

A G R E E M E N T

THIS AGREEMENT between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **IRON & METALS INC., INC.**, a Colorado corporation, with its principal place of business at 5555 Franklin Street, Denver, CO 80216 (the “Contractor”), collectively “the parties”.

The parties agree as follows:

1. COORDINATION AND LIAISON: Contractor shall fully coordinate all services under the Agreement with the Manager of General Services, (“Manager”) or, the Manager’s Designee.

2. SERVICES TO BE PERFORMED:

(a) As the Manager directs, Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on **Exhibit A**, the Scope of Work, to the City’s satisfaction.

(b) Contractor is ready, willing, and able to provide the services required by the Agreement.

(c) Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.

(d) Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.

(e) Contractor shall obtain, at its own expense, all permits, licenses and approvals required for the performance of the Work and shall demonstrate, if requested, what actions Contractor has taken to comply with the required permits or licenses. Work Sites, receptacles other Work locations shall be kept clean and neat. Equipment, machinery, vehicles, tools, supplies and materials no longer needed at the Project Sites shall be promptly removed from the sites, and any such items properly lawfully stored for use on the sites shall be so placed and secured as to protect the public health and safety.

3. TERM: The term of the Agreement commences the date executed by the City as indicated on the City’s signature page and expires three years thereafter unless extended in accordance with the terms of the Agreement. The term of the Agreement may be extended on the same terms and conditions, for an additional two (2) one (1) year term, upon a written amendment to this Agreement prior to the expiration of the current term.

4. COMPENSATION AND PAYMENT:

(a) Contractor shall remit payment once per month and no later than ten (10) days after the last day of any given month in which scrap metal is removed from City facilities. To ensure “Fair Market Value” for scrap metals sold, the City requires pricing to be tied to the 1st Monday of each month’s publication of the *American Metal Market* for whichever month the scrap metals are removed from City property. Pricing must reflect a percentage (bid pricing) of the higher listed price (“high point”) for Chicago markets. The percentage figures will not change for the effective period (one year with two possible one-year extensions at the same rate) of the Agreement. However, the price paid to the City will change depending upon the “high point” for the Chicago market, No. 2 Heavy Melt, for any month in question as referenced in the *American Metal Market* print or internet publication. All Contractor’s costs are included in the pricing, which is set forth in **Exhibit B**, and no additional fees (e.g. environmental disposal fees, wasted trip charges, overload etc.) or charges are allowed under the Agreement

(b) For each removal of Scrap Metal, the Contractor shall provide the Director with a “Verification of Release of Scrap Metal”, and a “Weigh Bill”, in substantially the form attached hereto and incorporated by reference, as **Exhibit C** and **Exhibit D**, respectively, along with a copy of pricing from the *American Metal Market* publication (“Documentation”).

(c) All compensation to the City shall be due and payable on the Fifteenth (15) of each month. Contractor shall send all payments and accompanying documentation to:

Purchasing Division
Wellington E. Webb Building
201 West Colfax Avenue, Dept. 304
Denver, Colorado 80202

5. STATUS OF CONTRACTOR:

(a) Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither Contractor nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

6. TERMINATION:

(a) The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon twenty (20) days prior written notice to Contractor. However, nothing gives Contractor the right to perform services

under the Agreement beyond the time when its services become unsatisfactory to the Manager.

(b) Notwithstanding the preceding paragraph, the City may terminate the Agreement if Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

(c) Upon termination of the Agreement, with or without cause, Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

(d) If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in Contractor's possession, custody, or control by whatever method the City deems expedient. Contractor shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. Contractor shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

7. EXAMINATION OF RECORDS: 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 any pertinent books, documents, papers and records of Contractor, involving transactions related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

8. LIENS AND OTHER ENCUMBRANCES: Contractor shall not take any act, or fail to perform any act, or otherwise permit any mechanic or materialman liens or any other liens to be imposed and remain for more than ninety (90) days upon any City-owned property, or any part thereof, by reason of any worker labor performed or materials furnished by any person or legal entity to or on behalf of the User, either pursuant to C.R.S. § 38-26-107 or by any other authority. Contractor shall promptly pay when due all bills, debts and obligations incurred in connection with the Agreement and shall not permit the same to become delinquent. Contractor shall not take any act, or fail to perform any act, or otherwise permit any lien, mortgage, judgment, execution or adjudication of bankruptcy that will in any way impair the rights of the City under the Agreement. Contractor's obligations set out in this paragraph survive the termination of the Agreement.

9. PROTECTION OF PROPERTY: Contractor assumes full responsibility and expense for the protection of all public and private property, including, without limitation, structures, street improvements, irrigation systems, landscaping, water lines,

sewers, and other utilities, both above and below ground, at or near the site or sites of the Work or at any other location affected by the prosecution of the Work or the transportation of workers, equipment, or materials in connection with the Work. Contractor shall provide, in a timely manner and in advance, written notice to: 1) the City department having charge of any property, right of way, or utility affected by the Work; 2) any utility having charge of any utility affected by the Work; and 3) any private property owner whose property or improvements will be affected by the Work, and shall make all necessary arrangements with such City department, utility, or private property owner for the removal and replacement or the protection of such property. To the extent that any permit or license is required by a City department or other governmental entity, said permit or license shall be obtained and paid for by Contractor in advance of performing the Work. Contractor shall comply with all statutes, ordinances, regulations, or orders applicable to the performance of the Work on public or private property.

10. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of Contractor. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

11. INSURANCE:

(a) General Conditions: Contractor agrees to secure, at or before the time of execution of the Agreement, the following insurance covering all operations, goods or services provided pursuant to the Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-”VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of the Agreement. Such notice shall reference the City contract number listed on the signature page of the Agreement. This notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City’s contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by Contractor. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in the Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of Contractor. Contractor shall maintain, at its own expense,

any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under the Agreement.

(b) Proof of Insurance: Contractor shall provide a copy of the Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverage. Contractor certifies that the certificate of insurance attached as **Exhibit E**, preferably an ACORD certificate, complies with all insurance requirements of the Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in the Agreement shall not act as a waiver of Contractor's breach of the Agreement or of any of the City's rights or remedies under the Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

(c) Additional Insureds: For commercial general liability, business auto liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

(d) Waiver of Subrogation: For all coverages, Contractor's insurer shall waive subrogation rights against the City.

(e) Subcontractors: All subcontractors (including independent contractors, suppliers, or other entities providing goods or services required by the Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of Contractor. Contractor shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors maintain the required coverages. Contractor agrees to provide proof of insurance for all such subcontractors upon request by the City.

(f) Workers' Compensation/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 of \$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. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into the Agreement, that none of Contractor's officers or employees who may be eligible under any statute or law to reject workers' compensation insurance shall effect such rejection during any part of the term of the Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes the Agreement.

(g) Commercial General Liability: Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

(h) Business Automobile Liability: Contractor shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under the Agreement.

(i) Additional Provisions:

(1) For commercial general liability, the policies must provide the following:

(A) That the Agreement is an Insured Contract under the policy;

(B) Defense costs in excess of policy limits;

(C) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and

(D) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(2) For claims-made coverage:

(A) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

(B) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

12. DEFENSE AND INDEMNIFICATION:

(a) Contractor hereby agrees to defend, indemnify, reimburse and hold harmless 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 the 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 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 City.

(b) Contractor’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has

filed suit on the Claim. Contractor's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that 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 City and will pay on behalf of 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. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

(d) Insurance coverage requirements specified in the 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 the Agreement.

13. TAXES, CHARGES AND PENALTIES: The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* Contractor shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

14. ASSIGNMENT; SUBCONTRACTING: Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under the Agreement without obtaining the Manager's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void and shall be cause for termination of the Agreement by the City. The Manager has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subcontractor or assign.

15. INUREMENT: The rights and obligations of the parties to the Agreement inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

16. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or Contractor receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

17. NO AUTHORITY TO BIND CITY TO CONTRACTS: Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

18. SEVERABILITY: Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

19. CONFLICT OF INTEREST:

(a) No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, *et seq.* or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

(b) Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of Contractor by placing Contractor's own interests, or the interests of any party with whom Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given Contractor written notice describing the conflict.

20. NOTICES: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Contractor at the address first above written, and if to the City at as indicated below. Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

Manager of General Services or Designee
201 West Colfax Avenue, Dept. 904
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353

Denver, Colorado 80202

21. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:

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

(b) Contractor certifies that:

- (1) At the time of its execution of the Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under the Agreement.
- (2) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.

(c) Contractor also agrees and represents that:

- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (2) It shall not enter into a contract with a subcontractor that fails to certify to Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement, through participation in either the E-Verify Program.
- (4) It is prohibited from using either the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires Contractor to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (5) If it obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and the City within three (3) days. Contractor will also then terminate such subcontractor if within three (3) days after such notice the subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subcontractor provides information to establish

that the subcontractor has not knowingly employed or contracted with an illegal alien.

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

(d) Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate the Agreement for a breach of the Agreement. If the Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

22. DISPUTES: All disputes between the City and Contractor arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Manager as defined in the Agreement.

23. GOVERNING LAW; VENUE: The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District.

24. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under the Agreement, Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. Contractor shall insert the foregoing provision in all subcontracts.

25. COMPLIANCE WITH ALL LAWS: Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

26. LEGAL AUTHORITY: Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or

action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of Contractor represents and warrants that he has been fully authorized by Contractor to execute the Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Contractor or the person signing the Agreement to enter into the Agreement.

27. NO CONSTRUCTION AGAINST DRAFTING PARTY: The parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

28. ORDER OF PRECEDENCE: In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

29. INTELLECTUAL PROPERTY RIGHTS: The City and Contractor intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by Contractor and paid for by the City pursuant to the Agreement, in preliminary or final form and on any media whatsoever (collectively, "Materials"), shall belong to the City. Contractor shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a "work made for hire," Contractor (by the Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity.

30. SURVIVAL OF CERTAIN PROVISIONS: The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, Contractor's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

31. ADVERTISING AND PUBLIC DISCLOSURE: Contractor shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of Contractor's advertising or public relations materials without first obtaining the written approval of the Manager. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. Contractor shall notify the Manager in advance of the date and

time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

32. CITY EXECUTION OF AGREEMENT: The Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

33. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: The Agreement is the complete integration of all understandings between the parties as to the subject matter of the Agreement. No prior or contemporaneous addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No subsequent addition, deletion, or other modification will have any force or effect unless embodied in a written amendment to the Agreement properly executed by the parties. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

34. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A 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 contract personnel being barred from City facilities and from participating in City operations.

35. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City 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.

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EXHIBIT A
SCOPE OF WORK AND TECHNICAL REQUIREMENTS

SCOPE OF WORK

This agreement is for the right to provide containerization, removal, sale and recycling of scrap metals recovered from City and County of Denver facilities.

TERM OF THE AGREEMENT:

The term of the resulting contract shall be for an initial three years from date of City signature, with an option for two (2) one-year extensions via contract amendment.

REQUIRED SERVICES:

a. **SERVICE:** Contractor shall provide scrap metal containers/roll-offs of various sizes as requested by City agencies and to be placed at their respective facilities. Contractor shall then remove containers as scheduled or as needed, depending upon usage, and remit payment to the City for the sale of these scrap metals.

b. **REMOVAL:** Contractor shall respond to an agency request for removal of a container within twenty-four (24) hours of notice and shall replace it with an empty container within forty-eight (48) hours of the removal of a container. At a location where there is currently no on-site container, the Contractor shall place a container at a specific site within forty-eight (48) hours of the request. These requests are only to be made by the General Services Contract Administrator. (The type of container provided by the Contractor shall not necessarily be specified by the City; the City shall require however, that containers be provided in the form of roll-offs, pans, hoppers or a combination of all the above at sites specified herein or wherever requested. Containers provided shall be adequate to service the needs of the City.)

NOTE: Emergency situations may dictate a more rapid placement and/or turn-around of containers than noted above.

c. **EQUIPMENT:** Contractor shall utilize equipment that is fully licensed in accordance with all ordinances of the City and County of Denver pertaining to scrap metal containerization and hauling and shall comply with any requirements that may be instituted by the City and County of Denver in reference to same during the course of the Agreement. Weigh scales utilized by the Contractor shall be certified by the State of Colorado. Such proof of certification is to be available upon request by the City. Further, all motor vehicles utilized by the Contractor shall be fully operational and appropriate to the weight and dimensions of the loads to be hauled and shall be covered by all required insurances as indicated in Section D of this document.

d. **SPECIAL ITEMS:** The City will occasionally generate metals that do not fall into the pricing items below (e.g. brass, copper, electric motors, etc.). Upon receiving metals that are not covered by a pricing item, the City and the Contractor must mutually agree upon pricing for this material. This price must be based on a current AMA Chicago price line of which a copy will be

submitted with the Contractor's monthly payment. All agreed upon pricing for these infrequent metals must be approved in writing by the Director of Purchasing or his/her representative.

City agencies may occasionally generate an item or items which, because of size or construction, cannot be deposited in conventional containers. In this event, the Contractor shall respond with any labor, tools, equipment and supplies necessary for successful removal of said item or items. In such instances where additional personnel or special equipment are required to accomplish removal, the Contractor may request a negotiated adjustment to the bid percentage offered herein. Further, if it is determined by the City and the Contractor that removal costs offset the salvage value of the scrap metal in question, the City and the Contractor may agree to no monetary compensation for the City in exchange for this service. However, no adjustment to the bid percentage offered herein or decision to waive monetary compensation in exchange for removal service shall be made without the express, written approval of the Director of Purchasing or his/her authorized representative.

EXCLUSIONS:

Contractor shall be aware that the City may choose to sell specific accumulations of scrap metals (e.g., brass, copper, clean aluminum, etc., not deposited in the Contractor's containers) utilizing other methods or markets. This Agreement is specifically for the removal of scrap metal placed in the Contractor's containers by authorized City personnel, or special items as described above. On occasion, City personnel may deliver scrap metal to the Contractor.

ESTIMATED QUANTITIES:

The City does not guarantee any quantity of items listed herein to be generated over the course of the Agreement. However, for information only, a copy of the approximate volume is on this bid site listed as "Attachment A".

COOPERATIVE PURCHASING:

The City and County of Denver encourages and participates in cooperative purchasing endeavors undertaken by or on behalf of other governmental jurisdictions, pursuant to Denver Revised Municipal Code Sec. 20-64.5. To the extent other governmental jurisdictions are legally able to participate in cooperative purchasing endeavors, the City and County of Denver supports such cooperative activities. Further, it is a specific requirement of this proposal or Request for Proposal that pricing offered herein to the City and County of Denver may be offered by the vendor to any other governmental jurisdiction purchasing the same products.

The vendor(s) must deal directly with any governmental agency concerning the placement of purchase orders, freight charges for destinations outside of the Denver Metro area, contractual disputes, invoicing, and payment. The City and County of Denver shall not be liable for any costs, damages incurred by any other entity.

FELONY DISQUALIFICATION:

The vendor shall not employ, retain, hire or use any individual that has been convicted of any felony charges as the same is defined under the laws of the State of Colorado in the performance of the services to be rendered and materials to be provided to the City pursuant to this proposal unless the vendor receives prior written permission from the Director of Purchasing. The Director of Purchasing may require that a fidelity bond, or such other assurance in such amount as deemed appropriate, be provided to the City and County of Denver as a condition precedent to the grant of such permission.

LAWS, REGULATIONS, TAXES AND PERMITS

The Vendor shall procure all permits and licenses, pay all charges, taxes and fees and give all notices necessary and incidental to the due and lawful prosecution of the work. All costs thereof shall be deemed to be included in the prices proposed for the work.

The Vendor, at all times, shall observe and comply with all federal, state, county, city and other laws, codes, ordinances, rules and regulations in any manner affecting the conduct of the work.

Without limiting the foregoing, the Vendor shall establish appropriate procedures and controls so that services under this Contract will not be performed by using any alien who is not legally eligible for such employment under United States Immigration laws. Failure to comply with this condition satisfactorily may cause the City to terminate this Contract.

LOCATIONS AND CONTAINER DESCRIPTIONS:

The following locations are the primary sites requiring roll-offs/containers for the accrual of scrap and other metals. However, the City does not guarantee that this information reflects current or future needs. If there is a question regarding the container needs for any City facility, it is the Contractor's responsibility to visit that site, inspect any roll-offs, hoppers or other containers being utilized, and determine any appropriate changes. Locations and container sizes as noted below may change over time, with periodic container deletions or additions over the term of the Agreement, as necessary, with some sites requiring multiple containers for anticipated special needs. Contractor shall be required to provide appropriate containers and services, as needed, for any City agency at any designated location. Therefore, the list below will not be inclusive of all requirements.

All new sites, service and/or changes to service must be requested directly from the General Services Contract Administrator.

BACKGROUND CHECK:

Vendor's employees may be required to pass a DPD background check

City and County of Denver Sites

	SITE	SIZE CONTAINER
1.	Fleet Maintenance A. 5440 Roslyn	5 – 30 yd roll-offs 4 – 10 yd luggers 7 – dump hoppers
2.	Fleet Maintenance A. 1271 W. Bayaud	1 – 20 yd roll-off
3.	Parks & Recreation A. 945 S. Huron B. 10450 Smith Rd. C. 4495 Jason St. D. 678 Jason St.	1 – 20 yd roll-off 1 – 10 yd lugger 1 – 26 yd roll-off 1 – 3 yd dumpster
4.	Fire Line Shop A. 4640 Lipan	1 – 8 yd lugger
5.	Solid Waste A. 2013 S. Osage	1 – high sided cargo trailer
6.	Solid Waste Substation/Cherry Creek A. 7301 E. Jewell Ave.	1 – 12 yd lugger
7.	Wastewater Management A. 2000 W. 3rd Ave.	1 – 20 yd roll-off
8.	City & County Building A. 1437 Bannock St.	1 – w/h box w/ wheels (4'x4')
9.	Vehicle Impound Facility A. 5160 York St.	1 – 10 yd lugger
10.	Performing Arts Garage A. 1055 13th St.	1 – 6 yd lugger
11.	Electrical Engineering Bureau A. 1930 35th St.	1 – 6 yd lugger
12.	Additional locations that may require periodic service, mobile cranes, placement of extra containers or “wait while loaded” services (generally mixed materials):	
	A. Various City Parks and Facilities	F. Facilities Planning & Mgmt. (as ordered)

- B. City and County Bldg.
- C. Central Library & Branches
- D. Solid Waste Division
(various locations)
- E. Surplus Warehouse

- G. Street Maintenance
- H. Traffic Engineering
- I. Denver Metro SWAT Unit (Police)
- J. City Jail

EXHIBIT B
PRICING FOR CITY AND COUNTY OF DENVER SITES

OPTION 1: FOR CITY AND COUNTY OF DENVER FACILITIES ONLY

PRICING ITEM NO. 1:

Unprepared Steel

American Metal Market, Scrap Iron & Steel Prices (high point),
Chicago, No. 2 Heavy Melt

Net Unit Percentage - \$/Gross Ton = 10%

PRICING ITEM NO. 2:

Aluminum – Clean

American Metal Market, Nonferrous Scrap Prices, (high point), Chicago, Mixed Low Copper
Clips

Net Unit Percentage - ¢/lb. = 110%

PRICING ITEM NO. 3:

Aluminum – Painted

American Metal Market, Nonferrous Scrap Prices, (high point), Chicago, Painted Aluminum
Siding

Net Unit Percentage - ¢/lb. = 110%

PRICING ITEM NO. 4:

Aluminum – Breakage

American Metal Market, Nonferrous Scrap Prices, (high point), Chicago, Mixed Low Copper
Clips

Net Unit Percentage - ¢/lb. = 10%

PRICING ITEM NO. 5:

Stainless Steel - Clean

American Metal Market, Scrap Iron and Steel Prices, (high point), Chicago, 304 Solids, Clips

Net Unit Percentage - ¢/lb. = 85%

PRICING ITEM NO. 6:

Stainless Steel - Breakage

American Metal Market, Scrap Iron and Steel Prices, (high point), Chicago, 304 Solids, Clips

Net Unit Percentage - ¢/lb. = 10%

PRICING ITEM NO. 7:

No. 1 and No. 2 Mixed Insulated Copper Wire

American Metal Market, Scrap Iron and Steel Prices, (high point), Chicago, No. 2 Heavy Copper
and Wire

Net Unit Percentage - ¢/lb. = 40%



DENVER
THE MILE HIGH CITY

EXHIBIT C

General Services
Purchasing Division
201 W. Colfax Avenue, Dept. 304
Denver, CO 80202
P: 720.913.8100
F: 720.913.8101
www.denvergov.org/purchasing

VERIFICATION OF RELEASE OF SCRAP METAL

DATE: _____

AGENCY: _____

DESCRIPTION OF SCRAP: _____
(For example: mixed, mixed w/aluminum, brass, cast, etc.)

CONTAINER SIZE: _____

AUTHORIZED CONTRACTOR SIGNATURE: _____

I HEREBY VERIFY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND HAVE RELEASED THE ABOVE DESCRIBED SCRAP METAL TO THE AUTHORIZED CONTRACTOR (AS SIGNED ABOVE).

CITY EMPLOYEE SIGNATURE: _____

CITY EMPLOYEE PRINTED NAME: _____

POSITION: _____

AGENCY: _____

DATE: _____

NOTE TO CONTRACTOR: THIS VERIFICATION OF RELEASE MUST BE INCLUDED WITH WEIGH BILL AND PAYMENT CORRESPONDING TO THE ABOVE.

INVOICE #	DESCRIPTION	RECV DATE	REFERENCE	GROSS	TARE	NET PRICE / UM	AMOUNT
232723	UNPREPARED STEEL	11/02/2017	DIA - AGTS	41880	29200	12,680.00 204.28NT /	1,295.14
232724	UNPREPARED STEEL	11/03/2017	JASON ST	54040	48120	5,920.00 204.28NT /	604.67
232725	UNPREPARED STEEL	12/07/2017	ZOO	33860	30980	2,880.00 204.28NT /	294.16
232725	UNPREPARED STEEL	12/07/2017	ZOO	32450	30760	1,690.00 204.28NT /	172.62
232727	UNPREPARED STEEL	11/07/2017	ROSLYN	30360	29180	1,180.00 204.28NT /	120.53
232728	UNPREPARED STEEL	11/09/2017	JEWELL	31550	29960	1,590.00 204.28NT /	162.40
232729	UNPREPARED STEEL	12/07/2017	ROSLYN 2 LOADS	2284	0	2,284.00 204.28NT /	233.29
232729	ALUM BREAKAGE AVERAG	12/07/2017	ROSLYN 2 LOADS	836	0	836.00 0.31LB /	275.88
232729	PAINTED ALUMINUM	12/07/2017	ROSLYN 2 LOADS	1360	0	1,360.00 0.71LB /	979.20
232730	UNPREPARED STEEL	11/16/2017	ROSLYN BLDG A	40730	35550	5,180.00 204.28NT /	529.09
232731	UNPREPARED STEEL	11/21/2017	DIA MAINT.	35320	32180	3,140.00 204.28NT /	320.72
232733	UNPREPARED STEEL	12/07/2017	ZOO	32020	30100	1,920.00 204.28NT /	196.11
232734	UNPREPARED STEEL	11/28/2017	DIA	35980	33140	2,840.00 204.28NT /	290.08
232735	UNPREPARED STEEL	11/28/2017	ROSLYN	31100	30240	860.00 204.28NT /	87.84
232736	UNPREPARED STEEL	11/28/2017	ROSLYN	32220	30120	2,100.00 204.28NT /	214.49
232737	UNPREPARED STEEL	12/07/2017	ARTS & VENUES 105030	10350	10350	180.00 204.28NT /	18.39
232737	ALUM BREAKAGE AVERAG	12/07/2017	ARTS & VENUES 105030	9780	9780	570.00 0.31LB /	188.10
232739	UNPREPARED STEEL	11/14/2017	COLLESEUM 2047902360	0	0	2,360.00 204.28NT /	241.05
232740	UNPREPARED STEEL	11/15/2017	FLEET MAINT. 20448540	42540	32580	2,960.00 204.28NT /	302.33
232742	UNPREPARED STEEL	11/15/2017	FLEET MAINT. 20448560	42360	32580	2,780.00 204.28NT /	283.95
232743	COMPLETE VEHICLES	11/03/2017	POLICE DEPT	42380	0	42,380.00 70.00NT /	1,483.30
232743	HAULING CHARGES	11/03/2017	POLICE DEPT	0	0	0.00 /	-420.00
232744	COMPLETE VEHICLES	11/14/2017	POLICE DEPT	35910	0	35,910.00 70.00NT /	1,256.85
232744	INCOMPLETE VEHICLES	11/14/2017	POLICE DEPT	3530	0	3,530.00 50.00NT /	88.25
232744	HAULING CHARGES	11/14/2017	POLICE DEPT	0	0	0.00 /	-420.00
232745	COMPLETE VEHICLES	11/20/2017	POLICE DEPT	24670	0	24,670.00 70.00NT /	863.45
232745	HAULING CHARGES	11/20/2017	POLICE DEPT	0	0	0.00 /	-280.00

**EXHIBIT D
EXAMPLE OF WEIGH BILL**

EXHIBIT E



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/4/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Flood and Peterson PO Box 578 Greeley CO 80632		CONTACT NAME: Kimberly Stephens PHONE (A/C, No, Ext): (970) 356-0123 FAX (A/C, No): (970) 330-1867 E-MAIL ADDRESS: KStephens@floodpeterson.com	
INSURED Iron & Metals, Inc. 5555 Franklin St Denver CO 80216		INSURER(S) AFFORDING COVERAGE INSURER A: Zurich American Insurance Company NAIC # 16535 INSURER B: Travelers Property Casualty Company 25674 INSURER C: Pinnacol Assurance 41190 INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL1712420742 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CPO0272978-00	12/1/2017	12/1/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Employee Benefits \$ 1,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			CPO0272978-00	12/1/2017	12/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist combined \$ 1,000,000
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			ZUP31M89271-17	12/1/2017	12/1/2018	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	403552	1/1/2017	1/1/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 The City and County of Denver, its officers, officials and employees are named as Additional Insured with respects to General Liability, Auto Liability and Umbrella Liability. A Waiver of Subrogation applies in favor of the City and County of Denver, its officers, officials and employees with respects to General Liability, Auto Liability, Umbrella Liability and Workers' Compensation.

CERTIFICATE HOLDER Kristopher.Deutmeyer@denve City and County of Denver Director of Purchasing 201 West Colfax Avenue Dept. 304 Denver, CO 80202-0000	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE S Aitken, CIC, CISR/S <i>Sandie Chalkson</i>
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Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: GENRL-201843515-00

Contractor Name: Iron & Metals Inc.

By: 

Name: Michael Cohen
(please print)

Title: President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

