

ON-CALL CONTRACT

THIS ON-CALL CONTRACT (this “**Agreement**”) is by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”), and **JON K. TAKATA CORPORATION dba RESTORATION MANAGEMENT COMPANY**, a California foreign corporation, whose address is 4142 Point Eden Way, Hayward, CA 94545 (the “**Contractor**”).

RECITALS

WHEREAS, the City has identified a need for a qualified contractor to perform, as assigned, services as directed by the City on an “on-call” or “as needed” basis (the “**Program**”). Program work will generally consist of performance of such restoration services required on a variety of as yet to be identified projects as assigned by the City (the “**Projects**”).

WHEREAS, the work shall consist of routine (not Emergency) on-call restoration services at multiple locations throughout the City and County of Denver. The work may include but is not limited to those responsibilities set out on the attached exhibits.

WHEREAS, the Contractor is willing, able and has the present capacity to perform all of the restoration services required by this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and subject to the terms and conditions stated in this Agreement, the Parties agree as follows:

1. DEFINITIONS: The capitalized terms used in this Agreement and any and all exhibits hereto will have the meanings given such terms in the paragraph in which such terms are parenthetically defined. The meanings given to terms defined will be equally applicable to the singular and plural forms of such terms. In addition, the following capitalized terms shall have the following meanings:

A. “City” means and refers to the City and County of Denver or a person authorized to act on its behalf.

B. “Contractor” means and refers to the Contractor, its agents, employees, officers, and anyone acting on its behalf.

C. “*Exhibit A*” or “Scope of Work” means the Contractor’s scope of work under this Agreement, and as further defined in each specific work order assigned hereunder (the “Work Order”).

D. “Standard Work Hours” means Monday through Friday, 7:00 A.M to 5:00 P.M. as described in *Exhibit A*.

E. “Non-Standard Work Hours” means Monday through Friday, Weekends, and City of Denver Holidays, 5:00 P.M. to 7:00 A.M. as described in *Exhibit A*.

F. “Subcontractor” means an entity, other than the Contractor, that furnished or furnishes to the City or the Contractor services or supplies (other than standard office supplies, office space or printing services) pursuant to this Agreement.

G. “Work Order” means the specific emergency task given to the Contractor for execution as contemplated under this Agreement.

2. **WORK TO BE PERFORMED:**

A. **Work:** The Contractor shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to do, perform and complete all of the work described in the Scope of Work and Technical Requirements, *Exhibit A* (the “**Work**”). The Contractor shall perform Work in a highly skilled manner consistent with the performance standards and technical requirements set forth in *Exhibit A*. The Contractor shall commence the Work within five (5) calendar days following the issuance by the City of a Work Order for a Project unless a different period is specified in the Work Order. The Contractor shall complete the Project within the time period specified in the Work Order for the Project. The Contractor shall diligently prosecute the Work to completion using its best efforts, highly skilled work effort and attention. The Contractor shall be solely responsible for all means, methods and techniques of performance, protection of property and safety. The Contractor shall be responsible to the City for the acts and omissions of the Contractor’s employees and any other persons performing any of the work or furnishing materials.

B. **Oversight:** The Contractor shall conduct the Work under the general direction of and in coordination with the Executive Director of the Department of General Services (“**Executive Director**”), or the Executive Director’s Designee and the Department employee(s) assigned to manage the Work Project (the “**Department**”), and make every reasonable effort to fully coordinate the Work Project with any City agency or any person or firm under contract with the City doing work which affects the Contractor’s Work Project. The Contractor agrees to allow the City to review any of the procedures used by it in doing the Work under this Agreement and to make available for inspection all notes and other documents used in performing the Work.

C. **Cooperation and Coordination:** The Contractor shall make every reasonable effort to fully coordinate the Work with any City agency or any person or firm under contract with the City doing work which affects the Contractor’s Work on any particular Work Order. The Contractor agrees to allow the City to review any of the procedures used by it in doing the Work under this Agreement and to make available for inspection all notes and other documents used in performing the Work.

D. **Non-exclusivity:** The Contractor acknowledges and agrees that this Agreement does not create an exclusive right to perform all Work for which the City may contract for the type of service described in *Exhibit A*. The City may enter contracts with other contractors to perform the same or similar services and reserves the right to select, at the discretion of the Executive Director or their designee, the contractor that is the most cost effective, best suited, and/or most readily able to perform a specific Work Project.

E. **Work Orders:** As the Department determines the need and availability of funding for each Work Project, the City will issue a written Work Order to the Contractor, in the form attached hereto and incorporated herein as *Exhibit C*, detailing the nature and extent of services to be provided, the location of the Work Project, and the timeframes within the Work Project is to be performed, with a projected amount to be paid to the Contractor (the “**Work Project Amount**”) based on the Work items described in the Scope of Work and Technical Requirements in *Exhibit A* and the Rate Sheet set forth in *Exhibit B*, which is attached to this Agreement and incorporated herein by reference. The Contractor acknowledges and affirms that the City may rely upon *Exhibit B* in the preparation of Work Order(s) as provided herein. The Contractor shall, within forty-eight (48) hours and in good faith, confirm the scope of services detailed therein and the associated Work Project Amount, all of which must be in accordance

with the terms and conditions of this Agreement, and respond back in writing to the Department as to the Contractor's ability to initiate and complete the Work Project in the timeframes specified in the Work Order. The Contractor assumes all responsibility and risks, including any additional work or additional costs, for failure to confirm the completeness and accuracy of the Work Order and the Work Project Amount. Confirmation includes, but is not restricted to, inspections of the Work Project site and inquiries with the Department as to any directions or specifications in the Work Order which are not clear. Upon the Contractor confirming the Work Order, with or without changes or corrections, the Department will notify the Contractor to proceed on the assigned Work Project and acknowledging or denying any corrections or changes to the Work Order or Work Project Amount requested by the Contractor.

F. Work Order Change: If, after the Department notifies the Contractor to proceed to perform a Work Order and commencement on the Work Project, additions, deletions or modifications to the Work described in the Work Order, along with any associated changes in the Work Project Amount, are required by the Department or are requested by the Contractor and approved in advance by the Department, an Work Order Change, in the form attached hereto and incorporated herein as ***Exhibit D***, will be issued by the Department to the Contractor in accordance to the same standards and procedures prescribed for Work Orders. The Contractor shall promptly and thoroughly review and respond to the proposed changes, in accordance to the same standards and procedures prescribed for Work Orders and notify the Department that the Contractor is ready and willing to perform the Work Project in the manner and timeframes as modified by the amended Work Order.

G. Inspection of the Work: Persons who are employees of the City or who are under contract to the City will be assigned to inspect and test the Work. These persons may perform any tests and observe the Work to determine whether or not materials used, manufacturing and construction processes and methods applied, and equipment installed satisfy the requirements of the technical specifications, all other Contract requirements, and the Contractor's warranties and guarantees. The Contractor shall permit these inspectors unlimited access to the Work and provide means of safe access to the Work, which cost shall be included in the Contractor's price for the Work. In addition, the Contractor shall provide whatever access and means of access are needed to off-site facilities used to store or manufacture materials and equipment to be incorporated into the Work and shall respond to any other reasonable request to further the inspector's ability to observe or complete any tests. Such inspections shall not relieve the Contractor of any of its quality control responsibilities or any other obligations under this agreement. All inspections and all tests conducted by the City are for the convenience and benefit of the City. These inspections and tests do not constitute acceptance of the materials or Work tested or inspected, and the City may reject or accept any Work or materials at any time prior to the inspections, whether or not previous inspections or tests were conducted by the inspector or a City representative.

H. Warranties; Correction of Work: The Contractor warrants that all parts, materials, components, equipment, systems and other items incorporated into the Work ("**Items**") shall be new, unless otherwise specified, and suitable for the purpose used, and will be of good quality, free from faults and defects, and in keeping with common industry standards and that said Items shall be properly installed or incorporated into the Work in accordance with manufacturer's specifications and standard practices for said Items, and all of this shall be in conformance with the specifications and requirements of this Agreement. The Contractor's warranty shall be effective for a one-year period following the completion of the Work and shall be extended for one year following any repair, replacement or corrective action required under the warranty. The Contractor, when requested, shall furnish the Executive Director or their designee with satisfactory evidence of the kind and quality of Items proposed to be incorporated into the Work. At any time while this Agreement is in effect or during the warranty period, the Contractor shall, at no cost to the City, promptly investigate, repair, replace, or otherwise correct any of its workmanship and/or Items in the Work which contain fault(s) or defect(s),

whether such failure(s) are observed by the City or the Contractor, and promptly repair, replace, otherwise correct any damage to any personal or real property owned by the City or another person resulting from said fault(s) or defect(s) or from the repair, replacement, or correction of the fault(s) or defect(s).

I. Title: The Contractor warrants that it has full title to all items incorporated into the Work, that its transfer of such title to the City is rightful and free and clear from all security interests, liens, claims, or encumbrances whatsoever, and that the Contractor will defend such title against all persons claiming the whole or part of any Item, at no cost to the City.

J. Completion; Deficiency: The Contractor shall promptly notify the Project Manager as to the completion of the Work so that inspection of the Work may be made by the City. If a Completion Notice is specified in the Work Order, the Contractor shall not submit a request for payment for the Work performed until a Completion Notice is issued by the Executive Director or their designee or ten (10) calendar days after City is notified of Work completion, whichever is sooner. If the Work performed is determined by the Executive Director or their designee to be defective, deficient or incomplete, whether or not a Completion Notice is required, the Contractor shall correct or complete the Work, at no additional cost to the City, within the timeframe specified in a Notice of Deficiency issued by the Executive Director or their designee, and promptly notify the Executive Director or their designee upon correction or completion of the Work.

K. Time is of the Essence: The Work is time sensitive. The Contractor acknowledges and affirms that it is imperative that the Contractor exercise due diligence and actively and expeditiously undertake all measures necessary: 1) in initiating, making good progress, and completing the Work Project, all within the timeframes specified in this Agreement and applicable Work Order, and 2) in promptly and fully correcting or completing any Work noted in a Notice of Deficiency. Failure or refusal by the Contractor to initiate, make good progress, or complete the Work within the Work Order Completion Date set forth in a Work Order may result, at the discretion of the Executive Director or their designee, in termination of this Agreement, or in assessment of liquidated damages under Section 7 of Agreement.

L. Subcontracting: Except as approved by the Executive Director or their designee in advance and in writing, the Contractor shall not subcontract with another contractor to perform the Work. The Contractor is prohibited from hiring any subcontractor currently debarred by the City in accordance with section 20-77 of the Denver Revised Municipal Code.

3. METHODS OF WORK:

A. Resources, Personnel, and Time Commitment: The Work shall be promptly commenced and actively prosecuted with the optimum complement of workers and equipment in order to complete the Work in an effective and expeditious manner. The Contractor shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to perform and complete the Work. The Work shall be undertaken by workers skilled, proficient, and experienced in the trades required by this Agreement and shall be performed in an orderly and responsible manner in accordance with recognized standards and the plans and specifications contained in this Agreement or provided to the Contractor by the City. If the City reasonably believes that the Work is not proceeding satisfactorily or timely because the Contractor has not utilized an adequate number of qualified and skilled personnel or workers or provided sufficient tools, supplies, equipment, or materials, then the City may require the Contractor, at no additional cost to the City, to utilize additional qualified and skilled personnel or workers or provide additional tools, supplies, equipment, or materials to perform the Work in a manner reasonably acceptable to the City.

B. Permits and Licenses: Any tasks specified under this Agreement that require the employment of licensed or registered personnel shall be performed by licensed or registered personnel. The Contractor shall obtain, at its own expense, and maintain all permits or licenses, including any prescribed governmental authorizations or approvals, required for the performance of the Work and shall demonstrate, if requested, what actions the Contractor has taken to comply with the required permits, licenses, authorizations or approvals.

C. Work Site Conditions: Work sites and nearby locations shall be kept clean and neat. Equipment, vehicles, and materials no longer needed at the site shall be promptly removed from the site, and any such items lawfully stored for use on the site shall be so placed and secured as to protect the public health and safety. All scraps, debris, trash, excess soil, and other waste materials shall be regularly removed and properly disposed of. Disposal in solid waste containers provided by the City is prohibited unless written authorization is obtained.

D. Protection of Property: The Contractor shall assume full responsibility and expense for the protection of all public and private property, including but not limited to structures, street improvements, pathways, 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 or utilization of workers, equipment, or materials in connection with the Work. The 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. The Contractor shall arrange and obtain any utility locations required by law or necessary to protect utilities or underground facilities on public or private property and shall be liable for any failure to obtain or comply with such utility locations. To the extent that any permit or license is required by a City department or other governmental entity for any work on public property, said permit or license shall be obtained and paid for by the Contractor in advance of performing the Work and shall be complied with in the performance of the Work. If the Contractor or its employees, agents, or subcontractors destroy or damage any property, public or private, the Contractor shall promptly repair or replace such property, to the reasonable satisfaction of the Department, before the City will accept or pay for the Work performed. If the Contractor fails to make such repairs or replacement, the Executive Director or their designee may, at the Executive Director's or their designee's discretion, undertake such repair or replacement and deduct the cost of the same from amounts payable to the Contractor under this Agreement.

E. Safety: The Contractor is responsible for the health and safety of every person on or at the Work site and shall take all necessary and appropriate precautions and actions to protect such persons from injury, death or loss. The Contractor shall be responsible for being fully familiar with and complying with all applicable City, state or federal laws, ordinances, rules and regulations, requirements and guidelines, including the Occupational Safety and Health Act and any regulations or directives adopted thereunder ("**Safety Laws**"). The Contractor shall promptly notify the City in writing of any violations of said Safety Laws, along with copies of any injury reports, and any citations, orders, or warnings issued by governmental agencies in the enforcement of said Safety Laws. The Contractor shall provide and properly locate all necessary protective devices and safety precautions, including warning signs, barricades, or other devices or precautions as required by Safety Laws or the City. For all operations requiring the placement and movement of equipment or materials, the Contractor shall observe and exercise, and shall direct its employees or agents to observe and exercise, all appropriate and prudent caution so as to avoid injury to persons or damage to property and to minimize annoyance to or undue interference with the movement of the public and the performance of City functions. All ladders,

scaffolding, or other devices used to reach objects not otherwise accessible, shall be of sound construction, firm and stable and shall be maintained in good, operable condition. All such equipment shall be moved, placed, shifted, and removed from work areas in such a manner as to provide maximum safety to persons and property and cause the least possible interference with the normal usage of such areas by the public and City personnel.

F. Disposal of Non-Hazardous Waste at DADS: In accordance with Executive Order 115 and the Landfill Agreement made between the City and Waste Management of Colorado, Inc., the Contractor will be required to haul dedicated loads (non-hazardous entire loads of waste) to the Denver-Arapahoe Disposal Site (“DADS”) for disposal. DADS is located at Highway 30 and Hampden Avenue in Arapahoe County, Colorado. The City will pay all fees associated with such disposal but the Contractor shall be responsible for the costs of transporting the loads. Non-hazardous waste is defined as those substances and materials not defined or classified as hazardous by the Colorado Hazardous Waste Commission pursuant to C.R.S. §25-15-207, as amended from time to time, and includes construction debris, soil and asbestos. Proposals shall not use Gun Club Road between I-70 and Mississippi Avenue as a means of access to DADS.

G. Prohibition on Use of CCA-Treated Wood Products: The use of any wood products pressure-treated with chromated copper arsenate (CCA) is prohibited. Examples of CCA-treated wood products include wood used in play structures, decks, picnic tables, landscaping timbers, fencing, patios, walkways and boardwalks.

H. Waiver of Part 8 of Article 20 of Title 13, Colorado Revised Statutes: The Contractor specifically waives all the provisions of Part 8 of Article 20 of Title 13, Colorado Revised Statutes regarding defects in the Work under this Agreement.

I. Liens and Other Encumbrances: The Contractor shall not permit any mechanic’s or materialman’s 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 or equipment furnished by any person or legal entity to or on behalf of the Contractor, either pursuant to C.R.S. § 38-26-107 or by any other authority. The Contractor shall promptly pay when due all bills, debts and obligations incurred in connection with this Agreement and shall not permit the same to become delinquent. The Contractor shall not permit any lien, mortgage, judgment, execution or adjudication of bankruptcy which will in any way impair the rights of the City under this Agreement. The Contractor will indemnify and save harmless the City for the extent of any and all payments, interests, and penalties resulting from failure to comply with this section. The Contractor’s obligations set out in this section shall survive the termination of this Agreement.

J. Environmental Compliance: The Contractor shall obtain all necessary federal, state, and local environmental permits and comply with all applicable federal, state, and local environmental permit requirements relating to the Work. The Contractor shall comply with all applicable local, state, and federal environmental guidelines, rules, regulations, statutes, laws, and orders (collectively, “**Environmental Requirements**”), including but not limited to Environmental Requirements regarding the storage, use, transportation, and disposal of Hazardous Materials and regarding releases or threatened releases of Hazardous Materials to the environment. The term “Hazardous Materials” shall mean asbestos and asbestos-containing materials, special wastes, polychlorinated biphenyls (PCBs), any petroleum products, natural gas, radioactive source material, pesticides, any hazardous waste as defined at 42 U.S.C. § 6903(5) of the Solid Waste Disposal Act, any hazardous substance as defined at 42 U.S.C. § 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act, and chemical substance as defined at 15 U.S.C. § 2602(2) of the Toxic

Substances Control Act, and any guidelines issued and rules or regulations promulgated pursuant to such statutes or any other applicable federal or state statute.

K. Attorney's Fees: Colorado Revised Statute 38-26-107 requires that in the event any person or company files a verified statement of amounts due and unpaid in connection with a claim for labor and materials supplied on this project the City shall withhold from payments to the Contractor sufficient funds to insure the payment of any such claims. Should the City and County of Denver be made a party to any lawsuit to enforce such unpaid claims or any lawsuit arising out of or relating to such withheld funds, the Contractor agrees to pay to the City its costs and reasonable attorney's fee which cost shall be included as a Cost of the Work. Because the City Attorney Staff does not bill the City for legal services on an hourly basis, the Contractor agrees a reasonable fee shall be computed at the rate of two hundred dollars per hour of City Attorney time.

L. Environmental Sustainability: The Contractor shall demonstrate commitment to and experience in environmental sustainability and public health protection practices applicable to its line of services including, but not limited to, construction waste recycling and energy efficiency. The Contractor shall work to reduce landfill waste by recycling and/or salvaging recyclable materials. Where applicable, vendor shall procure and install fixtures and equipment that reduce energy use.

4. TERM: The term of this Agreement will commence upon November 1, 2024, and will continue through March 31, 2026 (the "**Term**"). The Term may be extended on the same terms and conditions, for two optional (1) one-year renewal term, upon written amendment to this Agreement prior to the expiration of the current term. Subject to the Executive Director's prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term will extend until the work is completed or earlier terminated by the Executive Director. The Contractor agrees to comply with all applicable Contract close-out procedures and requirements set forth in the Contract and as otherwise directed by the Executive Director or their designee.

5. COMPENSATION AND PAYMENT:

A. Maximum Contract Amount: Each Project will be assigned and authorized separately by Work Order and the maximum liability of the City for any one Work Order shall not exceed the sum of **ONE MILLION DOLLARS AND ZERO CENTS (\$1,000,000.00)**, including all authorized Work Order changes, without the prior written approval of the Executive Director or their designee. The Maximum Contract Amount to be paid by the City to the Contractor for satisfactory completion of all Work Orders authorized by the City and performed by the Contractor under this Agreement shall in no event exceed the sum of **ONE MILLION DOLLARS AND ZERO CENTS (\$1,000,000.00)**, unless this Agreement is modified to increase said amount by a duly authorized and written amendment to Agreement executed by the Parties in the same manner as Agreement. The Maximum Contract Amount stated herein is not intended, and shall not be construed, as a promise or guarantee to the Contractor that the final price payable to the Contractor for all of the authorized Work will equal the Maximum Contract Amount.

B. Conditions of Payment: Payment shall be made upon satisfactory completion of the Work in accordance with the Work Order issued and this Agreement. A properly issued and signed final receipt and lien waiver shall be a condition precedent to any obligation for the City to make final payment for Work performed by the Contractor. The request for payment submitted by the Contractor must fully document and itemize the Work rendered and all equipment, supplies, materials, labor, and other authorized and actually incurred costs. The request for payment shall affirmatively represent that: i) all of the Work specified in the Work Order has been fully performed and completed and any Deficiency

Notice has been satisfied; ii) no claims, liens, or amounts owed to employees, suppliers, or materialmen are outstanding and all requirements and conditions of section 13 below have been fully complied with; iii) all rights, title and interests to the materials or improvements provided or installed as the result of the Work have transferred to the City; and iv) no interest or encumbrance of any kind associated with the Work will be asserted, has been acquired, or will be made by the Contractor or any other person or entity. If the request for payment does not contain these representations, the representations are hereby deemed to contain them. The request for payment must be approved by the Executive Director or their designee in writing in order to be eligible for compensation under this Agreement. Any payment may be reduced by any liquidated damages assessed by the Executive Director or their designee under sub-section 7.D.2 below.

C. Subject to Appropriation; No Multiple Year Obligation: It is understood and agreed that any payment obligation of the City hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Agreement, encumbered for the purpose of this Agreement and paid into the Treasury of the City. The Contractor acknowledges that (i) the City does not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

D. Amendments: The Contractor acknowledges that the City is not obligated to execute an amendment to this Agreement, and that any work performed by the Contractor beyond that specifically described or allowed under this Agreement or without a fully and properly executed amendment to this Agreement is performed at the Contractor's risk and without authorization under this Agreement.

E. 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.

6. FINANCIAL ASSURANCES: Without limiting or waiving any other responsibilities or obligations of the Contractor under this Agreement, the Contractor shall provide a payment and performance bond(s), an irrevocable letter of credit, or other performance guarantees. A bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) shall be provided at the time of Contract execution substantially in the form specified in *Exhibit E*, which is attached hereto and incorporated herein by reference. In the event the dollar amount of Work authorized under all Work Orders exceeds this amount, the Contractor shall provide properly executed bond Change Riders, in the form specified in *Exhibit F*, totaling the amount of all authorized Work Orders/Task Orders (the "Surety"). The form of letters of credit or other performance guarantees must be acceptable to the City Attorney. The Contractor shall deliver to the Executive Director, prior to the execution of this Agreement, a fully executed Surety which shall provide effective and sufficient financial assurance for the full and faithful performance of the Contractor's duties and obligations under this Agreement and the payment of bills for labor and materials for the Work, along with appropriate powers of attorney. The Surety must be issued from a surety corporation or bank authorized to do business in the State of Colorado and which is acceptable to the City. Such Surety shall

be payable to the City upon demand for the Contractor's failure to perform as required under this Agreement and/or failure to pay all amounts owed to laborers, mechanics, subcontractors, and materialmen for work performed or materials, supplies, rental items, tools, and equipment provided for the Work under this Agreement. The Surety shall also assure the repair or replacement of any Work found to be defective or otherwise not in compliance with this Agreement. The Surety shall remain in effect or be promptly renewed or replaced by another Surety acceptable to the City during the Term of the Agreement and during the Term of any Extension Amendment and for a ninety (90) day period after the expiration or termination of this Agreement or any Extension Amendment and any warranty period or other period prescribed by law. Satisfactory proof of renewal or acceptable replacement must be provided to the Executive Director at least sixty (60) days prior to the date of expiration or termination of the Surety. The Contractor's obligations set out in this section shall survive the expiration or termination of this Agreement and failure to obtain or maintain said Surety shall be grounds for immediate termination.

7. TERMINATION & REMEDIES:

A. Termination for Convenience of the City: The Executive Director or their designee, upon giving twenty (20) calendar days written notice (unless a longer period is given), may terminate this Agreement, in whole or part, when it is in the best interest of the City as determined by the Executive Director or their designee. To the extent that the Contractor has initiated or completed Work for which the Contractor has not yet been compensated in accordance with this Agreement, appropriate compensation for all such authorized Work shall be paid to the Contractor in accordance with this Agreement.

B. Termination, With Cause, by the City: The occurrence of any one or more of the following shall constitute a breach of this Agreement ("**Breach**"), for which the Executive Director may, at the Executive Director's option, either terminate Agreement or withdraw a Work Order, with cause, upon written notice to the Contractor:

1) The Contractor fails or refuses, within three (3) calendar days of being notified, to expeditiously and actively undertake or substantially or timely perform its responsibilities and obligations or fails or refuses to make adequate progress in performing its responsibilities and obligations under this Agreement, including the due diligence obligations set forth in section 1 of this Agreement or the Work methods under section 2 of this Agreement, provided that the failure or refusal to undertake, make good progress, or complete the Work is not due to matters beyond the Contractor's control such as weather disaster or persistent bad weather, floods, or other acts of God, civil unrest, acts of the public enemy, national calamity, or strike at a manufacturer or supplier for the Work Project;

2) There is substantial evidence that it has been or will be impossible for the Contractor to perform the Work required due to matters within the Contractor's control such as voluntary bankruptcy, strikes, boycotts, and labor disputes involving the Contractor's employees or closure or suspension of operations by regulatory order of a governmental entity or an order of a court due to violations or infractions by the Contractor or Contractor's employees;

3) The Contractor has persistently or flagrantly failed to perform the Work or failed to timely perform the Work or to comply with the specifications and requirements as set forth in the Scope of Work in **Exhibit A** to this Agreement;

4) The Contractor has submitted one or more requests for payment under this Agreement that are fraudulent or persistently or flagrantly erroneous or misleading;

5) The Contractor has made an assignment or transfer of, or subcontracted, its responsibilities and obligations under this Agreement without obtaining the Executive Director's written consent or not in conformance with this Agreement;

6) The Contractor fails to obtain, renew, replace, or maintain the insurance coverage required by this Agreement or causes or is at fault for damage to property or injury to persons that is not covered or not adequately covered by insurance and the Contractor fails to remedy the situation to the satisfaction of the Executive Director or their designee;

7) The Contractor fails to obtain or properly and timely maintain any financial assurances required by this Agreement;

8) Any lien is filed against City property because of any act or omission of the Contractor and is not timely discharged, unless the Contractor furnishes to the City such bond or other financial assurance reasonably acceptable to the Manager to protect the interests of the City;

9) The Contractor has failed to obtain or maintain any required permit or license or has utilized personnel or workers not licensed or registered as required by law;

10) The Contractor has failed to deliver title or warranties or has failed to honor warranties as required by this Agreement;

11) The Contractor fails, within three (3) calendar days of being notified, to comply with, or fails to compel its subcontractors to comply with, the prevailing wage requirements or other City ordinances applicable to the type and nature of Work being performed under this Agreement; or

12) The Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal contract in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature, in connection with the Contractor's business.

C. Compensation: Upon termination of this Agreement by the City, with cause, under sub-section 7.B above, the Contractor shall be compensated for the Work that the Executive Director or their designee determines to have been satisfactorily completed, except that the City shall be entitled to keep any unpaid amount owing to the Contractor to the extent that said amount or some portion of said amount is needed to compensate the City for: 1) liquidated damages, if specified under sub-section 7.D.2. below; 2) the costs of releasing any liens or satisfying any claims related to the Contractor's Work; and 3) the costs of paying a new contractor for those services necessary to complete or rectify the Contractor's Work or to repair or replace any damaged or lost property caused by the Breach of this Agreement. The Contractor shall have no claim of any kind whatsoever against the City for any termination with cause, except for compensation for the Work satisfactorily performed as described herein.

D. Remedies:

1) ***Termination:*** For any termination with cause of this Agreement, the City shall have the right to any or all of the following remedies through the courts or other means of legal recourse available to the City: a) cancellation of the Contract; b) actual damages or costs caused by Breach of the Contractor; and c) recovery of costs incurred by the City itself in paying for the release of liens related to the Contractor's Work or in completing or rectifying the Contractor's Work or in retaining and compensating another contractor to complete or rectify the Contractor's Work, to the extent not covered in sub-section 7.C. above. In any legal action brought by the Contractor, the Contractor shall not be entitled to recover any more than the full amount, not previously paid, of any Work Orders executed with and performed in whole or part by the Contractor. The City and the Contractor understand and agree that the rights of specific performance and to incidental, consequential, or punitive damages have been hereby expressly waived and released by both Parties.

2) ***Liquidated Damages:*** If the Executive Director or their designee determines, for a Breach of Agreement under sub-section 7.B above, not to terminate this Agreement but to apply liquidated damages as provided in this paragraph, the Contractor shall be liable to the City for

liquidated damages in the amount of one hundred dollars (\$100.00) per day, calculated from the day that the Executive Director or their designee issues notice to the Contractor of a Breach under sub-section 7.B through a) the day before the Breach is remedied, or b) the day before a new Work Order or Agreement is executed with another contractor to perform the Work, as so determined by the Executive Director or their designee. The Contractor and City hereby acknowledges and agrees that it would be impractical and extremely difficult to estimate the damages which the City might incur for said breach, and that, in the interest of assuring that the Work is timely and properly performed, the liquidated damages provided herein is the most fair and reasonable way to compensate the City for any delay or inadequate performance without termination of this Agreement or litigation.

8. 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 the 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 this Agreement constitutes a waiver of any other breach.

9. INDEPENDENT CONTRACTOR: The Contractor is an independent contractor retained to perform services for limited periods of time. Neither the 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. The Contractor is responsible for the operational management, errors and omissions of the Contractor's employees, agents, and subcontractors. Without limiting the foregoing, the Contractor understands and acknowledges that the Contractor and the Contractor's employees, agents and subcontractors: a) are not entitled to workers' compensation benefits through the City; b) are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Contractor or some other entity besides the City; and c) are obligated to pay federal and state taxes on any monies earned pursuant to this Agreement. Furthermore, it is understood and agreed that nothing in this Agreement is intended, or shall be construed, to constitute a joint venture between the Parties.

10. INSURANCE:

A. General Conditions: The Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. The Contractor shall keep the required insurance coverage in force at all times during the term of this Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of this 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 above-described 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 this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said 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, the 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 the Contractor. The Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The 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 this Agreement.

B. Proof of Insurance: Proof of Insurance: The Contractor may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. The Contractor certifies that the certificate of insurance attached as **Exhibit G**, preferably an ACORD form, complies with all insurance requirements of this 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 this Agreement shall not act as a waiver of the Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

C. Additional Insured: For Commercial General Liability, Auto Liability, Contractors Pollution Liability (if required) and Excess Liability/Umbrella (if required), the Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

D. Waiver of Subrogation: For all coverages required under this Agreement, the Contractor's insurer shall waive subrogation rights against the City.

E. Subcontractors and Subconsultants: The Contractor shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Contractor and appropriate to their respective primary business risks considering the nature and scope of services provided.

F. Workers' Compensation/Employer's Liability Insurance: The 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.

G. Commercial General Liability: The 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. Automobile Liability: The Contractor shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement. If transporting wastes, hazardous material, or regulated substances, the Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy. Transportation coverage under the Contractors Pollution Liability policy shall be acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

I. Builder's Risk or Installation Floater: The Contractor shall maintain limits equal to the completed value of the project. Coverage shall be written on an all risk, replacement cost basis including coverage for soft costs, flood and earth movement, if in a flood or quake zone, and, if applicable, equipment breakdown including testing. The City and County of Denver, the Contractor, and subcontractors shall be Additional Named Insureds under the policy. Policy shall remain in force until acceptance of the project by the City.

11. DEFENSE AND INDEMNIFICATION:

A. The 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 City for any acts or omissions of the 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. The 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. The 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. The Contractor shall defend any and all Claims which may be brought or threatened against City and shall 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 will be in addition to any other legal remedies available to City and will not be the City’s exclusive remedy.

D. Insurance coverage requirements specified in this Agreement in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The 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.

12. COLORADO GOVERNMENTAL IMMUNITY ACT: The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101 *et seq.*, C.R.S.

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.* The Contractor shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under this Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

14. COMPLIANCE WITH ALL LAWS: The 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.

15. 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, copy and retain copies, at City’s election in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The 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 this 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 audits pursuant to this paragraph shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.

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

17. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in this 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 the Contractor receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

18. NO AUTHORITY TO BIND CITY TO CONTRACTS: The 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.

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

20. SEVERABILITY: Except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this 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.

21. CONFLICT OF INTEREST:

A. No employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement. The 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. The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. The 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 the Contractor by placing the Contractor's own interests, or the interests of any party with whom the 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 this Agreement if it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

22. NOTICES: All notices required by the terms of this 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 the Contractor at the address first above written, and if to the City at:

By Contractor to: Executive Director of General Services
201 West Colfax Avenue, Dept. 304
Denver, Colorado 80202

And by the City to: Jon K. Takata Corporation dba Restoration
Management Company
4142 Point Eden Way
Hayward, CA 94545

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.

23. DISPUTES: All disputes between the City and the Contractor arising out of or regarding this 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 Executive Director as defined in this Agreement.

24. GOVERNING LAW; VENUE: This 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 this 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 this Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

25. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this 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.

26. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: The Contractor shall cooperate and comply with the provisions of Executive Order 94 concerning the use, possession or sale of alcohol or drugs. Violation of this provision or refusal to cooperate with implementation of the policy can result in the City barring the Contractor from City facilities or participating in City operations.

27. PREVAILING WAGES:

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

B. Date bid or request for qualifications/proposals was advertised: June 26, 2024.

C. Prevailing wage and fringe rates will adjust on the yearly anniversary of the actual date of bid or proposal issuance, if applicable, or the date of the written encumbrance if no bid/proposal issuance date is applicable. Unless expressly provided for in this Contract, the Contractor will receive no additional compensation for increases in prevailing wages or fringe benefits.

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

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

F. The 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.

G. If the Contractor fails to pay workers as required by the Prevailing Wage Ordinance, the 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 the Contractor fails to pay required wages and fringe benefits.

28. MWBE PROGRAM GOAL:

A. This Agreement is subject to Article V of Chapter 28, Denver Revised Municipal Code (“D.R.M.C.”), designated as §§ 28-117 to 28-199 (the “Goods and Services Ordinance”); and any Rules and Regulations promulgated pursuant thereto. The Contractor Goal for MWBE participation for this Agreement is 15% as stipulated in the DSBO MWBE Commitment Form submitted by the Contractor.

B. 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:

(1) If directed by DSBO, the Contractor is required to develop and comply with an approved Utilization Plan and the requirements therein, in accordance with § 28-129(c), D.R.M.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.

(2) 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.

(3) 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.

(4) 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 requirement on the contract. The Contractor shall satisfy such requirement 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.

(5) 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.

(6) Termination or substitution of an SBE subcontractor requires compliance with § 28-136, D.R.M.C.

(7) Failure to comply with these provisions may subject the Contractor to sanctions set forth in § 28-139 of the Goods and Services Ordinance.

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

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

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

31. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE: This Agreement consists of sections 1 through 38 which precede the signature page(s) (“**Contract Text**”), and the following exhibits and attachments which are incorporated herein and made a part hereof by reference:

Exhibit A	Scope of Work and Technical Requirements
Exhibit B	Billing Rates
Exhibit C	Work Order Form
Exhibit D	Work Order Change Form
Exhibit E	Payment & Performance Bond
Exhibit F	Prevailing Wage Rate Schedules
Exhibit G	Certificate of Insurance

Exhibit H FBI CJIS Security Addendum In the event of an irreconcilable conflict (i) between a provision of the Contract Text and any of the listed exhibits or attachments or (ii) among provisions of any exhibits or attachments, such that it is impossible to give reasonable effect to all, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

Contract Text; Exhibit A; Exhibit B; Exhibit C; Exhibit D; Exhibit E; Exhibit F

32. SURVIVAL OF CERTAIN PROVISIONS: The terms of this Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of this Agreement survive this Agreement and will continue to be enforceable. Without limiting the generality of this provision, the 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.

33. TIME IS OF THE ESSENCE: The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

34. SECTION HEADINGS: The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

35. CITY EXECUTION OF CONTRACT: This 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.

36. CRIMINAL JUSTICE INFORMATION SERVICES: Access to and use of criminal history record information and other sensitive information maintained in local, state, and FBI-managed criminal justice information systems by the Contractor are subject to the terms of this Agreement; 28 C.F.R. Part 20, Criminal Justice Information Systems; 18 U.S.C. § 2721, Prohibition on release and use of certain personal information from State motor vehicle records; Public Law 92-544; the National Crime Prevention and Privacy Compact; the National Crime Information Center (“NCIC”) operating manual and policies; the most recent Criminal Justice Information Services Security Policy; and **Exhibit H**, the Federal Bureau of Investigation (“FBI”) Criminal Justice Information Services Security Addendum, attached hereto and incorporated herein by reference. Private contractors who perform criminal justice functions and have access to Criminal Justice Information (“CJI”) shall meet the same training and certification criteria required of governmental agencies performing a similar function and are subject to audit to the same extent as local agencies. Before receiving access to CJI or Federal Criminal History Record Information (“CHRI”), the Contractor and its individual employees must complete the attached CJIS Security Addendum certification page in **Exhibit H**. The Contractor shall maintain signed CJIS Security Addendum

certification pages for its personnel and shall provide copies to the City upon request.

37. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: The Contractor consents to the use of electronic signatures by the City. This Agreement, and any other documents requiring a signature under this Agreement, 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 this 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 this 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.

38. INUREMENT: The rights and obligations of the parties to this 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 this Agreement.

ATTACHED EXHIBITS

- Exhibit A Scope of Work and Technical Requirements
- Exhibit B Billing Rates
- Exhibit C Work Order Form
- Exhibit D Work Order Change Form
- Exhibit E Payment & Performance Bond
- Exhibit F Prevailing Wage Rate Schedules
- Exhibit G Certificate of Insurance
- Exhibit H FBI CJIS Security Addendum

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW.]**

Contract Control Number: GENRL-202475587-00
Contractor Name: JON K TAKATA CORPORATION d/b/a
RESTORATION MANAGEMENT COMPANY

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

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

GENRL-202475587-00
JON K TAKATA CORPORATION d/b/a
RESTORATION MANAGEMENT COMPANY

By: Signed by:
Dave Glover
9E2B630E1D694DC...

Name: Dave Glover
(please print)

Title: Executive VP, Chief Risk Officer
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A

EXHIBIT A: SCOPE OF WORK AND TECHNICAL REQUIREMENTS:**A.1 SCOPE OF WORK AND TECHNICAL REQUIREMENTS**

The City and County of Denver (City) is contracting with the contractor to provide on-call restoration services at various Citywide locations, excluding Denver International Airport. Services to be provided on an on-call as needed basis include:

1. Repair smoke and water damaged interiors

The type of work shall include mitigation and repair to smoke and water damaged interiors, throughout the affected areas, including structural if necessary. The service shall consist of necessary repairs as requested by the City including cleanup of soot, ash, and water residue from all surfaces. Conduct thorough ventilation and air exchange processes to facilitate the removal of odorous particles and promote fresh air circulation throughout the affected areas. Monitor air quality levels throughout the restoration process to ensure compliance with safety standards and regulatory requirements. Minimize disruption to occupants and operations of the building to the extent possible. Contractor must hold all necessary permits and licenses as required to complete the work, including a contractor's license.

2. Remove and discard water damaged carpet & flooring

The type of work shall include the removal and disposal of water damaged carpet & flooring throughout the affected areas within city facilities. The service shall consist of necessary repairs as requested by the City. Safely dispose of all damage materials in accordance with local regulations and environmental standards. Use appropriate tools and techniques to minimize further damage to the building structure during removal. Prepare subfloors for replacement by cleaning, drying, and treating as necessary to prevent mold and mildew growth. Minimize disruption to occupants and operations of the building to the extent possible. Contractor is responsible for all disposal costs, surcharges, license fees, etc. Contractor must hold all necessary permits and licenses as required to complete the work, including a contractor's license.

3. Clean & abate building interiors impacted by sewer system failures

The type of work shall include remediation, cleaning and repair/replacement of areas that have been impacted by sewer system failures, including structural, if necessary. As well as scoping adjacent sewer lines for further possible damage, if necessary. The service shall consist of necessary repairs as requested by the City. Dispose of contaminated materials and debris in accordance with relevant health and safety regulations. Conduct post-remediation testing and inspection to verify the effectiveness of cleaning and abatement efforts. Minimize disruption to occupants and operations of the building to the extent possible. Contractor must hold all necessary permits and licenses as required to complete the work, including a contractor's license.

Exact quantities or scope of work are unknown as the resulting work assignments under this contract will be on an as needed basis; the City is not required to order more than the City's actual requirements. The contractor is responsible for providing proper equipment and trained personnel to complete each work project. Upon request by the City, contractor shall be required to provide a detailed project schedule and progress report for any work order.

Whenever building material will be disturbed, renovated, is damaged, or needs to be demolished, the contractor shall contact the Denver Department of Public Health and Environment, with the scope of work prior to commencing work in order to evaluate any potential environmental concerns or abatement needs.

The contractor is required to provide to the General Services Contracts Office a centralized point of delivery for all contract related communication to include but not limited to work order assignments, invoicing, annual

EXHIBIT A

insurance renewals and general contract communication.

In the event asbestos building materials or other hazardous material are encountered, contractor shall immediately notify the City and the City will be responsible for abatement actions.

The contractor is to be present on the job site or represented by an employee fully controlled by them, with authority to interact with the City representatives and always supervise the work is being performed in accordance with industry standards. The contractor is to create schedules for doing work and adhere to these schedules. When the contractor begins working on the project, the contractor is to continue until the work is completed.

The on-call work process is:

To include a City approved scope of work with specifications

A quote from the contractor

Issued work order from the City

Upon request by the City, the contractor shall be required to provide a progress report for any work order.

The net Hourly Rates quoted shall be billed for on-site time only. Separate “trip-charges” and “travel time” will not be accepted or paid for by the City.

All Materials left over from a job but charged to the City and all equipment or materials removed from the City’s facilities shall remain the property of the City unless identified and released by the City’s representative as unsalvageable waste. Waste from the job shall be removed from the City’s premises and disposed of properly by the contractor and in compliance with XO 115 at the Denver Arapahoe Disposal Site (DADS).

“Journeyman” is defined for purposes of this agreement as a tradesman, craftsman or technician, skilled in the service performed, who is regularly paid at least the prevailing wage for the trade, 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, and may apply at any gender. Contractor with apprentices who are registered with (BAT) the Bureau of Apprenticeship & Training may use those rates to calculate their quoted hourly rate. Note that BAT limits the ratio of apprentice to journeyman to a 1 to 1 ratio. See Prevailing Wage language regarding pay requirements.

Must be licensed/registered (as required) by the building inspection division of the City and County of Denver. Either an employee or an owner may hold the license, but such license must be valid throughout the life of the contract. Contractor will include copy of current license/registration with the response to this process.

Contractor shall furnish all labor, materials, equipment, transportation, signage, or any and all other necessary implements to successfully perform any work order. The City shall not be responsible for providing the contractor any labor, guidance, signage, or any other items necessary for service completion. The contractor shall, if requested, furnish evidence as to the kind and quality of materials, equipment and/or articles used.

All labor, materials, equipment, transportation, signage, overhead costs, or any other associated costs or fees shall be inclusive of the pricing structure provided by the contractor as an exhibit to the contract. Contractor acknowledges that any invoices submitted with additional charges or a pricing structure that does not match the pricing in the contract exhibit will be rejected.

Contractor shall hold and keep in force all licenses and certificates which are considered standard in the appropriate industry and follow all industry best practices. The City shall maintain sole discretion to determine which licenses

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and certificates are considered standard in the appropriate industry, and which practices are considered “best industry practices”.

For scheduled projects, service shall not be performed without first receiving an executed work order from the General Services Contracts Office. Services performed without an executed work order will be considered unauthorized, and invoices may be rejected.

Standard work hours are considered Monday through Friday 7:00AM to 5:00PM. Work will typically be performed during these standard work hours.

Non-standard work hours are considered 5:00PM – 7:00AM, weekends, and City of Denver holidays. Work may be required to be performed during non-standard work hours.

Contractor shall be permitted to charge the City a percentage increase for materials over the cost of the materials to the contractor. Upon City request, contractor must provide a copy of the materials cost documentation.

All requests for quotations for a service or project shall be performed at no charge to the City.

The contractor is responsible for providing proper equipment and trained personnel to complete each work project.

Upon request by the City, the contractor may be required to furnish SDS sheets for any and all chemicals to be used in the performance of each work project.

The contractor is responsible for the safe disposal of all materials used in this project in accordance with EPA guidelines and regulations.

A.2 ON-CALL SERVICES PROCEDURES:

Authorized service calls will be ordered from the City using the following procedures. Services performed without following procedure shall be considered unauthorized, and payment for such services may be rejected.

The process for assigning specific work within the on-call contracts may occur in several ways. When the City identifies a need for services with the estimated cost of \$9,999 or less, the City will select a contractor from the on-call pool. The contractor must have sufficient funding capacity remaining in their contract for the project and will be selected on a rotating basis. The contractor will have two business days to respond and furnish a quote before the City moves to the next contractor in the on-call pool. In general, the City strives to ensure an equitable distribution of both projects and total fee dollars between all contractors within the on-call pool. However, there are instances when the City requires specialty services or unique experience that may only be available from a single contractor. In these situations, the City reserves the right to select the most appropriate contractor for the work. If the estimated cost of the project is between \$10,000 and \$49,999 the City will typically conduct a mini-bid process to solicit proposals from all contractors from the on-call pool that have sufficient funding capacity remaining in their contracts for the project. The proposals from the mini-bid process will be evaluated based on pricing and the lowest bid will be awarded the project. Once the project has been awarded through selection or the mini-bid process, the City will issue a Work Order in correspondence with the proposal to be completed by the contractor.

If the cost estimate for a given project is greater than \$50,000, an Invitation to Bid may be issued through the Purchasing Division.

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The contractor will not be able to invoice the City for services until an executed work order has been received.

A.3 CONSTRUCTION AND REMODELING CONTRACTING PROVISIONS:

Contractor shall be responsible for obtaining any and all permits (including the cost thereof) required to perform this installation. The installation shall be in complete compliance with City of Denver Building and Fire Codes.

The City shall at all times have the right to inspect the work and materials used in the construction of the improvements. The contractor shall furnish all reasonable aid and assistance required for the proper examination of the work and all parts thereof. The contractor shall regard and obey directions and instructions of the City's Executive Director of General Services or their authorized inspectors, when such directions or instructions are consistent with the plans and specifications for the improvements to be constructed hereunder; provided, however, that should the contractor object to any order given by the City's authorized inspector, they may make a written application to the City's Executive Director of General Services for their decision, which decision shall be final and conclusive. Such inspection shall not relieve the contractor from the obligation to construct the improvements strictly in accordance with the approved plans and specifications or any approved modification thereof.

A.3.a PROTECTION OF PROPERTY:

The contractor shall assume full responsibility and expense for the protection of all public and private property, structures, watermains, sewers, utilities, etc., both above and below ground, at or near the site or sites of the work being performed under the contract, or which are in any manner affected by the prosecution of the work or the transportation of people and materials in connection therewith. The contractor shall give reasonable written notice in advance to the Department of the City having charge of any property or utilities owned by the City and to other owner or owners of public or private property or utilities when they will be affected by the work to be performed under the contract, and shall make all necessary arrangements with such department, departments, owner or owners for the removal and replacement or protection of such property or utilities.

A.3.b METHODS OF OPERATION:

Construction work started by the contractor must be continuously and actively prosecuted with an optimum complement of workmen and equipment to expedite completion in the shortest possible time. The contractor shall not organize to do the construction work without the approval of the City designated Project Manager.

All work shall be accomplished by workers proficient and experienced in the trades required and in an orderly and responsible manner in accordance with recognized standards and work plans and specifications.

Premises shall be kept clean and neat. Materials, scrap and equipment not having further use at the site shall be promptly removed from the job site. Disposal of contractor's waste materials in the City's containers is prohibited unless prior permission has been granted.

A.3.c OSHA GUIDELINES:

The contractor shall be familiar with and operate within the guidelines as set forth by the Occupational Safety and Health Act.

For all operations requiring the placement and movement of the contractor's equipment, contractor shall observe and exercise and compel their employees to observe and exercise all necessary caution and discretion so as to avoid injury to persons, damage to property of any and all kinds, and annoyance to or undue interference with the movement of the public and City personnel.

All ladders, scaffolding or other devices used to reach the surface of objects not otherwise accessible, shall be of sound construction, firm and stable, and shall be maintained in good condition. All such equipment

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shall be moved onto the areas where they are required, placed, shifted where necessary, and removed from the areas in such manner as to provide maximum safety to persons and property and cause the least possible interference with the normal usage of such areas by the public and City personnel.

A.4 CONTRACTOR'S PERFORMANCE:

Contractor shall furnish all necessary labor, tools, equipment and supplies to perform the required services at the City facilities designated. The Executive Director of General Services or their authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the Executive Director of General Services or their authorized representative, performance becomes unsatisfactory, the City shall notify the contractor.

The contractor will be required to correct any specific instances of unsatisfactory performance within the timeframe specified in a Notice of Deficiency issued by the Executive Director of General Services. In the event the unsatisfactory performance is not corrected within the time specified above, the City shall have the immediate right to complete the work to its satisfaction and shall deduct the cost to cover from any balances due or to become due the contractor. Repeated incidences of unsatisfactory performance will result in cancellation of the agreement for default.

A.5 BACKGROUND CHECKS AND DISQUALIFICATION

Contractor, at its expense, must conduct a background check for each of its employees, as well as for the employees of its subcontractors, who will provide services to the City. The term "employee" for the purpose of this requirement, includes anyone who is providing services for the City under this Contract. Background checks are to be conducted through an independent background check vendor and must include the following:

- Social Security Number Trace;
- Federal Criminal Records (includes wants, warrants, arrests, convictions, and incarcerations);
- Colorado Criminal Records (includes wants, warrants, arrests, convictions, and incarcerations);
- Criminal Records from other States if the employee disclosed, or the background check identifies, that the employee lived in another state in the last seven years (includes wants, warrants, arrests, convictions, and incarcerations); and
- National Sexual Offender Registry Search.

The background check shall include all convictions for the last seven years and may include additional convictions beyond seven years when permitted and/or required by law.

Because of the sensitive location(s) of the work proposed within this solicitation, the City shall automatically disqualify from employment under this contract persons with felony convictions. Alternatively, the City may require that a fidelity bond, or such other assurance in such amount as deemed appropriate, be provided to the City as a condition precedent to grant permission where an employee's prior conviction would otherwise preclude their participation under the contract.

All contractor employees are required to self-disclose to the contractor any criminal charges and convictions and nolo contendere pleas (not contest pleas) that occur while providing services to the City within three business days of the conviction, charge, or plea. Contractor is required to inform the City of any criminal charges or convictions or nolo contendere pleas (no contest pleas) that arise while an employee is on assignment with the City. Contractor must inform the City within one business day of the contractor having knowledge of the charge, conviction, or plea. The City will determine, in its sole discretion, whether the employee will remain on a City assignment.

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The background check(s) must be conducted successfully prior to initial access and/or involvement by employees. Employees who separate from the contractor's employment must undergo another background check prior to renewed access and/or involvement in providing services to the City. The City also has the ability to audit the contractor's background check process, to ensure compliance with City standards, at any time.

In addition to the foregoing background check, certain City locations require employees to pass a NCIC background check. These background checks will be administered by CBI. Contractor will be provided entrance cards for each facility. Contractor is not allowed to share cards to provide services.

The following locations require NCIC background checks:

- All Police Facilities
- All DSD Facilities
- Police Academy
- Denver Animal Shelter
- Traffic Operations
- DPD Police Precincts
- Denver Human Services – Castro Building
- Other City locations may also require a NCIC background check

All work to be completed under this on-call contract will require that each person working on-site at a Denver Police Facility, City Attorney, Denver 911, Denver DA, and all other secure facilities within the City and County of Denver that has CJIS information, including all sub-contractors, to have completed CJIS Security Awareness Training. The CJIS Security Policy written and maintained by the Federal Bureau of Investigation is the standard by which all criminal justice agencies nationwide must protect the sensitive data they possess and share with authorized entities. The policy outlines requirements such as personnel security, training, encryption, physical security, media protection, access control, construction, and more. The CBI CJIS Vendor Management Program is designed to help vendors and criminal justice agencies achieve and maintain compliance more easily by providing an easier fingerprinting/vetting process, assisting with the required training, sharing audit findings, and offering resources for questions about CJIS security.

All Denver Law Enforcement is now requiring that the Federal CJIS background check be completed to work at any site connected to law enforcement for the City and County of Denver. The CJIS background check can be completed through the CBI – Vendor Management Program as a **CJIS Support Vendor** at a cost to the contractor.

- 1) Please go to the CBI Vendor Management [website](#) or <https://cbi.colorado.gov/sections/cjis-security/cjis-vendor-management-program>

Please click on the CJIS Support Vendor link in the left-hand navigation pane. Click on the Individual tabs to learn about the program and how to apply.

- 2) You will be applying to be part of the CBI Vendor Management program. To apply for this, you will need documentation that states that you are contracted to do work with one of the Safety Agencies for the City and County of Denver.
- 3) Once you have this document, you will need to submit the following:
 - a. an application to create a fingerprint account;
 - b. the Vendor Agreement;
 - c. the above referenced contractual document with one of the Safety agencies for the City and County

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d. an IRS form W-9 for review. If they are approved, you will receive the code to use for fingerprinting

- 4) Once you have completed the fingerprinting, background check and testing and are a CJIS Support Vendor, please submit the company name, listed individual names and certificates of completion of CJIS training to Agency Representative/Contact so verification can be made as well as associating your company to DPD.
- 5) Once this process is complete, projects can be scheduled and if necessary, badges will be provided for the duration of the project and then must be returned.
- 6) This background check process is good for one year in any safety facility within Colorado as long as the individual is employed with the vendor. If the individual leaves the employment of the vendor – please notify CBI. Any subsequent arrest notification on the individual would mark the vendor as ineligible for the management program.
- 7) If you have concerns or questions, please contact CBI at: cdps.cbi.cjisvendors@state.co.us or call 303-239-4208.

A.6 F.O.B POINT:

Prices quoted for Project shall be F.O.B. destination, unloaded and installed.

A.7 DELIVERY/SERVICE CONSIDERATIONS:

Product Deliveries, if applicable must be scheduled through the designated City Project Manager.

A.8 PALLET CHARGE:

All pallets supplied, if applicable shall be non-returnable, no deposit.

A.9 CONTRACT PROCEDURES:

Contractor will notify the Department of General Services Contracts Office when and if total City expenditures reach \$850,000 and when and if it reaches \$900,000. Failure to comply may result in no payment or termination.

Material costs and supportive services by subcontractors shall be marked up no more than the quoted markup. Copies of invoices for materials and subcontracts will be provided with billing to the City upon request. The City reserves the right to provide materials, but such materials shall not be subject to contractor's warranty.

A.10 INVOICING REQUIREMENTS:

Contractor must be capable of providing invoices that include the following details:

- Invoice number
- Invoice date
- Service date(s) or service period
- PO number (will be provided to contractor when assigned)
- Service location (Building name and address)
- City Requester or Project Manager
- Itemized material charges, including unit of measurement

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- Labor charges are to be itemized by labor classification (including the labor classifications of approved subcontractors), the number of hours worked under each classification, and the labor rate (including fringe benefits) paid for each classification.
- Total charge
- addition detail may be requested as deemed necessary by the City

Contractor shall also provide monthly statement billing (if required by the City). On-call jobs must be invoiced within thirty (30) calendar days from completion of work.

Invoices will be submitted for payment upon completion of work and after inspection of work is completed by assigned City Requestor and/or Project Manager.

Contractor acknowledges that any invoices submitted with additional charges or a pricing structure that does not match the pricing in Exhibit B will be rejected.

Labor Charges:

Labor charges are to be itemized by labor classification (including the labor classifications of approved subcontractors), the number of hours worked under each classification, and the labor rate (including fringe benefits) paid for each classification. The not to exceed labor markup listed in Exhibit B should be included as an itemized labor cost. The labor markup includes all administrative personnel costs and is the maximum amount that the contractor may charge over current Prevailing Wage rates as determined by the Auditor's Office.

The net Hourly Rates quoted shall be billed for on-site time only. Separate "trip-charges" and "travel time" will not be paid for by the City.

All requests for quotations shall be performed at no cost to the City. The labor and materials markups listed in Exhibit B include all transportation, parking, signage, and overhead costs. No additional fees of any kind may be charged if they are not specifically allowed in the text of this contract. It is the contractor's responsibility to negotiate the inclusion of any additional charges prior to executing this agreement.

Material Charges:

All charges for materials must be itemized to include the type of material or part, the unit of measurement, and the actual cost before markup. The material mark-up for billable material shall remain firm and fixed for the full term of the contract to include any term extensions. The use of contractor owned equipment to carry out and perform work assignments under this contract will not be reimbursed to the contractor. The hourly labor markup charged by the contractor shall cover the use of the contractor owned tools, equipment and other contractor expenses required to perform work assignments.

All Materials left over from a job but charged to the City and all equipment or materials removed from the City's facilities shall remain the property of the City unless released by the City's representative as unsalvageable waste. Waste from the job shall be removed from the City's premises and disposed of properly by the contractor.

A.11 PRICING

All pricing quoted shall be firm and fixed for the full term of the agreement to include contract extensions, if applicable. Pricing shall be in the format contained in Exhibit B of the contract.

The total hourly rate billed to the City shall be the prevailing wage hourly rate + fringe benefit hourly wage for each applicable position plus the labor markup rate for each labor hour billed to the city. Any applicable "markup"

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costs shall remain firm and fixed for the full term of the contract, to include the initial term and any term extensions. The hourly labor mark-up rate shall cover all tools, equipment, fuel costs, parking expenses, trip charges, service truck and other contractor expenses. Equipment rental charges will require proper back-up documentation.

Labor markup not to exceed shall be the maximum amount the contractor is able to bill over current Prevailing Wage hourly rates plus hourly fringe benefits as determined by the Auditor's Office. This not to exceed markup for on-call service allows for the contractor to competitively bid jobs when a mini-bid is required.

Project Manager is defined as the contractor's personnel that is responsible for overseeing and assigning work; prevailing wage is not applicable.

Administrative Support is defined as the contractor's personnel that is responsible for invoicing, billing, scheduling, and any other administrative duties that prevailing wage is not applicable.

Labor markup not to exceed shall be the maximum amount the contractor is able to bill over current Prevailing Wage rates as determined by the Auditor's Office. Applicable Prevailing Wage Rates will remain fixed until the first anniversary of the solicitation date.

Materials markup shall be a fixed percentage over materials cost. The materials markup percentage shall remain firm and fixed for the full term of the contract to include the initial term and all term extension options. All charges for materials must be itemized to include the kind of material or part, the unit of measurement, and the actual cost before markup.

Proper back-up information shall be provided with project invoices for equipment and tool rentals fees. The contractor is expected to provide the required tools and equipment per industry standards needed to complete work assignments. The use of the contractor owned equipment to carry out and perform work assignments under this contract will not be reimbursed to the contractor. The hourly labor markup charged by the contractor shall cover the use of the contractor owned tools, equipment and other contractor expenses required to perform work assignments.

A.12 SUSTAINABILITY POLICY AND GUIDANCE:

The City & County of Denver, through its certified Environmental Management System (ISO 14001) is committed to protecting the environment, and the health of the public and its employees. In accordance with this policy, City Agencies are directed to procure cost-competitive products and services that minimize resource consumption and negative impacts on the environment and human health. Contractors, when applicable, are to follow standards and recommendations of the United States Environmental Protection Agency EPP program, the Green Seal organization, and standards and practices specified by the U.S. Green Building Council, including the Leadership in Energy and Environmental Design (LEED) program.

Leadership in Energy and Environmental Design for Existing Buildings (LEED EB) requires City agencies to fully implement all appropriate LEED-EB principals to minimize negative economic, environmental, and public health impacts of facility operations and maintenance. Thus, services must meet any directly applicable LEED-EB standards, and otherwise help the City realize the goals of the and Executive Order 123.

Environmentally Preferable Purchasing (EPP) Guidance and Prohibitions:

The City defines Environmentally Preferable products and services that minimize the impact on human health and the environment when compared with competing products and services that serve the same purpose. The City's EPP evaluation may extend to raw materials acquisition, energy consumption in manufacturing and transport, packaging, recyclability, waste disposal, and many other factors. Contractor is encouraged to describe

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any EPP attributes of the goods or services they offer to the City. Contractor is encouraged to review the list of products and services below that meet the City's EPP requirements and highlight to the City where their firm excels in EPP compliance, and where they are working to improve.

Products and services with the following attributes meet basic EPP defined in the City's Environmental Management System and are favored for procurement:

- Green Seal approved products and services
- EPA's "Safer Choice" labeled products
- Energy Star certified equipment
- Cradle to Cradle (C2C) certified products
- EPEAT Registry for Greener Electronics
- Conformance to Green Seal GS-11 (paints and coatings) GS-36 (commercial adhesives) and GS-37 (cleaning products) standards
- Conformance with California Code of Regulations for maximum allowable VOC content
- Conformance with SCAQMD Rule #1168 (adhesive and sealant applications), or BAAQMD Regulation 8, Rule 51 (adhesive and sealant products)
- Conformance with Carpet and Rug Institute/Green Label Plus Programs (indoor air quality)
- Products dispensed through automatic metering and mixing equipment (after other supply is exhausted)
- Products with recycled material and post-consumer waste content, including 30% recycled content paper
- Durable and / or reusable products and applicators
- Purchase items that can be used in a reasonable amount of time, within the products expiration date
 - Use the remaining product before switching contractor
- Neutral pH products (pH>2.0 and <12.5)
- Non-flammable products (flashpoint >140F)
- Fragrance-free and dye-free products
- Products that can be recycled (with preferable local recycling options available)
- Other characteristics that minimize:
 - Waste
 - Energy and resources use
 - Release of toxic compounds
 - Exposure of workers and the public to pollutants

The following products and services are prohibited from procurement under this agreement:

- All products containing chlorinated or halogenated hydrocarbons i.e., chlorinated solvents (typically paint strippers, brake cleaners, degreasers, and some lubricants)
- Per- and polyfluoro alkyl substances, or PFAS
 - Excluding specific fire-fighting products approved by the Denver Department of Public Health & Environment (DDPHE)
- Products that will be a regulated hazardous waste (per State Hazardous Waste Regulations) upon disposal when there is a viable alternative
- Products containing Asbestos
- Products containing category 1 carcinogens, known mutagens and/or known teratogens
 - Products containing "Crystalline Silica," a respirable powder, are allowed as it does not present a reasonable potential for a negative environmental impact, or generation of a toxic or hazardous waste. Crystalline Silica Respirable Dust is a recognized significant workplace health hazard as

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described here <https://www.osha.gov/dsg/topics/silicacrystalline/>.

- Products which have a high risk of causing spontaneous combustion
- Strong chemical oxidizers and peroxide forming chemicals
- Products containing the chemical elements or compounds listed in Table 1
- Products containing chemical compounds deemed by the Denver Department of Public Health and Environment (DDPHE) to present an undue of risk to human health or the environment in their use or disposal.
 - Consult with DDPHE for review of these as appropriate

Upon request, the contractor must submit documentation proving that all procured products and services meet these requirements or provide a rationale when substitution is not available (such as in a laboratory).

Table 1: Prohibited Chemicals and Compounds (excluding legitimate laboratory uses and alloys)

	Chemical Name	CAS Number
1	Arsenic, Arsenic containing compounds	7440-38-2, various
2	Barium, compounds of	various
3	Cadmium, compounds of	various
4	Carbon tetrachloride	56-23-5
5	Chlorobenzene	108-90-7
6	Chloroform	67-66-3
7	Chromium, compounds of	various
8	1,2-Dichlorobenzene	95-50-1
9	1,4-Dichlorobenzene	106-46-7
10	1,2-Dichloroethane	107-06-2
11	1,1-Dichloroethylene	75-35-4
12	Hexachlorobenzene	118-74-11
13	Hexachlorobutadiene	87-68
14	Hexachloroethane	67-72-1
15	Hydrofluoric Acid	7664-39-3
16	Lead, compounds of	various
17	Mercury, elemental	7439-97-6
18	Mercury, compounds of	various
19	Methylene chloride	75-09-2
20	Nitrobenzene	98-95-3
21	Pentachlorophenol	87-86-5
22	Selenium, compounds of	various
23	Silver, compounds of	various
24	Tetrachloroethylene	127-18-4
25	1,1,1-Trichloroethane	71-55-6
26	1,1,2-Trichloroethane	79-00-5
27	Trichloroethylene	79-01-6
28	2,4,5-Trichlorophenol	95-95-4
29	2,4,6-Trichlorophenol	88-06-2
30	Vinyl chloride	75-01-4

A.13 LAWS, REGULATIONS, TAXES AND PERMITS

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The Contractor 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 Contractor, 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 Contractor 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.

A.14 FEDERAL PROVISIONS (if applicable):

Where the source of the funds, directly or indirectly for this Purchase Order is the Federal Government, the contractor agrees to the applicable provisions set out below. The contractor shall be responsible for determining which terms are applicable to its products and/or services.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE Contractor agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60). **DAVIS-BACON ACT COMPLIANCE** Contractor agrees to comply with the Davis-Bacon Act (40 U.S.C. 3148 to 3148) as supplemented by Department of Labor regulations (29 CFR part 5). **ANTI-KICKBACK ACT COMPLIANCE** Contractor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). **CONTRACT WORK HOURS AND SAFETY STANDARDS** Contractor agrees to comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5) **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT** Contractor agrees to comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. **CLEAN AIR AND WATER REQUIREMENTS** Contractor agrees to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et. seq.), and the Clean Water Act (33 U.S.C. 1251 et. seq.). Contractor agrees to report each violation of these requirements to the City and understands and agrees that the City will, in turn, report each violation as required to the appropriate EPA regional office. **ENERGY CONSERVATION REQUIREMENTS** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. (42 U.S.C. 6201) **NO SUSPENSION OR DEBARMENT** Contractor certifies that neither it nor its principals or any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency. **BYRD ANTI-LOBBYING.** If the Maximum Contract Amount exceeds \$100,000, the Contractor must complete and submit to the City a required certification form provided by the City certifying that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract grant of any other award covered by 31 U.S.C. 1352. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

A.15 LEAD-BASED PAINT (LBP):

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The EPA requires that all contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, childcare facilities, and schools built before 1978 must be certified; individual renovators must be trained by an EPA-accredited training provider, and the firms and renovators must follow specific work practices to prevent lead contamination. Work that has the potential to disturb known or assumed LBP must be coordinated with the Denver Department of Public Health and Environment (DDPHE) Environmental Quality (EQ) division.

A.16 ENVIRONMENTAL MANAGEMENT SYSTEM, ENVIRONMENTAL POLICY, AWARENESS, AND COMPLIANCE:

Some City operations can pose risks to human health and the environment. Proactive environmental management can reduce risk and prevent harm.

The Denver Environmental Performance Program (DEPP) is the City's ISO 14001 Environmental Management System. The DEPP ensures all aspects of City operations with potential to cause environmental impacts are proactively managed. The City observes environmental procedures to ensure compliance with environmental requirements, protect workers and the public, and prevent pollution. Furthermore, the City requires that each person providing products or services, the City's business partners, be responsible for conducting activities in a manner consistent with City environmental policy. The DEPP also requires business partners ensure the competency of their staff with respect to how their actions impact the environment.

All City business partners are required by statute, regulation, and contract to comply with all federal, state, and local environmental regulations and requirements when working for the City. All City business partners must be aware of the impacts their actions have on the environment and implement practices to comply with environmental requirements and the City's environmental performance goals.

The Environmental Policy of the City & County of Denver, may be found at:

<https://www.denvergov.org/files/assets/public/public-health-and-environment/documents/eq/2017-denver-environmental-policy.pdf>

A.16.a Environmentally Preferable Purchasing (EPP) Guidance and Prohibitions:

The City defines Environmentally Preferable products and services as having a lesser or reduced effect on human health and the environment when compared with competing products and services that serve the same purpose. The City's EPP evaluation may extend to raw materials acquisition, energy consumption in manufacturing and transport, packaging, recyclability, waste disposal, and many other factors.

Applicable EPP considerations may factor in the evaluation process of this IFB. Vendors are encouraged to describe any EPP attributes of the goods or services they offer to the City.

A.16.b Regulated Building Materials (RBM)

Any work disturbing building materials must be coordinated with the Denver Department of Public Health and Environment (DDPHE) Environmental Quality (EQ) division. Suspect RBMs, such as those that may contain asbestos or lead-based paint, are to be assessed, removed, and disposed of in accordance with all applicable state and federal regulations. Any contractor or sub-contractor impacting RBMs must hold the appropriate certifications and trainings for removal, material handling, transport, and disposal of such materials. When required, 3rd party project oversight will be provided by the City.

EXHIBIT A

Contractors may perform trace asbestos work as long as they meet applicable Occupational Safety and Health Administration (OSHA) requirements. Work plans detailing methods and engineering controls that meet OSHA standards must be submitted to EQ for review and approval before the start of any trace asbestos work.

A.17 EMERGENCY PURCHASES:

The City and County of Denver reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately by the contractor.

EXHIBIT B

Trade: On-Call Restoration Services

PERSONNEL CLASSICATION	Standard Billing Rate Per Hour
Project Manager	\$ 105 /hr
Administrative Support	\$ 53 /hr
* Labor Markup Above Prevailing Wage Rate	\$ 48.22 /hr
Materials Markup	<u>21</u> %
3 rd Party Equipment Rental Markup	<u>21</u> %
<p><i>When applicable, 3rd party equipment rental will be reimbursed to the successful Contractor at cost + equipment markup no additional cost will be approved for equipment rental. Equipment rental shall be approved by the City prior to equipment being rented by the Contractor. Contractor shall submit necessary backup information as requested by the City.</i></p>	

Cost of \$25,000.00 Payment and Performance Bond	Percentage charged by Surety \$ <u>2.5</u> %	Total cost (bond only) \$ <u>625</u>
---	---	---

Note: The cost for Payment and Performance Bond will not be taken under consideration for the evaluation of the proposal. Proof of Surety invoice may be requested for reimbursement purposes only. The City will only pay the amount on the invoice. No markup will be allowed.

EXHIBIT B

SCHEDULE OF BILLING RATES

This section is for third-party equipment that may be used for the completion of work as approved by the City. Include on this pricing sheet the cost for third-party equipment. If the equipment will be a rental from a third-party vendor, then the equipment markup % would apply. The contractor may copy this page or modify it to conform to the services being offered. Any rented equipment will be subject to the materials markup rate.

Contractor: Restoration Management Company

TYPE OF EQUIPMENT	BILLING RATE PER HOUR
<u>SEE ATTACHED - City & County of Denver 2024 Pricing</u>	<u>\$ See Attached</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____



EXHIBIT B

City & County of Denver 2024 Pricing IFB No 11169A

LABOR			
Project Manager	\$105	/hr	
Project Auditor	\$53	/hr	
Technician (Regular Hours)	\$66.51	/hr	
Technician (After Hours)	\$89.51	/hr	
General Laborer (Regular Hours)	\$51.00	/hr	
General Laborer (After Hours)	\$76.50	/hr	

EQUIPMENT			
Dehumidifier - Large (1200/Evo/R175)	\$115.50	/day	
Dehumidifier - Ex Large (2000/R200/R250)	\$157.50	/day	
Air Mover	\$31.00	/day	
Extraction Unit (Truck Mount)	\$567.00	/day	
Extraction Unit (Portable)	\$157.50	/day	
Vacuum, HEPA	\$78.75	/day	
Negative Air / Air Scrubber - 500	\$94.50	/day	
Negative Air / Air Scrubber - 2000	\$152.25	/day	
Heater - Electric Large	\$300.00	/day	
Heater - Electric	\$180.00	/day	
Generator - Portable	\$82.95	/day	
Injecti-Dry / Dry Force	\$147.00	/day	
Moisture Meter	\$29.40	/day	

CONSUMABLES			
Anti-Microbial / Disinfectant / Sanitizer (Gallon)	\$76.45		
Bags, HEPA Vacuum (Each)	\$6.01		
Chem Sponge (Each)	\$7.85		
Degreaser (Gallon)	\$30.80		
Dust Mask (Box)	\$34.00		
Dust Mask (N95/KN95) - (Each)	\$3.19		
Encapsulant, Antimicrobial (Gallon)	\$142.00		
Filter, Dehumidifier (Each)	\$10.00		
Filter, Primary (Each)	\$2.20		
Filter, Secondary (Each)	\$11.83		
Filter, Secondary (Charcoal) - (Each)	\$37.40		
Floor Protection, Carpet Mask (Roll)	\$209.00		

EXHIBIT B

Gloves, Nitrile (Box)	\$45.00		
Gloves, Nitrile (Single Pair)	\$0.49		
Lumber - Plywood (Each)	\$50.00		
Lumber - 1" X 2" X 8' (Each)	\$4.00		
Lumber - 2" X 4" X 8' (Each)	\$7.00		
Mop Heads - Standard (Each)	\$13.20		
Odor Blocks (Each)	\$10.00		
Poly Sheeting 2 mil FR 10'-12' (Roll)	\$58.19		
Poly Sheeting 4 mil FR 10'-12' (Roll)	\$96.00		
Poly Sheeting 6 mil FR 10'-12' (Roll)	\$163.00		
Tape - Blue/Green (Each)	\$14.82		
Tape - Duct/Vinyl (Each)	\$13.07		
Towel, Terry Cleaning (LB)	\$4.31		
Tyvek (Polyethylene) - (Each)	\$24.70		
Tyvek (White) - (Each)	\$9.46		
Zipper, Peal & Seal (Each)	\$16.75		

**EXHIBIT C
GENERAL SERVICES ON-CALL CONTRACT WORK ORDER FORM**



Administered by:
 Department of General Services Contracts Office
 201 W. Colfax Ave., Dept. 1110
 Denver, CO 80202
GScontracts@denvergov.org

Work Order Title & Description:	Contractor Name:
Agency Requester:	Contract No.:
Agency:	Workday Contract No.:
Requester Phone # and Email:	
Fund/Cost Center/Spend Category/PRJ/Program:	
Send Invoices To (email):	Emergency Auth. Code: <small>*As applicable</small>

It is hereby mutually agreed that when this **WORK ORDER** has been signed by the contracting parties, the following described scope of work shall be executed by the **CONTRACTOR** in accordance with all contract documents and as herein stipulated and agreed.

The sum, as indicated in the attached scope of work, constitutes full and complete consideration, payment and satisfaction to the Contractor for this Work Order and the Contractor hereby agrees to make no further claims, demands, or requests of any kind whatsoever for further monies, extensions of time, or other consideration for the described scope of work to the Contract.

THE CONTRACTOR AGREES to furnish all services, material, labor and perform all work/tasks required to complete the scope of work described and any changes in accordance with requirements for similar work covered by the Work Order, except as otherwise stipulated herein, for the following considerations:

The Lump Sum of (\$XX.XX):

Work Order Completion Date*:

*Form will not be accepted without a completion date.

Liquidated Damage:

Accepted for Contractor By:

Contractor Email:

Contractor Signature:

Title:

Date:

USING AGENCY

I hereby certify that funds are available that will be reserved to pay the Contractor in full for the work to be performed under this **WORK ORDER**.

 By Using Agency – Administrative or Budget Office Date

APPROVALS

 Approved by Requestor, Date

 Approved by Division Director Date

EXHIBIT D
GENERAL SERVICES ON-CALL CONTRACT WORK ORDER CHANGE FORM



CONTRACTS OFFICE
 DENVER GENERAL SERVICES

Administered by:
 Department of General Services Contracts Office
 201 W. Colfax Ave., Dept. 1110
 Denver, CO 80202
GScontracts@denvergov.org

Work Order Title:

Contractor Name:

On-Call Contract No.:

Supplier ID No.:

Workday PO No.:

Agency:

Agency Requestor:

Fund/Cost Center/Spend Category:

It is hereby mutually agreed that when this **WORK ORDER CHANGE** has been signed by the contracting parties, the following described changes shall be executed by the **CONTRACTOR** without changing the terms of the Contract.

Modifications to the Work Order described in the attached narrative and summarized in the attached scope of work dated _____ and attached as Exhibit A.

THE CONTRACTOR AGREES to furnish all services, material, labor and perform all work/tasks required to complete the scope of work described and any changes in accordance with requirements for similar work covered by the Work Order Change, except as otherwise stipulated herein, for the following considerations:

Add/subtract from the Work Order the sum of: _____ (\$XX.XX)

Work Order Revised Completion Date:

Accepted for Contractor By:

Contractor Signature:

Title:

Date:

NOTE: No persons shall authorize or perform any of the above until the Work Order Change has all signatures and has been distributed alongside a Notice to Proceed

DISTRIBUTION: Auditor, Contract Administration, General Services Contract Compliance Technician, DSBO, and Contractor.

EXHIBIT E

**CITY AND COUNTY OF DENVER
DEPARTMENT OF GENERAL SERVICES**

PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____, a corporation organized and existing under and by virtue of the laws of the State of _____, hereafter referred to as the "Contractor", and _____, a corporation organized and existing under and by virtue of the laws of the State of _____, and authorized to transact business in the State of Colorado, as Surety, are held and firmly bound unto the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, hereinafter referred to as the "City", in the penal sum of **Twenty-five Thousand Dollars (\$25,000.00)**, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents;

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden Contractor has on the _____ day of _____, 2024, entered into a written contract with the aforesaid City for furnishing all labor and tools, supplies, equipment, superintendence, materials and everything necessary for and required to do, perform and complete the construction of **CONTRACT NO. GENRL-202475587, [On-Call Restoration Services]**, Denver, Colorado, and has bound itself to complete the project within the time or times specified or pay liquidated damages, all as designated, defined and described in the said Contract and Conditions thereof, and in accordance with the Plans and Technical Specifications therefore, a copy of said Contract being made a part hereof;

NOW, THEREFORE, if the said Contractor shall and will, in all particulars well and truly and faithfully observe, perform and abide by each and every Covenant, Condition and part of said Contract, and the Conditions, Technical Specifications, Plans, and other Contract Documents thereto attached, or by reference made a part thereof and any alterations in and additions thereto, according to the true intent and meaning in such case, then this obligation shall be and become null and void; otherwise, it shall remain in full force and effect;

PROVIDED FURTHER, that if the said Contractor shall satisfy all claims and demands incurred by the Contractor in the performance of said Contract, and shall fully indemnify and save harmless the City from all damages, claims, demands, expense and charge of every kind (including claims of patent infringement) arising from any act, omission, or neglect of said Contractor, its agents, or employees with relation to said work; and shall fully reimburse and repay to the City all costs, damages, and expenses which it may incur in making good any default based upon the failure of the Contractor to fulfill its obligation to furnish maintenance, repairs or replacements for the full guarantee period provided in the Contract Documents, then this obligation shall be null and void; otherwise it shall remain in full force and effect;

PROVIDED FURTHER, that if said Contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing it or its subcontractors with labor and materials, rental machinery, tools or equipment used or performed in the prosecution of work provided for in the above Contract and that if the Contractor will indemnify and save harmless the City for the extent of any and all payments in connection with the carrying out of such Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect;

PROVIDED FURTHER, that if the said Contractor fails to duly pay for any labor, materials, team hire, sustenance, provisions, provender, gasoline, lubricating oils, fuel oils, grease, coal, or any other supplies or materials used or consumed by said Contractor or its subcontractors in performance of the work contracted to be done, or fails to pay any person who supplies rental machinery, tools or equipment, all amounts due as the result of the use of such machinery, tools or equipment in the prosecution of the work, the Surety will pay the same in any amount not exceeding the amount of this obligation, together with interest as provided by law;

EXHIBIT E

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to contracts with others in connection with this project, or the work to be performed thereunder, or the Technical Specifications and Plans accompanying the same, shall in any way affect its obligation on this bond and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the Contract, or contracts, or to the work, or to the Technical Specifications and Plans.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this _____ day of _____, 2024.

Attest:

Secretary

Contractor

By: _____
President

Surety

By: _____
Attorney-In-Fact

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond).

APPROVED AS TO FORM:
Attorney for the City and County of Denver

APPROVED FOR THE CITY AND COUNTY OF
DENVER

By: _____
Assistant City Attorney

By: _____
Michael C. Johnston
MAYOR

By: _____
Al Gardner
**EXECUTIVE DIRECTOR OF
GENERAL SERVICES**

City and County of Denver



TIMOTHY M. O'BRIEN, CPA
AUDITOR

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

TO: All Users of the City and County of Denver Prevailing Wage Schedules
FROM: Luis Osorio Jimenez, Prevailing Wage Administrator
DATE: May 21, 2024
SUBJECT: Latest Change to Prevailing Wage Schedules

The effective date for this publication will be, **Friday, May 17, 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. 2
Publication Date: 5/17/2024
(9 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.

EXHIBIT F

"General Decision Number: CO20240020 05/17/2024

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

EXHIBIT F

	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	covered workers at least
extended on or after January	\$18.29 per hour (or the
30, 2022:	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

EXHIBIT F

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

ASBE0028-002 01/01/2024

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation).....	\$ 32.98	16.47

CARP0055-002 05/01/2023

	Rates	Fringes
CARPENTER (Drywall Hanging Only).....	\$ 33.86	12.59

CARP1607-001 06/01/2023

	Rates	Fringes
MILLWRIGHT.....	\$ 41.19	16.74

ELEC0068-012 06/01/2023

	Rates	Fringes
ELECTRICIAN (Includes Low Voltage Wiring).....	\$ 43.20	18.38

ELEV0025-001 01/01/2024

EXHIBIT F

	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 05/01/2023

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Crane)		
141 tons and over.....	\$ 38.63	14.25
50 tons and under.....	\$ 34.77	14.25
51 to 90 tons.....	\$ 35.07	14.25
91 to 140 tons.....	\$ 36.27	14.25

 IRON0024-009 11/01/2023

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

 IRON0024-010 11/01/2023

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

EXHIBIT F

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).....	\$ 18.25	14.33

PAIN0930-002 07/01/2023

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

PLUM0003-009 06/01/2023

	Rates	Fringes
PLUMBER (Excludes HVAC Duct, Pipe and Unit Installation).....	\$ 42.98	19.77

PLUM0208-008 06/01/2023

	Rates	Fringes
PIPEFITTER (Includes HVAC		

EXHIBIT F

Pipe and Unit Installation;
 Excludes HVAC Duct
 Installation).....\$ 41.50 21.90

* SFCO0669-002 04/01/2024

Rates Fringes

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

SHEE0009-004 07/01/2023

Rates Fringes

SHEET METAL WORKER (Includes
 HVAC Duct Installation;
 Excludes HVAC Pipe and Unit
 Installation).....\$ 38.47 20.83

* 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

EXHIBIT F

LABORER: Mason Tender - Brick...	\$ 18.29 **	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 18.29 **	0.00
LABORER: Pipelayer.....	\$ 18.29 **	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.....	\$ 18.29 **	0.00
TRUCK DRIVER: Dump Truck.....	\$ 18.29	0.00
WATERPROOFER.....	\$ 18.29 **	0.00

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

EXHIBIT F

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

Classification		Base	Fringe
Boilermaker		\$30.97	\$21.45
Iron Worker, Reinforcing		\$55.25	\$3.65
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.

EXHIBIT G



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
05/31/2024

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 have ADDITIONAL INSURED provisions or 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 Aon Risk Insurance Services West, Inc. San Francisco CA Office 425 Market Street Suite 2800 San Francisco CA 94105 USA	CONTACT NAME: PHONE (A/C. No. Ext): 8662837122 FAX (A/C. No.): (800) 363-0105		
	E-MAIL ADDRESS:		
INSURED Jon K Takata Corporation DBA Restoration Management Company 3090 Independence Drive Livermore CA 94551 USA	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Zurich American Ins Co		16535
	INSURER B: Everest Indemnity Insurance Company		10851
	INSURER C: Allied World National Assurance Company		10690
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES **CERTIFICATE NUMBER: 570106005281** **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. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			EF1CE00035241	06/01/2024	06/01/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y		BAP 0297398-07	06/01/2024	06/01/2025	COMBINED SINGLE LIMIT (Ea accident) \$3,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
B	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			EF1XS00041241 Agg/Occ	06/01/2024	06/01/2025	EACH OCCURRENCE AGGREGATE \$5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N Y	wc029739607	06/01/2024	06/01/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
B	Contractors Pollution Liability			EF1CE00035241	06/01/2024	06/01/2025	Aggregate Limit \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 As required by written contract, the City and county of Denver, its Elected and Appointed Officials. The City and County of Denver, its Elected and Appointed officials, Employees and Volunteers are included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies.

CERTIFICATE HOLDER

CANCELLATION

City and County of Denver Department of General Services 210 W. Colfax Avenue Dept. 1110 Denver CO 80202 USA	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 <i>Aon Risk Insurance Services West, Inc.</i>
---	--

Holder Identifier : HFGKAMIDN

Certificate No : 570106005281





EXHIBIT G CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
10/21/2024

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.

PRODUCER Aon Risk Insurance Services West, Inc. San Francisco CA Office 425 Market Street Suite 2800 San Francisco CA 94105 USA	CONTACT NAME: PHONE (A/C. No. Ext): 8662837122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: 570000090377														
INSURED Restoration Management Company 3090 Independence Dr Livermore CA 94551 USA	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Zurich American Ins Co</td> <td style="text-align: center;">16535</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Zurich American Ins Co	16535	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

Holder Identifier :

COVERAGES CERTIFICATE NUMBER: 570109050718 REVISION NUMBER:

LOCATION OF PREMISES/ DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

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	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
	<input type="checkbox"/> PROPERTY <input type="checkbox"/> CAUSES OF LOSS DEDUCTIBLES <input type="checkbox"/> BASIC BUILDING <input type="checkbox"/> BROAD CONTENTS <input type="checkbox"/> SPECIAL <input type="checkbox"/> EARTHQUAKE <input type="checkbox"/> WIND <input type="checkbox"/> FLOOD				<input type="checkbox"/> BUILDING <input type="checkbox"/> PERSONAL PROPERTY <input type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> EXTRA EXPENSE <input type="checkbox"/> RENTAL VALUE <input type="checkbox"/> BLANKET BUILDING <input type="checkbox"/> BLANKET PERS PROP <input type="checkbox"/> BLANKET BLDG & PP	
A	<input checked="" type="checkbox"/> INLAND MARINE <input type="checkbox"/> CAUSES OF LOSS <input type="checkbox"/> NAMED PERILS <input checked="" type="checkbox"/> All Risk	TYPE OF POLICY Contractors Equipment POLICY NUMBER CPP115057606	06/01/2024	06/01/2025	<input checked="" type="checkbox"/> Blanket Limit <input checked="" type="checkbox"/> Newly Acquired Equip <input checked="" type="checkbox"/> Unsched Equip <input checked="" type="checkbox"/> Unsched L/R/B	\$10,090,965 \$250,000 \$5,000 \$100,000
	<input type="checkbox"/> CRIME TYPE OF POLICY					
	<input type="checkbox"/> BOILER & MACHINERY / EQUIPMENT BREAKDOWN					
A	Installation Floater	CPP115057606	06/01/2024	06/01/2025	<input checked="" type="checkbox"/> Per project	\$2,000,000

CERTIFICATE NUMBER: 570109050718

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER City and County of Denver Purchasing Division 201 W. Colfax Ave. Department 304, 11th Floor Denver CO 80202 USA	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
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**EXHIBIT H, FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

**Legal Authority for and Purpose and Genesis of the
Security Addendum**

Traditionally, law enforcement and other criminal justice agencies have been responsible for the confidentiality of their information. Accordingly, until mid-1999, the Code of Federal Regulations Title 28, Part 20, subpart C, and the National Crime Information Center (NCIC) policy paper approved December 6, 1982, required that the management and exchange of criminal justice information be performed by a criminal justice agency or, in certain circumstances, by a noncriminal justice agency under the management control of a criminal justice agency.

In light of the increasing desire of governmental agencies to contract with private entities to perform administration of criminal justice functions, the FBI sought and obtained approval from the United States Department of Justice (DOJ) to permit such privatization of traditional law enforcement functions under certain controlled circumstances. In the Federal Register of May 10, 1999, the FBI published a Notice of Proposed Rulemaking, announcing as follows:

1. Access to CHRI [Criminal History Record Information] and Related Information, Subject to Appropriate Controls, by a Private Contractor Pursuant to a Specific Agreement with an Authorized Governmental Agency To Perform an Administration of Criminal Justice Function (Privatization). Section 534 of title 28 of the United States Code authorizes the Attorney General to exchange identification, criminal identification, crime, and other records for the official use of authorized officials of the federal government, the states, cities, and penal and other institutions. This statute also provides, however, that such exchanges are subject to cancellation if dissemination is made outside the receiving departments or related agencies. Agencies authorized access to CHRI traditionally have been hesitant to disclose that information, even in furtherance of authorized criminal justice functions, to anyone other than actual agency employees lest such disclosure be viewed as unauthorized. In recent years, however, governmental agencies seeking greater efficiency and economy have become increasingly interested in obtaining support services for the administration of criminal justice from the private sector. With the concurrence of the FBI's Criminal Justice Information Services (CJIS) Advisory Policy Board, the DOJ has concluded that disclosures to private persons and entities providing support services for criminal justice agencies may, when subject to appropriate controls, properly be viewed as permissible disclosures for purposes of compliance with 28 U.S.C. 534.

We are therefore proposing to revise 28 CFR 20.33(a)(7) to provide express authority for such arrangements. The proposed authority is similar to the authority that already exists in 28 CFR 20.21(b)(3) for state and local CHRI systems. Provision of CHRI under this authority would only be permitted pursuant to a specific agreement with an authorized governmental agency for the purpose of providing services for the administration of criminal justice. The agreement would be required to incorporate a security addendum approved by the Director of the FBI (acting for the Attorney General). The security

addendum would specifically authorize access to CHRI, limit the use of the information to the specific purposes for which it is being provided, ensure the security and confidentiality of the information consistent with applicable laws and regulations, provide for sanctions, and contain such other provisions as the Director of the FBI (acting for the Attorney General) may require. The security addendum, buttressed by ongoing audit programs of both the FBI and the sponsoring governmental agency, will provide an appropriate balance between the benefits of privatization, protection of individual privacy interests, and preservation of the security of the FBI's CHRI systems.

The FBI will develop a security addendum to be made available to interested governmental agencies. We anticipate that the security addendum will include physical and personnel security constraints historically required by NCIC security practices and other programmatic requirements, together with personal integrity and electronic security provisions comparable to those in NCIC User Agreements between the FBI and criminal justice agencies, and in existing Management Control Agreements between criminal justice agencies and noncriminal justice governmental entities. The security addendum will make clear that access to CHRI will be limited to those officers and employees of the private contractor or its subcontractor who require the information to properly perform services for the sponsoring governmental agency, and that the service provider may not access, modify, use, or disseminate such information for inconsistent or unauthorized purposes.

Consistent with such intent, Title 28 of the Code of Federal Regulations (C.F.R.) was amended to read:

§ 20.33 Dissemination of criminal history record information.

- a) Criminal history record information contained in the Interstate Identification Index (III) System and the Fingerprint Identification Records System (FIRS) may be made available:
 - 1) To criminal justice agencies for criminal justice purposes, which purposes include the screening of employees or applicants for employment hired by criminal justice agencies.
 - 2) To noncriminal justice governmental agencies performing criminal justice dispatching functions or data processing/information services for criminal justice agencies; and
 - 3) To private contractors pursuant to a specific agreement with an agency identified in paragraphs (a)(1) or (a)(6) of this section and for the purpose of providing services for the administration of criminal justice pursuant to that agreement. The agreement must incorporate a security addendum approved by the Attorney General of the United States, which shall specifically authorize access to criminal history record information, limit the use of the information to the purposes for which it is provided, ensure the security and confidentiality of the information consistent with these regulations, provide for sanctions, and contain such other provisions as the Attorney General may require. The power

and authority of the Attorney General hereunder shall be exercised by the FBI Director (or the Director's designee).

This Security Addendum, appended to and incorporated by reference in a government-private sector contract entered into for such purpose, is intended to insure that the benefits of privatization are not attained with any accompanying degradation in the security of the national system of criminal records accessed by the contracting private party. This Security Addendum addresses both concerns for personal integrity and electronic security which have been addressed in previously executed user agreements and management control agreements.

A government agency may privatize functions traditionally performed by criminal justice agencies (or noncriminal justice agencies acting under a management control agreement), subject to the terms of this Security Addendum. If privatized, access by a private contractor's personnel to NCIC data and other CJIS information is restricted to only that necessary to perform the privatized tasks consistent with the government agency's function and the focus of the contract. If privatized the contractor may not access, modify, use or disseminate such data in any manner not expressly authorized by the government agency in consultation with the FBI.

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

The goal of this document is to augment the CJIS Security Policy to ensure adequate security is provided for criminal justice systems while (1) under the control or management of a private entity or (2) connectivity to FBI CJIS Systems has been provided to a private entity (contractor). Adequate security is defined in Office of Management and Budget Circular A-130 as “security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information.”

The intent of this Security Addendum is to require that the Contractor maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

This Security Addendum identifies the duties and responsibilities with respect to the installation and maintenance of adequate internal controls within the contractual relationship so that the security and integrity of the FBI's information resources are not compromised. The security program shall include consideration of personnel security, site security, system security, and data security, and technical security.

The provisions of this Security Addendum apply to all personnel, systems, networks and support facilities supporting and/or acting on behalf of the government agency.

1.00 Definitions

1.01 Contracting Government Agency (CGA) - the government agency, whether a Criminal Justice Agency or a Noncriminal Justice Agency, which enters into an agreement with a private contractor subject to this Security Addendum.

1.02 Contractor - a private business, organization or individual which has entered into an agreement for the administration of criminal justice with a Criminal Justice Agency or a Noncriminal Justice Agency.

2.00 Responsibilities of the Contracting Government Agency.

2.01 The CGA will ensure that each Contractor employee receives a copy of the Security Addendum and the CJIS Security Policy and executes an acknowledgment of such receipt and the contents of the Security Addendum. The signed acknowledgments shall remain in the possession of the CGA and available for audit purposes. The acknowledgement may be signed by hand or via digital signature (see glossary for definition of digital signature).

3.00 Responsibilities of the Contractor.

3.01 The Contractor will maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed and all subsequent versions), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

4.00 Security Violations.

4.01 The CGA must report security violations to the CJIS Systems Officer (CSO) and the Director, FBI, along with indications of actions taken by the CGA and Contractor.

4.02 Security violations can justify termination of the appended agreement.

4.03 Upon notification, the FBI reserves the right to:

- a. Investigate or decline to investigate any report of unauthorized use;
- b. Suspend or terminate access and services, including telecommunications links. The FBI will provide the CSO with timely written notice of the suspension. Access and services will be reinstated only after satisfactory assurances have been provided to the FBI by the CGA and Contractor. Upon termination, the Contractor's records containing CHRI must be deleted or returned to the CGA.

5.00 Audit

5.01 The FBI is authorized to perform a final audit of the Contractor's systems after termination of the Security Addendum.

6.00 Scope and Authority

6.01 This Security Addendum does not confer, grant, or authorize any rights, privileges, or obligations on any persons other than the Contractor, CGA, CJA (where applicable), CSA, and FBI.

6.02 The following documents are incorporated by reference and made part of this agreement: (1) the Security Addendum; (2) the NCIC 2000 Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20. The parties are also subject to applicable federal and state laws and regulations.

6.03 The terms set forth in this document do not constitute the sole understanding by and between the parties hereto; rather they augment the provisions of the CJIS Security Policy to provide a minimum basis for the security of the system and contained information and it is understood that there may be terms and conditions of the appended Agreement which impose more stringent requirements upon the Contractor.

6.04 This Security Addendum may only be modified by the FBI, and may not be modified by the parties to the appended Agreement without the consent of the FBI.

6.05 All notices and correspondence shall be forwarded by First Class mail to:

Information Security Officer

Criminal Justice Information Services Division, FBI

1000 Custer Hollow Road

Clarksburg, West Virginia 26306

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

CERTIFICATION

I hereby certify that I am familiar with the contents of (1) the Security Addendum, including its legal authority and purpose; (2) the NCIC Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20, and agree to be bound by their provisions.

I recognize that criminal history record information and related data, by its very nature, is sensitive and has potential for great harm if misused. I acknowledge that access to criminal history record information and related data is therefore limited to the purpose(s) for which a government agency has entered into the contract incorporating this Security Addendum. I understand that misuse of the system by, among other things: accessing it without authorization; accessing it by exceeding authorization; accessing it for an improper purpose; using, disseminating or re-disseminating information received as a result of this contract for a purpose other than that envisioned by the contract, may subject me to administrative and criminal penalties. I understand that accessing the system for an appropriate purpose and then using, disseminating or re-disseminating the information received for another purpose other than execution of the contract also constitutes misuse. I further understand that the occurrence of misuse does not depend upon whether or not I receive additional compensation for such authorized activity. Such exposure for misuse includes, but is not limited to, suspension or loss of employment and prosecution for state and federal crimes.

Printed Name/Signature of Contractor Employee

Date

Printed Name/Signature of Contractor Representative

Date

Organization and Title of Contractor Representative