57	\$3,085.72
Standard Fork Lift (Large) - 1,000 - 2,500 lbs Capacity	\$864.29	\$1,557.15	\$2,678.57
All-Terrain Fork Lift (Small) - 3,000 - 6,000 lbs Capacity	\$1,135.71	\$2,071.43	\$3,642.86
All-Terrain Fork Lift (Large) - 6,000 - 12,000 lbs Capacity	\$1,450.00	\$3,278.58	\$6,785.71
Single Man Lift - 12"	\$650.00	\$850.00	\$1,214.29
Single Man Lift - 15"	\$842.86	\$1,135.72	\$1,357.15
Single Man Lift - 20"	\$842.86	\$1,135.72	\$1,357.15
Scissor Lift - 19'	\$721.43	\$992.86	\$1,278.57
Scissor Lift - 32'	\$921.43	\$1,357.15	\$2,071.43
Scissor Lift - 50'	\$1,214.29	\$2,000.00	\$4,285.72
Articulating Boom Lift - 36'	\$1,071.43	\$1,928.57	\$3,500.00
Articulating Boom Lift - 50'	\$1,135.72	\$2,142.86	\$3,785.72
Articulating Boom Lift - 65'	\$1,214.29	\$2,642.86	\$5,000.00
Gas Welding Machine	\$571.43	\$764.29	\$1,392.86
Electric Welding Machine	\$471.43	\$524.29	\$714.29
Scaffolding price per sq ft	N/A	N/A	N/A
10 Yard Dumpster - Waste Removal	\$1,028.58	\$1,028.58	\$1,068.58
15 Yard Dumpster - Waste Removal	\$1,285.15	\$1,285.15	\$1,460.15
20 Yard Dumpster - Waste Removal	\$1,500.00	\$1,500.00	\$1,775.00
30 Yard Dumpster - Waste Removal	\$1,500.00	\$1,500.00	\$2,075.00
40 Yard Dumpster - Waste Removal	N/A	N/A	N/A
	\$	\$	\$

Section D - Rates and Markups

Description	Markup Percentage	Daily Rate
Direct Labor Overhead % (not to exceed 15%)	15%	
Direct Material, Supplies, Installed Equipment Overhead % (not to exceed 15%) (Items not included in Section C)	15%	
Subcontractor Services & Material Markup % (not to exceed 10%)	10%	
Rental Equipment Markup %	15%	
Cancellation		\$ 1,000.00

EXHIBIT C

CITY AND COUNTY OF DENVER INSURANCE REQUIREMENTS FOR DEPARTMENT OF AVIATION GOODS AND SERVICES AGREEMENT

A. Certificate Holder and Submission Instructions

Contractor must provide a Certificate of Insurance as follows:

Certificate Holder: CITY AND COUNTY OF DENVER
Denver International Airport
8500 Peña Boulevard
Denver CO 80249
Attn/Submit to: contractadmininvoices@flydenver.com

- ACORD Form (or equivalent) certificate is required.
- Contractor must be evidenced as a Named Insured party.
- Electronic submission only, hard copy documents will not be accepted.
- Reference on the certificate must include the City-assigned Contract Number, if applicable.

The City may at any time modify submission requirements, including the use of third-party software and/or services, which may include an additional fee to the Contractor.

B. Defined Terms

1. “Agreement” as used in this exhibit refers to the contractual agreement to which this exhibit is attached, irrespective of any other title or name it may otherwise have.
2. “Contractor” as used in this exhibit refers to the party contracting with the City and County of Denver pursuant to the attached Agreement.

C. Coverages and Limits

1. Commercial General Liability

Contractor shall maintain insurance coverage including bodily injury, property damage, personal injury, advertising injury, independent contractors, and products and completed operations in minimum limits of \$1,000,000 each occurrence, \$2,000,000 products and completed operations aggregate; if policy contains a general aggregate, a minimum limit of \$2,000,000 annual per location aggregate must be maintained.

- a. Coverage shall include Contractual Liability covering liability assumed under this Agreement (including defense costs assumed under contract) within the scope of coverages provided.
- b. Coverage shall include Mobile Equipment Liability, if used to perform services under this Agreement.
- c. If a “per location” policy aggregate is required, “location” shall mean the entire airport premises.

2. Business Automobile Liability

Contractor shall maintain a minimum limit of \$1,000,000 combined single limit each occurrence for bodily injury and property damage for all owned, leased, hired and/or non-owned vehicles used in performing services under this Agreement.

- a. If operating vehicles unescorted airside at DEN, a \$10,000,000 combined single limit each occurrence for bodily injury and property damage is required.
- b. If Contractor does not have blanket coverage on all owned and operated vehicles and will require unescorted airside driving privileges, then a schedule of insured vehicles (including year, make, model and VIN number) must be submitted with the Certificate of Insurance.
- c. If transporting waste, hazardous material, or regulated substances, Contractor shall carry a Broadened

- Pollution Endorsement and an MCS 90 endorsement on its policy.
 - d. If Contractor does not own any fleet vehicles and Contractor's owners, officers, directors, and/or employees use their personal vehicles to perform services under this Agreement, Contractor shall ensure that Personal Automobile Liability including a Business Use Endorsement is maintained by the vehicle owner, and if appropriate, Non-Owned Auto Liability by the Contractor. This provision does not apply to persons solely commuting to and from the airport.
 - e. If Contractor will be completing all services to DEN under this Agreement remotely and not be driving to locations under direction of the City to perform services this requirement is waived.
3. Workers' Compensation and Employer's Liability Insurance
- Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits no less than \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
- a. Colorado Workers' Compensation Act allows for certain, limited exemptions from Worker's Compensation insurance coverage requirements. It is the sole responsibility of the Contractor to determine their eligibility for providing this coverage, executing all required documentation with the State of Colorado, and obtaining all necessary approvals. Verification document(s) evidencing exemption status must be submitted with the Certificate of Insurance.
4. Contractors Pollution Liability:
- Contractor shall maintain insurance covering work site operations that are conducted on DEN premises including project management and site supervision duties with a limit no less than \$1,000,000 each occurrence and \$2,000,000 annual policy aggregate for claims arising out of a pollution condition or site environmental condition.
- a. Coverage shall include claims/losses for bodily injury, property damage including loss of use of damaged property, defense costs including costs and expenses incurred in the investigation, defense or settlement of claims, and cleanup cost for pollution conditions resulting from illicit abandonment, the discharge, dispersal, release, escape, migration or seepage of any solid, liquid, gaseous or thermal irritant, contaminant, or pollutant, including soil, silt, sedimentation, smoke, soot, vapors, fumes, acids, alkalis, chemicals, electromagnetic fields, hazardous substances, hazardous materials, waste materials, low level radioactive waste, mixed wastes, on, in, into, or upon land and structures thereupon, the atmosphere, surface water or groundwater on DEN premises.
 - b. Work site means a location where covered operations are being performed, including real property rented or leased from the City for the purpose of conducting covered operations.
5. Property Insurance
- Contractor is solely responsible for any loss or damage to its real or business personal property located on DEN premises including, but not limited to, materials, tools, equipment, vehicles, furnishings, structures and personal property of its employees and subcontractors unless caused by the sole, gross negligence of the City. If Contractor carries property insurance on its property located on DEN premises, a waiver of subrogation as outlined in Section F will be required from its insurer.
6. Professional Liability (Errors and Omissions) Insurance
- Contractor shall maintain a minimum limit of \$1,000,000 each claim and annual policy aggregate, providing coverage for all applicable professional services outlined in this Agreement.
7. Technology Errors and Omissions
- Contractor shall maintain a minimum limit of \$1,000,000 per occurrence and \$1,000,000 annual policy aggregate including cyber liability, network security, privacy liability and product failure coverage.
- a. Coverage shall include, but not be limited to, liability arising from theft, dissemination and/or use of

personal, private, confidential, information subject to a non-disclosure agreement, including information stored or transmitted, privacy or cyber laws, damage to or destruction of information, intentional and/or unintentional release of private information, alteration of information, extortion and network security, introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon, advertising injury, personal injury (including invasion of privacy) and intellectual property offenses related to internet.

8. Unmanned Aerial Vehicle (UAV) Liability:

If Contractor desires to use drones in any aspect of its work or presence on DEN premises, the following requirements must be met prior to commencing any drone operations:

- a. Express written permission must be granted by DEN.
- b. Express written permission must be granted by the Federal Aviation Administration (FAA).
- c. Drone equipment must be properly registered with the FAA.
- d. Drone operator(s) must be properly licensed by the FAA.
- e. Contractor must maintain UAV Liability including flight coverage, personal and advertising injury liability, and hired/non-owned UAV liability for its commercial drone operations with a limit no less than \$1,000,000 combined single limit each occurrence for bodily injury and property damage.

9. Excess/Umbrella Liability

Combination of primary and excess coverage may be used to achieve minimum required coverage limits. Excess/Umbrella policy(ies) must follow form of the primary policies with which they are related to provide the minimum limits and be verified as such on any submitted Certificate of Insurance.

D. Reference to Project and/or Contract

The City Project Name, Title of Agreement and/or Contract Number and description shall be noted on the Certificate of Insurance, if applicable.

E. Additional Insured

For all coverages required under this Agreement (excluding Workers' Compensation, Employer's Liability and Professional Liability, if required), Contractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, successors, agents, employees, and volunteers as Additional Insureds by policy endorsement.

F. Waiver of Subrogation

For all coverages required under this Agreement (excluding Professional Liability, if required), Contractor's insurer(s) shall waive subrogation rights against the City and County of Denver, its elected and appointed officials, successors, agents, employees, and volunteers by policy endorsement.

If Contractor will be completing all services to the City under this Agreement remotely and not be traveling to locations under direction of the City to perform services, this requirement is waived specific to Workers' Compensation coverage.

G. Notice of Material Change, Cancellation or Nonrenewal

Each certificate and related policy shall contain a valid provision requiring notification to the Certificate Holder in the event any of the required policies be canceled or non-renewed or reduction in required coverage before the expiration date thereof.

1. Such notice shall reference the DEN assigned contract number related to this Agreement.
2. Such notice shall be sent thirty (30) calendar days prior to such cancellation or non-renewal or reduction in required coverage unless due to non-payment of premiums for which notice shall be sent ten (10) calendar days prior.
3. If such written notice is unavailable from the insurer or afforded as outlined above, Contractor shall provide written notice of cancellation, non-renewal and any reduction in required coverage to the Certificate Holder

within three (3) business days of receiving such notice by its insurer(s) and include documentation of the formal notice received from its insurer(s) as verification. Contractor shall replace cancelled or nonrenewed policies with no lapse in coverage and provide an updated Certificate of Insurance to DEN.

4. In the event any general aggregate or other aggregate limits are reduced below the required minimum per occurrence limits, Contractor will procure, at its own expense, coverage at the requirement minimum per occurrence limits. If Contractor cannot replenish coverage within ten (10) calendar days, it must notify the City immediately.

H. Cooperation

Contractor agrees to fully cooperate in connection with any investigation or inquiry and accept any formally tendered claim related to this Agreement, whether received from the City or its representative. Contractor's failure to fully cooperate may, as determined in the City's sole discretion, provide cause for default under the Agreement. The City understands acceptance of a tendered claim does not constitute acceptance of liability.

I. Additional Provisions

1. Deductibles or any type of retention are the sole responsibility of the Contractor.
2. Defense costs shall be in addition to the limits of liability. If this provision is unavailable that limitation must be evidenced on the Certificate of Insurance.
3. Coverage required may not contain an exclusion related to operations on airport premises.
4. A severability of interests or separation of insureds provision (no insured vs. insured exclusion) is included under all policies where Additional Insured status is required.
5. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City under all policies where Additional Insured status is required.
6. If the Contractor procures or maintains insurance policies with coverages or limits beyond those stated herein, such greater policies will apply to their full effect and not be reduced or limited by the minimum requirements stated herein.
7. All policies shall be written on an occurrence form. If an occurrence form is unavailable or not industry norm for a given policy type, claims-made coverage will be accepted by the City provided the retroactive date is on or before the Agreement Effective Date or the first date when any goods or services were provided to the City, whichever is earlier, and continuous coverage will be maintained or an extended reporting period placed for three years (eight years for construction-related agreements) beginning at the time work under this Agreement is completed or the Agreement is terminated, whichever is later.
8. Certificates of Insurance must specify the issuing companies, policy numbers and policy periods for each required form of coverage. The certificates for each insurance policy are to be signed by an authorized representative and must be submitted to the City at the time Contractor signed this Agreement.
9. The insurance shall be underwritten by an insurer licensed or authorized to do business in the State of Colorado and rated by A.M. Best Company as A- VIII or better.
10. Certificate of Insurance and Related Endorsements: The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. All coverage requirements shall be enforced unless waived or otherwise modified in writing by DEN Risk Management. Contractor is solely responsible for ensuring all formal policy endorsements are issued by their insurers to support the requirements.
11. The City shall have the right to verify, at any time, all coverage, information, or representations, and the insured and its insurance representatives shall promptly and fully cooperate in any such audit the City may elect to undertake including provision of copies of insurance policies upon request. In the case of such audit, the City may be subject to a non-disclosure agreement and/or redactions of policy information unrelated to verification of required coverage.
12. No material changes, modifications, or interlineations to required insurance coverage shall be allowed without the review and written approval of DEN Risk Management.
13. Contractor shall be responsible for ensuring the City is provided updated Certificate(s) of Insurance prior to each policy renewal.
14. Contractor's failure to maintain required insurance shall be the basis for immediate suspension and cause for termination of this Agreement, at the City's sole discretion and without penalty to the City.

J. Part 230 and the DEN Airport Rules and Regulations

If the minimum insurance requirements set forth herein differ from the equivalent types of insurance requirements in Part 230 of the DEN Airport Rules and Regulations, the greater and broader insurance requirements shall supersede those lesser requirements, unless expressly excepted in writing by DEN Risk Management. Part 230 applies to Contractor and its subcontractors of any tier.

K. Applicability of ROCIP Requirements

The City and County of Denver and Denver International Airport (hereinafter referred to collectively as “DEN”) has arranged for certain construction activities at DEN to be insured under an Owner Controlled Insurance Program (OCIP) or a Rolling Owner Controlled Insurance Program (ROCIP) (hereinafter collectively referred to as “ROCIP”). A ROCIP is a single insurance program that insures DEN, the Contractor and subcontractors of any tier, and other designated parties (Enrolled Parties), for work performed at the Project Site. **Work contemplated under this Agreement by Contractor is NOT included under a ROCIP program. Contractor must provide its own insurance as specified in this Agreement. If Contractor is assigned work to be conducted within a ROCIP Project Site it must comply with the provisions of the DEN ROCIP Safety Manual, which is part of the Contract Documents and which is linked below to the most recent manual.**

[DEN ROCIP Safety Manual](#)

DEN is additionally providing links to the DEN ROCIP Insurance Manual and the DEN ROCIP Claims Guide solely for Contractor’s information.

[DEN ROCIP Insurance Manual](#)

[DEN ROCIP Claims Guide](#)

Notice of Change to ROCIP: DEN reserves the right to assign work per task order to a specific ROCIP program, if more than one is active, as well as terminate or modify a DEN ROCIP or any portion thereof. Further, dependent on factors including, but not limited to, the official timing and duration of the ROCIP project for which services are provided or related to under this Agreement, DEN may need to transition from one ROCIP program to another and introduce corresponding requirements for contractors. DEN will provide Contractor notice of changes regarding a ROCIP program as applicable to Contractor’s work or responsibilities under the ROCIP Safety Manual.



DENVER INTERNATIONAL AIRPORT

MWBE Equity, Diversity and Inclusion Plan
RFP No. 202474121

DEN: Central Utility Plant Mechanical
Services

DSBO Participation Goal – 2%
UPM Mechanical Commitment – 2%

UPM MECHANICAL, LLC
5010 Cook Street
Denver, CO 80261

(303) 426-3900
nate@upmmechanical.com

Nathan Martinez
CEO & Owner

Denver International Airport
RFP No. 202474121 CODE: 09P7412124
DEN: CENTRAL UTILITY PLANT MECHANICAL SERVICES



2. Equity, Diversity and Inclusion Plan

A. Equity, Diversity and Inclusion Strategies

Describe the strategies and tactics Proposer will use to increase the participation of new and existing historically underutilized multicultural businesses in contracting opportunities, and the degree to which these and other strategies drive or play a role in upholding a culture of equity, diversity, and inclusion in the Proposer's organization.

UPM Mechanical is an MWBE certified firm and will be self-performing the majority of the work associated with this contract. Subcontracting opportunities will include electrical and pipe insulation. We also team with other MWBE firms for these two trades of work. We have worked with LEI and St. Andrews for electrical and Reliant Energy Systems for mechanical insulation.

UPM Mechanical would commit to reaching out to other MWBE firms as well who may not do a lot of work at the airport to also get them involved in this contract. We would be open to sponsoring them and training them in the airport requirements to perform work. However, they would need to be willing to make the investment to work at the airport for these small scopes of work that they may be performing. Equipment replacements are not anticipated to be the majority of this work we believe.

B. Technical Assistance & Support Services

Describe the assistance and/or guidance that Proposer is and will provide to small businesses that helps move this next generation of historically underutilized multicultural businesses forward. This assistance and/or guidance could include technical, financial, or support services to the historically underutilized multicultural businesses that allows them to have meaningful participation on this or other contracts with the Proposer or other business partners.

UPM would be willing to coach other MWBE firms in the following aspects for doing work at the airport:

If this contract supports subcontractor work, then we UPM is willing to work with other DSBO firms and provide monthly coaching and mentoring support. Nate Martinez would be the person attending these coaching and mentoring meetings. If the work is strictly mechanical service and maintenance, then UPM will self-perform all of this work.

- Badging – coaching them through the authorized signatory process and tasks required to get their people badged.

Denver International Airport
 RFP No. 202474121 CODE: 09P7412124
 DEN: CENTRAL UTILITY PLANT MECHANICAL SERVICES



- Insurance – coaching them through how to obtain umbrella insurance coverage required to perform work on the CUP Equipment. This would also include how they would handle this additional cost withing their financial structure.
- Vehicle Permitting – coaching them through developing a driver training program and the process of permitting vehicles at the airport.
- Compliance Reporting – coaching them through compliance reporting for the airport

UPM will adhere to strict compliance to the prompt pay requirement and if there are any disputes pertaining to prompt pay, termination/reduction/substitution, or any other matters within DSBO's oversight as per the DRMC, that cannot be resolved through the initial means UPM is proposing, we will advise DSBO, and that all requirements of the DRMC, including those on prompt pay, termination/reduction/substitution and other covered areas will be met regardless of the subcontractor tier.

UPM Mechanical will adhere to all requirements relating to B2G reporting and payments. Nate Martinez will oversee this requirement and will be the main point of contact for any issues. Our Construction Accounting Specialist, Lori Young will be completing this task.

Nate Martinez will be the main point of for B2G reporting, dispute resolution, MWBE EDI plan and all other matters.

If we invite certified subcontractors to bid on the work relating to this contract, keep in mind that we don't know what work will come up with his contract due to it being service and maintenance primarily, and they are not selected due to pricing, ability or timing, we will debrief them within 2-3 days of our decision of award. The debriefing will include a detailed explanation as to why they weren't selected and what they can do in the future to better position themselves for an award.

If the certified firm disputes the decision of award, payment, reduction, or termination the following steps will be followed.

- DSBO will be notified immediately
- A meeting will be scheduled between UPM and the certified subcontractor
- The issue will be put on the table
- A discussion will be had as to the issue and potential solutions
- A resolution will be offered
- If not accepted by the certified subcontractor, then we will schedule a meeting with the DSBO representative.
- We will meet to try and find an amicable and reasonable soltution

Also, if there any disputes pertaining to Prompt Pay, termination/reduction/substitution, or any other matters within DSBO's oversight as per the DRMC, that cannot be resolved between UPM and certified subcontractor initially, UPM will immediately advise DSBO, and all requirements

Denver International Airport
RFP No. 202474121 CODE: 09P7412124
DEN: CENTRAL UTILITY PLANT MECHANICAL SERVICES



of the DRMC, including those on Prompt Pay, termination/reduction/substitution and other covered areas will be met regardless of the subcontractor tier.

UPM was not planning to have additional meetings with DSBO aside from the mandatory yearly one but we are certainly open to this if DSBO finds it beneficial.

Describe the community resource organizations that Proposer is and will partner with and/or sponsor to provide assistance and/or guidance to historically underutilized multicultural businesses. Examples of such assistance and guidance may include, but are not limited to, quality control, bonding, insurance, prompt payment, mentoring programs, joint ventures, workforce development, technical assistance, access to capital platforms etc.

Nate Martinez, owner of UPM Mechanical, would also be willing to offer assistance on an owner-to-owner basis. Such assistance would include.

- Access to Capital – coaching through the process of submitting for operating capital loans and lines of credit.
- Financial Reporting – monthly interim financial reporting is essential to obtaining lines of credit and bonding.
- Bonding and Insurance Support – UPM's bonding and insurance broker is IMA. Nate would be willing to make the introduction to IMA as they are a great resource.
- Safety and Quality Control Plans – coaching through the process of developing and implementing safety and quality control plans
- Business Processes – coaching through specific business processes

This agreement has been executed by the signatories listed below. In addition to all applicable provisions of the MWBE Ordinance and any corresponding Rules and Regulations, UPM Mechanical, LLC. shall comply with the requirements of this Approved Plan. Updates to this plan will be performed annually by UPM Mechanical, LLC, and approved by DSBO, beginning in January of 2026 or at the request of DSBO.

Denver International Airport
RFP No. 202474121 CODE: 09P7412124
DEN: CENTRAL UTILITY PLANT MECHANICAL SERVICES



Company: UPM Mechanical, LLC

Name: Nathan Martinez

Signature: 

Title: Owner and CEO

Date: 1-22-2025

Company: Denver International Airport

Name: Maria Logachev

Signature: Marina Logachev

Title: Compliance Manager, Division of Small Business Opportunity (delegated authority by DSBO Director)

Date: 1/27/2025

Exhibit E



TIMOTHY M. O'BRIEN, CPA
AUDITOR

201 West Colfax Avenue, #705 • Denver, Colorado 80202
(720) 913-5000 • Fax (720) 913-5253 • denvergov.org/auditor

City and County of Denver

TO: All Users of the City and County of Denver Prevailing Wage Schedules
FROM: Luis Osorio Jimenez, Prevailing Wage Administrator
DATE: September 6, 2024
SUBJECT: Latest Change to Prevailing Wage Schedules

The effective date for this publication will be, **Tuesday, September 10, 2024**, and applies to the City and County of Denver for **Building CONSTRUCTION PROJECTS** (does not include residential construction consisting of single family homes and apartments up to and including 4 stories) in accordance with the Denver Revised Municipal Code, Section 20-76(c).

General Wage Decision No. CO20240020
Superseded General Decision No. CO20230020
Modification No. 6
Publication Date: 9/6/2024
(10 pages)

Unless otherwise specified in this document, apprentices shall be permitted only if they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor (DOL). The employer and the individual apprentice must be registered in a program which has received prior approval by the DOL. Any employer who employs an apprentice and is found to be in violation of this provision shall be required to pay said apprentice the full journeyman scale.

Attachments as listed above.

In accordance to the amendment of Section 20-76, Division 3, Article IV, Chapter 20 of the Denver Revised Municipal Code enacted on Aug 21st, 2023, the Prevailing Wage Administrator is authorized to approve and adjust all Davis Bacon classifications under \$18.29 to comply with the city's minimum wage.

"General Decision Number: CO20240020 09/06/2024

Superseded General Decision Number: CO20230020

State: Colorado

Construction Type: Building

County: Denver County in Colorado.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

| If the contract is entered | . Executive Order 14026
|
| into on or after January 30, | generally applies to the
|
| 2022, or the contract is | contract.
|
| renewed or extended (e.g., an | . The contractor must pay
|

option is exercised) on or	all covered workers at
after January 30, 2022:	least \$18.29 per hour (or
	the applicable wage rate
	listed on this wage
	determination, if it is
	higher) for all hours
	spent performing on the
	contract in 2024.

If the contract was awarded on	. Executive Order 13658
or between January 1, 2015 and	generally applies to the
January 29, 2022, and the	contract.
contract is not renewed or	. The contractor must pay
all	
extended on or after January	covered workers at least
30, 2022:	\$18.29 per hour (or the
	applicable wage rate
listed	

| on this wage
determination, |
| if it is higher) for all
|
| hours spent performing on
|
| that contract in 2024.
|
|
|_____|
__|

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024
1	02/23/2024
2	05/17/2024
3	05/31/2024
4	07/05/2024
5	08/02/2024
6	09/06/2024

ASBE0028-002 07/01/2024

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation).....	\$ 34.98	16.47

CARP0055-002 05/01/2024

	Rates	Fringes
CARPENTER (Drywall Hanging Only).....	\$ 35.10	13.41

CARP1607-001 06/01/2024

	Rates	Fringes
MILLWRIGHT.....	\$ 42.50	17.93

ELEC0068-012 06/01/2024

	Rates	Fringes
ELECTRICIAN (Includes Low Voltage Wiring).....	\$ 44.95	19.08

ELEV0025-001 01/01/2024

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 54.20	37.89

FOOTNOTE: a.Vacation: 6%/under 5 years based on regular hourly rate for all hours worked. 8%/over 5 years based on regular hourly rate for all hours worked.

b. PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Veterans' Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day.-

ENGI0009-017 05/01/2024

	Rates	Fringes]
POWER EQUIPMENT OPERATOR		
(Crane)		
141 tons and over.....	\$ 39.80	15.20
50 tons and under.....	\$ 35.78	15.20
51 to 90 tons.....	\$ 36.09	15.20
91 to 140 tons.....	\$ 37.34	15.20

IRON0024-009 11/01/2023

	Rates	Fringes
IRONWORKER, STRUCTURAL/ORNAMENTAL...	\$ 37.23	12.79

IRON00847- 7/01/2023

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 55.25	3.65

PAIN0079-006 08/01/2022

	Rates	Fringes
PAINTER (Brush, Roller and		
Spray; Excludes Drywall		
Finishing/Taping)	\$ 25.11	10.95

PAIN0079-007 08/01/2022

	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 25.81	10.95

PAIN0419-001 06/01/2022

	Rates	Fringes
SOFT FLOOR LAYER (Vinyl and Carpet)	\$ 18.29	14.33

PAIN0930-002 07/01/2023

	Rates	Fringes
GLAZIER.....	\$ 33.51	12.65

PLUM0003-009 06/01/2024

	Rates	Fringes
PLUMBER (Excludes HVAC Duct, Pipe and Unit Installation)	\$ 45.43	20.15

PLUM0208-008 06/01/2024

	Rates	Fringes
PIPEFITTER (Includes HVAC Pipe and Unit Installation; Excludes HVAC Duct Installation)	\$ 44.15	22.43

SFCO0669-002 04/01/2024

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 45.44	26.98

SHEE0009-004 07/01/2024

	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation; Excludes HVAC Pipe and Unit Installation).....	\$ 39.47	21.83

* SUCO2013-006 07/31/2015

	Rates	Fringes
BRICKLAYER.....	\$ 21.96	0.00

CARPENTER (Acoustical Ceiling Installation Only).....	\$ 22.40	4.85
--	----------	------

CARPENTER (Metal Stud Installation Only).....	\$ 18.29	0.00
--	----------	------

CARPENTER, Excludes
Acoustical Ceiling
Installation, Drywall
Hanging, and Metal Stud

Installation.....	\$ 21.09	6.31
CEMENT MASON/CONCRETE FINISHER...	\$ 20.09	7.03
LABORER: Common or General.....	\$ 18.29 **	5.22
LABORER: Mason Tender - Brick...	\$ 18.30 **	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 18.30 **	0.00
LABORER: Pipelayer.....	\$ 19.26 **	3.68
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 20.78	5.78
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 19.10	3.89
OPERATOR: Grader/Blade.....	\$ 21.50	0.00
ROOFER.....	\$ 18.85 **	0.00
TRUCK DRIVER: Dump Truck.....	\$ 18.97	0.00
WATERPROOFER.....	\$ 18.29 **	0.00

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

**Administrator Supplemental Rates
(Specific to the Denver projects)
Revision Date: 01-01-2024**

Classification		Base	Fringe
Boilermaker		\$30.97	\$21.45
Laborer: Concrete Saw		\$18.29	-
Paper Hanger		\$20.15	\$6.91
Plasterer		\$24.60	\$12.11
Plaster Tender		\$18.29	-
Power Equipment Operator	Concrete Mixer - Less than 1 yd	\$23.67	\$10.67
	Concrete Mixer - 1 yd and over	\$23.82	\$10.68
	Drillers	\$23.97	\$10.70
	Loader - up to and incl 6 cu yd	\$23.67	\$10.67
	Loaders - over 6 cu yd	\$23.82	\$10.68
	Mechanic	\$18.48	-
	Motor Grader	\$23.97	\$10.70
	Oilers	\$22.97	\$10.70
	Roller	\$23.67	\$10.67
Truck Driver	Flatbed	\$19.14	\$10.07
	Semi	\$19.48	\$10.11
Waterproofer		\$18.29	\$0.00

Go to www.denvergov.org/Auditor to view the Prevailing Wage Clarification Document for a list of complete classifications used.